THE MOUNT CARMEL MUNICIPAL CODE

Prepared by the



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TOWN OF MOUNT CARMEL, TENNESSEE

MAYOR

Chris Jones

VICE MAYOR

Jennifer Williams

ALDERMEN

Wanda Davidson Jim Gilliam Steven McLain Pat Stilwell Carl Wolfe

RECORDER

Mike Housewright

PREFACE

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

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

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

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

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

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

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

The able assistance of the codes team, Emily Keyser, Linda Winstead, Nancy Gibson, and Doug Brown, is gratefully acknowledged.

Stephanie Allen Codification Consultant

ORDINANCE ADOPTION PROCEDURES PRESCRIBED BY THE TOWN 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)

TITLE 1

GENERAL ADMINISTRATION¹

CHAPTER

- 1. BOARD OF MAYOR AND ALDERMEN.
- 2. MAYOR.
- 3. RECORDER.
- 4. CONTRACTS, MUTUAL AID AGREEMENTS AND OTHER TYPES OF AGREEMENTS.
- 5. RECORDS MANAGEMENT, RETENTION AND DISPOSAL.
- 6. CITY ADMINISTRATOR.
- 7. ETHICS.

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

¹Charter references

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

Zoning: title 14.

BOARD OF MAYOR AND ALDERMEN¹

SECTION

- 1-101. Time and place of regular meetings.
- 1-102. Order of business.
- 1-103. General rules of order.
- 1-104. Compensation.
- 1-105. Elections.
- 1-106. Duties of the board.

1-101. <u>Time and place of regular meetings</u>. The board of mayor and aldermen shall convene on the second Thursday of the month at 6:30 P.M. to hold a regularly scheduled work session.

The board of mayor and aldermen may alter the schedule of the work session at the preceding business meeting to address calendar conflicts, and/ or accommodate for the business and needs of the board and community. (Ord. #246, July 2002, as amended by Ord. #13-391, April 2013, Ord. #16-434, Feb. 2016, and Ord. #18-468, April 2018, and replaced by Ord. #19-490, Oct. 2019 *Ch7_10-24-19*)

¹Charter references

Conflicts of interest: 6-2-402.

Compensation: 6-2-401.

Election: 6-1-401.

Oath: 6-1-401.

- Ordinance procedure
 - Publication: 6-2-102.
 - Readings: 6-2-402.
- Residence requirement: 6-1-402.
- Restrictions on expenditures: 6-2-301 through 6-2-303.

Vacancies in office: 6-1-405.

For charter provisions related to the board of mayor and aldermen, see <u>Tennessee Code Annotated</u>, title 6, chapter 1 through 3. For specific charter provisions on the following subjects related to the board of mayor and aldermen, see the sections indicated.

Taxation: 6-2-301.

Terms of office: 6-1-403.

Vice Mayor: 6-1-405.

1-102. <u>Order of business</u>. At each meeting of the board of mayor and aldermen, the following regular order of business shall be observed unless dispensed with by a majority vote of the members present:

- (1) Call to order.
- (2) Prayer.
- (3) Pledge of allegiance.
- (4) Roll call.
- (5) Welcome from mayor.
- (6) Approval and/or correction of the minutes.
- (7) Visitors comments.
- (8) Old business.
- (9) New business.
- (10) Mayor comments.
- (11) City administrator comments.
- (12) Aldermen comments.
- (13) Attorney comments.
- (14) Department and committee written reports.

(15) Adjournment. (1990 Code, § 1-102, as replaced by Ord. #15-430, June 2015, and Ord. #16-433, Feb. 2016, and amended by Ord. #16-443, Sept. 2016)

1-103. <u>General rules of order</u>. The rules of order and parliamentary procedure contained in <u>Robert's Rules of Order</u>, <u>Newly Revised</u>, 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. (1990 Code, § 1-103)

1-104. <u>Compensation</u>. In accordance with <u>Tennessee Code Annotated</u>, § 6-3-109, the compensation of the board of mayor and aldermen shall be established in the ordinance adopting the annual budget and capital program. The compensation of the mayor may not be diminished during the mayor's term of office.

The compensation to be received by the mayor shall be two hundred dollars (\$200.00) for each regularly scheduled and special-called board meeting and fifty dollars (\$50.00) for other meetings while representing the town. The compensation to be received by each alderman shall be fifty dollars (\$50.00) for each regularly scheduled and special-called board meeting and twenty-five dollars (\$25.00) for other meetings while representing the town.

For the purposes of this statute, a "meeting" shall mean any meeting in which a member of the board of mayor and aldermen participates which directly relates to their duties as a board of mayor and aldermen member or has a bearing on the governance of the Town of Mount Carmel, Tennessee. (Ord. #328, June 2007, as replaced by Ord. #17-457, Sept. 2017) 1-105. <u>Elections</u>. Beginning with the November 2002 election for aldermen, the entire town shall consist of one (1) ward only. The three (3) candidates for aldermen receiving the highest number of votes at that election shall serve four (4) year terms in an at-large district. The other three (3) positions for aldermen shall be filled in a like manner by at-large elections in November, 2004, and shall also serve four (4) year terms in an at-large district. Municipal elections shall be held on the same date and at the same times as state and federal elections in November of even numbered years. (Ord. #237, Jan. 2002)

1-106. <u>Duties of the board</u>. Pursuant to <u>Tennessee Code Annotated</u>, § 6-3-106(b), the board of mayor and aldermen is hereby designated to perform all of those duties set forth in <u>Tennessee Code Annotated</u>, § 6-3-106(b)(2), which duties consist of employing, promoting, disciplining, suspending, and discharging all employees and department heads, in accordance with personnel policies and procedures, if any, adopted by the board. (as added by Ord. #16-432, Jan. 2016)

<u>MAYOR¹</u>

SECTION

- 1-201. Generally supervises town's affairs.
- 1-202. Executes town's contracts.

1-201. <u>Generally supervises town's affairs</u>. The mayor shall have general supervision of all town affairs and may require such reports from the officers and employees as he may reasonably deem necessary to carry out his executive responsibilities. (1990 Code, § 1-201)

1-202. <u>Executes town's contracts</u>. The mayor shall execute all contracts as authorized by the board of mayor and aldermen. (1990 Code, \S 1-202)

- Powers and duties: § 6-1-406.
- Residence requirements: § 6-1-402.
- Term of office: § 6-1-403.
- Vacancy in office: § 6-1-405.

¹Charter references

For charter provisions related to the mayor, see <u>Tennessee Code</u> <u>Annotated</u>, Title 6, Chapters 1 through 3. For specific charter provisions on the following subject related to the mayor, see the section indicated: Conflicts of interest: § 6-2-401. Compensation: § 6-2-401. Election: § 6-1-401. Oath: § 6-1-404.

<u>RECORDER¹</u>

SECTION

To be bonded.
 To keep minutes, etc.
 To perform general administrative duties, etc.

1-301. <u>To be bonded</u>. The recorder shall be bonded in such sum as may be fixed by, and with such surety as may be acceptable to, the board of mayor and aldermen. (1990 Code, § 1-301)

1-302. <u>To keep minutes, etc</u>. The recorder shall keep the minutes of all meetings of the board of mayor and aldermen and shall preserve the original copy of all ordinances in a separate ordinance book. (1990 Code, § 1-302)

1-303. <u>To perform general administrative duties, etc</u>. The recorder shall perform all administrative duties for the board of mayor and aldermen and for the town which are not assigned by the charter, this code, or the board of mayor and aldermen to another corporate officer. He shall also have custody of and be responsible for maintaining all corporate bonds, records, and papers. (1990 Code, § 1-303)

¹Charter references

The only charter provisions which directly mention the recorder are contained in the following sections of <u>Tennessee Code Annotated</u>: Judicial functions: § 6-2-403.

Signs warrants drawn on treasury: § 6-1-406.

<u>CONTRACTS, MUTUAL AID AGREEMENTS AND OTHER</u> <u>TYPES OF AGREEMENTS</u>

SECTION

1-401. Authority.

1-402. Board approval required.

1-403. Validation.

1-404. Use of vehicles and equipment outside corporate limits permitted.

1-401. <u>Authority</u>. The board of mayor and aldermen shall have the authority to enter into contracts, mutual aid agreements and any other type of agreement which the town may enter into pursuant to <u>Tennessee Code</u> <u>Annotated</u>, §§ 6-54-601--603 and 12-9-101--109. (1990 Code, § 1-401)

1-402. <u>Board approval required</u>. The mayor shall negotiate the agreements authorized by this chapter and present the agreements to the board of mayor and aldermen for its approval. No such agreement shall be valid until approved by the board of mayor and aldermen. (1990 Code, § 1-402)

1-403. <u>Validation</u>. After approval by the board of mayor and aldermen of an agreement authorized by this chapter, the mayor shall do all things necessary to validate and make the agreement legally binding. (1990 Code, § 1-403)

1-404. <u>Use of vehicles and equipment outside corporate limits</u> <u>permitted</u>. Any agreements entered into pursuant to this chapter may authorize the use of and the taking of town-owned vehicles and property outside the corporate limits, the provisions of any other ordinance notwithstanding. (1990 Code, § 1-404)

RECORDS MANAGEMENT, RETENTION, AND DISPOSAL

SECTION

- 1-501. Purpose.
- 1-502. "Public records" and "public documents" defined.
- 1-503. Adoption by reference of MTAS manual.
- 1-504. Appointment of the records management officer.
- 1-505. Duties and responsibilities.

1-501. <u>Purpose</u>. The purpose of this chapter is to establish a formal records management program for the Town of Mount Carmel; to define public records and documents, to designate the records management officer for the town, and to authorize the establishment of a records retention and disposal schedule therefore. (Ord. #254, Jan. 2003)

1-502. <u>"Public records" and "public documents" defined</u>. Pursuant to <u>Tennessee Code Annotated</u>, §§ 10-7-701 and 10-7-301, public records and public documents within the Town of Mount Carmel shall be construed to mean 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 the board of mayor and aldermen, or by any office, agency or department of the Town of Mount Carmel. (Ord. #254, Jan. 2003)

1-503. <u>Adoption by reference of MTAS manual</u>. Pursuant to <u>Tennessee Code Annotated</u>, § 10-7-702, the Municipal Technical Advisory Service, a unit of the Institute for Public Service of the University of Tennessee, is authorized to compile and print, in cooperation with the state library and archives, records retention manuals which shall be used as guides by municipal officials in establishing retention schedules for all records created by municipal governments in the state. <u>Records Management for Municipal Governments - A Reference Guide for City Officials and Municipal Public Records Custodians</u>, May 2008 edition, or the most current publication available, as published by the Municipal Technical Advisory Service (MTAS) of the University of Tennessee, shall be and is hereby adopted by reference for use in the records management program of the Town of Mount Carmel.

After the retention period has expired, the records are to be disposed of as directed by the city recorder. The records for disposal are to be listed on a "Certificate of Records Disposal." The person or department performing the disposal shall be accompanied by a witness designated by the city recorder, and the signatures of both shall be affixed to all copies of the "certificate of records" disposal." The original of the completed "certificate of records disposal" is to be filed in the office of the city recorder. One copy shall be retained and filed in the appropriate department. (Ord. #254, Jan. 2003)

1-504. <u>Appointment of the records management officer</u>. The City Recorder of the Town of Mount Carmel shall be and is hereby appointed "Records Management Officer" for the Town of Mount Carmel, and shall discharge those duties normally associated with the office. (Ord. #254, Jan. 2003)

1-505. <u>Duties and responsibilities</u>. The records management officer shall be and is hereby authorized and directed to develop, implement and maintain a "records retention and disposal log" for all public records required to be maintained by the town, not inconsistent with the aforesaid MTAS Manual and <u>Tennessee Code Annotated</u>. (Ord. #254, Jan. 2003)

CITY ADMINISTRATOR

SECTION

1-601. Position of city administrator.

1-602. Duties of city administrator.

1-603. Reports to the board of mayor and aldermen.

1-601. <u>Position of city administrator</u>. The board of mayor and aldermen shall hire a city administrator to serve at a salary set by the board of mayor and aldermen. (1990 Code, § 1-701, as replaced by Ord. #17-463, Nov. 2017)

1-602. <u>Duties of city administrator</u>. The city administrator position shall be endowed with the following duties, as set forth in <u>Tennessee Code</u> <u>Annotated</u>, §§ 6-3-106 and 6-4-101:

(1) Administer the business of the municipality;

(2) Make recommendations to the board of mayor and aldermen 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 of mayor and aldermen fully advised as to the conditions and needs of the municipality;

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

(5) Recommend to the board of mayor and aldermen 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 of mayor and aldermen;

(7) 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;

(8) Prepare and submit the annual budget and capital program to the board of mayor and aldermen for their adoption by ordinance;

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

(10) Perform such other duties as may from time to time be designated or required by the board. (1990 Code, § 1-702, as replaced by Ord. #17-463, Nov. 2017)

1-603. <u>Reports to the board of mayor and aldermen</u>. In performing the duties outlined in subsection (2) of this section, the city administrator shall be answerable only to the board of mayor and aldermen acting as a body at an open meeting. (as added by Ord. #17-463, Nov. 2017)

<u>CODE OF ETHICS¹</u>

SECTION

- 1-701. Applicability.
- 1-702. Definition of "personal interest."
- 1-703. Disclosure of personal interest by official with vote.
- 1-704. Disclosure of personal interest in non-voting matters.
- 1-705. Acceptance of gratuities, etc.
- 1-706. Use of information.
- 1-707. Use of municipal time, facilities, etc.
- 1-708. Use of position or authority.
- 1-709. Outside employment.
- 1-710. Ethics complaints.
- 1-711. Violations.

1-701. <u>Applicability</u>. This chapter is the code of ethics for personnel of the Town of Mount Carmel. 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 town. The words "municipal" and "town" or "Town of Mount Carmel" include these separate entities. (Ord. #320, Feb. 2007)

¹State statutes dictate many of the ethics provisions that apply to municipal officials and employees. For provisions relative to the following, see the <u>Tennessee Code Annotated</u> sections indicated:

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

Conflict of interests: <u>Tennessee Code Annotated</u>, §§ 6-54-107, 108: 12-4-101, 102.

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

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

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

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

Ouster law: <u>Tennessee Code Annotated</u>, § 8-47-101 and the following sections. A brief synopsis of each of these laws appears in the appendix of the municipal code as Appendix A.

1-702. <u>Definition of "personal interest</u>." (1) For purposes of §§ 1-703 and 1-704, "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 interest; 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. #320, Feb. 2007)

1-703. <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 himself¹ from voting on the measure. (Ord. #320, Feb. 2007)

1-704. Disclosure of personal interest in non-voting matters.

An official or employee who must exercise discretion relative to any matter, other than casting a vote, and who has a personal interest in the matter that affects or that would lead a reasonable person to infer that it affects the exercise of the discretion shall disclose, before the exercise of the discretion when possible, the interest on a form provided by and filed with the recorder. In addition, the official or employee may, to the extent allowed by law, charter, ordinance, or policy, recuse himself from the exercise of discretion in the matter. (Ord. #320, Feb. 2007)

1-705. <u>Acceptance of gratuities, etc</u>. 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 town;

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

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

(2) That might reasonably be interpreted as an attempt to influence his action, or reward him for past action, in executing municipal business. (Ord. #320, Feb. 2007)

1-706. <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. #320, Feb. 2007)

1-707. <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 board of mayor and alderman to be in the best interest of the town. (Ord. #320, Feb. 2007)

1-708. <u>Use of position or authority</u>. (1) An official or employee may not make or attempt to make private purchases, for cash or otherwise, in the name of the town.

(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 town. (Ord. #320, Feb. 2007)

1-709. <u>Outside employment</u>. A full-time employee of the town may not accept any outside employment without written authorization from their department head. (Ord. #320, Feb. 2007)

1-710. <u>Ethics complaints</u>. (1) The town attorney is designated as the ethics officer of the town. Upon the written request of an official or employee potentially affected by a provision of this chapter, the city attorney may render an oral or written advisory ethics opinion based upon this chapter and other applicable law.

(2) Except as otherwise provided in this subsection,

(a) The city attorney shall investigate any credible complaint against an appointed official or employee charging any violation of this

chapter, or may undertake an investigation on his own initiative when he acquires information indicating a possible violation, and make recommendations for action to end or seek retribution for any activity that, in the attorney's judgment, constitutes a violation of this code of ethics.

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

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

(3) The interpretation that a reasonable person in the circumstances would apply shall be used in interpreting and enforcing this code of ethics. (Ord. #320, Feb. 2007)

1-711. <u>Violations</u>. 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.

Any elected official or appointed member of a separate municipal board, commission, committee, authority, corporation, or other instrumentality who violates any provision of this chapter shall be subject to punishment as provided by the charter or other applicable law, and in addition is subject to censure by the board of mayor and aldermen. Any appointed official or an employee who violates any provision of this chapter shall be subject to disciplinary action. (Ord. #320, Feb. 2007)

TITLE 2

BOARDS AND COMMISSIONS, ETC.

CHAPTER

- 1. RECREATION COMMISSION.
- 2. SAFETY COMMITTEE.
- 3. PUBLIC LIBRARY BOARD AND PUBLIC LIBRARY.
- 4. PARKS COMMISSION.
- 5. CITY HOUSING AUTHORITY.

CHAPTER 1

RECREATION COMMISSION

SECTION

- 2-101. Inter-local agreement.
- 2-102. [Deleted.]
- 2-103. [Deleted.]
- 2-104. [Deleted.]
- 2-105. [Deleted.]
- 2-106. [Deleted.]
- 2-107. [Deleted.]
- 2-108. [Deleted.]
- 2-109. [Deleted.]
- 2-110. [Deleted.]

2-101. <u>Inter-local agreement</u>. Pursuant to <u>Tennessee Code Annotated</u>, the board of mayor and aldermen hereby authorizes the Mayor of the Town of Mount Carmel, upon the advise and consent of the board of mayor and aldermen, to enter into inter-local agreements with neighboring municipalities for providing joint recreation programs, acquiring equipment and facilities in the use of such programs, staffing such programs, and doing all things incidental and necessary thereto for the purpose of conducting a recreation program. (1990 Code, § 2-101, as replaced by Ord. #12-374, May 2012)

2-102. [Deleted.] (1990 Code, § 2-102, as deleted by Ord. #12-374, May 2012)

2-103. [Deleted.] (1990 Code, § 2-103, as deleted by Ord. #12-374, May 2012)

2-104. [Deleted.] (1990 Code, § 2-104, as deleted by Ord. #12-374, May 2012)

2-105. [Deleted.] (1990 Code, § 2-105, as deleted by Ord. #12-374, May 2012)

2-106. [Deleted.] (1990 Code, § 2-106, as deleted by Ord. #12-374, May 2012)

2-107. [Deleted.] (1990 Code, § 2-107, as deleted by Ord. #12-374, May 2012)

2-108. [Deleted.] (1990 Code, § 2-108, as deleted by Ord. #12-374, May 2012)

2-109. [Renumbered.] (1990 Code, § 2-109, as renumbered by Ord. #12-374, May 2012)

2-110. [Deleted.] (1990 Code, § 2-110, as deleted by Ord. #12-374, May 2012)

SAFETY COMMITTEE

SECTION

- 2-201. Establishment.
- 2-202. Membership; appointments; terms.
- 2-203. Vacancies.
- 2-204. Organization, rules, etc.
- 2-205. Meetings.

2-201. <u>Establishment</u>. There is hereby established a safety committee to consist of thirteen (13) members. (1990 Code, § 2-201)

2-202. <u>Membership</u>; appointments; terms. The mayor and each member of the board of mayor and aldermen shall serve on the safety committee. Additional members of the safety committee shall be appointed by the mayor and approved by the board of mayor and aldermen. The city attorney shall serve as a non-voting advisory member of the safety committee. The appointed members shall include a member of the police department, fire department, public works department, and the city recorder. (1990 Code, \S 2-202)

2-203. <u>Vacancies</u>. The members of the safety committee shall serve without compensation. In the event a vacancy occurs among the appointed members, such vacancy shall be filled by that person's successor in office. (1990 Code, § 2-203)

2-204. Organization, rules, etc. The safety committee shall elect from its appointed members a secretary and chairman. The terms of the chairman and the secretary shall be one (1) year each with eligibility for re-election. The chairman of the safety committee shall be elected prior to April of each calendar year. The safety committee shall report to the board of mayor and aldermen. It shall be the obligation of the safety committee to review all ordinances or resolutions proposed for consideration by the board of mayor and aldermen which involve public safety. (1990 Code, § 2-204)

2-205. <u>Meetings</u>. The safety committee shall meet quarterly. Specially called meetings may be scheduled by the chairman or the mayor. The chairman shall preside at all meetings but in his absence the mayor shall preside at the safety committee meetings. The time and place of the regular meetings shall be selected by the mayor. (1990 Code, § 2-205)

PUBLIC LIBRARY BOARD AND PUBLIC LIBRARY

SECTION

- 2-301. Public library board established.
- 2-302. Composition of the board.
- 2-303. Powers and duties.
- 2-304. Public library established.

2-301. <u>Public library board established</u>. There is established the Mount Carmel Public Library Board to consist of seven (7) members. (Ord. #183, Nov. 1997, as replaced by Ord. #17-455, July 2017)

2-302. <u>Composition of the board</u>. Not more than one (1) of the seven (7) members shall be a member of the board of mayor and aldermen. This member shall be appointed by the current Mayor and approved by the library board. The members shall serve without salary. Library board members may serve for two (2) consecutive terms of three (3) years. Individuals may be appointed to fill an unexpired term, which will not count as one of the two (2) full terms. The members shall be appointed by the mayor subject to the consent of the board of mayor and aldermen, and must all be residents of Hawkins County, Tennessee. (Ord. #183, Nov. 1997, as replaced by Ord. #17-455, July 2017, and Ord. #19-487, July 2019 **Ch7_10-24-19**)

2-303. Powers and duties. The members of the library board shall organize by electing officers and adopting by-laws and regulations which shall not be subject to the approval of the board of mayor and aldermen. The library board shall advise the board of mayor and aldermen concerning the affairs of the library, shall be autonomous in their appointment of a librarian, who shall direct the internal affairs of the library, and such employees and assistants as may be necessary. The librarian shall be considered a department head answering directly to the library board. The library board shall also be endowed with the authority to promulgate rules and regulations for the library. The library board shall also furnish to the state library agency such statistics and information as may be required, and shall make monthly reports to the board of mayor and aldermen. Additionally, the library board shall take all actions necessary to maintain compliance with any rules or regulations of the Tennessee State Library and Archives, Holston River Regional Library, in order to ensure the continuous involvement of the library as a member of the state system, including reporting to the board of mayor and aldermen any action necessary for that body to undertake. (Ord. #183, Nov. 1997, as replaced by Ord. #17-455, July 2017)

2-304. <u>Public library established</u>. There is hereby established a public library to be known as the "Mount Carmel Public Library" to be operated within the corporate limits of the Town of Mount Carmel, Tennessee, as a member of the Tennessee State Library and Archives, Holston River Regional Library. The Town of Mount Carmel, Tennessee hereby pledges to maintain the funding levels of the Mount Carmel Public Library, in order that it may remain a member of the Tennessee State Library and Archives, Holston River Regional Library. Use of the library shall be free to the inhabitants of the town and its services, privileges, and facilities may be extended to persons residing outside the town upon such terms as the library board may deem proper. (Ord. #183, Nov. 1997, as replaced by Ord. #17-455, July 2017)

PARKS COMMISSION

SECTION

- 2-401. Creation.
- 2-402. Membership; appointment; vacancies; compensation.
- 2-403. Officers.
- 2-404. Staff.
- 2-405. Meetings.
- 2-406. Quorum.
- 2-407. Record of meetings.
- 2-408. Functions.
- 2-409. Budget.
- 2-410. Grants, gifts, and bequests.

2-401. <u>Creation</u>. There is created a parks commission. (Ord.#247, July 2002)

2-402. <u>Membership; appointment; vacancies; compensation</u>.

(1) The parks commission shall have nine (9) members.

(2) The mayor shall serve as an ex-officio member; there shall also be two (2) aldermen appointed by the board of mayor and aldermen to serve as ex-officio members. The remaining members shall be appointed by the mayor and confirmed by the board of mayor and aldermen.

(3) The term of each of the six (6) appointed members shall be three (3) years, except that the terms of the first two (2) appointed members shall be one (1), two (2), and two (3) years respectively. The terms of the ex-officio members shall be coterminous with their term on the board of mayor and aldermen.

(4) Any appointed member who is absent from three (3) consecutive meetings or from four (4) meetings in any fiscal year shall be deemed to have resigned and a successor shall be appointed as provided herein.

(5) If a vacancy occurs on the parks commission by death, resignation or inability or refusal of a member to serve, the vacancy shall be filled for the unexpired term by appointment by the mayor.

(6) The members of the parks commission shall serve without compensation. (Ord. #247, July 2002)

2-403. <u>Officers</u>. The members of the parks commission shall meet in regular session and organize each year by electing from their number a chair, vice-chair, and secretary. Each person so elected shall hold office for one (1) year or until their successor is elected by the parks commission and qualifies. (Ord. #247, July 2002)

2-404. <u>Staff</u>. All officers, departments and committees, boards and commissions of the town shall render reasonable assistance to the parks commission in the orderly performance and discharge of its duties. (Ord. #247, July 2002)

2-405. <u>Meetings</u>. The parks commission shall meet in regular session at least once every other month, the time and place to be designated by a vote of the members. It shall be the duty of the chair to preside over all meetings of the parks commission. In the absence of the chair, the vice-chair shall preside. Any meeting other than a regular meeting may be called by the chair or by any four (4) members. (Ord. #247, July 2002)

2-406. Quorum. Five (5) members of the parks commission present at a meeting shall constitute a quorum. (Ord. #247, July 2002)

2-407. <u>Record of meetings</u>. The secretary of the parks commission shall keep a record of all proceedings of the parks commission. (Ord. #247, July 2002)

2-408. <u>Functions</u>. The parks commission shall serve in an advisory capacity and shall report to the board of mayor and aldermen regarding any and all rules and regulations for the conduct, control, governance and operation of the public parks of the town which the parks commission shall find necessary or desirable. The parks commission shall study the parks needs of the town and recommend to the board of mayor and aldermen on facilities and sites needed or desirable for the use and enjoyment of the citizens of the town. (Ord. #247, July 2002)

2-409. <u>Budget</u>. The parks commission shall submit to the board of mayor and aldermen a suggested annual budget for the operation of the public parks of the town in accordance with the annual budget calendar for each fiscal year. Such recommendation shall be adopted in whole or in part by the board of mayor and alderman and incorporated in the annual budget of the town. Appropriations for park purposes shall be encumbered and disbursed in accordance with the established purchasing procedure manual. (Ord.#247, July 2002)

2-410. <u>Grants, gifts, and bequests</u>. The parks commission shall request that the board of mayor and aldermen apply for any grant that may be available for park purposes; the terms and conditions of which grants shall be accepted at the discretion of the board of mayor and aldermen. Any gift or other contribution made for the use of the public parks of the town may be accepted by the parks commission and shall be deposited with the recorder and held in trust, to be kept separate and apart from all other municipal funds and

property, and any such funds shall be appropriated by the board of mayor and aldermen only with the advice and consent of the parks commission. Any bequest of property, either real or personal, shall be accepted by the board of mayor and alderman after due consideration of any attendant expenses for improvements, maintenance or similar costs and expense. (Ord. #247, July 2002)

CITY HOUSING AUTHORITY

SECTION

- 2-501. Petition for creation of authority--notice.
- 2-502. Hearing and determination.
- 2-503. Application of commissioners--contents.
- 2-504. Authority is a public body.
- 2-505. Boundaries of authority.

2-501. <u>Petition for creation of authority--notice</u>. (1) Any twenty-five (25) residents of the Town of Mount Carmel, and of the area within ten (10) miles from the territorial boundaries thereof, may file a petition with the recorder setting forth that there is a need for an authority to function in the town and the surrounding area.

(2) Upon the filing of such a petition, the recorder shall give notice of the time, place, and purpose of a public hearing at which the board of mayor and aldermen will determine the need for an authority in the town and the surrounding area.

(3) Such notice shall be given at the town's expense by publishing a notice, at least ten (10) days preceding the day on which the hearing is to be held, in a newspaper having a general circulation in the town and the surrounding area, or, if there is no such newspaper, by posting such notice in at least three (3) public places within the town, at least ten (10) days preceding the day on which the hearing is to be held. (Ord. #305, Oct. 2005)

2-502. <u>Hearing and determination</u>. (1) Upon the date fixed for the hearing held upon notice as provided in § 2-501, an opportunity to be heard shall be granted to all residents and taxpayers of the town and the surrounding area and to all other interested persons.

(2) After such a hearing, the board of mayor and aldermen shall determine:

(a) Whether unsanitary or unsafe inhabited dwelling accommodations exist in the town and the surrounding area; and/or

(b) Whether there is a lack of safe or sanitary dwelling accommodations in the town and the surrounding area available for all the inhabitants of the Town of Mount Carmel or area. In determining whether dwelling accommodations are unsafe or unsanitary, the board of mayor and aldermen shall take into consideration the following:

- (i) The physical condition and age of the buildings;
- (ii) The degree of overcrowding;
- (iii) The percentage of land coverage;

- (v) The size and arrangement of the rooms;
- (vi) The sanitary facilities; and

(vii) The extent to which conditions exist in such buildings which endanger life or property by fire or other causes.

(3) If it shall determine that either or both of the above enumerated conditions in subsections (a) and (b) exist, the board of mayor and aldermen shall adopt a resolution so finding (which need not go into any detail other than the mere finding) and shall cause notice of such determination to be given to the mayor who shall thereupon appoint, as hereinafter provided, five (5) commissioners to act as an authority. (Ord. #305, Oct. 2005)

2-503. <u>Application of commissioners--contents</u>. (1) The commissioners shall present to the secretary of state an application signed by them, which shall set forth (without any detail other than the mere recital):

(a) That a notice has been given and public hearing has been held as aforementioned, that the board of mayor and aldermen made the aforementioned determination after such hearing, and that the mayor has appointed them as commissioners;

(b) The name and official residence of each of the commissioners, together with a certified copy of the appointment evidencing their right to office, the date and place of induction into and taking oath of office, and that they desire the housing authority to become a public body and a body corporate and politic under this chapter;

(c) The term of office of each of the commissioners;

(d) The name which is proposed for the corporation; and

(e) The location of the principal office of the proposed corporation.

(2) The application shall be subscribed and sworn to by each of the commissioners before an officer authorized by the laws of the state to take and certify oaths, who shall certify upon the application that such officer personally knows the commissioners and knows them to be the officers as asserted in the application, and that each subscribed and swore thereto in the officer's presence. The secretary of state shall examine the application and, if the secretary of state finds that the name proposed for the corporation is not identical with that of a person or of any other corporation of this state or so nearly similar as to lead to confusion and uncertainty, the secretary of state shall receive and file it, and shall record it in an appropriate book of record in the secretary of state's office. (Ord. #305, Oct. 2005)

2-504. <u>Authority is a public body</u>. When the application has been made, filed and recorded, as herein provided, the authority shall constitute a public body corporate and politic under the name proposed in the application.

The secretary of state shall make and issue to the commissioners a certificate of incorporation pursuant to this chapter, under the seal of the state, and shall record the same with the application. (Ord. #305, Oct. 2005)

2-505. <u>Boundaries of authority</u>. (1) The boundaries of such authority shall include the town and the area within ten (10) miles from the territorial boundaries of the town, but in no event shall it include the whole or a part of any other town nor any area included within the boundaries of another authority.

(2) In case an area lies within ten (10) miles of the boundaries of more than one (1) town, such area shall be deemed to be within the boundaries of the authority embracing such area which was first established, all priorities to be determined on the basis of the time of the issuance of the aforementioned certificates by the secretary of state.

(3) After the creation of an authority, the subsequent existence within its territorial boundaries of more than one (1) town shall in no way affect the territorial boundaries of such authority. (Ord. #305, Oct. 2005)

TITLE 3

MUNICIPAL COURT¹

CHAPTER

1. CITY JUDGE.

- 2. COURT ADMINISTRATION.
- 3. WARRANTS, SUMMONSES AND SUBPOENAS.
- 4. BONDS AND APPEALS.

CHAPTER 1

CITY JUDGE

SECTION

3-101. City judge.

3-101. <u>City judge</u>. (1) <u>Office created</u>. Pursuant to the authority granted in state law and the town charter, there is hereby created and established for the Town of Mount Carmel, Tennessee, the office of municipal judge, which judge shall be vested with the judicial powers and functions granted under the laws of Tennessee, and said judge shall be subject to the provisions of the laws governing the municipal court, as set out by the laws of the State of Tennessee.

(2) <u>Qualifications</u>. Any person serving as municipal judge shall be at least twenty-five (25) years of age and shall be a resident of the State of Tennessee at the time of and for the duration of his appointment.

(3) <u>Term of office; vacancy</u>. The municipal judge shall be appointed by the board of mayor and aldermen for a term of two (2) years, said term beginning the first day of July and any incumbent judge shall serve during the term and until his successor is appointed and qualified. Any vacancy in the office of municipal judge shall be filled for the unexpired term by the board of mayor and aldermen.

(4) <u>Oath and bond</u>. The municipal judge shall take the same oath of office as that prescribed for the mayor and, before entering upon the duties of this office, shall make bond in the amount of five thousand dollars (\$5,000.00), the cost of said bond being paid by the Town of Mount Carmel.

(5) <u>Salary</u>. The salary of the municipal judge shall be fixed by the board of mayor and aldermen before his or her appointment and said salary

¹Charter reference

City Judge--City Court: § 6-4-301.

shall not be altered during the term for which he or she is appointed. (1990 Code, § 3-101, modified)

COURT ADMINISTRATION

SECTION

- 3-201. Maintenance of docket.
- 3-202. Fines, forfeitures and commissions.
- 3-203. Disposition and report of fines, penalties, and costs.
- 3-204. Contempt of court.
- 3-205. Use of a collection agency authorized.

3-201. <u>Maintenance of docket</u>. The city judge shall keep a complete docket of all matters coming before him in his judicial capacity. The docket shall include for each defendant such information as his name; warrant and/or summons numbers; alleged offense; disposition; fines, penalties, and costs imposed and whether collected; whether committed to workhouse; and all other information which may be relevant. (1990 Code, § 3-201)

3-202. <u>Fines, forfeitures, and commissions</u>.¹ In all charges involving the violations or alleged violations of a city ordinance:

(1) In all cases heard and determined by him, the city judge shall impose court costs in the amount of seventy-seven dollars and twenty-five cents (\$77.25), to be added to the fine and litigation tax. 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.

(2) The maximum fine of forfeiture shall be fifty dollars (\$50.00), unless assessed by a jury of peers who find that the fine should be more than fifty dollars (\$50.00), yet not exceeding five hundred dollars (\$500.00). (1990 Code, § 3-203, as amended by Ord. #228, Dec. 2001, and Ord. #09-347, Oct. 2009)

3-203. <u>Disposition and report of fines, penalties, and costs</u>. All funds coming into the hands of the city judge in the form of fines, penalties, costs, and forfeitures shall be recorded by him and paid over daily to the town. At the end of each month he shall submit to the board of mayor and aldermen a report accounting for the collection or noncollection of all fines, penalties, and costs imposed by his court during the current month and to date for the current fiscal year. (1990 Code, § 3-203)

¹The schedule of commissions and fines is of record in the office of the city recorder.

3-204. <u>Contempt of court</u>. 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.

3-205. <u>Use of a collection agency authorized</u>. In addition to all other remedies for collecting delinquent fines and costs owed to the town, the town may use the services of a collection agency pursuant to the procedures as set forth in <u>Tennessee Code Annotated</u>, § 40-24-105. (Ord. #267, Feb. 2004)

WARRANTS, SUMMONSES, AND SUBPOENAS

SECTION

- 3-301. Issuance of arrest warrants.
- 3-302. Issuance of summonses.
- 3-303. Issuance of subpoenas.
- 3-304. Citations in lieu of arrest in non-traffic cases.
- 3-305. Summonses in lieu of arrest.

3-301. <u>Issuance of arrest warrants</u>.¹ The city judge shall have the power to issue warrants for the arrest of persons charged with violating municipal ordinances. (1990 Code, § 3-301)

3-302. Issuance of summonses. When a complaint of an alleged ordinance violation is made to the city judge, the judge may in his discretion, in lieu of issuing an arrest warrant, issue a summons ordering the alleged offender personally to appear before the city court at a time specified therein to answer to the charges against him. The summons shall contain a brief description of the offense charged but need not set out verbatim the provisions of the municipal code or ordinance alleged to have been violated. Upon failure of any person to appear before the city court as commanded in a summons lawfully served on him, the cause may be proceeded with ex parte, and the judgment of the court shall be valid and binding subject to the defendant's right of appeal. (1990 Code, \S 3-302)

3-303. <u>Issuance of subpoenas</u>. The city judge may subpoena as witnesses all persons whose testimony he believes will be relevant and material to matters coming before his court, and it shall be unlawful for any person lawfully served with such a subpoena to fail or neglect to comply therewith. (1990 Code, § 3-303)

3-304. <u>Citations in lieu of arrest in non-traffic cases</u>. Pursuant to <u>Tennessee Code Annotated</u>, § 7-63-101, <u>et seq</u>., the board of mayor and aldermen appoints the fire chief, or his designee in the fire department and the building inspector, or his designee in the building department, special police officers having the authority to issue citations in lieu of arrest. The fire chief, or his designee in the fire department shall have the authority to issue citations in lieu

¹State law reference

For authority to issue arrest warrants see <u>Tennessee Code Annotated</u>, title 40, chapter 5.

of arrest for violations of the fire code adopted in this municipal code of ordinances. The building inspector, or his designee in the building department shall have the authority to issue citations in lieu of arrest for violations of the building, utility and housing codes adopted in this municipal code of ordinances.

The citation in lieu of arrest shall contain the name and address of the person being cited and such other information necessary to identify and give the person cited notice of the charges against him, and state a specific date and place for the offender to appear and answer the charges against him. The citation shall also contain an agreement to appear, which shall be signed by the offender. If the offender refuses to sign the agreement to appear, the special officer in whose presence the offense was committed shall immediately arrest the offender and dispose of him in accordance with <u>Tennessee Code Annotated</u>, § 7-63-101. (Ord. #211, Dec. 1999)

3-305. <u>Summonses in lieu of arrest</u>. Pursuant to <u>Tennessee Code</u> <u>Annotated</u>, § 7-63-201, <u>et seq</u>., which authorizes the board of mayor and aldermen to designate certain city enforcement officers the authority to issue ordinance summons in the areas of sanitation, litter control and animal control, the board designates the animal control officer or his designee in the police department and the public utilities board manager, or his designee in the sewer department, to issue ordinance summonses in those areas. These enforcement officers may not arrest violators or issue citations in lieu of arrest, but upon witnessing a violation of any ordinance, law or regulation in the areas of sanitation, litter control or animal control, may issue an ordinance summons and give the summons to the offender.

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

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

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

The police officer who witnesses the violation may issue a citation in lieu of arrest for the violation, or arrest the offender for failure to sign the citation in lieu of arrest.

It shall be unlawful for any person to violate this agreement to appear in court, regardless of the disposition of the charge for which the ordinance summons was issued. (Ord. #211, Dec. 1999)

BONDS AND APPEALS

SECTION

- 3-401. Appearance bonds authorized.
- 3-402. Appeals.
- 3-403. Bond amounts, conditions, and forms.

3-401. <u>Appearance bonds authorized</u>. When the city judge is not available or when an alleged offender requests and has reasonable grounds for a delay in the trial of his case, he may, in lieu of remaining in jail pending disposition of his case, be allowed to post an appearance bond with the city judge or, in the absence of the judge, with the city court clerk, or in the absence of the city court clerk, with the ranking police officer on duty at the time, provided such alleged offender is not under the influence of alcohol or drugs. (1990 Code, \S 3-401)

3-402. <u>Appeals</u>. Any defendant who is dissatisfied with any judgment of the city court against him may, within ten (10) days¹ next after such judgment is rendered, appeal to the next term of the circuit court upon posting a proper appeal bond. (1990 Code, § 3-401)

3-403. Bond amounts, conditions, and forms. An appearance bond in any case before the city court shall be in such amount as the city judge shall prescribe and shall be conditioned that the defendant shall appear for trial before the city court at the stated time and place. An appeal bond in any case shall be two hundred and fifty dollars (\$250.00), and shall be conditioned that if the circuit court shall find against the appellant the fine or penalty and all costs of the trial and appeal shall be promptly paid by the defendant and/or his sureties. An appearance or appeal bond in any case may be made in the form of a cash deposit or by any corporate surety company authorized to do business in Tennessee or by two (2) private persons who individually own real property within the county. No other type bond shall be acceptable. (1990 Code, § 3-401, modified)

¹State law reference

Tennessee Code Annotated, § 16-18-307.

TITLE 4

MUNICIPAL PERSONNEL

CHAPTER

- 1. SOCIAL SECURITY.
- 2. PERSONNEL POLICIES AND PROCEDURES.
- 3. OCCUPATIONAL SAFETY AND HEALTH PROGRAM.
- 4. TRAVEL AND EXPENSE REGULATIONS.

CHAPTER 1

SOCIAL SECURITY

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.
- 4-106. Exclusions.

4-101. <u>Policy and purpose as to coverage</u>. It is hereby declared to be the policy and purpose of the Town of Mount Carmel, Tennessee, to provide for all eligible employees and officials of the town, whether employed in connection with a governmental or proprietary function, the benefits of the system of federal old age and survivors insurance. In pursuance of said policy, and for that purpose, the Town of Mount Carmel shall take such action as may be required by applicable state and federal laws or regulations. (1990 Code, § 4-101)

4-102. <u>Necessary agreements to be executed</u>. The mayor of the Town of Mount Carmel 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. (1990 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. (1990 Code, § 4-103)

4-104. <u>Appropriations for employer's contributions</u>. 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. (1990 Code, § 4-104)

4-105. <u>Records to be kept and reports made</u>. The recorder shall keep such records and make such reports as may be required by applicable state and federal laws or regulations. (1990 Code, § 4-105)

4-106. <u>Exclusions</u>. There is hereby excluded from this chapter any authority to make any agreement with respect to any position or any employee or official now covered or authorized to be covered by any other ordinance creating any retirement system for any employee or official of said town or any employee, official, or position not authorized to be covered under applicable state or federal laws or regulations. (1990 Code, § 4-106)

PERSONNEL POLICIES AND PROCEDURES

SECTION

- 4-201. Personnel policies and procedures adopted.
- 4-202. Anti-nepotism policy.
- 4-203. Employment or promotion of family members.
- 4-204. Workplace harassment.

4-201. <u>Personnel policies and procedures adopted</u>. (1) The board of mayor and alderman has adopted the "Personnel Policies and Procedures of the Town of Mount Carmel, Tennessee," a copy of which is attached as Appendix B to this municipal code. Such policies and procedures may be amended by ordinance from time to time as deemed necessary by the board.

(2) The head of each department of the Town of Mount Carmel shall employ, promote, discipline, suspend and discharge all employees within their respective departments in accordance with the personnel policies and procedures adopted by the board of mayor and aldermen. (Ord. #226, Sept. 2001, as amended by Ord. #16-432, Jan. 2106)

4-202. <u>Anti-nepotism policy</u>. No member of an immediate family, including spouse, mother or stepmother, father or stepfather, children, sister, brother, grandparents, current mother-in-law or current father-in-law, step-grandparents, grandparents-in-law, and grandchildren, shall be employed in such capacity as to have one directly supervised by the other. This does not preclude employment of immediate family member under other lines of supervision. (Ord. #266, Dec. 2003)

4-203. Employment or promotion of family members. That in carrying out the mayor's duties pursuant to <u>Tennessee Code Annotated</u>, § 6-3-106(b)(2)(A), in employing, promoting, disciplining, suspending and discharging all employees and department heads, in accordance with the personnel policies and procedures adopted by the board of mayor and aldermen, the mayor shall submit the employment or promotion, but not the discipline, suspension and discharge, of a member of the immediate family of an existing employee for confirmation by the board of mayor and aldermen. In confirming or denying the employment or promotion; the board shall consider the specific benefit to the town; the specific qualifications of the candidate for employment or promotion; the line of supervision; and any other similar factor affecting the interest of the town. (Ord. #266, Dec. 2003)

4-204. <u>Workplace harassment</u>. The Town of Mount Carmel strictly prohibits harassment on the basis of race, color, religion, gender, national origin,

age, or disability as such actions constitute discrimination. No town employee shall engage in harassment of any form.

Harassment is defined as unwelcomed or unsolicited speech or conduct based upon race, sex, creed, religion, national origin, age, color, or handicapping condition as defined by the Americans With Disabilities Act that creates a hostile work environment or circumstances involving quid pro quo.

Sexual harassment as defined by the Equal Employment Opportunity Commission is unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitutes sexual harassment when submission to or rejection of this conduct explicitly or implicitly affects an individual's employment, unreasonably interferes with an individual's work performance or creates an intimidating, hostile or offensive work environment.

Any town employee who believes he or she may have a complaint of harassment may follow the town's grievance procedure found in chapter V, "Employee Complaints and Grievances," of the town's personnel policy or should file the complaint within seven (7) days of the occurrence directly with the mayor or their immediate supervisor. The town will conduct an investigation into any allegation of harassment. An administrative official of the town will advise the employee of the outcome of the investigation. The mayor will take any action he deems necessary to preserve the integrity of the organization and to ensure the efficiency and effectiveness of the town's operations.

Employees witnessing harassment shall also report such conduct to their immediate supervisor or the mayor. Retaliation toward any employee exercising his or her right and duty to address perceived harassment will not be tolerated. (as added by Ord. #11-365, Oct. 2011)

OCCUPATIONAL SAFETY AND HEALTH PROGRAM¹

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 plan.
- 4-308. Severability.
- 4-309. Amendments, etc.

4-301. <u>Title</u>. This chapter shall be known as "The Occupational Safety and Health Program Plan" for the employees of the Town of Mount Carmel. (Ord. #258, July 2003, as replaced by Ord. #13-387, March 2013)

4-302. <u>Purpose</u>. The Town of Mount Carmel 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 that includes:

- (a) Top management commitment and employee involvement;
- (b) Continually analyze the worksite to identify all hazards and potential hazards;

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

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

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

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

¹The "Plan of Operation for the Occupational Safety and Health Program for the Employees of the Town of Mount Carmel" is attached as Appendix C to this municipal code.

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

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

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

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

(7) Provide for education and training, of personnel for the fair and efficient administration of occupational safety and health standards, and provide for education and notification of all employees of the existence of this program plan. (Ord. #258, July 2003, as replaced by Ord. #13-387, March 2013)

4-303. <u>Coverage</u>. The provisions of the Occupational Safety and Health Program Plan for the employees of the Town of Mount Carmel shall apply to all employees of each administrative department, commission, board, division, or other agency whether part-time or full-time, seasonal or permanent. (Ord. #258, July 2003, as replaced by Ord. #13-387, March 2013)

4-304. <u>Standards authorized</u>. The Occupational Safety and Health standards adopted by the Town of Mount Carmel are same as, but not limited to, the State of Tennessee Occupational Safety and Health Standards promulgated, or which may be promulgated in accordance with section 6 of the Tennessee Occupational Safety and Health Act of 1972.¹ (Ord. #258, July 2003, as replaced by Ord. #13-387, March 2013)

4-305. <u>Variances from standards authorized</u>. Upon written application to the Commissioner of Labor and Workforce Development of the State of Tennessee, we may request an order granting a temporary variance from any approved standards. Applications for variances shall be in accordance with Rules of Tennessee Department of Labor and Workforce Development Occupational Safety and Health, Variances from Occupational Safety and Health Standards, chapter 0800-01-02, as authorized by <u>Tennessee Code Annotated</u>, title 50. Prior to requesting such temporary variance, we will notify or serve notice to our employees, their designated representatives, or interested parties and present them with an opportunity for a hearing. The posting of

¹State law reference

Tennessee Code Annotated, title 50, chapter 3.

notice on the main bulletin board shall be deemed sufficient notice to employees. (Ord. #258, July 2003, as replaced by Ord. #13-387, March 2013)

4-306. <u>Administration</u>. For the purposes of this chapter, L. Paul Hale, Vice-Mayor, is designated as the Safety Director of Occupational Safety and Health to perform duties and to exercise powers assigned to plan, develop, and administer this program plan. The safety director shall develop a plan of operation for the program plan in accordance with Rules of Tennessee Department of Labor and Workforce Development Occupational Safety and Health, Safety and Health Provisions for the Public Sector, chapter 0800-01-05, as authorized by <u>Tennessee Code Annotated</u>, title 50. (Ord. #258, July 2003, as replaced by Ord. #13-387, March 2013)

4-307. <u>Funding the program plan</u>. Sufficient funds for administering and staffing the program plan pursuant to this chapter shall be made available as authorized by the Town of Mount Carmel. (Ord. #258, July 2003, as replaced by Ord. #13-387, March 2013)

4-308. <u>Severability</u>. If any section, subsection, sentence, clause, phrase, or portion of this chapter is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions hereof. (as added by by Ord. #13-387, March 2013)

4-309. <u>Amendments, etc</u>. The ordinance comprising this chapter shall take effect from and after the date it shall have been passed, properly signed, certified, and has met all other legal requirements, and as otherwise provided by law, the general welfare of the Town of Mount Carmel requiring it. (as added by Ord. #13-387, March 2013)

TRAVEL AND EXPENSE REGULATIONS

SECTION

- 4-401. Purpose.
- 4-402. Enforcement.
- 4-403. Travel policy.
- 4-404. Travel reimbursement rate schedules.
- 4-405. Administrative procedures.

4-401. <u>Purpose</u>. The purpose of this chapter and referenced regulations is to bring the town into compliance with <u>Tennessee Code Annotated</u>, § 6-54-901, which requires Tennessee municipalities to adopt travel and expense regulations covering expenses incurred by "any mayor and any member of the local governing body and any board or committee member elected or appointed by the mayor or local governing body, and any official or employee of the municipality whose salary is set by charter or general law" to provide consistent travel regulations and reimbursement. This chapter is expanded to cover regular town employees. It is the intent of this policy to assure fair and equitable treatment to all individuals traveling on town business at town expense. (1990 Code, § 1-601, modified)

4-402. <u>Enforcement</u>. The Chief Administrative Officer (CAO) of the town or his or her designee shall be responsible for the enforcement of these travel regulations. (1990 Code, \S 1-602)

4-403. <u>Travel policy</u>. (1) In the interpretation and application of this chapter, the term "traveler" or "authorized traveler" means any elected or appointed municipal officer or employee, including members of municipal boards and committees appointed by the mayor or the municipal governing body, and the employees of the town or such boards and committees who are traveling on official municipal business and whose travel was authorized in accordance with this chapter. "Authorized traveler" shall not include the spouse, children, other relatives, friends or companions accompanying the authorized traveler on town business, unless the person(s) otherwise qualifies as an authorized traveler under this chapter.

(2) Authorized travelers are entitled to reimbursement of certain expenditures incurred while traveling on official business for the town. Reimbursable expenses shall include expenses for transportation; lodging; meals; registration fees for conferences, conventions, and seminars; and other actual and necessary expenses related to official business as determined by the CAO. Under certain conditions entertainment expenses may be eligible for reimbursement. (3) Authorized travelers can request either a travel advance for the projected cost of authorized travel or advance billing directly to the town for registration fees, air fares, meals, lodging, conferences, and similar expenses. Travel advance requests will not be considered documentation of travel expenses. If travel advances exceed documented expenses, the traveler must immediately reimburse the town. It will be the responsibility of the CAO to initiate action to recover any undocumented travel advances.

(4) Travel advances are available only for special travel and only after completion and approval of the travel authorization form.

(5) A travel expense reimbursement form shall be used to document all expense claims.

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

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

(b) Actual, reasonable, and necessary under the circumstances. The CAO may made exceptions for unusual circumstances. Expenses considered excessive by the CAO will not be allowed.

(7) Claims of five dollars (\$5.00) or more for travel expense reimbursement must be supported by the original paid receipt for lodging, vehicle rental, phone calls, public carrier travel, conference fees, and other reimbursable costs.

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

(9) Mileage and motel expenses incurred within the town will not ordinarily be considered eligible expenses for reimbursement. (1990 Code, \S 1-603)

4-404. <u>**Travel reimbursement rate schedules**</u>. Authorized travelers shall be reimbursed according to the federal regulation rates. The town's travel reimbursement rates will automatically change when the federal rates are adjusted. The municipality may pay directly to the provider for expenses such as meals, lodging, and registration fees for conferences, conventions, seminars, and other education programs. (1990 Code, § 1-604)

4-405. <u>Administrative procedures</u>. The town adopts and incorporates by reference, as if fully set out herein, the administrative procedures submitted by the Municipal Technical Advisory Service to, and approved by, the Comptroller of the Treasury, State of Tennessee in June, 1993. A copy of the administrative procedures shall be kept on file in the office of the city recorder. (1990 Code, § 1-605)

TITLE 5

MUNICIPAL FINANCE AND TAXATION¹

CHAPTER

- 1. WHOLESALE BEER TAX.
- 2. LOCAL SALES TAX.
- 3. PROPERTY TAXES.
- 4. PURCHASING.
- 5. MISCELLANEOUS.
- 6. DEBT POLICY.

CHAPTER 1

WHOLESALE BEER TAX

SECTION

5-101. To be collected.

5-101. <u>To be collected</u>. The city recorder is hereby directed to take appropriate action to assure payment to the town of the wholesale beer tax levied by the "Wholesale Beer Tax Act," as set out in <u>Tennessee Code Annotated</u>, title 57, chapter $6.^2$ (1990 Code, § 5-101)

¹Charter references

Charter provisions on taxation and expenditures are contained in <u>Tennessee Code Annotated</u>, title 6, chapter 2, part 3. For specific charter provisions on finance and taxation, see the section indicated: Restriction on expenditures: §§ 6-2-301 through 6-2-303. Restriction on property tax exemptions: § 6-2-305.

²State law reference

<u>Tennessee Code Annotated</u>, 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.

LOCAL SALES TAX¹

SECTION

5-201. Findings of board.

- 5-202. Tax levied.
- 5-203. State to collect.
- 5-204. Remedies of taxpayer claiming illegal assessment and collection.

5-201. <u>Findings of board</u>. It is in the best interest of the citizens and residents of the Town of Mount Carmel to impose and collect a sales or use tax upon all personal property within the Town of Mount Carmel, as allowed under the 1963 Local Option Revenue Act. (1990 Code, § 5-201)

5-202. <u>**Tax levied</u>**. The Town of Mount Carmel hereby adopts the provisions of <u>Tennessee Code Annotated</u>, §§ 67-6-701 through 67-6-709, and hereby imposes a sales tax on the sale or use of all articles of personal property within the boundaries of the Town of Mount Carmel at the rate of one-half (1/2%) cent per one dollar (\$1.00), said amount collected not to exceed two dollars and fifty cents (\$2.50) on the sale or use of any single article of personal property. (1990 Code, § 5-202)</u>

5-203. <u>State to collect</u>. The Department of Revenue of the State of Tennessee shall collect such tax concurrently with the collection of the state tax and in the same manner as the state tax is collected. (1990 Code, § 5-203)

5-204. <u>Remedies of taxpayer claiming illegal assessment and</u> <u>collection</u>. Upon any claim of illegal assessments and collection the taxpayer shall have all the remedies provided in <u>Tennessee Code Annotated</u>, and suit shall be brought against the mayor of the Town of Mount Carmel in such instances. (1990 Code, § 5-204)

¹The local sales tax ordinance, #53, was approved by voters through referendum Nov. 29, 1974, by vote of 172 to 17.

PROPERTY TAXES

SECTION

- 5-301. Tax levied.
- 5-302. When set.
- 5-303. Tax to be lien on property; when due; when delinquent; interest and penalties.
- 5-304. Assessment of property for taxes.
- 5-305. Recorder to collect.
- 5-306. Tax to be used for any lawful expenditure.
- 5-307. Collection of delinquent taxes.

5-301. <u>**Tax levied**</u>. There is hereby levied and enacted a tax on all property within the corporate boundaries which is taxable by municipalities under the laws of the State of Tennessee. (1990 Code, § 5-401)

5-302. <u>When set</u>. The levy rate is to be set each year on July 1, or as soon thereafter as possible upon the adoption of the annual budget. (1990 Code, § 5-402)

5-303. <u>Tax to be lien on property; when due; when delinquent;</u> <u>interest and penalties</u>. The tax shall become a lien upon all property on and after January 10th of each year; shall become due and payable on and after October 1st, next following; shall become delinquent on and after March 1st of each year following the date it becomes due and payable; and shall bear interest and penalties as provided by the laws of the State of Tennessee pertaining to municipal taxes. (1990 Code, § 5-403)

5-304. <u>Assessment of property for taxes</u>. For purposes of said tax and determination of the amounts due thereunder the assessments made by the County Tax Assessor of Hawkins County, Tennessee, upon property within the corporate boundaries shall be used and are hereby adopted until such time as, by appropriate action, a separate means of assessment is established, and provided that where property lying partly within the corporate boundaries and partly outside the corporate boundaries shall be assessed in one assessment by the said county tax assessor without allocation of value as to the portion lying within the corporate boundaries, in such event, the board of mayor and aldermen shall have full power and authority to determine what part of such assessed value to properly allocable to property within the corporate boundaries.

Utilities and carriers shall be assessed by the means and the manner provided by state law for assessment of such property. (1990 Code, § 5-404)

5-305. <u>Recorder to collect</u>. The taxes herein levied shall be paid to the recorder or such other official or employee as may by ordinance or resolution be designated. (1990 Code, § 5-405)

5-306. <u>Tax to be used for any lawful expenditure</u>. All monies collected under this chapter shall be used for any lawful expenditure, any lawful expenditure being defined from time to time by appropriate action of the board of mayor and aldermen. (1990 Code, § 5-406)

5-307. <u>Collection of delinquent taxes</u>. The taxes herein levied may be collected in the same manner as is provided for collection of delinquent municipal taxes by the laws of the State of Tennessee. (1990 Code, § 5-407)

PURCHASING

SECTION

5-401. Application.

5-402. Limits on purchases.

5-403. Advertising and bidding -- exceptions.

5-404. Advertising and bidding -- expenditures of less than \$9,000.00.

5-405. Additional authority of the board.

5-406. Bid specifications for purchases of chemical products.

5-401. <u>Application</u>. This chapter shall apply to all purchases by authorized officials in the Town of Mount Carmel using or encumbering municipal funds, except as follows:

(1) This chapter shall not apply to purchases made under the provisions of <u>Tennessee Code Annotated</u>, § 12-3-1001;

(2) This chapter shall not apply to investments in or purchases from the pooled investment fund established pursuant to <u>Tennessee Code Annotated</u>, title 9, chapter 4, part 7; and

(3) This chapter shall not apply to purchases from instrumentalities created by two (2) or more cooperating governments such as, but not limited to, those established pursuant to the Inter-local Cooperation Act, compiled in <u>Tennessee Code Annotated</u>, title 12, chapter 9; and

(4) This chapter shall not apply to purchases from nonprofit corporations such as, but not limited to, the Local Government Data Processing Corporation, whose purpose or one (1) of whose purposes is to provide goods or services specifically to municipalities. (1990 Code, § 1-801, as replaced by Ord. #16-449, Jan. 2017)

5-402. <u>Limits on purchases</u>. All purchases made from funds subject to the authority of this chapter shall be made within the limits of the approved budget, when required, and the appropriations, when required, for the department, office or agency for which the purchase is made. (1990 Code, \S 1-802, as replaced by Ord. #16-449, Jan. 2017)

5-403. <u>Advertising and bidding -- exceptions</u>. Except as hereinafter provided, all purchases and leases or lease-purchase agreements shall be made or entered into only after public advertisement and competitive bid, except as follows:

(1) Purchases costing less than nine thousand hundred dollars (\$9,000.00); provided that this exemption shall not apply to purchases of like items that individually cost less than nine thousand hundred dollars (\$9,000.00), but that are customarily purchased in lots of two (2) or more, if the

total purchase price of such items would exceed nine thousand dollars (\$9,000.00) during any fiscal year;

(2) Any goods or services that may not be procured by competitive means because of the existence of a single source of supply or because of a proprietary product. A record of all such sole source or proprietary purchases shall be made by the person or body authorizing such purchases and shall specify the amount paid, the items purchased, and from whom the purchase was made. A report of such sole source or proprietary purchases shall be made as soon as possible to the board of mayor and aldermen and shall include all items of information as required for the record;

(3) Purchases or leases of any supplies, materials or equipment for immediate delivery in actual emergencies arising from unforeseen causes, including delays by contractors, delays in transportation, and unanticipated volume of work. A record of any such emergency purchase shall be made by the person or body authorizing such emergency purchases, and shall specify the amount paid, the items purchased, from whom the purchase was made and the nature of the emergency. A report of any emergency purchase shall be made as soon as possible to the board of mayor and aldermen, and shall include all items of information as required in the record;

(4) Leases or lease-purchase agreements requiring total payments ofless than nine thousand dollars (\$9,000.00) in each fiscal year the agreement is in effect, provided that, this exemption shall not apply to leases of like or related items that individually may be leased or lease-purchased with total payments of less than nine thousand hundred dollars (\$9,000.00) in any fiscal year, but which are customarily leased or lease-purchased in numbers of two (2) or more, if the total lease or lease-purchase payments for such items under a single agreement would be nine thousand dollars (\$9,000.00) or more in any fiscal year;

(5) Purchases, leases, or lease-purchases of real property;

(6) Purchases, leases, or lease-purchases from any federal, state, or local governmental unit or agency of secondhand articles or equipment or other materials, supplies, commodities, and equipment;

(7) Purchases of perishable commodities, when such items are purchased in the open market. A record of all such purchases shall be made by the person or body authorizing such purchases and shall specify the amount paid, the items purchased, and from whom the purchase was made. A report of such purchases shall be made, at least monthly, to the chief executive officer and the governing body, and shall include all items of information as required in the record. Fuel and fuel products may be purchased in the open market without public advertisement, but shall whenever possible be based on at least three (3) competitive bids. Fuel and fuel products may be purchased from the department of general services' contract where available; and

(8) Purchases, for resale, of natural gas and propane gas. (1990 Code, § 1-803, as replaced by Ord. #16-449, Jan. 2017)

5-404. <u>Advertising and bidding -- expenditures of less than</u> <u>\$9,000.00</u>. All purchases, leases, or lease-purchase arrangements with expenditures of less than nine thousand dollars (\$9,000.00) but more than two thousand five hundred dollars (\$2,500.00) in any fiscal year may be made in the open market without public advertisement, but shall, whenever possible, be based upon at least three (3) competitive bids (quotes). Purchases, leases, or lease-purchases of two thousand five hundred dollars (\$2,500.00) or less in any fiscal year shall not require any public advertisement or competitive bidding. (1990 Code, § 1-804, as replaced by Ord. #16-449, Jan. 2017)

5-405. <u>Additional authority of the board</u>. (1) The board of mayor and aldermen are specifically authorized to lower the dollar amounts required in this chapter for public advertisement and competitive bidding to an amount to be set by the board, by ordinance. The board of mayor and aldermen may by ordinance increase the dollar amount required in this chapter for public advertisement and competitive bidding from nine thousand dollars (\$9,000.00) to a maximum of thousand dollars (\$10,000.00).

(2) The board of mayor and aldermen are specifically authorized to adopt regulations providing procedures for implementing this chapter. (1990 Code, § 1-805, as replaced by Ord. #16-449, Jan. 2017)

5-406. <u>Bid specifications for purchases of chemical products</u>. Specifications for purchases of chemical products pursuant to this chapter shall require that the manufacturer of the chemical products create and maintain a Material Safety Data Sheet (MSDS) for such chemical products on the national MSDSSEARCH repository or the manufacturer's web site so that the information can be accessed by means of the Internet. A site operated by or on behalf of the manufacturer or a relevant trade association is acceptable so long as the information is freely accessible to the public.</u>

The URL for MSDSSEARCH shall be posted on the web site of the department of general services as provided in § 12-3-217. In lieu of posting a MSDS on MSDSSEARCH, a bidder shall include the manufacturer's URL for their MSDS in the bid proposal or purchase order. (as added by Ord. #16-449, Jan. 2017)

MISCELLANEOUS

SECTION

5-501. Official depository for city funds.

5-501. <u>Official depository for city funds</u>. The First Community Bank of Mount Carmel, Tennessee, and the Local Government Investment Pool of Tennessee are hereby designated as the official depositories for all city funds. (Ord. #09-344, June 2009)

DEBT POLICY

SECTION

- 5-601. Purpose.
- 5-602. Definition of debt.
- 5-603. Approval of debt.
- 5-604. Transparency.
- 5-605. Role of debt.
- 5-607. Types and limits of debt.
- 5-608. Use of variable rate of debt.
- 5-609. Use of derivatives.
- 5-610. Costs of debt.
- 5-611. Refinancing outstanding debt.
- 5-612. Professional services.
- 5-613. Conflicts.
- 5-614. Review of policy.
- 5-615. Compliance.

5-601. <u>Purpose</u>. The purpose of this debt policy is to establish a set of parameters by which debt obligations will be undertaken by the Town of Mount Carmel, Tennessee. This policy reinforces the commitment of the town and its officials to manage the financial affairs of the town so as to minimize risks, avoid conflicts of interest and ensure transparency while still meeting the capital needs of the town. A debt management policy signals to the public and the rating agencies that the town is using a disciplined and defined approach to financing capital needs and fulfills the requirements of the State of Tennessee regarding the adoption of a debt management policy.

The goal of this policy is to assist decision makers in planning, issuing and managing debt obligations by providing clear direction as to the steps, substance and outcomes desired. In addition, greater stability over the longterm will be generated by the use of consistent guidelines in issuing debt. (as added by Ord. #11-367, Dec. 2011)

5-602. <u>Definition of debt</u>. All obligations of the town to repay, with or without interest, in installments and/or at a later date, some amount of money utilized for the purchase, construction, or operation of town resources. This includes but is not limited to notes, bond issues, capital leases, and loans of any type (whether from an outside source such as a bank or from another internal fund). (as added by Ord. #11-367, Dec. 2011)

5-603. <u>Approval of debt</u>. Bond anticipation notes, capital outlay notes, grant anticipation notes, and tax and revenue anticipation notes will be

submitted to the State of Tennessee Comptroller's Office and the town council prior to issuance or entering into the obligation. A plan for refunding debt issues will also be submitted to the comptroller's office prior to issuance. Capital or equipment leases may be entered into by the town council; however, details on the lease agreement will be forwarded to the comptroller's office on the specified form within forty-five (45) days. (as added by Ord. #11-367, Dec. 2011)

5-604. <u>**Transparency**</u>. (1) The town shall comply with legal requirements for notice and for public meetings related to debt issuance.

(2) All notices shall be posted in the customary and required posting locations, including as required local newspapers, bulletin boards, and websites.

(3) All costs (including principal, interest, issuance, continuing, and one (1) time) shall be clearly presented and disclosed to the citizens, town council, and other stakeholders in a timely manner.

(4) The terms and life of each debt issue shall be clearly presented and disclosed to the citizens/members, town council, and other stakeholders in a timely manner.

(5) A debt service schedule outlining the rate of retirement for the principal amount shall be clearly presented and disclosed to the citizens/members, town council, and other stakeholders in a timely manner. (as added by Ord. #11-367, Dec. 2011)

5-605. <u>Role of debt</u>. (1) Long-term debt shall not be used to finance current operations. Long-term debt may be used for capital purchases or construction identified through the capital improvement, regional development, transportation, or master process or plan. Short-term debt may be used for certain projects and equipment financing as well as for operational borrowing; however, the town will minimize the use of short-term cash flow borrowings by maintaining adequate working capital and close budget management.

(2) In accordance with generally accepted accounting principles and state law:

(a) The maturity of the underlying debt will not be more than the useful life of the assets purchased or built with the debt, not to exceed thirty (30) years; however, an exception may be made with respect to federally sponsored loans, provided such an exception is consistent with law and accepted practices.

(b) Debt issued for operating expenses must be repaid within the same fiscal year of issuance or incurrence. (as added by Ord. #11-367, Dec. 2011)

5-606. <u>Types and limits of debt</u>. (1) The town will seek to limit total outstanding debt obligations to ten percent (10%) of the total town's taxable

assessed valuation, excluding overlapping debt, enterprise debt, and revenue debt.

(2) The limitation on total outstanding debt must be reviewed prior to the issuance of any new debt.

(3) The town's total outstanding debt obligation will be monitored and reported to the town council by the town recorder and on a schedule established in the policy. The town recorder shall monitor the maturities and terms and conditions of all obligations to ensure compliance. The town recorder shall also report to the town council any matter that adversely affects the credit or financial integrity of the town.

(4) The town has issued capital outlay notes, sewer revenue bonds, and tax anticipation notes in the past and is authorized to issue general obligation bonds, revenue bonds, TIFs, loans, notes and other debt allowed by law.

(5) The town will seek to structure debt with level or declining debt service payments over the life of each individual bond issue or loan.

(6) As a rule, the town will not backload, use "wrap-around" techniques, balloon payments or other exotic formats to pursue the financing of projects. When refunding opportunities, natural disasters, other non-general fund revenues, or other external factors occur, the town may utilize non-level debt methods. However, the use of such methods must be thoroughly discussed in a public meeting and the mayor and governing body must determine such use is justified and in the best interest of the town.

(7) The town may use capital leases to finance short-term projects.

(8) Bonds backed with a general obligations pledge often have lower interest rates than revenue bonds. The town may use its general obligation pledge with revenue bond issues when the populations served by the revenue bond projects overlap or significantly are the same as the property tax base of the town. The town council and management are committed to maintaining rates and fee structures of revenue supported debt at levels that will not require a subsidy from the town's general fund. (as added by Ord. #11-367, Dec. 2011)

5-607. <u>Use of variable rate debt</u>. (1) The town recognizes the value of variable rate debt obligations and that cities have greatly benefitted from the use of variable rate debt in the financing of needed infrastructure and capital improvements.

(2) However, the town also recognizes there are inherent risks associated with the use of variable rate debt and will implement steps to mitigate these risks; including:

(a) The town will annually include in its budget an interest rate assumption for any outstanding variable rate debt that takes market fluctuations affecting the rate of interest into consideration.

(b) Prior to entering into any variable rate debt obligation that is backed by insurance and secured by a liquidity provider, the town council shall be informed of the potential affect on rates as well as any additional costs that might be incurred should the insurance fail.

(c) Prior to entering into any variable rate debt obligation that is backed by a letter of credit provider, the town council shall be informed of the potential affect on rates as well as any additional costs that might be incurred should the letter of credit fail.

(d) Prior to entering into any variable rate debt obligation, the town council will be informed of any terms, conditions, fees, or other costs associated with the prepayment of variable rate debt obligations.

(e) The town shall consult with persons familiar with the arbitrage rules to determine applicability, legal responsibility, and potential consequences associated with any variable rate debt obligation. (as added by Ord. #11-367, Dec. 2011)

5-608. <u>Use of derivatives</u>. (1) The town chooses not to use derivative or other exotic financial structures in the management of the town's debt portfolio.

(2) Prior to any reversal of this provision:

(a) A written management report outlining the potential benefits and consequences of utilizing these structures must be submitted to the town council; and

(b) The town council must adopt a specific amendment to this policy concerning the use of derivatives or interest rate agreements that complies with the state funding board guidelines. (as added by Ord. #11-367, Dec. 2011)

5-609. <u>Costs of debt</u>. (1) All costs associated with the initial issuance or incurrence of debt, management and repayment of debt (including interest, principal, and fees or charges) shall be disclosed prior to action by the town council in accordance with the notice requirements stated above.

(2) In cases of variable interest or non-specified costs, detailed explanation of the assumptions shall be provided along with the complete estimate of total costs anticipated to be incurred as part of the debt issue.

(3) Costs related to the repayment of debt, including liabilities for future years, shall be provided in context of the annual budgets from which such payments will be funded (i.e. general obligations bonds in context of the general fund, revenue bonds in context of the dedicated revenue stream and related expenditures, loans and notes). (as added by Ord. #11-367, Dec. 2011)

5-610. <u>Refinancing outstanding debt</u>. (1) The town will refund debt when it is in the best financial interest of the town to do so, and the chief financial officer shall have the responsibility to analyze outstanding bond issues for refunding opportunities. The decision to refinance must be explicitly

approved by the governing body, and all plans for current or advance refunding of debt must be in compliance with state laws and regulations.

(2) The chief financial officer will consider the following issues when analyzing possible refunding opportunities:

(a) Onerous restrictions. Debt may be refinanced to eliminate onerous or restrictive covenants contained in existing debt documents, or to take advantage of changing financial conditions or interest rates.

(b) Restructuring for economic purposes. The town will refund debt when it is in the best financial interest of the town to do so. Such refunding may include restructuring to meet unanticipated revenue expectations, achieve cost savings, mitigate irregular debt service payments, or to release reserve funds. Current refunding opportunities may be considered by the chief financial officer if the refunding generates positive present value savings, and the chief financial officer must establish a minimum present value savings threshold for any refinancing.

(c) Term of refunding issues. The town will refund bonds within the term of the originally issued debt. However, the chief financial officer may consider maturity extension, when necessary to achieve a desired outcome, provided such extension is legally permissible. The chief financial officer may also consider shortening the term of the originally issued debt to realize greater savings. The remaining useful life of the financed facility and the concept of inter-generational equity should guide this decision.

(d) Escrow structure. The town shall utilize the least costly securities available in structuring refunding escrows. Under no circumstances shall an underwriter, agent or financial advisor sell escrow securities to the town from its own account.

(e) Arbitrage. The town shall consult with persons familiar with the arbitrage rules to determine applicability, legal responsibility, and potential consequences associated with any refunding. (as added by Ord. #11-367, Dec. 2011)

5-611. <u>Professional services</u>. The town shall require all professionals engaged in the process of issuing debt to clearly disclose all compensation and consideration received related to services provided in the debt issuance process by both the town and the lender or conduit issuer, if any. This includes "soft" costs or compensations in lieu of direct payments.

(1) <u>Counsel</u>.¹ The town shall enter into an engagement letter agreement with each lawyer or law firm representing the town in a debt transaction. (No engagement letter is required for any lawyer who is an employee of the town or lawyer or law firm which is under a general appointment or contract to serve as counsel to the town. The town does not need an engagement letter with counsel not representing the town, such as underwriters' counsel.)

(2) <u>Financial advisor</u>.² If the town chooses to hire financial advisors, the town shall enter into a written agreement with each person or firm serving as financial advisor or debt management and transactions.

Whether in a competitive or negotiated sale, the financial advisor shall not be permitted to bid on, privately place or underwrite an issue for which they are or have been providing advisory services for the issuance.

(3) <u>Underwriter</u>.³ If there is an underwriter the town shall require the underwriter to clearly identify itself in writing (e.g., in response to a request for proposals or in promotional materials proved to an issuer) as an underwriter and not as a financial advisor form the earliest stages of its relationship with the town with respect to that issue. The underwriter must clarify its primary role as a purchaser of securities in an arm's-length commercial transaction and

(2) The town's obligation with respect to the payment of such lawyer or law firm's fee and expenses.

²For new issues of debt which constitutes a "security" for which the Time of Formal Award (as defined in Rule G-34(a)(ii)(C)(1) occurs after November 27, 2011, the Municipal Securities Rulemaking Board has prohibited broker, dealer or other municipal securities dealer serving as a financial advisor to an issuer for a particular issue from switching roles and underwriting the same issue. Policies must be adjusted to comply with amended Rule G-23 as it applies to securities, including exceptions to the prohibition.

³State law references

<u>Tennessee Code Annotated</u>, 7 part 9–Contracts, leases, and lease purchase agreements.

<u>Tennessee Code Annotated</u>, 9, part 21–Local Government Public Obligations Law.

¹The requirement for an engagement letter does not apply to any lawyer who is an employee of the town or any lawyer or law firm under a general appointment as counsel to the town and not serving as bond counsel for the transaction.

If bond counsel for a debt transaction does not represent the town in that transaction, the town will enter into a fee payment letter agreement with such lawyer or law firm specifying:

⁽¹⁾ The party represented in the debt transaction; and

that it has financial and other interests that differ from those of the town. The underwriter, in a publicly offered, negotiated sale, shall be required to provide pricing information both as to interest rates and to takedown per maturity to the governing body (or its designated official) in advance of the pricing of the debt. (as added by Ord. #11-367, Dec. 2011)

5-612. <u>Conflicts</u>. (1) Professionals involved in a debt transaction hired or compensated by the town shall be required to disclose to the town existing client and business relationships between and among the professionals to a transaction (including but not limited to financial advisor, swap advisor, bond counsel, swap counsel, trustee, paying agent, liquidity or credit enhancement provider, underwriter, counterparty, and remarketing agent), as well as conduit issuers, sponsoring organizations and program administrators. This disclosure shall include that information reasonably sufficient to allow the town to appreciate the significance of the relationships.

(2) Professionals who become involved in the debt transaction as a result of a id submitted in a widely and publicly advertised competitive sale conducted using an industry standard, electronic bidding platform are not subject to this disclosure. No disclosure is required that would violate any rule or regulation of professional conduct. (as added by Ord. #11-367, Dec. 2011)

5-613. <u>**Review of policy**</u>. This policy shall be reviewed at least annually by the town council with the approval of the annual budget. Any amendments shall be considered and approved in the same process as the initial adoption of this policy, with opportunity for public input. (as added by Ord. #11-367, Dec. 2011)

5-614. <u>Compliance</u>. The town recorder is responsible for ensuring compliance with this policy. (as added by Ord. #11-367, Dec. 2011)

TITLE 6

PUBLIC SAFETY

CHAPTER

- 1. PUBLIC SAFETY DEPARTMENT ESTABLISHED.
- 2. LAW ENFORCEMENT.
- 3. RESERVE PUBLIC SAFETY OFFICERS.
- 4. FIRE PREVENTION AND SUPPRESSION.
- 5. RESERVE FIREMEN.

CHAPTER 1

PUBLIC SAFETY DEPARTMENT ESTABLISHED

SECTION

- 6-101. Public safety department established.
- 6-102. Positions established.
- 6-103. Functions and duties.
- 6-104. Duties of director of public safety.
- 6-105. Department command structure.

6-101. <u>Public safety department established</u>. Public safety department hereby is created and established as a new department, which shall be known as the public safety department. Staffing shall consist of the current fire department and police department. (Ord. #299, June 2005, as replaced by Ord. #15-426, June 2015)

6-102. <u>Positions established</u>. (1) The department of public safety shall consist of the fire chief, police chief, and members of each department designated as public safety officers, police officers, and firemen. The job descriptions for the above are on file in the department of public safety.

(2) The police chief shall be the director of the public safety department and department head for the police department whose appointment is made by the mayor with the consent of the board of mayor and aldermen. In the event a leave of absence or vacancy occurs, the assistant police chief shall assume the duties of the director. The mayor has the authority to appoint a designee to fill the vacancy until the position of director has been filled by the board of mayor and aldermen. (Ord. #299, June 2005, as replaced by Ord. #15-426, June 2015)

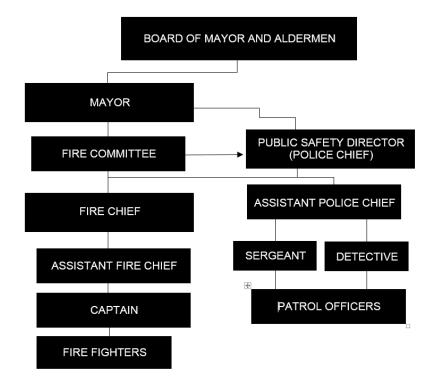
6-103. <u>Functions and duties</u>. Within the public safety department, the members of the fire department shall be responsible for fire prevention, fire suppression, and investigations related to fires. The members of the police

department shall be responsible for crime prevention, crime suppression, traffic control, and criminal investigations. Public safety officers perform dual services relating to fire and police activities. Other related functions and duties may be assigned by the public safety director with the consent of the mayor. (Ord. #299, June 2005, as replaced by Ord. #15-426, June 2015)

6-104. Duties of director of public safety. (1) The director of public safety shall be granted all powers, with all of the duties imposed, by the laws of the state relating to police chiefs, and in addition shall have the power and duty to enforce laws and ordinances of the city and state now and in the future as required.

(2) The director of public safety shall be the chief executive officer of the department, with authority in departmental matters of discipline, operations, and policy. The director will report to the mayor the operations of the department and provide reports as requested or required by the mayor. (Ord. #299, June 2005, as replaced by Ord. #15-426, June 2015)

6-105. Department command structure.



Department command structure shall be as follows:

(Ord. #299, June 2005, as replaced by Ord. #15-426, June 2015)

LAW ENFORCEMENT

SECTION

6-201. Public safety officer subject to director's orders.

6-202. Public safety officer to preserve law and order, etc.

6-203. When public safety officer to make arrests.

6-204. Disposition of persons arrested.

6-205. Police department policies and procedures manual 2005.

6-206. Evidence and property unit-standard operating and procedure manual.

6-207. Standing orders.

6-201. <u>Public safety officer subject to director's orders</u>. All public safety officers/police officers shall obey and comply with such orders and administrative rules and regulations as the director of public safety may officially issue. (Ord. #299, June 2005)

6-202. <u>Public safety officer to preserve law and order, etc</u>. Public safety officers/police officers shall preserve law and order within the town. They shall patrol the town and shall assist the city court during the trial of cases. Public safety officers/police officers shall also promptly serve any legal process issued by the city court. (Ord. #299, June 2005)

6-203. <u>When public safety officer to make arrests</u>.¹ Unless otherwise authorized or directed in this code or other applicable law, an arrest of the person shall be made by a public safety officer/police offer in the following cases:

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

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

(3) Whenever a felony has in fact been committed and the officer has reasonable cause to believe the person has committed it. (Ord. #299, June 2005)

6-204. <u>**Disposition of persons arrested</u></u>. Unless otherwise provided by law, a person arrested for a violation of this code or other city ordinances shall be brought before the city court. However, if the city court is not in session, the arrested person shall be allowed to post bond with the county court clerk. If the arrested person fails or refuses to post bond, he shall be confined pending**</u>

¹Municipal code reference

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

his release by the city judge. In addition, if the arrested person is under the influence of alcohol or drugs when arrested, even if he is arrested for an offense unrelated to the consumption of alcohol or drugs, the person shall be confined until he does not pose a danger to himself or to any other person.

A person arrested for a felony or a misdemeanor shall be disposed of in accordance with applicable federal and state law and the rules of the court which has jurisdiction over the offender. (Ord. #299, June 2005)

6-205. <u>Police department policies and procedures manual 2005</u>. The Town of Mount Carmel, Tennessee "Police Department Policies and Procedures Manual 2005" is hereby adopted by reference as the official policy of the Town of Mount Carmel and all approved amendments thereto, and is to be used by all members and employees of the Mount Carmel Police Department in carrying out the duties, responsibilities, and obligations imposed upon them by law or necessarily assumed in carrying out the department's objectives. A copy of the policies and procedures manual, and all amendments thereto, shall be maintained in the police chief's office. (Ord. #299, June 2005, modified)</u>

6-206. Evidence and property unit-standard operating and procedure manual. The Town of Mount Carmel, Tennessee "Police Department Evidence and Property Unit-Standard Operating and Procedures Manual," 1998 edition, is hereby adopted by reference as the official policy of the Town of Mount Carmel and all approved amendments thereto, and is to be used by all members and employees of the Mount Carmel Police Department in carrying out the duties, responsibilities, and obligations imposed upon them by law which are necessarily assumed in carrying out the department's objectives. A copy of the standard operating and procedures manual, and all amendments thereto, shall be maintained in the police chief's office. (Ord. #299, June 2005, modified)

6-207. <u>Standing orders</u>. The director of public safety is authorized to promulgate standing orders and procedures for the legal efficient operation of the department in carrying out the duties, responsibilities, and obligations imposed upon them by law or necessarily assumed in carrying out the department's objectives. (Ord. #299, June 2005)

RESERVE PUBLIC SAFETY OFFICERS

SECTION

6-301. Reserve officer unit manual adopted.

6-301. <u>Reserve officer unit manual adopted</u>. The Town of Mount Carmel, Tennessee "Reserve Officer Unit Manual 1999" is hereby adopted by reference and included as a part of this code as the official policy of the town and all approved amendments thereto, and is to be used by all reserve public safety officers/police officers in calling out the duties, responsibilities, and obligations imposed upon them by law or necessarily assumed in carrying out the department's objectives. A copy of the reserve officer manual, and all amendments thereto, shall be maintained in the police chief's office. (Ord. #299, June 2005, modified)</u>

FIRE PREVENTION AND SUPPRESSION

SECTION

- 6-401. Organizational statement.
- 6-402. Appointment.
- 6-403. Objectives.
- 6-404. Fire prevention and suppression operations.
- 6-405. Records and reports.
- 6-406. Equipment and funding.
- 6-407. Chief responsible for training.
- 6-408. Chief to be assistant to state commissioner.
- 6-409. Equipment to be used in municipal limits.
- 6-410. Organization, rules, and regulations.

6-401. <u>**Organizational statement**</u>. The fire chief will structure these procedures and make assignments of officers and members in an effort to provide the best possible services to citizens, effectively utilize the time and talents of all members, and position the department to operate in a manner that facilitates change and places maximum emphasis on preparation for the future.

By establishing a system in which the fire chief will have knowledge of the member or members that have been assigned or who have volunteered for the time that has been scheduled, the fire department will ensure a timely response to emergencies.

An on-duty roster, prepared monthly, will be placed in such an area that all department members have access. It will be the responsibility of said members to fulfill the staffing of the roster assignments through the chain of command if conflicts occur. Reserve members who are volunteering their time are required to participate in at least three (3) shifts per month. Creation of the on-duty roster creates no obligation for reserve members except as required above. (Ord. #299, June 2005, as replaced by Ord. #15-426, June 2015)

6-402. <u>Appointment</u>. The mayor, with the consent of the board, may appoint current city employees to act as fire department personnel whenever the need arises for fire prevention and suppression purposes, provided said employees have been properly trained. (Ord. #299, June 2005, as replaced by Ord. #15-426, June 2015)

6-403. <u>Objectives</u>. (1) To prevent uncontrolled fires from starting.

- (2) To prevent the loss of life and property by fire.
- (3) To confine fires to their place of origin and extinguish them.
- (4) To prevent loss of life from asphysiation or drowning.

(5) To perform such rescue work as equipment and training are practical. (Ord. #299, June 2005, as replaced by Ord. #15-426, June 2015)

6-404. <u>Fire prevention and suppression operations</u>. The fire chief shall appoint and make definite assignments to fire personnel. Rules and regulations will be designed and enforced that are necessary for fire prevention and suppression operations. (Ord. #299, June 2005, as replaced by Ord. #15-426, June 2015)

6-405. <u>Records and reports</u>. It shall be the responsibility of the fire chief to maintain and keep adequate records of all fires, inspections, apparatus, equipment, charitable contributions, personnel and work of the department. Submission of a final report at the end of the fiscal year, including a detailed annual report, should be accomplished by the fire chief. The fire chief will assign fire department personnel to be responsible for the tasks of maintaining any record or records. The fire department member shall keep adequate records, and, with the direction of the fire chief, establish a secure area for such records or reports to be filed. (Ord. #299, June 2005, as replaced by Ord. #15-426, June 2015)</u>

6-406. Equipment and funding. The fire chief shall direct the general public to send any fire department donations to the city recorder, who shall place said funds in a restricted account, and such donations shall be used exclusively for the benefit of the fire department. Any equipment donated to the fire department shall be the sole property of the town. (Ord. #299, June 2005, as replaced by Ord. #15-426, June 2015)

6-407. <u>Chief responsible for training</u>. All training for firefighters will be the full responsibility of the fire chief. The fire chief shall appoint and have authority to designate a fire department member whose sole position is focused on the training of all fire personnel. The fire chief shall ensure that all fire department personnel are trained to the minimum training requirements, which shall include all training required by local, state, and federal rules and regulations. (Ord. #299, June 2005, as replaced by Ord. #15-426, June 2015)

6-408. <u>Chief to be assistant to state commissioner</u>. Pursuant to requirements of <u>Tennessee Code Annotated</u>, § 68-102-301, <u>et seq</u>., the chief of the fire department is designated as an assistant to the State Commissioner of Insurance and is subject to all the duties and obligations imposed by <u>Tennessee Code Annotated</u>, title 68, chapter 102, part 3, and shall be subject to the directions of the commissioner in the execution of the provisions thereof. (Ord. #299, June 2005, as replaced by Ord. #15-426, June 2015)

6-409. Equipment to be used in municipal limits.¹ Public safety officers and firemen shall respond to calls for firefighting and fire protection within the city limits. The board of mayor and aldermen may, in its discretion, and with a resolution, authorize fire prevention and suppression activities at other locations in which the conditions deem necessary and will be in the best interest of the citizens of Mount Carmel. Reciprocal inter-local assistance agreements may be executed with other municipalities or departments within the areas outside of the municipality where the fire committee deems necessary and appropriate. Agreements heretofore entered and ratified may include automatic and/or mutual aid agreements in which a signed written agreement or assistance has been requested by another department. (Ord. #299, June 2005, as replaced by Ord. #15-426, June 2015)

6-410. <u>**Organization, rules, and regulations</u></u>. The fire chief will be responsible for taking assignments and reporting to the public safety director or in the absence shall report to the assistant public safety director who reports all findings to the mayor. Definite assignments of individuals shall be directed by the fire chief with approval by the public safety director. Enforcement, formulations, rules, and regulations are necessary for the efficient, safe, and orderly operations of the fire department. The public safety director along with the fire chief shall have the authority to dismiss or suspend any member of the fire department who violates departmental rules or regulations or when dismissal or suspension is deemed necessary to continue the operations of the fire department, provided said authority has been delegated by the mayor. (as added by Ord. #15-426, June 2015)</u>**

¹Municipal code reference

Contracts, mutual aid agreements and other types of agreements: title 1, chapter 4.

RESERVE FIREMEN

SECTION

- 6-501. Establishment and membership.
- 6-502. Review committee.

6-503. Status.

6-504.--6-505. [Deleted.]

6-501. <u>Establishment and membership</u>. Reserve firemen, who are members of the public safety department, must each be at least eighteen (18) years of age and a licensed driver of the State of Tennessee. (Ord. #299, June 2005, as replaced by Ord. #15-426, June 2015)

6-502. <u>Review committee</u>. Suspended reserve firemen have the option to appeal a suspension to the mayor. The aggrieved member will be granted an opportunity to present his or her appeal either orally and/or in writing to the mayor. It will be the responsibility of the mayor to affirm the suspension, modify, or remove the suspended member. (Ord. #299, June 2005, as replaced by Ord. #15-426, June 2015)

6-503. <u>Status</u>. Members of the fire department who are not employed by the city in another capacity, will serve as reserve firemen, who acknowledge that their position as reserve firemen is to serve the Town of Mount Carmel and provide fire protection for the community and surrounding areas. Reserve firemen may be compensated a nominal and reasonable fee, upon discretionary recommendation of the fire chief, subject to confirmation by the board of mayor and aldermen. (Ord. #299, June 2005, as replaced by Ord. #15-426, June 2015)

6-504.--6-505. [Deleted.] (Ord. #299, June 2005, as deleted by Ord. #15-426, June 2015)

TITLE 7

FIRE PROTECTION AND FIREWORKS¹

CHAPTER

1. FIRE DISTRICT.

2. FIRE CODE.

3. FIRE COMMITTEE.

CHAPTER 1

FIRE DISTRICT

SECTION

7-101. Fire district described.

7-101. <u>Fire district described</u>. Central businesses zoned within corporate city limits, residential subdivisions, and all properties (leased, owned, private, and rental) zoned in accordance within the jurisdictional boundaries established shall be the fire district. (1990 Code, § 7-101, as replaced by Ord. #15-426, June 2015)

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

CHAPTER 2

FIRE CODE¹

SECTION

- 7-201. Fire code adopted.
- 7-202. Available in recorder's office.
- 7-203. Enforcement.
- 7-204. Modifications.
- 7-205. Gasoline trucks.
- 7-206. Variances.
- 7-207. Violation and penalties.

7-201. <u>Fire code adopted</u>. <u>Tennessee Code Annotated</u>, §§ 6-54-501 through 6-54-506 grants the authority pursuant to this code with the purpose of providing a reasonable level of life safety including the protection of property in the event of fires, explosions, and dangerous conditions that may occur in new or existing buildings, structures, or premises. Provisions of safety for firefighters and emergency responders during events of emergency operations, which are recommended by the International Code Council, the International Fire Code,² 2012 edition hereby be adopted through reference, which includes this as part of the code. In accordance with the requirements of <u>Tennessee Code Annotated</u>, § 6-54-502, one copy of said 2012 edition of <u>International Fire Code</u> will be filed with the city recorder to be accessible to the public for use and inspection. The <u>International Fire Code</u> 2012 edition is hereby adopted and incorporated fully as if repeated verbatim herein and shall be used as a governing force within the corporate city limits. (as replaced by Ord. #15-426, June 2015)

7-202. <u>Available in recorder's office</u>. One (1) copy of the aforesaid code and revisions, as modified, has been filed with the recorder of the city for a period of fifteen (15) days prior to the passage of the ordinance, as required by <u>Tennessee Code Annotated</u>, § 6-54-502. (as replaced by Ord. #15-426, June 2015)

7-203. <u>Enforcement</u>. The <u>International Fire Code</u> herein adopted by reference shall be enforced by the chief of the fire department. He shall have

¹Municipal code reference

Building, utility and residential codes: title 12.

²Copies of this code are available from the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213-1206.

the same powers as the state fire marshal. (as replaced by Ord. #15-426, June 2015)

7-204. <u>Modifications</u>. The <u>International Fire Code</u> adopted in § 7-201 above is modified by deleting therefrom section 108, titled "Board of Appeals," in its entirety; § 7-207 below shall control appeals. (as replaced by Ord. #15-426, June 2015)

7-205. <u>Gasoline trucks</u>. Gasoline trucks and/or personnel are restricted to the operations and parking of any gasoline tank truck full/emptied within the central business district or residential area. Personnel and trucks are exempt during the actual engagement of delivery to the specified location. (as replaced by Ord. #15-426, June 2015)

7-206. <u>Variances</u>. The chief of the fire department may recommend to the board of mayor and aldermen variances from the provisions of the <u>International Fire Code</u> upon application in writing by any property owner or lessee, or the duly authorized agent of either, when there are practical difficulties in the way of carrying out the strict letter of the code, provided that the spirit of the code shall be observed, public safety secured, and substantial justice done. The particulars of such variances when granted or allowed shall be contained in a resolution of the board of mayor and aldermen. (as replaced by Ord. #15-426, June 2015)

7-207. <u>Violation and penalties</u>. It shall be unlawful for any person to violate any of the provisions of this chapter or the <u>International Fire Code</u> herein adopted, or fail to comply therewith, or violate or fail to comply with any order made thereunder; or build in violation of any detailed statement of specifications or plans submitted and approved thereunder, or any certificate or permit issued thereunder, and from which no appeal has been modified by the board of mayor and aldermen or by a court of competent jurisdiction, within the time fixed herein. The violation of any section of this chapter shall be punishable by a penalty under the general penalty provisions of this code. Each day a violation is allowed to continue shall constitute a separate offense. The application of a penalty shall not be held to prevent the enforced removal of prohibited conditions. (as added by Ord. #15-426, June 2015)

CHAPTER 3

FIRE COMMITTEE¹

SECTION

- 7-301. Establishment and membership.
- 7-302. Organization and duties.

7-301. <u>Establishment and membership</u>. There is established the Mount Carmel Fire Committee to consist of five (5) members.

Not more than one (1) of the five (5) shall be a member of the board of mayor and aldermen. The members shall serve without salary. One (1) shall initially serve for one (1) year, two (2) shall serve for two (2) years, and two (2) shall serve for three (3) years, and their successors for a term of three (3) years. The members shall be appointed by the mayor subject to the consent of the board of mayor and aldermen. (Ord. #286, Nov. 2004, modified)

7-302. <u>Organization and duties</u>. The members of the fire committee shall organize by electing officers and adopting by-laws and regulations which are subject to approval by the board of mayor and aldermen. The fire committee shall advise the fire chief and board of mayor and aldermen concerning the affairs of the fire department. (Ord. #286, Nob 2004, modified)

Public safety department: title 6.

¹Municipal code references

Fire prevention and suppression: title 6, chapter 4.

TITLE 8

ALCOHOLIC BEVERAGES¹

CHAPTER

1. INTOXICATING LIQUORS.

2. BEER.

CHAPTER 1

INTOXICATING LIQUORS

SECTION

- 8-101. Prohibited generally.
- 8-102. Possession of open containers in motor vehicles and public places, etc. prohibited.
- 8-103. Alcoholic beverage restrictions on persons under twenty-one.
- 8-104. Deleted.

8-101. <u>Prohibited generally</u>. Except as authorized by applicable laws and/or ordinances it shall be unlawful for any person to manufacture, receive, possess, store, transport, sell, furnish, or solicit orders for, any intoxicating liquor within the city. "Intoxicating liquor" shall be defined to include whiskey, wine, "home brew," "moonshine," and all other intoxicating, spirituous, vinous or malt liquors and beers which contain more than five percent (5%) of alcohol by weight. (Ord. #329, Sept. 2007, as replaced by Ord. #13-388, March 2013, and Ord. #16-441, July 2016)

8-102. <u>Possession of open containers in motor vehicles and public</u> <u>places, etc. prohibited</u>. It shall be unlawful for any person to possess open cans, bottles or containers of beer or intoxicating liquors in motor vehicles in the city or upon the public streets, sidewalks or other public places not otherwise permitted by this chapter. (Ord. #329, Sept. 2007, as replaced by Ord. #13-388, March 2013, and Ord. #16-441, July 2016)

8-103. <u>Alcoholic beverage restrictions on persons under twenty-</u><u>one</u>. It shall be unlawful for any person under twenty-one (21) years of age to purchase, possess, transport, or consume alcoholic beverages, wine, or beer, with the following exceptions:

¹State law reference

Tennessee Code Annotated, title 57.

(1) Any person eighteen (18) years of age or older may transport, possess, sell, or dispense alcoholic beverages, wine, or beer in the course of his employment in accordance with provisions of this code. (Ord. #329, Sept. 2007, as replaced by Ord. #13-388, March 2013, and Ord. #16-441, July 2016)

8-104. [Deleted]. (as added by Ord. #13-388, March 2013, and deleted by Ord. #16-441, July 2016)

CHAPTER 2

BEER

SECTION

- 8-201. Beer board established.
- 8-202. Meetings of the beer board.
- 8-203. Record of beer board proceedings to be kept.
- 8-204. Requirements for beer board quorum and action.
- 8-205. Powers and duties of the beer board.
- 8-206. "Beer" defined.
- 8-207. Permit required for engaging in beer business.
- 8-208. Privilege tax.
- 8-209. Permits for retail sale; types designated, multiple type prohibited.
- 8-210. Permit application.
- 8-211. Disposition of application.
- 8-212. Separate permit required for each location.
- 8-213. Display of permit.
- 8-214. Transferability of permits.
- 8-215. Limitation on number of permits.
- 8-216. Interference with public health, safety, and morals prohibited; zoning restrictions; distance requirements.
- 8-217. Prohibited conduct or activities by beer permit holders, employees and persons engaged in the sale of beer.
- 8-218. Restrictions upon distributors, wholesalers, warehousemen, manufacturers.
- 8-219. Restrictions on issuance of retail permits.
- 8-220. Revocation or suspension of beer permits.
- 8-221. Civil penalty in lieu of revocation or suspension.
- 8-222. Loss of clerk's certification for sale to minor.
- 8-223. Violations.

8-201. <u>Beer board established</u>. There is hereby established a beer board to be composed of the mayor, or in his absence, the vice-mayor, one (1) alderman to be appointed by the mayor, three (3) citizens from the municipality, also to be appointed by the mayor, the chief of police, and the city recorder. All members' terms shall run concurrently with the term of the mayor. The mayor or vice-mayor shall be its chairman and shall preside at its meetings. The members shall serve without compensation. (Ord. #329, Sept. 2007, as replaced by Ord. #16-441, July 2016)

8-202. <u>Meetings of the beer board</u>. All meetings of the beer board shall be open to the public. The board shall hold regular meetings in the city hall at such times as it shall prescribe. When there is business to come before the

beer board, a special meeting may be called by the chairman provided he gives a reasonable notice thereof to each member. The board may adjourn a meeting at any time to another time and place. (Ord. #329, Sept. 2007, as replaced by Ord. #16-441, July 2016)

8-203. <u>Record of beer board proceedings to be kept</u>. 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; names of the board members present and absent; 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. #329, Sept. 2007, as replaced by Ord. #16-441, July 2016)

8-204. <u>Requirements for beer board quorum and action</u>. The attendance of at least a majority of the members of the beer board shall be required to constitute a quorum for the purpose of transacting business. Matters before the board shall be decided by a majority of the members present if a quorum is constituted. Any member present but not voting shall be deemed to have cast a "nay" vote. (Ord. #329, Sept. 2007, as replaced by Ord. #16-441, July 2016)

8-205. <u>Powers and duties of the beer board</u>.¹ The beer board shall have the power and it is hereby directed to regulate the selling, storing for sale, distributing for sale, and manufacturing of beer within this municipality in accordance with the provisions of this chapter. (Ord. #329, Sept. 2007, as replaced by Ord. #16-441, July 2016)

8-206. <u>"Beer" defined</u>. The term "beer" as used in this chapter shall mean and include all beers, ales, and other malt liquors having an alcoholic content of not more than five percent (5%) by weight; provided however, that no more than forty-nine percent (49%) of the overall alcoholic content of such beverage may be derived from the addition of flavors and other non-beverage ingredients containing alcohol. (Ord. #329, Sept. 2007, as replaced by Ord. #16-441, July 2016)

¹State law reference <u>Tennessee Code Annotated</u>, § 57-5-106.

8-207. <u>Permit required for engaging in beer business</u>.¹ 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 <u>Tennessee Code Annotated</u>, § 57-5-104(a), shall be accompanied by a nonrefundable application fee of two hundred and 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. #329, Sept. 2007, as replaced by Ord. #16-441, July 2016)

8-208. <u>Privilege tax</u>.² There is hereby imposed on the business of selling, distributing, storing or manufacturing beer a 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 each successive January 1 to the Town of Mount Carmel, 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. #329, Sept. 2007, as replaced by Ord. #16-441, July 2016)

8-209. <u>Permits for retail sale; types designated, multiple type</u> <u>prohibited</u>. (1) Permits for the retail sale of beer shall be of two (2) types:

(a) On-premise permits. "On-premise permits" shall be issued for the consumption of beer on the premises.

(b) Off-premise permits. "Off-premise permits" shall be issued for the sale of both refrigerated and unrefrigerated beer to be consumed off the premises.

(2) No person shall be issued both types of permits for the same location.

(3) If a corporation owns and operates a merchandising business, a corporate officer shall make application for the permit. If a partnership or syndicate operates a merchandising establishment, the general partner in charge of the day-to-day business operations of the business shall make application for the beer permit. (Ord. #329, Sept. 2007, as replaced by Ord. #16-441, July 2016)

¹State law reference <u>Tennessee Code Annotated</u>, § 57-5-103.

²State law reference <u>Tennessee Code Annotated</u>, § 57-5-104(b). **8-210.** <u>Permit application</u>. A person desiring a beer permit required by the provisions of this chapter shall apply in writing to the beer board upon a form approved and prescribed by it. Such application shall contain at a minimum the following:

(1) The name and residence of the applicant and the length of time the applicant has resided there;

(2) The particular place for which the permit is desired, designating the same by street and number, if practicable, and if not, by such other apt description and the current zoning designation of the tract of property;

(3) The type of permit desired;

(4) The name of the owner of the business premises;

(5) A statement that the applicant is of good moral character and has not been convicted of a felony;

(6) A statement that the applicant will not engage in the sale, storage, manufacture or distribution of beer except at the place or places for which the license or permit is issued to such applicant, and that no sale, storage, manufacturing or distribution of such beverage will be made except in accordance with the permit or license granted;

(7) A statement that no sale will be made to persons under the age required by state law, that the applicant will not permit minor persons or disorderly or disreputable persons, or individuals heretofore connected with the violation of the liquor laws, to loiter around the place of business, and that no minors shall be employed in the direct sale, storage, manufacture or distribution of beer;

(8) A statement that the applicant has not had revoked any license or permit for the sale, storage, manufacture or distribution of alcoholic beverages;

(9) A statement that the applicant will be conducting the daily business in person;

(10) A statement that no brewer, manufacturer, distributor or warehouseman of legalized beer has any interests in the business, or business premises;

(11) A statement that the applicant is willing to be fingerprinted by the police department of the Town of Mount Carmel and to be investigated by municipal, county, state and federal law enforcement agencies;

(12) An oath or affidavit by the applicant that the facts represented in the application is true;

(13) Any application, which does not contain affirmative responses to all representations requested therein, shall not be considered by the beer board. (Ord. #329, Sept. 2007, as replaced by Ord. #16-441, July 2016)

8-211. Disposition of application. Each application for a beer permit under this chapter shall be filed with the city recorder, and final action shall be taken by the beer board within sixty (60) days after the filing of said application. (Ord. #329, Sept. 2007, as replaced by Ord. #16-441, July 2016) **8-212.** <u>Separate permit required for each location</u>. A separate permit shall be obtained for each location at which and from which any applicant is to manufacture, store, distribute or sell beer. (Ord. #329, Sept. 2007, as replaced by Ord. #16-441, July 2016)

8-213. <u>Display of permit</u>. All permittees hereunder shall display and keep displayed such beer permit in a conspicuous place on the premises where licensed to conduct such business. (Ord. #329, Sept. 2007, as replaced by Ord. #16-441, July 2016)

8-214. <u>Transferability of permits</u>. Permits for the sale, storage, manufacture or distribution of beer hereunder shall not be transferable. A permit holder must return a permit to the city within fifteen (15) days of termination of the business, change in ownership, relocation of the business or change of the business name; provided, that notwithstanding the failure to return the beer permit, a permit shall expire on termination of the business, change in ownership, relocation of the business, change of the business or change of the business name. (Ord. #329, Sept. 2007, as replaced by Ord. #16-441, July 2016)

8-215. <u>Limitation on number of permits</u>. The number of licenses for the sale of beer shall be limited to ten (10). Provided that all requirements of this chapter are complied with, all existing permits for the sale of beer within the corporate limits of the city at the date of the adoption of this chapter shall continue to be renewed. (Ord. #329, Sept. 2007, as replaced by Ord. #16-441, July 2016)

8-216. Interference with public health, safety, and morals prohibited; zoning restrictions, and distance requirements. No permit authorizing the sale of beer will be issued when such business would cause congestion of traffic or would interfere with schools, residences, churches, or other places of public gathering, or would otherwise interfere with the public health, safety, and morals. Permits may be issued only to otherwise qualifying applicants with businesses in Zones B-1, B-2, B-3, MX-1 and MX-2. Other than on Main Street, in no event will a permit be issued authorizing the storage, sale, or manufacture of beer at places within four hundred feet (400') of any school, church, or other place of public gathering which has preexisted the application date of the permit sought by six (6) continuous months, measured along street rights-of-way and from nearest boundary line to nearest boundary line. (Ord. #329, Sept. 2007, as replaced by Ord. #16-441, July 2016)

8-217. <u>Prohibited conduct or activities by beer permit holders</u>, <u>employees and persons engaged in the sale of beer</u>. It shall be unlawful for any beer permit holder, employee or person engaged in the sale of beer to: (1) Employ any minor under eighteen (18) years of age in the sale, storage, distribution or manufacture of beer.

(2) State regulations require that upon approval of liquor by the drink, the hours of sale for beer shall coincide with the hours of sale for liquor by the drink, such hours being regulated by the State of Tennessee Alcoholic Beverage Commission, <u>Tennessee Code Annotated</u>, § 57-5-301(2)(b)(1).

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

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

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

(6) Serve, sell, or allow the consumption on his premises of any alcoholic beverage with an alcoholic content of more than five percent (5%) by weight. (Ord. #329, Sept. 2007, as amended by Ord. #13-389, March 2013, and replaced by Ord. #16-441, July 2016)

8-218. <u>Restrictions upon distributors</u>, wholesalers, <u>warehousemen, manufacturers</u>. (1) All distributors, wholesalers, warehousemen and manufacturers of beer shall be duly licensed under law to do business in the state.

(2) All distributors, wholesalers, manufacturers and warehousemen of beer having a place of business within the town shall locate it in areas designated and zoned for manufacturing under the ordinances of the town.

(3) It shall be unlawful for any wholesaler, distributor, warehousemen or manufacturer of beer, or for any of their salesmen or representatives, to sell or deliver beer en route, or from delivery vehicles, to any person or place other than holders of valid retail beer permits.

(4) It shall be the duty of such wholesaler, distributor, warehouseman or manufacturer, their salesmen or representatives, to ascertain whether or not such person or place has been issued a valid retail beer permit by the town. (Ord. #329, Sept. 2007, as replaced by Ord. #16-441, July 2016)

8-219. <u>Restrictions on issuance of retail permits</u>. (1) Permits issued for the retail sale of beer for on-premises consumption of beer shall be limited to sale for consumption in and to be served to and consumed by members and guests in the rooms of a building designated and occupied by a regularly incorporated non-profit lodge or patriotic organization or to customers in an operating restaurant as defined in subsection (a) below.</u>

(a) The owner or manager of any restaurant doing business, or intending to do business, within the corporate limits or the town, may apply for a permit for the on-premises retail sale and consumption of beer if the restaurant meets the following criteria:

(2) <u>Restaurants and eating places</u>. The issuance of beer permits for restaurants and eating places pursuant to this chapter and the operation of such establishments shall be subject to the following:

(a) Permits for the retail sale of beer for on-premises consumption shall be issued subject to the approval of the beverage board to the owner or operator of any regularly conducted restaurant or eating place. The applicant shall fulfill all other general requirements for the retail sale of beer prescribed in this chapter.

(b) In addition, the restaurant or eating place shall be classified with a value of not less than passing as judged by appropriate state authorities.

(c) If after the issuance of a permit for on-premises consumption, the grade of passing is reduced by the appropriate state agency responsible for the grading of restaurants, the beverage board shall notify the permittee to appear before the beverage board to show cause why his permit should not be revoked. The beverage board shall have the authority to grant a temporary extension, not to exceed ninety (90) days, for the permittee to make the corrections necessary and have the numerical grade increased to at least passing.

(d) If it is shown that any permittee's premises are no longer kept, used, maintained, advertised and held out to the public as a place where meals are served and where meals are actually and regularly served or provided with adequate and sanitary kitchen and dining room equipment and having employed therein a sufficient number and kind of employees to prepare, cook and serve suitable food for the permittee's guests, the beverage board may cancel and revoke the permit.

(e) No beer shall be served at tables, stools or booths or in any other manner or place outside of the building except with specific written permission of the beverage board.

(3) <u>Merchants</u>. Off-premises permits shall be issued only to bona fide merchants who have been licensed to conduct a merchandising business in the city. For the purpose of this subsection, the term "bona fide merchants" shall mean persons regularly operating and conducting business to serve the public on a regular basis, with regular business hours of operation. (Ord. #329, Sept. 2007, as replaced by Ord. #16-441, July 2016)

8-220. <u>Revocation or suspension of beer permits</u>. The beer board shall have the power to revoke or suspend any beer permit issued under the provisions of this chapter when the holder thereof is guilty of making a false statement or misrepresentation in his application or of violating any of the provisions of this chapter. However, no beer permit shall be revoked or suspended until a public hearing is held by the board after reasonable notice to all the known parties in interest. Revocation or suspension proceedings may be initiated by the police chief or by any member of the beer board.</u>

Pursuant to Tennessee Code Annotated, § 57-5-608, the beer board shall not revoke or suspend the permit of a "responsible vendor" gualified under the requirements of Tennessee Code Annotated, § 57-5-606 for a clerk's illegal sale of beer to a minor if the clerk is properly certified and has attended annual meetings since the clerk's original certification, unless the vendor's status as a certified responsible vendor has been revoked by the alcoholic beverage commission. If the responsible vendor's certification has been revoked, the vendor shall be punished by the beer board as if the vendor were not certified as a responsible vendor. "Clerk" means any person working in a capacity to sell beer directly to consumers for off-premises consumption. Under Tennessee Code Annotated, § 57-5-608, the alcoholic beverage commission shall revoke a vendor's status as a responsible vendor upon notification by the beer board that the board has made a final determination that the vendor has sold beer to a minor for the second time in a consecutive twelve (12) month period. The revocation shall be for three (3) years. (Ord. #329, Sept. 2007, as replaced by Ord. #16-441, July 2016)

8-221. Civil penalty in lieu of revocation or suspension.

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

(2) <u>Penalty, revocation or 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 civil penalty not to exceed two thousand five hundred dollars (\$2,500.00) for each offense of making or permitting to be made any sales to minors, or a civil penalty not to exceed one thousand dollars (\$1,000.00) for any other offense.

The beer board may impose on a responsible vendor a civil penalty not to exceed one thousand dollars (\$1,000.00) for each offense of making or permitting to be made any sales to minors or for any other offense.

If a civil penalty is offered as an alternative to revocation or suspension, the holder shall have seven (7) days within which to pay the civil penalty before the revocation or suspension shall be imposed. If the civil penalty is paid within that time, the revocation or suspension shall be deemed withdrawn.

Payment of the civil penalty in lieu of revocation or suspension by a permit holder shall be an admission by the holder of the violation so charged and shall be paid to the exclusion of any other penalty that the city may impose. (Ord. #329, Sept. 2007, as replaced by Ord. #16-441, July 2016)

8-222. <u>Loss of clerk's certification for sale to minor</u>. If the beer board determines that a clerk of an off-premises beer permit holder certified under <u>Tennessee Code Annotated</u> § 57-5-606, sold beer to a minor, the beer

board shall report the name of the clerk to the alcoholic beverage commission within fifteen (15) days of determination of the sale. The certification of the clerk shall be invalid, and the clerk may not reapply for a new certificate for a period of one (1) year from the date of the beer board's determination. (Ord. #329, Sept. 2007, as replaced by Ord. #16-441, July 2016)

8-223. <u>Violations</u>. Except as provided in § 8-221, any violation of this chapter shall constitute a civil offense and shall, upon conviction, be punishable by a penalty under the general penalty provision of this code. Each day a violation shall be allowed to continue shall constitute a separate offense. (Ord. #329, Sept. 2007, as replaced by Ord. #16-441, July 2016)

TITLE 9

BUSINESS, PEDDLERS, SOLICITORS, ETC.¹

CHAPTER

- 1. PEDDLERS, SOLICITORS, ETC.
- 2. FORTUNETELLERS, CLAIRVOYANTS AND SIMILAR PURSUITS.

CHAPTER 1

PEDDLERS, SOLICITORS, ETC.²

SECTION

- 9-101. Definitions.
- 9-102. Exemptions.
- 9-103. Permit required.
- 9-104. Permit procedure.
- 9-105. Restrictions on peddlers, street barkers and solicitors.
- 9-106. Restrictions on transient vendors.
- 9-107. Display of permit.
- 9-108. Suspension or revocation of permit.
- 9-109. Expiration and renewal of permit.
- 9-110. Violation and penalty.

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

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

¹Municipal code references

Building, plumbing, wiring and housing regulations: title 12. Junkyards: title 13. Liquor and beer regulations: title 8. Noise reductions: title 11. Posting advertisements and notices: title 11. Zoning: title 14.

²Municipal code references Privilege taxes: title 5. Trespass by peddlers, etc.: § 11-701. from street to street, carrying or transporting goods, wares or merchandise and offering or exposing the same for sale.

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

(3) "Solicitor for charitable or religious purposes" means any person, firm, corporation or organization who or which solicits contributions from the public, either on the streets of the town or from door to door, business to business, place to place, or from street to street, for any charitable or religious organization, and who does not sell or offer to sell any single item at a cost to the purchaser in excess of ten dollars (\$10.00). No organization shall qualify as a "charitable" or "religious" organization unless the organization meets one of the following conditions:

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

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

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

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

(5) "Street barker" means any peddler who does business during recognized festival or parade days in the town and who limits his business to selling or offering to sell novelty items and similar goods in the area of the festival or parade.

"Transient vendor"¹ means any person who brings into temporary (6)premises and exhibits stocks of merchandise to the public for the purpose of selling or offering to sell the merchandise to the public. Transient vendor does not include any person selling goods by sample, brochure, or sales catalog for future delivery; or to sales resulting from the prior invitation to the seller by the owner or occupant of a residence. For purposes of this definition, "merchandise" means any consumer item that is or is represented to be new or not previously owned by a consumer, and "temporary premises" means any public or quasi-public place including a hotel, rooming house, storeroom, building or part of a building, tent, vacant lot, railroad car, or motor vehicle which is temporarily occupied for the purpose of exhibiting stocks of merchandise to the public. Premises are not temporary if the same person has conducted business at those premises for more than six (6) consecutive months or has occupied the premises as his or her permanent residence for more than six (6) consecutive months. (1990 Code, § 9-101)

9-102. <u>Exemptions</u>. The terms of this chapter shall not apply to persons selling at wholesale to dealers, nor to newsboys, nor to bona fide merchants who merely deliver goods in the regular course of business, nor to persons selling agricultural products, who, in fact, themselves produced the products being sold. (1990 Code, § 9-102)

9-103. <u>**Permit required**</u>. No person, firm or corporation shall operate a business as a peddler, transient vendor, solicitor or street barker, and no solicitor for charitable or religious purposes or solicitor for subscriptions shall solicit within the town unless the same has obtained a permit from the town in accordance with the provisions of this chapter. (1990 Code, § 9-103)

9-104. <u>Permit procedure</u>. (1) <u>Application form</u>. A sworn application containing the following information shall be completed and filed with the town recorder by each applicant for a permit as a peddler, transient vendor, solicitor,

¹State law references

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

<u>Tennessee Code Annotated</u>, § 67-4-709(a) prescribes that transient vendors shall pay a tax of \$50.00 for each 14 day period in each municipality in which such vendors sell or offer to sell merchandise for which they are issued a business license, but that they are not liable for the gross receipts portion of the tax provided for in <u>Tennessee Code Annotated</u>, § 67-4-709(b).

or street barker and by each applicant for a permit as a solicitor for charitable or religious purposes or as a solicitor for subscriptions:

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

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

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

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

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

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

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

(3) <u>Permit issued</u>. Upon the completion of the application form and the payment of the permit fee, where required, the recorder shall issue a permit and provide a copy of the same to the applicant.

(4) <u>Submission of application form to chief of police</u>. Immediately after the applicant obtains a permit from the city recorder, the city recorder shall submit to the chief of police a copy of the application form and the permit. (1990 Code, § 9-104)

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

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

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

(3) Call attention to his business or merchandise or to his solicitation efforts by crying out, by blowing a horn, by ringing a bell, or creating other noise, except that the street barker shall be allowed to cry out to call attention to his business or merchandise during recognized parade or festival days of the town. (4) Enter in or upon any premises or attempt to enter in or upon any premises wherein a sign or placard bearing the notice "Peddlers or Solicitors Prohibited," or similar language carrying the same meaning, is located.

(5) Be under the age of sixteen (16). (Ord. #208, June 1999, as amended by Ord. #337, Sept. 2008)

9-106. <u>Restrictions on transient vendors</u>. A transient vendor shall not advertise, represent, or hold forth a sale of goods, wares or merchandise as an insurance, bankrupt, insolvent, assignee, trustee, estate, executor, administrator, receiver's manufacturer's wholesale, cancelled order, or misfit sale, or closing-out sale, or a sale of any goods damaged by smoke, fire, water or otherwise, unless such advertisement, representation or holding forth is actually of the character it is advertised, represented or held forth. (1990 Code, § 9-106)

9-107. Display of permit. Each peddler, street barker, solicitor, solicitor for charitable purposes or solicitor for subscriptions is required to have in his possession a valid permit while making sales or solicitations, and shall be required to display the same to any police officer upon demand. (1990 Code, \S 9-107)

9-108. <u>Suspension or revocation of permit</u>. (1) <u>Suspension by the recorder</u>. The permit issued to any person or organization under this chapter may be suspended by the city recorder for any of the following causes:

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

(b) Any violation of this chapter.

(2) <u>Suspension or revocation by the board of mayor and aldermen</u>. The permit issued to any person or organization under this chapter may be suspended or revoked by the board of mayor and aldermen, after notice and hearing, for the same causes set out in subsection (1) above. Notice of the hearing for suspension or 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 the hearing. Such notice shall be mailed to the permit holder at his last known address at least five (5) days prior to the date set for hearing, or it shall be delivered by a police officer in the same manner as a summons at least three (3) days prior to the date set for hearing. (1990 Code, § 9-108)

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

The permit of solicitors for religious or charitable purposes and solicitors for subscriptions shall expire on the date provided in the permit, not to exceed thirty (30) days. (1990 Code, § 9-109)

9-110. <u>Violation and penalty</u>. In addition to any other action the town may take against a permit holder in violation of this chapter, such violation shall be punishable according to the general penalty provision of this municipal code of ordinances. (1990 Code, § 9-110)

CHAPTER 2

FORTUNETELLERS, CLAIRVOYANTS AND SIMILAR PURSUITS

SECTION

- 9-201. Permit required.
- 9-202. Application.
- 9-203. Applicant requirements.
- 9-204. Employee permit.
- 9-205. Determination of permit issuance.
- 9-206. Grounds for permit refusal.
- 9-207. Issuance of permit; renewal.
- 9-208. Permit revocation.
- 9-209. Appeal.

9-201. <u>Permit required</u>. It shall be unlawful for any person to conduct the business or occupation of, solicit for, or ply the trade of handwriting analyst for the purpose of foretunetelling, fortuneteller, clairvoyant, hypnotist, spiritualist, palmist, phrenologist or other like business unless that person holds a valid, unexpired and unrevoked permit, issued by the city, to engage in these occupations. (as added by Ord. #13-392, June 2013)

9-202. <u>Application</u>. (1) A person seeking issuance of a permit to engage in any of the occupations enumerated in § 9-201 shall pay a permit application fee to be set by resolution of the board of mayor and aldermen.

(2) An application shall be filed with the mayor or designee, on forms provided by such official. Such application shall, at a minimum, contain the following:

(a) The name, social security number and residence of the applicant and how long the applicant has resided there;

(b) The particular place for which the permit is desired, designating the same by street and number, if practicable, and if not, by such other apt description as definitely locates it;

(c) The name of the owner of the premises upon which the business permitted is to be carried on;

(d) The name and address of the actual owner or owners of such business, and whether such business is a sole proprietorship, partnership, corporation or limited liability corporation;

(e) A statement that the applicant is willing to be fingerprinted by the police department of the city and to be investigated by municipal, county, state and federal law enforcement agencies concerning the applicant's background and record; (f) A statement by the applicant that he agrees to comply with all the laws of the United States, the state and the city;

(g) An oath or affidavit by the applicant that the facts set forth in the application are true. (as added by Ord. #13-392, June 2013)

9-203. <u>Applicant requirements</u>. The applicant, prior to being permitted, shall:

(1) Be eighteen (18) years of age or older;

(2) Not have been convicted of, or currently be under indictment for, a crime of any grade or any ordinance violation involving the following categories of criminal conduct; homicide, rape, robbery, arson, assault, burglary, theft, extortion, fraud, forgery, false dealing, bribery, false personage, money laundering, perjury, false swearing or subordination or either, or gambling, within ten (10) years of the date of application;

(3) Be referred to the chief of police or designee, for background in investigation and fingerprinting;

(4) Furnish the police department of the city two (2) photographs showing a front and side picture of the full face of the applicant, size two and one-half inches by two and three-fourths inches (2 $1/2" \ge 3/4"$);

(5) Appear in person, at the time and place directed, to answer any questions the mayor or designee may have regarding the application or the result of the investigation. (as added by Ord. #13-392, June 2013)

9-204. <u>Employee permit</u>. Each employee of any such business must hold a valid, unexpired and unrevoked permit set out herein. (as added by Ord. #13-392, June 2013)

9-205. <u>Determination of permit issuance</u>. The mayor or designee shall determine whether or not to issue the permit, in accordance herewith, within a reasonable time of the completion of the application, fingerprinting and receipt of a report on the background check conducted by the police department of the city. (as added by Ord. #13-392, June 2013)

9-206. <u>Grounds for permit refusal</u>. The mayor or designee shall refuse, in writing, to issue a permit if, upon investigation, he finds that the applicant for a permit has concealed or misrepresented, or otherwise, any fact or circumstance on the application for a permit, or the applicant has not complied with all the provisions of this chapter. The mayor or designee shall deliver to the applicant a notice of his action, stating his reasons for his denial of the permit and informing the applicant of his right to appeal such denial. An appeal shall be taken, within ten (10) days of the date of the denial, by filing with the mayor or designee shall fix a reasonable time for the hearing of the appeal, give due notice to the applicant, and decide the same within a reasonable time.

Any applicant who is dissatisfied with the hearing decision of the mayor or designee shall have the right to subsequent appeal as set out in § 9-209. (as added by Ord. #13-392, June 2013)

9-207. <u>Issuance of permit; renewal</u>. Upon approval of the application, a permit shall be issued and the permit shall remain valid for one (1) year from the date of issuance. The Permittee shall seek reissuance of the permit in the same manner as set out herein above, including payment of the permit application fee. There shall be no proration of the required permit application fee. (as added by Ord. #13-392, June 2013)

9-208. <u>Permit revocation</u>. The mayor or designee shall revoke the permit of any person failing to comply with any of the provisions of this chapter or any other applicable laws, rules, regulations, ordinances, or upon conviction of any matters set out in § 9-206. Such revocation shall be for a period of not less than one (1) year, after not less than ten (10) days' notice to the permit holder. Notice shall issue to the permit holder to show cause why his permit should not be revoked, and shall inform the permit holder of the date, time, and place of the show cause hearing, to be held in respect thereto, before the mayor or designee. Any Permittee who is dissatisfied with the hearing decision of the mayor or designee shall have the right to subsequent appeal as set out in § 9-209. (as added by Ord. #13-392, June 2013)

9-209. <u>Appeal</u>. Any party who is dissatisfied with the hearing decision of the mayor or designee shall, within ten (10) days of said decision, request, in writing to the mayor or designee, that the board of mayor and aldermen review the decision. Such review should take place within a reasonable time, but in no event sooner than the next regular called meeting. The decision of the board of mayor and aldermen shall be final. The decision of the board of mayor and aldermen may be appealed by filing a petition of common law certiorari in the chancery court of the city within sixty (60) days of the date of the decision of the board of the board of mayor and aldermen. Any denial or revocation of a permit will be effective during appeal unless otherwise stayed by a court of competent jurisdiction. (as added by Ord. #13-392, June 2013)

TITLE 10

ANIMAL CONTROL

CHAPTER

- 1. IN GENERAL.
- 2. DOGS AND CATS.

CHAPTER 1

IN GENERAL

SECTION

- 10-101. Running at large prohibited.
- 10-102. Keeping near residence or business restricted.
- 10-103. Pen or enclosure to be kept clean.
- 10-104. Adequate food, water, and shelter, etc., to be provided.
- 10-105. Keeping in such manner as to become a nuisance prohibited.
- 10-106. Humane treatment of animals.
- 10-107. Seizure and disposition of animals.
- 10-108. Abandonment.
- 10-109. Policies and procedures adopted.

10-101. <u>Running at large prohibited</u>. It shall be unlawful for any person owning or being in charge of any cows, sheep, horses, mules, goats, or any chickens, ducks, geese, turkeys, or other domestic fowl, cattle, or livestock, knowingly or negligently to permit any of them to run at large in any street, alley, or unenclosed lot within the corporate limits.

Any person, including its owner, knowingly or negligently permitting an animal to run at large may be prosecuted under this section even if the animal is picked up and disposed of under other provisions of this chapter, whether or not the disposition includes returning the animal to its owner. (1990 Code, § 10-101, modified)

10-102. <u>Keeping near residence or business restricted</u>. Swine are prohibited within the corporate limits. No person shall keep any animal or fowl enumerated in the preceding section within five hundred feet (500') of any residence, place of business, or public street without a permit from the animal control officer of the town. The animal control officer shall issue a permit only, when in his sound judgment, the keeping of such an animal in a yard or a building under the circumstances as set forth in the application for the permit will not injuriously affect public health. A fee for the issuance of such a permit shall be charged to the applicant. The city recorder may set the permit fee not to exceed ten dollars (\$10.00). (1990 Code, § 10-102)

10-103. <u>Pen or enclosure to be kept clean</u>. 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. (1990 Code, § 10-103)

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

All feed shall be stored and kept in a rat-proof and fly-tight building, box, or receptacle. (1990 Code, § 10-104)

10-105. <u>Keeping in such manner as to become a nuisance</u> <u>prohibited</u>. No animal or fowl shall be kept in such a place or condition as to become a nuisance because of either noise, odor, contagious disease, or other reason. (1990 Code, § 10-105)

10-106. <u>Humane treatment of animals</u>. (1) No person shall intentionally or knowingly:

(a) Torture, maim, or grossly over-work an animal;

(b) Fail to provide the minimum necessary food, water, care of shelter for an animal in that person's custody;

(c) Transport or confine an animal in a cruel manner;

(d) Inflict burns, cuts, lacerations, or other injuries or pain, by any method, on any animal;

(e) Mutilate any animal whether alive or dead;

(f) Place any poisonous substance which may be harmful to domestic animals, in any location where it may be readily found and eaten by such domestic animals; or

(g) Permit any fight or other combat between animals.

(2) An animal involved in a violation of any portion of this section maybe confiscated by the animal control officer or police officer and held. Upon the conviction of the owner of such domestic animal or animals, any animal so confiscated shall become the property of the animal control department, and the owner of the animal shall pay to or reimburse the animal control department all veterinary fees associated with the medical treatment provided the animal while in custody. (1990 Code, § 10-106)

10-107. <u>Seizure and disposition of animals</u>. Any animal or fowl found running at large or otherwise being kept in violation of this chapter may be seized by any police officer or other properly designated officer or official and confined. If the owner is known he shall be given notice in person, by telephone, or by a postcard addressed to his last known mailing address. If the owner is not known or cannot be located, a notice describing the impounded animal or

fowl will be posted in at least three (3) public places within the corporate limits. In either case the notice shall state that the impounded animal or fowl must be claimed within five (5) days by paying the maintenance costs or the same will be humanely destroyed or sold. If not claimed by the owner, the animal or fowl shall be sold or humanely destroyed, or it may otherwise be disposed of as authorized by the board or mayor and aldermen. (1990 Code, § 10-107)

10-108. <u>Abandonment</u>. No owner shall abandon any animal. "Abandonment" means leaving such animal for a period in excess of twenty-four (24) hours without providing for food and water. No person shall leave an animal by roadside or other area, or shall leave such animal on either public or private property, without the property owner's consent. In the event that an animal is found abandoned, such animal may be taken by an animal control officer or police officer and be impounded. Such animal shall be kept for not less than three (3) days and then may be humanely destroyed. In the event that an animal is "abandoned," the owner or the person, if any, who has been charged with the animal's care, shall be subject to citation for violation of this section and fined not more than fifty (\$50.00) dollars if found guilty. (Ord. #233, Dec. 2001)

10-109. <u>Policies and procedures adopted</u>. The Town of Mount Carmel, Tennessee, <u>Animal Control Policies and Procedures Manual</u> is hereby adopted by reference as the official policy of the Town of Mount Carmel, Tennessee, and all approved amendments thereto, and is to be used by all members and employees of the animal control department in carrying out the duties, responsibilities, and obligations imposed upon them by law or necessarily assumed in carrying out the departments objectives. A copy of the <u>Animal Control Policies and Procedures Manual</u>, and all amendments thereto, shall be maintained in the city recorder's office. (Ord. #193, Aug. 1998, modified)

CHAPTER 2

DOGS AND CATS

SECTION

- 10-201. Rabies vaccination and registration required.
- 10-202. Dogs or cats to wear tags.
- 10-203. Running at large prohibited.
- 10-204. Vicious dogs to be securely restrained.
- 10-205. Noisy dogs prohibited.
- 10-206. Confinement of dogs or cats suspected of being rabid.
- 10-207. Seizure and disposition of dogs.
- 10-208. Destruction of vicious or infected dogs or cats running at large.
- 10-209. Dog and cat registration; registration fee.
- 10-210. Dogs and cats in heat.

10-201. <u>Rabies vaccination and registration required</u>. It shall be unlawful for any person to own, keep, or harbor any dog or cat without having the same duly vaccinated against rabies and registered in accordance with the provisions of the "Tennessee Anti-Rabies Law"¹ or other applicable law. (1990 Code, § 10-201)

10-202. <u>Dogs or cats to wear tags</u>. It shall be unlawful for any person to own, keep, or harbor any dog or cat which does not wear a tag evidencing the vaccination and registration required by the preceding section. (1990 Code, § 10-202)

10-203. <u>Running at large prohibited</u>.² It shall be unlawful for any person knowingly to permit any dog or cat owned by him or under his control to run at large within the corporate limits.

Any person knowingly permitting a dog or cat to run at large, including the owner of the dog or cat, may be prosecuted under this section even if the dog or cat is picked up and disposed of under the provisions of this chapter, whether or not the disposition includes returning the animal to its owner. (1990 Code, § 10-203)

¹State law reference <u>Tennessee Code Annotated</u>, §§ 68-8-101 through 68-8-114.

²State law reference <u>Tennessee Code Annotated</u>, §§ 68-8-107 **10-204.** <u>Vicious dogs to be securely restrained</u>. It shall be unlawful for any person to own or keep any dog known to be vicious or dangerous unless such dog is so confined and/or otherwise securely restrained as to provide reasonably for the protection of other animals and persons. (1990 Code, § 10-204)

10-205. <u>Noisy dogs prohibited</u>. No person shall own, keep, or harbor any dog which, by loud and frequent barking, whining, or howling, disturbs the peace and quiet of any neighborhood. (1990 Code, § 10-205)

10-206. <u>Confinement of dogs or cats suspected of being rabid</u>. If any dog or cat has bitten any person or is suspected of having bitten any person or is for any reason suspected of being infected with rabies, the chief of police or any other properly designated officer or official may cause such dog or cat to be confined or isolated for such time as he deems reasonably necessary to determine if such dog or cat is rabid. (1990 Code, § 10-206)

10-207. <u>Seizure and disposition of dogs</u>. Any dog found running at large may be seized by any police officer or other properly designated officer or official and placed in a pound provided or designated by the board of mayor and aldermen. If the dog is wearing a tag the owner shall be notified in person, by telephone, or by a postcard addressed to his last known mailing address to appear within five (5) days and redeem his dog by paying a reasonable pound fee, in accordance with a schedule approved by the board of mayor and aldermen, or the dog will be sold or humanely destroyed. If the dog is not wearing a tag it shall be sold or humanely destroyed unless legally claimed by the owner within five (5) days. No dog shall be released in any event from the pound unless or until such dog has been vaccinated and had a tag evidencing such vaccination placed on its collar. (1990 Code, § 10-207)

10-208. Destruction of vicious or infected dogs or cats running at large. When, because of its viciousness or apparent infection with rabies, a dog or cat found running at large cannot be safely impounded it may be summarily destroyed by any policeman¹ or other properly designated officer. (1990 Code, § 10-208)

10-209. Dog and cat registration; registration fee. All residents owning, keeping or harboring any dog or cat within the corporate limits which

¹State law reference

For a Tennessee Supreme Court case upholding the summary destruction of dogs pursuant to appropriate legislation, see the case of <u>Darnell v.</u> <u>Shapard</u>, 156 Tenn. 544, 3 S.W.2d 661 (1927).

dog or cat is over three (3) months of age, shall pay to the town a yearly registration fee of two and one-half dollars (\$2.50) for each spayed or neutered dog or cat and five dollars (\$5.00) for each unspayed or unaltered dog or cat owned, kept or harbored within the corporate limits. This registration fee shall be payable annually on or before the date that the certification for rabies vaccination expires. No registration permit shall be issued until the applicant presents proof of current rabies vaccination for each such animal. (1990 Code, \$10-209)

10-210. <u>Dogs and cats in heat</u>. Every female dog or cat in heat shall be confined in a building or secure enclosure in such manner that such female dog or cat cannot come into contact with another animal except for planned breeding. (1990 Code, § 10-210)

TITLE 11

MUNICIPAL OFFENSES¹

CHAPTER

- 1. MISDEMEANORS OF THE STATE ADOPTED.
- 2. ALCOHOL.
- 3. GAMBLING.
- 4. OFFENSES AGAINST THE PEACE AND QUIET.
- 5. INTERFERENCE WITH PUBLIC OPERATIONS AND PERSONNEL.
- 6. FIREARMS, WEAPONS AND MISSILES.
- 7. TRESPASSING, MALICIOUS MISCHIEF AND INTERFERENCE WITH TRAFFIC.
- 8. PUBLIC FACILITY SMOKING REGULATIONS.
- 9. CURFEW FOR MINORS.

CHAPTER 1

MISDEMEANORS OF THE STATE ADOPTED

SECTION

- 11-101. Adoption of state traffic statutes and regulations.
- 11-102. Assault and battery.
- 11-103. Disorderly houses.
- 11-104. Indecent or improper exposure or dress.
- 11-105. Window peeping.
- 11-106. Theft of property.
- 11-107. Vagrancy.
- 11-108. Trespassing on trains.
- 11-109. Abandoned refrigerators.
- 11-110. Posting notices.
- 11-111. Littering.
- 11-112. Caves, wells, cisterns.
- 11-113. Theft of services.
- 11-114. Unauthorized use of automobiles or other vehicles.
- 11-115. Illegal possession or fraudulent use of credit or debit card.

¹Municipal code references

Animals and fowls: title 10.

Housing and utilities: title 12.

Property maintenance regulations: title 13.

Traffic offenses: title 15.

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

- 11-116. Worthless checks.
- 11-117. Disorderly conduct.
- 11-118. Simple possession or casual exchange of controlled substances.
- 11-119. Unlawful drug paraphernalia uses and activities.
- 11-120. Reckless endangerment.
- 11-121. Vandalism.
- 11-122. Failure to appear.

11-101. <u>Adoption of state traffic statutes and regulations</u>.¹ All violations of state regulations for the operation of vehicles committed within the corporate limits of the Town of Mount Carmel and which are defined by state law are hereby designated and declared to be offenses against the Town of Mount Carmel also. This provision shall not apply to any offenses in which the state courts have exclusive jurisdiction. (Ord. #249, Sept. 2002)

11-102. <u>Assault and battery</u>. It shall be unlawful for any person to commit an assault or an assault and battery upon any person within the corporate limits. (1990 Code, § 11-102)

11-103. <u>Disorderly houses</u>. It shall be unlawful for any person to keep a disorderly house or house of ill fame for the purpose of prostitution or lewdness or where drunkenness, quarreling, fighting, or other breaches of the peace are carried on or permitted to the disturbance of others. Furthermore, it shall be unlawful for any person knowingly to visit any such house for the purpose of engaging in such activities. (1990 Code, § 11-103)

11-104. <u>Indecent or improper exposure or dress</u>. It shall be unlawful for any person publically to appear naked or in any dress not appropriate to his or her sex or in any indecent or lewd dress, or otherwise to make any indecent exposure of his or her person. (1990 Code, § 11-104)

11-105. <u>Window peeping</u>. No person shall spy, peer, or peep into any window of any residence or dwelling premise that he does not occupy nor shall he loiter around or within view of any such window with the intent of watching or looking through it. (1990 Code, § 11-105)

11-106. <u>Theft of property</u>. It shall be unlawful for any person within the corporate limits to commit theft of property. A person commits theft of property if, with the intent to deprive the owner of the property, the person

¹Municipal code reference

Adoption of state traffic statutes: § 15-125.

knowingly obtains or exercises control over the property without the owner's effective consent. (1990 Code, 11-106)

11-107. <u>Vagrancy</u>. It shall be unlawful for any person to beg or solicit alms, or, if without apparent lawful means of support, willfully to neglect to apply himself to some honest occupation. (1990 Code, § 11-109)

11-108. <u>**Trespassing on trains</u>**. It shall be unlawful for any person to climb, jump, step, stand upon, or cling to, or in any other way attach himself to any locomotive engine or railroad car unless he works for the railroad corporation and is acting in the scope of his employment or unless he is a lawful passenger or is otherwise lawfully entitled to be on such vehicle. (1990 Code, \S 11-110)</u>

11-109. <u>Abandoned refrigerators</u>. It shall be unlawful for any person to leave in any place accessible to children any abandoned, unattended, unused, or discarded refrigerator, icebox, or other container with any type of latching or locking door without first removing therefrom the latch, door, or lock. (1990 Code, § 11-111)

11-110. <u>Posting notices</u>. 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. (1990 Code, § 11-112)

11-111. Littering. A person commits the offense of littering who:

(1) Knowingly places, drops or throws litter on any public or private property without permission and does not immediately remove it;

(2) Negligently places or throws glass or other dangerous substances on or adjacent to water to which the public has access for swimming or wading, or on or within fifty feet (50') of a public highway;

(3) Negligently discharges sewage, minerals, or products or litter into any public waters or lakes within the corporate limits. (1990 Code, § 11-113)

11-112. <u>**Caves, wells, cisterns</u>**. 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. (1990 Code, § 11-114)</u>

11-113. <u>Theft of services</u>. It shall be unlawful for any person within the corporate limits to commit theft of services. A person commits theft of services who:

(1) Intentionally obtains services by deception, fraud, coercion, false pretense, or any other means to avoid payment for the services;

(2) Having control over the disposition of services to others, knowingly diverts those services to the person's own benefit or to the benefit of another not entitled thereto; or

(3) Knowingly absconds from establishments where compensation for services is ordinarily paid immediately upon the rendering of them, including, but not limited to, hotels, motels, and restaurants, without payment or a bona fide offer to pay. (1990 Code, § 11-115)

11-114. <u>Unauthorized use of automobiles or other vehicles</u>. It shall be unlawful for any person within the corporate limits to take, use, and operate another's automobile, airplane motorcycle, bicycle, boat or other vehicle without the consent of the owner when the person does not have the intent to deprive the owner thereof. (1990 Code, § 11-116)

11-115. <u>Illegal possession or fraudulent use of credit or debit</u> <u>card</u>. (1) A person commits the offense of illegal possession of a credit or debit card who, knowing the person does not have the consent of the owner or issuer, takes, exercises control over, or otherwise uses such card or information from such card.

(2) A person commits the offense of fraudulent use of a credit or debit card who uses, or allows to be used, the credit or debit card or information from such card, for the purpose of obtaining property, credit, services, or anything else of value with knowledge that:

(a) The card is forged or stolen;

(b) The card has been revoked or cancelled;

(c) The card has expired and the person uses the card with fraudulent intent; or

(d) For any other reason the use of the card is unauthorized by either the issuer or the person to whom the credit or debit card is issued. (1990 Code, § 11-117)

11-116. <u>Worthless checks</u>. (1) A person commits an offense who, with fraudulent intent or knowingly:

(a) Issues or passes a check or similar site order for the payment of money or for the purpose of obtaining money, services, labor, credit or any article of value, knowing at the time there are not sufficient funds in or on deposit with the bank or other drawee for the payment in full of the check or order, as well as all other checks or orders outstanding at the time of such issuance; or

(b) Stops payment on a check or similar site order for the payment of money for the purpose of obtaining money, services, labor, credit or other article of value; provided, that such money, credit, goods or services was presented at the time of the issuance of the check or similar site order;

(c) This subsection shall not apply to a post-dated check or to a check or similar site order where the payee or holder knows or was given sufficient reason to believe the drawer did not have sufficient funds on deposit to his credit with the drawee to insure payment.

(2) For the purposes of this section, the issuer's or passer's fraudulent intent or knowledge or both of insufficient funds may be inferred if:

(a) The person had no account with the bank or other drawee at the time the person issued or passed the check or similar site order; or

(b) On presentation within thirty (30) days after issuing or passing the check or similar site order, payment was refused by the bank or other drawee for lack of funds, insufficient funds, or account closed after issuing or passing the check or order, and the issuer or passer fails to make good within ten (10) days after receiving notice of the refusal.

(3) For the purposes of subsection (2)(b) notice shall be in writing, and, if the address is known, sent by certified mail with return receipt requested, addressed to the issuer or passer at the address shown:

(a) On the check or similar site order if given; or

(b) If not shown on the check or similar site order, on the records of the bank or other drawee if available.

(4) If notice is given in accordance with subsection (3) it may be inferred that notice was received no later than five (5) days after it was mailed.
(5) Notice shall not be required:

(a) In the event the situs of the drawee is not in Tennessee;

(b) If the drawer is not a resident of Tennessee or has left the state at the time such check, draft or order is dishonored; or

(c) If the drawer of such check, draft or order did not have an account with the drawee of such check, draft or order at the time the same was issued or dishonored. (1990 Code, § 11-118)

11-117. <u>Disorderly conduct</u>. A person commits an offense who, in a public place and within intent to cause public annoyance or alarm:

(1) Engages in fighting or in violent or in threatening behavior;

(2) Refuses to obey an official order to disburse issued to maintain public safety in dangerous proximity to a fire, hazard or other emergency; or

(3) Creates a hazardous or physically offensive condition by an act that serves no legitimate purpose. (1990 Code, § 11-119)

11-118. <u>Simple possession or casual exchange of controlled</u> <u>substances</u>. (1) It is an offense for a person to knowingly possess or casually exchange a controlled substance as defined in <u>Tennessee Code Annotated</u>, chapter 17, title 39, unless the substance was obtained directly from, or pursuant to, a valid prescription or order of a practitioner while acting in the course of professional practice. (2) It is an offense for a person to distribute a small amount of marijuana not in excess of one-half (1/2) ounce (14.175 grams). (1990 Code, \S 11-120)

11-119. <u>Unlawful drug paraphernalia uses and activities</u>. It is unlawful for any person to use, or to possess with intent to use, drug paraphernalia as defined in <u>Tennessee Code Annotated</u>, chapter 17, title 39, to plant, propulgate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, re-pack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance. (1990 Code, § 11-121)

11-120. <u>Reckless endangerment</u>. A person commits an offense who recklessly engages or conduct which places or may place another person in imminent danger of bodily injury. (1990 Code, § 11-122)

11-121. <u>Vandalism</u>. (1) A person who within the corporate limits knowingly causes damage to or the destruction of any real or personal property of another or of the state, the United States, or any county, city, or town knowing that he does not have the owner's effective consent is guilty of an offense under this section.

- (2) For the purpose of this section:
 - (a) "Damage" includes, but is not limited to:
 - (i) Destroying, polluting or contaminating property;

(ii) Tampering with property and causing pecuniary loss or substantial inconvenience to the owner or a third person; and

(b) "Polluting" is the contamination by manmade or man-induced alteration of the chemical, physical, biological or radiological integrity of the atmosphere, water, or soil to the material injury of the right(s) of another. Pollutants include dredged soil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical waste, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste. (1990 Code, § 11-123)

11-122. <u>Failure to appear</u>. (1) It is a civil offense for any person in the Town of Mount Carmel who receives a citation in lieu of arrest for the violation of an ordinance, and signs an agreement and waiver as provided under <u>Tennessee Code Annotated</u>, § 7-63-102, to fail to appear for trial at the time and place designated in the agreement.

(2) Violations of this section shall subject the offender to a fine of up to fifty dollars (\$50.00) for each offense. (Ord. #319, Jan. 2007)

CHAPTER 2

<u>ALCOHOL¹</u>

SECTION

- 11-201. Drinking alcoholic beverages in public, etc.
- 11-202. Minors in beer places.
- 11-203. Alcoholic beverage restrictions on persons under twenty-one.

11-201. <u>Drinking alcoholic beverages in public, etc</u>.² It shall be unlawful for any person to drink, consume or have an open can or bottle of beer or intoxicating liquor in or on any public street, alley, avenue, highway, sidewalk, public park, public school ground or other public place. (1990 Code, § 11-202)

11-202. <u>Minors in beer places</u>. No person under the age of twenty-one (21) shall loiter in or around or otherwise frequent any place where beer is sold at retail for on premises consumption. (1990 Code, § 11-203)

11-203. <u>Alcoholic beverage restrictions on persons under twenty-one</u>.³ It shall be unlawful for any person under twenty-one (21) years of age to purchase, possess, transport, or consume alcoholic beverages, wine, or beer, with the following exceptions: any person eighteen (18) years of age or older may transport, possess, sell, or dispense alcoholic beverages, wine, or beer in the course of his employment in accordance with the laws of the State of Tennessee. (1990 Code, § 11-204)

- ²Municipal code reference Open containers: § 8-102.
- ³Municipal code reference Restrictions on persons under twenty-one: § 8-103.

¹Municipal code reference Sale of alcoholic beverages, including beer: title 8.

GAMBLING

SECTION

11-301. Gambling prohibited.11-302. Promotion of gambling.

11-301. <u>**Gambling prohibited**</u>. It shall be unlawful for any person to play at any game of hazard or chance for money or other valuable thing or to make or accept any bet or wager for money or other valuable thing. (1990 Code, § 11-301)

11-302. <u>**Promotion of gambling**</u>. It shall be unlawful for any person to encourage, promote, aid, or assist the playing at any game, or the making of any bet or wager, for money or other valuable thing, or to possess, keep, or exhibit for the purpose of gambling, any gaming table, device, ticket, or any other gambling paraphernalia. (1990 Code, § 11-302)

OFFENSES AGAINST THE PEACE AND QUIET

SECTION

11-401. Disturbing the peace.11-402. Anti-noise regulations.

11-401. <u>Disturbing the peace</u>. No person shall disturb, tend to disturb, or aid in disturbing the peace of other 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. (1990 Code, \S 11-401)

11-402. <u>Anti-noise regulations</u>. 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) <u>Miscellaneous prohibited noises enumerated</u>. 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 person 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 town authorities.

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

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

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

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

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

(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) <u>Exceptions</u>. None of the terms or prohibitions hereof shall apply to or be enforced against:

(a) Town vehicles. Any vehicle of the town while engaged upon necessary public business.

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

(c) Noncommercial and nonprofit use of loudspeakers or amplifiers. The reasonable use of amplifiers or loudspeakers in the course of public addresses which are noncommercial in character and in the course of advertising functions sponsored by nonprofit organizations. However, no such use shall be made until a permit therefor is secured from the board of mayor and aldermen. Hours for the use of an 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. (1990 Code, § 11-402)

INTERFERENCE WITH PUBLIC OPERATIONS AND PERSONNEL

SECTION

- 11-501. Escape from custody or confinement.
- 11-502. Impersonating a government officer or employee.
- 11-503. False emergency alarms.
- 11-504. Interference with municipal personnel.
- 11-505. False reports.
- 11-506. Evading arrest.

11-501. <u>Escape from custody or confinement</u>. It shall be unlawful for any person under arrest or otherwise in custody of or confined by the town 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. (1990 Code, § 11-501)

11-502. <u>Impersonating a government officer or employee</u>. No person other than an official police officer of the town shall wear the uniform, apparel, or badge, or carry any identification card or other insignia of office like or similar to, or a colorable imitation of that adopted and worn or carried by the official police officers of the town. Furthermore, no person shall deceitfully impersonate or represent that he is any government officer or employee. (1990 Code, § 11-502)

11-503. <u>False emergency alarms</u>. It shall be unlawful for any person to intentionally make, turn in, or give a false alarm of fire, or of need for police or ambulance assistance, or to aid or abet in the commission of such act. (1990 Code, § 11-503)

11-504. Interference with municipal personnel. 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 town while such officer or employee is performing or attempting to perform his municipal duties. (1990 Code, \S 11-504)

11-505. False reports. It shall be a municipal offense for any person to:

(1) Report to a law enforcement officer an offense or incident within the corporate limits or the officer's concern:

- (a) Knowing the offense or incident did not occur;
- (b) Knowing the person reporting has no information relating to the offense or incident; or
 - (c) Knowing the information relating to the offense is false.

(2) Intentionally initiate or circulate a report of a past, present, or impending bombing, fire, or other emergency, knowing that the report is false or baseless and knowing:

(a) It will cause action of any sort by an official or volunteer agency organized to deal with those emergencies;

(b) It will place a person in fear of imminent serious bodily injury; or

(c) It will prevent or interrupt the occupation of any building, place of assembly, form of conveyance, or any other place to which the public has access. (1990 Code, § 11-505)

11-506. <u>Evading arrest</u>. It is unlawful for any person to intentionally flee from anyone the person knows to be a law enforcement officer and the person:

(1) Knows the officer is attempting to arrest a person; or

(2) Has been arrested. (1990 Code, § 11-507)

FIREARMS, WEAPONS AND MISSILES

SECTION

11-601. Air rifles, etc.

11-602. Throwing missiles.

11-603. Discharge of firearms.

11-601. <u>Air rifles, etc</u>. It shall be unlawful for any person in the town to discharge any air gun, air pistol, air rifle, "BB" gun, or sling shot capable of discharging a bullet or pellet, made of metal, plastic or any other kind of material, whether propelled by spring, compressed air, expanding gas, explosive, or other force-producing means or method. (1990 Code, § 11-601)

11-602. <u>**Throwing missiles**</u>. 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. (1990 Code, § 11-602)

11-603. <u>Discharge of firearms</u>. It shall be unlawful for any unauthorized person to discharge a firearm within the corporate limits. (1990 Code, § 11-603)

TRESPASSING, MALICIOUS MISCHIEF AND INTERFERENCE WITH TRAFFIC

SECTION

11-701. Trespassing.

11-702. Malicious mischief.

11-703. Interference with traffic.

11-701. <u>**Trespassing**</u>.¹ (1) <u>On premises open to the public</u>.

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

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

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

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

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

(5) <u>Peddlers, etc</u>. It shall also be unlawful and deemed to be a trespass for any peddler, canvasser, solicitor, transient merchant, or other person to fail to promptly leave the private premises of any person who requests or directs him to leave.² (1990 Code, § 11-701)

²Municipal code reference

(continued...)

¹State law reference

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

11-702. <u>Malicious mischief</u>. It shall be unlawful and deemed to be malicious mischief for any person to willfully, maliciously, or wantonly damage, deface, destroy, conceal, tamper with, remove, or withhold real or personal property which does not belong to him. (1990 Code, § 11-702)

11-703. <u>Interference with traffic</u>. It shall be unlawful for any person to stand, sit, or engage in any activity whatever on any public street, sidewalk, bridge, or public ground in such a manner as to prevent, obstruct, or interfere with the free passage of pedestrian or vehicular traffic thereon. (1990 Code, § 11-703)

(...continued)

Provisions governing peddlers: title 9, chapter 1.

PUBLIC FACILITY SMOKING REGULATIONS

SECTION

- 11-801. Purpose.
- 11-802. Definitions.
- 11-803. Restrictions.
- 11-804. Designation of non-smoking areas.
- 11-805. Posting of signs.
- 11-806. Penalties.

11-801. <u>**Purpose</u>**. The purpose of this chapter is to manage the use of tobacco or any other smoking product in designated areas of town buildings. (Ord. #330, Oct. 2007)</u>

11-802. <u>**Definitions**</u>. As used in this chapter the following words and phrases shall have the meaning as stated:

(1) "Smoke" or "smoking" means the carrying of a lighted pipe, or lighted cigar, or lighted cigarette of any kind, or the lighting of a pipe, cigar, or cigarette of any kind.

(2) "Municipal facility" means any enclosed areas of a facility which is owned, operated, leased or under the control of the Town of Mount Carmel, Tennessee, to which the public is invited or in which the public is permitted; including but not limited to waiting rooms, reception areas, meeting rooms, and areas which town employees normally frequent during the course of employment, including but not limited to work areas, employee lounges, town vehicles and conference rooms.

(3) "Tobacco product" means tobacco in any form, including but not limited to snuff, chewing tobacco, cigars, and pipe tobacco. (Ord. #330, Oct. 2007)

11-803. <u>**Restrictions**</u>. No person shall, in a municipal facility, smoke or use tobacco products in any designated non-smoking area. (Ord. #330, Oct. 2007)

11-804. <u>**Designation of non-smoking areas**</u>. Non-smoking areas may be designated in municipal facilities by the board of mayor and aldermen. In any area designated as a non-smoking area the use of tobacco in any form shall be prohibited. (Ord. #330, Oct. 2007)

11-805. <u>Posting of signs</u>. Signs which designate non-smoking areas shall be clearly and conspicuously posted in every building or other place so covered by this chapter. (Ord. #330, Oct. 2007)

11-806. <u>**Penalties**</u>. Any person violating any provision of this chapter shall be guilty of an offense and upon conviction shall pay a penalty of not less than fifty dollars (\$50.00) for each offense. Each occurrence shall constitute a separate offense. (Ord. #330, Oct. 2007)

CURFEW FOR MINORS

SECTION

11-901. Purpose.

11-902. Definitions.

11-903. Curfew enacted; exceptions.

11-904. Parental involvement in violation unlawful.

11-905. Involvement by owner or operator of vehicle unlawful.

11-906. Involvement by operator or employee of establishment unlawful.

11-907. Giving false information unlawful.

- 11-908. Enforcement.
- 11-909. Violations punishable by fine.

11-901. <u>**Purpose**</u>. 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.

11-902. <u>**Definitions**</u>. 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 <u>Tennessee Code Annotated</u>, § 29-31-101, <u>et seq</u>.

(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.

11-903. <u>Curfew enacted: exceptions</u>. It is unlawful for any minor, during curfew hours, to remain in or upon any public place within the town, to remain in any motor vehicle operating or parked on any public place within the town, or to remain in or upon the premises of any establishment within the town, 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 Town of Rogersville; 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.

11-904. <u>Parental involvement in violation unlawful</u>. It is unlawful for a minor's parent knowingly to permit, allow, or encourage a violation of § 11-803 of this chapter.

11-905. <u>Involvement by owner or operator of vehicle unlawful</u>. 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 § 11-903 of this chapter using the motor vehicle.

11-906. <u>Involvement by operator or employee of establishment</u> <u>unlawful</u>. 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.

11-907. <u>Giving false information unlawful</u>. 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 § 11-903 of this chapter. Each violation of this section is punishable by a maximum fine of fifty dollars (\$50.00).

11-908. Enforcement. (1) Minors. Before taking any enforcement action, a law enforcement officer who is notified of a possible violation of § 11-903 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, the officer shall charge the minor with a violation of § 11-903 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) <u>Others</u>. If an officer's investigation reveals that a person has violated §§ 11-903, § 11-904, § 11-905, or § 11-906 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.

11-909. <u>Violations punishable by fine</u>. A violation of § 11-903, § 11-904, § 11-905, or § 11-906 subsequent to receiving a verbal warning as provided in § 11-908 is punishable by a maximum fine of fifty dollars (\$50.00) for each violation.

TITLE 12

BUILDING, UTILITY, ETC. CODES¹

CHAPTER

1. CODES ADOPTED BY REFERENCE.

CHAPTER 1

CODES ADOPTED BY REFERENCE

SECTION

- 12-101. Codes adopted.
- 12-102. Designated official.
- 12-103. Available in recorder's office.
- 12-104. Violations and penalty.
- 12-105. Effective date.

12-101. <u>Codes adopted</u>. Pursuant to authority granted by <u>Tennessee</u> <u>Code Annotated</u>, §§ 6-54-501 through 6-54-506, and for the purpose of establishing the minimum requirements to safeguard the public health, safety and general welfare through structural strength, means of egress, facilities stability, sanitation, adequate light and ventilation, energy conservation, and safety to life and property from fire and hazard attributed to the built environment, the following codes are adopted and incorporated by reference as part of the municipal code:

(1) The <u>International Building Code</u>, 2012 edition, including Appendix I.

(2) The <u>International Residential Code</u>, 2012 edition; excluding Section 313.2, Chapter 11, Section 2904.1.1, and Part VIII-Electrical; and including Appendixes H. Section 313.1 is modified to add the following exceptions:

(a) Exception: An automatic fire sprinkler system shall not be required in a townhouse building with three (3) or less townhouse units and less than five thousand (5000) square feet gross and three (3) or fewer stories if each unit is separated by a two (2) hour fire wall and each such townhouse building of three (3) or less

¹Municipal code references

Fire code: title 7, chapter 2.

Planning and zoning: title 14.

Streets: title 16.

Utilities and services: titles 12 and 19.

townhouses are separated from one another or other buildings by at least thirty (30) feet vertically.

- (b) Section 105.2 of the 2012 IRC specifies when building permits are not required and sub-section 7 thereof states that building permits are not required for "prefabricated swimming pools that are less than 24 inches (610 mm) deep."
- (c) The following is added to the above sub-section 7 following the word "deep:" and temporary, portable swimming pools with an expected life of less than six (6) months.

(3) The <u>International Plumbing Code</u>, 2012 edition. Section P2610 is added as follows:

SECTION P2610 Toilet Facilities for Workers.

P2610.1 General. Toilet facilities shall be provided for construction workers and such facilities shall be maintained in a sanitary condition. Construction worker toilet facilities of the non-sewer type shall conform to ANSI Z4.3

- (4) The <u>International Fuel Gas Code</u>, 2012 edition.
- (5) The International Mechanical Code, 2012 edition.
- (6) The <u>International Existing Building Code</u>, 2012, edition.
- (7) The <u>International Swimming Pool and Spa Code</u>, 2012, edition.
- (8) The <u>International Energy Conservation Code</u>, 2018 edition:

(a) Table 402.1.2 is replaced by the same table from the 2009 edition of the <u>International Energy Conservation Code</u> until the Tennessee State Fire Marshal's office by rule establishes more stringent standards. Those more stringent standards will take effect on the effective date of the state rule change.

(b) Section 402.4.2.1. Air leakage testing is optional. (Ord. #335, June 2008, as replaced by Ord. #2014-420, Oct. 2014, and amended by Ord. #17-456, Aug. 2017, and Ord. #2018-474, Oct. 2018 *Ch7_10-24-19*)

12-102. <u>Designated official</u>. Where in the above adopted codes reference is made to a certain official named therein, that designee is the building inspector. (1990 Code, § 12-102, as replaced by Ord. #2014-420, Oct. 2014)

12-103. <u>Available in recorder's office</u>. Pursuant to the requirements of <u>Tennessee Code Annotated</u>, § 6-54-501, one (1) copy of the above codes has been placed in the recorder's office and shall be kept there for the use and inspection of the public. (as replaced by Ord. #2014-420, Oct. 2014)

12-104. <u>Violations and penalty</u>. It shall be unlawful for any person to violate or fail to comply with any provision of the above codes as herein adopted by reference and modified. The violation of any section of this chapter shall be punishable by a penalty of up to fifty dollars (\$50.00). Each day a violation is allowed to continue shall constitute a separate offense. (as added by Ord. #2014-420, Oct. 2014)

12-105. <u>Effective date</u>. This ordinance comprising this chapter shall take effect from and after its final passage, the public welfare requiring it. (as added by Ord. #2014-420, Oct. 2014)

TITLE 13

PROPERTY MAINTENANCE REGULATIONS¹

CHAPTER

- 1. MISCELLANEOUS.
- 2. LITTER.
- 3. JUNK CONTROL.
- 4. AUTOMOBILE GRAVEYARDS.
- 5. SUBSTANDARD PROPERTIES.

CHAPTER 1

MISCELLANEOUS

SECTION

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

13-101. <u>Smoke, soot, cinders, etc</u>. 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. (1990 Code,§ 13-101)

13-102. <u>Stagnant water</u>. 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. (1990 Code, § 13-102)

13-103. <u>Weeds</u>. Every owner or tenant of property shall periodically cut the grass and other vegetation commonly recognized as weeds on his property,

Automobile graveyards: title 13, chapter 4.

¹Municipal code references

Animals: title 10.

Littering streets, etc.: § 16-107.

Wastewater treatment: title 18.

and it shall be unlawful for any person to fail to comply with an order by the city recorder or chief of police to cut such vegetation when it has reached a height of over one foot (1'). (1990 Code, § 13-103)

13-104. Overgrown and dirty lots.¹ (1) Prohibition. Pursuant to the authority granted to municipalities in <u>Tennessee Code Annotated</u>, § 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 accumulation 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) <u>Designation of public officer or department</u>. The building inspector is designated as the public officer who shall enforce the provisions of this section.

(3) <u>Notice to property owner</u>. It shall be the duty of the building inspector 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 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 Mount Carmel 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 town; and

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

(4) <u>Clean-up at property owners' expense</u>. 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 building

¹Municipal code reference

Litter: chapter 2.

inspector 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. The cost shall be a lien upon the property in favor of the town, which costs shall be placed upon the tax rolls of the town as a lien upon the property, and shall be collected in the same manner as the town's taxes are collected. The provisions of this subsection 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 herein.

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

(6) <u>Judicial review</u>. Any person aggrieved by an order or act of the public officer or of the board of mayor and aldermen under this section may seek judicial review of the order or act. The time period established in subsection (3) above shall be stayed during the pendency of judicial review.

(7) <u>Supplemental nature of this section</u>. 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 town to proceed against an owner, tenant or occupant of property who has created, maintained, or permitted to be maintained on such property the growth of trees, vines, grass, weeds, underbrush and/or the accumulation of debris, trash, litter, or garbage or any combination of the preceding elements. (1990 Code, § 13-104, as amended by Ord. #290, Feb. 205, modified)

13-105. <u>Dead animals</u>. Any person owning or having possession of any dead animal not intended for use as food shall promptly bury the same or notify the city recorder and dispose of such animal in such manner as the city recorder shall direct. (1990 Code, § 13-105)

13-106. <u>Health and sanitation nuisances</u>. 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. (1990 Code, § 13-105)

13-107. <u>Violations and penalty</u>. Violations of this chapter shall be punished in accordance with the general penalty provision of this municipal code of ordinances, except that violations of § 13-104 shall be handled in accordance with the provisions prescribed in that section. (1990 Code, § 13-107)

LITTER

SECTION

13-201. Definitions.

- 13-202. Littering public and private places prohibited.
- 13-203. Prima facie evidence against driver of motor vehicle.
- 13-204. Litter bearing a person's name.
- 13-205. Initiation of prosecution.
- 13-206. Reporting of violations by witnesses.
- 13-207. Penalties.

13-201. <u>**Definitions**</u>. The following definitions shall apply in the interpretation of this chapter unless the context requires otherwise:

(1) "Garbage" includes putrescible animal and vegetable wastes resulting from the handling, preparation, cooking and consumption of food.

(2) "Refuse" includes all putrescible and nonputrescible solid waste.

(3) "Rubbish" includes nonputrescible solid waste consisting of both combustible and noncombustible waste.

(4) "Litter" includes garbage, refuse, rubbish and all other waste materials. (1990 Code, § 13-201)

13-202. Littering public and private places prohibited. A person shall not throw, dump, deposit or cause to be thrown, dumped, or deposited litter on property owned by another person without the permission of the owner or occupant of such property or on any public highway, street or road, upon public parks or recreation areas, or upon any other property except property designated for that use. (1990 Code, § 13-202)

13-203. <u>Prima facie evidence against driver of motor vehicle</u>. If the throwing, dumping, or depositing of litter was done from a motor vehicle, except a motor bus, it shall be prima facie evidence that the throwing, dumping, or depositing was done by the driver of the motor vehicle. (1990 Code, § 13-203)

13-204. <u>Litter bearing a person's name</u>. If an object of litter is discovered on another's property without his permission, on any public highway, street, or road, upon public parks or recreation areas, or upon any other public property except property designated for that use, bearing a person's name, it shall be prima facie evidence that the person whose name appeared on the object threw, dumped, deposited, or caused it to be thrown dumped, or deposited there. (1990 Code, § 13-204)

13-205. <u>Initiation of prosecution</u>. Prosecution for a violation of this chapter may be initiated by a peace officer who witnessed an offense in violation of this chapter or discovered an article bearing a person's name on the property of another, or any public highway, street or road, upon a public park or recreation area, or upon any other public property except that designated for that use, or by any private citizen, who witnessed an offense or discovered incriminating evidence, who is willing to make the initial charge and testify for the town. (1990 Code, § 13-205)

13-206. <u>Reporting of violations by witnesses</u>. Any person, whether or not such person is a citizen of the State of Tennessee, who shall witness the throwing, dumping, or depositing of litter from a motor vehicle onto any public highway, street, road, onto another's property without the owner's permission, onto public park or public recreation lands or onto any other public property except such as is designated for the throwing, dumping, or depositing of litter may report the date and time of day of the littering and the license plate, registration number, and the state of registration to any state or local law enforcement authority. The license plate registration number as recorded shall constitute prima facie evidence that the littering was done by the person to whom such motor vehicle is registered. Nothing in this section shall be construed to modify or change the burden of the town to prove the defendant guilty by a preponderance of the evidence. Any person so reporting a violation shall be required to appear as a witness in any prosecution resulting therefrom. (1990 Code, § 13-206)

13-207. <u>Penalties</u>. Any person found guilty of violation of any part of this chapter shall be punished in accordance with the general penalty clause for this code. However, the judge, in his discretion, may allow the individual to remove the litter in lieu of the punishment provided for in the general penalty clause for this code. (1990 Code, § 13-207, as amended by Ord. #231, Dec. 2001, modified)

JUNK CONTROL

SECTION

13-301. Definitions.13-302. Storage of junk regulated.

13-301. <u>Definitions</u>. For the purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

(1) "Junk." For the purpose of this chapter, the term "junk" shall mean any motor vehicle, machinery, appliance, product, or merchandise with parts missing, or scrap metal, or other scrap materials that are damaged, deteriorated, or that are in a condition which prevents their use for the purpose for which they were intended. This definition specifically includes motor vehicles not movable under their own power, and that cannot be made so movable by minor repairs such as inflating a tire or installing fuel or battery.

(2) "Junk dealer." Any person, in any way acquiring, buying, selling, exchanging, trading, or dealing in scrap iron, brass, second-hand metals, or parts of any sort.

(3) "Junk yard." Any open or uncovered land on which dilapidated automobiles, rags, old papers, boxes, barrels, or other used articles defined as "junk" herein, are assembled for purposes of trade. (1990 Code, § 13-202)

13-302. Storage of junk regulated. It shall be unlawful and a violation of this section for any person, firm, or corporation to keep or store junk in the Town of Mount Carmel, unless such junk is located in a zone allowing the storage of such junk, and only then if such junk is sorted in such a manner as not to be visible from adjacent property, including public streets. In no event shall it be lawful for any person, firm, or corporation, to allow junk to accumulate on any property not properly zoned for the storage of junk. Nothing contained in this section shall be construed to prevent persons, firms, or corporations which repair motor vehicles, appliances, etc., from accumulating unserviceable articles left with them in the normal course of their business, provided, however, such unserviceable articles shall not be visible from adjoining property. (1990 Code, § 13-303)

AUTOMOBILE GRAVEYARDS

SECTION

- 13-401. Definition of "automobile graveyard."
- 13-402. Permit required; issuance and revocation.
- 13-403. Appeals to board.
- 13-404. Requirements for "automobile graveyards."
- 13-405. Application to existing "automobile graveyards."

13-401. Definition of "automobile graveyard." For the purpose of this chapter, "automobile graveyard" means any lot or place which is exposed to the weather and upon which more than five (5) motor vehicles of any kind, incapable of being operated, and which it would not be economically practical to make operative, are placed, located, or found. The term "automobile graveyard" or "automobile junkyard" shall not be construed to mean an establishment having facilities for processing iron, steel, or nonferrous scrap and whose principal produce is scrap iron, steel, or nonferrous scrap for sale for remelting purposes only. (1990 Code, § 13-401)

13-402. <u>Permit required; issuance and revocation</u>. No person shall own or maintain any "automobile graveyard" within the town until he shall receive a permit so to do from the city recorder. The city recorder shall issue such a permit to any applicant whose premises comply with the requirements of this and all other applicable ordinances of the town. Any permit so issued may be revoked by the city recorder for failure to comply with any requirement of this chapter. However, charges shall be preferred in writing by the recorder and served upon the permittee and he shall be given the right to be heard as to why his license should not be revoked. (1990 Code, § 13-402)

13-403. <u>Appeals to board</u>. Any person aggrieved by the city recorder's action relative to the issuance or revocation of an "automobile graveyard" permit may appeal to the board of mayor and aldermen which shall hold a hearing and decide whether or not the city recorder's action was reasonable. Based upon its findings at such hearing the board of mayor and aldermen shall affirm or reverse the city recorder's action. (1990 Code, § 13-403)

13-404. <u>Requirements for "automobile graveyards.</u>" All "automobile graveyards" within the town shall be operated and maintained subject to the following regulations:

(1) All motor vehicles stored or kept in such yards shall be so kept that they will not catch and hold water in which mosquitos may breed and so that

they will not constitute a place or places in which rats, mice, or other vermin may be harbored, reared, or propagated.

(2) All such "automobile graveyards" shall be enclosed within a close fitting plank or metal solid fence touching the ground on the bottom and being not less than six feet (6') in height, such fence to be so built that it will be impossible for stray cats and/or stray dogs to have access to such "automobile graveyards."

(3) Such "automobile graveyards" shall be so maintained as to be in a sanitary condition and so as not to be a menace to the public health or safety. (1990 Code, § 13-404)

13-405. <u>Application to existing "automobile graveyards.</u>" Any owner and/or operator of an "automobile graveyard" in existence at the time the provisions in this chapter become effective shall have sixty (60) days in which to get a permit or remove the offending vehicles. (1990 Code, § 13-405)

SUBSTANDARD PROPERTIES

SECTION

13-501. Structures unfit for human occupation or use.13-502. Property other than owner occupied residences.

12 502. Demoltry

13-503. Penalty.

13-501. Structures unfit for human occupation or use.

Findings and declaration of policy. It is hereby found and declared (1)that there exist in the town structures in use which are, or may become in the future, substandard with respect to structural soundness, equipment or maintenance, or further that such conditions including but not limited to structural deterioration, lack of maintenance of exterior of premises, infestation, lack of essential heating or plumbing equipment, lack of maintenance or upkeep of essential utilities and facilities, existence of fire hazards, inadequate provisions for light and air, or unsanitary conditions and overcrowding, constitute a menace to the health, safety, welfare and reasonable comfort of the citizens and inhabitants of the town. It is further found and declared that by reason of lack of maintenance and because of progressive deterioration, certain properties have the further effect of creating blighting conditions and initiating slums and that if the same are not curtailed and removed, the aforesaid conditions will grow and spread and will necessitate in time the expenditure of large amounts of public funds to correct and eliminate same, and that by reason of timely regulations and restrictions as herein contained, the growth of slums and blight may be prevented and the neighborhood and property values thereby maintained, the desirability and amenities of residential and nonresidential uses and neighborhoods enhanced and the public health, safety and welfare protected and fostered.

(2) <u>Purpose</u>. The purpose of this chapter is to protect the public health, safety and welfare by establishing minimum standards governing the maintenance, condition and occupancy of residential and nonresidential premises; to establish minimum standards governing utilities, facilities and other physical components and conditions essential to make the aforesaid facilities fit for human habitation, occupancy and use; to fix certain responsibilities and duties upon owners and operators, and occupants; to authorize and establish procedures for the inspection of residential and nonresidential premises; to fix penalties for the violations of this chapter; and to provide for the repair, demolition or vacation of premises unfit for human habitation or occupancy or use.

(3) <u>Administration fees</u>. All owners or persons in possession, charge or control, of any place or premises on which a nuisance is created, accumulated or produced which must be abated by the town as a result of their failure or refusal to comply with an order of the building inspector, are liable for and shall pay an administration fee in addition to the cost of repair, alteration or improvement, or vacating and closing, or, removal or demolition by the building inspector; which fee shall be set by resolution of the board of mayor and aldermen.

(4) <u>Care of premises</u>. Having adopted by reference the <u>International</u> <u>Building Code</u> published by the International Code Council, it shall hereby be unlawful, conformance with said code, for the owner or occupant of a residential building, structure, or property to utilize the premises of such residential property for the open storage of any abandoned motor vehicle, ice box, refrigerator, stove, glass, building material, building rubbish or similar items. It shall be the duty and responsibility of every such owner occupant to keep the premises of such residential property clean and to remove from the premises all such abandoned items as listed above, including but not limited to weeds, dead trees, trash, garbage, etc., upon notice from the building inspector.

(5) <u>Administration</u>. All inspections, regulations, enforcement and hearings on violations of the provisions of this chapter shall be under the direction and supervision of the building inspector. The building inspector may designate such other employees to perform duties as may be necessary to the enforcement of this section, including the making of inspections and holding of hearings.

(6) <u>Applicability</u>. Every residential, nonresidential or mixed occupancy building and the land on which it is situated, used or intended to be used for dwelling, commercial, business or industrial occupancy or use shall comply with the provisions of this chapter, whether or not such building shall have been constructed, altered or repaired before or after the enactment of this chapter, and irrespective of any permits or licenses which shall have been issued for the use or occupancy of the building or premises for the construction or repair of the building, or for the installation or repair of equipment or facilities prior to the effective date of this chapter. This chapter shall also apply to mobile home parks.

(7) <u>Controlling standard</u>. In any case where the provisions of this chapter impose a higher standard than set forth in any other ordinance or under the laws of the state, then the standards set forth herein shall prevail, but if the provisions of this chapter impose a lower standard than any other local ordinance or of the laws of the state, then the higher standard shall prevail.

(8) <u>Compliance with other ordinances</u>. No provision herein shall relieve any owner, operator or occupant from complying with any other provision, nor relieve any inspector of the town from enforcing any other provision of the code of ordinances.

(9) <u>Dwellings unfit for human habitation</u>. Pursuant to <u>Tennessee Code</u> <u>Annotated</u>, § 13-21-101, <u>et seq</u>., it is hereby found that there exists in the Town of Mount Carmel, structures which are unfit for human occupation or use 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 structures unsafe or unsanitary, or dangerous or detrimental to the health, safety or morals, or otherwise inimical to the welfare of the residents of the town.

(10) <u>Definitions</u>. The following terms wherever used herein or referred to in this chapter shall have the following respective meanings for the purposes of this section, unless a different meaning clearly appears from the context:

(a) "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;

(b) "Occupant" means any person who has charge, care or control of a dwelling or premises, or a part thereof, whether with or without the knowledge and consent of the owner.

(c) "Owner" means any person who, alone or jointly or severally with others, shall have legal or equitable title to any premises in fee simple and every mortgage of record.

(d) "Parties in interest" means all individuals, associations or corporations who have interests of record in a structure or parcel of land or have actual possession thereof.

(e) "Premises" means a lot, plot or parcel of land including any buildings or structures thereon.

(f) "Public officer" means the building inspector of the Town of Mount Carmel.

(g) "Structure" means any dwelling or place of public accommodation.

(11) <u>Building inspector designated to act</u>. The building inspector is hereby designated as the public officer of the Town of Mount Carmel who shall exercise the power herein prescribed.

(12)Institution of action and notification. Whenever a petition is filed with the building inspector by a public authority or by at least five (5) residents of the Town of Mount Carmel charging that any structure is unfit for human occupation or use, or whenever it appears to the building inspector on his own motion that any structure is unfit for occupation or use, the building inspector shall, if, after making a preliminary investigation, such 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 building inspector (or his designated agent) at a time and place therein fixed not less than ten (10) days nor more than thirty (30) days after the serving of said complaint; that the owners and parties in interest shall be given the right to file an answer to the complaint and to appear in person, or otherwise, and give testimony at the place and time fixed in the complaint; and, that the rules of evidence prevailing in courts of law or equity shall not be controlling in hearings

before the building inspector or his designated agent. As contained herein, "public authority" shall mean any housing authority, or any officer who is in charge of any department or branch of the government of the Town of Mount Carmel or the State of Tennessee relating to health, fire, building regulation, or other activities concerning structures in the Town of Mount Carmel.

(13) <u>Determination of and further notice by building inspector</u>. If, after such notice and hearing as above prescribed, the building inspector determines that the structure under consideration is unfit for human habitation or use, he shall state in writing his findings of fact in support of such determination, and shall issue and cause to be served upon the owner thereof an order:

(a) If the repair, alteration, or improvement of the said structure can be made at a reasonable cost in relation to the value of the structure 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 if not adequately repaired, altered or improved within the time specified in the order to vacate and close the dwelling as a place of human habitation or use; or

(b) If the repair, alteration or improvement of the said structure cannot be made at a reasonable cost in relation to the value of the structure requiring the owner within the time specified in the order to remove or demolish such structure.

(c) The building inspector shall determine the value of the structure in question existing on the land and the value of the land itself shall not be considered, and if the structure can be made to conform to such standards as will make it properly habitable by an expenditure of not more than fifty percent (50%) of said value, the order referred to in the proceeding paragraph shall conform to the first alternative. If an expenditure of more than fifty percent (50%) of the value just referred to would be necessary to make the structure properly habitable, the order in the proceeding paragraph shall conform to the second alternative.

(d) Any repair, alteration or improvement instituted in compliance with this chapter shall be made in conformance with the then existing zoning and building codes.

(14) <u>Failure of owner to comply to vacate and repair</u>. If the owner fails to comply with the order under § 13-501(13)(a), the building inspector may cause such structure to be repaired, altered or improved or be vacated and closed; and in such event the building inspector may cause to be posted on the main entrance of any structure so closed a placard with the following words: "This building is unfit for human occupation; the use or occupation of this building for human occupation or use is prohibited and unlawful."

(15) <u>Failure of owner to remove or demolish</u>. If the owner fails to comply with an order as set forth in § 13-501(13)(b), the building inspector may cause such structure to be removed or demolished.

(16)Creation of lien and payment into court. The amount of the cost of such repairs, alterations or improvements, or vacating and closing, or removal or demolition by the building inspector shall, upon the filing of the notice with the office of the register of deeds of the county in which the property lies, be a lien in favor of the town against the real property on which such cost was incurred, second only to liens of the state, county and town for taxes, any lien of the town 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. The costs shall be collected by the town tax collector at the same time and in the same manner as property taxes are collected. If the structure is removed or demolished by the building inspector, he shall sell the materials of such structure and shall credit the proceeds of such sale against the cost of the removal or demolition and any balance remaining shall be deposited in the chancery court by the building inspector, shall be secured in such manner as may be directed by such court and shall be disbursed by such court to the person found to be entitled thereto by final order or decree of such court; provided however, that nothing in this section shall be construed to impair or limit in any way the power of the Town of Mount Carmel defined and declare nuisances and to cause their removal or abatement by summary proceedings or otherwise.

(17) <u>Conditions rendering dwelling unfit for human habitation</u>. In addition to other standards set forth in this chapter, the building inspector may determine that a structure is unfit for human occupation or use if he finds that conditions exist in such structure which are dangerous or injurious to the health or safety of the occupants of such structure, the occupants of neighboring structures or other residents of the town; such conditions may include the following but 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; and uncleanliness.

(18) <u>Service of complaints or orders</u>. Complaints or orders issued by the building inspector pursuant to this chapter shall be served upon persons either personally or by registered mail, but if the whereabouts of such persons is unknown and the same cannot be ascertained by the building inspector in the exercise of reasonable diligence, and the building inspector shall make 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 town. A copy of such complaint or order shall be posted in a conspicuous place on the 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 the county in which the structure is located and such filing of the complaint or order shall have the same force and effects as other lis pendens notices provided by law.

(19) <u>Enjoining enforcement of order</u>. (a) Any person affected by an order issued by the building inspector may file a bill in the chancery

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

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

(20) <u>Powers given the building inspector</u>. The building inspector is authorized to exercise such powers as may be necessary or convenient to carry out and effectuate the purposes and provisions of this chapter including the following powers in addition to others herein granted:

(a) To investigate conditions in the town in order to determine which structures therein are unfit for human occupation or use.

(b) To administer oaths and affirmations, examine witnesses and receive evidence.

(c) To enter upon premises for the purposes of making examinations provided that such entries shall be made in such manner as to cause the least possible inconvenience to the persons in possession. (1990 Code, § 12-601, as amended by Ord. #235, Dec. 2001, Ord. #290, Feb. 2005, and Ord. #2012-373, May 2012)

13-502. Property other than owner occupied residences.

(1) <u>Building inspectors designated to act</u>. The building inspector is hereby designated as the public officer of the Town of Mount Carmel who shall exercise the powers set out in this section.

(2) <u>Institution of action and notification</u>. Pursuant to <u>Tennessee Code</u> <u>Annotated</u>, § 6-54-113, if it is determined by the building inspector that any owner of record of real property has created, maintained, or permitted to be maintained on such property the growth of trees, vines, grass, underbrush and/or the accumulation 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, the building inspector shall provide notice to the owner of record to remedy the condition immediately. The notice shall be given by United States mail, addressed to the last known address of the owner of record. The notice shall state that the owner of the property is entitled to a hearing. The notice shall be written in plain language and shall also include but not be limited to the following elements:

(a) A brief statement of this section which shall contain the consequences of failing to remedy the noted condition;

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

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

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

Failure of owner to comply. If the person fails or refuses to remedy (3)the condition within ten (10) days after receiving the notice, the building inspector shall immediately cause the condition to be remedied or removed at a cost in conformity with reasonable standards and the cost thereof assessed against the owner of the property. Upon filing of the notice with the office of the register of deeds of the county in which the property lies, the costs shall be a lien upon the property in favor of the town, 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 town tax collector at the same time and in the same manner as town property taxes 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.

Provided, however, if the person who is the owner of record is a carrier engaged in the transportation of property or is a utility transmitting communications, electricity, gas, liquids, steam, sewerage, or other materials, the ten (10) day period of the first sentence of this section shall be twenty (20) days, excluding Saturdays, Sundays, and legal holidays.

(4) <u>Rules; hearing; and stay of enforcement: hearing: and stay of enforcement</u>. (a) The board of mayor and aldermen may make rules and regulations necessary for the administration and enforcement of this section. The building inspector shall provide for a hearing upon request of the person aggrieved by the determination made pursuant to subsection (2). A request for a hearing shall be made within ten (10) days following the receipt of the notice issued pursuant to subsection (2). Failure to make the request within this time shall without exception constitute a waiver of the right to a hearing.

(b) Any person aggrieved by an order or act of the building inspector under provisions of this chapter may seek judicial review of the

order or act. The time period established in this subsection (3) shall be stayed during the pendency of a hearing.

(5) <u>Limitation</u>. The provisions of this section shall not apply to any parcel of property upon which an owner-occupied residence is located. (1990 Code, § 12-602, as amended by Ord. #235, Dec. 2001, and Ord. #290, Feb. 2005)

13-503. <u>**Penalty</u>**. The violation of any provision of this chapter shall be punishable by a penalty of not more than fifty dollars (\$50.00) and costs for each separate violation. (1990 Code, § 12-626, as amended by Ord. #235, Dec. 2001, and Ord. #290, Feb. 2005)</u>

TITLE 14

ZONING AND LAND USE CONTROL

CHAPTER

- 1. MUNICIPAL PLANNING COMMISSION.
- 2. AUTHORITY.
- 3. TITLE AND PURPOSE.
- 4. **DEFINITIONS**.
- 5. ESTABLISHMENT OF DISTRICTS.
- 6. MUNICIPAL PLANNING COMMISSION.
- 7. MOBILE HOME PARKS.
- 8. GROUP HOUSING AND PLANNED UNIT DEVELOPMENT.
- 9. PROVISIONS GOVERNING USE DISTRICTS.
- 10. AREA, YARD AND HEIGHT REQUIREMENTS.
- 11. EXCEPTIONS AND MODIFICATIONS.
- 12. SIGN REGULATIONS.
- 13. ENFORCEMENT.
- 14. BOARD OF ZONING APPEALS.
- 15. AMENDMENT.
- 16. STORMWATER MANAGEMENT, EROSION AND SEDIMENTATION CONTROL.
- 17. FLOOD CONTROL.
- 18. OUTDOOR LIGHTING.

MUNICIPAL PLANNING COMMISSION

SECTION

- 14-101. Creation and membership.
- 14-102. Organization, powers, duties, etc.
- 14-103. Schedule of fees and charges.

14-101. Creation and membership. There is hereby created and established a municipal planning commission. Such planning commission shall consist of nine (9) members. One (1) of the members shall be the mayor of the municipality or a person designated by the mayor and one (1) of the members shall be a member of the board of mayor and aldermen selected by the board of mayor and aldermen. The other seven (7) members shall be appointed by the mayor. In making such appointments, the mayor shall strive to ensure that the racial composition of the planning commission is at least proportionately reflective of the municipality's racial minority population. The members of the planning commission shall serve without compensation. The terms of the seven (7) members appointed by the mayor shall be for three (3) years each. The term of the mayor shall run concurrently with the mayor's term of office. Except for the initial appointment, the terms of all members who are members of the board of mayor and aldermen shall be eight (8) months so that every member of the board of mayor and aldermen shall have the opportunity to serve during their term of office. The member of the board of mayor and aldermen first appointed, shall be appointed for a term ending with the regular meeting of the planning commission to be held in July, 2005. Any vacancy in an appointed membership shall be filled for the unexpired term by the mayor, who shall also have authority to remove any appointed member at the mayor's pleasure. (Ord. #292, July 2005)

14-102. <u>Organization, powers, duties, etc</u>.¹ The planning commission shall be organized and shall carry out its powers, functions, and duties in accordance with all applicable provisions of <u>Tennessee Code Annotated</u>, title 13. (Ord. #292, July 2005)

14-103. <u>Schedule of fees and charges</u>. There is established the following schedule of fees and charges intended to partially defray the administrative costs associated with zoning and land use control:

¹The Mt. Carmel Regional Planning Commission has duly adopted subdivision regulations on April 6, 1999, which are an appendix to this code.

(1) <u>Public hearing</u>. Requests for rezoning real property, requests for amendment to the zoning ordinance, requests for variances to be heard by the board of zoning appeals, and requests for deannexation all require public hearings. For each public hearing so held, the requestor shall pay to the town in advance a fee of thirty-five dollars (\$35.00).

(2) <u>Agenda appearance</u>. Requests for rezoning, zoning ordinance amendments, variances to be heard by the board of zoning appeals, and annexation and deannexation of real property must be calendared in a timely manner on the agenda(s) of the regional planning commission, board of zoning appeals, and/or the board of mayor and aldermen. For each such agenda appearance request, the requestor shall pay to the town in advance a fee of thirty-five dollars (\$35.00).

(3) <u>Special called meeting</u>. In the event a special called meeting of either the regional planning commission, board of zoning appeals, or board of mayor and aldermen is made by a requestor to hear that requestor s agenda appearance request item, a charge of fifty dollars (\$50.00) shall be paid by the requestor in advance of the notice of the special called meeting being sent to the applicable commission/board members.

(a) Review and inspection. A schedule of fees for review and inspection by town officials, engineering staff, planning staff, or legal staff shall be set by resolution of the board of mayor and aldermen from time to time as circumstances require.

(b) Advertising expense. For any administrative action undertaken as noted above that requires the advertisement of such meeting or hearing in a newspaper of general circulation, the requestor shall pay to the town the cost of publishing such advertisement. (Ord. #292, July 2005)

AUTHORITY

SECTION

14-201. Authority.

14-201. <u>Authority</u>. An ordinance, in pursuance of the authority granted by <u>Tennessee Code Annotated</u>, §§ 13-7-201 through 13-7-210, for the purpose of promoting the public health, safety, morals, convenience, order, prosperity and general welfare; to provide for the establishment of districts within the corporate limits; to regulate, within such districts, the location, height, bulk, number of stories and size of buildings and structures, the percentage of lot occupancy, the required open spaces, the density of population and the use of land, buildings and structures; to provide methods of administration of this ordinance and to prescribe penalties for the violation thereof. (Ord. #292, July 2005)

TITLE AND PURPOSE

SECTION

14-301. Short title. 14-302. Purpose.

14-301. <u>Short title</u>. This ordinance shall be known as the zoning ordinance of Mount Carmel, Tennessee, and the map herein referred to, which is identified by the tide, <u>Mount Carmel, Tennessee Zoning Map</u> shall be known as the zoning map of Mount Carmel, Tennessee, latest edition. The zoning map of Mount Carmel, Tennessee, and all explanatory matter thereon are hereby adopted and made a part of this ordinance. (Ord. #292, July 2005)

14-302. <u>Purpose</u>. The zoning regulations and districts as herein set forth have been made in accordance with a comprehensive plan for the purpose of promoting the health, safety, morals, and the general welfare of the community. They have been designed to lessen congestion in the streets, to secure safety from fire, panic and other dangers, to provide adequate light and air, to prevent the overcrowding of land, to avoid undue concentration of population, and to facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements. They have been made with reasonable consideration, among other things, as to the character of each district and its particular suitability for particular uses; and with a view of conserving the value of buildings and encouraging the most appropriate use of land throughout the town. (Ord. #292, July 2005)

DEFINITIONS

SECTION

14-401. Use of terms.

14-401. <u>Use of terms</u>. Unless otherwise stated the following words shall, for the purpose of this ordinance have the meaning herein indicated. Words used in the present tense include the future. The singular number includes the plural and the plural the singular. The word shall is mandatory, not directory. The word used or occupied as applied to any land or building shall be constructed to include the word intended, arranged, or designed to be used or occupied.

(1) "Accessory dwelling unit." A unit detached from the principle structure on the same residential lot, meant for occupancy as a dwelling.

(2) "Alley." A public way which affords only a secondary means of access to property and public travel, less than twenty feet (20') in width.

(3) "Arterial street." A street that provides for traffic movement between areas and across portions of the town and secondarily for direct access to abutting land, as shown on the zoning map of the Town of Mount Carmel.

(4) "Boarding houses, rooming houses, or bed and breakfast." A building containing a single dwelling unit and not more than five (5) guest rooms where lodging is provided with or without meals for compensation.

(5) "Buffer strip." Planted with a staggered double row of conifer trees at least four feet (4') high planted on six foot (6') centers. Solid fencing would have to be a least six feet (6') high. Plantings shall be properly bedded and, maintained and fertilized to assure long life. The design of buffer strips, whether solid fencing or plantings, shall be subject to review and approval of the planning commission. All fencing and planted buffer strips shall be continually maintained by owners with dead plantings replaced.

(6) "Building." Any structure having a roof supported by columns or by walls and intended for the shelter, housing or enclosure of persons, animals or chattel:

(a) "Principal building." A building in which is conducted the main or principal use of the lot on which said building is located.

(b) "Accessory building or use." A building or use customarily incidental and subordinate to the principal building or use and located on the same lot with such building or use.

(7) "Building height." The vertical distance from grade to highest finished roof surface in the case of flat roofs or to a point at the average height of the highest roof having a pitch. Height of a building in stories includes basements. (8) "Business sign." A sign which directs attention to a business or profession conducted on the premises. A "For Sale" sign or a "For Rent" sign or similar sign shall be deemed a business sign.

(9) "Clinic." A structure used in providing medical services for outpatients only.

(10) "Club." Buildings and facilities owned or operated by an association or persons for a social or recreational purpose, but not operated primarily for profit or operated to render a service which is customarily carried on as a business.

(11) "Collector street." A street providing for traffic movement within the city as shown on the zoning map of the Town of Mount Carmel, Tennessee.

(12) "Communications facilities." A land-use facility supporting antennas and microwave dishes that sends and/or receives radio frequency signals. The facilities include structure, towers, and accessory buildings.

(13) "Condominium." A multi-unit structure offering individual ownership of said units.

(14) "Day care center." A place operated by a person, society, agency, corporation, institution, or other group that receives pay for the care of eight (8) or more children under seventeen (17) years of age for less than twenty-four (24) hours per day, without transfer of custody. The term "day care center" also includes child development centers, nursery schools, day nurseries, play schools, and kindergarten as well as agencies providing before and after school care, regardless of names, purpose, or auspices. (Excluding schools graded one through twelve (1-12) and kindergartens operated by governmental units or by religious organizations).

(15) "Dwelling single family." A building designed, constructed, and used for one (1) dwelling unit.

(16) "Dwelling two family or duplex." A building designed, constructed, or reconstructed and used for two (2) dwelling units that are connected by a common structural wall.

(17) "Dwelling multi-family." A building designed, constructed, or reconstructed and used for more than two (2) dwelling units, with each dwelling unit having a common structural wall with any other dwelling unit on the same floor.

(18) "Family." An individual or two (2) or more persons related by blood, marriage, legal adoption, or legal guardianship, living together as one (1) housekeeping unit using one kitchen, and providing meals or lodging to not more than three (3) unrelated persons living together as one (1) housekeeping unit using one (1) kitchen.

(19) "Home occupation." An occupation for gain or support which is customarily conducted in the home, which is incidental to the use of the building or structure as a dwelling unit, which employs not more than two (2) persons not residents of the premises and not more than thirty percent (30%) of the total actual ground floor areas. (20) "Lot." A parcel of land which fronts on and has access to a public street and which is occupied or intended to be occupied by a building or buildings with customary accessories and open space.

(a) "Lot areas." The total horizontal area within the lot lines of a lot exclusive of streets and easement of access to other property.

(b) "Lot, corner." A lot abutting on two (2) or more streets (other than an alley), at the intersection.

(c) "Lot line." The property line bounding a lot.

(d) "Lot line, front." The lot line separating the lot from the street (other than an alley), and in the case of a corner lot, the shortest lot line along a street (other than an alley).

(e) "Lot line, rear." The lot line(s) which is opposite and most distant from the front lot line. In the case of an irregular, triangular or other shaped lot, a line ten feet (10') in length within the lot parallel to and at a maximum distance from the front lot line.

(f) "Lot line, side." Any lot line not a front or rear lot line.

(g) "Lot width." The average horizontal distance between the side lot lines, ordinarily measured parallel to the front lot line.

(21) "Mobile home." Is a manufactured home subject to the "UNIFORM STANDARDS CODE FOR MANUFACTURED HOMES AND RECREATIONAL VEHICLES ACT" codified at <u>Tennessee Code Annotated</u>, § 68-126-201 and further defined in § 68-126-202(4); designed for long term occupancy with sleeping accommodations, bath room(s), kitchen facilities with plumbing, and electrical connections provided for attachment to outside systems. Designed to be transported after fabrication on its own wheels, a flatbed, or other trailer and constructed as a single self-contained unit on a single chassis; and commonly known as a "single-wide."

A "residential dwelling" as defined by <u>Tennessee Code Annotated</u>, § 13-24-201, constructed in two (2) or more separate units, mounted on two (2) or more chassis, having the same general appearance as site built homes, and assembled on site commonly known as a "double-wide," shall not be considered a mobile home for the purpose of these regulations.

A modular building unit, structural unit or preassembled component unit subject to the "TENNESSEE MODULAR BUILDING ACT" codified at <u>Tennessee Code Annotated</u>, § 68-126-301, shall not be considered a mobile home for the purpose of these regulations.

(22) "Mobile unit." A structure which has all of the following characteristics:

(a) Designed to be transported after fabrication on its own wheels, or on a flatbed or other trailer;

(b) Arriving at the site where it is to function as an office, commercial establishment, assembly hall, storage, governmental or other similar purpose and is ready for use except for minor and incidental

unpacking and assembly operations, location on foundation supports, connections to utilities and the like.

(23) "Mobile home park." Shall mean any plot of ground containing a minimum of two (2) acres upon which two (2) or more mobile homes are located or are intended to be located (does not include sites where unoccupied mobile homes are on display for sale).

(24) "Non conforming structure or use." A lawful existing structure or use at the time this ordinance or any amendment thereto becomes effective which does not conform to the requirements of this ordinance.

(25) "Nursing home." One licensed by the State of Tennessee.

(26) "Outdoor advertising." An attached, freestanding or structural poster panel or painted or lighted sign for the purpose of conveying some information, knowledge or idea to the public.

(27) "Setbacks." The area of a lot which is reserved as open space. The following rules shall apply in determining setbacks:

(a) All structures including stoops, porches, decks, attached carports, and attached garages, shall meet the minimum setback requirement for the zoning district in which they are located.

(b) Overhangs of two feet (2') or less including gutters will be exempt from the setback requirement.

(c) Stoops, porches, or decks for front and rear entry whether covered or open up to eight feet (8') wide by six feet (6') deep will be exempt from the setback requirement.

(d) Stairs and/or ADHD ramps may project into the setback areas.

(e) Open driveways and walks are exempt from the setback requirement.

(f) Accessory structures shall be a minimum of three feet (3') off the side and/or rear property line unless the lot is in a zero rear setback area where the structure may go to the rear line.

(28) "Story." That portion a building included between the floor and the upper surface of the floor next above; or any portion of a building used for human occupancy between the topmost floor and the roof. A basement not used for human occupancy other than for a janitor or domestic employee shall not be counted as a story.

(29) "Street." Any public or private way set aside for public travel, twenty feet (20') or more in width. The word street shall include the words road, highway, and thoroughfare.

(30) "Structure." Anything constructed or erected, the use of which requires location on the ground, or attachment to something having location on the ground.

(31) "Total floor area." The area of all floors of a building including finished attic, finished basement and covered porches.

14-10

(32) "Travel trailer." Any vehicle used, or so constructed as to permit its being used as a conveyance upon the public streets or highways and duly licensable as such, and constructed in such a manner as will permit occupancy thereof as a dwelling or sleeping place for one (1) or more persons, and designed for short-term occupancy, for frequent and/or extensive travel, and for recreational and vacation use, including camper trucks and self propelled campers, etc.

(33) "Travel trailer park." Any plot of land upon which two (2) or more travel trailers are located and used as temporary living or sleeping quarters. The occupants of such parks may not remain in the same travel trailer park more than thirty (30) days.

(34) "Yard." An open space on the same lot with a principal building, open, unoccupied, and unobstructed by buildings from the ground to the sky except as otherwise provide in this ordinance.

(a) "Yard, front." A yard between side lot lines and measured horizontally at right angles to the front lot line from the nearest point of a building. Any yard meeting this definition and abutting on a street other than an alley, shall be considered a front yard.

(b) "Yard, rear." A yard between side lot lines and measured horizontally at right angles to the rear lot line from the rear lot line to the nearest point of a principal building.

(c) "Yard, side." A yard between the front and rear yard measured horizontally at right angles from the side lot line to the nearest point on a principal building.

(d) "Yard, street side." A yard adjacent to a street between the front yard and rear lot line measured horizontally and at right angles from the side lot line to the nearest point of a principal building. (Ord. #292, July 2005, as amended by Ord. #10-349, Feb. 2010, and Ord. #13-400, Dec. 2013)

ESTABLISHMENT OF DISTRICTS

SECTION

14-501. Classification of districts.

14-502. Boundaries of districts.

14-501. <u>Classification of districts</u>. For the purpose of this title, Mount Carmel, Tennessee, is hereby divided into eleven (11) districts, designated as follows:

Residential:

- **R-1** Single Family Residential District
- R-M Multi-Family Residential District
- R-5 Mobile Home Park District
- PD Planned Development District

Business:

- B-1 Neighborhood Business District
- B-2 Arterial Business District
- **B-3** General Business District
- B-4 Shopping Center District
- MX-1 Mixed Use 1 District
- MX-2 Mixed Use 2 District
- Industrial:
 - M-I Industrial

(as replaced by Ord. #13-394, June 2013, and Ord. #14-403, June 2014)

14-502. <u>Boundaries of districts</u>. (1) The boundaries of districts described in § 14-501 are established as shown on the map entitled Zoning Map of Mount Carmel, Tennessee, latest edition, which is a part of this title and which is on file in the office of the town recorder.

(2) Unless otherwise indicated on the zoning map, the boundaries are lot lines, the center lines of streets or alleys or a specified distance therefrom, railroad rights-of-way, or the corporate limit lines as they existed at the time of the enactment of this title. Questions concerning the exact location of district boundaries shall be determined by the board of zoning appeals. (Ord. #292, July 2005, as replaced by Ord. #13-394, June 2013)

MUNICIPAL PLANNING COMMISSION

SECTION

- 14-601. Zoning affects every building and use.
- 14-602. Continuance of non-conforming uses.
- 14-603. Only one principal building on any lot.
- 14-604. Reduction in lot area prohibited.
- 14-605. Vision clearance.
- 14-606. Street frontage.
- 14-607. Conformity to subdivision regulations.
- 14-608. Height and density.
- 14-609. Annexations.
- 14-610. Off-street automobile parking.
- 14-611. Off-street loading and unloading space.
- 14-612. Ingress and egress.
- 14-613. Communication facilities.

14-601. <u>Zoning affects every building and use</u>. No building or land shall hereafter be used and no building or part thereof shall be erected, moved or altered unless for a use expressly permitted by and in conformity with the regulations herein specified for the district in which it is located, whether operated for or without compensation. (Ord. #292, July 2005, as replaced by Ord. #13-394, June 2013)

14-602. <u>Continuance of non-conforming uses</u>. (1) Any building or use existing at the time of enactment or subsequent amendment of this ordinance, but not in conformity with its provisions, may be continued subject to the following limitations: any building or use which does not conform to the provisions of this ordinance or subsequent amendment may not be:

(a) Changed to another non-conforming use.

(b) Re-established after discontinuance for twelve (12) months except that non-conforming uses in the B-4 Shopping Center District may be re-established after the discontinuance for twenty-four (24) months.

(c) Extended except in conformity with this ordinance.

(d) Rebuilt or repaired after damage exceeding seventy-five percent (75%) of the fair market value of the building immediately prior to damage.

(e) Non-conforming owner occupied residences in the business or industrial zones may be reestablished, rebuilt or extended using the same rules as apply to commercial residential property.

(2) Industrial, commercial, or other business establishments shall comply with provisions established in <u>Tennessee Code Annotated</u>, § 13-7-208. (Ord. #292, July 2005, as replaced by Ord. #13-394, June 2013, and amended by Ord. #2014-422, Oct. 2014)

14-603. <u>**Only one principal building on any lot**</u>. (1) In single family residential districts only one (1) principal building and its customary accessory buildings may hereafter be erected on any lot.

(2) The equipment of an accessory building with sink, cook stove or other kitchen facilities for the independent occupancy thereof, shall be prima facie evidence that such building is not a customary accessory building but a separate dwelling and must meet all minimum standards of lot area and yard requirements of the district in which it is located. (Ord. #292, July 2005, as replaced by Ord. #13-394, June 2013)

14-604. <u>Reduction in lot area prohibited</u>. No lot shall be reduced in area so that yards, lot area per family, lot width, building area or other requirements of this ordinance are not maintained. This section shall not apply when a portion of a lot is acquired for a public purpose. (Ord. #292, July 2005, as replaced by Ord. #13-394, June 2013)

14-605. <u>Vision clearance</u>. No fence, wall, shrubbery, sign or other obstruction to vision between the height of three feet (3') and fifteen feet (15') shall be permitted within twenty feet (20') of the intersection of the right-of-way lines of streets, or of streets and railroads. (Ord. #292, July 2005, as replaced by Ord. #13-394, June 2013)

14-606. Street frontage. No residential building shall be erected on a lot which does not abut at least one (1) public street for a least fifty feet (50')except for lots on cul-de-sacs and flag lots which must abut one (1) public street for at least forty feet (40') or "lot of record" off of a permanent easement. The date to be considered a "lot of record" for lots fronting a permanent easement will be February 28, 1964 (date subdivision regulations were adopted) or the date when the property was annexed by the town if it is later then the date subdivision regulations were adopted. The date the lot was subdivided will be determined by the date it was put on record with the Hawkins County Register of Deeds. The owner must provide the building inspector with the deed, tax maps, and other documentation to clearly define the lot and permanent easement in question. The adjoining property owners will be responsible for maintaining the permanent easement. Names for private streets must be approved by Hawkins County 911, and the sign approved by the Mount Carmel Public Works Department. City services (garbage, sewer connection if available, etc.) will terminate at the intersection of the permanent easement with the public street except for emergency services. The garbage and trash pickup will be on the right-of-way at the intersection of the permanent easement with the public street. (Ord. #292, July 2005, as replaced by Ord. #13-394, June 2013)

14-607. <u>Conformity to subdivision regulations</u>. No building permit shall be issued for or no building shall be erected on any lot within the

municipality, unless the street giving access to the lot upon which said building is proposed to be placed shall have been accepted, opened, or used as a public street prior to that time or unless such street corresponds in its location and lines with a street shown on a subdivision plat approved by the Mount Carmel Regional Planning Commission. (Ord. #292, July 2005, as replaced by Ord. #13-394, June 2013)

14-608. <u>Height and density</u>. No building or structure shall hereafter be erected or altered so as to exceed the height limit, to accommodate or house a greater number of families, to have narrower or smaller front yards or side yards that are required or specified in the regulations herein for the district in which it is located. (Ord. #292, July 2005, as replaced by Ord. #13-394, June 2013)

14-609. <u>Annexations</u>. All territory which may hereafter be annexed to the Town of Mount Carmel, Tennessee, shall be considered to be in a R-1 Single Family Residential District unless otherwise classified. (Ord. #292, July 2005, as replaced by Ord. #13-394, June 2013)

14-610. <u>Off-street automobile parking</u>. (1) <u>General standards</u> <u>required</u>. (a) Site plan. A site plan showing all parking spaces, landscaping, dimensions, setbacks, ingress/egress and any other parking requirements requested shall be submitted to and approved by the building inspector.

(b) Location. All required off-street parking spaces shall be located on the same lot as the structure or use to which they are accessory or on a lot contiguous thereto which has the same zoning classification and is under the same ownership.

(c) Parking surfaces. All parking lots other than single and two-family residential shall be paved with asphalt, concrete, or permeable pavers.

(d) Dimensions. No parking space shall be of dimensions of less than nine feet (9') in width and nineteen feet (19') in length. All parking spaces shall be striped and shall be maintained.

(e) Grades. Grades within the paved area of a parking lot shall at no place be less than one percent (1%) or more than twelve percent (12%). Grades of driveways or entrances from a public street serving a parking lot shall at no point exceed twelve percent (12%).

(f) Car repair. No motor vehicle repair work except emergency service shall be permitted in association with any required off-street parking facilities.

(g) Drive-thru business stacking lanes. Stacking lanes shall be designed to prevent circulation congestion, both on site and on adjacent public streets. Drive-thru establishments shall provide a minimum of four

(4) stacking spaces (within the site) before the transaction window. If said separate stacking lane is curbed, an emergency by-pass or exit shall be provided An additional space shall also be provided adjacent to the transaction window.

(2) <u>Minimum parking spaces required</u>. (a) Off-street automobile parking spaces shall be provided on every lot on which any of the following uses are hereafter established:

(i) Churches. One (1) space for each four (4) seats.

(ii) Day care center, private schools, public schools or places of instruction and similar uses. Two (2) spaces for every three (3) employees plus such number of spaces for students as may be required for schools.

(iii) Residential dwellings:

(1) Single and duplex -- Two (2) spaces for each unit.

(2) Multi-family -- Two (2) spaces each unit, plus one (1) visitor space per three (3) units.

(iv) Funeral parlors. One (1) space for each four (4) seats in the chapel.

(v) Gasoline service stations, automobile repair garages and similar establishments. Two (2) spaces for each bay or similar facility plus one (1) space for each employee; but, not less than five (5) total.

(vi) Hospitals and nursing homes. One (1) space for each two (2) staff or visiting doctors plus one (1) space for each two (2) employees and one (1) space for each four (4) beds, computed on the largest number of employees on duty at any period of time.

(vii) Hotel. One (1) space for each three (3) employees plus one (1) space for each guest room.

(viii) Industry. One (1) space for each two (2) employees, computed on the largest number of persons employed at any period during day or night.

(ix) Motels. One (1) space for each three (3) employees plus one (1) space for each accommodation.

(x) Offices. (1) Medical. One (1) space for each two hundred (200) square feet of floor space.

(2) Other professional. One (1) space for each three hundred (300) square feet of floor space.

(3) General. One (1) space for each three hundred (300) square feet of floor space.

(xi) Places of public assembly. One (1) space for each three (3) seats in the principal assembly area.

(xii) Recreation and amusement areas without seating capacity. One (1) space for each four (4) customers computed on maximum service capacity.

(xiii) Restaurants, clubs and lodges. One (1) space for each three (3) employees, plus one (1) space for each four (4) seats.

(xiv) Retail business and similar uses. One (1) space for each two hundred (200) square feet of net retail space. Net retail space expressly excludes the square footage of the walls surrounding the retail sales area, break rooms, storage rooms, utility rooms, office/meeting rooms and rest rooms.

(xv) Schools. High schools require one (1) space for each faculty member, plus one (1) space for each four (4) pupils. Elementary and junior high schools require four (4) spaces for each classroom.

(xvi) Mobile home parks. Two (2) spaces each unit, plus one (1) visitor space per three (3) units.

(xvii) Wholesale business. One (1) space for each two (2) employees based on maximum seasonable employment.

(3) Special exceptions from these requirements: (a) Special exception procedures. In the case of a request for a special exception use permit the following shall apply:

(i) Pursuant to <u>Tennessee Code Annotated</u>, §§ 13-7-206 and 207(2), the board of zoning appeals shall hear and decide applications for special exception use permits. A special exception use permit shall not be considered an entitlement, and shall be granted by the board of zoning appeals only after the applicant has demonstrated to the satisfaction of the board of zoning appeals that all of the required standards have been met.

(ii) In granting any special exception use permit, the board of zoning appeals may impose conditions, restrictions or time limits considered necessary to protect surrounding properties and better carry out the general intent of this zoning ordinance.

(iii) A special exception use permit may, consistent with <u>Tennessee Code Annotated</u>, §§ 13-7-206, be made to the parking requirements for specific uses of property upon a determination that the proposed specific parking facility is so designed, located and proposed to be operated such that the public health, safety and welfare will be protected and the special exception is the minimum necessary deviation from the requirements of this ordinance to accommodate the specific character of the proposed use.

(iv) An approval of a special exception use permit by the board of zoning appeals shall state the section of this code under which the permit was considered, and findings of fact relating to the applicable approval standards. In the case of a denial, the findings shall specifically identify the standards not satisfied.

(v) In passing upon such applications, the board of zoning appeals shall consider all technical evaluations, all relevant factors, and:

(A) All standards specified in other sections of the zoning ordinance;

(B) The integrity of adjacent properties, such that the parking facilities are so designed, located and proposed to be operated that the public health, safety and welfare will be protected;

(C) The design and architectural compatibility of the parking facilities, such that the operational and physical characteristics of the parking facilities shall not adversely affect abutting properties, including those located across street frontages, and, have site design and architectural features which contribute to compatibility, including, but not limited to, landscape, drainage, access and circulation or building orientation;

(D) Natural site features shall be preserved to the greatest extent possible so as to minimize the intrusion of parking areas;

(E) Traffic impact, such that the applicant shall demonstrate how the proposed parking facility will not adversely affect the safety and convenience of vehicular and pedestrian circulation in the area;

(F) Hazard protection, such that the proposed parking facility shall reasonably protect persons and property from hazards;

(G) The need for special conditions such that notwithstanding a finding by the board of zoning appeals that an application satisfies the minimum parking standards, the board of zoning appeals may restrict the hours of operation, establish permit expiration, require extraordinary setbacks and impose other reasonable conditions necessary to protect the public health, safety and welfare;

(H) The safety of access to the property for ordinary and emergency vehicles;

(I) The costs of providing governmental services, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, water systems, and streets and bridges. (vi) Upon consideration of the factors listed above, and the purposes of this ordinance, the board of zoning appeals may attach such conditions to the granting of a special exception, as it deems necessary to effectuate the purposes of this section.

(vii) Conditions for special exceptions. (A) Special exceptions shall be issued upon a determination that the application is the minimum relief necessary, considering the factors listed herein.

(B) Special exceptions shall only be issued upon:

(1) A showing of good and sufficient cause, a determination that failure to grant the special exception would result in exceptional hardship;

(2) Or a determination that the granting of a special exception will not result in additional threats to public safety, extraordinary public expense, create nuisance, or irreconcilably conflict with other parts of the zoning ordinance.

(C) The secretary shall maintain the records of all appeal actions and report any special exception to the board of mayor and aldermen upon request. (Ord. #9-345, Jan. 2010, as replaced by Ord. #13-394, June 2013, and amended by Ord. #16-442, Aug. 2016, and Ord. #17-465, Dec. 2017)

14-611. <u>Off-street loading and unloading space</u>. On every lot on which business, trade, or industrial use is hereafter established, space with access to a public street or alley shall be provided as indicated below for the loading and unloading of vehicles on the public street or alley:

(1) <u>Retail business</u>. One (1) space of at least twelve by twenty-five feet $(12' \times 25')$ for each three thousand (3,000) square feet of floor area or part thereof.

(2) <u>Wholesale and industrial</u>. One (1) space of at least twelve by fifty feet $(12' \times 50')$ for each ten thousand (10,000) square feet of floor area or part thereof.

(3) <u>Bus and truck terminals</u>. Sufficient space to accommodate the maximum number of buses or trucks that will be stored and loading and unloading at the terminal at any one time. (Ord. #292, July 2005, as replaced by Ord. #13-394, June 2013)

14-612. <u>Ingress and egress</u>. (1) <u>Plan</u>. (a) A plan for adequate and safe ingress and egress for all land use shall be required. A site plan showing ingress and egress shall be submitted to and approved by the building inspector.

(b) Where two (2) driveways are provided for one (1) lot frontage, the clear distance between driveways shall not be less than twenty-five feet (25').

(c) No point of access shall be allowed within thirty feet (30') of the right-of-way line of any public intersection. (Ord. #09-345, Jan. 2010, as replaced by Ord. #13-394, June 2013)

14-613. <u>Communication facilities</u>. Communication towers for mobile telephone services and other radio and television services which provide for the needs of the citizens of the municipality will use the following standards to minimize adverse visual and operational effects of towers through careful design, siting, and screening; to avoid potential damage to adjacent properties from tower failure and falling ice trough engineering and careful siting of towers; and to maximize use of any new communication tower and/or existing structures to reduce the number of towers needed. Application for a building permit for such communication facility shall include:

(1) A report prepared by a professional engineer licensed by the State of Tennessee describing the height and design of the tower, demonstrates the tower's compliance with applicable structural standards, building codes, electrical codes, and fire codes; and describes the tower's capacity, including the number and type of antennas it can accommodate. In case of an antenna mounted on an existing structure, the report shall indicate the existing structure's suitability to accept the antenna and the proposed method of affixing the antenna to the structure. Complete details of all fixtures and couplings and the precise point of attachment shall be indicated.

(2) An adequate report inventorying existing towers and antenna sites within a reasonable distance from the proposed site, outlining the opportunities for shared use as an alternative to the proposed site. The applicant must demonstrate that the proposed tower or antenna cannot be accommodated on an existing approved tower or facility due to one (1) or more of the following reasons:

(a) Unwillingness of the owner to entertain a cellular telephone facility proposal;

(b) The equipment would exceed the structural capacity of the existing approved tower and facilities;

(c) The planned equipment would cause radio frequency interference with other existing or planned equipment, which cannot be reasonably prevented;

(d) Existing or approved towers or facilities do not have space on which proposed equipment can be placed so it can function effectively and reasonably;

(e) Other reasons make it impractical to place the equipment proposed by the applicant on existing and approved towers or facilities.

(3) A site plan shall be approved by the Mount Carmel Regional Planning Commission prior to the building inspector issuing a permit. The following standards shall be used in design of the facilities:

(a) Setback. Minimum setback shall be one hundred percent (100%) of the height of the tower. Setback shall be measured from the base of the tower, or guy-wire supports for lattice towers, to the property line. Ground structures shall not be located within required setbacks.

(b) Landscaping and screening. The visual impact of a telecommunication facility shall be mitigated from nearby views by an evergreen screen located outside the fence. This screen may consist of evergreen trees having a minimum height of six feet (6') at planting and a minimum height of fifteen feet (15') at maturity, or a continuous hedge with three feet (3') height at planting and six feet (6') height at maturity. Sites may be exempted from the landscaping requirement provided the building inspector finds the vegetation or the topography of the site provides a natural buffer.

(c) Fencing. A chain-link fence or solid wall not less than eight feet (8') in height from finished grade shall be provided around each communication facility. Access to the facility shall be through a locked gate.

(d) Lighting. The facility shall not be artificially lighted except to assure human safety or as required by the Federal Aviation Administration. All lighting shall be oriented inward so as not to project unto surrounding property.

(e) Radiation standards. All proposed communications facilities shall comply with standards of the Federal Communications Commission or American National Standards Institute for Non-Ionizing Electromagnetic Radiation (NEIR) and Electro-Magnetic Fields (EMF). Each request for a building permit shall be accompanied by certified documentation or statement from a registered engineer or other professional indicating compliance with these standards.

(f) Aircraft hazard. Communication facilities shall not encroach into or through any established public or private airport approach path as established by the Federal Aviation Administration.

(g) Equipment storage. Mobile or immobile equipment not used in direct support of a tower facility shall not be stored or parked on the site unless repairs are being made.

(h) Removal of obsolete or unused facilities. All obsolete or unused communications facilities shall be removed by the property owner within twelve (12) months of cessation of use. The applicant shall submit an executed removal agreement to ensure compliance with this requirement. (i) Signs and advertising. The use of any portion of a tower for signs or advertising purposes, including banners, streamers, etc. is prohibited. Warning signs or identification signs will be permitted.

(j) Maintenance. Adequate inspection and maintenance shall be performed to insure the structural integrity of the facility and prevent dangerous conditions occurring on the site.

(k) Access and parking. All access roads and parking areas for facilities adjacent to platted subdivisions, or developed areas shall be paved as required by the zoning ordinance and subdivision regulations. The requirements may be waived by the building inspector for rural or undeveloped areas.

(l) Changes to communication facilities. Any changes to antennae, reception, or transmitting devices shall require review in the same manner as the existing facility was originally approved.

(m) The applicant shall submit this information over the seal of an engineer currently licensed in this state. If such engineer signs an unqualified statement that the changes requested will not exceed the structural design capacities of the tower, the planning commission will consider that application without further review.

(n) If an unqualified engineer statement is not included with the application, an engineer selected by the town will conduct an initial review of the application. The cost of such initial review will be paid by the applicant in an amount specified in the fee schedule and submitted with the application. If the initial review indicates the need for added information, the additional time required to obtain and review the added information will be paid by the applicant at the rate set in the FCC schedule-this will be paid prior to a building permit being issued. (Ord. #292, July 2005, as replaced by Ord. #13-394, June 2013, and amended by Ord. #17-454, July 2017)

MOBILE HOME PARKS

SECTION

- 14-701. Restricted use of mobile homes.
- 14-702. Definitions.
- 14-703. Development standards.
- 14-704. Enforcement.

14-701. <u>Restricted use of mobile homes</u>. The use of mobile homes as dwellings are permitted only in mobile home parks. (Ord. #292, July 2005, as replaced by Ord. #13-394, June 2013)

14-702. <u>Definitions</u>. For the purpose of this chapter, the following definitions shall apply:

(1) "Health officer" shall mean the health officer of the Hawkins County, Tennessee, or his authorized representative.

(2) "Building inspector" shall mean the building inspector of the Town of Mount Carmel, Tennessee, or his authorized representative. (Ord. #292, July 2005, as replaced by Ord. #13-394, June 2013)

14-703. <u>**Development standards**</u>. The following property development standards shall apply for all mobile home parks:

(1) The owner of the land proposed for a mobile home park shall submit a plan for development to the Mount Carmel Planning Commission. The plan shall show:

- (a) The park plan drawn to scale.
- (b) The area and dimensions of the proposed park.

(c) The location and width of all roads.

(d) The location and dimensions of any proposed service buildings and structures.

(e) The location of all water and sewer lines.

(f) The location of all equipment and facilities for refuse disposal and other park improvements.

(g) A stormwater drainage plan of the park.

(h) Water mains shall be properly connected with the community water supply system or with an alternate supply approved by the county health officer. The water mains shall be constructed to serve all lots shown on the mobile home park plat for both domestic use and fire protection. Fire hydrants shall be within five hundred feet (500') of all lots with the location of all the fire hydrants approved by town's fire chief. All fire hydrants shall be served by six inch (6") water mains. The other sizes of water mains, the location and types of valves, the amount of soil

cover over the pipes, and other features of the installation shall be approved by the water system providing the water service, and shall conform with accepted standards of good practice for water systems.

(i) A certificate of accuracy signed by the surveyor and engineer certifying that the park will work as designed and that the park was built as designed by the surveyor and engineer.

(j) Certificate and signature of the health officer.

(k) Any other information deemed pertinent by the planning commission.

(2) Each mobile home park site shall meet the following minimum standards:

(a) Shall have a minimum twenty feet (20') between each mobile home.

(b) All mobile homes, structures, and pavement shall be setback thirty feet (30') from front, side, and rear property lines.

(c) The site shall be located in a flood free area with proper stormwater drainage.

(d) Entrances and exits to the mobile home park shall be designed for safe and convenient movement traffic into and out of the park, and shall be located and designed as prescribed by the planning commission.

(e) There shall be a planted buffer strip along the side and rear property lines. Any part of the park area not used for buildings or other structures, parking, or access ways shall be landscaped with grass, trees, and shrubs.

(f) The park shall be adequately lighted.

(g) Each mobile home park shall provide three (3) off-street parking spaces for each mobile home space. At least two (2) parking spaces shall be provided at the mobile home space with the other parking space may be provided at a convenient parking lot for overflow parking.

(h) Roadways shall have a minimum pavement width of twenty feet (20'). All streets shall be paved with a minimum of two inches (2") of asphaltic concrete, prepared with mineral aggregate laid hot as specified under Section 411, Asphaltic Concrete Surface (hot mix) Grade E, mixed with sand, standard specifications for road and bridge construction, Tennessee Department of Highways, January 2, 1968, and latest revisions thereto.

(i) Each mobile home shall be underpinned.

(j) The site shall not be exposed to objectionable smoke, noise, odors, insect or rodent harborage, or other adverse influences.

(k) Each mobile home space shall be a minimum of two thousand five hundred (2,500) square feet with a minimum of seventyfive feet (75') in depth, and shall abut on a driveway with unobstructed access to open approved public street. Each mobile home shall be set back a minimum of ten feet (10') from property lines and space lines, and there shall be a minimum distance of twenty feet (20') between mobile homes.

(1) No service building shall be located less than twenty feet (20') from any mobile home space. Service buildings shall be of permanent construction, adequately ventilated and lighted, and built in conformity to all town codes and ordinances.

(m) The public water supply and sanitary sewer connections shall be provided to each mobile home space. Piping and connections shall be as specified and approved by the plumbing inspector.

(n) Each mobile home park shall provide a common area for playgrounds and leisure time pursuits totaling a minimum of five hundred (500) square feet for each mobile home space exclusive of roadways, mobile home spaces, and parking spaces.

(o) All service buildings shall be convenient to the spaces which they solely serve and shall be maintained in a clean and sanitary condition. (Ord. #292, July 2005, as replaced by Ord. #13-394, June 2013)

14-704. <u>Enforcement</u>. These regulations shall be enforced by the building inspector. (Ord. #292, July 2005, as replaced by Ord. #13-394, June 2013)

GROUP HOUSING AND PLANNED UNIT DEVELOPMENT

SECTION

14-801. Group housing and planned unit developments.

14-802. Development standards.

14-803. [Deleted.]

14-801. <u>Group housing and planned unit developments</u>. A group housing or apartment project is defined as any group of two (2) or more buildings to be constructed on one (1) parcel of land. A planned unit development is one defined as a comprehensive residential, commercial, or industrial development where project design does not include standard street, lot, and subdivision arrangements, and where shares, property, or units are to be sold. (Ord. #292, July 2005, as replaced by Ord. #13-394, June 2013)

14-802. <u>Development standards</u>. Group housing or planned unit development projects may be allowed upon review and approval by the Mount Carmel Planning Commission provided that the following are met:

(1)A site plan showing the location of proposed buildings, roads, drives, parking, utilities, drainage, and any other information necessary for review must be presented to the planning commission. Water mains shall be properly connected with the community water supply system or with an alternate supply approved by the county health officer. The water mains shall be constructed to serve all lots shown on the site plat for both domestic use and fire protection. Fire hydrants shall be within five hundred feet (500') of all lots with the location of all the fire hydrants approved by the town's fire chief. If the existing water line is of insufficient size or pressure for a fire hydrant, rough-in connections for future fire hydrants are required. All fire hydrants shall be served by six inch (6") water mains. The other sizes of water mains, the location and types of valves, the amount of soil cover over the pipes, and other features of the installation shall be approved by the water system providing the water service, and shall conform with accepted standards of good practice for water systems.

(2) In no case shall the planning commission approve a use prohibited, a higher density, a greater height, or a larger lot coverage than permitted in the district where the project is located.

(3) A one (1) acre minimum lot size is required.

(4) When property is subdivided for the purpose of selling either proposed or existing townhouses, duplexes, or commercial shopping centers, side yard setbacks will not be required where the units connect.

(5) Public and private roads in all developments in which property is to be subdivided, must be constructed to standards set forth in the Mount Carmel Subdivision Regulations. All common driveways and parking areas for group housing developments and planned unit developments must be paved with hot asphalt or concrete pavement prior to final approval.

(6) A plat for the conversion of rental units to condominiums must be approved by the Mount Carmel Planning Commission along with a mandatory maintenance agreement to maintain commonly owned land and structures.

(7) Preliminary or design approval and final or recording approval shall be required for all condominium developments approved by the planning commission before any units can be sold. For condominium projects to be developed in stages or phases, preliminary or design approval shall be required on the entire project with final or recording approval required at the completion of each stage of construction before any units can be sold.

(8) A certificate of accuracy signed by the surveyor and engineer certifying that the project will work as designed and that it was built as designed by the surveyor and engineer. (Ord. #292, July 2005, as replaced by Ord. #13-394, June 2013)

14-803. [Deleted.] (as added by Ord. #10-355, Oct. 2010, and deleted by Ord. #13-394, June 2013)

PROVISIONS GOVERNING USE DISTRICTS

SECTION

- 14-901. Single Family Residential District R-1.
- 14-902. Multi-Family Residential District R-M.
- 14-903. Mobile Home Park District R-5.
- 14-904. Planned Development District.
- 19-905. Neighborhood Business District B-1.
- 14-906. Arterial Business District B-2.
- 14-907. General Business District B-3.
- 14-908. Shopping Center District B-4.
- 14-909. Mixed Use 1 (MX-1) District.
- 14-910. Mixed Use 2 (MX-2) District.
- 14-911. Industrial District M-1.
- 14-912. Communication facilities.
- 14-913. [Deleted.]
- 14-914. [Deleted.]
- 14-915. [Deleted.]
- 14-916. [Deleted.]

14-901. <u>Single Family Residential District R-1</u>. It is the intent of this district to establish low density residential areas along with open areas which appear likely to develop in a similar manner. The requirements for the district are designed to protect essential rural characteristics of the district, to promote and encourage an environment for family life and to prohibit business activities.

(1) <u>Permitted uses</u>. In order to achieve the intent of the Single Family Residential District R-1 as shown on the Zoning Map of the Town of Mount Carmel, Tennessee, the following uses are permitted:

- (a) Single family dwellings;
- (b) Customary general farming with adequate means of waste disposal;
 - (c) Customary home occupations provided that:
 - (i) There is no external evidence of the occupation except an announcement sign not more than two (2) square feet in area;
 - (ii) That only one (1) person, not a resident of the dwelling is employed; and
 - (iii) Not more than thirty percent (30%) of the total floor area of the dwelling is used.
- (d) Publicly owned buildings and uses, schools offering general education, and churches and other semi-public uses provided that:
 - (i) The location of these uses shall first be reviewed and approved by the Mount Carmel Planning Commission;

(ii) The buildings are placed not less than thirty feet (30') from the front, side, and rear property lines;

(iii) There are buffer strips along the side and rear property lines.

(e) Cemeteries.

(2) <u>Accessory uses</u>. (a) Customary accessory buildings provided that they are located in rear yards, meet all setback requirements, and are not closer than three feet (3') to any property line.

(b) However, freestanding garages and carports are permitted in a side yard in accordance with the following provisions:

(i) Must be in the rear or side yard.

(ii) Maximum height of twenty feet (20').

(iii) Maximum floor area of one thousand (1000) square feet.

(iv) Must be constructed of new building materials or equivalent as approved by the building inspector

(v) If the light weight metal type, must be installed per manufacturer's instructions anchored to prevent wind lift and movement, and meet all applicable building codes.

(vi) May only be placed at the same time or after the principal structure is constructed.

(vii) Only one (1) free standing garage or carport may be placed in the side yard of a property, and is limited to one (1) side yard.

(3) <u>Special exceptions</u>. Special exceptions are permitted only with the board of zoning appeals and are allowed in the R-1 Single Family Residential District as follows:

(a) One (1) accessory unit (ADU) may be approved by the Board of Zoning Appeals (BOZA) as a special exception if it finds the use in harmony with the character of the district, and the proposed ADU meets the following conditions:

(i) ADUs may be in the principal building or be in a detached building, but the ADU is limited to eight hundred (800) square feet;

(ii) The owner must reside on the premise either in the principal building or the ADU, and the principal building must be at least one (1) year old;

(iii) The ADU residents will be limited to a family of three(3) or less persons;

(iv) The BOZA may grant a variance to the density and parking requirements if the proposed ADU will be approved by the board of zoning appeals (BOZA) as a special exception if it finds the use in harmony with the character of the district, and the proposed day care center meets the following conditions: (A) They shall be limited to twenty (20) children or less, and be licensed by the state.

(B) Sites on arterial and collector streets will have to have off street loading and unloading, and parking facilities. Sites on minor residential streets will be evaluated on the basis of traffic volume, speed, and sight distance.

(C) Sites must be resident-occupied.

(D) Sites shall be reviewed by the planning commission.

(b) A freestanding garage or carport may be located in the front yard if approved as a special exception by the board of zoning appeals when found to be in harmony with the character of the district and surrounding land uses, and if it meets all the other conditions of this section.

(4) <u>Prohibited uses</u>. Communications facilities.

(5) <u>Dimensional requirements</u>. The minimum and maximum dimensional requirements for the R-1, Single Family Residential District are as follows:

(a) Minimum requirements. (i) Lot area for lots that are not served with public sanitary sewer, fifteen thousand (15,000) square feet:

(A) Lot frontage, fifty feet (50') on a public street unless the lot is on a cul-de-sac or is considered a flag lot then lot frontage is a minimum of forty feet (40');

(B) Front yard setback, thirty feet (30');

(C) Side yard setback, ten feet (10') except where the side yard fronts another street such as a corner lot then the setback for the street facing side will be twenty feet (20');

(D) Rear yard setback, twenty-five feet (25');

(ii) Lot area for lots served with public sanitary sewer, seven thousand five hundred (7,500) square feet:

(A) Lot frontage, fifty feet (50') on a public street unless the lot is on a cul-de-sac or is considered a flag lot then lot frontage is a minimum of forty feet (40');

(B) Front yard setback, thirty feet (30');

(C) Side yard setback, eight feet (8') except where the side yard fronts another street such as a corner lot then the setback for the street facing side will be twenty feet (20');

(D) Rear yard setback, twenty feet (20').

(b) Maximum permitted. (i) Lot coverage, thirty percent (30%) including accessory buildings;

(ii) Maximum height, thirty-five feet (35'). (Ord. #292, July 2005, as replaced by Ord. #13-394, June 2013, and amended by Ord. #2014-422, Oct. 2014)

14-902. <u>Multi-Family Residential District R-M</u>. It is the intent of this district to provide areas for multi-family developments such as duplexes, condominiums, and apartments, to encourage development and continued use of the land for residential purposes, to prohibit business and industrial uses and other uses which would interfere with development residential dwellings.

(1) <u>Permitted uses</u>. (a) Any use permitted in the R-1 Residential District;

(b) Duplexes;

(c) Group housing and planned unit developments.

(2) <u>Accessory uses</u>. Customary accessory buildings provided that they are located in rear yards, meet all setback requirements, and are not closer than three feet (3') to any property line.

However, freestanding garages and carports are permitted in a side yard in accordance with the following provisions:

- (a) Must be in the rear or side yard.
- (b) Maximum height of twenty feet (20').
- (c) Maximum floor area of one thousand (1000) square feet.

(d) Must be constructed of new building materials or equivalent as approved by the building inspector.

(e) If the light weight metal type, must be installed per manufacturer's instructions anchored to prevent wind lift and movement, and meet all applicable building codes.

(f) May only be placed at the same time or after the principal structure is constructed.

(g) Only one (1) free standing garage or carport may be placed in the side yard of a property, and is limited to one (1) side yard.

(3) <u>Special exceptions</u>. (a) Multiple family dwellings to include apartments are permitted on review and approval by the Mount Carmel Board of Zoning Appeals and subject to such conditions as the board of zoning appeals may require in order to preserve and protect the character of the district, and provided that no building permit shall be issued without written approval of the board of zoning appeals, and subject to the following minimum standards:

(i) A complete site plan showing the location of all buildings, courts, recreational areas, drives and walkways, parking lots, refuse disposal containers, drainage system and easements, and landscaping details.

(ii) There is a minimum twenty-five foot (25') landscaped and planted buffer strip along the side and rear lot line which may be waived by the planning commission upon exigent circumstances, which shall be stated in the minutes.

(iii) High density multiple family dwellings with the requirement that thirty percent (30%) of the land area shall be covered with vegetation.

(b) A freestanding garage or carport may be located in the front yard if approved as a special exception by the board of zoning appeals when found to be in harmony with the character of the district and surrounding land uses, and if it meets all the other conditions of this section.

(4) <u>Prohibited uses</u>. Commercial and industrial uses.

(5) <u>Dimensional requirements</u>. The minimum and maximum dimensional requirements for the R-2, Multi-Family Residential District are as follows:

(a) Minimum requirements.

(i) Lot area, ten thousand (10,000) square feet;

(ii) Lot frontage, fifty feet (50') on a public street unless the lot is on a cul-de-sac or is considered a flag lot then lot frontage is a minimum of forty feet (40');

(iii) Front yard setback, thirty feet (30');

(iv) Side yard setback. Ten feet (10') except where the side yard fronts another street such as a corner lot then the setback for the street facing side will be twenty feet (20');

(v) Rear yard setback, twenty-five feet (25').

(b) Maximum permitted.

(i) Lot coverage, seventy percent (70%) including accessory buildings;

(ii) Maximum height, thirty-five feet (35'). (Ord. #292, July 2005, as amended by Ord. #10-349, Feb. 2010, replaced by Ord. #13-394, June 2013, and amended by Ord. #2014-422, Oct. 2014)

14-903. <u>Mobile Home Park District R-5</u>. It is the intent of this district to provide for areas for use of mobile homes as a residential use. It is the purpose of the district to provide exclusive areas for mobile homes which will be attractive and at a density which will prevent overcrowding, lessen traffic congestion, provide for adequate sunlight and open space. Within the R-5 residential district as shown on the zoning map of Mount Carmel, Tennessee, the following uses are permitted:

(1) Any use permitted in the R-4 Residential District.

(2) Mobile home parks provided that the park contains a minimum of one (1) acre, that there are no more than eight (8) individual spaces per acre, and provided that all provisions of the mobile home park standards of § 14-703 are met.

(3) Communication facilities are prohibited. (Ord. #292, July 2005, as replaced by Ord. #13-394, June 2013)

14-904. Planned development district. (1) Intent. The intent of this division is to allow flexibility and provide performance criteria for planned developments. This division permits design innovation, encourages a maximum choice of types of environment and living areas available to the public, provides open space and recreational areas, and optional methods of land development which encourage imaginative solutions to environmental design problems. The goal is a development in which building, land use, transportation facilities, utility systems and open spaces are integrated through an overall design. The total parcel, rather than a single lot, is the unit into which the public control is directed. Public regulation through a system of overall site plan review permits flexibility in building siting, a mixture of housing types and uses and the grouping of units to create more usable open spaces for the preservation of significant natural features. The planned development allows for placement of buildings on land without adherence to the conventional lot-by-lot approach common to traditional subdivisions. Such concerns as density are determined on a project basis utilizing the characteristics of the surrounding neighborhood and physical characteristics of the location allowing for the clustering of buildings which not only may create more useful open spaces but also may reduce public facility cost. Commercial entities may be included as part of an overall planned development. Industrial uses are forbidden in a planned development.

(a) Establishment of districts. Planned development districts may be established prior to submission of development plans by a property owner.

(b) Qualifying requirements for development.

(i) The planned development shall include at a minimum one (1) acre of land.

(ii) The planned development shall be harmonious with the area surrounding the development site, and demand on public facilities and services shall not exceed the capabilities of such facilities and services.

(c) Application for development. A zoning application for a planned development shall include the following items:

(i) A statement that the applicant holds title to the entire parcel of land proposed for development or has legally recognized option to the entire parcel of land proposed for development.

(ii) A pre-application conference held by the staff to provide for a mutual understanding of the planned development regulations and to discuss the proposed plans of the applicant. (iii) A written statement outlining the main features of the proposed enterprise, including goals and objectives.

(iv) A legal description of the total site requested for approval.

(d) Preliminary development plan.

(i) A preliminary development plan for a planned development shall contain the following:

(A) Location, size, and shape of the subject property with distances and bearings of the boundary of the site.

(B) Vehicular circulation patterns including common parking areas.

(C) Location of structures and open spaces for the district.

(D) Landscape drainage calculations and erosion control plans. The developer will be required to obtain approved stormwater permits from TDEC and the town. The TDEC permit application will be as specified by TDEC. The stormwater plan/application for the town will be as specified in title 14, chapter 16 of the municipal code, must be prepared and sealed by an appropriate design professional and approved by the planning commission prior to a grading permit being issued.

(E) A development schedule indicating the sequential order for stages of development within the district.

(ii) The following items shall be adequately explained in written or graphic form: relationship of the proposed development to the adjacent land uses, accesses to major streets, approximate locations and sizes of the existing and proposed on-site and off-site public utilities, density and housing characteristics of the project.

(e) Final development plan. A final development plan for a planned development shall:

(i) Be drawn to scale of not less than one inch equals fifty feet (1"=50') using black ink on Mylar-type material containing information as described for the preliminary development plan and including all revisions required by the planning commission. Property lines shall carry accurate bearings, distances and other pertinent physical features. Easements shall carry adequate dimensions.

(ii) Be prepared and signed (with seal) by the appropriate licensed professional.

(iii) Meet all the applicable federal, state, and town regulations.

(iv) Contain quantitative data for the total amount of open space, including materials and techniques utilized such as screens, fences, and walls.

(f) Development standards. (i) Height. The maximum height of buildings and structures in a planned development district shall be harmonious with adjoining districts.

(ii) Density. The intensity of land uses, bulk of buildings, concentration of population and amount of open space shall be generally harmonious to those requirements associated with neighboring districts.

(iii) Frontage. Every dwelling unit shall adjoin a public street or common open space providing access to a public street.

(iv) Periphery yards. The distance between structures and the nearest periphery boundary shall not be less than thirty feet (30') or a distance equal to the height of the building, whichever is greater. Periphery boundaries, yards and height restrictions shall be required as needed to provide for an appropriate transition from adjoining districts. Fences, walls, and vegetation may be required by the planning commission.

(v) Parking. Adequate parking spaces shall be provided at a minimum ratio of two (2) spaces per unit. All required parking shall be off the street. Parking located within the periphery yard of the development district shall be provided with screening from neighboring districts.

(vi) Open spaces. Open spaces shall be classified as public open space, common open space or private open space. At least twenty percent (20%) of the development shall be devoted to permanent, public, or common open space required for recreation. However, in no event shall the periphery yard be considered in meeting these requirements.

(vii) Commercial uses within a planned development. In a planned development of twenty (20) acres or more, commercial 14-29 uses may be permitted. Such commercial uses shall be governed by the following:

(A) Commercial facilities may be permitted in developments of two hundred (200) dwelling units or more. A ratio of one (1) acre of commercial use, including parking, drive, and landscaping, is required for each two hundred (200) residential units.

(B) All access to commercial facilities shall be from internal streets or drives.

(C) Construction of such facilities may begin after twenty-five percent (25%) of the residential units have been occupied.

(D) Commercial areas shall have architectural designs compatible with surrounding residential development as determined by the planning commission.

(viii) Screening. Screening (fencing, walls, or vegetation) shall be provided as required by the planning commission.

(ix) Responsibilities for utility access and open space. The following certificate shall be signed, dated, and placed on the final development plan:

(A) Government and utility access. The owners of this property hereby agree to grant full rights of access to this property over the designated street utilities, and other easements for governmental and utility agencies to perform their normal responsibilities. (Signed and dated by owners.)

(B) Maintenance of common open space. The owners of this property hereby agree to assume full liability and responsibility for the improvement, maintenance and operation of all common open space. (Signed and dated by owners.)

(g) Procedure for development plans. (i) Preliminary development plan. Approval of the preliminary plan of a planned development shall be for a period of twenty-four (24) months, during which time a final development plan shall be filed. If the development plan and zoning map amendment are disapproved by the planning commission and the zoning map amendment is subsequently approved by the board of mayor and aldermen, the commission shall take timely action to consider a preliminary development plan for the subject property.

(ii) Final development plan. The final development plan required in this division shall be submitted to the planning commission within two (2) years of the approval of the zoning map amendment by the board of mayor and aldermen, and the commission shall approve a final development plan for the subject 14-30 property with such conditions as are found necessary. If construction plans have not been submitted in accordance with requirements of this division, the planning commission may institute action for rezoning the property to its previous classification or any other appropriate classification.

(h) Development control following the approval of final development plan.

(i) No building permit shall be issued until the final development plan of the planned development has been approved by the planning commission and its approval and issuance of all building and occupancy permits and restrict the construction, (ii) The building official shall periodically inspect the site and review all building permits issued to ensure that the development schedule is followed.

(iii) The provision and construction of the common open space any recreational facilities shown on the final development plan must proceed at the same rate as the construction of the dwelling units. If the building official finds that the development schedule has not been followed, no additional permits shall be issued until the owner or developer complies with the development schedule. (Ord. #292, July 2005, as replaced by Ord. #13-394, June 2013)

14-905. <u>Neighborhood Business District B-1</u>. It is the intent of this district to establish business areas to serve surrounding residential districts. The district regulations are intended to discourage strip business development and encourage grouping of uses in which parking and traffic congestion is reduced to a minimum. In order to achieve the intent of the district, as shown on the zoning map of the Town of Mount Carmel, Tennessee, the following uses are permitted:

(1) Funeral homes, churches, fraternal organizations and clubs, public and semi public uses;

(2) Grocery stores, drug stores, hardware stores, shoe repair shops, barber and beauty shops, laundromats and laundry pick-up stations, restaurants, large day care centers and similar uses;

(3) Gasoline service stations provided that all structures including underground storage tanks, shall be placed not less than twenty feet (20') from all property lines. Points of access and egress shall be not less than fifteen feet (15') from the intersection of street lines. (Ord. #292, July 2005, as replaced by Ord. #13-394, June 2013)

14-906. <u>Arterial Business District B-2</u>. It is the intent of this district to establish business areas that encourage the groupings of compatible business activities in which parking and traffic congestion can be reduced to a minimum. In order to achieve the intent of this district, as shown on the zoning map of the Town of Mount Carmel, Tennessee, the following uses are permitted:

(1) Stores and shops conducting retail business can be located on any floor.

(2) Personal, business, and professional services shall be located on any floor other than the ground level.

(3) Public and semi-public buildings and uses provided that public and semi-public buildings uses shall first be reviewed and approved by the Mount Carmel Regional Planning Commission; (4) <u>Accessory uses</u>. Accessory uses which are accessory, incidental and subordinate to principal uses are permitted in the B-2 district as follows:

(a) Parking when accessory and incidental to a permitted principal use.

(b) Business signs when accessory and incidental to a permitted principal use.

(c) Outside storage is permitted in the B-2 district by special exception pursuant to \S 14-1404(2), upon application to the board of zoning appeals, and shall be granted by the board only after the applicant has demonstrated to the satisfaction of the board that the use is so designed, located and proposed to be operated that the public health, safety and welfare will be protected. The board shall determine from its review that approval of the permit will not adversely affect other property in the area to the extent that it will impair the reasonable long-term use of those properties and the operational and physical characteristics of the special exception shall not adversely impact abutting properties. Site design and architectural features which contribute to compatibility include, but are not limited to, landscaping, drainage, access and circulation, building style and height, bulk, scale, setbacks, open areas, roof slopes, building orientation, overhangs, porches, ornamental features, exterior materials and colors. The applicant shall demonstrate how the proposed use will not adversely affect the safety and convenience of vehicular and pedestrian circulation in the area. Notwithstanding a finding by the board that a special exception application satisfies the minimum development standards of this article, the board may restrict the hours of operation, establish permit expiration dates, require extraordinary setbacks and impose other reasonable conditions necessary to protect the public health, safety and welfare. (Ord. #292, July 2005, as replaced by Ord. #13-394, June 2013)

14-907. <u>General Business District B-3</u>. It is the intent of this district to provide for business uses which need some buffering form other business uses and have some aspects closely associated with manufacturing. In order to achieve the intent of this district, as shown on the zoning map of the Town of Mount Carmel, Tennessee, the following uses are permitted:

(1) Any use permitted in the B-2 District;

(2) Wholesale business, warehouses, storage yards and buildings and similar uses;

(3) Places of amusement and assembly;

(4) Public and semi-public buildings and uses. (Ord. #292, July 2005, as replaced by Ord. #13-394, June 2013)

14-908. <u>Shopping Center District B-4</u>. It is the intent of this district to establish areas for concentrated retail business development. Uses that do not

require a central location and create friction in the performance of this function will be discouraged from this district The requirements are designed to protect the essential characteristics of the district by promotion of retail business which serve the general public, and to discourage industrial, wholesale development and similar land uses. In order to achieve the intent of the B-4 Shopping Center District, as shown on the zoning map of Mount Carmel, Tennessee, the following uses are permitted:

(1) Business signs as permitted in the B-1 district;

(2) Shopping centers, stores and shops conducting retail business, and restaurants;

(3) Special exceptions, upon a finding by the board of zoning appeals that the land uses will be in harmony with the character of this district, and in support of the retail businesses in this district. The intensity of land use may be no higher, and the standard for open space no lower then generally permitted in this district. The following land uses may be considered for a special exception:

- (a) Motels;
- (b) Small professional offices;
- (c) Service businesses; and

(d) Similar land uses. (Ord. #292, July 2005, as replaced by Ord. #13-394, June 2013)

14-909. <u>Mixed Use 1 (MX-1) District</u>. It is the intent of this district to establish business areas that encourage the groupings of compatible business activities in which parking and traffic congestion can be reduced to a minimum. In order to achieve the intent of this district, as shown on the zoning map of the Town of Mount Carmel, Tennessee, the following uses are permitted:

(1) Retail business, personal, business, and professional services.

(2) Public and semi-public buildings.

(3) <u>Permitted uses</u>. Residential on any floor except the first (ground) level floor.

(4) <u>Accessory uses</u>: Accessory uses which are accessory, incidental and subordinate to principal uses are permitted in the MX-1 district as follows:

- (a) Parking when accessory and incidental to a permitted use.
- (b) Signage when accessory and incidental to a permitted use.
- (c) Outside storage is permitted in the MX-1 district by special

exception pursuant to § 14-1404(2), upon application to the board of zoning appeals, and shall be granted by the board only after the applicant has demonstrated to the satisfaction of the board that the use is so designed, located and proposed to be operated such that the public health, safety, and welfare will be protected. The board shall determine from its review that approval of the permit will not adversely affect other property in the area to the extent that it will impair the reasonable long-term use of those properties and the operational and physical characteristics of the special exception shall not adversely impact abutting properties. Site design and architectural feature which contribute to compatibility include, but are not limited to, landscaping, drainage, access and circulation, building style and height, bulk, scale, setbacks, open areas, roof slopes, building orientation, overhangs, porches, ornamental features, exterior materials and colors. The applicant shall demonstrate how the proposed use will not adversely affect the safety and convenience of vehicular and pedestrian circulation in the area. Notwithstanding a finding by the board that a special exception application satisfies the minimum development standards of this article, the board may restrict the hours of operation, establish permit expiration dates, require extraordinary setbacks and impose other reasonable conditions necessary to protect the public health, safety and welfare.

(5) <u>Prohibited uses</u>: Fortune tellers, clairvoyants, methadone and substance abuse clinics, communication facilities. (as added by Ord. #14-403, June 2014, and amended by Ord. #2014-422, Oct. 2014)

14-910. <u>Mixed Use 2 (MX-2) District</u>. It is the intent of this district to establish combined business and residential areas that encourage compatibility with surrounding land uses. In order to achieve the intent of this district, as shown on the zoning map of the town of Mount Carmel, Tennessee, the following uses are permitted:

- (1) Retail business, personal, business, and professional services.
- (2) Public and semi-public buildings and uses.
- (3) Permitted uses the same as the R-M district.

(4) <u>Accessory uses</u>. Accessory uses which are accessory, incidental and subordinate to principal uses are permitted in MX-2 district as follows:

- (a) Parking when accessory and incidental to a permitted use.
- (b) Signage when accessory and incidental to a permitted use.

(5) <u>Prohibited uses</u>. Fortune tellers, clairvoyants, methadone and substance abuse clinics, communication facilities, outdoor storage facilities. (as added by Ord. #14-403, June 2014)

14-911. <u>Industrial District M-1</u>. It is the intent of this district to establish industrial areas along with open areas which will likely develop in a similar manner. The requirements established in the district regulations are designed to protect the essential characteristics, to promote and encourage industrial, wholesaling and business uses.

In order to achieve the intent of the district as shown on the zoning map of the Town of Mount Carmel, Tennessee, the following uses are permitted:

- (1) Any use permitted in the B-3 business districts except residences;
- (2) Terminals;

(3) Any industry which does not cause injurious or obnoxious noise, fire hazards or other objectionable conditions as determined by the building inspector.

(4) Fortune tellers, clairvoyants.

(5) <u>Uses permitted by special exception</u>. (a) Methadone treatment clinic or facility, substance abuse treatment.

(i) The consideration for approval by the board of zoning appeals of a methadone treatment clinic or facility and substance abuse treatment facility shall be contingent upon the receipt of the appropriate license and certificate of need by the State of Tennessee.

(ii) Maps showing existing land use and zoning within one-quarter (1/4) mile of the proposed site should be submitted with an application for use of review approval along with the license of the applicant, certificate of need, site plan, survey, or other information deemed reasonable by the board of zoning appeals for use in making a thorough evaluation of the proposal.

(iii) The clinic or facility shall be located on and have access to a principal arterial street.

(iv) Measurement shall be made in a straight line on the zoning map from the nearest property line of the lot on which the methadone treatment clinic or facility and substance abuse treatment facility is situated to the nearest property line of the following uses:

(A) The clinic or facility shall not be located within one thousand feet (1,000') of a school, day care facility, park, church, synagogue, mosque, mortuary or hospital.

(B) The clinic or facility shall not be located within one thousand feet (1,000') of any establishment that sells alcoholic beverages for either on or off premises consumption.

(C) The clinic or facility shall not be located within one thousand feet (1,000') of any area devoted to public recreation activity.

(D) The clinic or facility shall not be located within one thousand feet (1,000') of any amusement catering to family entertainment.

(E) The site shall not be less than one thousand feet (1,000') of any residential dwelling at the time of approval.

(F) The site shall not be less than one-half (1/2) mile from any other methadone treatment clinic or facility and substance abuse treatment facility.

(v) In interpreting this subsection (4)(a), the following definitions shall apply:

(A) "Medical clinic." A licensed facility for examining and treating patients with medical problems on an outpatient basis other than a methadone treatment clinic or facility or substance abuse treatment facility.

(B) "Methadone treatment clinic or facility." A licensed facility for counseling of patients and the distribution of methadone for outpatient, nonresidential purposes only other than a medical clinic or substance abuse treatment facility.

(C) "Substance abuse treatment facility." A licensed facility with purpose of providing outpatient treatment, counseling or similar services to individuals who are dependent on legal and illegal drugs, opiates, alcohol or other similar substances other than a medical clinic or methadone treatment clinic or facility. (Ord. #292, July 2005, as replaced by Ord. #13-394, June 2013, and renumbered and amended by Ord. #14-403, June 2014)

14-912. <u>Communication facilities</u>. The following districts may include communications facilities as special exceptions permitted only with approval of the Mount Carmel Regional Planning Commission:

R-2 Medium Density Residential District
R-3 Medium Density Residential District
R-4 High Density Residential District
Professional Office and Service District 0-1
Neighborhood Business Districts B-1
Central Business District B-2
Shopping Center Districts B-4 (Ord. #340, May 2009, as replaced by

Ord. #13-394, June 2013, and renumbered by Ord. #14-403, June 2014)

14-913. [Deleted.] (Ord. #292, July 2005, as deleted by Ord. #13-394, June 2013, and renumbered by Ord. #14-403, June 2014)

14-914. [Deleted.] (Ord. #292, July 2005, as deleted by Ord. #13-394, June 2013, and renumbered by Ord. #14-403, June 2014)

14-915. [Deleted.] (Ord. #292, July 2005, as amended by Ord. #10-348, Feb. 2010, and deleted by Ord. #13-394, June 2013, and renumbered by Ord. #14-403, June 2014)

14-916. [Deleted.] (Ord. #292, July 2005, as deleted by Ord. #13-394, June 2013, and renumbered by Ord. #14-403, June 2014)

CHAPTER 10

AREA, YARD AND HEIGHT REQUIREMENTS

SECTION

14-1001. Table 1.

14-1001.	<u>Table 1</u> .	Table 1 below establishes area	, yard and height requirements.
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Minimum Lot Size		Minimum Yard (Open Space) Requirements From Property Lines (feet)		Maximum Height of Structures (feet)	
District	Square Feet	Front	Sides	Rear	
R-1	15,000	30	10	25	35
R-1	7,500	30	8	20 where water/sewer available	35
R-M	10,000	30	10	25	35
R-M	7,500	30	8	20 For single family residential only, where water/sewer available	35
R-5	8/acre	30	10	25	35
B-1		30	10	25	35
B-2		30	10	25	70
B-3		30	10	25	70
B-4		30	10	25	70
MX-1		30	10	25	70
MX-2		30	10	25	70
M-1		30	10	25	70

(Ord. #292, July 2005, as amended by Ord. #338, Feb. 2009, and Ord. #10-349, Feb. 2010, replaced by Ord. #13-394, June 2013, and amended by Ord. #14-403, June 2014)

CHAPTER 11

EXCEPTIONS AND MODIFICATIONS

SECTION

14-1101. Lot of record.

14-1102. Front yards.

14-1103. Areas bound by railroad and other barriers.

14-1101. Lot of record. Where the owner of a lot consisting of one (1) or more adjacent lots of official record at the time of the adoption of this title does not own sufficient land to enable him to conform to the yard or other requirements of this title, an application may be submitted to the board of zoning appeals for a variance from the terms of this title, in accordance with § 14-1304(b). Such lot may be approved as a building site by the BOZA, provided, however, that the yard and other requirements of the district are complied with as closely as is possible. (Ord. #292, July 2005, as replaced by Ord. #13-394, June 2013)

14-1102. <u>Front yards</u>. The front yard requirements of this title for dwellings shall not apply to any lot where the average depth of existing front yards on developed lots, located within one hundred feet (100') on each side of such lot and within the same block and zoning district and fronting on the same street as such lot, is less than the minimum required front yard depth. In such case, the minimum front yard shall be the average of the existing yard depths on the developed lots. (Ord. #292, July 2005, as replaced by Ord. #13-394, June 2013)

14-1103. <u>Areas bound by railroad and other barriers</u>. (1) These standards take precedence over any conflicting zoning regulations found within the corresponding zoning districts.

(2) Where a lot is bounded by the railroad to the north, Main Street to the south, Hammond Avenue to the east and the Church Hill Municipal Boundary to the west the setbacks are as follows:

(a) Rear setback: Zero feet (0') for a one (1) story structure and ten feet (10') for two (2) or more story structures;

- (b) Side yard setback: Five feet (5'); and
- (c) Front yard setback: Thirty feet (30').

(3) Where a parking lot is bounded by the railroad to the north, Main Street to the south, the corporate limits with the City of Kingsport to the east and the Church Hill Municipal Boundary to the west the setbacks are as follows:

(a) Front yard setback: Ten feet (10') from the edge of the pavement on Main Street for future sidewalk installation.

(4) Minimum depth of a structure located on an arterial street. The minimum setback for structures located on an arterial street is forty feet (40') from the established street right of way.

NOTE 1: The R-5 district minimum lot size shall be one (1) acre with no more than eight (8) mobile homes or units per acre.

NOTE 2: The R-4 density shall apply to all business and manufacturing zones for residential dwelling units. (as added by Ord. #13-394, June 2013)

CHAPTER 12

SIGN REGULATIONS

SECTION

- 14-1201. Purpose.
- 14-1202. Conformance.
- 14-1203. Permit.
- 14-1204. Prohibited signs.
- 14-1205. General provisions.
- 14-1206. District provisions.
- 14-1207. Administration.

14-1201. <u>Purpose</u>. The purpose of this chapter is to regulate the erection, location and maintenance of all exterior signs within the Town of Mount Carmel. These regulations are established as a reasonable and impartial method of controlling advertising structures so as to protect property values, the visual character of Mount Carmel development, and the public health, safety and welfare. Signs are deemed to be an accessory and incidental use to the land and building which they identify or advertise. It is intended that such signs will be appropriate and adequate, but not excessive, in performing their identification or advertising function. (Ord. #292, July 2005)

14-1202. <u>Conformance</u>. All signs erected, replaced, reconstructed, expanded, or relocated on any property shall conform with the provisions of this chapter and with all other pertinent laws or ordinances of the Town of Mount Carmel. All portable signs erected and in existence prior to the effective date of this title are deemed non-conforming. A grace period of ninety (90) days from the date of adoption of this title shall be granted for portable signs after which all such non-conforming signs shall be required to be removed. (Ord. #292, July 2005)

14-1203. <u>Permit</u>. (1) <u>Permit</u>. No signs, except as outlined below, shall be erected, remodeled, relocated, or expanded until an application containing information as required is made and a permit issued by the building inspector.

(2) Exceptions to permit requirements are: (a) Signs generally permanent in nature:

(i) Official signs. Traffic or other public signs, historical signs, legal notices, railroad crossing signs, danger signs, and such temporary, emergency or other non advertising signs as may be approved and/or erected by the city, county, state or federal government.

(ii) On-site directional or location signs. Small signs, not to exceed two (2) square feet in area, to identify underground

public utilities, public telephones and restrooms, parking areas, freight entrances, etc., or to direct traffic movement onto or within a premise.

(iii) Permanent subdivision signs. Indicating the name of the subdivision shall be permitted only after said sign has been approved by the planning commission.

(iv) Warning signs. Sign no larger than four (4) square feet in area warning the public against hunting, fishing, trespassing, swimming or the like or to advise of dangerous animals, hazardous wastes, unsafe conditions or the like on the applicable property.

(b) Signs which exist for only a limited time period:

(i) Official notices and campaigns. Official notices of government, political, civic, philanthropic, educational or religious campaign signs not to exceed fifteen (15) square feet and three (3) months time duration. Each of these signs is to be removed within ten (10) calendar days of notice action date. Political campaign advertising shall not be placed on highway rights-of-way or other publicly owned property and shall be removed from other properties within a reasonable period of time, not to exceed three (3) weeks, following the election.

(ii) Real estate signs. One (1) unlighted real estate sign on premises of property for sale, lease, or rental not to exceed four (4) square feet in residential or twenty-four (24) square feet in any other district. Such signs shall be removed within ten (10) calendar days of the sale, rental, or lease of said premises.

(iii) Yard sale signs. One (1) unlighted yard sale sign on premises of property that the sale takes place, not to exceed four (4) square feet. Such signs shall be removed within ten (10) calendar days of the sate. One (1) off-premises directional sign not to exceed four (4) square feet is permitted and shall be removed within two (2) calendar days of the sale.

(iv) Construction signs. No more than one (1) on site sign per street property frontage identifying the owner, financiers, professional design firms and contractors associated with construction, alteration, or removal or subdivision identifying the developer's purpose, excluding any product advertisement. Each permitted sign shall not exceed twenty-four (24) square feet. Construction signs in residential areas are limited to four (4) square feet in size. All signs shall be removed within ten (10) calendar days after completion of construction and be displayed no longer than one (1) year from the date of erection.

(v) Business announcements. Unlighted temporary signs not to exceed twenty four (24) square feet are permitted in a commercial zone for a period of not more than thirty (30) days. If erected for greater than thirty (30) days a sign permit is required. (Ord. #292, July 2005)

14-1204. <u>**Prohibited signs**</u>. (1) <u>Off premises signs</u>. All off premises signs not specifically mentioned shall not be permitted.

(2) <u>Portable signs</u>. Portable signs, folding signs and similar moveable signs are prohibited. A portable sign is deemed as any sign which is or is intended to be affixed or mounted to a frame with wheels for the expressed purpose of easy mobility, and is intended ordinarily to be leased for short periods of time for promotional sales, grand openings, etc. Any sign which does not conform to the <u>International Building Code</u> shall be considered in violation of these regulations.

(3) <u>Roof-mounted signs</u>. Any signs attached to a building shall not be located upon the roof nor project above the building.

(4) <u>Animated signs</u>. Any sign which contains flashing or intermittent red, blue, green or amber illumination or contains any part which is in motion, flutters, rotates, except for the hands of a clock, is prohibited.

(5) <u>Billboards</u>. All signs which advertise or are intended to advertise a product, service or other business not located on the premises are not allowed.

(6) <u>Other signs</u>. Any sign not provided for in this ordinance shall be prohibited. (Ord. #292, July 2005)

14-1205. <u>General provisions</u>. The following shall apply in all zoning districts:

(1) <u>Operations</u>. The changing of copy on an approved sign specifically designed for use of replaceable copy, the painting, repainting, cleaning or other normal maintenance, unless a structural change is made, shall not require a building permit.

(2) <u>Traffic hazards</u>. Signs are prohibited which may interfere with, mislead or confuses traffic through use of improperly working graphics, location, size, shape or color and thereby interfere with traffic signals, control signs or other aspects of safe street conditions. No sign shall use the words "Stop," "Go," "Caution," "Yield," or other such words when such would be confused with traffic fifteen feet (15') to an intersection right-of-way.

(3) <u>Lighting</u>. Any lighting arrangement with exposed tubes or strings or lights that causes direct glare upon an unrelated building, driver or passerby are prohibited Any sign displaying flashing or intermittent lights or changing colors are prohibited. Signs indicating time, temperature, and barometric pressure are permitted if they do not interfere with public safety or create a traffic hazard.

(4) <u>Trees and utility poles</u>. No signs shall be attached to trees or utility poles.

(5) <u>Height clearance</u>. All signs shall have a minimum clearance of ten feet (10') above a walkway.

(6) <u>Set back</u>. Unless otherwise restricted no sign shall project beyond a property line, and no part of any sign shall be closer than five feet (5') to any street right-of-way. Those free-standing signs described in subsections B.5.c, B.5.d, and B.5.e and located along Main Street shall be located no closer than fifteen feet (15') from the edge of the street pavement. Wall signs shall not project more than eighteen inches (18") from the exterior of a building.

(7) <u>Sign content</u>. Signs which contain statements or words of obscene, pornographic, or immoral character, contain matter which is untruthful or emit audible sound, odor or visible matter are prohibited.

(8) <u>Off premises directional signs</u>. Signs shall be mounted on a single pole provided at the discretion of the Town of Mount Carmel at major street intersections. Each attached sign shall be approved by the building inspector and shall conform to a standard design. The maximum sign area is six (6) square feet.

(9) <u>Electric message board signs</u>. Except as provided in this section, electronic message boards are allowed on in the following zoning districts: B-1, B-2, MXl, MX2, M-1 as follows:

(a) Only one (1) freestanding electronic message board to convey information by works, letters, or still pictures shall be permitted for each development, provided that at least one (1) parcel within the development has minimum frontage of fifty feet (50') and the electronic message board sign is mounted along the parcel front.

(b) The electronic message board must be a part of the primary freestanding sign and must not exceed fifty percent (50%) of the total sign square footage permitted in the underlying zoning district.

(c) The maximum height of the sign is as permitted in the zoning district.

(d) Electronic message boards shall include an automatic dimmer. The maximum allowable brightness of an electronic message board shall not exceed four thousand (4,000) Nits during the hours between sunrise and sunset and one thousand (1,000) Nits after sunset and before sunrise.

(e) Electronic message board signs shall not interfere with traffic signal devices as determined by the police chief and public works director.

(f) Electronic message board signs shall not be used for off-premises advertising.

(7) Flashing text shall be prohibited.

(8) Any display on an electronic message board sign shall be for a minimum of five (5) seconds in duration. Any message change shall be completed within one (1) second, shall be simultaneous, and fixed in place for a minimum five (5) seconds.(Ord. #292, July 2005, as amended by Ord. #17-451, May 2017)

14-1206. <u>District provisions</u>. (1) <u>Low Density Residential District</u>, <u>R-1</u>. (a) <u>Home occupations</u>. Conducted in a dwelling are permitted one (1) sign provided the area of one (1) side of the sign does not exceed three (3) square feet and the sign shall not be illuminated by any means.

(b) Yard sale signs. One (1) yard sale sign is permitted provided the area of one (1) side of the sign does not exceed four (4) square feet, the sign shall not be illuminated by any means and the sign shall be placed no more than two (2) days prior to the day the sale is to take place.

(2) <u>Medium Density Residential District, R-2 and R-3</u>. (a) Same as for low density residential districts, R-4.

(3) <u>High Density Residential District, R-4</u>. (a) As for medium density residential district, R-2 and R-3.

(b) Multi-family development. One (1) permanent identification sign is permitted at each major street access provided that such signs do not exceed twenty-four (24) square feet in area per side with a maximum number of two sides, height of sign shall not exceed twelve feet (12'), signs shall be set back a minimum of twenty feet (20') from any property line, and the sign shall be indirectly illuminated.

(4) <u>Mobile Home District, R-5</u>. (a) Same as for high density residential district, R-4.

(5) <u>Neighborhood Business District, B-1</u>. (a) As for high density residential district, R-3.

(b) Single tenant business and multi-tenant center permitted one freestanding sign provided that sign area shall not exceed twenty-four (24) square feet in area per side of sign and height of sign shall not exceed twelve feet (12'). Wall signs are permitted provided the aggregate sign surface area does not exceed twenty percent (20%) of the facade on which the signs are to be displayed.

(6) <u>Arterial Business District, B-2</u>. (a) As for Neighborhood Business District, B-1, with the exception that maximum sign height shall be forty feet (40') and the freestanding sign area shall not exceed one hundred twenty-five (125) square feet.

(7) <u>General Business District, B-3</u>. (a) As for Arterial Business District, B-2.

(8) <u>Industrial District, M-1</u>. (a) Upon review and approval of the planning commission.

(9) <u>Shopping District, B-4</u>. (a) Upon review and approval of the planning commission. (Ord. #292, July 2005)

14-1207. <u>Administration</u>. (1) <u>Permits</u>. A schedule of fees for permits shall be set by resolution of the board of mayor and aldermen from time to time

as circumstances require. Permits for signs shall become null and void if the sign is not installed within six (6) months after the date of issuance of the permit.

(2) <u>Inspection</u>. The building inspector shall inspect at any time that he deems necessary each sign regulated by this article to insure that such sign conforms to this article and all other city ordinances.

(3) <u>Permit revocation</u>. The building inspector is hereby authorized and empowered to revoke any permit upon failure of the holder thereof to comply with any provision of this code.

(4) <u>Unsafe and unlawful signs</u>. If the building inspector finds that any sign is unsafe or not secure or is a menace to the public or has been constructed or erected or is being maintained in violation to the provisions of this article, he shall give written notice to the owner of the sign and/or the property and/or the architect, builder, contractor, or agent for both or either requiring the sign to be made safe and secure or to be removed. If the sign is not removed or altered so as to render it safe and secure, the building inspector shall proceed with action to remove or secure it as provided by law. The building inspector may cause any sign which is an immediate danger to persons or property to be removed immediately and without notice. The written notice is not required for sign allowed in § 14-1203(2)(b).

(5) <u>Abandoned signs</u>. Signs which advertise a discontinued use of a building shall be removed within forty-five (45) days from the date the use was terminated. If such signs are not removed with this time period, they shall be removed at the direction of the building inspector. The cost of removal shall be placed as a lien against the property until such cost is paid.

(6) <u>Appeals</u>. Disputes on questions of conformity to the regulations shall be resolved by the board of zoning appeals. (Ord. #292, July 2005)

CHAPTER 13

ENFORCEMENT

SECTION

14-1301. Enforcing officer.

14-1302. Building permits and certificates of occupancy.

14-1303. Remedies.

14-1301. <u>Enforcing officer</u>. The provisions of this ordinance shall be administered and enforced by a building inspector appointed by the mayor and approved by the board of mayor and aldermen, who shall have the power to make inspection of buildings or premises necessary to carry out his duties in the enforcement of this ordinance. (Ord. #292, July 2005)

14-1302. Building permits and certificates of occupancy.

(1) <u>Building permit required</u>. It shall be unlawful to commence excavation for the construction of any building including accessory buildings, or to commence the moving or alteration of any building, including accessory buildings, until the building inspector has issued a building permit for such work.

Issuance of a building permit. In applying to the building inspector (2)for a building permit, the applicant shall submit a dimensional sketch or a scale plan indicating the shape, size, height, location on the lot of all buildings to be erected, altered or moved and of any building already on the lot he shall also state the existing and intended use of all such buildings and supply such other information as may be required by the building inspector for determining whether the provisions of this ordinance are being observed. If the proposed excavation or construction as set forth in the application is in conformity with the provision of this ordinance and other ordinances then in force, and the use is for one (1) or two (2) family residential in a residential zone, the building inspector shall issue a building permit for such excavation or construction; if the use is other than for one (1) or two (2) family residential in a residential zone, the building inspector shall forward the application to the planning commission for its consideration along with the recommendation of the building inspector and the reasons therefore. The planning commission shall determine whether the application conforms with the provisions of this ordinance and other ordinances then in force and if so shall issue a building permit for such excavation or construction; if not, the planning commission may direct the applicant on what must be done to comply or deny the application. The building inspector shall not issue a building permit for other than one (1) or two (2) family residential in a residential zone without the approval of the planning commission. If a building permit is refused, the building inspector shall state such refusal in writing with the cause therefore.

(a) The issuance of a permit shall in no case be construed as waiving any provision of this ordinance.

(b) A building permit shall become void six (6) months from the date of issuance unless substantial progress has been made by that date on the project described therein.

(3) <u>Certificate of occupancy</u>. No land or building or part thereof hereafter erected or altered in its use or structure shall be used until the building inspector shall have issued a certificate of occupancy stating that such land, building, or part thereof, and the proposed use thereof are found to be in conformity with the provisions of this ordinance and other ordinances of the town.

(4) <u>Records</u>. A complete record of such application, sketches and plans shall be maintained in the office of the building inspector. (Ord. #292, July 2005, as amended by Ord. #09-345, Jan. 2011)

14-1303. <u>Remedies</u>. In case any building, structure, or sign is erected, reconstructed, constructed, repaired, converted, or maintained, or any building, structure, or land is used in violation of this title, the building inspector or any other appropriate authority or any adjacent or neighboring property owner who would be damaged by such violation, in addition to other remedies, may institute injunction, mandamus, or other appropriate action in proceeding to prevent the illegal occupancy or use of such building, sign, structure or land. (Ord. #292, July 2005)

CHAPTER 14

BOARD OF ZONING APPEALS

SECTION

- 14-1401. Creation and appointment.
- 14-1402. Procedure.
- 14-1403. Appeals.
- 14-1404. Powers.

14-1401. <u>Creation and appointment</u>. A board of zoning appeals is hereby established in accordance with <u>Tennessee Code Annotated</u>, § 13-7-205. The Mount Carmel Planning Commission is hereby designated as the board of zoning appeals. It shall be appointed by the mayor of the town and confirmed by the majority vote of the board of mayor and aldermen. The term of individual membership shall be concurrent with the member's term on the Mount Carmel Planning Commission. (Ord. #292, July 2005)

14-1402. <u>Procedure</u>. Meetings of the board of zoning appeals shall be held at the call of the chairman, and at such other times as the board may determine. All meetings of the board of zoning appeals shall be open to the public. The board shall adopt rules of procedure and shall keep records of applications and actions thereon which shall be a public record. (Ord.#292, July 2005)

14-1403. <u>Appeals</u>. An appeal to the board of zoning appeals may be taken by any person, firm or corporation aggrieved, or by any governmental office, or department, board or bureau affected by a decision of the building inspector based in whole or in part upon the provision of this ordinance. Such appeal shall be taken by filing with the board of zoning appeals a notice of appeal, specifying the grounds thereof. The building inspector shall transmit to the board all papers constituting the record upon which the action appealed was taken. The board shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing any person or party may appear and be heard in person or by agent or by attorney. (Ord. #292, July 2005)

14-1404. <u>**Powers**</u>. The board of zoning appeals shall have the following powers:

(1) <u>Administrative review</u>. To hear and decide appeals where it is alleged by the appellant that there is error in any order, requirement, permit, decision, determination or refusal made by the building inspector or other

administrative official in the carrying out or enforcement of any provision of this ordinance.

(2) <u>Special exception</u>. The board of zoning appeals may, in appropriate cases and subject to the principles, standards, rules, conditions and safeguards set forth in the zoning title make special exceptions to the terms of the zoning title in harmony with their general purpose and intent. The board of zoning appeals may also interpret the zoning maps and pass upon disputed questions of lot lines or district boundaries or similar questions as they arise in the administration of the zoning regulations.

(3) <u>Variance</u>. To hear and decide applications for variance from the terms of this ordinance but only where, by reason of exceptional narrowness, shallowness or shape of a specific piece of property at the time of the adoption of this ordinance was a lot of record; or where by reason of exceptional topographic conditions or other extraordinary or exceptional situations or conditions or a piece of property the strict application of the provisions of this ordinance would result in exceptional practical difficulties to or exceptional and undue hardship upon the owner of such property, provided that such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of this ordinance as specifically authorized in §§ 14-1001 and 14-1002.

(a) In granting a variance the board may attach thereto such conditions regarding the location, character and other features of the proposed building, structure or use as it may deem advisable in furtherance of the purpose of this ordinance.

(b) Before any variance is granted it shall be shown that special circumstances are attached to the property which do not generally apply to other property in the neighborhood. (Ord. #292, July 2005, as amended by Ord. #2014-422, Oct. 2014)

CHAPTER 15

AMENDMENT

SECTION

- 14-1501. Procedure.
- 14-1502. Approval by planning commission.
- 14-1503. Introduction of amendment.

14-1501. <u>Procedure</u>. Such regulations, restrictions and boundaries as are provided for in the zoning ordinance may be amended, supplemented, changed, modified or repealed. All changes and amendments shall be effective only after official notice and public hearings as herein provided. An application for an amendment to this chapter that has been denied shall not be reinstituted sooner than twelve (12) months from the date of the denial, unless in the opinion of the planning commission substantial changes in conditions or circumstances have occurred. (Ord. #292, July 2005)

14-1502. <u>Approval by planning commission</u>. No amendment shall become effective unless it is first submitted to and approved by the planning commission or, if disapproved, unless it shall receive a majority vote of the entire membership of the board of mayor and aldermen. Prior to planning commission action on any proposed zoning map revision or amendment, the planning commission may give public notice of such proposed revision or amendment by erecting an appropriate sign on the property that would be affected by the proposed change, and it may send a notice of the time and place for a public hearing by the planning commission on the proposed amendment to owners fronting or abutting the property in question. (Ord. #292, July 2005, as amended by Ord. #19-482, March 2019 *Ch7_10-24-19*)

14-1503. Introduction of amendment. Applications for amendments to this chapter shall be filed with the recording secretary of the planning commission and shall contain information and shall follow the procedures established by the planning commission. The planning commission also may establish a schedule of fee payments for such amendments and may require such fees to accompany the filing of an application in order to defray administrative costs of application processing. Upon the introduction of an amendment to the zoning ordinance or upon the receipt of a petition to amend the zoning ordinance, the board of mayor and aldermen shall publish a notice of such request for an amendment, together with the notice of time set for a public hearing by the board of mayor and aldermen on the requested change. Said notice shall be published in a newspaper of general circulation. Said hearing by the board of mayor and aldermen shall take place not sooner than

14-56

fifteen (15) days after the date of publication of such notice. (Ord. #292, July 2005)

CHAPTER 16

STORMWATER MANAGEMENT, EROSION AND SEDIMENTATION CONTROL

SECTION

- 14-1601. Short title.
- 14-1602. Purpose.
- 14-1603. Definitions.
- 14-1604. Regulated land disturbing activities.
- 14-1605. Permit required for any land disturbing activity.
- 14-1606. Grading, vegetation, drainage, and erosion and sedimentation control plans required.
- 14-1607. Plan requirements.
- 14-1608. Stormwater system design and management standards.
- 14-1609. Plan must contain measures to meet approved standards.
- 14-1610. Priority construction sites.
- 14-1611. Buffers.
- 14-1612. Permanent stormwater management facilities.
- 14-1613. Plan development at owner's/developer's expense.
- 14-1614. Plan submitted to building inspector.
- 14-1615. Speedy review of plan.
- 14-1616. Grading permit and bond.
- 14-1617. Building inspector and/or town designee may require additional protective measures.
- 14-1618. Retention/detention facilities and drainage structures maintained.
- 14-1619. Improperly maintained retention/detention facilities and drainage structures a violation.
- 14-1620. Town may take ownership of retention facilities and drainage structures.
- 14-1621. Technical assistance.
- 14-1622. Building inspector and/or designee responsible for providing safeguards in projects of less than one (1) acre or utilizing less than three (3) lots.
- 14-1623. Grading permit also required for any project on less than one (1) acre involving grading, filling, or excavation.
- 14-1624. Existing developed properties with drainage, erosion and sediment concerns.
- 14-1625. Improvements required in existing development normally at owner's expense.
- 14-1626. Town may take responsibility for existing retention facilities and drainage structures.
- 14-1627. Improvements needed at existing locations determined by the building inspector and/or town designee.

- 14-1628. Improvements required with existing developments subject to appeal.
- 14-1629. Post construction.
- 14-1630. Illicit discharges.
- 14-1631. Monitoring, reports, and inspections.
- 14-1632. Mud/silt debris/other pollutants in street/stream,
- 14-1633. Certificate of occupancy not issued until compliance with plan verified.
- 14-1634. Plan construction acceptance and bond release. Drainage and sedimentation control plan activities must be inspected and accepted by the building inspector and/or the town designee.
- 14-1635. Appeal of administrative action.
- 14-1636. Town clean up resulting from violations at developer/owner's expense.
- 14-1637. Penalties enforcement.

14-1601. <u>Short title</u>. This chapter shall be known as the Stormwater Management, Erosion and Sedimentation Control Ordinance of the Town of Mount Carmel, Tennessee. (Ord. #334, June 2008)

14-1602. <u>Purpose</u>. The purpose of this chapter is to conserve the land, water and other natural resources of the Town of Mount Carmel and Hawkins County; and promote the public health and welfare of the people by establishing requirements for the control of stormwater, erosion and sedimentation and by establishing procedures whereby these requirements shall be administered and enforced; and to diminish threats to public safety from degrading water quality caused by the run-off of excessive stormwater and associated pollutants, to reduce flooding and the hydraulic overloading of the town's stormwater system; and to reduce the economic loss to individuals and the community at large. (Ord. #334, June 2008)

14-1603. <u>Definitions</u>. For the purpose of this chapter, 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 first as defined in the TDEC NPDES Permit for Discharges from Small Municipal Storm Sewer Systems Permit No. TNS000000 issued August 31, 2010 and second the common and ordinary use as defined in the latest edition of <u>Webster's Dictionary</u>.

(1) "As-built plans." Drawings depicting conditions as they were actually constructed.

(2) "Best Management Practices or BMPs." Any 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 Town of Mount Carmel, Tennessee.

(3) "Channel." A natural or artificial watercourse with a definite bed and banks that conducts flowing water continuously or periodically.

(4) "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 Town of Mount Carmel, Tennessee.

(5) "Contaminant." Any physical, chemical, biological, or radiological substance or matter in water.

(6) "Denuded area." Areas disturbed by grading, filling, or other such activity in which all vegetation has been removed and soil is exposed directly to the elements allowing for the possibility of erosion and stormwater and sediment run-off.

(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) "Developer." Any person, owner, individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or any other legal entity, or their legal representatives, agents or assigns.

(9) "Development." Any activity on one (1) acre or more or on three (3) lots or more that involves making changes to the land contour by grading, filling, excavating removal, or destruction of topsoil, trees, or vegetative covering.

(10) "Discharge." To 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.

(11) "Drainage." A general term applied to the removal of surface or subsurface water from a given area either by gravity or by pumping; commonly applied to surface water.

(12) "Drainage area." The geographic area or region that contributes surface runoff to a common outlet or outlets.

(13) "Drainage and sedimentation control plan." For the purpose of this chapter, a drainage and sedimentation control plan refers to a formal written document addressing grading, vegetation, drainage, and stormwater flows, erosion and sedimentation controls, as specified in §§ 14-1605 through 14-1608, that is reviewed by the public works director and/or building inspector with the technical assistance of the Hawkins County Soil Conservationist and Extension Agents, reviewed by the Mount Carmel Planning Commission, and if approved by the planning commission, is used as the basis for the building inspector to issue a grading permit that allows land disturbing activity to proceed.

(14) "Drainage ways and local waters." Any and all streams, creeks, branches, ponds, reservoirs, springs, wetlands, sinkholes, wells, drainage ways and wet weather ditches, or other bodies of surface or subsurface water, natural or artificial including Mount Carmel's stormwater system, lying within or forming a part of the boundaries of the Town of Mount Carmel, or the area under the regulatory responsibility of the Mount Carmel Planning Commission.

(15) "Easement." An acquired privilege or right of use or enjoyment that a person, party, firm, corporation, municipality or other legal entity has in the land of another.

(16) "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.

(17) "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.

(18) "Exceptional Tennessee Waters" are surface waters of the State of Tennessee that satisfy the characteristics as listed in Rule 1200.4.3.-06 of the official compilation--rules and regulations of the State of Tennessee. Characteristics include waters designated by the Water Quality Board as Outstanding National Resource Waters (ONRW), waters that provide habitat for ecologically significant populations of certain aquatic or semi-aquatic plants or animals; waters that provide specialized recreational opportunities; waters that possess outstanding scenic or geologic values; or waters where existing conditions are better than water quality standards. (NOTE: None of these waters exist in the town at this writing Dec. 7, 2011.)

(19) "Grading permit." The permit that must be issued by the building inspector, or in his/her absence, the town's designee, before any land disturbing activity is undertaken by a developer, or when grading, filling, or excavating is proposed on a project.

(20) "Hotspot (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. Examples might include operations producing concrete or asphalt, auto repair shops, auto supply shops, large commercial parking area, restaurants.

(21) "Illicit connections." Illegal and/or unauthorized connections to the municipal separate stormwater system whether or not such connections result in discharges into that system.

(22) "Illicit discharge." Any discharge to the municipal separate storm sewer system that is not composed entirely of stormwater and not specifically exempted under § 14-1604.

(23) "Impaired waters" means any segment of surface waters that has been identified by TDEC as failing to support one (1) or more classified users. For construction permits, pollutants of concern include, but are not limited to: siltation (silt/sediment) and habitat alterations. Based on the most recent assessment information available to staff, the town will notify applicants and Permittee if their discharge is into, or is affecting impaired waters. TDEC periodically compiles a list of such waters known as the 303(d) List. (NOTE: None of these waters exist in the town at this writing, Dec. 7, 2011.)

(24) "Land disturbing activity." Any activity which may result in soil erosion from water or wind and the movement of sediments into drainage ways, or local water, including, but not limited to, clearing, grading, excavating, transportation and filling of land, except that the term shall not include:

(a) Such minor land disturbing activities as home and gardens and individual home landscaping, repairs and maintenance work.

(b) Construction, installation or maintenance of individual service connections, or septic lines and drainage fields. Utility line construction of 1.65 miles for a five foot (5') wide disturbed area will require a permit. If the Town of Mount Carmel is the permittee, the permit will be obtained from the Tennessee Department of Environment and Conservation.

(c) Preparation for single family residences separately built, unless disturbing an acre or more or in conjunction with multiple [three (3) or more] adjacent construction sites in subdivision developments.

(d) Emergency work to protect life, limb or property.

(25) "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.

(26) "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.

(27) "Municipal Separate Storm Sewer System (MS4) (Municipal Separate Stormwater System)." 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.

(28) "National Pollutant Discharge Elimination System permit or NPDES permit." A permit issued pursuant to 33 U.S.C. 1342.

(29) "Off-site facility." A structural BMP located outside the subject property boundary described in the permit application for land development activity.

(30) "On-site facility." A structural BMP located within the subject property boundary described in the permit application for land development activity.

(31) "Owner's authorized representative." The person ho has "inwriting" authorization from the owner of record of the property or facility. A written notarized option to lease and/or purchase the property/facility is acceptable.

(32) "Peak flow." The maximum instantaneous rate of flow of water at a particular point resulting from a storm event.

(33) "Permanent stormwater management facility." A permanent basin or pond (and in some cases a ditch or swale) designed to control the amount of stormwater leaving the developed site so that the volume and velocity does not exceed the pre-development flow.

(34) "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.

(35) "Pollutant" as used in this section means:

(a) Anything that causes or contributes to pollution. Pollutants may include, but are not limited to, oil based paints, varnishes and solvents; rubbish, garbage, litter or other discarded or abandoned objects and accumulations, so that same may cause and fertilizers; hazardous substances and wastes; sewage, fecal e-coli and pathogens; dissolved and particulate metals; animal waste; wastes and residues that result from constructing a building or structure; noxious or offensive matter of any kind; or other harmful items that may enter the storm system of the town.

(b) Dumping of unlawful items within the town.

(36) "Priority area." Hot spot as defined above.

(37) "Priority construction activity." Those construction activities discharging directly into, or immediately upstream of waters the state recognizes as impaired (for siltation) or high quality waters.

(38) "Runoff." That portion of the precipitation on a drainage area that is discharged from the area into the municipal separate stormwater system.

(39) "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.

(40) "Sedimentation." Soil particles suspended in stormwater that can settle in streambeds and disrupt the natural flow of the stream.

(41) "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.

(42) "Stabilization." Providing adequate measures, vegetative and/or structural, that will prevent erosion from occurring.

(43) "Stormwater." Stormwater runoff, snow melt runoff, surface runoff, street wash waters related to street cleaning or maintenance, infiltration and drainage.

(44) "Stormwater management." The programs to maintain quality and quantity of stormwater runoff to pre-development levels.

(45) "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.

(46) "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.

(47) "Stormwater runoff." Flow on the surface of the ground, resulting from precipitation.

(48) "Structural BMPs." Devices that are constructed to provide control of stormwater runoff.

(49) "Surface water." Includes waters upon the surface of the earth in bounds created naturally or artificially including, but not limited to, streams, other watercourses, lakes and reservoirs.

(50) "Temporary sediment basin." A temporary basin or pond constructed across a drainage way, or of an excavation that creates a basin, or by a combination of both to slow the flow of water and/or prevent sediment from moving further downstream. The size of the structure will depend upon the location, size of the drainage area, soil type, land cover/use, rainfall amount, and any unique site conditions favorable to producing high runoff volume, velocity, or sediment.

(51) "Water quality buffer." Undisturbed vegetation, including trees, shrubs, and herbaceous vegetation, enhanced or restored vegetation or the re-establishment of vegetation bordering streams, ponds, wetlands, reservoirs or lakes which exists or is established to protect those waterbodies.

(52) "Watercourse." A permanent or intermittent stream or other body of water, either natural or man-made, which gathers or carries surface water.

(53) "Watershed." All the land area that contributes runoff to a particular point along a waterway. (Ord. #334, June 2008, as amended by Ord. #12-370, Feb. 2012)

14-1604. <u>Regulated land disturbing activities</u>. (1) Except as provided in §§ 14-1604(2) and (3), it shall be unlawful for any person to engage in any land disturbing activity on any commercial development, or any development, construction, or renovation activity involving at least one (1) acre or three (3) adjacent lots or more (unless such lots are part of a subdivision or other project that has a current approved drainage and sediment control plan)

or less than one (1) acre if that construction activity is part of a larger common plan of development or sale that would disturb one (1) acre or more without submitting and obtaining approval of a drainage and sedimentation plan as detailed in §§ 14-1606 through 14-1611 of this chapter, and being issued a grading permit by the building inspector.

(2)Any person who owns, occupies and operates private agriculture or forestlands shall not be deemed to be in violation of this chapter of land disturbing activities, which result from the normal functioning of these lands, however, the building inspector has the authority to require best practices erosion and sedimentation control measures if pollution and run-off problems are evident.

(3)Any state or federal agency not under the regulatory authority of the Town of Mount Carmel for stormwater management, erosion and sedimentation control. (Ord. #334, June 2008)

14-1605. Permit required for any land disturbing activity. Any land disturbing activity, as defined, shall require a grading permit, in addition to any building permit that must be issued by the building inspector prior to the commencement of any work. Grading permits for land disturbing activities will be issued by the building inspector only upon the developer meeting requirements outlined in §§ 14-1604 through 14-1612 of this chapter, which includes obtaining approval of a drainage and sedimentation control plan, by the Mount Carmel Planning Commission. (Ord. #334, June 2008)

14-1606. Grading, vegetation, drainage, and erosion and sedimentation control plans required. A grading, vegetation, drainage, and erosion and sedimentation control plan, for convenience defined in § 14-1603 as a Drainage and Sedimentation Control Plan (DSCP), shall be required for all:

Developments, subdivisions, or construction activities involving one (1)(1) or more acres; or

(2)Three (3) adjacent lots or more (unless such lots are part of a subdivision with an approved DSCP); or

Less than one (1) acre if that construction activity is part of a (3)larger common plan of development or sale that would disturb one (1) acre or more, except as exempted in §§ 14-1604(2) and (3) of this chapter.

A DSCP or BMP shall be required for all commercial construction or renovation, or any multi-family residential facility involving three (3) or more units that includes earth moving activity. If necessary to protect the health and safety of the people, the building inspector and/or planning commission may, at its discretion, require a drainage and sedimentation control plan for any development or renovation under one (1) acre, or subdivision with less than three (3) adjacent lots, or multi-family residential development under three (3) units. (Ord. #334, June 2008)

14-1607. <u>Plan requirements</u>. The drainage and sediment control plan shall be prepared and designed and certified by an engineer and/or surveyor licensed in the State of Tennessee. The length and complexity of the plan is to be commensurate with the size of the project, severity of the site condition, and the potential for off-site damage. The plan shall be a 1 = 100 or smaller scale, topographic base map of the site which extends a minimum of five hundred feet (500') beyond the limits of the proposed development and includes at least the following:

(1) <u>Project description</u>. Briefly describe the intended project and proposed land disturbing activity, including number of units and structures to be constructed and infrastructure required.

(2) Contour intervals of five (5) or less showing present conditions and proposed contours resulting from land disturbing activity.

(3) All existing drainage ways, including intermittent and wet-weather. Include any designated floodways or flood plains.

(4) Existing land cover.

(5) Approximate limits of proposed clearing, grading and filling.

(6) Delineation of all existing drainage areas contributing runoff to the site. Amount of existing stormwater discharged by each of the contributing areas. Amount of existing stormwater entering and leaving any portion of the site and location that stormwater enters or leaves the site. The appropriate calculations for making these determinations shall be included with the plan submission.

(7) Description of existing soil types and characteristics and any anticipated soil erosion and sedimentation problems resulting from existing characteristics.

(8) Location, size and layout of proposed stormwater and sedimentation control improvements.

(9) <u>Proposed drainage network</u>. The plan shall illustrate the proposed means for transporting all stormwater from its point of origin, through the site and to an adequate outfall.

(10) Proposed drain tile or waterway sizes and plan and profile views of all proposed drainage structures, including ditches and swales.

(11) Approximate flows leaving site after construction and incorporating water runoff mitigation measures. The evaluation must include projected effects on property adjoining and down stream of the site and on existing drainage facilities and systems. The hydraulic calculations necessary to ensure adequately sized stormwater management structures and BMPs used must also be included.

(12) The projected sequence of work represented by the grading, drainage and erosion and sedimentation control plans as related to other major items of construction.

(13) Specific remediation measures to prevent erosion and sedimentation runoff, contamination by other pollutants and to meet approved

standards as outlined in § 14-1609 of this chapter. Plans shall include detailed drawings for all control measures used; stabilization measures including vegetation and non-vegetative measures, both temporary and permanent, will be detailed. Detailed construction notes and a maintenance schedule shall be included for all control measures in the plan.

(14) Specific details for the construction of the entrance to the site for controlling erosion and road access points and for eliminating or keeping mud, sediment, and debris on Mount Carmel streets and public ways at a level acceptable to the building inspector. Mud, sediment, and debris brought onto streets and public ways must be removed by the end of the day by machine, broom or shovel to the satisfaction of the building inspector and/or Mount Carmel law enforcement officer. Failure to remove said sediment, mud or debris shall be deemed a violation of this chapter.

(15) <u>Proposed stormwater management facilities</u>. The location, size and layout of all proposed stormwater and layout of all stormwater management structures, including retention/detention facilities shall be illustrated on the plan. These facilities must be designed to meet or exceed the standards set forth in § 14-1609 and as required by § 14-1608. Engineering calculations for sizing each facility must be provided. A qualified engineer registered in the State of Tennessee must seal the plans and calculations pertaining to permanent stormwater management facilities.

(16) <u>Proposed structures</u>. Location (to the extent possible) and identification of any proposed additional buildings, structures or development on the site.

(17) <u>Design storm</u>. The plan must be designed to control storm runoff from a two (2) year twenty-four (24) hour event except for discharges to Exceptional Tennessee Waters and/or impaired water which must be designed for the five (5) year twenty-four (24) hour event.

(a) Additional plan requirements for discharges into impaired or exceptional Tennessee waters. At this writing, Dec. 7, 2011, none of these waters are in or immediately downstream of the town. If such waters are designated in the future, the applicant must include the information required by section 5.3 of the current Tennessee Construction General Permit (TN CGP). (Ord. #334, June 2008, as amended by Ord. #12-370, Feb. 2012)

14-1608. Stormwater system design and management standards.

(1) <u>Stormwater design or BMP manual</u>. (a) Adoption. The Town of Mount Carmel, Tennessee adopts as its stormwater design and Best Management Practices (BMP) manual the latest edition of the following publications, which are incorporated by reference in this chapter as is fully set out herein:

(i) <u>TDEC Erosion and Sediment Control Manual</u>.

(iii) <u>TDEC Manual for Post Construction</u>.

These manuals include lists of acceptable BMPs including the specific design performance criteria and operation and maintenance requirements for each stormwater practice. As these manuals are updated, such updates are incorporated into the town's BMP manual unless expressly rejected by a majority vote of a duly constituted meeting of the planning commission. The Town of Mount Carmel, Tennessee stormwater facilities that are designed, constructed and maintained in accordance with these BMP criteria will be presumed to meet the minimum water quality performance standards. Other BMPs may be added or deleted upon approval of the planning commission. Site-specific BMP(s) may be approved by the building inspector.

General performance criteria for stormwater management. Unless (2)granted a waiver or judged by the building inspector to be exempt, the following performance criteria shall be addressed for stormwater management at all sites: All site designs shall control the peak flow rates of stormwater discharge associated with design storms specified in this chapter or in the BMP manual and reduce the generation of post construction stormwater runoff to pre-construction levels. 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. To protect stream channels from degradation, specific channel protection criteria shall be provided as prescribed in the BMP manual. Stormwater discharges to critical areas with sensitive resources (i.e., cold water fisheries, shellfish beds, swimming beaches, recharge areas, water supply reservoirs) may be subject to additional performance criteria, or may need to utilize or restrict certain stormwater management practices. Stormwater discharges from hot spots may require the application of specific structural BMPs and pollution prevention practices. Prior to or during the site design process, applicants for land disturbance permits shall consult with the building inspector and/or engineer to determine if they are subject to additional stormwater design requirements. The calculations for determining peak flows using sound engineering practices shall be used for sizing all stormwater facilities.

(3) <u>Minimum control requirements</u>. Stormwater designs shall meet the multi-stage storm frequency storage requirements as identified in this chapter and the BMP manual unless the planning commission has granted the applicant a full or partial waiver for a particular BMP. If hydrologic or topographic conditions warrant greater control than that provided by the minimum control requirements, the planning commission may impose any and all additional requirements deemed necessary to control the volume, timing, and rate of runoff.

(4) <u>Stormwater management plan requirements</u>. The stormwater management plan shall include sufficient information to allow the planning commission to evaluate the environmental characteristics of the project site, the potential impacts of all proposed development of the site, both present and future, on the water resources, and the effectiveness and acceptability of the measures proposed for managing stormwater generated at the project site. To accomplish this goal the stormwater management plan shall include the following:

(a) Calculations. Hydrologic and hydraulic design calculations for the pre-development and post-development conditions for the design storms specified in the BMP manual. These calculations must show that the proposed stormwater management measures are capable of controlling runoff from the site in compliance with this chapter and the guidelines of the BMP manual. Such calculations shall include:

(i) A description of the design storm frequency, duration, and intensity where applicable;

(ii) Time of concentration;

(iii) Soil curve numbers or runoff coefficients, including assumed soil moisture conditions;

(iv) Peak runoff rates and total runoff volumes for each watershed area;

(v) Infiltration rates, where applicable;

(vi) Culvert, stormwater sewer, ditch and/or other stormwater conveyance capacities;

(vii) Flow velocities;

(viii) Data on the increase in rate and volume of runoff for the design storms referenced in the BMP manual; and

(ix) Documentation of sources for all computation methods and field test results.

(b) Soils information. If a stormwater management control measure depends on the hydrologic properties of soils (e.g., infiltration basins), then a soils report shall be submitted. The soils report shall be based on on-site boring logs or soil pit profiles and soil survey reports. The number and location of required soil borings or soil pits shall be determined based on what is needed to determine the suitability and distribution of soil types present at the location of the control measure.

(c) Maintenance and repair plan. The design and planning of all stormwater management facilities shall include detailed maintenance and repair procedures to ensure their continued performance. These plans will identify the parts or components of a stormwater management facility that need to be maintained and the equipment and skills or training necessary. Provisions for the periodic review and evaluation of the effectiveness of the maintenance program and the need for revisions or additional maintenance procedures shall be included in the plan. A permanent elevation benchmark shall be identified in the plans to assist in the periodic inspection of the facility.

(d) Landscaping plan. The applicant must present a detailed plan for management of vegetation at the site after construction is finished, including who will be responsible for the maintenance of vegetation at the site and what practices will be employed to ensure that adequate vegetative cover is preserved. Where it is required by the BMP, this plan must be prepared by a registered engineer or architect licensed in Tennessee.

(e) Maintenance easements. The applicant must ensure access to the site for the purpose of inspection and repair by securing all the maintenance easements needed. These easements must be binding on the current property owner and all subsequent owners of the property and must be properly recorded in the land record.

(f) Maintenance agreement. (i) Maintenance agreements will apply to all stormwater drainage facilities including but not limited to ditches, swales, ponds, rip-rap and the like. Permanent stormwater management facilities must be clearly marked on the plat of record including a notation that these stormwater facilities are permanent, that they must be maintained and may not be filled, altered or otherwise changed.

(ii) The owner of property to be served by a permanent on-site stormwater management facility must execute an inspection and maintenance agreement that shall operate as a deed restriction binding on the current property owner and all subsequent property owners.

(iii) The maintenance agreement shall: (A) Assign responsibility for the maintenance and repair of the stormwater facility to the owner of the property upon which the facility is located (in the case of subdivisions, permanent stormwater maintenance facilities shall be jointly owned by all owners of lots in the subdivision) and be recorded as such on the plat for the property by appropriate notation.

(B) Provide for an inspection by the property owner at the property owner's expense upon direction of the town for the purpose of documenting maintenance and repair needs and ensure compliance with the purpose and requirements of this chapter. The property owner will arrange for this inspection to be conducted by a registered professional engineer licensed to practice in the State of Tennessee who will submit a sealed report of the inspection to the Town of Mount Carmel, Tennessee. The maintenance agreement shall also grant permission to the town to enter the property at reasonable times and to inspect the stormwater facility to ensure that it is being properly maintained.

(C) Provide that the minimum maintenance and repair needs include, but are not limited to: the removal of silt, litter and other debris, the cutting of grass, grass cuttings and vegetation removal, and the replacement of landscape vegetation, in detention and retention basins, and inlets and drainage pipes and any other stormwater facilities. It shall also provide that the property owner shall be responsible for additional maintenance and repair needs consistent with the needs and standards outlined in the BMP manual.

(D) Provide that maintenance needs must be addressed in a timely manner, on a schedule to be determined by the Town of Mount Carmel, Tennessee.

(E) Provide that if the property is not maintained or repaired with the prescribed schedule, the Town of Mount Carmel, Tennessee shall perform the maintenance and repair at its expense, and bill the same to the property owner. The maintenance agreement shall also provide that the town's cost of performing the maintenance shall be a lien against the property.

(iv) The municipality shall have the discretion to accept the dedication of any existing or future stormwater management facility, provided such facility meets the requirements of this chapter and includes adequate and perpetual access and sufficient areas, by easement or otherwise, for inspection and regular maintenance. Any stormwater facility accepted by the municipality must also meet the municipality's construction standards and any other standards and specifications that apply to the particular stormwater facility in question. (Ord. #334, June 2008)

14-1609. <u>Plan must contain measures to meet approved</u> <u>standards</u>. The drainage and sedimentation control plan shall contain measures that will ensure development, construction or site work will meet or exceed the following standards:

(1) The development fits within the topography and soil conditions in a manner that allows stormwater and erosion and sedimentation control measures to be implemented in a manner satisfactory to the Mount Carmel Planning Commission. Development shall be accomplished so as to minimize adverse effects upon the natural or existing topography and soil conditions and to minimize the potential for erosion. (2) Plans for development and construction shall minimize cut and fill operations. Construction and development plans calling for excessive cutting and filling may be refused a permit by the Mount Carmel Planning Commission if it is determined that the land use permitted by the applicable zoning district could be supported with less alteration of the natural terrain.

(3) During development and construction, adequate protective measures shall be provided to minimize damage from surface water to the cut face of excavations or the sloping surfaces of fills. Fills shall not encroach upon natural watercourses, their flood plains, or constructed channels in a manner so as to adversely affect other properties.

(4) Pre-construction vegetation ground cover shall not be removed, destroyed, or disturbed more than twenty (20) days prior to grading or earth moving. No work shall occur until perimeter sedimentation and erosion control devices are in place to the building inspector's satisfaction.

(5) Developers shall be responsible upon completion of land disturbing activities to leave slopes and developed or graded areas so that they will not erode. Such methods include, but are not limited to, re-vegetation, mulching, rip-rapping or gunniting, and retaining walls. Bank cuts and grades should not exceed a 2 to 1 slope without use of a retaining wall and must be properly covered with mulch and vegetation. Regardless of the method used, the objective is to leave the site as erosion and maintenance-free as is practical.

(6) Stormwater management facilities shall be designed and constructed to mitigate the increase in stormwater runoff resulting from the development. The facilities shall reduce the post-construction runoff rate to the pre-construction runoff rate for the 2-year and 10-year storm frequencies. The planning commission may require designs based on larger storm events on a case-by-case. The facilities shall also be equipped with an emergency spillway or other such device capable of accommodating the 100-year storm event and preventing failure of the facility. A staged outlet box structure is a preferred method for controlling the rate of stormwater discharge (see § 14-1608).

(7) Discharges from sedimentation basins or traps must be through piping, liners, rip-rap or properly grassed channels so that the discharge does not cause erosion.

(8) All grading, vegetation, drainage, stormwater, erosion and sedimentation control mitigation measures shall conform to any or all best management practices unless otherwise directed by the building inspector.

(9) Sedimentation basins (debris basins, desalting basins, or silt traps) and other drainage and sedimentation control measures shall be installed in conjunction with initial work and must be in place and functional prior to the initial grading operations. These measures must be maintained throughout the development process. Sediment basins and/or silt traps may be temporary, but shall not be removed without the approval of building inspector.

(10) Damage to vegetation on stream banks or waterways (those not regulated in other chapters of this code) shall be minimized within five feet (5')

of each bank, except as necessary for the installation of utilities, development of roads, or construction of retention ponds and related drainage improvements.

(11) Land shall be developed to the extent possible in increments of workable size that can be completed in a single construction season. Erosion and sedimentation control measures shall be coordinated with the sequence of grading development and construction operations. Control measures such as berms, interceptor ditches, terraces, and sediment and silt traps shall be put into effect prior to any other stage of development.

(12) The permanent vegetation shall be installed on the construction site as soon as utilities are in place and final grades are achieved. However, without prior approval of an alternate plan by the Mount Carmel Planning Commission, permanent or temporary soil stabilization must be applied to disturbed areas within seven (7) days from substantial completion of grading and where disturbed areas will remain unfinished for more than thirty (30) calendar days.

(13) Retention facilities and drainage structures shall, where possible, use natural topography and natural vegetation. In lieu thereof, these structures shall have planted trees and vegetation such as shrubs and permanent ground cover on their borders. Plant varieties shall be those sustainable in a drainage way environment or as may be outlined in best management practices. Woody material, such as trees, shall be kept from encroaching on the dam. Utilities shall not be constructed through the stormwater control device and must be accessible without disturbing the device.

(14) In many situations, retention facilities and drainage structures need to be fenced in order to protect public safety. The Mount Carmel Planning Commission may require fencing for any basin or structure. When the planning commission requires fencing, the following specifications apply. Alternate fencing plans may be considered when requested by the developer, residents, or if the planning commission feels some other form of fencing is more appropriate for the site:

(a) A minimum height of six feet (6');

(b) Line post must be one and seven-eighths (1 7/8) diameter, sixteen (16) gauge;

(c) Fence must be chained link of a minimum of nine (9) gauge, or approved alternative;

(d) A lockable access gate of a minimum width of twelve feet (12') must be provided to allow access by equipment and machinery as needed for maintenance.

(15) Drainage and sedimentation control plans must meet minimum requirements established in <u>Tennessee Code Annotated</u> as follows:

- (a) Name of applicant;
- (b) Business or residence address of applicant;
- (c) Name and address of owners of property involved in activity;

(d) Address and legal description of property and names of adjoining property owners;

(e) Name(s) and address(es) of contractor(s), if different from applicant, and any subcontractor(s) who shall undertake the land disturbing activity and who shall implement the drainage and sedimentation control plan;

(f) A brief description of the nature, extent, and purpose of the land disturbing activity;

(g) Proposed schedule for starting and completing project.

(16) For an outfall in a drainage area of a total of ten (10) or more acres, a temporary (or permanent) sediment basin that provides storage for a calculated volume of runoff from a two (2) year, twenty-four (24) hour storm and runoff from each acre drained, or equivalent control measures, shall be provided until final stabilization of the site. Where equivalent control measure is substituted for a sediment retention basin, the equivalency must be justified to the town and TDEC. Runoff from any undisturbed acreage should be diverted around the disturbed area and the sediment basin. Diverted runoff can be omitted from the volume calculation. Sediment storage expected from the disturbed areas must be included and a marker installed signifying the need for cleanout of the basin.

(17) Requirements for construction site operators to control waste such as discarded building materials, concrete truck washout, chemicals, litter, and sanitary waste at the construction site that may cause adverse impacts to water quality. (Ord. #334, June 2008)

14-1610. <u>Priority construction sites</u>. Priority construction sites are those adjacent to, around, or immediately upstream of waters the state recognizes as impaired (for siltation) or as high quality waters. Prior to any grading or other construction activity at such sites, a preconstruction meeting between the construction site owner/operators and town staff will be required at the site.

These sites, if any, will be inspected at least once monthly by town staff. (Ord. #334, June 2008)

14-1611. <u>Buffers</u>. Buffers will be required as described below:

(1) <u>For discharges into impaired or high quality waters</u>. As required by the TDEC construction site permit, a sixty foot (60') natural riparian buffer zone adjacent to the receiving stream shall be preserved to the maximum extent possible during construction activities at the site. This buffer shall be designed and maintained as prescribed by TDEC.

(2) A thirty foot (30') natural riparian buffer zone adjacent to all streams at the construction site shall be preserved, to the maximum extent practicable, during construction activities at the site. The riparian buffer zone should be preserved between the top of stream bank and the disturbed construction area. The thirty foot (30') criterion for the width of the buffer zone can be established on an average width basis at a project as long as the minimum width of the buffer zone is more than fifteen feet (15') at any measured point.

(3) <u>Property line buffer</u>. Detention basin and culvert outlets on level ground will terminate no less than ten feet (10') from the property line into a level spreader and be lined with rip-rap, heavy vegetation, or other approved methods to slow discharged waters. Outlets terminating on sloping ground will terminate as follows:

	<u>From property line</u>	
	<u>minimum feet</u>	<u>Slope</u>
	15	10% or less
	25	11-20%
	35	21-30%
	Not permitted	Greater than 30%
#99 <i>1</i>	June 2008 as amonded by Ord	#19970 Eab 9019)

(Ord. #334, June 2008, as amended by Ord. #12370, Feb. 2012)

14-1612. <u>Permanent</u> stormwater management facilities. Installation of permanent stormwater management facilities shall occur after the site has been adequately stabilized with permanent vegetation. Permanent stormwater management facilities must be clearly marked on the plat of record including a notation that these stormwater facilities must be maintained, as specified in the maintenance agreement (§ 14-1608(4)(f)) above and that they are permanent and may not be filled, altered or otherwise changed. The development will not be granted final approval (bond will not be released) until:

(1) As-built plans for each individual facility, sealed by the engineer of record, have been submitted;

(2) Each facility has been inspected by the building inspector. (Ord. #334, June 2008)

14-1613. <u>Plan development at owner's/developer's expense</u>. Unless specifically approved by the board of mayor and aldermen, all drainage and sedimentation control plans shall be developed and presented at the expense of the owner/developer. (Ord. #334, June 2008)

14-1614. <u>Plan submitted to building inspector</u>. Six (6) copies of the drainage and sedimentation control plan shall be submitted directly to the building inspector at least fifteen (15) days prior to consideration. Any insufficiencies, violations noted or comments will be directed back to the applicant/developer. The plan will then be revised as required prior to being presented to the Mount Carmel Planning Commission.

(1) <u>Re-submittal of DSCP</u>. The owner/developer shall be required to resubmit pertinent sections of the DSCP under the following circumstances:

14-75

(a) Whenever there is a change in the scope of the project, which would be expected to have a significant effect on the discharge of pollutants to the waters of the state and which have not been otherwise addressed in the DSCP information previously submitted (e.g. The size of the project changes to include grading of acreage not previously shown).

(b)Whenever inspections or investigations by site operators, local, state, or federal officials/inspectors indicate the control(s) designed/ constructed is/are proving ineffective in eliminating or significantly minimizing pollutants.

Whenever the owner/developer change the design of the (c)project to include adding or reducing the number, changing the size of or of introducing new control devices. (Note: minor changes as determined by the town engineer and/or building inspector may be exempt from this requirement.

The town engineer and/or building inspector will determine how (2)much of the DCSP needs to be re-submitted. The planning commission will consider appeals based on information submitted at least three (3) working days before regular or called meetings.

Re-Submittal will be IAW paragraphs 14-1613 and 14-1614 of this (3)section. (Ord. #334, June 2008, as amended by Ord. #12-370, Feb. 2012)

14-1615. Speedy review of plan. (1) The Mount Carmel Planning

(2)The applicant may waive the time requirement in this section and consent to an extension or extensions of the applicable time period.

In this regard, road frontage and similar plans which do not (3)require or minimally require excavation or underground utility construction submitted fifteen (15) or more days prior to a regular planning commission meeting, shall be placed on the planning commission agenda for the next scheduled meeting for initial consideration. Plans which require new streets and/or major underground utility construction shall be submitted at least thirty (30) days prior to a planning commission date to be considered at the next meeting and shall complete, the plan may be returned with an explanation and not considered until resubmitted with correction(s) at least thirty (30) days

Commission shall review drainage and sedimentation control plans as soon as possible while still allowing for a thorough evaluation of the problems and mitigation measures identified and addressed. The planning commission will take final action on plans submitted no later than sixty (60) days after the initial consideration date by the planning commission. The sixty (60) days may be extended when there is a holiday or an unexpected interceding event that would close municipal offices and thus affect the normal computation of the sixty (60) day period, in which case the plan shall be approved or disapproved after the interrupted sixty (60) day period at the next regularly scheduled meeting of the commission.

before a regular planning commission meeting date. Complete plans submitted/ resubmitted with correction(s) less than thirty (30) days before a regular planning commission meeting date, will be placed on the planning commission agenda at the second following regular meeting date for initial consideration (if staff review is completed in time for the next meeting, the plan may be placed on the agenda for that meeting). Note that the planning commission meets regularly once a month. (Ord. #334, June 2008, as replaced by Ord. #12-370, Feb. 2012)

14-1616. <u>Grading permit and bond</u>. Following approval of the drainage and sedimentation control plan by the planning commission, a limited grading permit for the erosion and sediment control devices only shall be obtained from the building inspector. After these devices are installed, inspected and approved, an unlimited grading permit must be obtained for other site work.

(1) Prior to issuing the permit, the Town of Mount Carmel, Tennessee may, at its discretion, require the submittal of a performance security or performance bond in order to ensure that the stormwater practices are installed by the permit holder as required by the approved stormwater drainage and sediment control plan. The amount of the installation performance security or performance bond shall be the total estimated construction cost of the structural BMPs approved under the permit plus five percent (5%). 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 Town of Mount Carmel, Tennessee. Alternatively, the Town of Mount Carmel, Tennessee shall have the right to calculate the cost of construction cost estimates.

(2) 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 has been installed in accordance with the approved plan and other applicable provisions of this chapter. The Town of Mount Carmel, Tennessee will make a final inspection of the structural BMP 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 may be made at the discretion of the Town of Mount Carmel, Tennessee. (Ord. #334, June 2008)

14-1617. <u>Building inspector and/or town designee may require</u> <u>additional protective measures</u>. The building inspector and/or the town's designee have the authority at their discretion to require ground cover or other remediation measures preventing stormwater, erosion and sediment run-off, if either determines after construction begins that the plan and/or implementation schedule approved by the planning commission does not adequately provide the protection intended in the ordinance comprising this chapter and in the approval issued by the commission. Additional protective measures required by the building inspector and/or the town designee that fall under the authority of the planning commission are subject to appeal under the procedures outlined in § 14-1635 of this chapter. (Ord. #334, June 2008)

14-1618. <u>Retention/detention facilities and drainage structures</u> <u>maintained</u>. All on-site retention basins and drainage structures shall be properly maintained by the owner/developer during all phases of construction and development so that they do not become a nuisance. Nuisance conditions shall include improper storage resulting in uncontrolled runoff and overflow; stagnant water with concomitant algae growth, insect breeding, and odors; discarded debris; and safety hazards created by the facilities operation. The Mount Carmel Planning Commission has the responsibility to see that the retention basin is properly maintained and operational. The developer shall provide the necessary permanent easements to provide town personnel access to the retention facilities and drainage structures for periodic inspection. A right-of-way to conduct such inspections shall be expressly reserved in the permit. (Ord. #334, June 2008)

14-1619. <u>Improperly maintained retention/detention facilities and</u> <u>drainage structures a violation</u>. The building inspector and/or town designee shall periodically monitor and inspect the care, maintenance and operation of retention facilities and drainage structures during and after construction and development. Facilities found to be a nuisance as defined in the Mount Carmel Municipal Code are in violation of the ordinance comprising this chapter and are subject to fines of fifty dollars (\$50.00) per day with each additional day considered a separate violation. (Ord. #334, June 2008)

14-1620. <u>Town may take ownership of retention facilities and</u> <u>drainage structures</u>. The Mount Carmel Board of Mayor and Aldermen shall have the authority to accept or take ownership of retention facilities and drainage structures on behalf of the town provided that the board and commission feel the public interest is best served by the town providing on-going responsibility for maintenance and upkeep. In such cases, approval of the transfer of ownership shall only occur after the planning commission and the BMA have received an inspection report from the building inspector, with the possible technical assistance of the Hawkins County extension agent and/or soil conservationist, that certifies said devices have been properly constructed and landscaped, are operating effectively, and appropriate safety and protective measures have been implemented or constructed. Transfer of ownership to the town shall occur at or near the completion of the subdivision or development and the developer must provide fee simple title to the property on which the retention/detention basin or drainage structure is located and/or any necessary easements allowing the Town of Mount Carmel access to the facilities for routine maintenance and care. (Ord. #334, June 2008)

14-1621. <u>Technical assistance</u>. Through a memorandum of understanding with the Town of Mount Carmel, the Hawkins County Soil Conservation District staff and the Hawkins County extension agent are available for consultation and advice concerning stormwater management and erosion and sedimentation problems to all persons planning to develop land within the town or under the subdivision jurisdiction of the Mount Carmel Planning Commission. Tennessee Department of Environment and Conservation (TDEC) staff may also be consulted. The planning commission and building inspector will use these consultants as needed to review drainage and sedimentation control plans prior to approval and provide assistance to the building inspector with inspections. (Ord. #334, June 2008)

14-1622. <u>Building inspector and/or designee responsible for</u> providing safeguards in projects less than one (1) acre or utilizing less than three (3) lots. Projects undertaken within the city limits of Mount Carmel that are not subject to review and approval of the Mount Carmel Planning Commission shall fall under the responsibility of the Mount Carmel Building Inspector and/or the town designee to see that the measures required in this chapter to protect the health and safety of the people and to protect the quality of surface waters are carried out as needed. The building inspector shall require reasonable drainage, erosion and sedimentation control measures as part of the grading permit process outlined in § 14-1605. Under no conditions shall the building inspector or town designee allow silt or sedimentation to enter drainage ways or adjoining properties or allow stormwater flows to adversely impact adjoining properties. Denuded areas, cuts and slopes shall be properly covered within the same schedule as directed in § 14-1607(14) of this chapter. (Ord. #334, June 2008)

14-1623. <u>Grading permit also required for any project on less</u> <u>than one (1) acre involving grading, filling, or excavation</u>. A grading permit is also required for any development or construction activity, except as exempted in § 14-1604 and those activities exempted from the definition of land disturbing activity, on property one (1) acre or less. However, said development and construction activities do not require a formal drainage and sedimentation control plan unless specifically requested by the planning commission. The building inspector shall require that all grading, vegetation, drainage, stormwater, erosion and sedimentation control measures necessary shall be implemented, shall conform to any and all best management practices, and shall meet the objectives established in this chapter. Developers must also present to the building inspector a description of the measures that will be taken to address the requirements established in § 14-1607 of this chapter avoiding mud, sediment, rock and debris on public ways, streets, and/or streams. These measures must be addressed prior to the building inspector issuing a grading permit. Measures preventing excess runoff and erosion must be in place prior to the commencement of grading and/or excavation. (Ord. #334, June 2008)

14-1624. <u>Existing developed properties with drainage, erosion</u> <u>and sediment concerns</u>. Properties of any size within the city limits of the Town of Mount Carmel that have been developed or in which land disturbing activities have previously been undertaken are subject to the following requirements:

(1) Denuded areas still existing must be covered as specified in best management practices with appropriate vegetation and/or mulch;

(2) Cuts and slopes must be properly covered with appropriate vegetation and/or retaining walls constructed;

(3) Drainage ways shall be properly covered in vegetation or secured with stones, etc. to prevent erosion;

(4) Junk, rubbish, etc. shall be cleared of drainage ways to help minimize possible contamination of stormwater runoff;

(5) Stormwater runoff in commercial areas, office or medical facilities, and multi-family residences of three (3) or more units shall be controlled to the extent reasonable to prevent pollution of local waters. Such control measures shall include, but not be limited to, the following:

(a) Oil skimmer/grit collector structure. These structures are designed to skim off floatables out of parking lots and other impervious surfaces, and allow solids of debris and sediment to settle before being discharged in a local waterway;

(b) Retention basins;

(c) Planting and/or sowing of vegetation;

(d) Rip-rapping, mulching, and other similar erosion control measures associated with local drainage ways. (Ord. #334, June 2008)

14-1625. Improvements required in existing development normally at owner's expense. Drainage and sediment control measures required in existing developed properties shall normally be undertaken at the property or business owner's expense. The board of mayor and aldermen, however, at its discretion in circumstances in which board members feel the town's participation is essential to protecting the health and safety of residents and the water quality of Mount Carmel's drainage ways, may approve cost sharing needed drainage and sedimentation control measures. (Ord.#334, June 2008) 14-1626. <u>Town may take responsibility for existing retention</u> <u>facilities and drainage structures</u>. The Mount Carmel Board of Mayor and Aldermen may, on behalf of the town, take responsibility for existing retention facilities and drainage structures if the Mount Carmel Planning Commission so determines that the general public is better served when said facilities are under the long-term maintenance responsibility of the town. Facilities considered shall be accepted as outlined in § 14-1620 of this chapter. The Mount Carmel Planning Commission may also recommend to the board of mayor and aldermen that the town participate in making certain improvements to existing facilities in addition to accepting responsibility for their long-term maintenance and care if the commission feels said improvements are in the best interest of the general public. (Ord. #334, June 2008)

14-1627. <u>Improvements needed at existing locations determined</u> <u>by the building inspector and/or town designee</u>. Recommendations may come from the building inspector, soil conservation service, the agricultural extension office or other qualified personnel. Recommendations shall be:

(1) Provided in writing to the property/business owner.

(2) Detailed as to specific actions required and why these actions are necessary.

(3) Made with a reasonable period of time for implementation. (Ord. #334, June 2008)

14-1628. <u>Improvements required with existing developments</u> <u>subject to appeal</u>. (1) <u>Alteration of drainage ways</u>. Drainage ways including wet weather conveyances may not be filled, altered, diverted or otherwise changed unless approved by the building inspector. Requests will include information on the size of the area being drained, the impact of the change-where the changed water will go, and why the change is necessary.

(2) Improvements required by the building inspector and/or town designee as outlined in § 14-1626 of this chapter are subject to appeal by the property/business owners to the Mount Carmel Planning Commission as specified in § 14-1635. (Ord. #334, June 2008, as amended by Ord. #12-375, June 2012)

14-1629. <u>Post construction</u>. (1) <u>As-built plans</u>. All applicants are required to submit actual as-built plans for any 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. A final inspection by the Town of Mount Carmel, Tennessee is required before any performance security or performance bond will be released. The Town of Mount Carmel, Tennessee shall have the discretion to adopt provisions for a partial pro-rata release of the performance security or performance security or performance bond on the

completion of various stages of development. In addition, occupation permits shall not be granted until corrections to all BMPs have been made and accepted by the Town of Mount Carmel, Tennessee.

(2) <u>Landscaping and stabilization requirements</u>. (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 Town of Mount Carmel, Tennessee. 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.

(b) In addition to the above requirements, a landscaping plan must be submitted with the final design describing the vegetative stabilization and management techniques to be used at a site after construction is completed. This plan will explain not only how the site will be stabilized after construction, but who will be responsible for the maintenance of vegetation at the site and what practices will be employed to ensure that adequate vegetative cover is preserved.

(3) <u>Inspection of stormwater management facilities</u>. Periodic inspections of facilities shall be performed as provided for throughout this document.

(4) <u>Records of installation and maintenance activities</u>. Parties responsible for the operation and maintenance of a stormwater management facility shall make records of the installation of the stormwater facility, and of all maintenance and repairs to the facility, and shall retain the records for at least two (2) years. These records shall be made available to the Town of Mount Carmel, Tennessee during inspection of the facility and at other reasonable times upon request.

(5) <u>Failure to meet or maintain design or maintenance standards</u>. If a responsible party fails or refuses to meet the design or maintenance standards required for stormwater facilities under this chapter, the Town of Mount Carmel, Tennessee, 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 Town of Mount Carmel, Tennessee shall notify, in writing, the party responsible for maintenance of the stormwater management facility. Upon receipt of that notice, the responsible person shall have three (3) 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 Town of Mount Carmel, Tennessee may take necessary corrective action. However, in emergency situations as determined by the building inspector or his designee (washout of facilities, excessive mud and/or silt on streets, adjacent properties or streams), time will be of the essence. If the responsible person does not provide immediate corrective action, the Town of Mount Carmel, Tennessee may initiate necessary action and charge the responsible person for same plus administrative/overhead charges. The cost of any action by the Town of Mount Carmel, Tennessee under this section plus an administrative/overhead charge of no less than two hundred dollars (\$200.00) nor more than five hundred dollars (\$500.00) for each incident shall be charged to the responsible party. (Ord. #334, June 2008)

14-1630. <u>Illicit discharges</u>. (1) <u>Scope</u>. This section shall apply to any illegal disposal including dumping and all water generated on developed or undeveloped land entering the municipality's separate storm sewer system.

(2) <u>Prohibition of illicit discharges</u>. No person shall introduce or cause to be introduced into the municipal separate storm sewer system any discharge that is not composed entirely of stormwater including contamination of stormwater runoff from hot spots. The commencement, conduct or continuance of any non-stormwater discharge to the municipal separate storm sewer system is prohibited except as described as follows:

(a) Uncontaminated discharges from the following sources:

- (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) Individual residential car washing;
- (xii) Natural riparian habitat or wet-land flows;

(xiii) Swimming pools (if de-chlorinated typically less than one (1) PPM chlorine);

(xiv) Fire fighting activities; and

(xv) Any other uncontaminated water source.

(b) Discharges specified in writing by the Town of Mount Carmel, Tennessee as being necessary to protect public health and safety;

(c) Dye testing is an allowable discharge if the Town of Mount Carmel, Tennessee has so specified in writing.

(3) <u>Prohibition of illicit connections</u>. (a) The construction, use, maintenance or continued existence of illicit connections to the separate municipal storm sewer system is prohibited. This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

(b) Reduction of stormwater pollutants by the use of best management practices. Any person responsible for a property or premises, which is, or may be, the source of an illicit discharge, may be required to implement, at the person's expense, the BMPs necessary to prevent the further discharge of pollutants to the municipal separate storm sewer system. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of stormwater associated with industrial activity, to the extent practicable, shall be deemed compliance with the provisions of this section.

Notification of spills. Notwithstanding other requirements of law, (4)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 Town of Mount Carmel, Tennessee 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 Town of Mount Carmel, Tennessee 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. Such records shall be retained for at least five (5) years. (Ord. #334, June 2008, as amended by Ord. #12-370, Feb. 2012)

14-1631. <u>Monitoring, reports, and inspections</u>. The building inspector and/or town designee, with the possible assistance of the soil conservationist and/or the county extension agent, shall make periodic

inspections of the land disturbing activities, the stormwater management system installations and/or other area for illicit discharges, and other activities requiring a grading permit to ensure compliance with the approved plan and Mount Carmel's best management practices. Inspections will evaluate whether the measures required in the drainage and sedimentation control plan and/or grading permit and undertaken by the developer are effective in controlling erosion. The right of entry to conduct such inspections shall be expressly reserved in the permit. If the building inspector and/or town designee determines that the permit holder has failed to comply with plan approval, the following procedures shall apply:

(1) A notice from the building inspector and/or town designee shall be served on the permit holder either by registered or certified mail, delivered by hand to the permit holder or an agent or employee of the permitted supervising the activities, or by posting the notice at the work site in a visible location, that the permit holder is in non-compliance.

(2) The notice of non-compliance shall specify the measures needed to comply and shall specify the time within which such corrective measures shall be completed. The building inspector and/or town designee shall require a reasonable period of time for the permittee to implement measures bringing the project into compliance; however, if it is determined by the building inspector and/or town designee that health and safety factors or the damage resulting from non-compliance is extremely severe, immediate action may be required.

(3) If the permit holder fails to comply within the time specified, the permit may be subject to revocation. In addition, the permittee shall be deemed to be in violation of this chapter and thus shall be subject to the penalties provided in the ordinance comprising this chapter.

(4) In conjunction with the issuance of a notice of non-compliance or subsequent to the permittee not completing the corrective measures directed in the time period required, the building inspector or town designee may issue an order requiring all or part of the land disturbing activities on the site be stopped. The stop work order may be issued with or as part of the notice of non-compliance, or may be delivered separately in the same manner as directed in § 14-1628(1). (Ord. #334, June 2008)

14-1632. <u>Mud/silt debris/other pollutants in street/stream</u>. The fact that mud, silt, debris or other pollutants has moved from the job site or existing developed/undeveloped properties to the street, stream or adjoining property either by man, mechanical means, or acts of God is prima facie evidence that the provisions of this chapter have been violated. If such occurs from separate, distinct places at least one hundred feet (100') apart, each will be a separate violation even though the property is owned by the same individual. Such violations may be cited into the municipal court by the building inspector, police or others designated to enforce this chapter. (Ord. #334, June 2008, as amended by Ord. #12-370, Feb. 2012)

14-1633. <u>Certificate of occupancy not issued until compliance</u> <u>with plan verified</u>. The building inspector will not issue a certificate of occupancy necessary to occupy any commercial or residential establishment until all aspects of the drainage and sedimentation control plan have been completed, control devices constructed have been approved and accepted, and, if within a subdivision or commercial development, all paving, landscaping, and utilities, including street lighting if decorative lights are used, are approved and accepted. (Ord. #334, June 2008)

14-1634. <u>Plan construction acceptance and bond release</u>. <u>Drainage and sedimentation control plan activities must be inspected</u> <u>and accepted by the building inspector and/or the town designee</u>. If within a commercial or subdivision development, streets, sidewalks, curbs and alleys, landscaping, street lighting, water, sewer, and any installation of power, telephone, cable, and gas utilities must be approved and accepted by the appropriate official. All monitoring and regulatory authorities shall complete an approval and acceptance form before the building inspector releases the associated performance bond. The building inspector and/or town designee will sign a release on the approval and acceptance form as soon as all of the project criteria have been satisfied and approved. (Ord. #334, June 2008)

14-1635. <u>Appeal of administrative action</u>. Actions taken by the building inspector and/or town designee as authorized in this chapter are subject to review by the Mount Carmel Planning Commission provided an appeal is filed in writing with the chairman of the planning commission within thirty (30) days from the date any written or verbal decision has been made which the developer feels adversely affects his/her rights, duties or privileges to engage in the land disturbing activity and/or associated development proposed. Drainage and sediment mitigation actions required by the building inspector and/or town designee with existing properties or developments are also subject to appeal to the Mount Carmel Planning Commission provided that appeals are made in writing, within thirty (30) days of receiving formal notification to the commission chairman citing the specific reasons(s) the activity or activities required present a hardship and cannot be implemented. (Ord. #334, June 2008)

14-1636. <u>Town clean up resulting from violations at</u> <u>developer/owner's expense</u>. Town staff is authorized to take remedial actions to prevent, clean up, repair or otherwise correct situations in which water, sediment, rock, vegetation, etc., ends up on public streets and/or rights-of-way resulting from violations of this chapter where necessary drainage, erosion and sedimentation control measures have not been properly implemented. In such cases, the cost of labor, equipment, and materials used will be charged to the developer/owner in addition to a service charge of one hundred dollars (\$100.00) per hour and an administrative/overhead charge of not less than two hundred dollars (\$200.00) nor more than five hundred dollars (\$500.00) per incident. The town will invoice the developer/owner directly, and payment shall be received within fourteen (14) days. Failure to pay for remedial actions taken by the town under this section may result in the town attorney filing a lien against the property involved in the action. (Ord. #334, June 2008)

14-1637. <u>Penalties enforcement</u>. (1) <u>Remedies nonexclusive</u>. The remedies provided for in this chapter are not exclusive and the designated enforcement officer may take any, all or any combination of these actions against a noncompliant owner. The designated enforcement officer is empowered to take more than one (1) enforcement action against any noncompliant owner that is in violation.

(2) <u>Adoption of enforcement response plan</u>. An enforcement response plan, including a schedule of civil penalties which may be assessed for certain specific violations or categories of violations, shall be established by resolution of the board of mayor and aldermen. Any civil penalty assessed to a violator pursuant to this section may be in addition to any other penalty assessed by a state or federal authority.

(3) <u>Show cause hearing</u>. An owner that has been issued an assessment or order under this chapter may submit a written request to appear before the designated enforcement officer and show cause why the proposed enforcement action should not be taken. Notice of hearing shall be served by the designated enforcement officer specifying the time and place for the hearing. The notice of hearing shall be served personally or by certified mail, return receipt requested, at least ten (10) days prior to the hearing. A show cause hearing shall not be a bar against or prerequisite for taking any other action against the owner, but shall be a prerequisite for issuing any administrative order or assessment of civil penalties, except as provided by subsection (7) of this section relating to emergency suspensions.

(4) <u>Appeals process</u>. (a) Except in emergency suspensions pursuant to subsection (7) of this section relating to emergency suspensions, any owner against whom a penalty has been assessed for a violation of this chapter, a permit denied, revoked, suspended, against whom the designated enforcement officer has issued an order or who is otherwise aggrieved by an act of the designated enforcement officer shall have thirty (30) days after having been served with the assessment or order, or after a permit has been denied, revoked or suspended, or such person has been aggrieved to appeal the action by filing with the recorder a written petition for appeal setting forth the grounds and reasons for the appeal. The failure to serve the Mount Carmel Planning Commission sitting as the administrative appeals board pursuant to § 14-1635 within thirty (30) days with the written petition for appeal is jurisdictional, and if an appeal is not taken within the thirty (30) days the matter shall be final.

(b) Upon receipt of a written petition from an aggrieved owner under this chapter but not less than fifteen (15) days after notice of a matter to be appealed, the recorder shall give the petitioner thirty (30) days' written notice of the time and place of the hearing, but in no case shall such hearing be held more than sixty (60) days from the receipt of the written petition unless the designated enforcement officer and the petitioner agree to a postponement.

(c) An appeal to the Mount Carmel Planning Commission sitting as the administrative appeals board pursuant to § 14-1635 shall be a de novo review.

(d) Hearings before the Mount Carmel Planning Commission sitting as the administrative appeals board pursuant to § 14-1635 shall be conducted in accordance with the following:

(i) The presence of at least three (3) members of the Mount Carmel Planning Commission sitting as the administrative appeals board pursuant to § 14-1635 shall be necessary to conduct a hearing.

(ii) A verbatim record of the proceedings shall be taken, together with the findings of fact and conclusions of law. The transcript so recorded shall be made available to any party upon prepayment of a charge adequate to cover the costs of preparation.

(iii) In connection with the hearing, subpoenas shall be issued in response to any reasonable request by any party to the hearing requiring the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in the hearing. In case of contumacy or refusal to obey a notice of hearing or subpoena issued under this section, the chancery court shall have jurisdiction, upon application of the Mount Carmel Planning Commission sitting as the administrative appeals board pursuant to § 14-1635 or the designated enforcement officer, to issue an order requiring such person to appear and testify or produce evidence as the case may require, and any failure to obey such order of the court may be punished as contempt under law.

(iv) On the basis of the evidence produced at the hearing, the Mount Carmel Planning Commission sitting as the administrative appeals board pursuant to § 14-1635 shall make findings of fact and conclusions of law and enter such decisions and orders as in its opinion will best further the purposes of this chapter and shall give written notice of such decisions and orders to the petitioner. The order so issued shall be issued no later than thirty (30) days following the close of the hearing.

14-88

(v) The decision of the Mount Carmel Planning Commission sitting as the administrative appeals board pursuant to § 14-1635 shall become final and binding on all parties unless appealed as provided in subsection (11) of this section relating to judicial review.

(vi) Any person to whom an emergency order is directed pursuant to subsection (7) of this section relating to emergency suspensions shall comply therewith immediately but on petition to the Mount Carmel Planning Commission sitting as the administrative appeals board pursuant to § 14-1635 shall be afforded a hearing not later than three (3) working days from the receipt of such petition.

(e) The following shall not be applicable to emergency suspensions pursuant to subsection (7) of this section relating to emergency suspensions:

(i) If a written petition of appeal is filed by an owner, the effective date of the matter properly appealed shall be stayed until a decision is announced by the Mount Carmel Planning Commission sitting as the administrative appeals board pursuant to § 14-1635; provided, however, that in no case shall such a stay exceed a period of ninety (90) days, except as provided in subsection (10) of this section relating to additional stay, from the date of receipt of a written petition to the designated enforcement officer to appeal as set out in this section.

(ii) If a continuance of a hearing before the Mount Carmel Planning Commission sitting as the administrative appeals board pursuant to § 14-1635 is requested by an owner, no additional time shall be added to the limitations of subsection (i) of this subsection.

(iii) If the Mount Carmel Planning Commission sitting as the administrative appeals board pursuant to § 14-1635 is not able, for good cause, to hold a hearing within the sixty (60) day limit, the stay shall be extended by the number of days such period is exceeded.

(iv) If a continuance is requested by the designated enforcement officer, the time of the stay shall be extended by the same number of days as the continuance.

(5) <u>Civil penalties</u>. (a) The designated enforcement officer may recover reasonable attorney's fees, court costs and other expenses associated with enforcement of this chapter and the cost of any actual damages incurred by the town.

(b) Civil penalties assessed hereunder are intended to be remedial to protect the public health, safety and welfare of the public by protecting the waters of the state and adjoining properties. When a civil penalty is assessed to disgorge undeserved profits, or reimburse the town or a private party for fixing damages caused by the noncompliance by the owner, such penalty may be imposed without regard to whether the owner corrects or remedies the violation. Otherwise, when a civil penalty is assessed against an owner found in violation such assessment should be conditioned on providing the owner time to correct or remedy the violation in which event the penalty shall be suspended pending future compliance. If the owner fails or refuses to remedy the violation, the penalty may be imposed per diem until the violation is corrected or remedied. In determining the amount of the penalty to assess, the designated enforcement officer shall consider the factors listed in enforcement response plan and may consider all relevant circumstances, including but not limited to the extent of harm caused by the violation, the magnitude and duration of the violation, the compliance history of the owner and any other factor provided by law.

(6) <u>Method of assessment for non-compliance</u>. Civil penalties shall be assessed in the following manner:

(a) The designated enforcement officer may issue an assessment against any owner responsible for the violation;

(b) Any person against whom an assessment has been issued may secure a review of said assessment by filing with the designated enforcement officer a written petition setting forth the grounds and reasons for their objections and asking for a hearing on the matter before the Mount Carmel Planning Commission sitting as the administrative appeals board pursuant to § 14-1635. If a petition for review of the assessment is not filed within thirty (30) days after the date the assessment is served, the owner shall be deemed to have consented to the assessment and it shall become final;

(c) If any assessment becomes final because of an owner's failure to appeal the municipality's assessment, the designated enforcement officer may apply to the appropriate court for a judgment and seek execution of said judgment, and the court in such proceedings shall treat a failure to appeal such assessment as a confession of judgment in the amount of the assessment. Upon final order, if payment is not made, the designated enforcement officer may issue a cease and desist order.

(d) In assessing a civil penalty, the following factors may be considered:

(i) The harm done to the public health or the environment;

(ii) Whether the civil penalty imposed will be substantial economic deterrent to the illegal activity;

(iii) The economic benefit gained by the violator;

(iv) The amount of effort put forth by the violator to remedy this violation;

(v) Any unusual or extraordinary enforcement costs incurred by the municipality;

(vi) The amount of penalty established by ordinance or resolution for specific categories of violations; and

(vii) Any equities of the situation which outweigh the benefit of imposing any penalty or damage assessment.

(e) Damages may also include any expenses incurred in investigating and enforcing the requirements of this chapter; removing, correcting and terminating any discharge or connection; and also compensation for any actual damages to the property or personnel of the town caused by the violation, and any reasonable expenses incurred in investigating and enforcing violations of this chapter.

(7) <u>Emergency suspensions</u>. (a) Under this chapter, if the designated enforcement officer finds that an emergency exists imperatively requiring immediate action to protect the public health, safety or welfare; the health of animals, fish or aquatic life, or a public water supply; the designated enforcement officer may, without prior notice, issue an order reciting the existence of such an emergency and requiring that such action be taken as the designated enforcement officer deems necessary to meet the emergency, including suspension of a permit issued under this chapter.

(b) Any owner notified of a suspension shall immediately eliminate the violation. If an owner fails to immediately comply voluntarily with the suspension order, the designated enforcement officer may take such steps as deemed necessary to remedy the endangerment. The designated enforcement officer may allow the owner to recommence when the owner has demonstrated to the satisfaction of the designated enforcement officer that the period of endangerment has passed.

(c) An owner that is responsible, in whole or in part, for any discharge or connection presenting imminent danger to the public health, safety or welfare; the health of animals, fish or aquatic life, or a public water supply; shall submit a detailed written statement, describing the causes of the harmful discharge or connection and the measures taken to prevent any future occurrence, to the designated enforcement officer prior to the date of any show cause hearing under subsection (3) of this section relating to show cause hearing.

(d) Nothing in this chapter shall be interpreted as requiring a hearing prior to any emergency suspension under this section.

(e) Any owner whose permit or operation is suspended pursuant to this section, on petition to the Mount Carmel Planning Commission sitting as the administrative appeals board pursuant to § 14-1635, shall be afforded a hearing as soon as possible, but in no case shall such hearing be held later than three (3) working days from the receipt of such a petition by the designated enforcement officer.

(8) <u>Financial assurance</u>. (a) A performance bond which guarantees satisfactory completion of construction work related to stormwater management facilities, channel protection, vegetative buffers and any best management practices shall be required.

(b) Performance bonds shall name the Town of Mount Carmel as beneficiary and shall be guaranteed in the form of a surety bond, cashier's check or letter of credit from an approved financial institution or insurance carrier. The surety bond, cashier's check or letter of credit shall be provided in a form and in an amount to be determined by the designated enforcement officer. The actual amount shall be based on submission of plans and estimated construction, installation or potential maintenance and/or remediation expenses.

(c) The recorder may refuse brokers or financial institutions the right to provide a surety bond, cashier's check or letter of credit based on past performance, ratings of the financial institution or other appropriate sources of reference information.

(d) The designated enforcement officer may decline to approve a plan or issue or reissue a permit to any owner who has failed to comply with any section of this chapter, a permit or order issued under this chapter unless such owner first files a satisfactory bond, payable to the recorder or town, or in a sum not to exceed a value determined by the designated enforcement officer to be necessary to achieve consistent compliance.

(9) <u>Injunctive relief</u>. When the designated enforcement officer finds that an owner has violated or continues to violate any section of this chapter, or a permit or order issued under this chapter, the designated enforcement officer may petition the appropriate court, through the town's attorney, for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the permit, order or other requirement imposed by this chapter on activities of the owner. The designated enforcement officer may also seek such other action as is appropriate for legal and equitable relief, including a requirement for the owner to conduct environmental remediation. A petition for injunctive relief shall not be a bar against or a prerequisite for taking any other action against an owner.

(10) <u>Additional stay</u>. The Mount Carmel Planning Commission sitting as the administrative appeals board pursuant to § 14-1635 may grant an additional continuance and stay beyond that set out in subsection (4) of this section relating to appeals process upon the request of an owner/operator and upon the posting of an appeal bond payable to the recorder or town in a sum to be determined by the designated enforcement officer as necessary to protect the interests of the town. (11) <u>Judicial review</u>. The alleged violator may appeal a decision of the Mount Carmel Planning Commission sitting as the administrative appeals board pursuant to § 14-1635 pursuant to the provisions of <u>Tennessee Code</u> <u>Annotated</u>, title 27, chapter 8.

The violation of any provision of this chapter shall be punishable by a penalty pursuant to Tennessee law, and more particularly part 11 relating to stormwater management of <u>Tennessee Code Annotated</u>, title 68, chapter 221, § 68-221-1106(a), of not less than fifty dollars (\$50.00) or more than five thousand dollars (\$5,000.00) per day for each day of violations. Each day of violation may constitute a separate violation. This penalty may be determined by application of the enforcement response plan as defined in subsection (2) of this section relating to adoption of enforcement response plan and costs for each separate violation. (Ord. #334, June 2008, as replaced by Ord. #10-339, April 2010)

CHAPTER 17

FLOOD CONTROL

SECTION

- 14-1701. Statutory authorization, findings of fact, purpose and objectives.
- 14-1702. Definitions.
- 14-1703. General provisions.
- 14-1704. Administration.
- 14-1705. Provisions for flood hazard reduction.
- 14-1706. Variance procedures.

14-1701. <u>Statutory authorization, findings of fact, purpose and</u> <u>objectives</u>. (1) <u>Statutory authorization</u>. The Legislature of the State of Tennessee has in <u>Tennessee Code Annotated</u>, §§ 13-7-201 through 13-7-210, delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry.

(2) <u>Findings of fact</u>. (a) It is desired that eligibility in the National Flood Insurance Program (NFIP) be maintained and in order to do so, NFIP regulations found in title 44 of the Code of Federal Regulations (CFR), ch. 1, section 60.3 must be met.

(b) There are areas of the town which are subject to periodic inundation which could result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.

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

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

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

(b) Require that uses vulnerable to floods, including community facilities, be protected against flood damage at the time of initial construction;

(c) Control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of floodwaters;

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

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

(4) <u>Objectives</u>. The objectives of this ordinance are:

(a) To protect human life, health, safety and property;

(b) To minimize expenditure of public funds for costly flood control projects;

(c) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

(d) To minimize prolonged business interruptions;

(e) To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodprone areas;

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

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

(h) To maintain eligibility for participation in the NFIP. (Ord. #09-346, Jan. 2010)

14-1702. <u>Definitions</u>. (1) Unless specifically defined below, words or phrases used in this ordinance shall be interpreted as to give them the meaning they have in common usage and to give this ordinance its most reasonable application given its stated purpose and objectives.

(a) "Accessory structure" means a subordinate structure to the principal structure on the same lot and, for the purpose of this ordinance, shall conform to the following:

(i) Accessory structures shall only be used for parking of vehicles and storage.

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

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

(iv) Accessory structures shall be firmly anchored to prevent flotation, collapse, and lateral movement, which otherwise may result in damage to other structures.

(v) Utilities and service facilities such as electrical and heating equipment shall be elevated or otherwise protected from intrusion of floodwaters.

(b) "Addition (to an existing building)" means any walled and roofed expansion to the perimeter or height of a building.

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

(d) "Area of shallow flooding" means a designated AO or AH Zone on a community's Flood Insurance Rate Map (FIRM) with one percent (1%) or greater annual chance of flooding to an average depth of one to three feet (1'-3') where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate; and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

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

(f) "Area of special flood hazard" see "Special flood hazard area."

(g) "Base flood" means the flood having a one percent (1%) chance of being equaled or exceeded in any given year. This term is also referred to as the 100-year flood or the one percent (1%) annual chance flood.

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

(i) "Building" see "structure."

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

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

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

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

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

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

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

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

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

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

(i) The overflow of inland or tidal waters.

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

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

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

(v) "Flood Hazard Boundary Map (FHBM)" means an official map of a community, issued by FEMA, where the boundaries of areas of special flood hazard have been designated as Zone A. (w) "Flood Insurance Rate Map (FIRM)" means an official map of a community, issued by FEMA, delineating the areas of special flood hazard or the risk premium zones applicable to the community.

(x) "Flood insurance study" is the official report provided by FEMA, evaluating flood hazards and containing flood profiles and water surface elevation of the base flood.

(y) "Floodplain" or "floodprone area" means any land area susceptible to being inundated by water from any source (see definition of "flooding").

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

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

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

(cc) "Flood-related erosion" means the collapse or subsidence of land along the shore of a lake or other body of water as a result of undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a flash flood, or by some similarly unusual and unforeseeable event which results in flooding.

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

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

(ff) "Floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order

to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

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

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

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

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

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

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

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

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

(1) By the approved Tennessee program as determined by the Secretary of the Interior; or

(2) Directly by the Secretary of the Interior.

(kk) "Levee" means a man-made structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control or divert the flow of water so as to provide protection from temporary flooding. (ll) "Levee system" means a flood protection system which consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated ill accordance with sound engineering practices.

(mm) "Lowest floor" means the lowest floor of the lowest enclosed area, including a basement. An unfinished or flood resistant enclosure used solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance.

(nn) "Manufactured home" means a structure, transportable in one (1) or more sections, which is built on a permanent chassis and designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle."

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

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

(qq) "Mean sea level" means the average height of the sea for all stages of the tide. It is used as a reference for establishing various elevations within the floodplain. For the purposes of this ordinance, the term is synonymous with the National Geodetic Vertical Datum (NGVD) of 1929, the North American Vertical Datum (NAVD) of 1988, or other datum, to which base flood elevations shown on a community's flood insurance rate map are referenced.

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

(ss) "New construction" means any structure for which the "start of construction" commenced on or after the effective date of the initial floodplain management ordinance and includes any subsequent improvements to such structure.

(tt) "New manufactured home park or subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of this ordinance or the effective date of the initial floodplain management ordinance and includes any subsequent improvements to such structure. (uu) "North American Vertical Datum (NAVD)" means, as corrected in 1988, a vertical control used as a reference for establishing varying elevations within the floodplain.

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

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

(xx) "Reasonably safe from flooding" means base flood waters will not inundate the land or damage structures to be removed from the special flood hazard area and that any subsurface waters related to the base flood will not damage existing or proposed structures.

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

(i) Built on a single chassis;

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

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

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

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

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

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

(ccc) "Special hazard area" means an area having special flood, mudslide (i.e., mudflow) and/or floodrelated erosion hazards, and shown on an FHBM or FIRM as Zone A, AO, Al-30, AB, A99, or AB.

(ddd) "Start of construction" includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within one hundred eighty (180) days of the permit date. The actual start means either the first placement of permanent construction of a structure (including a manufactured home) on a site, such as the pouring of slabs or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; and includes the placement of a manufactured home on a foundation. Permanent construction does not include initial land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds, not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

(eee) "State coordinating agency." The Tennessee Department of Economic and Community Development's, Local Planning Assistance Office, as designated by the Governor of the State of Tennessee at the request of FEMA to assist in the implementation of the NFIP for the state.

(fff) "Structure." For purposes of this ordinance, means a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

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

(hhh) "Substantial improvement" means any reconstruction, rehabilitation, addition, alteration or other improvement of a structure in which the cost equals or exceeds fifty percent (50%) of the market value of the structure before the "start of construction" of the initial improvement. This term includes structures which have incurred "substantial damage," regardless of the actual repair work performed. The market value of the structure should be:

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

(ii) In the case of substantial damage, the value of the structure prior to the damage occurring.

The term does not, however, include either:

(i) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been preidentified by the local code enforcement official and which are the minimum necessary to assure safe living conditions and not solely triggered by an improvement or repair project; or

(ii) Any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure." (iii) "Substantially improved existing manufactured home parks or subdivisions" is where the repair, reconstruction, rehabilitation or improvement of the streets, utilities and pads equals or exceeds fifty percent (50%) of the value of the streets, utilities and pads before the repair, reconstruction or improvement commenced.

(jjj) "Variance" is a grant of relief from the requirements of this ordinance.

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

(lll) "Water surface elevation" means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, the North American Vertical Datum (NAVD) of 1988, or other datum, where specified, of floods of various magnitudes and frequencies in the floodplains of riverine areas. (Ord. #09-346, Jan. 2010)

14-1703. <u>General provisions</u>. (1) <u>Application</u>. This ordinance shall apply to all areas within the town.

(2) <u>Basis for establishing the areas of special flood hazard</u>. The areas of special flood hazard identified in the town, as identified by FEMA, and in its Flood Insurance Study (FIS) and Flood Insurance Rate Map (FIRM), Community Panel Number(s) 47073C0110D, 47073C0115D and 47073C0120D, dated July 3, 2006, along with all supporting technical data, are adopted by reference and declared to be a part of this ordinance.

(3) <u>Requirement for development permit</u>. A development permit shall be required in conformity with this ordinance prior to the commencement of any development activities.

(4) <u>Compliance</u>. No land, structure or use shall hereafter be located, extended, converted or structurally altered without full compliance with the terms of this ordinance and other applicable regulations.

(5) <u>Abrogation and greater restrictions</u>. This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants or deed restrictions. However, where this ordinance conflicts or overlaps with another regulatory instrument, whichever imposes the more stringent restrictions shall prevail.

(6) <u>Interpretation</u>. In the interpretation and application of this ordinance, all provisions shall be:

(a) Considered as minimum requirements;

(b) Liberally construed in favor of the governing body; and;

(c) Deemed neither to limit nor repeal any other powers granted under Tennessee statutes.

(7) <u>Warning and disclaimer of liability</u>. The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of the town or by any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder.

(8) <u>Penalties for violation</u>. Violation of the provisions of this ordinance or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance shall constitute a misdemeanor punishable as other misdemeanors as provided by law. Any person who violates this ordinance or fails to comply with any of its requirements shall, upon adjudication therefore, be fined as prescribed by Tennessee statutes, and in addition, shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the town from taking such other lawful actions to prevent or remedy any violation. (Ord. #09-346, Jan. 2010)

14-1704. <u>Administration</u>. (1) <u>Designation of ordinance administrator</u>. The building inspector is hereby appointed as the administrator to implement the provisions of this ordinance.

(2) <u>Permit procedures</u>. Application for a development permit shall be made to the administrator on forms furnished by the community prior to any development activities. The development permit may include, but is not limited to the following: plans in duplicate drawn to scale and showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, earthen fill placement, storage of materials or equipment, and drainage facilities. Specifically, the following information is required:

Application stage.

(a)

(i) Elevation in relation to mean sea level of the proposed lowest floor, including basement, of all buildings where base flood elevations are available, or to certain height above the highest adjacent grade when applicable under this ordinance.

(ii) Elevation in relation to mean sea level to which any non-residential building will be floodproofed where base flood elevations are available, or to certain height above the highest adjacent grade when applicable under this ordinance.

(iii) A FEMA floodproofing certificate from a Tennessee registered professional engineer or architect that the proposed non-residential floodproofed building will meet the floodproofing criteria in § 14-1705, subsections (1) and (2). (iv) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

(b) Construction stage. (i) Within AE Zones, where base flood elevation data is available, any lowest floor certification made relative to mean sea level shall be prepared by or under the direct supervision of, a Tennessee registered land surveyor and certified by same. The administrator shall record the elevation of the lowest floor on the development permit. When floodproofing is utilized for a non-residential building, said certification shall be prepared by, or under the direct supervision of, a Tennessee registered professional engineer or architect and certified by same.

(ii) Within approximate A Zones, where base flood elevation data is not available, the elevation of the lowest floor shall be determined as the measurement of the lowest floor of the building relative to the highest adjacent grade. The administrator shall record the elevation of the lowest floor on the development permit. When floodproofing is utilized for a non-residential building, said certification shall be prepared by, or under the direct supervision of, a Tennessee registered professional engineer or architect and certified by same.

(iii) For all new construction and substantial improvements, the permit holder shall provide to the administrator an as-built certification of the lowest floor elevation or floodproofing level upon the completion of the lowest floor or floodproofing.

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

(3) <u>Duties and responsibilities of the administrator</u>. Duties of the administrator shall include, but not be limited to, the following:

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

(b) Review proposed development to assure that all necessary permits have been received from those governmental agencies from which approval is required by federal or state law, including section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334. (c) Notify adjacent communities and the Tennessee Department of Economic and Community Development, Local Planning Assistance Office, prior to any alteration or relocation of a watercourse and submit evidence of such notification to FEMA.

(d) For any altered or relocated watercourse, submit engineering data/analysis within six (6) months to FEMA to ensure accuracy of community FIRM's through the letter of map revision process.

(e) Assure that the flood carrying capacity within an altered or relocated portion of any watercourse is maintained.

(f) Record the elevation, in relation to mean sea level or the highest adjacent grade, where applicable, of the lowest floor (including basement) of all new and substantially improved buildings, in accordance with § 14-1704, subsection (2).

(g) Record the actual elevation, in relation to mean sea level or the highest adjacent grade, where applicable to which the new and substantially improved buildings have been floodproofed, in accordance with § 14-1704, subsection (2).

(h) When floodproofing is utilized for a nonresidential structure, obtain certification of design criteria from a Tennessee registered professional engineer or architect, in accordance with § 14-1704, subsection (2).

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

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

(k) Maintain all records pertaining to the provisions of this ordinance in the office of the administrator and shall be open for public inspection. Permits issued under the provisions of this ordinance shall be maintained in a separate file or marked for expedited retrieval within combined files. (Ord. #09-346, Jan. 2010)

14-1705. <u>Provisions for flood hazard reduction</u>. (1) <u>General</u> <u>standards</u>. In all areas of special flood hazard, the following provisions are required:

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

(b) Manufactured homes shall be installed using methods and practices that minimize flood damage. They must be elevated and anchored to prevent flotation, collapse and lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State of Tennessee and local anchoring requirements for resisting wind forces.

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

(d) New construction and substantial improvements shall be constructed by methods and practices that minimize flood damage;

(e) All electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;

(f) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;

(g) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters;

(h) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding;

(i) Any alteration, repair, reconstruction or improvements to a building that is in compliance with the provisions of this ordinance, shall meet the requirements of "new construction" as contained in this ordinance;

(j) Any alteration, repair, reconstruction or improvements to a building that is not in compliance with the provision of this ordinance, shall be undertaken only if said non-conformity is not further extended or replaced;

(k) All new construction and substantial improvement proposals shall provide copies of all necessary federal and state permits, including section 404 of the Federal Water Pollution Control Act amendments of 1972, 33 U.S.C. 1334;

(l) All subdivision proposals and other proposed new development proposals shall meet the standards of § 14-1705, subsection (2);

(m) When proposed new construction and substantial improvements are partially located in an area of special flood hazard, the entire structure shall meet the standards for new construction;

(n) When proposed new construction and substantial improvements are located in multiple flood hazard risk zones or in a flood hazard risk zone with multiple base flood elevations, the entire structure shall meet the standards for the most hazardous flood hazard risk zone and the highest base flood elevation.

(2) <u>Specific standards</u>. In all areas of special flood hazard, the following provisions, in addition to those set forth in § 14-1705, subsection (1), are required:

(a) Residential structures. (i) In AE Zones where base flood elevation data is available, new construction and substantial improvement of any residential building (or manufactured home) shall have the lowest floor, including basement, elevated to no lower than one foot (1') above the base flood elevation. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate equalization of flood hydrostatic forces on both sides of exterior walls shall be provided in accordance with the standards of this section: "Enclosures."

(ii) Within approximate A Zones where base flood elevations have not been established and where alternative data is not available, the administrator shall require the lowest floor of a building to be elevated to a level of at least three feet (3') above the highest adjacent grade (as defined in § 14-1702). Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate equalization of flood hydrostatic forces on both sides of exterior walls shall be provided in accordance with the standards of this section: "Enclosures."

(b) Non-residential structures. (i) In AE Zones, where base flood elevation data is available, new construction and substantial improvement of any commercial, industrial, or nonresidential building, shall have the lowest floor, including basement, elevated or floodproofed to no lower than one foot (1') above the level of the base flood elevation. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate equalization of flood hydrostatic forces on both sides of exterior walls shall be provided in accordance with the standards of this section: "Enclosures."

(ii) In approximate A Zones, where base flood elevations have not been established and where alternative data is not available, new construction and substantial improvement of any commercial, industrial, or non-residential building, shall have the lowest floor, including basement, elevated or floodproofed to no lower than three feet (3') above the highest adjacent grade (as defined in § 14-1702). Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate equalization of flood hydrostatic forces on both sides of exterior walls shall be provided in accordance with the standards of this section: "Enclosures."

(iii) Non-residential buildings located in all A Zones may be floodproofed, in lieu of being elevated, provided that all areas of the building below the required elevation are watertight, with walls substantially impermeable to the passage of water, and are built with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. A Tennessee registered professional engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions above, and shall provide such certification to the administrator as set forth in § 14-1704, subsection (2).

(c) Enclosures. (i) All new construction and substantial improvements that include fully enclosed areas formed by foundation and other exterior walls below the lowest floor that are subject to flooding, shall be designed to preclude finished living space and designed to allow for the entry and exit of flood waters to automatically equalize hydrostatic flood forces on exterior walls.

(1) Designs for complying with this requirement must either be certified by a Tennessee professional engineer or architect or meet or exceed the following minimum criteria.

> (a) Provide a minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding;

> (b) The bottom of all openings shall be no higher than one foot (1') above the finished grade;

(c) Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwaters in both directions.

(ii) The enclosed area shall be the minimum necessary to allow for parking of vehicles, storage or building access.

(iii) The interior portion of such enclosed area shall not be finished or partitioned into separate rooms in such a way as to impede the movement of floodwaters and all such partitions shall comply with the provisions of § 14-1705, subsection (2). (iv) Standards for manufactured homes and recreational vehicles. (A) All manufactured homes placed, or substantially improved, on:

(1) Individual lots or parcels;

(2) In expansions to existing manufactured home parks or subdivisions; or

(3) In new or substantially improved manufactured home parks or subdivisions, must meet an the requirements of new construction.

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

> (a) In AE Zones, with base flood elevations, the lowest floor of the manufactured home is elevated on a permanent foundation to no lower than one foot (1') above the level of the base flood elevation; or

> (b) In approximate A Zones, without base flood elevations, the manufactured home chassis is elevated and supported by reinforced piers (or other foundation elements of at least equivalent strength) that are at least three feet (3') in height above the highest adjacent grade (as defined in § 14-1702).

(3) Any manufactured home, which has incurred "substantial damage" as the result of a flood, must meet the standards of § 14-1705, subsections (1) and (2).

(4) All manufactured homes must be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.

(5) All recreational vehicles placed in an identified special flood hazard area must either:

(a) Be on the site for fewer than one hundred eighty (180) consecutive days;

(b) Be fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is licensed, on its wheels or jacking system, attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached structures or additions), or;

(c) The recreational vehicle must meet all the requirements for new construction.

(d) Standards for subdivisions and other proposed new development proposals. Subdivisions and other proposed new developments, including manufactured home parks, shall be reviewed to determine whether such proposals will be reasonably safe from flooding.

(i) All subdivision and other proposed new development proposals shall be consistent with the need to minimize flood damage.

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

(iii) All subdivision and other proposed new development proposals shall have adequate drainage provided to reduce exposure to flood hazards.

(iv) In all approximate A Zones require that all new subdivision proposals and other proposed developments (including proposals for manufactured home parks and subdivisions) greater than fifty (50) lots or five (5) acres, whichever is the lesser, include within such proposals base flood elevation data (See § 14-1705, subsection (5).

(3) <u>Standards for special flood hazard areas with established base</u> <u>flood elevations and with floodways designated</u>. (a) Located within the special flood hazard areas established in § 14-1703, subsection (2), are areas designated as floodways. A floodway may be an extremely hazardous area due to the velocity of floodwaters, debris or erosion potential. In addition, the area must remain free of encroachment in order to allow for the discharge of the base flood without increased flood heights and velocities. Therefore, the following provisions shall apply:

(b) Encroachments are prohibited, including earthen fill material, new construction, substantial improvements or other development within the regulatory floodway. Development may be permitted however, provided it is demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practices that the cumulative effect of the proposed encroachments or new development shall not result in any increase in the water surface elevation of the base flood elevation, velocities, or floodway widths during the occurrence of a base flood discharge at any point within the community. A Tennessee registered professional engineer must provide supporting technical data, using the same methodologies as in the effective flood insurance study for the town and certification, thereof.

(c) New construction and substantial improvements of buildings, where permitted, shall comply with all applicable flood hazard reduction provisions of § 14-1705, subsections (1) and (2).

(4) <u>Standards for areas of special flood hazard Zones AE with</u> established base flood elevations but without floodways designated.

(a) Located within the special flood hazard areas established in § 14-1703, subsection (2), where streams exist with base flood data

provided but where no floodways have been designated (Zones AE), the following provisions apply:

(b) No encroachments, including fill material, new construction and substantial improvements shall be located within areas of special flood hazard, unless certification by a Tennessee registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot (1') at any point within the community. The engineering certification should be supported by technical data that conforms to standard hydraulic engineering principles.

(c) New construction and substantial improvements of buildings, where permitted, shall comply with all applicable flood hazard reduction provisions of § 14-1705, subsections (1) and (2).

(5) <u>Standards for streams without established base flood elevations</u> <u>and floodways (A Zones)</u>. (a) Located within the special flood hazard areas established in § 14-1703, subsection (2), where streams exist, but no base flood data has been provid1ed and where a floodway has not been delineated, the following provisions shall apply:

(i) The administrator shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from any federal, state, or other sources, including data developed as a result of these regulations (see (ii) below), as criteria for requiring that new construction, substantial improvements, or other development in approximate A Zones meet the requirements of § 14-1705, subsections (1) and (2).

(ii) Require that all new subdivision proposals and other proposed developments (including proposals for manufactured home parks and subdivisions) greater than fifty (50) lots or five (5) acres, whichever is the lesser, include within such proposals base flood elevation data. No such subdivision or other development shall be approved, nor shall construction - including clearing or grading - commence, until a Letter of Map Revision (LOMR) is received from FEMA.

(iii) Within approximate A Zones, where base flood elevations have not been established and where such data is not available from other sources, require the lowest floor of a building to be elevated or floodproofed to a level of at least three feet (3') above the highest adjacent grade (as defined in § 14-1702). All applicable data including elevations or floodproofing certifications shall be recorded as set forth in § 14-1704, subsection (2). Openings sufficient to facilitate automatic equalization of hydrostatic flood forces on exterior walls shall be provided in accordance with the standards of § 14-1705, subsection (2). (iv) Within approximate A Zones, where base flood elevations have not been established and where such data is not available from other sources, no encroachments, including structures or fill material, shall be located within an area equal to the width of the stream or twenty feet (20'), whichever is greater, measured from the top of the stream bank, unless certification by a Tennessee registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot (1') at any point within the town. The engineering certification should be supported by technical data that conforms to standard hydraulic engineering principles.

(v) New construction and substantial improvements of buildings, where permitted, shall comply with all applicable flood hazard reduction provisions of § 14-1705, subsections (1) and (2). Within approximate A Zones, require that those subsections of § 14-1705, subsection (2) dealing with the alteration or relocation of a watercourse, assuring watercourse carrying capacities are maintained and manufactured homes provisions are complied with as required.

(6) <u>Standards for areas of shallow flooding (AO and AH Zones)</u>.

(a) Located within the special flood hazard areas established in \$ 14-1703, subsection (2), are areas designated as shallow flooding areas. These areas have special flood hazards associated with base flood depths of one to three feet (1'-3') where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate; therefore, the following provisions, in addition to those set forth in \$ 14-1705, subsections (1) and (2), apply.

(b) All new construction and substantial improvements of residential and non-residential buildings shall have the lowest floor, including basement, elevated to at least one foot (1') above as many feet as the depth number specified on the FIRM's, in feet, above the highest adjacent grade. If no flood depth number is specified on the FIRM, the lowest floor, including basement, shall be elevated to at least three feet (3') above the highest adjacent grade. Openings sufficient to facilitate automatic equalization of hydrostatic flood forces on exterior walls shall be provided in accordance with standards of § 14-1705, subsection (2).

(c) All new construction and substantial improvements of non-residential buildings may be floodproofed in lieu of elevation. The structure together with attendant utility and sanitary facilities must be floodproofed and designed watertight to be completely floodproofed to at least one foot (1') above the flood depth number specified on the FIRM, with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. If no depth number is specified on the FIRM, the structure shall be floodproofed to at least three feet (3') above the highest adjacent grade. A Tennessee registered professional engineer or architect shall certify that the design and methods of construction are in accordance with § 14-1704, subsection (2).

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

(7) <u>Standards for areas protected by flood protection system (A-99</u> <u>Zones</u>). (a) Located within the areas of special flood hazard established in § 14-1703, subsection (2), are areas of the 100-year floodplain protected by a flood protection system but where base flood elevations have not been determined. Within these areas (A-99 Zones) all provisions of § 14-1704 and § 14-1705 shall apply.

(8) <u>Standards for unmapped streams</u>. (a) Located within the town, are unmapped zoning appeals streams where areas of special flood hazard are neither indicated nor identified. Adjacent to such streams, the following provisions shall apply:

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

(c) When a new flood hazard risk zone, and base flood elevation and floodway data is available, new construction and substantial improvements shall meet the standards established in accordance with § 14-1704 and § 14-1705. (Ord. #09-346, Jan. 2010)

14-1706. <u>Variance procedures</u>. (1) <u>Board of zoning appeals</u>.

(a) Authority. The board of zoning appeals shall hear and decide appeals and requests for variances from the requirements of this ordinance.

(b) Procedure. Meetings of the board of zoning appeals shall be held at such times, as the board shall determine. All meetings of the board of zoning appeals shall be open to the public. The board of zoning appeals shall adopt rules of procedure and shall keep records of applications and actions thereof, which shall be a public record. Compensation of the members of the board of zoning appeals shall be set by the board of mayor and aldermen.

(c) Appeals: how taken. An appeal to the board of zoning appeals may be taken by any person, firm or corporation aggrieved or by any governmental officer, department, or bureau affected by any decision of the administrator based in whole or in part upon the provisions of this ordinance. Such appeal shall be taken by filing with the board of zoning appeals a notice of appeal, specifying the grounds thereof. In all cases where an appeal is made by a property owner or other interested party, a fee of fifty dollars (\$50.00) for the cost of publishing a notice of such hearings shall be paid by the appellant. The administrator shall transmit to the board of zoning appeals all papers constituting the record upon which the appeal action was taken. The board of zoning appeals shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to parties in interest and decide the same within a reasonable time which shall not be more than sixty (60) days from the date of the hearing. At the hearing, any person or party may appear and be heard in person or by agent or by attorney.

(d) Powers. The board of zoning appeals shall have the following powers:

(i) Administrative review. To hear and decide appeals where it is alleged by the applicant that there is error in any order, requirement, permit, decision, determination, or refusal made by the administrator or other administrative official in carrying out or enforcement of any provisions of this ordinance.

(ii) Variance procedures. In the case of a request for a variance the following shall apply:

(A) The board of zoning appeals shall hear and decide appeals and requests for variances from the requirements of this ordinance.

(B) Variances may be issued for the repair or rehabilitation of historic structures as defined, herein, upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary deviation from the requirements of this ordinance to preserve the historic character and design of the structure.

(C) In passing upon such applications, the board of zoning appeals shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this ordinance, and:

(1) The danger that materials may be swept onto other property to the injury of others;

(2) The danger to life and property due to flooding or erosion;

(3) The susceptibility of the proposed facility and its contents to flood damage;

(4) The importance of the services provided by the proposed facility to the community;

(5) The necessity of the facility to a waterfront location, in the case of a functionally dependent use;

(6) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;

(7) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;

(8) The safety of access to the property in times of flood for ordinary and emergency vehicles;

(9) The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site;

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

(D) Upon consideration of the factors listed above, and the purposes of this ordinance, the board of zoning appeals may attach such conditions to the granting of variances, as it deems necessary to effectuate the purposes of this ordinance.

(E) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

(2) <u>Conditions for variances</u>. (a) Variances shall be issued upon a determination that the variance is the minimum relief necessary, considering the flood hazard and the factors listed in § 14-1706, subsection (1).

(b) Variances shall only be issued upon: a showing of good and sufficient cause, a determination that failure to grant the variance would result in exceptional hardship; or a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

(c) Any applicant to whom a variance is granted shall be given written notice that the issuance of a variance to construct a structure below the base flood elevation will result in increased premium rates for flood insurance (as high as twenty-five dollars (\$25.00) for one hundred dollars (\$100.00)) coverage, and that such construction below the base flood elevation increases risks to life and property.

(d) The administrator shall maintain the records of all appeal actions and report any variances to FEMA upon request. (Ord. #09-346, Jan. 2010)

OUTDOOR LIGHTING

SECTION

- 14-1801. Purpose.
- 14-1802. Applicability.
- 14-1803. Temporary exemptions.
- 14-1804. General standards.
- 14-1805. Site plan review.
- 14-1806. Compliance.

14-1801. <u>Purpose</u>. That outdoor lighting enables people to see essential detail for work or recreation, facilitates the safety or security of persons or property, emphasizes features of architectural or historical significance, lights parks and gardens, promotes products or services, or calls attention to commercial premises. But with the benefits of lighting also comes the need to protect travelers or adjacent properties from the use of inappropriate lighting practices and system. The reduction of glare, light trespass and excess illumination can maximize the effectiveness of site lighting, and conserve energy and resources. Through the regulation of the placement, orientation, distribution patterns and fixture types of electronically-powered illuminating devices, it is the intent of this ordinance to encourage better lighting practices and systems to reduce visual glare and conserve energy without decreasing safety or utility. (Ord. #303, Sept. 2005)

14-1802. <u>Applicability</u>. That these regulations shall apply to all exterior lighting fixtures including but not limited to, boundary, parking lot, landscape, building (architectural), product display area, and driving lane lighting. It shall also apply to externally-lighted advertising signs. The following lighting applications are specifically exempted from these regulations:

(1) Communication towers or motion sensor devices controlling not more than three hundred (300) watts total connected load;

(2) Temporary construction or emergency lighting provided it is discontinued immediately upon completion of the required work;

(3) Special event lighting including circus, fair, carnival or civic uses, and fireworks displays;

(4) Permanent emergency or security lighting for buildings or uses, provided it is required by building or electrical codes, or government regulation;

(5) Exterior lighting for public monuments;

(6) Exterior lighting fixtures for single-family and duplex residential dwelling units, provided that the maximum intensity of directional lighting (the center of the light beam) is not directed off-site;

(7) Incandescent lighting fixtures of one hundred sixty (160) watts or less, or any other light fixture (metal halide, HPS, fluorescent, etc.) of fifty (50) watts or less;

(8) Internally-illuminated signs where the bare bulb cannot be seen directly;

(9) Transportation lighting, including street lighting, automobiles, traffic signals, aircraft, trains and railroad signals;

(10) State, federal, or municipal facilities. However, voluntary compliance with the intent of this ordinance is encouraged; and

(11) Temporary exemptions that may be approved by the building inspector, as outlined below.

(12) Free-standing, antique or ornamental-style parking lot or private street lighting fixtures, using HPS or LPS lamps having no more than one hundred fifty (150) watts output per lamp, or any fixtures using BPS or LPS lamps with no more than one hundred (100) watts output per lamp, provided that the light emitted above the horizontal plane be restricted to no more than twenty-five percent (25%) of the lamp's total output, that no more than two (2) such lamps shall be located within fifty feet (50') of each other, and that all illumination standards from § 14-1804 are met. (Ord. #303, Sept. 2005)

14-1803. <u>Temporary exemptions</u>. That any person may submit a written request to the building inspector for a temporary exemption to these regulations. A temporary exemption request shall contain the following information:

(1) The specific exemption requested;

(2) The type and use of outdoor fixture involved;

(3) The duration of the requested exemption;

(4) The type and wattage of the luminaries, calculated lumens and/or estimated foot-candle levels;

(5) The proposed location and mounting height;

(6) The type of baffling or shielding to be provided; and

(7) Any other data or information that may be deemed necessary by the building inspector.

A temporary exemption, if approved shall be valid for not more than thirty (30) days from the date of issuance. The approval may be renewable at the discretion of the building inspector, and any renewed exemption shall also be valid for not more than thirty (30) days. (Ord. #303, Sept. 2005)

14-1804. <u>General standards</u>. (1) That all non-exempt exterior lighting and illuminated signs shall be designed, installed, and directed in such a manner to prevent glare, beyond the property line. The horizontal and vertical illuminance standards established by this ordinance shall be observed during the design, construction, and subsequent modification of any fixture.

Maximum illumination levels in footcandles $(fc)^1$

Horizontal illuminance

Vertical illuminance

Light trespass along a residentially-zoned property or a street (excluding the possible contribution of off-site sources such as street lighting) 1.5 fc

(2) That exterior lighting fixtures, except as otherwise allowed, shall be recessed or flush-mounted, or otherwise properly shielded to reduce glare on-premises and eliminate glare off-site.

(3) That all exterior lighting shall, as a minimum, be full cut-off fixtures, not allowing any distribution of light above the horizontal plane. Excepted is floodlighting, if it is properly shielded to prevent glare or light trespass.

(4) That a minimum uniformity ratio of ten to one (10:1) between the maximum level of illumination and the minimum level is recommended for open parking facilities, to reduce eye adaptation difficulty between lighter and darker areas.

(5) That it is recommended all non-essential lighting be turned off after business hours excluding lighting for security purposes.

(6) That single-family or duplex residential directional lighting, such as floodlighting, that has the center of its light beam directed off-site is prohibited.

(7) That luminaries shall not have a mounting height in excess of forty feet (40').

(8) That except as allowed in § 14-1804(6), the cut-off angle for exterior lighting fixtures shall not extend beyond the property line, unless proper shielding, baffling, or buffering techniques are employed. When buffering techniques are employed, allowances are not to be made for potential buffer growth and the ordinance requirements must be immediately met. (Ord. #303, Sept. 2005)

¹Based on initial footcandle values. The use of initial footcandle levels usually results in field measurements that are less intense over the life of a lamp, sometimes as much as thirty percent (30%) lower.

14-1805. <u>Site plan review</u>. That an exterior lighting plan, drawn to scale, shall be submitted for review and approval for all developments using non-exempted exterior lighting. That included in the plan shall be, as a minimum:

(1) The location, mounting height, and orientation of all exterior light fixtures;

(2) The make, model, lamp type, and wattage of each lighting fixture;

(3) Initial foot-candle data calculated by the point method (using horizontal illuminance calculations) for all lighted area, using isofootcandle calculations on a thirty foot (30') or less grid spacing or isofootcandle lines; and

(4) Any baffles, shielding or other light protection measures to be employed. (Ord. #303, Sept. 2005)

14-1806. <u>Compliance</u>. (1) That modifications to exterior lighting fixtures shall not be made without the approval of the building inspector. The upgrading of a fixture to a higher wattage or higher illumination lamp shall be considered a modification.

(2) That approval of a lighting plan does not relieve the property owner or developer of responsibility should any lighting fixture fail to perform as approved. The building inspector may require modifications to installed lighting if a violation is determined to exist. The town reserves the right to conduct post-installation inspections and/or illuminance measurements to verify compliance, and to require timely remedial action at the expense of the landowner or other responsible person.

(3) That the town shall retain the right to modify the implementation of the lighting ordinance upon approval of the planning commission.

(4) That any use existing on the effective date of this ordinance that does not fully comply with the requirements pertaining to lighting then in effect shall be abated forthwith. (Ord. #303, Sept. 2005)

TITLE 15

MOTOR VEHICLES, TRAFFIC AND PARKING¹

CHAPTER

- 1. MISCELLANEOUS.
- 2. EMERGENCY VEHICLES.
- 3. SPEED LIMITS.
- 4. TURNING MOVEMENTS.
- 5. STOPPING AND YIELDING.
- 6. PARKING.
- 7. ENFORCEMENT.
- 8. AUTOMATED ENFORCEMENT.

CHAPTER 1

MISCELLANEOUS²

SECTION

- 15-101. Motor vehicle requirements.
- 15-102. Driving on streets closed for repairs, etc.
- 15-103. Reckless driving.
- 15-104. One-way streets.
- 15-105. Unlaned streets.
- 15-106. Laned streets.
- 15-107. Yellow lines.
- 15-108. Obedience to any traffic control device.
- 15-109. General requirements for traffic-control signs, etc.
- 15-110. Unauthorized traffic-control signs, etc.

¹Municipal code reference

Excavations and obstructions in streets, etc.: title 16.

²State law references

Under <u>Tennessee Code Annotated</u>, § 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 <u>Tennessee Code Annotated</u>, § 55-10-401; failing to stop after a traffic accident, as prohibited by <u>Tennessee Code Annotated</u>, § 55-10-101, <u>et seq</u>.; driving while license is suspended or revoked, as prohibited by <u>Tennessee</u> <u>Code Annotated</u>, § 55-7-116; and drag racing, as prohibited by <u>Tennessee</u> <u>Code Annotated</u>, § 55-10-501.

- 15-111. Presumption with respect to traffic-control signs, etc.
- 15-112. School safety patrols.
- 15-113. Driving through funerals or other processions.
- 15-114. Clinging to vehicles in motion.
- 15-115. Riding on outside of vehicles.
- 15-116. Backing vehicles.
- 15-117. Projections from the rear of vehicles.
- 15-118. Causing unnecessary noise.
- 15-119. Vehicles and operators to be licensed.
- 15-120. Passing.
- 15-121. Motorcycles, motor driven cycles, motorized bicycles, bicycles, etc.
- 15-122. Delivery of vehicle to unlicenced driver, etc.
- 15-123. Size, weight, and load.
- 15-124. Adoption of state traffic statutes.
- 15-125. Registration requirements for motor vehicles
- 15-126. Compliance with financial responsibility law required.
- 15-127. Operator to exercise due care.
- 15-128. Driving while license cancelled, suspended, or revoked.
- 15-129. Restricted use of Walnut Street.
- 15-130. Restricted use of McCracken Lane.

15-101. <u>Motor vehicle requirements</u>. 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 <u>Tennessee Code</u> <u>Annotated</u>, title 55, chapter 9. (1990 Code, § 15-101)

15-102. <u>Driving on streets closed for repairs, etc</u>. 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. (1990 Code, § 15-102)

15-103. <u>**Reckless driving**</u>. Irrespective of the posted speed limit, no person, including operators of emergency vehicles, shall drive any vehicle in willful or wanton disregard for the safety of persons or property. (1990 Code, § 15-103)

15-104. <u>**One-way streets**</u>. On any street for one-way traffic with posted signs indicating the authorized direction of travel at all intersections offering access thereto, no person shall operate any vehicle except in the indicated direction. (1990 Code, § 15-105)

15-105. <u>Unlaned streets</u>. (1) Upon all unlaned streets of sufficient width, a vehicle shall be driven upon the right half of the street except:

(a) When lawfully overtaking and passing another vehicle proceeding in the same direction.

(b) When the right half of a roadway is closed to traffic while under construction or repair.

(c) Upon a roadway designated and signposted by the town for one-way traffic.

(2) All vehicles proceeding at less than the normal spped of traffic at the time and place and under the conditions of the 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. (1990 Code, § 15-106)

15-106. <u>Laned streets</u>. On streets marked with traffic lanes, it shall be unlawful for the operator of any vehicle to fail or refuse to keep his vehicle within the boundaries of the proper lane for his direction of travel except when lawfully passing another vehicle or preparatory to making a lawful turning movement.

On two (2) lane and three (3) lane streets, the proper lane for travel shall be the right hand lane unless otherwise clearly marked. On streets with four (4) or more lanes, either of the right hand lanes shall be available for use except that traffic moving at less than the normal rate of speed shall use the extreme right hand lane. On one-way streets either lane may be lawfully used in the absence of markings to the contrary. (1990 Code, § 15-107)

15-107. <u>Yellow lines</u>. 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. (1990 Code, § 15-108)

15-108. <u>Obedience to any traffic control device</u>.¹ (1) It shall be unlawful for any pedestrian or the operator of any vehicle to violate or fail to comply with any traffic control sign, signal, marking, or device placed or erected by the state or the town unless otherwise directed by a police officer. It shall be unlawful for any pedestrian or the operator of any vehicle willfully to violate or fail to comply with the reasonable directions of any police officer.

(2) The driver of any vehicle shall obey the instructions of any official traffic control device applicable thereto placed in accordance with this chapter,

¹Municipal code reference

Stop signs, yield signs, flashing signals, pedestrian control signs, traffic control signals generally: §§ 15-505--15-509.

unless otherwise directed by a police officer, subject to the exceptions granted the driver of an authorized emergency vehicle.

(3) 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. (1990 Code, § 15-109, as amended by Ord. #280, June 2004)

15-109. <u>General requirements for traffic control signs, etc</u>. All traffic control signs, signals, markings, and devices shall conform to the latest revision of the <u>Manual on Uniform Traffic Control Devices for Streets and Highways</u>,¹ published by the U. S. Department of Transportation, Federal Highway Administration, and shall, so far as practicable, be uniform as to type and location throughout the town. (1990 Code, § 15-110, modified)

15-110. <u>Unauthorized traffic control signs, etc</u>. No person shall place, maintain, or display upon or in view of any street, any unauthorized sign, signal, marking, or device which purports to be or is an imitation of or resembles an official traffic control sign, signal, marking, or device or railroad sign or signal, or which attempts to control the movement of traffic or parking of vehicles, or which hides from view or interferes with the effectiveness of any official traffic control sign, signal, marking, or device or any railroad sign or signal. (1990 Code, § 15-111)

15-111. <u>Presumption with respect to traffic control signs, etc</u>. When a traffic control sign, signal, marking, or device has been placed, the presumption shall be that it is official and that it has been lawfully placed by the proper town authority. (1990 Code, § 15-112)

15-112. <u>School safety patrols</u>. 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. (1990 Code, § 15-113)

15-113. <u>Driving through funerals or other processions</u>. 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

¹This manual may be obtained from the Superintendent of Documents, U. S. Government Printing Office, Washington, D.C. 20402.

they are in motion and when such vehicles are conspicuously designated. (1990 Code, § 15-114)

15-114. <u>Clinging to vehicles in motion</u>. 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. (1990 Code, \S 15-115)

15-115. <u>**Riding on outside of vehicles**</u>. 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. (1990 Code, § 15-116)

15-116. <u>Backing vehicles</u>. 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. (1990 Code, § 15-117)

15-117. Projections from the rear of vehicles. Whenever the load or any projecting portion of any vehicle shall extend beyond the rear of the bed or body thereof, the operator shall display at the end of such load or projection, in such position as to be clearly visible from the rear of such vehicle, a red flag being not less than twelve (12) inches square. Between one-half (1/2) hour after sunset and one-half (1/2) hour before sunrise, there shall be displayed in place of the flag a red light plainly visible under normal atmospheric conditions at least two hundred feet (200') from the rear of such vehicle. (1990 Code, § 15-118)

15-118. <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. (1990 Code, § 15-119)

15-119. <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." (1990 Code, § 15-120)

15-120. <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. (1990 Code, § 15-121)

15-121. <u>Motorcycles, motor driven cycles, motorized bicycles,</u> <u>bicycles, etc</u>. (1) <u>Definitions</u>. For the purpose of the application of this section, the following words shall have the definitions indicated:

(a) Motorcycle. Every motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three (3) wheels in contact with the ground, but excluding a tractor or motorized bicycle.

(b) Motor driven cycle. Every motorcycle, including every motor scooter, with a motor which produces not to exceed five (5) brake horsepower, or with a motor with a cylinder capacity not exceeding one hundred and twenty-five cubic centimeters (125cc);

(c) Motorized bicycle. A vehicle with two (2) or three (3) wheels, an automatic transmission, and a motor with a cylinder capacity not exceeding fifty (50) cubic centimeters which produces no more than two (2) brake horsepower and is capable of propelling the vehicle at a maximum design speed of no more than thirty (30) miles per hour on level ground.

(2) Every person riding or operating a bicycle, motor cycle, motor driven cycle or motorized bicycle shall be subject to the provisions of all traffic ordinances, rules, and regulations of the town applicable to the driver or operator of other vehicles except as to those provisions which by their nature can have no application to bicycles, motorcycles, motor driven cycles, or motorized bicycles.

(3) No person operating or riding a bicycle, motorcycle, motor driven cycle or motorized bicycle shall ride other than upon or astride the permanent and regular seat attached thereto, nor shall the operator carry any other person upon such vehicle other than upon a firmly attached and regular seat thereon.

(4) No bicycle, motorcycle, motor driven cycle or motorized bicycle shall be used to carry more persons at one time than the number for which it is designed and equipped.

(5) No person operating a bicycle, motorcycle, motor driven cycle or motorized bicycle shall carry any package, bundle, or article which prevents the rider from keeping both hands upon the handlebars.

(6) No person under the age of sixteen (16) years shall operate any motorcycle, motor driven cycle or motorized bicycle while any other person is a passenger upon said motor vehicle.

(7) Each driver of a motorcycle, motor driven cycle, or motorized bicycle and any passenger thereon shall be required to wear on his head a crash helmet of a type approved by the state's commissioner of safety.

(8) Every motorcycle, motor driven cycle, or motorized bicycle operated upon any public way within the corporate limits shall be equipped with a windshield or, in the alternative, the operator and any passenger on any such motorcycle, motor driven cycle or motorized bicycle shall be required to wear safety goggles, faceshield or glasses containing impact resistent lens for the purpose of preventing any flying object from striking the operator or any passenger in the eyes.

(9) It shall be unlawful for any person to operate or ride on any vehicle in violation of this section, and it shall also be unlawful for any parent or guardian knowingly to permit any minor to operate a motorcycle, motor driven cycle or motorized bicycle in violation of this section. (1990 Code, § 15-122)

15-122. Delivery of vehicle to unlicensed driver, etc.

(1) <u>Definitions</u>. (a) "Juvenile" as used in this chapter shall mean a person less than eighteen (18) years of age, and no exception shall be made for a juvenile who has been emancipated by marriage or otherwise.

(b) "Adult" shall mean any person eighteen (18) years of age or older.

(c) "Custody" means the control of the actual, physical care of the juvenile, and includes the right and responsibility to provide for the physical, mental, moral and emotional well being of the juvenile. "Custody" as herein defined, relates to those rights and responsibilities as exercised either by the juvenile's parent or parents or a person granted custody by a court of competent jurisdiction.

(d) "Automobile" shall mean any motor driven automobile, car, truck, tractor, motorcycle, motor driven cycle, motorized bicycle, or vehicle driven by mechanical power.

(e) "Drivers license" shall mean a motor vehicle operators license or chauffeurs license issued by the State of Tennessee.

(2) It shall be unlawful for any adult to deliver the possession of or the control of any automobile or other motor vehicle to any person, whether an adult or a juvenile, who does not have in his possession a valid motor vehicle operators or chauffeurs license issued by the Department of Safety of the State of Tennessee, or for any adult to permit any person, whether an adult or a juvenile, to drive any motor vehicle upon the streets, highways, roads, avenues, parkways, alleys or public thoroughfares in the Town of Mount Carmel unless such person has a valid motor vehicle operators or chauffeurs license as issued by the Department of Safety of the State of Tennessee.

(3) It shall be unlawful for any parent or person having custody of a juvenile to permit any such juvenile to drive a motor vehicle upon the streets, highways, roads, parkways, avenues or public ways in the town in a reckless, careless, or unlawful manner, or in such a manner as to violate the ordinances of the town. (1990 Code, § 15-123)

15-123. <u>Size, weight, and load</u>. It shall be unlawful for any person to operate any motor vehicle within the corporate limits in any manner whatsoever which is contrary to or in violation of any of the provisions manner contrary to the requirements set forth in <u>Tennessee Code Annotated</u>, chapter 8, title 55. In any case of a conflict between the provisions of this municipal code and the provisions of <u>Tennessee Code Annotated</u>, chapter 8, title 55, the more restrictive provisions shall apply. (1990 Code, § 15-124)

15-124. <u>Adoption of state traffic statutes</u>. By the authority granted under <u>Tennessee Code Annotated</u>, § 16-18-302, the Town of Mount Carmel adopts by reference as if fully set forth in this section, the "Rules of the Road," as codified in <u>Tennessee Code Annotated</u>, §§ 55-8-101 through 55-8-131, and §§ 55-8-133 through 55-8-180. Additionally, the Town of Mount Carmel adopts <u>Tennessee Code Annotated</u>, §§ 55-8-193, §§ 55-9-601 through 55-9-606, § 55-12-139 and § 55-21-108 by reference as if fully set forth in this section. (Ord. #318, Dec. 2006, modified)

15-125. <u>Registration requirements for motor vehicles</u>. It shall be unlawful for any person to operate any motor vehicle within the corporate limits unless such vehicle is properly registered and meets all of the registration requirements set out in <u>Tennessee Code Annotated</u>, chapter 4, title 55. (1990 Code, § 15-126)

15-126. Compliance with financial responsibility law required.

(1) Every vehicle operated within the corporate limits must be in compliance with the financial responsibility law.

(2) At the time the driver of a motor vehicle is charged with any moving violation under <u>Tennessee Code Annotated</u>, title 55, chapters 8 and 10, parts 1-5, chapter 50; any provision in this title of this municipal code; or at the time of an accident for which notice is required under <u>Tennessee Code Annotated</u>, § 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 <u>Tennessee Code Annotated</u>, § 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 <u>Tennessee Code Annotated</u>, 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 <u>Tennessee Code Annotated</u>, chapter 12, title 55, has been paid or filed with the commissioner, or has qualified as a self-insurer under <u>Tennessee</u> <u>Code Annotated</u>, § 55-12-111; or

(c) The motor vehicle being operated at the time of the violation was owned by a carrier subject to the jurisdiction of the department of safety or the interstate commerce commission, or was owned by the United States, the State of Tennessee or any political subdivision thereof, and that such motor vehicle was being operated with the owner's consent.

(4) It is a civil offense to fail to provide evidence of financial responsibility pursuant to this section. Any violation of this section is punishable by a civil penalty of up to fifty dollars (\$50.00). The civil penalty prescribed by this section shall be in addition to any other penalty prescribed by the laws of this state or by the town's municipal code of ordinances.

(5) On or before the court date, the person so charged may submit evidence of financial responsibility at the time of the violation. If it is the person's first violation of this section and the court is satisfied that such financial responsibility was in effect at the time of the violation, the charge of failure to provide evidence of financial responsibility shall be dismissed. Upon the persons second or subsequent violation of this section, if the court is satisfied that such financial responsibility was in effect at the time of the violation, the charge of failure to provide evidence of financial responsibility may be dismissed. Any charge which is dismissed pursuant to this subsection shall be dismissed without costs to the defendant and no litigation tax shall be due or collected. (Ord. #239, March 2002, modified) **15-127.** <u>Operator to exercise due care</u>. It shall be unlawful to operate a motor vehicle in such manner as shall indicate a failure to keep a proper lookout or an absence of due care, having regard to actual and potential hazards, or when special hazards exist with respect to pedestrians or other traffic, or because of weather or street conditions, and in any event speed and operation shall be so controlled as shall be necessary to avoid colliding with any person, vehicle, or other conveyance on or entering the street or highway in compliance with the legal requirements and the duty of all persons to use due care. (Ord. #265, Dec. 2003)

15-128. Driving while license cancelled, suspended, or revoked.

(1) A person who drives a motor vehicle on any public highway within the corporate limits at a time when the person's privilege to do so is cancelled, suspended, or revoked violates this chapter.

(2) No person shall cause or knowingly permit such person's child or ward under eighteen (18) years of age to drive a motor vehicle upon a highway within the corporate limits when such minor is not authorized to do so under this title or the laws of the State of Tennessee.

(3) No person shall authorize or knowingly permit a motor vehicle owned by such person or under such person's control to be driven upon any highway within the corporate limits by any person who is not authorized under this title or under the laws of the State of Tennessee to do so. (1990 Code, \S 15-127)

15-129. <u>Restricted use of Walnut Street</u>. It shall be unlawful for any person to operate any motor vehicle along or upon Walnut Street with a gross vehicle weight exceeding eight thousand (8,000) pounds. (1990 Code, § 15-128)

15-130. <u>Restricted use of McCracken Lane</u>. It shall be unlawful for any person to operate any motor vehicle along or upon McCracken Lane with a gross vehicle weight exceeding eight thousand (8,000) pounds. (1990 Code, \S 15-129)

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. <u>Authorized emergency vehicles defined</u>. 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. (1990 Code, § 15-201)

15-202. <u>Operation of authorized emergency vehicles</u>.¹ (1) The exemptions herein granted for an authorized emergency vehicle shall apply only when the driver of any such vehicle while in motion sounds an audible signal by bell, siren, or exhaust whistle and when the vehicle is equipped with at least one (1) lighted lamp displaying a red light visible under normal atmospheric conditions from a distance of five hundred feet (500') 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.</u>

(2) The driver of an authorized emergency vehicle, when responding to an emergency call, or when in the pursuit of an actual or suspected violator of the law, or when responding to but not upon returning from a fire alarm, may exercise the privileges set forth in this section, subject to the conditions herein stated.

(3) The driver of an authorized emergency vehicle may park or stand, irrespective of the provisions of this title; proceed past a red or stop signal or stop sign, but only after slowing down to ascertain that the intersection is clear; exceed the maximum speed limit and disregard regulations governing direction of movement or turning in specified directions so long as he does not endanger life or property.

(4) The foregoing provisions shall not relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons, nor shall such provisions protect the driver from the consequences of his reckless disregard for the safety of others. (1990 Code, \S 15-202)

¹Municipal code reference

Operation of other vehicle upon the approach of emergency vehicles: § 15-501.

15-203. <u>Following emergency vehicles</u>. No driver of any vehicle shall follow any authorized emergency vehicle apparently travelling in response to an emergency call closer than five hundred feet (500') or drive or park such vehicle within the block where fire apparatus has stopped in answer to a fire alarm. (1990 Code, § 15-203)

15-204. <u>Running over fire hoses, etc</u>. 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. (1990 Code, § 15-204)

SPEED LIMITS

SECTION

15-301. In general.15-302. At intersections.15-303. In school zones.

15-301. <u>In general</u>. 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. (1990 Code, § 15-301)

15-302. <u>At intersections</u>. 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. (1990 Code, § 15-302)

15-303. <u>In school zones</u>. Pursuant to <u>Tennessee Code Annotated</u>, § 55-8-152, the town shall have the authority to enact special speed limits in school zones. Such special speed limits shall be enacted based on an engineering investigation; shall not be less than fifteen (15) miles per hour; and shall be in effect only when proper signs are posted with a warning flasher or flashers in operation. It shall be unlawful for any person to violate any such special speed limit enacted and in effect in accordance with this paragraph.

In school zones where the board of mayor and aldermen has not established special speed limits as provided for above, any person who shall drive at a speed exceeding fifteen (15) miles per hour when passing a school during a recess period when a warning flasher or flashers are in operation, or during a period of 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. (1990 Code, § 15-303, modified)

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. <u>Generally</u>. 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 (1990 Code, § 15-401)

15-402. <u>**Right turns</u>**. 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. (1990 Code, § 15-402)</u>

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 (2) roadways. (1990 Code, § 15-403)

15-404. Left turns on other than two-way roadways. At any intersection where traffic is restricted to one (1) direction on one (1) 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. (1990 Code, § 15-404)

15-405. <u>U-turns</u>. U-turns are prohibited. (1990 Code, § 15-405)

¹State law reference

Tennessee Code Annotated, § 55-8-143.

STOPPING AND YIELDING

SECTION

- 15-501. Upon approach of authorized emergency vehicles.
- 15-502. When emerging from alleys, etc.
- 15-503. To prevent obstructing an intersection.
- 15-504. At railroad crossings.
- 15-505. At "stop" signs.
- 15-506. At "yield" signs.
- 15-507. At traffic control signals generally.
- 15-508. At flashing traffic control signals.
- 15-509. At pedestrian control signals.
- 15-510. Stops to be signaled.

15-501. <u>Upon approach of authorized emergency vehicles</u>.¹ Upon the immediate approach of an authorized emergency vehicle making use of audible and/or visual signals meeting the requirements of the laws of this state, the driver of every other vehicle shall immediately drive to a position parallel to, and as close as possible to, the right hand edge or curb of the roadway clear of any intersection and shall stop and remain in such position until the authorized emergency vehicle has passed, except when otherwise directed by a police officer. (1990 Code, § 15-501)

15-502. <u>When emerging from alleys, etc</u>. 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. (1990 Code, \S 15-502)

15-503. <u>To prevent obstructing an intersection</u>. 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. (1990 Code, § 15-503)

¹Municipal code reference

Special privileges of emergency vehicles: title 15, chapter 2.

15-504. <u>At railroad crossings</u>. Any driver of a vehicle approaching a railroad grade crossing shall stop within not less than fifteen feet (15') 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 feet (1,500') 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. (1990 Code, § 15-504)

15-505. <u>At "stop" signs</u>. 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. (1990 Code, § 15-505)

15-506. <u>At "yield" signs</u>. The drivers of all vehicles shall yield the rightof-way to approaching vehicles before proceeding at all places where "yield" signs have been posted. (1990 Code, § 15-506)

15-507. <u>At traffic control signals generally</u>. 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) <u>Green alone, or "Go"</u>:

(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) <u>Steady yellow alone, or "Caution"</u>:

(a) Vehicular traffic facing the signal is thereby warned that the red or "Stop" signal will be exhibited immediately thereafter, and such vehicular traffic shall not enter or be crossing the intersection when the red or "Stop" signal is exhibited.

(b) Pedestrians facing such signal shall not enter the roadway unless authorized so to do by a pedestrian "Walk" signal.

(3) <u>Steady red alone, or "Stop"</u>:

(a) Vehicular traffic facing the signal shall stop before entering the crosswalk on the near side of the intersection or, if none, then before entering the intersection and shall remain standing until green or "Go" is shown alone. Provided, however, that generally a right turn on a red signal shall be permitted at all intersections within the town, provided that the prospective turning car comes to a full and complete stop before turning and that the turning car yields the right-of-way to pedestrians and cross traffic traveling in accordance with their traffic signal. However, said turn shall not endanger other traffic lawfully using said intersection. A right turn on red shall be permitted at all intersections except those clearly marked by a "No Turns On Red" sign, which may be erected by the town at intersections which the town decides require no right turns on red in the interest of traffic safety.

(b) Pedestrians facing such signal shall not enter the roadway unless authorized so to do by a pedestrian "Walk" signal.

(4) <u>Steady red with green arrow</u>:

(a) Vehicular traffic facing such signal may cautiously enter the intersection only to make the movement indicated by such arrow but shall yield the right-of-way to pedestrians lawfully within a crosswalk and to other traffic lawfully using the intersection.

(b) Pedestrians facing such signal shall not enter the roadway unless authorized so to do by a pedestrian "Walk" signal.

(5) In the event an official traffic control signal is erected and maintained at a place other than an intersection, the provisions of this section shall be applicable except as to those provisions which by their nature can have no application. Any stop required shall be made at a sign or marking on the pavement indicating where the stop shall be made, but in the absence of any such sign or marking the stop shall be made a vehicle length short of the signal. (1990 Code, § 15-507)

15-508. <u>At flashing traffic control signals</u>. (1) Whenever an illuminated flashing red or yellow signal is used in a traffic sign or signal placed or erected in the town it shall require obedience by vehicular traffic as follows:

(a) "Flashing red (stop signal)." When a red lens is illuminated with intermittent flashes, drivers of vehicles shall stop before entering the nearest crosswalk at an intersection or at a limit line when marked, or if none, then before entering the intersection, and the right to proceed shall be subject to the rules applicable after making a stop at a stop sign.

(b) "Flashing yellow (caution signal)." When a yellow lens is illuminated with intermittent flashes, drivers of vehicles may proceed through the intersection or past such signal only with caution.

(2) This section shall not apply at railroad grade crossings. Conduct of drivers of vehicles approaching railroad grade crossings shall be governed by the rules set forth in § 15-504 of this code. (1990 Code, § 15-508)

15-509. <u>At pedestrian control signals</u>. Wherever special pedestrian control signals exhibiting the words "Walk" or "Wait" or "Don't Walk" have been placed or erected by the town, such signals shall apply as follows:

(1) <u>Walk</u>. Pedestrians facing such signal may proceed across the roadway in the direction of the signal and shall be given the right-of-way by the drivers of all vehicles.

(2) <u>Wait or Don't Walk</u>. No pedestrian shall start to cross the roadway in the direction of such signal, but any pedestrian who has partially completed his crossing on the walk signal shall proceed to the nearest sidewalk or safety zone while the wait signal is showing. (1990 Code, § 15-509)

15-510. <u>Stops to be signaled</u>. 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. (1990 Code, § 15-510)

¹State law reference <u>Tennessee Code Annotated</u>, § 55-8-143.

PARKING

SECTION

- 15-601. Generally.
- 15-602. Angle parking.
- 15-603. Occupancy of more than one space.
- 15-604. Where prohibited.
- 15-605. Loading and unloading zones.
- 15-606. Presumption with respect to illegal parking.

15-601. <u>Generally</u>. No person shall leave any motor vehicle unattended on any street without first setting the brakes thereon, stopping the motor, removing the ignition key, and turning the front wheels of such vehicle toward the nearest curb or gutter of the street.

Except as hereinafter provided, every vehicle parked upon a street within this town shall be so parked that its right wheels are approximately parallel to and within eighteen inches (18") of the right edge or curb of the street. On one-way streets where the town has not placed signs prohibiting the same, vehicles may be permitted to park on the left side of the street, and in such cases the left wheels shall be required to be within eighteen inches (18") of the left edge or curb of the street.

Notwithstanding anything else in this code to the contrary, no person shall park or leave a vehicle parked on any public street or alley within the fire limits between the hours of 1:00 A.M. and 5:00 A.M. or on any other public street or alley for more than seventy-two (72) consecutive hours without the prior approval of the chief of police.

Furthermore, no person shall wash, grease, or work on any vehicle, except to make repairs necessitated by an emergency, while such vehicle is parked on a public street. (1990 Code, § 15-601)

15-602. <u>Angle parking</u>. On those streets which have been signed or marked by the town for angle parking, no person shall park or stand a vehicle other than at the angle indicated by such signs or markings. No person shall angle park any vehicle which has a trailer attached thereto or which has a length in excess of twenty-four feet (24'). (1990 Code, § 15-602)

15-603. <u>Occupancy of more than one space</u>. 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. (1990 Code, § 15-603)

15-604. <u>Where prohibited</u>. No person shall park a vehicle in violation of any sign placed or erected by the state or town, nor:

(1) On a sidewalk; provided, however, a bicycle may be parked on a sidewalk if it does not impede the normal and reasonable movement of pedestrian or other traffic;

- (2) In front of a public or private driveway;
- (3) Within an intersection;
- (4) Within fifteen feet (15') of a fire hydrant;
- (5) Within a pedestrian crosswalk;
- (6) Within twenty feet (20') of a crosswalk at an intersection;

(7) Within thirty feet (30') upon the approach of any flashing beacon, stop sign or traffic control signal located at the side of a roadway;

(8) Within fifty feet (50') of the nearest rail of a railroad crossing;

(9) Within twenty feet (20') of the driveway entrance to any fire station, and on the side of the street opposite the entrance to any fire station within seventy-five feet (75') of such entrance when properly signposted;

(10) Alongside or opposite any street excavation or obstruction when stopping, standing or parking would obstruct traffic;

(11) On the roadway side of any vehicle stopped or parked at the edge or curb of a street;

(12) Upon any bridge or other elevated structure upon a highway or within a highway tunnel;

(13) In a parking space clearly identified by an official sign as being reserved for the physically handicapped, unless, however, the person driving the vehicle is:

(a) Physically handicapped; or

(b) Parking such vehicle for the benefit of a physically handicapped person.

A vehicle parking in such a space shall display a certificate of identification or a disabled veteran's license plate issued under <u>Tennessee Code</u> <u>Annotated</u>, § 55-8-160(c).

(14) On any controlled access highway.

(15) In the area between roadways of a divided highway, including crossovers.

(16) The foregoing restriction imposed by subsections (14) and (15) shall not apply to the driver of any motor vehicle which is disabled in such manner and to such extent that it is impossible to avoid stopping and temporarily leaving the vehicle in such position; provided however, that notice is given to the police department within one (1) hour of doing so. (1990 Code, § 15-604, as amended by Ord. #171, May 1996)

15-605. <u>Loading and unloading zones</u>. No person shall park a vehicle for any purpose or period of time other than for the expeditious loading or

unloading of passengers or merchandise in any place marked by the town as a loading and unloading zone. (1990 Code, § 15-605)

15-606. <u>Presumption with respect to illegal parking</u>. 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. (1990 Code, § 15-606)

ENFORCEMENT

SECTION

- 15-701. Issuance of traffic citations.
- 15-702. Failure to obey citation.
- 15-703. Illegal parking.
- 15-704. Impoundment of vehicles.
- 15-705. Disposal of abandoned motor vehicles.
- 15-706. Deposit of drivers' license in lieu of bail.

15-701. <u>Issuance of traffic citations</u>.¹ When a police officer halts a traffic violator other than for the purpose of giving a warning, and does not take such person into custody under arrest, he shall take the name, address, and operator's license number of said person, the license number of the motor vehicle involved, and such other pertinent information as may be necessary, and shall issue to him a written traffic citation containing a notice to answer to the charge against him in the city court at a specified time. The officer, upon receiving the written promise of the alleged violator to answer as specified in the citation, shall release such person from custody. It shall be unlawful for any alleged violator to give false or misleading information as to his name or address. (1990 Code, § 15-701)</u>

15-702. <u>Failure to obey citation</u>. 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. (1990 Code, § 15-702)

15-703. <u>Illegal parking</u>. Whenever any motor vehicle without a driver is found parked or stopped in violation of any of the restrictions imposed by this code, the officer finding such vehicle shall take its license number and may take any other information displayed on the vehicle which may identify its user, and shall conspicuously affix to such vehicle a citation for the driver and/or owner to answer for the violation within thirty (30) days during the hours and at a place specified in the citation.

The offender may, within thirty (30) days, have the charge against him disposed of by paying to the city recorder a fine of twenty-five dollars (\$25.00) provided he waives his right to a judicial hearing. If he appears and waives his right to a judicial hearing after (30) days, but before a warrant for his arrest is

¹State law reference

Tennessee Code Annotated, § 7-63-101, et seq.

issued, his fine shall be fifty dollars (\$50.00). If tried and convicted, his fine shall be one hundred dollars (\$100.00) only if done so in front of a jury of his peers. (Ord. #232, Dec. 2001)

15-704. <u>Impoundment of vehicles</u>. Members of the police department are hereby authorized, when reasonably necessary for the security of the vehicle or to prevent obstruction of traffic, to remove from the streets and impound any vehicle whose operator is arrested or any unattended vehicle which is parked so as to constitute an obstruction or hazard to normal traffic, or which has been parked for more than one (1) hour in excess of the time allowed for parking in any place, or which has been involved in two (2) or more violations of this title for which citation tags have been issued and the vehicle not removed. Any impounded vehicle shall be stored until the owner or other person entitled thereto claims it, gives satisfactory evidence of ownership or right to possession, and pays all applicable fees and costs of impoundment and storage, or until it is otherwise lawfully disposed of. The fee for impounding a vehicle shall be twenty-five dollars (\$25.00) and the storage cost shall be six dollars (\$6.00) for each twenty-four (24) hour period or fraction thereof that the vehicle is stored. (Ord. #187, Feb. 1998)</u>

15-705. <u>Disposal of abandoned motor vehicles</u>. "Abandoned motor vehicles," as defined in <u>Tennessee Code Annotated</u>, § 55-16-103, shall be impounded and disposed of by the police department in accordance with the provisions of <u>Tennessee Code Annotated</u>, §§ 55-16-103 through 55-16-109. (1990 Code, § 15-705)

15-706. Deposit of drivers' license in lieu of bail. (1) Deposit allowed. Whenever any person lawfully possessing a chauffeur's or operator's license theretofore issued to him by the Tennessee Department of Safety, or under the driver licensing laws of any other state or territory or the District of Columbia, is issued a citation or arrested and charged with the violation of any town ordinance or state statute regulating traffic, except those ordinances and statutes, the violation of which call for the mandatory revocation of a operator's or chauffeur's license for any period of time, such person shall have the option of depositing his chauffeur's or operator's license with the officer or court demanding bail in lieu of any other security required for his appearance in the city court of this town in answer to such charge before said court.

(2) <u>Receipt to be issued</u>. The officer, or the court demanding bail, who receives any person chauffeur's or operator's license as herein provided, shall issue to said person a receipt for said license upon a form approved or provided by the Tennessee Department of Safety.

(3) <u>Failure to appear--disposition of license</u>. In the event that any driver who has deposited his chauffeur's or operator's license in lieu of bail fails to appear in answer to the charges filed against him, the clerk or judge of the

15-24

city court accepting the license shall forward the same to the Tennessee Department of Safety for disposition by said department in accordance with provisions of <u>Tennessee Code Annotated</u>, § 55-7-401, <u>et seq</u>. (1990 Code, § 15-706)

AUTOMATED ENFORCEMENT

SECTION

15-801. Definitions.

15-802. Penalties.

15-803. Procedure.

15-804. Offenses.

15-805. Uncontested payment or court contest.

15-806. Owner of vehicle presumed liable; exception.

15-807. Affirmative defenses.

15-808. Vehicles exempt from receiving a citation.

15-801. <u>Definitions</u>. The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

(1) "Citations," which include documents entitled "notice of violation," may include:

(a) The name and address of the registered owner of the vehicle;

(b) The registration plate number of the motor vehicle involved

in the violation;

- (c) The violation charged;
- (d) The location of the violation;
- (e) The date and time of the violation;

(f) A copy of the recorded image;

(g) The amount of the civil penalty imposed and the date by which the civil penalty should be paid;

(h) A personal or electronically signed statement by a P.O.S.T. certified member of the police department that, based on inspection of recorded images, the motor vehicle was being operated in violation of this division;

(i) Information advising the person alleged to be liable under this division of the manner and time in which liability alleged in the citation occurred and that the citation may be contested in a city court and that failure to contest in the manner and time provided shall be deemed an admission of liability and that a default judgment may be entered thereon; and

(j) Other information required by <u>Tennessee Code Annotated</u>, § 55-8-198.

(2) "In operation" means operating in good working condition.

(3) "Owner or vehicle owner" means the person identified as the registered owner of the vehicle.

15-26

(4) "Recorded images" means images recorded by a traffic enforcement camera system on a photographic, micropictograph, electronic image, videotape or any other medium or means including digital or digitally stored and at least one (1) image, identifying the registration plate number of the motor vehicle.

(5) "Hand-held enforcement camera system" includes a manned traffic enforcement camera and is an electronic system consisting of a photographic, video or electronic camera and a radar detection devise, operated by a police officer pressing a trigger to automatically produce photographs, video or digital images of each vehicle violating the posted speed limit. (Ord. #306, Dec. 2005, as replaced by Ord. #17-460, Oct. 2017, and Ord. #17-462, Nov. 2017)

15-802. <u>**Penalties.**</u> (1) Any violation of this division shall subject the responsible person or entity to a penalty of fifty dollars (\$50.00), and as may be permitted by <u>Tennessee Code Annotated</u>, § 55-8-198, court costs, for each violation. Such penalty and court costs shall not be suspended, reduced, or altered for a violation of this division. Such penalty and court costs shall be imposed even if the responsible person is granted defensive driving school, driver education or improvement course or any diversion by the court. Such penalty and court costs shall be in addition to any cost required for the school. The imposition of a civil penalty under the provisions of this division shall not prevent the revocation of any permit or license or taking of other punitive or immediate remedial action as called for or permitted under the provisions of the town's municipal code or other applicable law.

(2) If the person or entity receiving the summons or citation is in violation of this division solely upon evidence obtained from an unmanned traffic enforcement camera that has been installed to enforce or monitor traffic violations, the violation shall be considered a nonmoving traffic violation. (Ord. #306, Dec. 2005, as replaced by Ord. #17-460, Oct. 2017, and Ord. #17-462, Nov. 2017)

15-803. <u>**Procedure</u>**. (1) The city police department or an agent of the police department shall administer the hand-held speed enforcement camera system.</u>

(2) A citation alleging that the violation of this division occurred, sworn to and by statement signed personally or electronically by a P.O.S.T. certified member of the police department, based on inspection of recorded images produced by the hand-held speed enforcement camera system, shall be issued in accordance with <u>Tennessee Code Annotated</u>,§ 55-8-198 and shall be admissible in any proceeding alleging a violation under this division. The citation shall be sent by first-class mail to the owner's address as given on the motor vehicle registration. Personal service of process on the owner shall not be required. (Ord. #306, Dec. 2005, modified, as replaced by Ord. #17-460, Oct. 2017, and Ord. #17-462, Nov. 2017)

15-804. <u>Offenses</u>. (1) It shall be unlawful for a vehicle to drive in excess of the posted speed limit on the streets of running in and through Mount Carmel, Tennessee. If a driver proceeding in excess of the posted speed limit is captured on the hand-held speed enforcement camera operated by a Mount Carmel Police Officer, a traffic citation will be generated and mailed to the registered owner of the vehicle captured on the camera.

(2) The provisions of this division shall be construed, interpreted and shall be conformed so as to comply with the requirements of <u>Tennessee Code</u> <u>Annotated</u>, § 55-8-198. (Ord. #306, Dec. 2005, as replaced by Ord. #17-460, Oct. 2017, and Ord. #17-462, Nov. 2017)

15-805. <u>Uncontested payment or court contest</u>. A person who receives a citation under this division may pay the civil penalty, in accordance with instruction on the citation, directly to the city court, or contracted collection agent or system vendor or contest the matter in city court. (as added by Ord. #17-460, Oct. 2017, and replaced by Ord. #17-462, Nov. 2017)

15-806. <u>Owner of vehicle presumed liable; exception</u>. (1) Except as otherwise provided in this section, the registered owner of the motor vehicle shall be responsible by strict liability for a violation under this division and shall be responsible for payment of any citation issued as the result of the traffic control monitoring system.

(2) An owner of a vehicle shall not be responsible for the violation if, on or before the designated court date, the owner furnishes the court an affidavit stating the name and address of the person or entity that leased, rented or otherwise had care, custody or control of the motor vehicle at the time of the violation.

(3) If a motor vehicle or its plates were stolen at the time of the alleged violation, the registered owner must provide an affidavit denying the owner was an operator and provide a certified copy of the police report reflecting such theft.

(4) An affidavit alleging theft of a motor vehicle or its plates must be provided by the registered owner of a vehicle receiving a notice of violation within thirty (30) days of the mailing date of the notice of violation. (as added by Ord. #17-460, Oct. 2017, and replaced by Ord. #17-462, Nov. 2017)

15-807. <u>Affirmative defenses</u>. It shall be an affirmative defense to the liability under this division, proven by a preponderance of the sworn evidence that:

(1) The person who received the citation was not the owner of the motor vehicle at the time of the alleged violation, provided such person supplies proof of the transfer of ownership, and the person provides the name and address of the purchaser or transferee. (as added by Ord. #17-460, Oct. 2017, and replaced by Ord. #17-462, Nov. 2017)

15-808. <u>Vehicles exempt from receiving a citation</u>. The following vehicles are exempt from receiving a citation for a violation of this division:

(1) Emergency vehicles with active emergency lights; and

(2) Vehicles under police escort. (as added by Ord. #17-460, Oct. 2017, and replaced by Ord. #17-462, Nov. 2017)

TITLE 16

STREETS AND SIDEWALKS, ETC¹

CHAPTER

- 1. MISCELLANEOUS.
- 2. EXCAVATIONS AND CUTS.
- 3. CURB CUT REGULATIONS.

CHAPTER 1

MISCELLANEOUS

SECTION

- 16-101. Obstructing streets, alleys, or sidewalks prohibited.
- 16-102. Trees projecting over streets, etc., regulated.
- 16-103. Trees, etc., obstructing view at intersections prohibited.
- 16-104. Projecting signs and awnings, etc., restricted.
- 16-105. Banners and signs across streets and alleys restricted.
- 16-106. Gates or doors opening over streets, alleys, or sidewalks prohibited.
- 16-107. Littering streets, alleys, or sidewalks prohibited.
- 16-108. Obstruction of drainage ditches.
- 16-109. Abutting occupants to keep sidewalks clean, etc.
- 16-110. Parades, etc., regulated.
- 16-111. Animals and vehicles on sidewalks.
- 16-112. Fires in streets, etc.

16-101. <u>**Obstructing streets, alleys, or sidewalks prohibited**</u>. 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. (1990 Code, § 16-101)

16-102. <u>**Trees projecting over streets, etc., regulated**</u>. 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 twelve feet (12') or over any sidewalk at a height of less than eight feet (8'). (Ord. #225, Oct. 2001)

16-103. <u>**Trees, etc., obstructing view at intersections prohibited**</u>. It shall be unlawful for any property owner or occupant to have or maintain on

¹Municipal code reference

Related motor vehicle and traffic regulations: title 15.

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. (1990 Code, § 16-103)

16-104. <u>Projecting signs and awnings, etc., restricted</u>. 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 (1990 Code, § 16-104)

16-105. <u>Banners and signs across streets and alleys restricted</u>. It shall be unlawful for any person to place or have placed any banner or sign across or above any public street or alley except when expressly authorized by the board of mayor and aldermen after a finding that no hazard will be created by such banner or sign. (1990 Code, § 16-105)

16-106. <u>Gates or doors opening over streets, alleys, or sidewalks</u> <u>prohibited</u>. It shall be unlawful for any person owning or occupying property to allow any gate or door to swing open upon or over any street, alley, or sidewalk except when required by statute. (1990 Code, § 16-106)

16-107. <u>Littering streets, alleys, or sidewalks prohibited</u>. 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, grass clippings 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. (1990 Code, § 16-107, as amended by Ord. #18-475, Oct. 2019 $Ch7_10-24-19$)

16-108. <u>Obstruction of drainage ditches</u>. It shall be unlawful for any person to permit or cause the obstruction of any drainage ditch in any public right of way. (1990 Code, § 16-108)

16-109. <u>Abutting occupants to keep sidewalks clean, etc</u>. The occupants of property abutting on a sidewalk are required to keep the sidewalk clean. Also, immediately after a snow or sleet, such occupants are required to remove all accumulated snow and ice from the abutting sidewalk. (1990 Code, § 16-109)

16-110. <u>**Parades, etc., regulated**</u>. It shall be unlawful for any club, organization, or similar group to hold any meeting, parade, demonstration, or

¹Municipal code reference

Building code: title 12, chapter 1.

exhibition on the public streets without some responsible representative first securing a permit from the recorder. No permit shall be issued by the recorder unless such activity will not unreasonably interfere with traffic and unless such representative shall agree to see to the immediate cleaning up of all litter which shall be left on the streets as a result of the activity. Furthermore, it shall be unlawful for any person obtaining such a permit to fail to carry out his agreement to clean up the resulting litter immediately. (1990 Code, § 16-110)

16-111. <u>Animals and vehicles on sidewalks</u>. 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. (1990 Code, § 16-112)

16-112. <u>Fires in streets, etc</u>. It shall be unlawful for any person to set or contribute to any fire in any public street, alley, or sidewalk. (1990 Code, \S 16-113)

CHAPTER 2

EXCAVATIONS

SECTION

- 16-201. Permit required.
- 16-202. Applications.
- 16-203. Fee.
- 16-204. Deposit or bond.
- 16-205. Safety restrictions on excavations.
- 16-206. Restoration of streets, etc.
- 16-207. Insurance.
- 16-208. Time limits.
- 16-209. Supervision.
- 16-210. Violations.

16-201. <u>Permit required</u>. It shall be unlawful for any person, firm, corporation, association, or others, including utility districts, to make any excavation in any right-of-way, street, alley, or public place, or tunnel under any right-of-way, 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 underground facilities, in or under the surface of any street, or along any right-of-way may proceed with an opening without a permit when emergency circumstances demand the work to be done immediately and a permit cannot reasonably and practically be obtained beforehand. Such person shall thereafter apply for a permit on the first regular business day on which the office of the city recorder is open for business, and the permit shall be retroactive to the date when the work was done. (Ord. #194, Sept. 1998)

16-202. <u>Applications</u>. Applications for such permits shall be made to the recorder, or such person as he may designate to receive such applications, and shall state thereon the location of the intended excavation or tunnel, the size thereof, the purpose thereof, the person, firm, corporation, association, or others doing the actual excavating, the name of the person, firm, corporation, association, or others for whom the work is being done, and shall contain an agreement that the applicant will comply with all ordinances and laws relating to the work to be done. Such application shall be rejected or approved by the recorder within twenty-four (24) hours of its filing. (1990 Code, § 16-202)

16-203. <u>Fee</u>. The fee for such permits, which shall include the cost of inspection by the building inspector prior to the excavation being refilled, shall be one hundred dollars (\$100.00). (Ord. #194, Sept. 1998)

16-204. <u>Deposit or bond</u>. No such permit shall be issued unless and until the applicant therefor has deposited with the recorder a cash deposit. The deposit shall be in the sum of twenty-five dollars (\$25.00) if no pavement is involved or seventy-five dollars (\$75.00) if the excavation is in a paved area and shall insure the proper restoration of the ground and laying of the pavement, if any. Where the amount of the deposit is clearly inadequate to cover the cost of restoration, the mayor may increase the amount of the deposit to an amount considered by him to be adequate to cover the cost. From this deposit shall be deducted the expense to the city of relaying the surface of the ground or pavement, and of making the refill if this is done by the city or at its expense. The balance shall be returned to the applicant without interest after the tunnel or excavation is completely refilled and the surface or pavement is restored.

In lieu of a deposit the applicant may deposit with the recorder a surety bond in such form and amount as the recorder shall deem adequate to cover the costs to the town if the applicant fails to make proper restoration. (1990 Code, § 16-204)

16-205. <u>Safety restrictions on excavations</u>. Any person, firm, corporation, association, or others making any excavation or tunnel shall do so according to the terms and conditions of the application and permit authorizing the work to be done. Sufficient and proper barricades and lights shall be maintained to protect persons and property from injury by or because of the excavation being made. If any sidewalk is blocked by any such work, a temporary sidewalk shall be constructed and provided which shall be safe for travel and convenient for users. (1990 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 right-of-way, street, alley, or public place in the Town of Mount Carmel, Tennessee, shall restore the right-of-way, street, alley, or public place to its original condition. In the case of unreasonable delay in restoring the right-of-way, street, alley, or public place, the city recorder shall give notice to the person, firm, corporation, association or others that unless the excavation or tunnel is refilled properly according to town specifications within a specified reasonable amount of time, and, if applicable, the resurfacing restored to its original condition, all within a specified reasonable time period, the Town of Mount Carmel, Tennessee, may elect to do the refilling and resurfacing work and charge the expense of doing the same to such person, firm, corporation, association, or others including a twenty percent (20%) premium charge due to the administration expense and expenditure of time. If within the specified time, the conditions of the above notice have not been complied with, the work shall be done by the Town of Mount Carmel, Tennessee, an accurate account of the expense involved shall be kept, and the total costs plus the twenty percent (20%) premium shall be charged to the person, firm, corporation, association, or others who made the excavation or tunnel. This remedy may be in lieu of, or, in addition to, any other fines provided under this chapter. However, any person, firm, corporation, association, or others making any excavation or tunnel in or under any right-of-way, street, alley, or public place in the Town of Mount Carmel, Tennessee, shall notify the building inspector who shall inspect the excavation or tunnel and its restoration to see that such excavation or tunnel and its restoration to see that such excavations and to see that it is properly restored with adequate gravel, back fill, and properly resurfaced. Any such person, firm, corporation, association, or others restoring any excavation or tunnel are subject to a fine of fifty dollars (\$50.00) per day for each and every day that the excavation or tunnel is restored without the building inspector having approved the restoration of the excavation or tunnel. (Ord. #234, Dec. 2001)

16-207. Insurance. In addition to making the deposit or giving the bond hereinbefore required to insure that proper restoration is made, each person applying for an excavation permit shall file a certificate of insurance indicating that he is insured against claims for damages for personal injury as well as against claims for property damage which may arise from or out of the performance of the work, whether such performance be by himself, his subcontractor, or anyone directly or indirectly employed by him. Such insurance shall cover collapse, explosive hazards, and underground work by equipment on the street, and shall include protection against liability arising from completed operations. The amount of the insurance shall be prescribed by the city recorder in accordance with the nature of the risk involved; provided, however, that the liability insurance shall not be less than three hundred thousand dollars (\$300,000.00) for bodily injury or death of any one (1) person in any one (1) accident, occurrence or act, and not less than seven hundred thousand dollars (\$700,000.00) for bodily injury or death of all persons in any one (1) accident, occurrence or act, and one hundred thousand dollars (\$100,000.00) for injury or destruction of property of others in any one (1) accident, occurrence, or act.

16-208. <u>Time limits</u>. Each application for a permit shall state the length of time it is estimated will elapse from the commencement of the work until the restoration of the surface of the ground or pavement, or until the refill is made ready for the pavement to be put on by the town if the town restores such surface pavement. It shall be unlawful to fail to comply with this time limitation unless permission for an extension of time is granted by the recorder. (1990 Code, § 16-208)

16-209. <u>Supervision</u>. The person designated by the board of mayor and aldermen of the Town of Mount Carmel, Tennessee, shall from time to time inspect all excavations and tunnels being made in or under any right-of-way, street, alley, or other public place in the town and the restoration thereof and

see to the enforcement of the provisions of this chapter. Notice shall be given to him at least eight (8) hours before the work of refilling such excavation or tunnel commences. (Ord. #194, Sept. 1998)

16-210. <u>Violations</u>. Any violation of this chapter is punishable by fine of up to fifty dollars (\$50.00) for each and every violation of any provision of this chapter. Each day of non-compliance with the provisions of this chapter shall be deemed a separate offense. (Ord. #236, Dec. 2001)

CHAPTER 3

CURB CUT REGULATIONS

SECTION

16-301. Purpose.

- 16-302. Definitions.
- 16-303. Permit required.
- 16-304. Prohibited locations.
- 16-305. Width of driveway approach.
- 16-306. Requirements for curb restoration.
- 16-307. Unusual conditions.
- 16-308. Inspection required.
- 16-309. Penalties.

16-301. <u>**Purpose**</u>. The purpose of this chapter is to ensure that curb cuts are properly controlled and limited to the extent practical. This chapter also ensures that stormwater flow is not interpreted by curb cuts. (Ord. #253, Sept. 2002)

16-302. <u>Definitions</u>. For the purpose of this chapter, the following definitions apply:

(1) "Driveway." An area on private property where automobiles and other vehicles are operated or are allowed to stand.

(2) "Driveway approach." Any area, construction or facility between the roadway of a public street and private property intended to provide access for vehicles from the roadway of a public street to something definite on private property, such as a parking area or a driveway and used for the entrance and exit of automobiles. (Ord. #253, Sept. 2002)

16-303. <u>Permit required</u>. Prior to cutting a curb or constructing a driveway approach or driveway, a permit shall be obtained. The fee is thirty dollars (\$30.00). The building inspector is designated to act on these permits based on detailed plans to include width of the cut/driveway, length of the driveway, exact location on the lot, slopes of the ground and street and whether or not a curb exists, and if so, its height. (Ord. #253, Sept. 2002)

16-304. <u>**Prohibited locations**</u>. (1) No driveway approach shall be permitted to encompass any municipal or public owned facility.

(2) No driveway approach, including end slopes, shall be permitted within five feet (5') of the right-of-way of an intersecting street.

(3) No driveway or series of driveway approaches serving other than

residential property shall be permitted to be constructed in such a way that the exit from said property would be accomplished by backing vehicles into a street right-of-way or roadway. (Ord. #253, Sept. 2002)

16-305. <u>Width of driveway approach</u>. A driveway at an intersection with public streets shall not exceed twenty-four feet (24') for residential lots and thirty feet (30') for other property. Those business located in the business zones may have road frontage access for the entire length that the property fronts a public street provided that adequate off right-of-way parking is provided. (Ord. #253, Sept. 2002)

16-306. <u>Requirements for curb restoration</u>. Cut curbs will be restored as follows: all curbs will be built back to a height of two inches (2") minimum, using concrete at least six inches (6") deep and a minimum of three feet (3') wide. Curbs that adjoin property which slopes away (down) from the street will be built back to a minimum of four inches (4") or one-half (1/2) the height of the adjoining curb, whichever is greater. (Ord. #253, Sept. 2002)

16-307. <u>Unusual conditions</u>. The building inspector may issue variances from this chapter provided the following conditions are present:

(1) The variance requested arises from peculiar physical conditions not ordinarily existing in similar districts in the town or is due to the nature of the business or operation upon the applicant's property;

(2) The variance request is not against the public interest, particularly safety, convenience and general welfare;

(3) The granting of the permit for the variance will not adversely affect the rights of adjacent property owners or tenants; and

(4) The terms of this section will cause unnecessary hardship upon the applicant, property owner or tenant. (Ord. #253, Sept. 2002)

16-308. <u>Inspection required</u>. The building inspector will conduct an inspection following the installation of the curb cut/driveway connection to ensure compliance with the requirements herein. If the curb restoration is improper, corrective action will be required as determined by the building inspector. (Ord. #253, Sept. 2002)

16-309. <u>Penalties</u>. Any developer or 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 any authorized enforcement officer or the Mount Carmel Planning Commission, shall be guilty of a misdemeanor, and each day of such violation or failure to comply shall be deemed a separate offense and punishable accordingly. Penalties are specified in the table below:

SPECIFICATION	FINE
Cutting curb without a permit	\$50.00
Improper installation of curb restoration	\$50.00
Failure to correct improper installation of curb restoration	\$50.00 per day until the installation is corrected

(Ord. #253, Sept. 2002)

TITLE 17

<u>REFUSE AND TRASH DISPOSAL</u>¹

CHAPTER

1. REFUSE.

CHAPTER 1

<u>REFUSE</u>

SECTION

17-101. Refuse defined.

17-102. Premises to be kept clean.

17-103. Storage.

17-104. Location of containers.

17-105. Disturbing containers.

17-106. Collection.

17-107. Collection vehicles.

17-108. Disposal.

17-109. Refuse collection fees.

17-110. Removal of cuttings, clippings, leaves, etc.

17-101. <u>Refuse defined</u>. 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. (1990 Code, § 17-101)

17-102. <u>Premises to be kept clean</u>. All persons within the town 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. (1990 Code, § 17-102)

17-103. <u>Storage</u>. Each owner, occupant, or other responsible person using or occupying any building or other premises within this town where refuse accumulates or is likely to accumulate, shall provide and keep covered an adequate number of refuse containers. The refuse containers shall be strong, durable, and rodent and insect proof. They shall each have a capacity of not less than twenty (20) nor more than thirty-two (32) gallons, except that this maximum capacity shall not apply to larger containers which the town handles

¹Municipal code reference

Property maintenance regulations: title 13.

mechanically. Furthermore, except for containers which the town handles mechanically, the combined weight of any refuse container and its contents shall not exceed seventy-five (75) pounds. No refuse shall be placed in a refuse container until such refuse has been drained of all free liquids. Tree trimmings, hedge clippings, and similar materials shall be cut to a length not to exceed four feet (4') and shall be securely tied in individual bundles weighing not more than seventy-five (75) pounds each and being not more than two feet (2') thick before being deposited for collection. (1990 Code, § 17-103)

17-104. Location of containers. Where alleys are used by the town refuse collectors, containers shall be placed on or within six feet (6') of the alley line in such a position as not to intrude upon the traveled portion of the alley. Where streets are used by the town refuse collectors, containers shall be placed adjacent to and back of the curb, or adjacent to and back of the ditch or street line if there be no curb, at such times as shall be scheduled by the town for the collection of refuse therefrom. As soon as practicable after such containers have been emptied they shall be removed by the owner to within, or to the rear of, his premises and away from the street line until the next scheduled time for collection. (1990 Code, § 17-104)

17-105. <u>Disturbing containers</u>. 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. (1990 Code, \S 17-105)

17-106. <u>Collection</u>. All refuse accumulated within the corporate limits shall be collected, conveyed, and disposed of under the supervision of such officers as the board of mayor and aldermen shall designate. Collections shall be made regularly in accordance with an announced schedule. (1990 Code, \S 17-106)

17-107. <u>Collection vehicles</u>. 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. (1990 Code, § 17-107)

17-108. <u>**Disposal**</u>. 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. (1990 Code, § 17-108)

17-109. <u>Refuse collection fees</u>. Refuse collection fees including, but not limited to, a solid waste collection account service fee for each new collection container, shall be at such rates as are from time to time set by the board of mayor and aldermen by ordinance or resolution.¹ (1990 Code, § 17-109)

17-110. <u>Removal of cuttings, clippings, leaves, etc</u>. (1) Tree stumps, trunks, limbs, roots, leaves and other clippings resulting from normal maintenance and care, annual life cycle, landscaping or beautification of property will be removed by the Town of Mount Carmel provided that the following conditions are met:

(a) No stump, trunk, limb, root or other clippings shall exceed fourteen feet (14') in length;

(b) No stump, trunk, limb, root or other clipping shall exceed fourteen inches (14") in diameter;

(c) Each piece shall be placed on the resident's property away from power lines and trees;

(d) Leaves must either be bagged and tied for truck pickup or wind-rowed at the curb, free of rocks and limbs for leaf vacuum pickup;

(e) Grass clippings must be bagged and tied;

(f) In an amount not to exceed one (1) truckload per week; and

(g) Residents shall be responsible for the removal and proper disposal of the waste generated by contractors or any other person for the purpose of landscaping or beautification of property, tree trimming and pruning, or limb, trunk or leaf removal. The Town of Mount Carmel will not be responsible for the removal of such waste under such circumstances. (Ord. #336, Aug. 2008)

¹Administrative ordinances and resolutions are of record in the office of the city recorder.

TITLE 18

WATER AND SEWERS¹

CHAPTER

- 1. SEWER USE.
- 2. ADMINISTRATION AND ENFORCEMENT.
- 3. GENERAL WASTEWATER DISPOSAL.
- 4. PRIVATE WASTEWATER DISPOSAL SYSTEMS AND HOLDING TANKS.
- 5. PRETREATMENT.
- 6. COMPLIANCE MONITORING.
- 7. FEES AND BILLING.
- 8. SEWER EXTENSION POLICY.
- 9. CONTRACT FOR SEWER BILLING.

CHAPTER 1

SEWER USE

SECTION

- 18-101. Definitions.
- 18-102. Abbreviations.
- 18-103. Purpose and policy.
- 18-104. Retention of records.
- 18-105. Time of report filing.

18-101. <u>**Definitions**</u>. The following words, terms and phrases, when used in title 18, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

(1) "Act" or the act means the Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 USC 1251, <u>et seq</u>.

(2) Authorized representative of a user means:

(a) If the user is a corporation:

(i) The president, chief executive officer, secretary, treasurer or a vice-president of the corporation in charge of a principal business function or any other person who performs similar policy or decision-making functions for the corporation; or

(ii) The manager of one (1) or more manufacturing, production or operation facilities if authority to sign documents

¹State law references:

Authority to operate sewage facilities, <u>Tennessee Code Annotated</u>, § 7-34-104.

has been assigned or delegated to the manager in accordance with corporate procedures.

(b) If the user is a partnership or sole proprietorship, a general partner or proprietor, respectively.

(c) If the user is a federal, state or local governmental facility, a manager or highest official, elected or appointed, designated to oversee the operation and performance of the activities of the government facility or their designee.

(d) The individuals described in subsections of this definition may designate another authorized representative if the authorization is submitted to the manager in writing, and 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.

(3) "Biochemical Oxygen Demand (BOD)" means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures for five (5) days at twenty degrees Celsius (20° C), usually specified as a concentration (e.g., milligrams per liter (mg/l)).

(4) "Building sewer" means the extension from the building drain to the public sewer or other place of disposal.

(5) "Categorical standard" or "categorical pretreatment standard" means any regulation containing pollutant discharge limits promulgated by EPA in accordance with 33 USC 1317, which apply to a specific category of users and which appear in 40 CFR 405 through 471.

(6) "Compliance order" means an order signed by the manager that identifies a series of events the user must take, along with a prescribed timetable, to achieve compliance with the requirements of title 18, any permit requirement or any other valid order.

(7) "Cooling water" means the water discharged from any use such as air conditioning, cooling or refrigeration or to which the only pollutant added is heat.

(8) "Domestic wastewater" means wastewater that is generated by a single-family residence, apartment or residential unit. specifically excluded from this definition is any categorical or significant industrial facility.

(9) "Environmental Protection Agency" or "EPA" means the U.S. Environmental Protection Agency or, where appropriate, the regional water management division manager or other duly authorized official of the agency.

(10) "Existing source" means any source of discharge, the construction or operation of which commenced prior to publication by EPA of proposed categorical pretreatment standards, which will be applicable to such source if the standard is thereafter promulgated in accordance with section 307 of the Act. (11) "Garbage" means solid wastes from domestic and commercial preparation, cooking and dispensing of food and from the handling, storage and sale of produce.

(12) "Holding tank waste" means any waste from holding tanks, such as but not limited to vessels, chemical toilets, trailers, septic tanks and vacuum pump tank trucks.

(13) "Industrial user" means a nondomestic source of wastewater entering the POTW.

(14) "Interference" means a discharge, which alone or in conjunction with a discharge from other sources, inhibits or disrupts the POTW, its treatment processes or operations or its sludge processes, use or disposal; or is a cause of a violation of the Town of Mount Carmel's NPDES permit; or prevents sewage sludge use or disposal in compliance with any of the following statutory or regulatory provisions or permits issued thereunder or any more stringent state or local regulations: section 405 of the Act; the Solid Waste Disposal Act, including title II, commonly referred to as the Resource Conservation and Recovery Act (RCRA); any state regulations contained in any state sludge management plan prepared pursuant to subtitle D of the Solid Waste Disposal Act; the Clean Air Act; the Toxic Substances Control Act; and the Marine Protection, Research and Sanctuaries Act.

(15) "New source" means:

(a) Any building, structure, facility or installation from which there is or may be a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under section 307(c) of the Act which will be applicable to such source if such standards are thereafter promulgated in accordance with that section, provided that:

(i) The building, structure, facility or installation is constructed at a site at which no other source is located;

(ii) The building, structure, facility or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or

(iii) The production or wastewater generating processes of the building, structure, facility or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant and the extent to which the new facility is engaged in the same general type of activity as the existing source should be considered.

(b) Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility or installation meeting the

criteria of subsections (a)(ii) or (a)(iii) of this definition but otherwise alters, replaces or adds to existing process or production equipment.

(c) Construction of a new source, as defined, has commenced if the owner or operator, has:

(i) Begun or caused to begin, as part of a continuous on-site construction program, any placement, assembly or installation of facilities or equipment; or significant site preparation work including clearing, excavation or removal of existing buildings, structures or facilities which is necessary for the placement, assembly or installation of new source facilities or equipment; or

(ii) Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering and design studies do not constitute a contractual obligation under this subsection.

(16) "Manager of public utilities" or "manager" means the Chairman of the Public Utilities Board of the Town of Mount Carmel or a duly authorized representative or such person employed by the Town of Mount Carmel, Tennessee, and so designated by the board of mayor and aldermen as "manager" of the public utilities board; the control authority as specified by 40 CFR 403.12.

(17) "Noncontact cooling water" means water used for cooling which does not come into direct contact with any raw material, intermediate products, waste products or finished products.

(18) "Nondomestic source" means any source of discharge of wastewater from any facility other than a residential unit meeting the requirements of a domestic wastewater producer.

(19) "Notice of Violation (NOV)" means a written notice signed by the manager that notifies a user that a violation of any permit requirement, any section of title 18 or any other valid order has occurred and describes the facts of the violation.

(20) "NPDES (National Pollutant Discharge Elimination System)" means the national program for issuing, modifying, revoking and reissuing, terminating, monitoring and enforcing permits, and imposing and enforcing pretreatment requirements under sections 307, 402, 318 and 405 of the Clean Water Act (CWA).

(21) "Pass through" means a discharge that exits the POTW into the waters of the state in quantities or concentrations which, alone or in conjunction with a discharge from other sources, is a cause of violation of any requirement of the POTW's NPDES permit, including an increase in the magnitude or duration of a violation.

(22) Person means any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate,

governmental entity or any other legal entity or their legal representatives, agents or assigns. This shall include all federal, state and local governmental entities.

(23) "pH" means a measure of the acidity or alkalinity of a solution. The logarithm (base 10) of the reciprocal of the concentration of the hydrogen ions measured in grams per liter of solution and expressed in Standard Units (SU).

(24) "Pollutant" means dredged spoil, solid waste, incinerator residue, fIlter backwash, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, industrial, municipal and agricultural waste discharged into water, or wastewater having been changed in pH, temperature, TSS, turbidity, color, BOD, COD, toxicity or odor.

(25) "Pollution" means the manmade or man-induced alteration of the chemical, physical, biological and radiological integrity of water.

(26) "Pretreatment" means the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to introducing such pollutants into the POTW. The reduction or alteration can be obtained by physical, chemical or biological processes; by process changes; or by other means except by diluting the concentration of pollutants unless allowed by an applicable pretreatment standard.

(27) "Pretreatment requirement" means any substantive or procedural requirement related to pretreatment imposed on a user, other than a national pretreatment standard imposed on an industrial user.

(28) "Pretreatment standards" means prohibited discharge standards, categorical pretreatment standards and local limits.

(29) "Prohibited discharge standards" or "prohibited discharges" means absolute prohibitions against the discharge of certain substances as set out in § 18-305.

(30) "Public sewer" means a sewer controlled or maintained by the Town of Mount Carmel.

(31) "Publicly Owned Treatment Works (POTW)" means a treatment works as defined by 33 USC 1292 and owned by the Town of Mount Carmel. This definition includes any devices or systems used in the collection, storage, treatment, recycling and reclamation of domestic or industrial waste of a liquid nature and any pipes which convey wastewater to a treatment plant.

(32) "Residential unit" means a structure used primarily as housing and generating wastewater that includes but is not limited to human waste, kitchen waste, domestic washwater and bathwater. If there is located within or upon the same property as a residential unit any process, commercial activity or any other activity that generates wastewater not included in this definition, such wastewater shall not be classified as domestic wastewater.

(33) "Significant industrial user" means any industrial user who:

(a) Is subject to categorical pretreatment standards under 40 CFR 403.6 and 40 CFR chapter I, subchapter N; or

(b) A user that:

(i) Discharges twenty-five thousand (25,000) gallons or more per average workday of process wastewater to the POTW, excluding sanitary, noncontact cooling and boiler blowdown wastewater;

(ii) Contributes a process waste stream which makes up five percent (5%) or more of the average dry weather hydraulic or organic capacity of Mount Carmel of the POTW treatment plant; or

(iii) Is designated by the manager as having the reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement in accordance with 40 CFR 403.8(f)(6).

(34) "Significant noncompliance" means a status or condition existing if an industrial user's discharge meets one or more of the following criteria:

(a) Chronic violation of wastewater discharge limits, defined as those in which sixty-six percent (66%) or more of all measurements taken during a six (6) month period exceed by any magnitude the daily maximum limit or the average limit for the same pollutant parameter.

(b) Technical Review Criteria (TRC) violations, defined as those in which thirty-three percent (33%) or more of all measurements for each pollutant parameter taken during a six (6) month period equal or exceed the product of the daily maximum limit or the average limit multiplied by the applicable TRC (TRC = 1.4 for BOD, TSS, fats, oil and grease, and 1.2 for all other pollutants except pH.).

(c) Any other violation of a pretreatment effluent limit (daily maximum or longer-term average) that the manager determines has caused, alone or in combination with other discharges, interference or pass through or endangers the health of POTW personnel or the general public.

(d) Any discharge of a pollutant that has caused imminent endangerment to human health, welfare or to the environment or has resulted in the POTW's exercise of its emergency authority under 40 CFR 403.8(f)(1)(vi)(B) to halt or prevent such a discharge.

(e) Failure to meet, within ninety (90) days after the schedule date, a compliance schedule milestone contained in a local control mechanism or enforcement order for starting construction, completing construction or attaining final compliance.

(f) Failure to provide, within thirty (30) days after the due date, required reports such as baseline monitoring reports, ninety (90) day compliance reports, periodic self-monitoring reports and reports on compliance with compliance schedules. (g) Failure to accurately report noncompliance.

(h) Any other violation or group of violations which the manager determines will adversely affect the operation or implementation of the local pretreatment program (40 CFR 403.8(f)(2)(vii)).

(35) "Sludge" means solid, semisolid or liquid residue generated during treatment of domestic or industrial sewage in a treatment works.

(36) "Standard Industrial Classification (SIC)" means a classification pursuant to the <u>Standard Industrial Classification Manual</u> issued by the United States Office of Management and Budget.

(37) "Stormwater" means any flow of water resulting from any form of precipitation.

(38) "Suspended Solids" or "Total Suspended Solids (TSS)" means the total suspended matter that floats on the surface of or is suspended in water, wastewater or other liquid and which is removable by laboratory filtering by approved procedures according to 40 CFR 136.

(39) "Treatment plant" means that portion of a POTW designed to treat wastewater.

(40) "User" means any person who contributes, causes or allows the contribution of wastewater into the POTW.

(41) "Wastewater" means industrial or domestic liquid waste from dwellings, commercial buildings, industrial or manufacturing facilities and institutions, together with any groundwater, surface water or stormwater that may be present, whether treated or untreated, which is contributed to or allowed to enter the POTW.

(42) "Wastewater discharge permit" means a control document issued by the manager authorizing conditional discharge of pollutants into the POTW.

(43) "Waters of the state" means any and all waters, public or private, on or beneath the surface of the ground, which are contained within, flow through or border upon this state or any portion thereof except those bodies of water confined to and retained within the limits of private property in a single ownership which do not combine or effect a junction with natural surface or underground waters. (Ord. #287, Dec. 2004)

18-102. <u>Abbreviations</u>. (1) The following abbreviations, when used in title 18, shall have the meanings designated:

- (a) BOD
 - Biochemical Oxygen Demand
- (b) CFR
 - Code of Federal Regulations
- (c) COD Chemical Oxygen Demand
- (d) EPA
 - U.S. Environmental Protection Agency
- (e) mg/l

Milligrams per liter

- (f) NPDES National Pollutant Discharge Elimination System
 (g) POTW
- Publicly Owned Treatment Works
- (h) RCRA Resource Conservation and Recovery Act
- (i) SIC
- Standard Industrial Classification
- (j) TSS Total Suspended Solids
 (k) USC

United States Code (Ord. #287, Dec. 2004)

18-103. <u>Purpose and policy</u>. (1) Title 18 sets forth uniform requirements for users of the POTW of the Town of Mount Carmel and enables the Town of Mount Carmel to comply with all applicable state and federal laws, including the Clean Water Act (33 USC 1251, <u>et seq</u>.), and general pretreatment regulations set out in 40 CFR 403.

(2) Title 18 shall apply to all users of the POTW, whether located inside the Town of Mount Carmel or outside the Town of Mount Carmel. Title 18 authorizes issuance of wastewater discharge permits; provides for monitoring, compliance, recordkeeping, pretreatment and enforcement; establishes administrative review procedures; requires user reporting; and provides for the setting of fees for the equitable distribution of costs resulting from the program established in title 18.

(3) The objectives of title 18 are to:

(a) Prevent the introduction of pollutants into the POTW that will interfere with its operation;

(b) Prevent the introduction of pollutants into the POTW that will pass through inadequately treated into receiving waters or otherwise be incompatible with the POTW;

(c) Protect the POTW personnel who may be affected by wastewater and sludge in the course of their employment and the general public;

(d) Promote reuse and recycling of industrial wastewater and sludge from the POTW;

(e) Provide for fees for the equitable distribution of the cost of operation, maintenance and improvement of the POTW; and

(f) Enable the Town of Mount Carmel to comply with its national pollutant discharge elimination system permit conditions, sludge use and disposal requirements and any other federal or state laws to which the POTW is subject. (Ord. #287, Dec. 2004)

18-104. <u>Retention of records</u>. All records and reports required by title 18 shall be retained for a minimum of three (3) years and shall be made available for inspection and copying by the manager or appropriate state or federal agencies. This period of retention shall be extended during the course of any unresolved litigation regarding the user or when requested by the manager or appropriate state or federal agencies. (Ord. #287, Dec. 2004)

18-105. <u>Time of report filing</u>. Under title 18, written reports shall be deemed to have been submitted on the date of receipt by the manager. (Ord. #287, Dec. 2004)

CHAPTER 2

ADMINISTRATION AND ENFORCEMENT

SECTION

- 18-201. Duties and authority of the manager.
- 18-202. Public utilities board.
- 18-203. Duties and authority of public utilities board.
- 18-204. Remedies nonexclusive.
- 18-205. Publication of violations.
- 18-206. Adoption of enforcement response plan.
- 18-207. Notification of violation.
- 18-208. Consent orders.
- 18-209. Show cause hearing.
- 18-210. Compliance orders.
- 18-211. Cease and desist orders.
- 18-212. Emergency suspensions.
- 18-213. Termination of discharge.
- 18-214. Method of assessment.
- 18-215. Assessment for noncompliance with permits or orders.
- 18-216. Civil penalties.
- 18-217. Performance bonds.
- 18-218. Financial assurance.
- 18-219. Water supply severance.
- 18-220. Injunctive relief.
- 18-221. Appeals to public utilities board.
- 18-222. Additional stay.
- 18-223. Judicial review.

18-201. <u>Duties and authority of the manager</u>. Except as otherwise provided in title 18, the chairman of the public utilities board shall administer, implement and enforce title 18 by and through the public utilities board.

(1) The manager shall have the following specific powers, duties and responsibilities which may be delegated by the manager to other Town of Mount Carmel personnel:

(a) Administer and enforce a pretreatment program in accordance with 40 CFR 403, federal pretreatment program requirements, <u>Tennessee Code Annotated</u>, §§ 69-3-123 through 69-3-129 and title 18;

(b) Develop and implement a uniform enforcement response plan;

(c) Recommend a schedule of civil penalties for violations of title 18;

(d) Maintain all records required by chapters 1 through 9 of title 18; and

(e) Issue emergency orders.

(2) The manager shall have the following powers, duties and responsibilities, which shall not be delegated:

(a) Issue, modify or revoke permits and exceptions, subject to rights of appeal set out in title 18;

(b) Issue notices of violation whenever it is found that a user has violated or is violating any permit requirement, order or any section of title 18. Such notice of violation may require submittal of a plan of correction by the user;

(c) Sign and issue consent orders ensuring voluntary compliance, including necessary remedial or preventive action, according to a fixed time schedule;

(d) Issue compliance orders;

(e) Conduct show cause hearings to review facts of alleged violations in order to determine and pursue any appropriate enforcement remedy;

(f) Levy civil penalties for violation of title 18, for damages to the POTW or for injury to POTW personnel; and

(g) Terminate water service, sewer service or both, in conformance with title 18.

(3) In the absence or incapacity of the manager and in an emergency, the Mayor of the Town of Mount Carmel shall assume all duties and responsibilities of the manager unless the manager shall have previously appointed a person to serve in his stead. (Ord. #287, Dec. 2004)

18-202. <u>Public utilities board</u>. (1) There is created and established, pursuant to <u>Tennessee Code Annotated</u>, § 69-3-123, <u>et seq</u>., the public utilities board, referred to in title 18 as "Utilities Board," which shall be composed of five (5) members as follows:

(a) Board appointment. The board shall consist of five (5) members, who shall have custody, administration, operation, maintenance, and control of the sewer system. All members shall be property holders, who are and have been residents of the town for not less than one (1) year next preceding the date of appointment. One (1) member of the board shall also be a member of the board of mayor and aldermen and such member's term shall never extend beyond his term of office on such governing body of the town. All members of the board shall be appointed by the mayor subject to the advice and consent of the board of mayor and aldermen.

(b) Term of office. The original appointees are to serve from date of appointment for one (1), two (2), three (3), and four (4) years, respectively, from the next succeeding July 1. Each successor to a retired

member of the board shall be appointed for a term of five (5) years in the same manner, at the next regular meeting of the governing body of the town in June next preceding the expiration of the term of office of the retiring member. Appointments to complete unexpired terms of office, vacant for any cause, shall be made in the same manner as original appointments.

(c) Bond, oath, officers of board, meetings, and compensation:

(i) Each member shall qualify by taking the same oath of office as required for governing officials of the town. Within ten (10) days after appointment and qualification of members, the board shall hold a meeting to elect a chairman, and designate a secretary, and treasurer or a secretary-treasurer who need not be a member or members of the board and fix the amount of the surety bond which shall be required of such treasurer and shall fix his compensation. The board shall hold public meetings at least once per quarter, at such regular time and place as the board may determine. Changes in such time and place of meeting shall be made known to the public as far in advance as practicable. Except as otherwise expressly provided, the board shall establish its own rules of procedure.

(ii) All members of the board shall serve as such without compensation, but they shall be allowed necessary traveling and other expenses while engaged in the business of the board, including an allowance not to exceed one hundred dollars (\$100.00) per month for attendance at meetings. Such expenses as well as the salaries of the secretary and treasurer, or secretary-treasurer, shall constitute a cost of operation and maintenance.

(d) Removal from office. Any member of the board may be removed from office for cause, but only after preferment of formal charges and trial before a court of proper jurisdiction. Charges may be brought by resolution of the governing body of the town by any member of the board, or by a petition signed by two percent (2%) or more, but not less than twenty-five (25) in number, of the owners of property served by the works.

(2) All utilities board members shall serve without pay or other compensation.

(3) The utilities board shall promulgate such procedural rules as may be deemed necessary in the interest of justice, fairness and impartiality.

(4) Manager is authorized and empowered to act as the designated representative of the board to make any and all decisions on behalf of the board subject to ratification by the board. (Ord. #287, Dec. 2004)

18-203. <u>Duties and authority of public utilities board</u>. The public utilities board shall have the power, duty and responsibility to:

(1) Hear appeals from orders issued by the manager assessing penalties or damages, or revoking or modifying permits;

(2) Affirm, modify or revoke such actions or orders of the manager;

(3) Issue notices of appeals and subpoenas requiring attendance of witnesses and the production of evidence;

(4) Administer oaths and examine witnesses;

(5) Take such testimony as the utilities board deems necessary; and

(6) Hear appeals of applicants or users for the purpose of reviewing the denial of a permit or imposition of terms or conditions in permits or any exceptions granted by the manager. (Ord. #287, Dec. 2004)

18-204. <u>Remedies nonexclusive</u>. The remedies provided for in title 18 are not exclusive, and the manager may take any, all or any combination of these actions against a noncompliant user. Enforcement of pretreatment violations will generally be in accordance with the Town of Mount Carmel's enforcement response plan. However, the manager may take other action against any user when the circumstances warrant. Further, the manager is empowered to take more than one enforcement action against any noncompliant user. (Ord. #287, Dec. 2004)

18-205. <u>Publication of violations</u>. (1) The manager shall cause to be published annually, in the largest daily newspaper serving the Town of Mount Carmel, a list of users which, during the previous twelve (12) months, were in significant noncompliance with applicable pretreatment standards and requirements.

(2) If any published violation has been appealed by the user and that appeal has not been resolved, the published notice shall so indicate. (Ord. #287, Dec. 2004)

18-206. <u>Adoption of enforcement response plan</u>. Under title 18, an enforcement response plan, including a schedule of civil penalties which may be assessed for certain specific violations or categories of violations, shall be established by resolution of the board of mayor and aldermen. Any civil penalty assessed to a violator pursuant to this section may be in addition to any other penalty assessed by a state or federal authority. (Ord. #287, Dec. 2004)

18-207. <u>Notification of violation</u>. (1) When the manager finds that a user has violated or continues to violate any section of title 18, a wastewater discharge permit or order issued under title 18 or any other pretreatment standard or requirement, the manager may serve upon that user a written notice of violation. Within thirty (30) days of the receipt of this notice, a written explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted by the user to the manager. Submission of this plan in no way relieves the user of liability for any violations occurring before or after receipt of the notice of violation. Nothing in this section shall limit the authority of the manager to take any action, including emergency actions or any other enforcement action, without first issuing a notice of violation.

(2) Any notice or order issued pursuant to title 18 shall also contain notification to the violator of his right of appeal to the utilities board or the right of appeal to the chancery court. (Ord. #287, Dec. 2004)

18-208. <u>Consent orders</u>. The manager may enter into consent orders, assurances of voluntary compliance or other similar documents establishing an agreement with any user responsible for noncompliance. Such documents shall include specific action to be taken by the user to correct the noncompliance within a time period specified in the document. Such documents shall have the same force and effect as orders issued pursuant to § 18-223 and shall be judicially enforceable. (Ord. #287, Dec. 2004)

18-209. <u>Show cause hearing</u>. The manager may order a user who has violated or continues to violate any section of title 18, a wastewater discharge permit or order issued under title 18 or any other pretreatment standard or requirement to appear before the manager and show cause why the proposed enforcement action should not be taken. Notice shall be served on the user specifying the time and place for the hearing, the proposed enforcement action, the reasons for such action and a request that the user show cause why the proposed enforcement action should not be taken. The notice of the hearing shall be served personally or by registered or certified mail, return receipt requested, at least thirty (30) days prior to the hearing. Such notice may be served on any authorized representative of the user. A show cause hearing shall not be a bar against or prerequisite for taking any other action against the user, but shall be a prerequisite for issuing any compliance order, cease or desist order, termination of service or assessment of civil penalties, except as provided by § 18-212. (Ord. #287, Dec. 2004)

18-210. <u>Compliance orders</u>. When the manager finds that a user has violated or continues to violate any section of title 18, a wastewater discharge permit or order issued under title 18 or any other pretreatment standard or requirement, the manager may issue an order to the user responsible for the discharge directing that the user come into compliance within a specified time. If the user does not come into compliance within the time provided, sewer service may be discontinued upon thirty (30) days' written notice, unless adequate treatment facilities, devices or other related appurtenances are installed and properly operated. Compliance orders also may contain other requirements to address the noncompliance, including additional self-monitoring and management practices designed to minimize the amount of pollutants discharged to the POTW. A compliance order may not extend the deadline for

compliance established for a pretreatment standard or requirement, nor does a compliance order relieve the user of liability for any violation, including any continuing violation. Issuance of a compliance order shall not be a bar against or a prerequisite for taking any other action against the user. (Ord. #287, Dec. 2004)

18-211. <u>Cease and desist orders</u>. When the manager finds that a user has violated or continues to violate any section of title 18, a wastewater discharge permit or order issued under title 18 or any other pretreatment standard or requirement or that the user's past violations are likely to recur, the manager may issue an order to the user directing it to cease and desist all such violations and directing the user to immediately comply with all requirements and 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. Issuance of a cease and desist order shall not be a bar against or a prerequisite for taking any other action against the user. (Ord. #287, Dec. 2004)

18-212. <u>Emergency suspensions</u>. (1) Under title 18, if the manager finds that an emergency exists imperatively requiring immediate action to protect the public health, safety or welfare; the health of animals, fish or aquatic life a public water supply; or the facilities of the POTW, the manager may, without prior notice, issue an order reciting the existence of such an emergency and requiring that such action be taken as the manager deems necessary to meet the emergency.

(2) Any user notified of a suspension of the discharge shall immediately eliminate the contribution. If a user fails to immediately comply voluntarily with the suspension order, the manager may take such steps as deemed necessary, including immediate severance of the sewer connection. The manager may allow the user to recommence the discharge when the user has demonstrated to the satisfaction of the manager that the period of endangerment has passed, unless the termination proceedings in § 18-213 are initiated against the user.

(3) A user that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful contribution and the measures taken to prevent any future occurrence, to the manager prior to the date of any show cause or termination hearing under §§ 18-209 or 18-213.

(4) Nothing in title 18 shall be interpreted as requiring a hearing prior to any emergency suspension under this section.

(5) Any user whose discharge is suspended pursuant to this section, on petition to the utilities board, shall be afforded a hearing as soon as possible, but in no case shall such hearing be held later than three (3) working days from the receipt of such a petition by the manager. (Ord. #287, Dec. 2004)

18-213. <u>**Termination of discharge**</u>. (1) Any user who violates the following conditions is subject to discharge termination:

(a) Violation of wastewater discharge permit conditions;

(b) Failure to accurately report the wastewater constituents and characteristics of the discharge;

(c) Failure to report significant changes in operations or wastewater volume, constituents and characteristics prior to discharge;

(d) Refusal of reasonable access to the user's premises for the purpose of inspection, monitoring or sampling;

(e) Violation of the pretreatment standards in chapter 5 of title 18; or

(f) Failure to pay sewer user charges, administrative penalties, inspection fees or any other fee or charge authorized in title 18.

(2) Such user will be notified of the proposed termination of the discharge and will be offered an opportunity to show cause under § 18-209 why the proposed action should not be taken. Exercise of this option by the manager shall not be a bar to or a prerequisite for taking any other action against the user. (Ord. #287, Dec. 2004)

18-214. <u>Method of assessment</u>. Under title 18, civil penalties shall be assessed in the following manner:

(1) The manager may issue an assessment against any person responsible for the violation.

(2) Any person against whom an assessment has been issued may secure a review of the assessment by filing with the manager a written petition setting forth the grounds and reasons for his objections and asking for a hearing on the matter before the utilities board. If a petition for review of the assessment is not filed within thirty (30) days after the date the assessment is served, the user shall be deemed to have consented to the assessment and it shall become final.

(3) If any assessment becomes final because of a person's failure to appeal the manager's assessment, the manager may apply to the appropriate court for a judgment and seek execution of the judgment, and the court in such proceedings shall treat a failure to appeal such assessment as a confession of judgment in the amount of the assessment. Upon final order, if payment is not made the manager may terminate water service.

(4) In assessing civil penalties the manager shall consider the following factors:

(a) Whether the civil penalty imposed will be a substantial economic deterrent to the illegal activity;

(b) Damages to the POTW, including compensation for the damage or destruction of the facilities of the POTW, and also including any penalties, costs and attorney's fees incurred by the Town of Mount

Carmel as the result of the activity, as well as the expenses involved in enforcing this section and the costs involved in rectifying any damages;

(c) Cause of the discharge or violation;

(d) The severity of the discharge and its effect upon the POTW and upon the quality and quantity of the receiving waters;

(e) Effectiveness of action taken by the violator to provide a remedy;

(f) The technical and economic reasonableness of reducing or eliminating the discharge; and

(g) The economic benefit gained by the violator. (Ord. #287, Dec. 2004)

18-215. Assessment for noncompliance with permits or orders.

(1) The manager may assess any polluter or violator for damages to the Town of Mount Carmel resulting from any person's pollution or violation, failure or neglect in complying with any permits or orders issued pursuant to the provisions of the pretreatment program or any part of title 18.

(2) If an appeal from such assessment is not made to the utilities board by the violator within thirty (30) days of notification of such assessment, he shall be deemed to have consented to such assessment and it shall become final.

(3) Damages may include any expenses incurred in investigating and enforcing the pretreatment program or chapter 5 of title 18; in removing, correcting and terminating any pollution; and also compensation for any actual damages to the POTW or to personnel employed therein caused by the violation. (Ord. #287, Dec. 2004)

18-216. <u>Civil penalties</u>. (1) A civil penalty up to the maximum permitted by the constitution and laws of the state, not to exceed the maximum authorized by the Constitution of Tennessee per day, may be assessed against any user who has violated or continues to violate any section of title 18 or any of the following:

(a) A wastewater discharge permit;

(b) Any valid order issued under title 18;

(c) Any pretreatment standard or requirement;

(d) Any terms or conditions of a permit issued pursuant to the pretreatment program;

(e) Failing to complete a filing requirement of the pretreatment program;

(f) Failing to allow entry, inspection or monitoring; or violates reporting requirements;

(g) Failing to pay user or cost recovery charges imposed by the pretreatment program; or

(h) Violation of a final determination or order of the utilities board or manager.

(2) The manager may recover reasonable attorneys' fees, court costs and other expenses associated with enforcement, including sampling and monitoring expenses, and the cost of any actual damages incurred by the Town of Mount Carmel.

(3) In determining the amount of civil liability, account shall be taken of all relevant circumstances, including but not limited to the extent of harm caused by the violation, the magnitude and duration of the violation, any economic benefit gained through the user's violation, corrective actions by the user, the compliance history of the user and any other factor provided by law. (Ord. #287, Dec. 2004)

18-217. <u>Performance bonds</u>. The manager may decline to issue or reissue a wastewater discharge permit to any user who has failed to comply with any section of title 18, a previous wastewater discharge permit or order issued under title 18 or any other pretreatment standard or requirement, unless such user first files a satisfactory bond, payable to the Town of Mount Carmel, in a sum not to exceed a value determined by the manager to be necessary to achieve consistent compliance. (Ord. #287, Dec. 2004)

18-218. <u>Financial assurance</u>. The manager may decline to issue or reissue a wastewater discharge permit to any user who has failed to comply with any section of title 18, a previous wastewater discharge permit, or order issued under title 18 or any other pretreatment standard or requirement, unless the user first submits proof that he has obtained financial assurances sufficient to restore or repair damage to the POTW caused by the discharge. (Ord. #287, Dec. 2004)

18-219. <u>Water supply severance</u>. Whenever a user has violated or continues to violate any section of title 18, a wastewater discharge permit or order issued under title 18 or any other pretreatment standard or requirement, potable water service to the user may be severed. A user holding a valid wastewater discharge permit shall be given ten (10) days' written notice by certified mail prior to the severance of the water supply. Severance of water service for all other users shall be in conformance with § 18-901. Service will only recommence, at the user's expense, after the user has satisfactorily demonstrated ability to comply with title 18. (Ord. #287, Dec. 2004)

18-220. <u>Injunctive relief</u>. When the manager finds that a user has violated or continues to violate any section of title 18, a wastewater discharge permit or order issued under title 18 or any other pretreatment standard or requirement, the manager may petition the appropriate court, through the Town of Mount Carmel attorney, for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the wastewater discharge permit, order or other requirement imposed by title

18 on activities of the user. The manager may also seek such other action as is appropriate for legal and equitable relief, including a requirement for the user to conduct environmental remediation. A petition for injunctive relief shall not be a bar against or a prerequisite for taking any other action against a user. (Ord. #287, Dec. 2004)

18-221. <u>Appeals to public utilities board</u>. (1) Upon receipt of a written petition from an aggrieved user under title 18 but not less than fifteen (15) days after notice of a matter to be appealed, the manager shall give the petitioner thirty (30) days' written notice of the time and place of the hearing, but in no case shall such hearing be held more than sixty (60) days from the receipt of the written petition unless the manager and the petitioner agree to a postponement.

(2) An appeal to the utilities board shall be a de novo review.

(3) Hearings or rehearings before the utilities board shall be conducted in accordance with the following:

(a) A quorum of the utilities board shall be necessary to conduct a hearing.

(b) A verbatim record of the proceedings shall be taken, together with the findings of fact and conclusions of law. The transcript so recorded shall be made available to any party upon prepayment of a charge adequate to cover the costs of preparation.

(c) In connection with the hearing, subpoenas shall be issued in response to any reasonable request by any party to the hearing requiring the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in the hearing. In case of contumacy or refusal to obey a notice of hearing or subpoena issued under this section, the chancery court shall have jurisdiction, upon application of the utilities board or the manager, to issue an order requiring such person to appear and testify or produce evidence as the case may require, and any failure to obey such order of the court may be punished as contempt under law.

(d) On the basis of the evidence produced at the hearing, the utilities board shall make findings of fact and conclusions of law and enter such decisions and orders as in its opinion will best further the purposes of the pretreatment program and shall give written notice of such decisions and orders to the petitioner. The order so issued shall be issued no later than thirty (30) days following the close of the hearing.

(e) The decision of the utilities board shall become final and binding on all parties unless appealed as provided in § 18-223.

(4) Any person to whom an emergency order is directed pursuant to § 18-212 shall comply therewith immediately but on petition to the utilities board shall be afforded a hearing not later than three (3) working days from the receipt of such a petition by the manager.

(5) The following shall not be applicable to emergency suspensions pursuant to § 18-212:

(a) If a written petition of appeal is filed by a user, the effective date of the matter properly appealed shall be stayed until a decision is announced by the utilities board; provided, however, that in no case shall such a stay exceed a period of ninety (90) days, except as provided in § 18-222, from the date of receipt of a written petition to the manager to appeal as set out in this section.

(b) If a continuance of a hearing before the utilities board is requested by a user, no additional time shall be added to the limitations of subsection (c) of this section.

(c) If the utilities board is not be able, for good cause, to hold a hearing within the sixty (60) day limit, the stay shall be extended by the number of days such period is exceeded.

(d) If a continuance is requested by the Town of Mount Carmel, the time of the stay shall be extended by the same number of days as the continuance. (Ord. #287, Dec. 2004)

18-222. <u>Additional stay</u>. The utilities board may grant an additional continuance and stay beyond that set out in § 18-221 upon the request of a user and upon the posting of an appeal bond payable to the Town of Mount Carmel in a sum to be determined by the manager as necessary to protect the interests of the Town of Mount Carmel. (Ord. #287, Dec. 2004)

18-223. <u>Judicial review</u>. Any aggrieved party may petition a court for review of any final order or judgment of the utilities board pursuant to <u>Tennessee Code Annotated</u>, § 27-9-101, <u>et seq</u>. (Ord. #287, Dec. 2004)

CHAPTER 3

GENERAL WASTEWATER DISPOSAL

SECTION

- 18-301. Requirements for proper wastewater disposal.
- 18-302. Physical connections to the public sewer.
- 18-303. Inspection of connections.
- 18-304. Maintenance of building sewers.
- 18-305. Prohibited discharges.
- 18-306. Restrictions on wastewater strength.

18-301. <u>Requirements for proper wastewater disposal</u>. (1) It shall be unlawful to discharge to any waters of the state any wastewater or other polluted water, except where suitable treatment has been provided in accordance with title 18.

(2) Except as provided in this section, it shall be unlawful to construct or maintain a private wastewater disposal system within the Town of Mount Carmel.

(3) Except as provided in this section, the owner of any house, building or property used for human occupancy, employment, industry, recreation or other purposes located where sewers are available is required at his expense to install suitable toilet facilities therein and to connect such facilities directly with the proper public sewer in accordance with title 18 and the Town of Mount Carmel plumbing code within ninety (90) days after the date of official notice to do so, provided that the sewer is within five hundred feet (500') of the structure and at a suitable elevation. Any residence, business or industrial establishment having sewers available for ninety (90) days shall be considered a user whether connected or not and shall be subject to paying all valid charges imposed by title 18 and appropriate fees as established by resolution of the board of mayor and aldermen.

(4) Where a sewer is not available, the building shall be connected to a private wastewater disposal system complying with chapter 4 of title 18 and any requirements of the state.

(5) An industrial facility may discharge wastewater to the waters of the state, provided that it obtains an NPDES permit and meets all the requirements of the Federal Clean Water Act, the NPDES permit and any other applicable local, state or federal statutes and regulations. Such facility shall be considered a user of the public sewers or the POTW only if it contributes, causes or permits the contribution of wastewater into the POTW.

(6) Every industrial user not holding an NPDES permit shall be required to connect to the POTW if a public sewer is available. (Ord. #287, Dec. 2004)

18-302. <u>Physical connections to the public sewer</u>. (1) <u>Building sewers</u>. (a) All building sewer installation and testing shall be in accordance with all current applicable plumbing codes.

(b) Building sewers for connection to pressure sewer shall conform to the following requirements:

(i) The owner is required to furnish two hundred twenty (220) volts (thirty (30) amp breaker or thirty (30) amp time delay fuse) of electrical service to the outside wall closest to the grinder pump. Wire must be a minimum #10/3 wire with ground. Power must be left on year round whether the property is occupied or not.

(ii) The customer will construct a four inch (4") lateral from his home and connect it to the grinder pump unit in accordance with the materials specifications and construction methods specified in title 18.

(iii) The public utilities board will furnish and install a grinder pump unit and not more than one hundred feet (100') of sewer lateral to connect to the trunk line. Routine maintenance of the grinder pump shall be the responsibility of the public utilities board. Damages or malfunctions of such grinder pump units caused by misuse, abuse, negligence, or improper practices on the part of the customer shall be the responsibility of the customer. In such event, neither the public utilities board nor the Town of Mount Carmel shall be responsible for any damages arising out of the malfunction or improper operation of such grinder pump units.

(c) Building sewers for connection to gravity sewer shall conform to the following requirements:

(i) The minimum size of a building sewer shall be four inches (4").

(ii) All joints and connections shall be made water-tight.

(iii) The building sewer shall be laid at uniform grade on a continuous firm base and in straight alignment insofar as possible. A clean-out shall be provided outside and within five feet (5') of the wall, and be properly plugged. No bends greater than forty-five degrees (45°) will be permitted.

(iv) Four inch (4") building sewers shall be laid on a grade greater than or equal to one-eighth inch (1/8") per lineal foot. Larger building sewers shall be laid on a grade that will produce a velocity when flowing full of at least 2.0 feet per second.

(v) The interior of each length of pipe shall be made perfectly clean and free from off-sets, fins, and projections before the next length is connected.

(vi) Building sewers shall not be constructed closer than five feet (5') to any exterior wall, cellar, basement, or cistern, and depth shall be sufficient to afford protection from freezing. (vii) Waste, gas service, electric service, and building storm sewers, shall not be laid in the same trench as the building sanitary sewer.

(2) <u>General requirements</u>. (a) All sanitary sewers and appurtenances to be connected to the POTW, whether located inside or outside the corporate limits of the Town of Mount Carmel, shall be installed in conformance with state specifications and the specifications of title 18 then in effect. Upon completion and prior to acceptance, each project or addition shall be inspected and approved by the public utilities board to ensure compliance.

(b) No acceptance shall be made of sewers or sewer lines unless and until easements are provided for maintenance with the exclusive right to control the lines and appurtenances as set forth in the applicable codes.

(c) No person shall fill, cover, uncover, make any connection to, use, alter or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the public utilities board.

(i) The owner, at such time as sewer service becomes available under § 18-301 to any property served by a private wastewater disposal system, shall obtain a permit and make a direct connection to the public sewer within thirty (30) days thereafter.

(ii) In the case of unimproved property to which sewer service becomes available, the owner may obtain a permit within thirty (30) days thereafter; or, the owner of such property may obtain a permit at the same time as a building permit is issued for the property and make a direct connection to the public sewer prior to occupancy of the improvement.

(A) The connection fee must be paid in full prior to the permit being issued; or

(B) In lieu of payment in full of the system user charge, the owner/occupant of a residence, upon proof of acceptable credit, may be allowed to enter into a promissory note for the full payment of same but in no event shall any such promissory note be entered into without said promissory note being secured by a lien on the property serviced by said sewer.

(d) All costs and expenses incident to the installation, connection and inspection of the building sewer shall be borne by the owner. The owner shall indemnify the public utilities board and the Town of Mount Carmel from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer. The manager of public utilities shall assess a charge against the user for work required to repair damages and add such charge to the user's sewer service charge.

(e) Building sewers shall conform to all applicable Town of Mount Carmel sewer specifications on file with the Tennessee Department of Environment and Conservation, or as follows, whichever is more strict.

(i) Building sewer shall be constructed of a size not less than four inches (4"), nominal internal diameter and shall be of the materials listed below or other suitable material that is approved by the public utilities board.

(ii) Clay pipe. A.S.T.M. Specifications C425 O-vitrified; clay pipe-extra strength premium joints.

(iii) Cast iron pipe. A.S.T.M. Specifications A74-42; cast iron solid pipe and fittings.

(iv) Plastic pipe. Minimum wall thickness for all plastic pipe is 0.187" schedule 40 and to meet A.S.T.M. specifications. Polyvinyl chloride (PVC) - extra strength - cemented joints; Acrylonitrik-Butadiene-Styrene (ABS) - sewer pipe and fittings extra strength - cemented joints.

(f) A backwater check valve shall be installed in each building sewer unless otherwise specified by the public utilities board.

(g) Existing building sewers that have been previously used but have been abandoned due to the razing of a building structure may be used in connection with new buildings only when they are found, upon examination and testing by the public utilities board, to meet all of the requirements of title 18. All others shall be sealed by the owner to the specifications of the manager of public utilities.

(h) Each individual property owner or user of the wastewater control facilities shall be entirely responsible for the maintenance of the building sewer located on private property. This maintenance will include repair or replacement of the building sewer as deemed necessary to meet specifications of the public utilities board.

(i) No person shall connect roof downspouts, exterior foundation drains, areaway drains or any other drain used exclusively for the carrying away of precipitation, groundwater or surface water runoff to a building sewer which is connected directly or indirectly to the POTW, unless specifically authorized by the manager of public utilities.

(3) Any person violating any provisions of this section shall be guilty of an offense and upon conviction shall pay a penalty of up to fifty dollars(\$50.00) for each offense. Each occurrence shall constitute a separate offense. (Ord. #287, Dec. 2004, as replaced by Ord. #357, April 2011)

18-303. <u>Inspection of connections</u>. All connections from the building to the public sewer line shall be inspected by the Town of Mount Carmel to ensure compliance with title 18 and all building code requirements. (Ord. #287, Dec. 2004)

18-304. <u>Maintenance of building sewers</u>. Each individual user of the POTW shall be entirely responsible for maintenance of the building sewer. The maintenance shall include repair or replacement as deemed necessary by the Town of Mount Carmel. (Ord. #287, Dec. 2004)

18-305. <u>Prohibited discharges</u>. (1) <u>General prohibitions</u>. No user shall introduce or cause or allow to be introduced into the POTW any pollutant or wastewater which causes pass through or interference. This subsection shall apply to all users of the POTW, whether or not they are subject to categorical pretreatment standards or any other national, state or local pretreatment standards or requirements.

(2) No person shall discharge or cause to be discharged into the POTW any waste which contains any of the following:

(a) Unpolluted water. Unpolluted water, such as storm water, which will increase the hydraulic load on the public sanitary sewer system.

(b) Improperly shredded garbage. Wastewater containing garbage that has not been ground to such a degree that it will be carried freely in suspension under flow conditions normally prevailing in the public sanitary sewer system.

(c) Solid or viscous wastes. Wastewater containing materials, such as oil or grease, whether animal, vegetable, or petroleum based, which may solidify or become viscous so that it will or may cause obstruction to the flow in a sewer line, or other interference with the proper operation of the public sanitary sewer system.

(d) Discolored materials. Wastewater with an objectionable color not removable by the treatment process.

(e) Thermal discharges. Wastewater which is heated to such a temperature as will or may inhibit biological activity in or cause damage to the public sanitary sewer system.

(f) Odorous materials. Wastewater which alone or in combination with other substances normally found in sewerage will or may result in the release of noxious odors above what is normal for domestic sewerage.

(g) Human hazards. Wastewater which will or may cause a hazard to human life or create a public nuisance.

(h) Noxious materials. Wastewater containing noxious or malodorous liquids, solids or gases which, either singly, or by interaction with other wastes, are capable of creating a public nuisance, hazard to life, noxious odors or are, or may be sufficient to prevent entry into a sewer for its maintenance or repair.

(i) Corrosive wastes. Wastewater containing materials which will or may cause corrosion or deterioration of the public sanitary sewer system.

(j) Explosive mixtures. Liquids, solids or gases which by reason of their nature or quantity, are, or may be, sufficient to cause a fire or explosion hazard or be injurious in any other way to the public sanitary sewer system or its operation.

(k) Toxic substances. Any toxic substance, chemical element or compound which may interfere with the biological processes or efficiency of the public sanitary sewer system or that will pass through the public sanitary sewer system in concentrations which could cause the public sanitary sewer system to exceed its NPDES permit or passthrough limits.

(l) Radioactive wastes. Radioactive wastes or isotopes which will or may cause damage or hazards to the public sanitary sewer system or personnel operation or maintaining the system.

(m) Trucked wastes. Any trucked or otherwise hauled waste.

(n) Excessive discharge waste. Wastewater at a flow rate which is excessive relative to the capacity of the public sanitary sewer system or which could cause a treatment process upset or subsequent loss of treatment efficiency; or wastewater containing such concentrations or quantities of pollutants that their introduction into the public sanitary sewer system over a relatively short period of time (sometimes referred to as "slug" discharges) could cause a treatment process upset or subsequent loss of treatment efficiency.

(3) <u>Not to be discharged</u>. Pollutants, substances or wastewater prohibited by this section shall not be processed or stored in such a manner that they could be discharged to the POTW. (Ord. #287, Dec. 2004)

18-306. <u>Restrictions on wastewater strength</u>. No person shall discharge, convey, permit or allow to be discharged or conveyed to the POTW any wastewater containing pollutants of such character or quantity as will:

(1) Not be susceptible or amenable to treatment or reduction by the wastewater treatment process employed by the POTW, or is susceptible or amenable to treatment or reduction only to such a degree that the POTW effluent cannot meet the requirements of other governmental agencies having jurisdiction over discharge to the receiving waters;

(2) Interfere with the process or efficiency of the POTW;

(3) Constitute a hazard to human or animal life or to the stream or water course receiving the POTW effluent;

(4) Violate pretreatment standards;

(5) Cause the POTW to violate its NPDES Permit, pass-through limits or applicable receiving water standards; or,

(6) Otherwise exceed the requirements and limitations imposed by the design capacity and effluent standards of the POTW; or the most restrictive user discharge restrictions and plant protection criteria or any other applicable State or federal law, regulation or guideline, including, but not limited to "Pretreatment of Pollutants into Publicly Owned Treatment Works," United

States Environmental Protection Agency Federal Guidelines, October, 1973, or its current edition.

Where requirements and limitations imposed by either the Tennessee Department of Environment and Conservation or the United States Environmental Protection Agency are more stringent than the requirements and limitations imposed by the other, the most restrictive requirements and limitations shall apply. (Ord. #287, Dec. 2004)

CHAPTER 4

PRIVATE WASTEWATER DISPOSAL SYSTEMS AND HOLDING TANKS

SECTION

18-401. Availability of system.

18-402. Requirements for private domestic systems.

18-403. Holding tank waste disposal.

18-401. <u>Availability of system</u>. (1) Where the POTW is not available under § 18-301, the building sewer shall be connected to a private wastewater disposal system complying with this chapter.

(2) A private pumping system will be provided if any residence, office, recreational facility or other establishment used for human occupancy is below an elevation to obtain proper flow through the building sewer, unless an exception is granted by the manager.

(3) When a public sewer becomes available, connection shall be made to the sewer within ninety (90) days after date of official notice to do so, and any septic tank or other private disposal facility shall be abandoned. (Ord. #287, Dec. 2004)

18-402. <u>Requirements for private domestic systems</u>. (1) Private domestic wastewater disposal systems shall not be constructed within the Town of Mount Carmel until a letter is obtained from the manager stating that a public sewer is not accessible to the property and no such sewer is proposed for construction in the immediate future. No letter shall be issued for any private domestic wastewater disposal system employing subsurface soil absorption facilities where the area of the lot is less than that specified by the state.

(2) Before commencement of construction of a private wastewater disposal system, the owner shall obtain a written permit from the appropriate state agency.

(3) Private wastewater disposal systems shall not be placed in operation until the installation is approved by the state. The work may be inspected at any stage of construction, and in any event the owner shall notify the town when the work is ready for final inspection and before any underground portions are covered.

(4) The type, capacity, location and layout of a private wastewater disposal system shall comply with all recommendations of the appropriate state agency. No septic tanks or cesspools shall be permitted to discharge to the waters of the state except as specifically permitted for the appropriate system.

(5) The owner shall operate and maintain the private wastewater disposal facility in a sanitary manner at all times, at the owner's expense.

(6) No part of this chapter shall be construed to interfere with any additional requirements that may be imposed by the state. (Ord. #287, Dec. 2004)

18-403. <u>Holding tank waste disposal</u>. (1) <u>Permit</u>. No person shall clean out, drain or flush any septic tank or any other type of wastewater or excreta disposal system within the Town of Mount Carmel unless such person obtains a permit from the manager to perform such acts or services. Any person desiring a permit to perform such services shall file an application on the prescribed form. Upon such application, a permit shall be issued by the manager when the conditions of this chapter have been met, provided the manager is satisfied the applicant has adequate and proper equipment to perform the services contemplated in a safe and competent manner. The manager may require domestic septic tank waste haulers to obtain wastewater discharge permits.

(2) <u>Fees</u>. For each permit issued under this section, an annual fee shall be paid as established by resolution of the board of mayor and aldermen.

(3) <u>Designated disposal locations</u>. The manager shall designate approved locations for the emptying and cleaning of all equipment used in the performance of the services rendered as provided for, and it shall be a violation for any person to empty or clean such equipment at any place other than a place so designated.

(4) <u>Revocation of permit</u>. Failure to comply with all sections of title 18 shall be sufficient cause for the revocation of such permit by the manager. (Ord. #287, Dec. 2004)

CHAPTER 5

PRETREATMENT

SECTION

- 18-501. National categorical pretreatment standards.
- 18-502. Pretreatment facilities.
- 18-503. Additional pretreatment measures.
- 18-504. Dilution.
- 18-505. New sources.

18-501. <u>National categorical pretreatment standards</u>. The categorical pretreatment standards found at 40 CFR 405 through 471 are incorporated by reference, the same as if copied verbatim in this section. (Ord. #287, Dec. 2004)

18-502. Pretreatment facilities. Users shall provide wastewater pretreatment as necessary to comply with § 18-501 and shall achieve compliance with all applicable categorical pretreatment standards and local limits within the time limitations specified by EPA, the state or the manager, whichever is more stringent. Any facilities necessary for compliance shall be provided, operated and maintained at the user's expense. Detailed plans describing such facilities and operating procedures shall be submitted to the Town of Mount Carmel for review and shall be acceptable to the Town of Mount Carmel before such facilities are constructed. Review of such plans and operating procedures shall in no way relieve the user of the responsibility of modifying such facilities as necessary to produce a discharge acceptable to the Town of Mount Carmel under title 18. (Ord. #287, Dec. 2004)

18-503. <u>Additional pretreatment measures</u>. Whenever deemed necessary pursuant to title 18, the manager may require a user to restrict the discharge during peak flow periods, designate that certain wastewater be discharged only into specific sewers, relocate and consolidate points of discharge, separate sewage waste streams from industrial waste streams and such other conditions as may be necessary to protect the POTW and determine the user's compliance with requirements of title 18. (Ord. #287, Dec. 2004)

18-504. <u>**Dilution**</u>. Under title 18, no user shall ever increase the volume of process water or in any way attempt to dilute a discharge, as a partial or complete substitute for adequate pretreatment to achieve compliance with a discharge limitation unless expressly authorized by an applicable pretreatment standard or requirement. The manager may impose mass limitations on users who use dilution to meet applicable pretreatment standards or requirements or

in other cases when the imposition of mass limitations is appropriate. (Ord. #287, Dec. 2004)

18-505. <u>New sources</u>. New sources shall install and have in operating condition, and shall be operating, all pretreatment facilities required to meet applicable pretreatment standards before beginning to discharge waste water to the POTW. New sources must meet all applicable pretreatment standards within ninety (90) days of the beginning of discharge. (Ord. #287, Dec. 2004)

CHAPTER 6

COMPLIANCE MONITORING

SECTION

18-601. Right of entry and inspection.

18-602. Monitoring and sampling facilities.

18-603. Search warrants.

18-601. <u>Right of entry and inspection</u>. (1) The manager shall have the right to enter the premises of any user to determine whether the user is complying with all requirements of title 18 and any wastewater discharge permit or order issued under title 18. Users shall allow the manager ready access to all parts of the premises for the purposes of inspection, sampling, records examination and copying and the performance of any additional duties required by title 18.

(2) Where a user has security measures in force which require proper identification and clearance before entry into its premises, the user shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, the manager will be permitted to enter without delay for the purposes of performing specific responsibilities.

(3) The manager shall have the right to set up on the user's property or require installation of such devices as are necessary to conduct sampling and metering of the user's operations.

(4) Any temporary or permanent obstruction to safe and easy access to the facility to be inspected or sampled shall be promptly removed by the user at the written or verbal request of the manager and shall not be replaced. The costs of clearing such access shall be borne by the user.

(5) Unreasonable delays in allowing the manager access to the user's premises shall be a violation of title 18.

(6) The manager shall at all times, while upon the user's premises, observe and comply with all safety and security measures of the facility. (Ord. #287, Dec. 2004)

18-602. <u>Monitoring and sampling facilities</u>. (1) The installation of a monitoring facility may be required to provide suitable monitoring facilities. The purpose of the facility is to enable inspection, sampling and flow measurement of the wastewater produced by a user.

(2) Monitoring facilities shall be located on the user's premises outside of any building unless an exception is approved by the manager in writing.

(3) The manager may require separate monitoring facilities to be installed for each source of discharge of a single user.

(4) The monitoring facility shall be a manhole or other suitable facility approved by the manager and shall be constructed and maintained at the user's expense.

(5) If sampling or metering equipment is also required by the manager, it shall be provided and installed at the user's expense. Such sampling and measuring equipment shall be maintained at all times in a safe and proper operating condition at the expense of the user. There shall be ample room in or near all monitoring facilities to allow accurate sampling and preparation of samples for analysis.

(6) All monitoring facilities shall be constructed and maintained at the user's expense in accordance with the manager's requirements and all applicable local building codes. Construction must be completed not later than one hundred eighty (180) days after permit approval, unless an extension is granted by the manager.

(7) All devices used to measure wastewater flow and quality shall be calibrated not less than every three (3) months to ensure accuracy. (Ord. #287, Dec. 2004)

18-603. <u>Search warrants</u>. If the manager has been refused reasonable access to a building, structure or property or any part thereof and is able to demonstrate probable cause to believe that there may be a violation of title 18 or that there is a need to inspect or sample as part of a routine inspection and sampling program of the Town of Mount Carmel designed to verify compliance with title 18 or any permit or order issued under title 18 or to protect the overall public health, safety and welfare of the community, the manager may seek issuance of a search warrant from the appropriate court. (Ord. #287, Dec. 2004)

CHAPTER 7

FEES AND BILLING

SECTION

- 18-701. Purpose.
- 18-702. Authorization to establish charges and fees.
- 18-703. Inspection fees and tap-on fees.
- 18-704. Sewer use charges.
- 18-705. Billing.

18-701. <u>**Purpose**</u>. The purpose of this chapter is to provide for equitable recovery of costs from users of the Town of Mount Carmel's POTW, including costs of operation, maintenance, administration, bond service, inspection and monitoring, testing, capital improvements, depreciation and equitable cost recovery of EPA administered federal wastewater grants. (Ord.#287, Dec. 2004)

18-702. <u>Authorization to establish charges and fees</u>. (1) The board of mayor and aldermen may adopt by resolution reasonable charges and fees which shall include but not be limited to:

- (a) Inspection fees and tapping fees;
- (b) Sewer user charges;
- (c) Surcharge fees;

(d) Wastewater discharge permit fees, including the cost of processing such applications;

(e) Monitoring, inspection and surveillance fees which shall include the cost of collection and analyzing a user's discharge and reviewing monitoring reports submitted by users;

(f) Fees for reviewing and responding to accidental discharges;

(g) Fees for filing appeals, including but not limited to attorney's fees and enforcement fees; and

(h) Such other fees as may be deemed necessary from time to time to carry out the requirements of title 18.

(2) These fees relate solely to the matters covered by title 18 and are separate from all other fees, fines and penalties the Town of Mount Carmel is authorized to levy. (Ord. #287, Dec. 2004)

18-703. <u>Inspection fees and tap-on fees</u>. (1) The board of mayor and aldermen may provide for extension of sewer services by means other than improvement districts and shall, by resolution, establish a schedule of tap-on fees including but not limited to the following categories of use:

(a) Existing residences and row houses with existing septic tanks;

(b) Additional existing units on same lot or parcel of land with existing residence and connected to the same sewer tap;

(c) New residences and row houses;

(d) New residences located in subdivisions, planned residential developments and multifamily projects developed under regulations governing subdivision of land of the regional planning commission in which adequate and proper sewer lines constructed by the developer in conformity with applicable statutes of the state and ordinances of the Town of Mount Carmel pertaining to sanitation have been constructed as part of a private subdivision development, specifically providing for an inside municipal corporate boundary rate and an outside municipal corporate boundary rate;

(e) Small commercial user (i.e., service stations, office buildings, warehouses, etc.);

(f) Carwash for first bay and a fee for each additional bay thereafter;

(g) Existing multifamily complexes and new multifamily complexes specifically providing a fee for the first unit and a fee for each additional unit thereafter; and

(h) Factories and shopping centers; the fee to be based on a basis of ten thousand (10,000) square feet of floor space with a fee for each additional ten thousand (10,000) square feet of floor space over and above the base amount.

(2) A tap-on fee shall not be permitted in lieu of participation in an improvement district. Where a tap-on fee is paid prior to creation of an improvement district serving the property, it will be credited against the assessment of an improvement district later created serving the property. (Ord. #287, Dec. 2004)

18-704. <u>Sewer use charges</u>. All users shall pay a single unit charge expressed as dollars per one thousand (1,000) gallons of water purchased. (Ord. #287, Dec. 2004)

18-705. <u>Billing</u>. (1) The billing of normal wastewater services shall consist of monthly billing in accordance with rates established by resolution of the board of mayor and aldermen.

(2) Any user connected to the sanitary sewer shall have water service either from the Town of Mount Carmel or some other water utility system authorized to provide potable water by the state or such user shall, at his sole expense, install a sewage flow meter meeting the approval of the manager to measure the flow of sewage through such meter.

(3) Private wells or private water systems shall not be construed to constitute water utility systems authorized to provide potable water by the state. (Ord. #287, Dec. 2004)

CHAPTER 8

SEWER EXTENSION POLICY

SECTION

18-801. Sewer service extensions.

18-802. System user fee credits.

18-803. Main trunk line extension variances.

18-801. <u>Sewer service extensions</u>. (1) Public sanitary sewer service may be provided to areas within the corporate limits not presently served by the existing POTW in accordance with the policies set forth in this chapter. These policies shall govern any extension of the POTW from its existing terminus to the boundary of the property to be served, including main trunk line extensions or replacements to serve new residential subdivisions, new commercial development or undeveloped property, and collector branch line extensions to serve existing subdivisions or developments which are being expanded; as well as the construction of any sanitary sewer collection system within the interior of the property to be served. All connections to the POTW shall become the property of the town upon inspection and acceptance.

(a) Any person, firm, or corporation desiring an extension of POTW, hereinafter "developer," in addition to any other requirement imposed by another governmental agency having jurisdiction, shall:

(i) At their own expense, engage an engineer having knowledge of the standards of design, construction and materials required by the town; and obtain a determination from the town as to whether any special modification of their proposed extension of the POTW will be required, e.g. installing larger size pipe or additional collector branch lines to accommodate future growth, adding manholes or services or other changes. Main trunk lines shall always be extended to the farthest point or points upgrade within the property to be served so that the POTW, if need be, can continue uninterrupted. The board of mayor and aldermen may agree to share in the cost of any such required modifications pursuant to a formal resolution.

(ii) At their own expense, have detailed plans and specifications prepared for their proposed extension of the POTW in conformance with the standards of design, construction and materials required by the state and the regulations of the town, and submit such plans and specifications to the town for review and approval.

(iii) Obtain written approval of the plans and specifications from the town.

(iv) Secure bids from competent and reliable contractors for the furnishing of materials, labor, and services necessary for the construction of their proposed extension to the POTW; and, submit those bids to the town for review and approval prior to acceptance by the developer. All bids submitted to the town for review and approval shall include a provision:

(A) For inspection of actual construction by the town; including, but not limited to:

(1) Vacuum test manholes;

(2) Pressure test line;

(3) Pull mandrel through line; and

(B) For conducting pre-blast surveys and monitoring all blasts; and

(C) For photography of existing lawns, driveways, and etc. prior to commencement of any ditching or excavation which would materially alter said lawns, driveways, etc.; and

(D) For restoration of the affected surface to be done so as to nearly as practical restore the lawn and/or driveway to its original condition as soon as feasible, weather permitting; and

(E) For sufficient performance bonds and adequate retainage;

(F) For penalties upon noncompliance; and

(G) That any sewer line to be located within any paved street or right-of-way shall be restored--as nearly as practical--to its pre-construction condition and preferably re-paved after the completion of construction.

(v) Obtain all permits and easements necessary for the construction of their proposed extension to the sewerage collection system.

(vi) At their own expense, construct their proposed extension of the POTW in accordance with the plans and specifications in a good workmanlike manner and furnish all materials, labor and services therefor.

(A) Except that, where town determines that the proposed extension to the POTW can be constructed by its own forces, the town may allow the developer to deposit with the town the estimated cost of sewer construction, plus engineering and administrative cost.

(B) The town will then proceed to construct the sewer. If at any time the actual cost exceeds the amount deposited, the developer shall immediately, upon

(vii) Furnish to the town evidence that all bills and charges for labor and materials and other services used in the construction have been paid.

the work.

(viii) Furnish to the town, the formal written certification of the developer's engineer that he has inspected the construction and has determined that it conforms to all approved plans and specifications.

(ix) Prior to placing their proposed extension of the POTW into service, have the construction inspected and approved by the town and "as-built record plans" of the construction provided to the town.

(x) When completed, transfer and convey by appropriate written instrument, their proposed extension of the POTW to the town free from all liens of every kind. Said instruments and or deeds shall include such easements as necessary for ingress, egress, operation and maintenance.

(2) After the construction of the proposed extension of the POTW is inspected and approved by the town, and it is transferred and conveyed to the town free from all liens and encumbrances, and if the developer fulfills the requirements set forth above, then:

(a) The town will permit the proposed extension of the POTW to be connected to and incorporated into its existing POTW and will furnish public sanitary sewer service to each property within the property to be served in accordance with the town's rules and regulations governing same, and subject to such limitations as may exist because of the size, elevation and other engineering considerations of the trunks.

(b) The town will charge for public sanitary sewer service at the rates currently being charged other customers in similar locations.

(3) The extension of public sanitary sewer service to property that is not part of a new development established after the adoption of this policy, shall be financed by special assessment against all properties benefitted by such extension in accordance with applicable statutes authorizing the creation of improvement districts for this purpose.

(4) Public sanitary sewer service may only be extended outside of the existing corporate limits pursuant to a formal resolution of the board of mayor and aldermen expressly authorizing such extension and the reason therefore. (Ord. #287, Dec. 2004)

18-802. <u>System user fee credits</u>. (1) In the case of construction of any "submain" line serving residential lots within the interior of the property to be served, a system user fee credit in the amount of two thousand dollars

(\$2,000.00) may be issued against the system user fee assessed upon each residential lot within the interior of the property to be served.

(2) In order to calculate the number of system user fee credits to be issued on any "submain" line:

(a) The cost of the "submain" within the property to be served, including the actual proven cost to the developer of engineering fees and other construction cost shall be determined by the public utilities board.

(b) Then the cost of the "submain" on the property shall be divided by the amount of the system user fee credit, and the resulting number of system user fee credits may be used for residential lots within the interior of the property to be served.

(3) The system user fee credit, shall be evidenced by a certificate identifying the project and the property against which the system user fee credit may be taken. The town will endeavor to have the certificates redeemed before accepting system user fees for the property from other parties.

(4) Applications for individual services (sewer taps) will be accepted upon completion of construction, receipt of "record plans", receipt of waiver of lien from the contractor installing the sewer system, copies of permit approvals for operation from regulatory agencies, and proof that plumbing permits for the structures for which application is being made have been issued. (Ord. #311, May 2006, as amended by Ord. #13-393, June 2013)

18-803. <u>Main trunk line extension variances</u>. Whenever the board of mayor and aldermen shall determine that it is to the best interest of the town and its citizens and taxpayers to construct a main trunk line extension without requiring strict compliance with the preceding sections, such extension may be constructed upon such terms and conditions as shall be approved by the board of mayor and aldermen. The authority to make a main trunk line extension under the preceding section is permissive only and nothing contained therein shall be constructed as requiring the town to make such extensions or to furnish service to any person or persons. This policy governing sewer extensions shall not limit the town from participating in the cost of main trunk line extension when the application warrants consideration due to favorable return on investment. (Ord. #287, Dec. 2004)

CHAPTER 9

CONTRACT FOR SEWER BILLING

SECTION

18-901. Contract with First Utility District.18-902. Parties to be governed by contract.

18-901. <u>Contract with First Utility District</u>. The Town of Mount Carmel, Tennessee, by and through its public utilities board, will contract with the First Utility District of Hawkins County, Tennessee to provide for the billing of the sewer bills from the town's wastewater system, for the disconnection of water service in the event of delinquent sewer bills, for the payment of these services, for the adjustment of sewer bills, for the repair of city streets used by the First Utility District, and for the establishment of a formal relationship between the parties. (Ord. #287, Dec. 2004)

18-902. <u>Parties to be governed by contract</u>. The rights and obligations of the Town of Mount Carmel and the First Utility District of Hawkins County shall be governed by the contract entered into between the parties on June 22, 1989, which contract is incorporated by reference the same as if fully set out herein.¹ (Ord. #287, Dec. 2004)

¹A copy of the contract is set out as an attachment to Ord. No 102 which is of record in the office of the recorder.

TITLE 19

ELECTRICITY AND GAS

CHAPTER

1. ELECTRICITY.

CHAPTER 1

ELECTRICITY

SECTION

19-101. To be furnished by Kingsport Power d/b/a AEP Appalachian Power.

19-101. <u>To be furnished by Kingsport Power d/b/a AEP</u> <u>Appalachian Power</u>. Electricity shall be provided to the Town of Mount Carmel and its inhabitants by Kingsport Power d/b/a AEP Appalachian Power. The rights, powers, duties, and obligations of the Town of Mount Carmel and its inhabitants, are stated in the agreements between the parties.¹ (as added by Ord. #17-458, Aug. 2017)

¹The agreements are of record in the office of the recorder.

TITLE 20

MISCELLANEOUS

CHAPTER

1. [DELETED.]

CHAPTER 1

[DELETED.]

(This chapter as added by Ord. #11-368, Jan. 2012, was deleted by Ord. #12-382, Aug. 2012)

APPENDICES TO THE MOUNT CARMEL MUNICIPAL CODE

A.	CODE OF ETHICS APP-A-1
B.	PERSONNEL POLICIES AND PROCEDURES APP-B-1
С.	PLAN OF OPERATION FOR THE OCCUPATIONAL SAFETY AND HEALTH PROGRAM FOR THE EMPLOYEES OF THE TOWN OF MOUNT CARMEL

APPENDIX B

OCCUPATIONAL SAFETY AND HEALTH PROGRAM PLAN.

Appendix A

1. <u>Campaign finance</u>.

All candidates for the chief administrative office (mayor), any candidates who spend more than \$500, and candidates for other offices that pay at least \$100 a month are required to file campaign financial disclosure reports. Civil penalties of \$25 per day are authorized for late filings. Penalties up to the greater of \$10,000 or 15 percent of the amount in controversy may be levied for filings more than 35 days late. It is a Class E felony for a multicandidate political campaign committee with a prior assessment record to intentionally fail to file a required campaign financial report. Further, the treasurer of such a committee may be personally liable for any penalty levied by the Registry of Election Finance (T.C.A. 2-10-101–118).

Contributions to political campaigns for municipal candidates are limited to:

- a. \$1,000 from any person (including corporations and other organizations);
- b. \$5,000 from a multicandidate political campaign committee;
- c. \$20,000 from the candidate;
- d. \$20,000 from a political party; and
- e. \$75,000 from multicandidate political campaign committees.

The Registry of Election Finance may impose a maximum penalty of \$10,000 or 115 percent of the amount of all contributions made or accepted in excess of these limits, whichever is greater (T.C.A. § 2-10-301–310).

Each candidate for local public office must prepare a report of contributions that includes the receipt date of each contribution and a political campaign committee's statement indicating the date of each expenditure (T.C.A. § 2-10-105, 107).

Candidates are prohibited from converting leftover campaign funds to personal use. The funds must be returned to contributors, put in the volunteer public education trust fund, or transferred to another political campaign fund, a political party, a charitable or civic organization, educational institution, or an organization described in 26 U.S.C. 170(c) (T.C.A. § 2-10-114).

2. Conflicts of Interest.

Municipal officers and employees are permitted to have an "indirect interest" in contracts with their municipality if the officers or employees publicly acknowledge their interest. An indirect interest is any interest that is not "direct," except it includes a direct interest if the officer is the only supplier of goods or services in a municipality. A "direct interest" is any contract with the official himself or with any business of which the official is the sole proprietor, a partner, or owner of the largest number of outstanding shares held by any individual or corporation. Except as noted, direct interests are absolutely prohibited (T.C.A. § 6-2-402, T.C.A. § 6-20-205, T.C.A. § 6-54-107–108, T.C.A. § 12-4-101–102).

3. Disclosure conflict of interests.

Conflict of interest disclosure reports by any candidate or appointee to a local public office are required under T.C.A. §§ 8-50-501 *et seq.* Detailed financial information is required, including the names of corporations or organizations in which the official or one immediate family member has an investment of over \$10,000 or 5 percent of the total capital. This must be filed no later than 30 days after the last day legally allowed for qualifying as a candidate. As long as an elected official holds office, he or she must file an amended statement with the Tennessee Ethics Commission or inform that office in writing that an amended statement is not necessary because nothing has changed. The amended statement must be filed no later than January 31 of each year (T.C.A. § 8-50-504).

4. Consulting fee prohibition for elected municipal officials.

Any member or member-elect of a municipal governing body is prohibited under T.C.A. § 2-10-124 from "knowingly" receiving any form of compensation for "consulting services" other than compensation paid by the state, county, or municipality. Violations are punishable as Class C felonies if the conduct constitutes bribery under T.C.A. § 39-16-102. Other violations are prosecuted as Class A misdemeanors. A conviction under either statute disqualifies the offender from holding any office under the laws or Constitution of the State of Tennessee.

"Consulting services" under T.C.A. § 2-10-122 means "services to advise or assist a person or entity in influencing legislative or administrative action, as that term is defined in § 3-6-301, relative to the municipality or county represented by that official." "Consulting services" also means services to advise or assist a person or entity in maintaining, applying for, soliciting or entering into a contract with the municipality represented by that official. "Consulting services" does not mean the practice or business of law in connection with representation of clients by a licensed attorney in a contested case action, administrative proceeding or rule making procedure; "Compensation" does not include an "honorarium" under T.C.A. § 2-10-116, or certain gifts under T.C.A. § 3-6-305(b), which are defined and prohibited under those statutes.

The attorney general construes "Consulting services" to include advertising or other informational services that directly promote specific legislation or specifically target legislators or state executive officials. Advertising aimed at the general public that does not promote or otherwise attempt to influence specific legislative or administrative action is not prohibited. Op. Atty.Gen. No. 05-096, June 17, 2005.

5. <u>Bribery offenses</u>.

a. A person who is convicted of bribery of a public servant, as defined in T.C.A. § 39-16-102, or a public servant who is convicted of accepting a bribe under the statute, commits a Class B felony.

b. Under T.C.A. § 39-16-103, a person convicted of bribery is disqualified from ever holding office again in the state. Conviction while in office will not end the person's term of office under this statute, but a person may be removed from office pursuant to any law providing for removal or expulsion existing prior to the conviction.

c. A public servant who requests a pecuniary benefit for performing an act the person would have had to perform without the benefit or for a lesser fee, may be convicted of a Class E felony for solicitation of unlawful compensation under T.C.A. § 39-16-104.

d. A public servant convicted of "buying and selling in regard to offices" under T.C.A. § 39-16-105, may be found guilty of a Class C felony. Offenses under this statute relevant to public officials are selling, resigning, vacating, or refusing to qualify and enter upon the duties of the office for pecuniary gain, or entering into any kind of borrowing or selling for anything of value with regard to the office.

e. Exceptions to 1, 3, and 4, above include lawful contributions to political campaigns, and a "trivial benefit" that is "incidental to personal, professional, or business contacts" in which there is no danger of undermining an official's impartiality.

6. Official misconduct. official oppression, misuse of official information.

a. Public misconduct offenses under <u>Tennessee Code Annotated</u> § 39-16-401 through § 39-16-404 apply to officers, elected officials, employees,

candidates for nomination or election to public office, and persons performing a governmental function under claim of right even though not qualified to do so.

b. Official misconduct under <u>Tennessee Code Annotated</u> § 39-16-402 pertains to acts related to a public servant's office or employment committed with an intent to obtain a benefit or to harm another. Acts constituting an offense include the unauthorized exercise of official power, acts exceeding one's official power, failure to perform a duty required by law, and receiving a benefit not authorized by law. Offenses under this section constitute a Class E felony.

c. Under <u>Tennessee Code Annotated</u> § 39-16-403, "Official oppression," a public servant acting in an official capacity who intentionally arrests, detains, frisks, etc., or intentionally prevents another from enjoying a right or privilege commits a Class E felony.

d. <u>Tennessee Code Annotated</u> § 39-16-404 prohibits a public servant's use of information attained in an official capacity, to attain a benefit or aid another which has not been made public. Offenses under the section are Class B misdemeanors.

e. A public servant convicted for any of the offenses summarized in sections 2-4 above shall be removed from office or discharged from a position of employment, in addition to the criminal penalties provided for each offense. Additionally, an elected or appointed official is prohibited from holding another appointed or elected office for ten (10) years. At-will employees convicted will be discharged, but are not prohibited from working in public service for any specific period. Subsequent employment is left to the discretion of the hiring entity for those employees. <u>Tennessee Code Annotated</u> § 39-16-406.

7. <u>Ouster law</u>.

Some Tennessee city charters include ouster provisions, but the only general law procedure for removing elected officials from office is judicial ouster. Cities are entitled to use their municipal charter ouster provisions, or they may proceed under state law.

The judicial ouster procedure applies to all officers, including people holding any municipal "office of trust or profit." (Note that it must be an "office" filled by an "officer," distinguished from an "employee" holding a "position" that does not have the attributes of an "office.") The statute makes any officer subject to such removal "who shall knowingly or willfully misconduct himself in office, or who shall knowingly or willfully neglect to perform any duty enjoined upon such officer by any of the laws of the state, or who shall in any public place be in a state of intoxication produced by strong drink voluntarily taken, or who shall engage in any form of illegal gambling, or who shall commit any act constituting a violation of any penal statute involving moral turpitude" (T.C.A. § 8-47-101).

T.C.A. § 8-47-122(b) allows the taxing of costs and attorney fees against the complainant in an ouster suit if the complaint subsequently is withdrawn or deemed meritless. Similarly, after a final judgment in an ouster suit, governments may order reimbursement of attorney fees to the officer targeted in a failed ouster attempt (T.C.A. § 8-47-121).

The local attorney general or city attorney has a legal "duty" to investigate a written allegation that an officer has been guilty of any of the mentioned offenses. If he or she finds that "there is reasonable cause for such complaint, he shall forthwith institute proceedings in the Circuit, Chancery, or Criminal Court of the proper county." However, with respect to the city attorney, there may be an irreconcilable conflict between that duty and the city attorney's duties to the city, the mayor, and the rules of professional responsibility governing attorneys. Also, an attorney general or city attorney may act on his or her own initiative without a formal complaint (T.C.A. § 8-47-101–102). The officer must be removed from office if found guilty (T.C.A. § 8-47-120).

APP-B-1

PERSONNEL POLICIES AND PROCEDURES



TOWN OF MOUNT CARMEL, TENNESSEE

APPROVED: September 27, 2001 AMENDED: March 25, 2003; August 24, 2004, March 22, 2005, October 25, 2005, December 27, 2005, July 22, 2008, August 28, 2012, August 27, 2013

FOREWORD

The Town of Mount Carmel is pleased to welcome you as a municipal employee. You are now part of an organization that exists for one purpose, to serve the people of Mount Carmel. Your job is to serve all of the people of the town with efficiency and courtesy. It is well to bear in mind that the services of the town are as good as, and no better than, the employees performing them.

This personnel policy manual is written to acquaint new employees and remind old employees of the advantages and the responsibilities of town employment. In addition, it provides guidance to supervisors and members of the Governing body.

Just as the services extended by the town are important to the citizenry, the well-being and welfare of the town employees are also essential.

Every town job is important and the manner in which you perform your job determines to a large extent the public relations of town government, as well as pay increases. You will find being considerate and courteous, as well as conscientious, reliable, and prompt, gives you more satisfaction in your work and, at the same time, increases the regard that the people of Mount Carmel have for town employees.

These policies have been approved by the Board of Mayor and Aldermen and employees should review this manual at least twice a year.

Nothing contained anywhere in this manual should be construed as a contract for employment, nor a promise or guarantee for perpetual association or advancement in pay or position. It is not intended to create a property interest in future employment. Any individual employment contract must be in writing, approved by the Board of Mayor and Aldermen, and signed by the Mayor.

TABLE OF CONTENTS

FOREWORD	• • • • • • • • • •	•••••	• • • • • • • • • • • • •	 APP-B-2
TABLE OF CO	ONTENTS			 APP-B-3

CHAPTER I

GENERAL PROVISIONS

Adoption of Rules	. APP-B-6
Amendment of Rules Procedures	. APP-B-6
Administration of Rules	. APP-B-6
Coverage of Rules	. APP-B-6
Definitions	. APP-B-7
	Amendment of Rules ProceduresAdministration of RulesCoverage of Rules

CHAPTER II

EQUAL EMPLOYMENT OPPORTUNITY

2.10	Prohibition of Discrimination	. APP-B-10
2.20	Discrimination Complaints and Appeals	. APP-B-10
2.30	Sexual Harassment	. APP-B-11

CHAPTER III

CLASSIFICATION, P AY AND FRINGE BENEFITS

3.10	Job Descriptions	APP-J	B-12
3.20	Employee Compensation	APP-J	B-12
3.30	Periodic Pay Increases and Advancement	APP-J	B-13
3.40	Benefits	APP-J	B-13
3.50	Pay at Termination	APP-J	B-14
3.60	Hours of Work	APP-	B-1 4
3.70	Attendance	APP-	B-1 4
3.80	Overtime Compensation	APP-	B-1 4
3.81	Call-out Pay	APP-	B-15
3.90	Travel and Official Expenses	APP-	B-15
3.100	Uniforms and Personal Protective Equipment .	APP-J	B-16
3.110	Retirement	APP-	B-16
3.120	Phone Use Policy	APP-	B-16

CHAPTER IV

LEAVE

4.10	Vacation Leave	 APP-B-19
4.20	Sick Leave	 APP-B-20

4.30	Holiday Leave A	PP-B	-22
4.40	Civil Leave	PP-B	-22
4.50	Maternity Leave A	PP-B	-23
4.60	Funeral Leave A	PP-B	-23
4.70	Military Leave A	PP-B	-24
4.80	Injury Leave A	PP-B	-24
4.90	Absence Without Leave A	PP-B	-25
4.100	Family Leave	PP-B	-26
4.110	Records to be Maintained A	PP-B	-26

CHAPTER V

DELETED

CHAPTER VI

DISCIPLINARY ACTION

6.10	Grounds APP-B-28
6.20	Administration of Discipline APP-B-29
6.30	Disciplinary Authority APP-B-29
6.40	Protective Suspension APP-B-30
6.50	Other APP-B-30
6.51	Traffic Violations While Operating
	City Vehicles APP-B-30

CHAPTER VII

STAFFING

7.10	Policy Statement	APP-B-32
7.20	Announcement of Available Positions	APP-B-32
7.30	Application and Examination	APP-B-33
7.40	Medical Examinations	
7.50	Employee Orientation	APP-B-33
7.60		
7.70		
7.80		
7.90		
7.91	Driver's Licenses	
7.92	Use of Town Vehicles and Equipment	APP-B35
7.100	Employment of Relatives	APP-B-35
7.120	Emergency Employment	APP-B-36
	-	
	7.20 7.30 7.40 7.50 7.60 7.70 7.80 7.90 7.91 7.92 7.100 7.110 7.120 7.130	 7.20 Announcement of Available Positions 7.30 Application and Examination 7.40 Medical Examinations 7.50 Employee Orientation 7.60 Promotion 7.70 Probation Period 7.80 Re-Employment 7.90 Drug Testing 7.91 Driver's Licenses

APP-B-5

7.150	Layoff, Termination, and/or Resignation	. APP-B-37
7.160	Garnishments	. APP-B-37

CHAPTER VIII

PERFORMANCE EVALUATION

8.10	Performance Evaluation Process	. APP-B-38
8.20	Frequency of Reports	. APP-B-38
8.30	Review of Performance Report	. APP-B-38
8.40	Records to be Maintained	. APP-B-39
8.50	Maintenance of Records	. APP-B-39
8.60	Public Review of Records	. APP-B-39
8.70	Employee Performance	. APP-B-39

CHAPTER IX

POLITICAL ACTIVITY, ETHICS AND CONDUCT

9.10	Political Activity	APP-B-40
9.20	Ethics	APP-B-40
9.30	Outside Employment	APP-B-40
9.40	Termination, Accountability and Disclosure Act	APP-B-40
9.50	Use of Municipal Time, Facilities, Etc.	APP-B-41
9.60	Use of Position	APP-B-41

EMPLOYEE CERTIFICATION

CHAPTER I GENERAL PROVISIONS

1.10 Adoption of Rules

These rules and amendments to these rules apply to each employee (contract employees and independent contractors are not covered).

1.20 Amendment of Rules Procedures

These rules may be amended from time-to-time as the needs of the service require. Amendments and revisions of these rules and regulations not inconsistent with the Town Charter may be initiated by the Governing Body. Proposed amendments or revisions, in whole or in part, will be reviewed with town personnel prior to implementation. Changes in applicable superseding state and federal law shall take effect upon the effective date(s) of such superseding laws.

Holders of copies of these Personnel Policies are responsible for inserting changes as they are issued and for keeping their respective copies of the Policies up to date.

Copies of this Manual are issued to all covered employees. Replacement copies may be obtained from the Office of the City Recorder. Manuals shall be returned upon employee separation or upon request by the City Administrator.

Suggestions for amendments to these Policies are welcome at any time from any employee. Such suggestions should be submitted in writing to the City Administrator.

1.30 Administration of Rules

On a day-to-day basis the City Administrator shall be charged with the responsibility of the administration of the provisions of these policies. However, the policies are not meant to remove or diminish the authority of the Mayor as Chief Executive Officer. In the event of a vacancy in the position of City Administrator or in the event of the temporary absence of the City Administrator, any function to be exercised by the City Administrator may also be exercised by the Mayor.

1.40 Coverage of the Rules

These policies apply to all covered employees of the Town of Mount

Carmel, Tennessee, including all existing employees at the date of the adoption of these policies, and these rules shall supersede any written or unwritten rules or practices of the Town of Mount Carmel and are intended to supersede any conflicting ordinance.

1.50 Definitions

Whenever the following terms are used, they shall have the following meanings:

- (1) <u>Absence Without Leave</u> The unauthorized absence of an employee from place of duty during normal duty hours.
- (2) <u>Appointed Position</u> A position in which there is vested a grant of power either discretionary or ministerial with duties created and defined by law (e.g. City Administrator, Recorder, Treasurer, City Judge, Fire Chief, City Attorney, Public Utilities Board Manager, Recreation Director, etc.).
- (3) <u>Appointing Authority</u> The Board of Mayor and Aldermen in the case of the City Administrator and Recorder, the Mayor in the case of all other appointed positions and Department Heads with the advise and consent of Board of Mayor and Aldermen, the Public Utilities Board in the case of sewer department employees, and Department Heads in the case of all other employees.
- (4) <u>City</u> Town of Mount Carmel, Tennessee.
- (5) <u>Complaint</u> A misunderstanding or disagreement on the part of an employee arising out of a belief that they are being treated unfairly in regard to the terms or conditions of their employment.
- (6) <u>Cooperation</u> Ability to work with others.
- (7) <u>Dismissal</u> The termination of employment of an employee.
- (8) <u>Emergency Employee</u> An employee hired to provide temporary assistance because of a special project or temporary increase in workload.
- (9) <u>Employee</u> Any person in the employ of the town who receives a salary or wage. Non-exempt employees are paid by the hour and will be paid overtime when they work over 40 hours in any one workweek. Exempt employees include City Administrator, Recorder, Police Chief, Public Works Foreman, Waste Water Foreman, Treasurer and any other employee in a position qualifying as "exempt" under the Fair Labor Standards Act.
- (10) <u>Exempt Employee</u> An employee compensated on a salary basis who also meets one of the definitions under the Fair Labor Standards Act for an employee exempt from the provisions of the overtime compensation provisions.
- (11) <u>Contract Employees</u> Employees who work under an individual contract, e.g. Recreation Director, City Judge, etc.

- (12) <u>Employee Classifications</u>
 - A. <u>Full-time Permanent</u> A permanent position that normally requires a minimum 40 work hours per week.
 - B. <u>Part-time Permanent</u> A permanent position that normally requires less than 40 work hours per week.
 - C. <u>Full-time Temporary</u> A temporary position lasting for an unspecified amount of time that does normally require a minimum 40 work hours per week. This employee shall not receive fringe benefits provided other employees.
 - D. <u>Part-time Temporary</u> A temporary position lasting for an unspecified amount of time which normally requires less than 40 work hours per week. This employee shall not receive fringe benefits provided other employees.
- (13) <u>Governing Body</u> The Board of Mayor and Aldermen.
- (14) <u>Grievance</u> An appeal of termination.
- (15) <u>His/he</u> These words and all similar references to the masculine gender shall be understood to include the feminine gender as well.
- (16) <u>Immediate Family</u> A husband, wife, child, father, mother, sister, brother, father-in-law, mother-in-law, brother-in-law, sister-in-law, grandchildren and grandparents of employee.
- (17) <u>Initiative</u> Ability to plan execute without being instructed in specific detail.
- (18) <u>Knowledge of Work</u> Knowledge of the job through education, training and experience. An understanding of "why" as well as "how."
- (19) <u>Reduction in Force</u> Involuntary termination (reduction in work force) of employment because of lack of work, lack of funds, privatization or reorganization.
- (20) <u>Leave of Absence</u> An approved period of time during which the employee is not physically present or work.
- (21) <u>Leave Without Pay</u> Time off from work for the employee's personal reasons and for which period the employee receives no pay and shall not accumulate benefits.
- (22) <u>Non-exempt Employee</u> An employee who receives a regular hourly wage and is required to account for all time worked as well as the use of sick, vacation and other leave time on an hourly basis who is entitled to overtime pay at a rate of not less than one and one-half times his or her hourly rate after having worked forty (40) hours of work in any give work week.
- (23) <u>On-Call Employee</u> An employee required to respond within thirty (30) minutes to a call to report to work that is placed outside normally scheduled working hours.
- (24) <u>Pay Period</u> The period of time between normal paydays that are every other Thursday.

- (25) <u>Personal Appearance</u> Neatness, cleanliness, style of clothing, grooming, and appearance that is appropriate for the job being performed.
- (26) <u>Probationary Period</u> A period of six (6) months during which an employee is required to demonstrate his fitness for a particular position as part of the selection process.
- (27) <u>Production</u> Quantity of work accomplished in a specific period of time.
- (28) <u>Public Relations</u> Manners, courtesy, tact, diplomacy, proper speech and grammar, and ability to meet and work with the public.
- (29) <u>Quality of Work</u> Accuracy, thoroughness, neatness, intelligence, analytical and reflective of organized thought.
- (30) <u>Reinstatement</u> The privilege of rehire, which may be granted to a former employee who voluntarily terminates their employment while in good standing and after giving proper notice.
- (31) <u>Resignation</u> Voluntary termination of employment by an employee.
- (32) <u>Suspension</u> An enforced leave of absence, with or without pay, for disciplinary purposes or pending investigation of charges against the employee.
- (33) <u>Transfer</u> The movement of an employee from one position to another that has the same pay assignment.
- (34) <u>Working Day</u> One shift during which an employee is scheduled to work.
- (35) <u>Work Week</u> The number of hours regularly scheduled to be worked during any seven consecutive days by an individual employee.

CHAPTER II EQUAL EMPLOYMENT OPPORTUNITY

2.10 Prohibition of Discrimination

It is the policy of the Town of Mount Carmel, Tennessee, to provide equal opportunity employment to all qualified applicants and to all employees with respect to initial employment, advancement, and general working conditions, without regard to age, race, creed, color, sex or national origin.

Discrimination against any person in recruitment, examination, employment training, promotion, retention, discipline or any other aspects of personnel administration because of political or religious opinions or affiliations or because of race, national origin or other non-merit factors is prohibited. Discrimination on the basis of age or sex or physical disability is prohibited except where specific age, sex or physical requirements constitute a bona fide occupational qualification necessary to proper and efficient administration.

2.20 Discrimination Complaints and Appeals

Applicants for employment with the town alleging discrimination in the town employment priorities or policies, and employees of the town with complaints of discrimination shall follow the complaint and appeals procedure set forth below:

- A. The affected applicant or employee shall file a written complaint with the Town.
- B. Within ten working days after the complaint has been filed, the City Administrator shall meet with the affected employee, the party(ies) concerned in the complaint and any other persons necessary to make a decision concerning the action (unless the complaint is made against the City Administrator or Mayor in which case the Vice-Mayor shall process the complaint.).
- C. Within fifteen (15) working days after the complaint has been filed, a written decision on the complaint will be rendered. A copy of the decision shall be given to the party(ies) named in the complaint.
- D. All employees of, or applicants for employment with the Town of Mount Carmel, who believe they have been discriminated against also have a right to file a complaint with the Tennessee Human Rights Commission and/or the U.S. Equal Employment Opportunity Commission.

E. No employee of, or applicant for employment with, the town shall be disciplined or discriminated against in any way because of the proper use of the Discrimination, Complaints, and Appeals Procedure.

2.30 Sexual Harassment

Sexual harassment will not be tolerated by the Town of Mount Carmel. The town affirms that all men and women are to be treated fairly and equally with dignity and respect. Any form of sexual harassment contradicts the policies of the town and will be treated as discrimination on the basis of sex.

Sexual harassment is a form of employee misconduct that undermines the integrity of the employee relationship. It refers to behavior which is not welcome, which is personally offensive, which weakens morale, and which therefore interferes with the work effectiveness of its victims and their co-workers. A supervisor who uses implicit or explicit coercive sexual behavior to control, influence, or affect the career, salary, or job of an employee is engaging in sexual harassment. Similarly, an employee of the department or division who behaves in this manner in the process of conducting department or division business is engaging in sexual harassment. Sexual harassment may include actions such as:

- Sex-oriented verbal "kidding" or abuse;
- Subtle pressure for sexual activity;
- Physical contact such as patting, pinching, or constant brushing against another body; and
- Demands for sexual favors, accompanied by implied or overt promises of preferential treatment or threats concerning an individual's employment status.

It is possible for sexual harassment to occur at two levels: among peers or co-workers, or between supervisors and subordinates. Complaints of sexual harassment may be submitted to the employee's immediate supervisor, unless the issue is with that particular supervisor, or the employee may have the right to go directly to the next level of management. The complaint is then channeled to the next higher supervisor, and so on up to the Board of Mayor and Aldermen, if necessary. Individuals who engage in harassment are subject to disciplinary action, including employment suspension, demotion or discharge.

CHAPTER III

CLASSIFICATION, PAY AND FRINGE BENEFITS

3.10 Job Descriptions

All positions are defined according to the duties, responsibilities, level of difficulty and the minimum qualification of training and experience and other qualifications felt necessary for entry into the various classifications.

3.20 Employee Compensation

Employee compensation shall be in an amount set by the Mayor upon the recommendation of the City Administrator and within the rate/amount budgeted by the Board of Mayor and Aldermen and defined within the Merit Pay Plan (Resolution Nos. 217 and 221). Employee compensation shall depend upon a) classification, b) longevity, and c) merit.

A non-exempt town employee who does not work his regularly scheduled work week shall be paid only for hours worked, unless such absence is authorized as paid leave by the employee's supervisor, or the City Administrator, or the Mayor.

Regular paydays for all town employees shall be every other Friday. Checks will be distributed by the Treasurer to individual employees or to their supervisor. All non-exempt employees will sign their time cards at the end of each pay-period and supervisors will also be required to sign time cards. Signature on time card is a verification the employee has worked the exact hours shown on the time card and no more or no less for the applicable period shown on said card.

The following deductions, as required by State and Federal law, shall be made from each employee's pay:

- A. Federal Withholding Tax
- B. Social Security (FICA)
- C. State Withholding Tax
- D. Medicare
- E. Retirement

It is the policy of the town that no advance on future wages shall be made.

3.30 Periodic Pay Increases and Advancement

Salaries and wages will be evaluated annually for all town departments. Adjustments will be considered on the basis of performance, standard of service, and current finances. The various factors that influence salary adjustment and advancement are as follows: knowledge of work, quality of work, length of service, use of working time, initiative, ability to work with others, loyalty and conduct, personal appearance, public relations, absenteeism and tardiness, care and maintenance of equipment, ability to adapt, leadership, acceptance of responsibility, self-motivation and cost control.

It is the duty of the City Administrator and all department heads to identify outstanding workers by conducting an annual performance evaluation and to adjust the rate of pay if merited according to performance, across the board raises, and financial limitations.

Seniority or longevity is not necessarily a basis for promotion or increase in pay. Promotions and pay increases will be on the basis of performance evaluations with length of service only one factor for consideration.

3.40 Benefits

Fringe benefits shall be paid or accrued every pay period.

The cash pay of employees by no means constitutes their total pay since employees receive a number of benefits that have a substantial value.

The benefits for eligible employees are as follows:

- A. Health Insurance (through a plan selected by the Governing Body)
- B. Life Insurance (through a plan selected by the Governing Body)
- C. Pension Plan (through a plan selected by the Governing Body)
- D. Workman's Compensation
- E. FICA (social security)
- F. Unemployment compensation paid upon valid claim
- G. Paid holidays
- H. Paid vacations
- I. Paid sick leave

The terms and conditions of these benefits may be governed by State law, federal law, and Board policy or by contract; detailed information is available at the office of the Recorder.

3.50 Pay at Termination

Employees who are terminated will normally be paid on the next regularly scheduled payday.

3.60 Hours of Work

The standard workweek for each department will be determined by the department head with approval of the City Administrator. Up to one hour will be allowed for lunch, including travel time, and will not be considered part of the regular workday.

Employees of the Wastewater/Public Works Department shall rotate "on-call duty." [Employees will be paid \$75.00 per week when they are "on call." If they are called out, then they will be paid overtime if their hours of work exceed forty in that workweek.]

The City Administrator or the Department Head shall give adequate notice to all employees of any change in the starting and stopping hours of the workday.

There shall be allowed two (2) fifteen (15) minute rest periods for all fulltime employees during the workday. One period shall be mid-morning and one period shall be mid-afternoon. Such periods shall not exceed 15 minutes in length, including travel time.

3.70 Attendance

Employees shall be in attendance at their assigned places of work in accordance with the policies regarding hours of work, holidays and leave. If an employee, for some un-avoidable reason, cannot report for work, he shall notify his supervisor or department head before the start of the shift. Notification Policy will be set by the Department Head. Failure on the part of an employee to comply with these policies may be cause for disciplinary action.

3.80 Overtime Compensation

All non-exempt employees shall receive overtime pay for each hour worked in excess of the employee's regularly scheduled 40 hour

workweek, unless other agreement is reached between the employee and the Town, as allowed by law. Police officers may be compensated for overtime in accordance with the specific provisions dealing with police officers under the Fair Labor Standards Act, 29 U.S.C. § 201 et seq. Other hourly paid town employees may also accrue compensation time off in lieu of overtime for all hours worked in excess of forty (40) in any one workweek so long as approved by the employees' Department Head and the City Administrator and may accrue such compensation time off up to a maximum of 240 hours. All hours worked in excess of forty (40) hours in any one workweek after an employee has accrued 240 hours of compensation time off must be paid at that employee's overtime compensation rate. Compensation time off must be documented by a detailed explanation of the work or project(s) that required working over forty (40) hours in the workweek on each employee's time card. All compensation time off accrued for all town employees qualifying for compensation time off must be used by June 30 of each fiscal year. A new accrual of compensation time off shall begin July 1 of each year.

Exempt employees who are paid by salary shall not be entitled to overtime compensation, or additional holiday pay. Any person required to work on a holiday as a part of their regularly scheduled workweek may receive an equal amount of time off preferably within the same pay period.

3.81 Call-Out Pay

From time-to-time, Town employees may be required to return to the Town to answer emergency calls. When a non-exempt employee, after departing from his or her regularly scheduled work place, reports back to work for emergency service after hours, the Town will pay him or her a minimum of two (2) hour's wages from the time he or she begins work at the worksite until the time he or she leaves the worksite. Each non-exempt employee called out will be paid at one and one-half (1 1/2) times his or her regular hourly rate while on call-out duty. (as added by Ord. #12-380, Aug. 2012)

3.90 Travel and Official Expenses

Employees shall be reimbursed for official travel in the performance of their duties, as well as for official expenses personally incurred related to their position. Details of the Town's Travel and Expense Regulations are found in Mount Carmel Code, Title I, Chapter 6 "Travel and Expense Regulations."

3.100 Uniforms and Personal Protective Equipment

- **A. Mandatory Uniform Allowance.** Uniforms, when required, will be provided by the Town. The cost to maintain those uniforms will also be paid by the Town.
- **B. Personal Protective Equipment.** Full-time employees may be reimbursed for the purchase of non-specialty safety-toe protective footwear (including steel-toe shoes or steel-toe boots) and non-specialty prescription safety eye wear as Personal Protective Equipment as follows:
 - 1. One eye wear frame with polycarbonate or CR-39 lenses up to a total cost of \$150.00.
 - 2. One pair of non-specialty safety-toe protective footwear (including steel-toe shoes or steel-toe boots) per year, unless unavoidably damaged earlier as determined by the Department Head, up to a total cost of \$175.00. (as amended by Ord. #12-381, Aug. 2012)

3.110 Retirement

The Town of Mount Carmel, Tennessee, has no mandatory retirement age. Continued employment in a position is dependent upon the employee's ability to continue to perform assigned tasks in an efficient and timely manner. This should not be construed to constitute a contract between the town and the employee, as all positions are subject to elimination through a reduction in force or through general reorganization, for budget limitations and for other legitimate reasons of the town.

It is the duty of any employee planning on retiring to notify the City Administrator as far in advance as possible of such retirement. Notice one year in advance is contemplated under this notice section. Retirement for medical reasons is excluded from the notification requirements.

3.120 Phone Use Policy

A. <u>Authorization</u>

Recommendations for the issuance of Town of Mount Carmel owned mobile phones should be approved by the Mayor. The use of a Town of Mount Carmel owned phone is considered a privilege and may be revoked. Regular landline phones may be provided to employees as is appropriate for their position.

- B. <u>Use</u>
 - 1. <u>Business Use</u>

Any phone owned and issued by the Town of Mount Carmel shall have as its primary function, business related uses. When an employee is in travel status, they are encouraged to use their mobile phone, if service is available.

2. <u>Personal Use</u>

This policy acknowledges that from time to time, a Town of Mount Carmel issued phone may be used for personal calls. As long as this use of the phone is incidental to its primary business use, personal calls are allowed.

If a situation occurs that warrants personal use of a Town of Mount Carmel owned phone, beyond an incidental nature, the individual shall reimburse the Town, as appropriate. Should it be determined that an individual is abusing the privilege of using a Town of Mount Carmel owned phone, the phone may be taken from the employee and/or the employee disciplined. Depending on the severity of the abuse, the Town's Discipline Policy shall apply.

Town employees are not allowed to use their personal phones during designated work hours unless specifically permitted by their Department Head. Personal calls during designated work hours may not be taken at any time when it may disrupt the employee's assigned task, work and/or may compromise the safety of the employee, other employees or the general public.

3. <u>Prohibited Use</u>

Phones issued by the Town of Mount Carmel shall not be used to harass or threaten any individual.

Typically, Town phones may not be used for personal long distance or fee services. However, in an emergency situation, the expense for any such use shall be reimbursed to the Town as soon as possible. When practical, the employee must seek approval from their supervisor.

4. <u>Driving</u>

The Town of Mount Carmel encourages the safe use of phones when operating any vehicle or piece of machinery. Drivers using cell phones may pull off the road into a safe area until the call is terminated. If available, hands free devices may be used to conduct calls while driving.

5. <u>Meetings</u>

Any individual using a Town of Mount Carmel mobile phone shall use good judgment in how and where the phone is used. Phones taken into meetings shall be turned off or to vibrate. If a call is taken during a meeting, every effort should be made not to disrupt the meeting. Unless a call is specifically related to the topic of discussion, talking on the phone in a meeting is strongly discouraged.

C. <u>Phone Records</u>

Every individual Town of Mount Carmel owned mobile phone user is responsible for checking the accuracy of their bill before it is processed for payment. Discrepancies in billing data shall be resolved in a timely manner. Landline calls incurring fees shall be assigned to the appropriate departmental budget code.

If a Town phone is used for personal long distance or fee services, the Supervisor must be notified and the Town reimbursed.

D. <u>Other</u>

The nature of the technology required to support the wireless mobile telephone is rapidly evolving. Phones may have additional features such as cameras, text messaging, Internet access, etc. The intent of this policy is to apply the principles enumerated herein to any such add—on or accessory feature.

E. <u>Recordings</u>

Employees that use devices to record telephone conversations shall do so only in a manner consistent with the status of such applicable Local, State and Federal Laws.

CHAPTER IV LEAVE

4.10 Vacation Leave

No temporary employee, working full-time or part-time, shall be entitled to vacation leave. Permanent part-time employees are not entitled to vacation leave.

At the date of the adoption of these Policies, each employee shall be entitled to his vacation time earned up to that date and thereafter each full-time permanent employee shall earn vacation time in accordance with the following schedule:

YEARS SERVICE	ALLOWABLE VACATION PER YEAR
1-year	one week
2-years	two weeks
8-years	three weeks
14-years	four weeks
20-years	five weeks

Vacation time accrued shall not exceed two (2) years entitlement calculated from the anniversary date of each year of employment. Vacation time not taken within two (2) years of the date accrued shall be cashed out. At no time, shall any employee take more vacation time per year than is allowed under the above schedule under "allowable vacation per year" column, or up to two years accrual.

Vacation leave must be applied for by the employee and may be used only when approved by the department head, who shall designate such time or times when it will least interfere with the efficient operation of the department. However, this action must not be arbitrary and the department head may not unreasonably defer the taking of vacation leave so that employees are deprived of vacation rights. Employee vacation shall be allocated on January 1 of each year for the coming year based on what the employee qualifies for at that date. Any additional vacation that employees qualify for will not be awarded until after the anniversary date. Unless there is an emergency, all employees shall provide their supervisor with two weeks notice when requesting vacation time.

Department heads must apply for vacation leave to the City Administrator for approval.

For vacation leave purposes, an employee granted the privilege of "re-instatement" as defined on page 3 is a new employee. However, an employee re-instated after leave with or without pay or re-instated as a result of a grievance will not be considered a new employee.

Vacation leave shall not accrue to any employee on probation, in a non-pay status for 20 consecutive work hours during any pay period, suspension, lay-off, or leave of absence without pay, unless otherwise directed by the City Administrator.

No vacation leave shall be granted for less than one hour.

Vacation leave shall be taken on a normal workweek basis. Paid holidays falling within a period of vacation leave shall not be counted as vacation. Each employee, upon retirement or voluntary separation from the town, shall be paid for unused accumulated vacation leave. Upon the death of any employee, their estate shall be paid for their unused accumulated vacation leave.

4.20 Sick Leave

Each regular full-time employee will accrue sick leave at the rate of one work day per pay period. Employees may accumulate an unlimited amount of sick leave which may be carried over from one calendar year to another.

Generally, employees become eligible to use sick leave in the following situations.

- 1. When an employee is incapacitated by sickness or a non-jobrelated injury, or they are seeking medical, dental or other diagnosis or treatment.
- 2. When necessary care and attendance of a member of the employee's immediate family is approved by a department head. Immediate family members are defined in Section 1.50 "Definitions," No. 16, "Immediate family."
- 3. When employees have received notice from their doctor that they may jeopardize the health of others because they have been exposed to a contagious disease.

Sick leave benefits shall commence on the first day of such absence and shall continue for as long as sick leave credit remains. A one work-day absence while sick will constitute a charge of one day of sick leave. Each day deducted from an employee's sick leave accumulation shall be for a regular workday and shall not include holidays and scheduled days off.

Sick leave shall be requested in advance for any non-emergency medical, dental or other diagnosis or treatment. Employees shall, when possible, notify their department head of their illness or incapacity before they are due to report to work on the first day of any sick leave. When an employee is not physically capable of doing so, they shall give notice as soon as possible.

To prevent abuse of the sick leave privilege, department heads are required to satisfy themselves that an employee is genuinely ill before sick leave is authorized. Any absence may require a doctor's certificate; and, any absence in excess of three workdays may also require a doctor's certificate to return to work, if, in the opinion of the department head, such action is deemed appropriate. Sick leave may be denied, and appropriate disciplinary action taken, when an employee is shown to be abusing sick leave privileges.

Sick leave shall not accrue to an employee who is on "leave without pay," including Short-term Disability, or is absent from work without approved excuse for 5 or more work days during any pay period

An employee, upon exhausting all earned sick leave, may use earned annual leave (vacation) After an employee has exhausted their accrued sick leave and vacation leave, leave with, or without, pay may be granted at the discretion of the mayor as a reasonable accommodation to disabled people. Also, employees may be placed on special leave without pay, or they may be terminated if unable to perform their job or another job with or without a reasonable accommodation. Should employees later be able to return to work, upon presentation of certification by a doctor, they shall be given preference for employment in a position for that they are qualified, with the approval of the mayor.

Employees may not borrow against future sick leave or transfer earned sick leave to another employee. Only the mayor may make exceptions to leave policy due to unusual and/or extenuating circumstances.

No employee shall be paid for accumulated sick leave. All accumulated sick leave shall expire upon an employees separation from employment; except that, an employee who retires under the Tennessee Consolidated Retirement System shall have all unused sick leave credited as additional time worked when calculating the employee's retirement benefits. (Res. 335, December 27, 2005)

4.30 Holiday Leave

The following shall be paid holidays for all permanent employees and shall be observed on the dates and days as prescribed by law:

New Year's Day	Thanksgiving Day
Good Friday	Day after Thanksgiving
Memorial Day	Veterans' Day
Independence Day	Christmas Eve
Labor Day	Christmas Day

The town offices, except essential services, shall be closed on official holidays. When a holiday falls on Saturday, it shall be observed on the preceding Friday. When a holiday falls on a Sunday, it shall be observed on the following Monday. Permanent part-time employees shall not be eligible for paid holidays.

All full-time permanent non-exempt employees required to work on a holiday may receive an equal amount of time off preferably within the same pay period or may be paid for those holiday hours worked at the rate of one and one-half times their regular rate at the discretion of the Department Head.

If a holiday occurs while an employee is on Workers' Compensation leave or other disability compensation leave, and is not using sick leave or vacation leave, no credit for the holiday shall be allowed.

In order to receive pay for an observed holiday, an employee must not have been absent without pay on the work day immediately preceding or immediately following the holiday unless excused by the supervisor or unless taking vacation or sick leave on such days.

Holidays that occur during a vacation, sick, funeral or other authorized leave shall not be charged against the leave.

4.40 Civil Leave

Employees are eligible for paid civil leave in the following situations:

- 1. When an employee is called to serve as a juror or is appointed to serve as a clerk or judge on an election board, the employee is entitled to his regular pay. Any fees paid to him as a result of this service shall be turned over to the town.
- 2. For the purpose of voting if the employee's working hours

prevent voting during the time the polls are open.

- 3. When an employee is called to perform emergency civilian duty.
- 4. When an employee is subpoenaed to appear in court on behalf of the town.

An employee who is required by subpoena to appear in court as a plaintiff, defendant or witness on a personal matter shall not be granted civil leave, but may be granted vacation leave or leave without pay.

An employee whose public service duty is completed before the end of his normal working day with the town shall return to his post of duty.

4.50 Maternity Leave

A pregnant employee may request maternity leave at such time as she feels she is unable to perform her normal duties or when her physician advises her to do so. Such leave shall be for a period not to exceed ninety (90) calendar days and shall be without pay after accrued vacation and sick leave have been expended.

An employee on maternity leave is expected to return to work after childbirth, miscarriage or abortion at the end of the 90-day leave of absence, or as soon thereafter as she can be reasonably expected to perform her normal duties. Failure to report at the end of the 90-day leave shall be considered as a resignation unless a time extension has been approved by the City Administrator.

4.60 Funeral Leave

Up to three (3) days in-state or (5) days out-of-state of funeral leave with pay may be granted for attendance of funerals of the immediate family of an employee. Any additional days may be charged to vacation, sick leave, or taken as leave without pay with the approval of the Department Head. One day of funeral leave with pay may be allowed for attendance of funerals of other non-immediate family members.

All funeral leave must be approved by the employee's immediate supervisor.

In situations where several employees wish to have time off to attend a funeral or funerals, discretion must be used by supervisory personnel so that town service can be maintained.

4.70 Military Leave/Veterans' Re-Employment

Any regular employee who has completed six months of satisfactory employment and who enters the U. S. armed forces will be placed on military leave. The City Administrator, mayor, or department head will approve military leave without pay when the employee presents his/her official orders. The employee must apply for reinstatement within 90 days after release from active duty.

The employee will be reinstated to a position in the current classification plan at least equivalent to his/her former job. His/her salary for the assigned position will be the salary provided under the position classification and compensation plan prevailing at the time of reinstatement or re-employment. If no job is available at the time the employee returns, he/she will be reinstated into the first available position. No current full-time employee will be terminated or laid off to allow for reinstatement.

Any regular full-time employee who is a member of the U.S. Army Reserve, Navy Reserve, Air Force Reserve, Marine Reserve, or any of the armed forces will be granted military leave for any field training or active duty required (excluding extended active duty). Such leave will be granted upon presentation of the employee's official order to his/her jurisdictional official. Compensation for such leave will be paid pursuant to Tenn. Code Anno. § 8-33-109.

It will be the employee's responsibility to arrange with the department head to attend monthly meetings on regular off-time, with pay applicable to the annual two-week training period. Employees entering an extended active duty will be given 15 days of pay when placed on military leave.

4.80 Injury Leave

Town employees are subject to the provisions of the Tennessee Workman's Compensation Act and are entitled to the benefits of that law, whether by injury or occupational disease arising out of and in the course of employment.

Injury or occupational disease occurring out of and in the course of employment shall be reported to the Recorder and/or supervisor as soon as possible and the Recorder shall file the necessary reports.

The Recorder will furnish information and reports concerning injuries, or alleged injuries, or occupational diseases which are or may be within the

scope of the Workman's Compensation Act, in order that proper medical attention is provided, compensation and expenses are paid, investigation and determination of legal liability may be made and that compensation is terminated when the disability ceases or benefits are exhausted.

An employee entitled to be paid Workman's Compensation for temporary disability may be granted sick leave with full pay for the first five (5) working days of such disability, including the day of injury (if disability began that day, assuming such employee has sufficient accumulated sick leave). At the expiration of the sick leave, provisions of the Workman's Compensation Act shall apply.

An employee who is receiving Workman's Compensation for an injury or occupational disease occurring out of and in the course of employment, shall have the option of electing to use accumulated sick leave and/or vacation leave to supplement Workman's Compensation up to, but not exceeding the employee's regular rate of pay. After all such sick and/or vacation leave has been used, the employee shall not be entitled to any compensation except that authorized by the Workman's Compensation Act. Such injured employees shall be carried in a leave without pay status for a period not to exceed one (1) year after which employment shall cease.

Employees injured on the job that receive a restricted release or restricted permission to return to work may be returned to their prior position if reasonable accommodation can be made without violating the medical restriction(s). Likewise, such an employee may be placed in another position within the town if such an open position exists and the injured employee's restrictions may be accommodated. Nothing herein should be construed as a commitment on the part of the Town to make work or create a position for an injured employee.

4.90 Absence without Leave

Absence by an employee from place of duty not specifically authorized or covered in this manual shall be charged as absence without leave.

Absence without leave shall be in a non-pay status and may be cause for reprimand or dismissal.

4.100 Family Leave

The Family and Medical Leave Act of 1993, 29 U.S.C. 2601 <u>et seq</u>., shall be followed by the town. Please refer to the FMLA policy adopted by the Board of Mayor and aldermen. (See Resolution 265, September 24, 2002.)

4.110 Records to be Maintained

The Recorder shall maintain a record of each employee, accounting for time worked and all absences from work. The record shall include a compilation of vacation leave earned, used and unused, sick leave earned, used and unused, and any other type of approved leave used or unused.

All such reports shall be compiled by the Recorder in December each year, shall be verified by each employee, and shall be signed by said employee and by the Recorder.

All employment applications of unsuccessful applicants will be maintained in a separate file apart from employee personnel files.

APP-B-27

CHAPTER V

(as deleted by Ord. #18-478, Jan. 2019 $\pmb{Ch7_10-24-19}$)

CHAPTER VI DISCIPLINARY ACTION

6.10 Grounds

The following shall be grounds for taking disciplinary action against a town employee, which will range from oral reprimand to discharge. However, this list is not inclusive. Other conduct not described herein, may result in disciplinary action.

- (1) Tardiness, early departure, absence without leave, abandonment of position, or other failure to maintain a satisfactory attendance record;
- (2) Unsatisfactory performance of duties in terms of quality or quantity;
- (3) For supervisors, inability to plan, organize, or direct the work of subordinates;
- (4) In positions requiring initiative and independent judgment, the inability to perform duties without excessive supervision;
- (5) Insubordination, including the refusal or failure to comply with a proper order of higher authority or the refusal or failure to perform assigned work within capabilities;
- (6) Abuse of sick leave or other benefits;
- (7) Neglect, waste, damage, misuse, or unauthorized taking of any kind of town property;
- (8) Failure to retain qualifications necessary for the job;
- (9) Use of offensive language toward or abusive, improper, or discourteous treatment of a member of the public or another town employee;
- (10) Harassment or unfair treatment of any person because of political or religious opinions or affiliations or because of race, color, national origin, marital status, veteran status, age, sex or physical disability;
- (11) Possession, use or presence under the influence of an intoxicating beverage or illegal drug while on duty or on town property;
- (12) Fighting or gambling while on duty or on town property;
- (13) Acceptance of any gratuity or gift for performance or nonperformance of duties, use of town position or time for private gain, or other conflict of interest violation;
- (14) Unauthorized or improper use of official authority;
- (15) Violation of the prohibitions on political activity or solicitation;
- (16) Use or attempted use of political influence or bribery to obtain a favorable personnel action;

- (17) Falsification of any town document or record;
- (18) Unauthorized disclosure of official information;
- (19) Conviction of a crime under such circumstances that unfitness for the position results or that disciplinary action is otherwise necessary in the best interest of the town;
- (20) Failure to observe required safety precautions or to communicate any violation of safety rules;
- (21) Conduct unbecoming a town employee, tending to be prejudicial to the reputation of the town government, or otherwise contravening the public interest;
- (22) Violation of the Constitution of the United States or the State of Tennessee, any state or federal law or regulations or any town ordinance;
- (23) Any other act or failure to act that demonstrates that the offender is unsuitable or unfit for employment with the Town of Mount Carmel;
- (24) Failure to notify supervisor, as required by department rule prior to the start of their shift if unable to work;
- (25) Breach of required confidentiality;
- (26) Sabotage;
- (27) Waste of time;
- (28) Failure to promptly report to their immediate supervisor any deficiencies in the town equipment, programs, services or other property including the regular scheduled maintenance.

6.20 Administration of Discipline

Disciplinary action shall be consistent with the nature of the deficiency or violation involved and the record of the employee. Disciplinary action shall be imposed in a clear and business like manner and, as appropriate, shall be directed at improving the employee's performance and/or conduct and at avoiding recurrence of the deficiency or violation.

6.30 Disciplinary Authority

Unless otherwise provided by supplemental personnel regulations, all supervisors shall have the authority to issue oral and written reprimands to their subordinate employees. Department head level shall have the authority for other types of disciplinary action, except that suspensions without pay and dismissals shall require the prior approval of the City Administrator or Mayor. Disciplinary action other than oral reprimands shall be thoroughly documented for inclusion in the official personnel records of the employees involved.

6.40 Protective Suspension

When an employee is under investigation for a crime or official misconduct, he or she may be suspended from work with pay for the duration of the investigation or proceeding if necessary to protect the public interest. Once charged with a crime or official misconduct, the suspension may be without pay. Any return to duty shall be under such terms and conditions as may be specified by the Town, which may include reimbursement for all back pay and benefits if acquitted.

6.50 Other

In the event of willful destruction of property, restitution shall be made to the Town of Mount Carmel.

Assignments to undesirable tasks, shifts, hours of work, or any measure other than the foregoing shall not be used for disciplinary purposes.

A written record shall be kept for <u>all</u> disciplinary actions and proceedings, including oral reprimands, and placed in the employee's personnel file. This provision shall be strictly adhered to by all supervisory personnel. <u>Exception</u>: Oral reprimands may not necessarily be placed in the employee's file, but will be reported to the City Administrator in writing.

6.51 Traffic Violations While Operating City Vehicles

All employees will report to their Supervisor, who in turn will report to the Safety Committee Chairman, receipt of any traffic citation received by the employee while operating a city vehicle, whether it be issued by an officer or by photo enforcement cameras.

When the employee receives a citation he/she will be counseled by their supervisor and a copy of the citation shall be placed in their personnel file. If no additional citations are received within a year after the date of the first citation, all records will be expunged from their personnel file.

Should the employee receive another citation within the year following the first citation while operating a city vehicle, he/she will receive a written reprimand, which along with a copy of the citation, will be placed in their personnel file. The employee will be placed on probation for one year as of the date of the second violation. If no additional citations are received with a year after the date of the second citation, all records will be expunged from their personnel file. Should any additional citations be received by the employee while operating a city vehicle, if the employee is on probation, the employee may be suspended for up to three days or terminated. Should the employee fail to report the receipt of any citation while operating a city vehicle or fail to provide documentation of such to his Supervisor within three working days, the employee will receive a written reprimand which will be placed in their personnel file, and be placed on three days suspension without pay.

CHAPTER VII STAFFING

7.10 Policy Statement

It is the policy of the town to seek qualified applicants and employ them to carry out the functions of the town. Each position for which applicants are sought and each position filled must have a job description that is available to the applicant/employee.

Additionally, no town official may enter into any oral or written contract or agreement with a town employee or potential town employee on behalf of the Town unless approved by the Mayor.

7.20 Announcement of Available Positions

Vacancies in positions or the creation of a new position shall be announced. Announcements may be posted in appropriate places throughout the town and may be sent to newspapers, radio stations, educational institutions, professional and vocational societies, public officials and to such other organizations and individuals as the town may deem appropriate. Announcements may include:

- A. Information concerning the time for filing applications.
- B. A description of duties and responsibilities of the position.
- C. Minimum or additional desirable qualifications.
- D. Salary or other compensation range.
- E. Such other information as will assist interested persons to understand fully the nature of the employment and the procedure necessary to apply.
- F. All town employees will be encouraged to live within the town limits, if possible.

To assure sufficient numbers of qualified applicants, the town may continue to accept applications after the originally announced filing date. If the filing date is extended, such action will be appropriately publicized.

The town may also decide to accept applications for certain positions without any closing date, in which case the announcement for the position shall so state.

7.30 Application and Examination

All applications shall be made on a form prescribed by the Recorder and shall be filed with the Recorder on or prior to the closing date specified in the announcement or postmarked before midnight of that date. All applications shall be signed and the truth of the statements contained therein certified by such signature.

The town may give examinations to establish employment and promotion lists. The tests in such examinations may be written or oral; a demonstration of skill; an evaluation of experience and education; an interview designed to determine general fitness for the position; physical tests of strength, stamina or dexterity; or a combination of these, which shall fairly appraise and determine the merit, qualification, fitness and ability of applicants. Such tests if administered, shall be practical in character and shall relate to the duties and responsibilities of the position for which the applicant is being examined and shall fairly test relative capacity and fitness of persons examined to perform the duties of the position(s) to which they seek to be appointed or promoted. An applicant may be required to possess scholastic education qualifications if the position for which he is being examined requires professional or technical knowledge, skills and abilities

7.40 Medical Examinations

Before hiring, new employees may be required to undergo a medical examination to determine physical and mental fitness to perform work in the position for which application is made. The expense of the examination will be paid by the town. Existing employees may also be required to undergo a physical examination to determine physical and mental fitness to continue to perform their duties. Expense of the examination will be paid by the town.

7.50 Employee Orientation

The department heads and supervisors have a duty to orient all new employees. Such orientation training includes familiarization of the duties of the position, the hours of work, relationship to other employees, safety precautions, the rights and obligations of an employee, and information about the unit or department.

7.60 Promotion

Whenever possible, vacancies will be filled by a qualified person presently employed by the town. However, the town may recruit applicants from outside the town service whenever there is reason to believe that better qualified applicants are available. Promotion within the town service shall be based upon the qualifications of the person being considered.

7.70 Probation Period

No employee will be considered to be a permanent employee until the probationary period has been satisfactorily completed. Each new or promoted employee shall be notified of his probationary status. Probationary employees receive limited benefits while on probation. Full time employees shall be offered the opportunity to enroll for health insurance benefits at the time of employment, but must complete their one hundred eighty (180) day probationary period before being considered as a permanent employee. At the end of one hundred eighty (180) days, probationary employees shall receive all other benefits as provided other employees. (As amended by the Board of Mayor and Aldermen on March 25, 2003.)

The probationary status shall begin immediately upon the first day on the job and end on the one hundred eightieth (180th) day of employment. At this time the supervisor will advise the employee as to whether or not their performance is acceptable. The employee will complete an evaluation and the supervisor and City Administrator will complete an evaluation. An adjustment in wage rate may be made by the Mayor upon the recommendation of the City Administrator or Supervisor; the town retains the right of preemptive termination of any probationary employee. A Department Head may grant an extension of the probationary period not to exceed sixty (60) days of the original probationary period with the approval of the City Administrator.

7.80 Re-Employment

An individual who is separated from the service with the town for more than thirty-one (31) days, may be re-employed by complying with all the requirements of a new employee and shall be entitled to only those benefits offered to a new employee. Exception: Former employees who leave without proper notice, or were convicted of a felony will not be considered for re-employment.

7.90 Drug Testing

The Town of Mount Carmel is concerned about the safety of its citizens and its workers. The town drug testing policy will be available to all employees. (See Resolution No. 87).

7.91 Driver's Licenses

Every employee who is required to have a driver's license is required to notify the City Recorder of any change in the status of that license. The City Recorder shall check the status of licensed operators with the Department of Safety every six months. Employees are strictly prohibited from operating any Town vehicle or equipment that would require an operator's license, unless the employee has a current license to operate the vehicle or equipment. (as added by Ord. #13-398, August 2013)

7.92 Use of Town Vehicles and Equipment

All Town vehicles and equipment are for official use only. No person other than a Town employee may operate a town vehicle or piece of machinery. Drivers and/or operators must have a valid Tennessee driver's license and be approved by the Mayor. (as added by Ord. #13-398, August 2013)

7.100 Employment of Relatives

Immediate family members will not be considered for employment with the town. Relatives of employees may be employed by the town as long as they are working in different departments, present exceptions accepted.

No supervisor shall supervise his or her immediate family members.

No member of an immediate family, including spouse, mother or stepmother, father or stepfather, children, sister, brother, grandparents, current mother-in-law or current father-in-law, step-grandparents, grandparents-in-law, and grandchildren, shall be employed in such capacity as to have one directly supervised by the other. This does not preclude employment of immediate family member under other lines of supervision.

That in carrying out the Mayor's duties pursuant to Tenn. Code Anno. §6-3-106(b)(2)(A), in employing, promoting, disciplining, suspending and discharging all employees and department heads, in accordance with the PERSONNEL POLICIES AND PROCEDURES adopted by the Board of Mayor and Aldermen, the Mayor shall submit the employment or promotion, but not the discipline, suspension and discharge, of a member of the immediate family of an existing employee for confirmation by the Board of Mayor and Aldermen. In confirming or denying the employment the Board shall consider the specific benefit to the Town; the specific qualifications of the candidate for employment or promotion; the line of supervision; and any other similar factor affecting the interest of the Town.

7.110 Physical Standards for Employment

By the nature of the work required, all job descriptions with the Town of Mount Carmel shall outline the physical qualifications to perform the work required.

7.120 Emergency Employment

If any emergency arises the City Administrator or the Mayor may, without complying with the provisions of the personnel rules concerning regular employment, employ such persons as are necessary to meet the emergency.

7.130 Pay Rates in Demotion

The rates of pay for any demoted employee shall be determined as follows:

- A. If the rate of pay in the higher position is higher than the rate of pay for the position to which demoted, the rate of pay shall be reduced to the rate of pay in the lower position.
- B. If the rate of pay in the higher position falls within the range of the position to which demoted, the rate of pay shall remain unchanged.

7.140 Employee Training

A. Employees are encouraged to participate in conferences, conventions and meetings that have a direct relationship to the employees' position and the town services. Employees shall be considered for training programs, conventions, etc. on an annual basis. Department heads shall determine training needs on an annual basis and can include formal classes, seminars, workshops, reading material, videotapes and other methods available. Approval for attendance at such conferences, conventions and meetings shall be obtained from the department head and Town Administrator.

- B. As a condition of approval for extensive specialized training for any employee, that employee shall be required to reimburse the Town for the costs and expenses advanced or paid on behalf of the employee attendant to such training.
- C. Extensive specialized training shall include, but not be limited to, Police, Fire and Wastewater Operator certification.
- D. The procedure for reimbursement shall include the execution of a written agreement by the employee setting forth the terms for such reimbursement, which terms for such reimbursement, which terms for such reimbursement, which terms shall include a provision for the *pro rata* reduction of the reimbursement obligation by 1/24 for each month worked by the employee after completion of the training.
- E. Any portion of the reimbursement obligation which remains unpaid at the time an employee discontinues their employment may be deducted from any final salary and benefits payment to the employee upon separation.

7.150 Layoff, Termination, and/or Resignation

Return of property - when an employee leaves the employment of the Town of Mount Carmel, they will be required to return their keys, personnel policy, equipment, etc. issued to them before receiving their final paycheck.

Layoff - The department head, with approval of the City Administrator or Mayor, may lay off any employee because of a reduction in required personnel, because of a lack of work within the department, reorganization of a department or town function, a shortage of funds or materials and/or completion of a project.

Employees laid off shall receive one week's notice.

<u>Consideration</u>: multiple job skills, most recent performance appraisal, knowledge, skills, abilities, attitude, disciplinary action. Employees laid off have no priority on re-hiring.

7.160 Garnishments

An assignment or garnishment of a portion of an employee's compensation is an inconvenient and unnecessary administrative expense to the town. The town may take such disciplinary steps, including dismissal, as are legally allowed and appropriate in the particular matter.

CHAPTER VIII PERFORMANCE EVALUATION

8.10 Performance Evaluation Process

The system of performance appraisal may be used for purposes of promotion, dismissal, demotion, reductions in force, and re-in statement, as well s to keep employees advised of what is expected of them and how well they are meeting these expectations.

Performance appraisals may be governed by the following:

- A. The appraisal of work performance provides recognition for effective performance and identifies aspects of performance that could be improved.
- B. Performance appraisal is a continuing responsibility of all supervisors, and supervisors shall discuss performance informally with each employee as often as necessary to insure effective performance throughout the year.
- C. Each supervisor may discuss with the employee his overall work performance at least once in each 12 calendar months for the purpose of informing the employees of the caliber of his work, helping the employee recognize areas where performance could be improved and developing with the employee a plan for accomplishing such improvements.
- D. Complaints on performance appraisals on the basis of abuse, harassment, or discrimination, are subject to the Complaint procedure described in Chapter V.
- E. Each employee shall be given a copy of the written appraisal governing his own performance, and the original will be placed in his permanent personnel file.

8.20 Frequency of reports

Annual performance reports shall be prepared each June on all permanent employees.

8.30 Review of Performance Report

- (1) The superior shall sign the report.
- (2) The superior shall discuss the report with the employee being rated, pointing out obvious weaknesses and strong points.
- (3) The employee being rated shall indicate by signature that the report has been discussed with said employee. Signature of employee does not imply agreement with the report. If the

employee desires, he may submit a written statement that shall be attached to the report and becomes a permanent part thereof.

(4) All reports will finally be reviewed by the City Administrator and Mayor.

8.40 Records to be Maintained

The Recorder is the official custodian of all Town records and shall maintain the following records which may be used when preparing performance reports:

- A. Individual vacation and sick leave record.
- B. Copy of each position description form.
- C. Copy of each performance report.
- D. Copy of any corrective and/or disciplinary action correspondence.
- E. Copy of suspension notices.
- F. Copy of any favorable communications including evidence of self-improvement efforts.
- G. Copy of unfavorable communications.
- H. Copy of in-service training records.
- I. Copies of time sheets.
- J. Copy of employee license number and driving record.

8.50 Maintenance of Records

All personnel records and files shall be retained to satisfy state and federal requirements and Mount Carmel Code, Title 1, Chapter 5, "Document and Record Retention."

8.60 Public Review of Records

The inspection of personnel records shall be subject to <u>Tenn</u>. <u>Code Anno</u>. § 10-7-503.

8.70 Employee Performance

No supervisor, employee or town official, shall provide references on current or former employees without (1) a written release from the current or former employee and (2) a written form letter from the prospective employer. No references will be given by telephone.

CHAPTER IX POLITICAL ACTIVITY, ETHICS AND CONDUCT

9.10 Political Activity

Every employee of the Town shall enjoy the same rights of other citizens of Tennessee to be a candidate for any state or local political office, the right to participate in political activities by supporting or opposing political parties, political candidates, and petitions to governmental entities; provided, that the city is not required to pay the employee's salary for work not performed for the governmental entity; and provided further, that unless otherwise authorized by law or local ordinance, an employee of a municipal government shall not be qualified to run for elected office in the local governing body of such local governmental unit in which the employee is employed. (Tenn. Code Anno. section 7-15-1501.)

9.20 Ethics

<u>Acceptance of gratuities</u>. No municipal officer or employee shall accept any money or other consideration or favor from anyone other than the town for the performance of an act which he would be required or expected to perform in the regular course of his duties; nor shall any officer or employee accept, directly or indirectly, any gift, gratuity, or favor of any kind which might reasonably be interpreted as an attempt to influence his actions with respect to town business.

9.30 Outside Employment

No full-time officer or employee of the city shall accept or continue any outside employment if the work interferes with the satisfactory performance of the officer's or employee's duties. In addition, no such employee shall then accept or continue any outside employment if the work in incompatible with his city employment, or is likely to cast discredit upon or create embarrassment for the city.

9.40 Termination, Accountability and Disclosure Act

All employees are responsible for disclosing conflicts of interest. This could include, but is not limited to, the hiring of immediate family members, using confidential information to obtain financial gain, the use of town personnel, resources, property, supplies or funds for personal use or gain or entering into certain contracts without having an open bidding process and voting on issues where personal gain is involved.

9.50 Use of Municipal Time, Facilities, etc.

No municipal officer or employee shall use or authorize the use of municipal time, facilities, equipment, or supplies such as, but not limited to private use of town vehicles, personal telephone calls, copies, internet service, etc. for private gain or advantage to himself or any other private person or group. Provided, however, that his prohibition shall not apply where the board of mayor and aldermen has authorized the use of such time, facilities, equipment, or supplies, and the town is paid at such rates as are normally charged by private sources for compatible services.

9.60 Use of Position

No municipal officer or employee shall make or attempt to make private purchases, for cash or otherwise, in the name of the town, nor shall he otherwise use or attempt to use his position to secure unwarranted privileges or exemptions for himself or others.

APP-B-42

TOWN OF MOUNT CARMEL PERSONNEL POLICIES AND PROCEDURES

This manual is the property of the Town of Mount Carmel, Tennessee.

MANUAL NO. _____

The employee to whom this manual is issued is responsible for its care and good condition and for inserting supplements and making corrections necessary to keep it current. Also, the employee is required to know and understand this manual and accept appropriate discipline if the manual is not followed. Whenever there is doubt as to the meaning or intent of a rule, policy, or procedure, the employee shall seek an interpretation or explanation.

The manual is official town property issued to employees. It must be returned in good condition when the employee leaves the town service.

If found, please return to the Town of Mount Carmel, Tennessee.

I have read the foregoing Town of Mount Carmel, Tennessee, Personnel Policies and Procedures Manual, have been given the opportunity to ask any questions about its content, understand its terms, and agree to abide by its terms.

Issued to:

Date: _____

Signature of employee receiving this manual:

APPENDIX C

PLAN OF OPERATION FOR THE OCCUPATIONAL SAFETY AND HEALTH PROGRAM FOR THE EMPLOYEES OF THE TOWN OF MOUNT CARMEL

- I. Purpose and coverage.
- II. Definitions.
- III. Employer's rights and duties.
- IV. Employee's rights and duties.
- V. Administration.
- VI. Standards authorized.
- VII. Variance procedure.
- VIII. Recordkeeping and reporting.
- IX. Employee complaint procedure.
- X. Education and training.
- XI. General inspection procedures.
- XII. Imminent danger procedures.
- XIII. Abatement orders and hearings.
- XIV. Penalties.
- XV. Confidentiality of privileged information.
- XVI. Compliance with other laws not excused.
- XVI. Discrimination investigations and sanctions.
- XVII. Compliance with other laws not excused.

APPENDICES

- I. Work locations.
- II. Notice to all employees.
- III. Program plan budget.
- IV. Accident reporting procedures.

I. PURPOSE AND COVERAGE.

The purpose of this plan is to provide guidelines and procedures for implementing the Occupational Safety and Health Program for the employees of the Town of Mount Carmel.

This plan is applicable to all employees, part-time or full-time, seasonal or permanent.

The Town of Mount Carmel in electing to update and maintain an effective Occupational Safety and Health Program Plan for its employees:

a. Provide a safe and healthful place and condition of employment.

- b. Require the use of safety equipment, personal protective equipment, and other devices where reasonably necessary to protect employees.
- c. Make, keep, preserve, and make available to the Commissioner of Labor and Workforce Development, his designated representatives, or persons within the Department of Labor and Workforce Development to whom such responsibilities have been delegated, including the Safety Director of the Division of Occupational Safety and Health, adequate records of all occupational accidents and illnesses and personal injuries for proper evaluation and necessary corrective action as required.
- d. Consult with the Commissioner of Labor and Workforce Development or his designated representative with regard to the adequacy of the form and content of such records.
- e. Consult with the Commissioner of Labor and Workforce Development regarding safety and health problems which are considered to be unusual or peculiar and are such that they cannot be resolved under an occupational safety and health standard promulgated by the State.
- f. Assist the Commissioner of Labor and Workforce Development or his monitoring activities to determine Program Plan effectiveness and compliance with the occupational safety and health standards.
- g. Make a report to the Commissioner of Labor and Workforce Development annually, or as may otherwise be required, including information on occupational accidents, injuries, and illnesses and accomplishments and progress made toward achieving the goals of the Occupational Safety and Health Program Plan.
- h. Provide reasonable opportunity for and encourage the participation of employees in the effectuation of the objectives of this Program Plan, including the opportunity to make anonymous complaints concerning conditions or practices which may be injurious to employees' safety and health.

II. <u>DEFINITIONS</u>.

For the purposes of this Program Plan, the following definitions apply:

a. "Commissioner of Labor and Workforce Development" means the chief executive officer of the Tennessee Department of Labor and Workforce Development. This includes any person appointed, designated, or deputized to perform the duties or to exercise the powers assigned to the Commissioner of Labor and Workforce Development.

- b. "Employer" means the Town of Mount Carmel and includes each administrative department, board, commission, division, or other agency of the Town of Mount Carmel.
- c. "Safety director of occupational safety and health" or "safety director" means the person designated by the establishing ordinance, or executive order to perform duties or to exercise powers assigned so as to plan, develop, and administer the Occupational Safety and Health Program Plan for the employees of the Town of Mount Carmel.
- d. "Inspector(s)" means the individual(s) appointed or designated by the Safety Director of Occupational Safety and Health to conduct inspections provided for herein. If no such compliance inspector(s) is appointed, inspections shall be conducted by the Safety Director of Occupational Safety and Health.
- e. "Appointing authority" means any official or group of officials of the employer having legally designated powers of appointment, employment, or removal there from for a specific department, board, commission, division, or other agency of this employer.
- f. "Employee" means any person performing services for this employer and listed on the payroll of this employer, either as parttime, full-time, seasonal, or permanent. It also includes any persons normally classified as "volunteers" provided such persons received remuneration of any kind for their services. This definition shall not include independent contractors, their agents, servants, and employees.
- g. "Person" means one or more individuals, partnerships, associations, corporations, business trusts, or legal representatives of any organized group of persons.
- h. "Standard" means an occupational safety and health standard promulgated by the Commissioner of Labor and Workforce Development in accordance with Section VI (6) of the Tennessee Occupational Safety and Health Act of 1972 which requires conditions or the adoption or the use of one or more practices, means, methods, operations, or processes or the use of equipment or personal protective equipment necessary or appropriate to provide safe and healthful conditions and places of employment.
- i. "Imminent danger" means any conditions or practices in any place of employment which are such that a hazard exists which could reasonably be expected to cause death or serious physical harm immediately or before the imminence of such hazard can be eliminated through normal compliance enforcement procedures.
- j. "Establishment" or "worksite" means a single physical location under the control of this employer where business is conducted, services are rendered, or industrial type operations are performed.

- k. "Serious injury" or "harm" means that type of harm that would cause permanent or prolonged impairment of the body in that:
 - 1. A part of the body would be permanently removed (e.g., amputation of an arm, leg, finger(s); loss of an eye) or rendered functionally useless or substantially reduced in efficiency on or off the job (e.g., leg shattered so severely that mobility would be permanently reduced; or
 - 2. A part of an internal body system would be inhibited in its normal performance or function to such a degree as to shorten life or cause reduction in physical or mental efficiency (e.g., lung impairment causing shortness of breath).

On the other hand, simple fractures, cuts, bruises, concussions, or similar injuries would not fit either of these categories and would not constitute serious physical harm.

- 1. "Act or "TOSH Act" shall mean the Tennessee Occupational Safety and Health Act of 1972.
- m. "Governing body" means the County Quarterly Court, Board of Aldermen, Board of Commissioners, City or Town Council, Board of Governors, etc., whichever may be applicable to the local government, government agency, or utility to which this plan applies.
- n. "Chief executive officer" means the chief administrative official, County Judge, County Chairman, County Mayor, Mayor, City Manager, General Manager, etc., as may be applicable.

III. EMPLOYER'S RIGHTS AND DUTIES.

Rights and duties of the employer shall include, but are not limited to, the following provisions:

- a. Employer shall furnish to each employee conditions of employment and a place of employment free from recognized hazards that are causing or are likely to cause death or serious injury or harm to employees.
- b. Employer shall comply with occupational safety and health standards and regulations promulgated pursuant to Section VI (6) of the Tennessee Occupational Safety and Health Act of 1972.
- c. Employer shall refrain from an unreasonable restraint on the right of the Commissioner of Labor and Workforce Development to inspect the employers place(s) of business. Employer shall assist

the Commissioner of Labor and Workforce Development in the performance of their monitoring duties by supplying or by making available information, personnel, or aids reasonably necessary to the effective conduct of the monitoring activity.

- d. Employer is entitled to participate in the development of standards by submission of comments on proposed standards, participation in hearing on proposed standards, or by requesting the development of standards on a given issue under Section 6 of the Tennessee Occupational Safety and Health Act of 1972.
- e. Employer is entitled to request an order granting a variance from an occupational safety and health standard.
- f. Employer is entitled to protection of its legally privileged communication.
- g. Employer shall inspect all worksites to insure the provisions of this Program Plan are complied with and carried out.
- h. Employer shall notify and inform any employee who has been or is being exposed in a biologically significant manner to harmful agents or material in excess of the applicable standard and of corrective action being taken.
- i. Employer shall notify all employees of their rights and duties under this Program Plan.

IV. EMPLOYEE'S RIGHTS AND DUTIES.

Rights and duties of employees shall include, but are not limited to, the following provisions:

- a. Each employee shall comply with occupational safety and health act standards and all rules, regulations, and orders issued pursuant to this Program Plan and the Tennessee Occupational Safety and Health Act of 1972 which are applicable to his or her own actions and conduct.
- b. Each employee shall be notified by the placing of a notice upon bulletin boards, or other places of common passage, of any application for a permanent or temporary order granting the employer a variance from any provision of the TOSH Act or any standard or regulation promulgated under the Act.
- c. Each employee shall be given the opportunity to participate in any hearing which concerns an application by the employer for a variance from a standard or regulation promulgated under the Act.
- d. Any employee who may be adversely affected by a standard or variance issued pursuant to the Act or this Program Plan may file a petition with the Commissioner of Labor and Workforce

Development or whoever is responsible for the promulgation of the standard or the granting of the variance.

- e. Any employee who has been exposed or is being exposed to toxic materials or harmful physical agents in concentrations or at levels in excess of that provided for by any applicable standard shall be provided by the employer with information on any significant hazards to which they are or have been exposed, relevant symptoms, and proper conditions for safe use or exposure. Employees shall also be informed of corrective action being taken.
- f. Subject to regulations issued pursuant to this Program Plan, any employee or authorized representative of employees shall be given the right to request an inspection and to consult with the Safety Director or Inspector at the time of the physical inspection of the worksite.
- g. Any employee may bring to the attention of the Safety Director any violation or suspected violations of the standards or any other health or safety hazards.
- h. No employee shall be discharged or discriminated against because such employee has filed any complaint or instituted or caused to be instituted any proceeding or inspection under or relating to this Program Plan.
- i. Any employee who believes that he or she has been discriminated against or discharged in violation of subsection (h) of this section may file a complaint alleging such discrimination with the Safety Director. Such employee may also, within thirty (30) days after such violation occurs, file a complaint with the Commissioner of Labor and Workforce Development alleging such discrimination.
- j. Nothing in this or any other provisions of this Program Plan shall be deemed to authorize or require any employee to undergo medical examination, immunization, or treatment for those who object thereto on religious grounds, except where such is necessary for the protection of the health or safety or others or when a medical examination may be reasonably required for performance of a specific job.
- k. Employees shall report any accident, injury, or illness resulting from their job, however minor it may seem to be, to their supervisor or the Safety Director within twenty-four (24) hours after the occurrence.

V. ADMINISTRATION.

a. The Safety Director of Occupational Safety and Health is designated to perform duties or to exercise powers assigned so as to administer this Occupational Safety and Health Program Plan.

- 1. The safety director may designate person or persons as he deems necessary to carry out his powers, duties, and responsibilities under this Program Plan.
- 2. The Safety Director may delegate the power to make inspections, provided procedures employed are as effective as those employed by the Safety Director.
- 3. The Safety Director shall employ measures to coordinate, to the extent possible, activities of all departments to promote efficiency and to minimize any inconveniences under this Program Plan.
- 4. The Safety Director may request qualified technical personnel from any department or section of government to assist him in making compliance inspections, accident investigations, or as he may otherwise deem necessary and appropriate in order to carry out his duties under this Program Plan.
- 5. The Safety Director shall prepare the report to the Commissioner of Labor and Workforce Development required by subsection (g) of Section 1 of this plan.
- 6. The Safety Director shall make or cause to be made periodic and follow-up inspections of all facilities and worksites where employees of this employer are employed. He shall make recommendations to correct any hazards or exposures observed. He shall make or cause to be made any inspections required by complaints submitted by employees or inspections requested by employees.
- 7. The Safety Director shall assist any officials of the employer in the investigation of occupational accidents or illnesses.
- 8. The Safety Director shall maintain or cause to be maintained records required under Section VIII of this plan.
- 9. The Safety Director shall, in the eventuality that there is a fatality or an accident resulting in the hospitalization of three or more employees insure that the Commissioner of Labor and Workforce Development receives notification of the occurrence within eight (8) hours.
- b. The administrative or operational head of each department, division, board, or other agency of this employer shall be responsible for the implementation of this Occupational Safety and Health Program Plan within their respective areas.
 - 1. The administrative or operational head shall follow the directions of the Safety Director on all issues involving

occupational safety and health employees as set forth in this plan.

- 2. The administrative or operational head shall comply with all abatement orders issued in accordance with the provisions of this plan or request a review of the order with the Safety Director within the abatement period.
- 3. The administrative or operational head should make periodic safety surveys of the establishment under his jurisdiction to become aware of hazards or standards violations that may exist and make an attempt to immediately correct such hazards or violations.
- 4. The administrative or operational head shall investigate all occupational accidents, injuries, or illnesses reported to him. He shall report such accidents, injuries, or illnesses to the Safety Director along with his findings and/or recommendations in accordance with Appendix IV of this plan.

VI. STANDARDS AUTHORIZED.

The standards adopted under this Program Plan are the applicable standards developed and promulgated under Section VI (6) of the Tennessee Occupational Safety and Health Act of 1972. Additional standards may be promulgated by the governing body of this employer as that body may deem necessary for the safety and health of employees. Note: 29 C.F.R. 1910 General Industry Regulations; 29 C.F.R. 1926 Construction Industry Regulations; and the Rules of Tennessee Department of Labor and Workforce Development Occupational Safety and Health. Chapter 0800-01-1 through Chapter 0800-01-11 are the standards and rules invoked.

VII. VARIANCE PROCEDURE.

The Safety Director may apply for a variance as a result of a complaint from an employee or of his knowledge of certain hazards or exposures. The Safety Director should definitely believe that a variance is needed before the application for a variance is submitted to the Commissioner of Labor and Workforce Development. The procedure for applying for a variance to the adopted safety and health standards is as follows:

- a. The application for a variance shall be prepared in writing and shall contain:
 - 1. A specification of the standard or portion thereof from which the variance is sought.

- 2. A detailed statement of the reason(s) why the employer is unable to comply with the standard supported by representations by qualified personnel having first-hand knowledge of the facts represented.
- 3. A statement of the steps employer has taken and will take (with specific date) to protect employees against the hazard covered by the standard.
- 4. A statement of when the employer expects to comply and what steps have or will be taken (with dates specified) to come into compliance with the standard.
- 5. A certification that the employer has informed employees, their authorized representative(s), and/or interested parties by giving them a copy of the request, posting a statement summarizing the application (to include the location of a copy available for examination) at the places where employee notices are normally posted and by other appropriate means. The certification shall contain a description of the means actually used to inform employees and that employees have been informed of their right to petition the Commissioner of Labor and Workforce Development for a hearing.
- b. The application for a variance should be sent to the Commissioner of Labor and Workforce Development by registered or certified mail.
- c. The Commissioner of Labor and Workforce Development will review the application for a variance and may deny the request or issue an order granting the variance. An order granting a variance shall be issued only if it has been established that:
 - 1. The employer
 - i. Is unable to comply with the standard by the effective date because of unavailability of professional or technical personnel or materials and equipment required or necessary construction or alteration of facilities or technology.
 - ii. Has taken all available steps to safeguard employees against the hazard(s) covered by the standard.
 - iii. Has as effective Program Plan for coming into compliance with the standard as quickly as possible.
 - 2. The employee is engaged in an experimental Program Plan as described in subsection (b), section 13 of the Act.

- d. A variance may be granted for a period of no longer than is required to achieve compliance or one (1) year, whichever is shorter.
- e. Upon receipt of an application for an order granting a variance, the Commissioner to whom such application is addressed may issue an interim order granting such a variance for the purpose of permitting time for an orderly consideration of such application. No such interim order may be effective for longer than one hundred eighty (180) days.
- f. The order or interim order granting a variance shall be posted at the worksite and employees notified of such order by the same means used to inform them of the application for said variance (see subsection (a)(5) of this section).

VIII. <u>RECORDKEEPING AND REPORTING</u>.

Recording and reporting of all occupational accident, injuries, and illnesses shall be in accordance with instructions and on forms prescribed in the booklet. You can get a copy of the Forms for Record keeping from the internet. Go to <u>www.osha.gov</u> and click on Record keeping Forms on the home page.

The position responsible for record keeping is shown on the Safety and Health Organizational Chart, Appendix IV to this plan.

Details of how reports of occupational accidents, injuries, and illnesses will reach the recordkeeper are specified by Accident Reporting Procedures, Appendix IV to this plan. The Rule of Tennessee Department of Labor and Workforce Development Occupational Safety and Health, Occupational Safety and Health Record-Keeping and Reporting, Chapter 0800-01-03, as authorized by T.C.A., Title 50.

IX. EMPLOYEE COMPLAINT PROCEDURE.

If any employee feels that he is assigned to work in conditions which might affect his health, safety, or general welfare at the present time or at any time in the future, he should report the condition to the Safety Director of Occupational Safety and Health.

a. The complaint should be in the form of a letter and give details on the condition(s) and how the employee believes it affects or will affect his health, safety, or general welfare. The employee should sign the letter but need not do so if he wishes to remain anonymous (see subsection (h) of Section I of this plan).

- b. Upon receipt of the complaint letter, the Safety Director will evaluate the condition(s) and institute any corrective action, if warranted. Within ten (10) working days following the receipt of the complaint, the Safety Director will answer the complaint in writing stating whether or not the complaint is deemed to be valid and if no, why not, what action has been or will be taken to correct or abate the condition(s), and giving a designated time period for correction or abatement. Answers to anonymous complaints will be posted upon bulletin boards or other places of common passage where the anonymous complaint may be reasonably expected to be seen by the complainant for a period of three (3) working days.
- c. If the complainant finds the reply not satisfactory because it was held to be invalid, the corrective action is felt to be insufficient, or the time period for correction is felt to be too long, he may forward a letter to the Chief Executive Officer or to the governing body explaining the condition(s) cited in his original complaint and why he believes the answer to be inappropriate or insufficient.
- d. The Chief Executive Officer or a representative of the governing body will evaluate the complaint and will begin to take action to correct or abate the condition(s) through arbitration or administrative sanctions or may find the complaint to be invalid. An answer will be sent to the complainant within ten (10) working days following receipt of the complaint explaining decisions made and action taken or to be taken.
- e. After the above steps have been followed and the complainant is still not satisfied with the results, he may then file a complaint with the Commissioner of Labor and Workforce Development. Any complaint filed with the Commissioner of Labor and Workforce Development in such cases shall include copies of all related correspondence with the Safety Director and the Chief Executive Officer or the representative of the governing body.
- f. Copies of all complaint and answers thereto will be filed by the Safety Director who shall make them available to the Commissioner of Labor and Workforce Development or his designated representative upon request.

X. EDUCATION AND TRAINING.

- a. Safety Director and/or Compliance Inspector(s):
 - 1. Arrangements will be made for the Safety Director and/or Compliance Inspector(s) to attend training seminars, workshops, etc., conducted by the State of Tennessee or other agencies. A list of Seminars can be obtained.

- 2. Access will be made to reference materials such as 29 C.F.R. 1910 General Industry Regulations; 29 C.F.R. 1926 Construction Industry Regulations; the Rules of Tennessee Department of Labor and Workforce Development Occupational Safety and Health, and other equipment/ supplies, deemed necessary for use in conducting compliance inspections, conducting local training, wiring technical reports, and informing officials, supervisors, and employees of the existence of safety and health hazards will be furnished.
- b. All Employees (including supervisory personnel):

A suitable safety and health training program for employees will be established. This program will, as a minimum:

- 1. Instruct each employee in the recognition and avoidance of hazards or unsafe conditions and of standards and regulations applicable to the employees work environment to control or eliminate any hazards, unsafe conditions, or other exposures to occupational illness or injury.
- 2. Instruct employees who are required to handle or use poisons, acids, caustics, toxicants, flammable liquids, or gases including explosives, and other harmful substances in the proper handling procedures and use of such items and make them aware of the personal protective measures, person hygiene, etc., which may be required.
- 3. Instruct employees who may be exposed to environments where harmful plants or animals are present, of the hazards of the environment, how to best avoid injury or exposure, and the first aid procedures to be followed in the event of injury or exposure.
- 4. Instruct all employees of the common deadly hazards and how to avoid them, such as Falls; Equipment Turnover; Electrocution; Struck by/Caught In; Trench Cave In; Heat Stress and Drowning.
- 5. Instruct employees on hazards and dangers of confined or enclosed spaces.
 - i. Confined or enclosed space means space having a limited means of egress and which is subject to the accumulation of toxic or flammable contaminants or has an oxygen deficient atmosphere. Confined or enclosed spaces include, but are not limited to,

storage tanks, boilers, ventilation or exhaust ducts, sewers, underground utility accesses, tunnels, pipelines, and open top spaces more than four feet (4) in depth such as pits, tubs, vaults, and vessels.

- ii. Employees will be given general instruction on hazards involved, precautions to be taken, and on use of personal protective and emergency equipment required. They shall also be instructed on all specific standards or regulations that apply to work in dangerous or potentially dangerous areas.
- iii. The immediate supervisor of any employee who must perform work in a confined or enclosed space shall be responsible for instructing employees on danger of hazards which may be present, precautions to be taken, and use of personal protective and emergency equipment, immediately prior to their entry into such an area and shall require use of appropriate personal protective equipment.

XI. GENERAL INSPECTION PROCEDURES.

It is the intention of the governing body and responsible officials to have an Occupational Safety and Health Program Plan that will insure the welfare of employees. In order to be aware of hazards, periodic inspections must be performed. These inspections will enable the finding of hazards or unsafe conditions or operations that will need correction in order to maintain safe and healthful worksites. Inspections made on a pre-designated basis may not yield the desired results. Inspections will be conducted, therefore, on a random basis at intervals not to exceed thirty (30) calendar days.

- a. In order to carry out the purposes of this Ordinance, the Safety Director and/or Compliance Inspector(s), if appointed, is authorized:
 - 1. To enter at any reasonable time, any establishment, facility, or worksite where work is being performed by an employee when such establishment, facility, or worksite is under the jurisdiction of the employer and;
 - 2. To inspect and investigate during regular working hours and at other reasonable times, within reasonable limits, and in a reasonable manner, any such place of employment and all pertinent conditions, processes, structures, machines, apparatus, devices, equipment, and materials therein, and

to question privately any supervisor, operator, agent, or employee working therein.

- b. If an imminent danger situation is found, alleged, or otherwise brought to the attention of the Safety Director or Inspector during a routine inspection, he shall immediately inspect the imminent danger situation in accordance with Section XII of this plan before inspecting the remaining portions of the establishment, facility, or worksite.
- c. An administrative representative of the employer and a representative authorized by the employees shall be given an opportunity to consult with and/or to accompany the Safety Director or Inspector during the physical inspections of any worksite for the purpose of aiding such inspection.
- d. The right of accompaniment may be denied any person whose conduct interferes with a fully and orderly inspection.
- e. The conduct of the inspection shall be such as to preclude unreasonable disruptions of the operation(s) of the workplace.
- f. Interviews of employees during the course of the inspection may be made when such interviews are considered essential to investigative techniques.
- g. Advance Notice of Inspections
 - 1. Generally, advance notice of inspections will not be given as this precludes the opportunity to make minor or temporary adjustments in an attempt to create misleading impression of conditions in an establishment.
 - 2. There may be occasions when advance notice of inspections will be necessary in order to conduct an effective inspection or investigation. When advance notice of inspection is given, employees or their authorized representative(s) will also be given notice of the inspection.
- h. The Safety Director need not personally make an inspection of each and every worksite once every thirty (30) days. He may delegate the responsibility for such inspections to supervisors or other personnel provided:
 - 1. Inspections conducted by supervisors or other personnel are at least as effective as those made by the Safety Director.
 - 2. Records are mad of the inspections, any discrepancies found and corrective actions taken. This information is forwarded to the Safety Director.

i. The Safety Director shall maintain records of inspections to include identification of worksite inspected, date of inspection, description of violations of standards or other unsafe conditions or practices found, and corrective action taken toward abatement. Those inspection records shall be subject to review by the Commissioner of Labor and Workforce Development or his authorized representative.

XII. IMMINENT DANGER PROCEDURES.

- a. Any discovery, any allegation, or any report of imminent danger shall be handled in accordance with the following procedures:
 - 1. The Safety Director shall immediately be informed of the alleged danger situation and he shall immediately ascertain whether there is a reasonable basis for the allegation.
 - 2. If the alleged imminent danger situation is determined to have merit by the Safety Director, he shall make or cause to be made an immediate inspection of the alleged imminent danger location.
 - 3. As soon as it is concluded from such inspection that conditions or practices exist which constitutes an imminent danger, the Safety Director or Compliance Inspector shall attempt to have the danger corrected. All employees at the location shall be informed of the danger and the supervisor or person in charge of the worksite shall be requested to remove employees from the area, if deemed necessary.
 - 4. The administrative or operational head of the workplace in which the imminent danger exists, or his authorized representative, shall be responsible for determining the manner in which the imminent danger situation will be abated. This shall be done in cooperation with the Safety Director or Compliance Inspector and to the mutual satisfaction of all parties involved.
 - 5. The imminent danger shall be deemed abated if:
 - i. The imminence of the danger has been eliminated by removal of employees from the area of danger.
 - ii. Conditions or practices which resulted in the imminent danger have been eliminated or corrected to the point where an unsafe condition or practice no longer exists.

- 6. A written report shall be made by or to the Safety Director describing in detail the imminent danger and its abatement. This report will be maintained by the Safety Director in accordance with subsection (i) of Section XI of this plan.
- b. Refusal to Abate.
 - 1. Any refusal to abate an imminent danger situation shall be reported to the Safety Director and Chief Executive Officer immediately.
 - 2. The Safety Director and/or Chief Executive Officer shall take whatever action may be necessary to achieve abatement.

XIII. ABATEMENT ORDERS AND HEARINGS.

- a. Whenever, as a result of an inspection or investigation, the Safety Director or Compliance Inspector(s) finds that a worksite is not in compliance with the standards, rules or regulations pursuant to this plan and is unable to negotiate abatement with the administrative or operational head of the worksite within a reasonable period of time, the Safety Director shall:
 - 1. Issue an abatement order to the head of the worksite.
 - 2. Post or cause to be posted, a copy of the abatement order at or near each location referred to in the abatement order.
- b. Abatement orders shall contain the following information:
 - 1. The standard, rule, or regulation which was found to be violated.
 - 2. A description of the nature and location of the violation.
 - 3. A description of what is required to abate or correct the violation.
 - 4. A reasonable period of time during which the violation must be abated or corrected.
- c. At any time within ten (10) days after receipt of an abatement order, anyone affected by the order may advise the Safety Director in writing of any objections to the terms and conditions of the order. Upon receipt of such objections, the Safety Director shall act promptly to hold a hearing with all interested and/or responsible parties in an effort to resolve any objections. Following such hearing, the Safety Director shall, within three (3) working days,

issue an abatement order and such subsequent order shall be binding on all parties and shall be final.

XIV. PENALTIES.

- a. No civil or criminal penalties shall be issued against any official, employee, or any other person for failure to comply with safety and health standards or any rules or regulations issued pursuant to this Program Plan.
- b. Any employee, regardless of status, who willfully and/or repeatedly violates, or causes to be violated, any safety and health standard, rule, or regulation or any abatement order shall be subject to disciplinary action by the appointing authority. It shall be the duty of the appointing authority to administer discipline by taking action in one of the following ways as appropriate and warranted:
 - 1. Oral reprimand.
 - 2. Written reprimand.
 - 3. Suspension for three (3) or more working days.
 - 4. Termination of employment.

XV. CONFIDENTIALITY OF PRIVILEGED INFORMATION.

All information obtained by or reported to the Safety Director pursuant to this plan of operation or the legislation (ordinance, or executive order) enabling this Occupational Safety and Health Program Plan which contains or might reveal information which is otherwise privileged shall be considered confidential. Such information may be disclosed to other officials or employees concerned with carrying out this Program Plan or when relevant in any proceeding under this Program Plan. Such information may also be disclosed to the Commissioner of Labor and Workforce Development or their authorized representatives in carrying out their duties under the Tennessee Occupational Safety and Health Act of 1972.

XVI. DISCRIMINATION INVESTIGATIONS AND SANCTIONS.

The Rule of Tennessee Department of Labor and Workforce Development Occupational Safety and Health, Discrimination Against Employees Exercising Rights Under the Occupational Safety and Health Act of 1972 0800-01-08, as authorized by T.C.A. Title 50. The agency agrees that any employee who believes they have been discriminated against or discharged in violation of Tenn. Code Ann. § 50-3-409 can file a complaint with their agency/safety Safety Director within 30 days, after the alleged discrimination occurred. Also, the agency agrees the employee has a right to file their complaint with the Commissioner of Labor and Workforce Development within the same 30 day period. The Commissioner of Labor and Workforce Development may investigate such complaints, make recommendations, and/or issue a written notification of a violation.

XVII. <u>COMPLIANCE WITH OTHER LAWS NOT EXCUSED</u>.

- a. Compliance with any other law, statute, ordinance, or executive order, which regulates safety and health in employment and places of employment, shall not excuse the employer, the employee, or any other person from compliance with the provisions of this Program Plan.
- b. Compliance with any provisions of this Program Plan or any standard rule, regulation, or order issued pursuant to this Program Plan shall not excuse the employer, the employee, or any other person from compliance with the law, statute, ordinance, or executive order, as applicable, regulating and promoting safety and health unless such law, statute, ordinance, or executive order, as applicable, is specifically repealed.

	3/26/13
Signature: Safety Director, Occupational Safety and Health	Date

APP-C-19

APPENDIX - I WORK LOCATIONS (ORGANIZATIONAL CHART)

City Hall - 6 employees 100 Main Street Mount Carmel, TN 37645 (423) 357-7311

Police Department - 10 employees 211 Hammond Ave. Mount Carmel, TN 37645 (423) 357-9019

Animal Control - 1 employee 118 Seminole Drive Mount Carmel, TN 37645 (423) 357-765-6454

Library - 2 employees 100 1/2 Main Street Mount Carmel, TN 37645 (423) 357-4011

Fire Department - 1 employee 211 Hammond Ave. Mount Carmel, TN 37645 (423) 357-1013

Public Works - 6 employees 201 Hammond Ave. Mount Carmel, TN 37645 (423) 357-6051

Sewer Department - 4 employees 116 Seminole Dr. Mount Carmel, TN 37645 (423) 357-8100

TOTAL NUMBER OF EMPLOYEES: 30

APPENDIX - II NOTICE TO ALL EMPLOYEES

NOTICE TO ALL EMPLOYEES OF THE TOWN OF MOUNT CARMEL

The Tennessee Occupational Safety and Health Act of 1972 provides job safety and health protection for Tennessee workers through the promotion of safe and healthful working conditions. Under a plan reviewed by the Tennessee Department of Labor and Workforce Development, this government, as an employer, is responsible for administering the Act to its employees. Safety and health standards are the same as State standards and jobsite inspections will be conducted to insure compliance with the Act.

Employees shall be furnished conditions of employment and a place of employment free from recognized hazards that are causing or are likely to cause death or serious injury or harm to employees.

Each employee shall comply with occupational safety and health standards and all rules, regulations, and orders issued pursuant to this Program Plan which are applicable to his or her own actions and conduct.

Each employee shall be notified by the placing upon bulletin boards or other places of common passage of any application for a temporary variance from any standard or regulation.

Each employee shall be given the opportunity to participate in any hearing which concerns an application for a variance from a standard.

Any employee who may be adversely affected by a standard or variance issued pursuant to this Program Plan may file a petition with the Safety Director or Mayor.

Any employee who has been exposed or is being exposed to toxic materials or harmful physical agents in concentrations or at levels in excess of that provided for by an applicable standard shall be notified by the employer and informed of such exposure and corrective action being taken.

Subject to regulations issued pursuant to this Program Plan, any employee or authorized representative(s) of employees shall be given the right to request an inspection.

No employee shall be discharged or discriminated against because such employee has filed any complaint or instituted or caused to be instituted any proceedings or inspection under, or relating to, this Program Plan.

APP-C-21

Any employee who believes he or she has been discriminated against or discharged in violation of these sections may, within thirty (30) days after such violation occurs, have an opportunity to appear in a hearing before the Board of Mayor and Aldermen for assistance in obtaining relief or to file a complaint with the Commissioner of Labor and Workforce Development alleging such discrimination.

A copy of the Occupational Safety and Health Program Plan for the Employees of the Town of Mount Carmel is available for inspected by an employee at during regular office hours.

ADOPTED this the 26th day of March, 2013.

LARRY FROST, Mayor

ATTEST:

MARIAN SUNDRIDGE, Recorder

APPENDIX - III PROGRAM PLAN BUDGET

(Either answer questions 1-11 or fill in the statement below)

- 1. Prorated portion of wages, salaries, etc., for program administration and support.
- 2. Office space and office supplies.
- 3. Safety and health educational materials and support for education and training.
- 4. Safety devices for personnel safety and health.
- 5. Equipment modifications.
- 6. Equipment additions (facilities).
- 7. Protective clothing and equipment (personnel).
- 8. Safety and health instruments.
- 9. Funding for projects to correct hazardous conditions.
- 10. Reserve fund for the Program Plan.
- 11. Contingencies and miscellaneous.

TOTAL ESTIMATED PROGRAM PLAN FUNDING,

ESTIMATE OF TOTAL BUDGET FOR: \$5,550.00

APPENDIX - IV ACCIDENT REPORTING PROCEDURES

(1-15) Employees shall report all accidents, injuries, or illnesses directly to the Safety Director as soon as possible, but not later than twenty-four (24) hours after the occurrence. Such reports may be verbal or in writing. All fatalities or accidents involving the hospitalization of three (3) or more employees shall be reported to the Safety Director and/or record keeper immediately, either by telephone or verbally, and will be followed by a written report within four (4) hours after their occurrence. The Safety Director will insure completion of required reports and records in accordance with Section VIII of the basic plan.

(16-50) Employees shall report all accidents, injuries, or illnesses to their supervisor as soon as possible, but not later than two (2) hours after the occurrence. All fatalities or accidents involving the hospitalization of three (3) or more employees shall be reported to the Safety Director and/or record keeper immediately, either by telephone or verbally, and will be followed by a written report within four (4) hours after their occurrence. The supervisor will investigate the accident or illness, complete an accident report, and forward the accident report to the Safety Director and/or keeper within twenty-four (24) hours of the time the accident or injury occurred or the time of the first report of the illness.

(51-250) Employees shall report all accidents, injuries, or illnesses to their supervisors as soon as possible, but not later than two (2) hours after the occurrence. The supervisor will provide the Safety Director and/or record keeper with the name of the injured or ill employee and a brief description of the accident or illness by telephone as soon as possible, but not later than four (4) hours, after the accident or injury occurred or the time of the first report of the illness. All fatalities or accidents involving the hospitalization of three (3) or more employees shall be reported to the Safety Director and/or record keeper immediately, either by telephone or verbally, and will be followed by a written report within four (4) hours after their occurrence. The supervisor will then make a thorough investigation of the accident or illness (with the assistance of the Safety Director or Compliance Inspector, if necessary) and will complete a written report on the accident or illness and forward it to the Safety Director within seventy-two (72) hours after the accident, injury, or first report of illness and will provide one (1) copy of the written report to the record keeper.

(251-Plus) Employees shall report all accidents, injuries, or illnesses to their supervisors as soon as possible, but not later than two (2) hours after their occurrence. The supervisor will provide the administrative head of the department with a verbal or telephone report of the accident as soon as possible, but not later than four (4) hours, after the accident. If the accident involves loss of consciousness, a fatality, broken bones, severed body member, or third degree

burns, the Safety Director will be notified by telephone immediately and will be given the name of the injured, a description of the injury, and a brief description of how the accident occurred. The supervisor or the administrative head of the accident within seventy-two (72) hours after the accident occurred (four (4) hours in the event of accidents involving a fatality or the hospitalization of three (3) or more employees).

Since Workers Compensation Form 6A or OSHA NO. 301 Form must be completed; all reports submitted in writing to the person responsible for record keeping shall include the following information as a minimum:

- 1. Accident location, if different from employer's mailing address and state whether accident occurred on premises owned or operated by employer.
- 2. Name, social security number, home address, age, sex, and occupation (regular job title) of injured or ill employee.
- 3. Title of the department or division in which the injured or ill employee is normally employed.
- 4. Specific description of what the employee was doing when injured.
- 5. Specific description of how the accident occurred.
- 6. A description of the injury or illness in detail and the part of the body affected.
- 7. Name of the object or substance which directly injured the employee.
- 8. Date and time of injury or diagnosis of illness.
- 9. Name and address of physician, if applicable.
- 10. If employee was hospitalized, name and address of hospital.
- 11. Date of report.

NOTE: A procedure such a one of those listed above or similar information is necessary to satisfy Item Number 4 listed under PROGRAM PLAN in Section V. ADMINISTRATION, Part b of the Tennessee Occupational Safety and Health Plan. This information may be submitted in flow chart form instead of in narrative form if desired. These procedures may be modified in any way to fit local situations as they have been prepared as a guide only.

The four (4) procedures listed above are based upon the size of the work force and relative complexity of the organization. The approximate size of the organization for which each procedure is suggested is indicated in parenthesis in the left hand margin at the beginning, i.e., (1-15), (16-50), (51-250), and (251 Plus), and the figures relate to the total number of employees including the Chief Executive Officer but excluding the governing body (County Court, City Council, Board of Directors, etc.). Generally, the more simple an accident reporting procedure is, the more efficient it is. Please select the one procedure listed above, or prepare a similar procedure or flow chart, which most nearly fits what will be the most effective for your local situation. Note also that the specific information listed for written reports applies to all three of the procedures listed for those organizations with sixteen (16) or more employees.

ORD-1

ORDINANCE NO. 350

AN ORDINANCE ADOPTING AND ENACTING A CODIFICATION AND REVISION OF THE ORDINANCES OF THE TOWN OF MOUNT CARMEL TENNESSEE.

WHEREAS some of the ordinances of the Town of Mount Carmel are obsolete, and

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

WHEREAS the Board of Mayor and Aldermen of the Town of Mount Carmel, 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 "Mount Carmel Municipal Code," now, therefore:

BE IT ORDAINED BY THE BOARD OF MAYOR AND ALDERMEN OF THE TOWN OF MOUNT CARMEL, TENNESSEE THAT:

<u>Section 1.</u> Ordinances codified. The ordinances of the town of a general, continuing, and permanent application or of a penal nature, as codified and revised in the following "titles," namely "titles" 1 to 20, both inclusive, are ordained and adopted as the "Mount Carmel Municipal Code," hereinafter referred to as the "municipal code."

<u>Section 2.</u> <u>Ordinances repealed</u>. 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.

<u>Section 3.</u> 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 town; any ordinance establishing a social security system or providing coverage under that system; any administrative ordinances or resolutions not in conflict or inconsistent with the provisions of such code; the portion of any ordinance not in conflict with such code which regulates speed, direction of travel, passing, stopping, yielding, standing, or parking on any specifically named public street or way; any right or franchise granted by the 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 town.

<u>Section 4.</u> <u>Continuation of existing provisions</u>. 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.

¹State law reference

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

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

Section 7. Reproduction and amendment of code. The municipal code shall be reproduced in loose-leaf form. The board of mayor and aldermen, by motion or resolution, shall fix, and change from time to time as considered necessary, the prices to be charged for copies of the municipal code and revisions thereto. After adoption of the municipal code, each ordinance affecting the code shall be adopted as amending, adding, or deleting, by numbers, specific chapters or sections of said code. Periodically thereafter all affected pages of the municipal code shall be revised to reflect such amended, added, or deleted material and shall be distributed to town officers and employees having copies of said code and to other persons who have requested and paid for current revisions. Notes shall be inserted at the end of amended or new sections, referring to the numbers of ordinances making the amendments or adding the new provisions, and such references shall be cumulative if a section is amended more than once in order that the current copy of the municipal code will contain references to all ordinances responsible for current provisions. One copy of the municipal code as originally adopted and one copy of each amending ordinance thereafter adopted shall be furnished to the Municipal Technical Advisory Service immediately upon final passage and adoption.

<u>Section 8.</u> <u>Construction of conflicting provisions</u>. 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.

<u>Section 9.</u> 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.

<u>Section 10.</u> <u>Date of effect</u>. 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.

____, 20<u>10</u>. ____, 20<u>10</u>. Mar 25 Passed 1st reading, _ Passed 2nd reading, 8



V AUUS Mayor 7

mndidge Recorder

ORD-4

SUPP-1

ORDINANCE NO. 10-354

AN ORDINANCE ADOPTING AND ENACTING SUPPLEMENTAL AND REPLACEMENT PAGES FOR THE MUNICIPAL CODE OF THE TOWN OF MOUNT CARMEL, TENNESSEE.

BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF MOUNT CARMEL, TENNESSEE, THAT:

Section 1. Ordinances codified. The supplemental and replacement pages contained in this revision the Town of Mount Carmel Municipal Code, hereinafter referred to as the "supplement," are incorporated by reference as if fully set out herein and are ordained and adopted as part of the Town of Mount Carmel Municipal Code.

This includes revisions required to the municipal code when considering Ordinance #10-339 (April 2010). Code sections affected by this ordinance contain a citation to the amending ordinance at the end of the code section.

<u>Section 2</u>. <u>Continuation of existing provisions</u>. Insofar as the provisions of the supplement are the same as those of ordinances existing and in force on its effective date, the provisions shall be considered to be continuations thereof and not as new enactments.

<u>Section 3.</u> <u>Penalty clause</u>. Unless otherwise specified, wherever in the supplement, including any codes and ordinances adopted by reference, any act is prohibited or is made or declared to be unlawful or an offense or a misdemeanor, or wherever the doing of any act is required or the failure to do any act is declared to be unlawful, the violation of any such provision shall be punishable by a penalty of not more than fifty dollars (\$50.00) and costs for each separate violation; provided, however, that the imposition of a penalty under the provisions of this section 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 supplement or the municipal code or other applicable law.

When any person is fined for violating any provision of the supplement and defaults on payment of the penalty, he may be required to perform hard labor, within or without the workhouse, to the extent that his physical condition shall permit, until the penalty is discharged by payment, or until the person, being credited with such sum as may be prescribed for each day's hard labor, has fully discharged the penalty.¹

<u>Section 4.</u> <u>Severability clause</u>. Each section, subsection, paragraph, sentence, and clause of the supplement, including any codes and ordinances

¹State law reference

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For authority to allow deferred payment of fines, or payment by installments, see <u>Tennessee Code Annotated</u>, section 40-24-101<u>et seq</u>.

adopted by reference, are hereby declared to be separable and severable. The invalidity of any section, subsection, paragraph, sentence, or clause in the supplement shall not affect the validity of any other portion, and only any portion declared to be invalid by a court of competent jurisdiction shall be deleted therefrom.

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<u>Section 5.</u> Construction of conflicting provisions. Where any provision of the supplement is in conflict with any other provision of the supplement or municipal code, the provision which establishes the higher standard for the promotion and protection of the public health, safety, and welfare shall prevail.

<u>Section 6</u>. <u>Code available for public use</u>. A copy of the municipal code shall be kept available in the recorder's office for use and inspection at all reasonable times.

<u>Section 7</u>. <u>Date of effect</u>. This supplement, including all the codes and ordinances therein adopted by reference, shall take effect from and after final passage, the public welfare requiring it, and shall be effective on and after that date.

Passed 1st Reading July 27, 20 10.
Passed 2nd Reading August 24, 20 10
Day Jane Mayor Mayor Mauan & Jundiff Recorder

SUPP-1

ORDINANCE NO. 10-356

AN ORDINANCE ADOPTING AND ENACTING SUPPLEMENTAL AND REPLACEMENT PAGES FOR THE MUNICIPAL CODE OF THE TOWN OF MOUNT CARMEL, TENNESSEE.

BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF MOUNT CARMEL, TENNESSEE, THAT:

Section 1. Ordinances codified. The supplemental and replacement pages contained in this revision the Town of Mount Carmel Municipal Code, hereinafter referred to as the "supplement," are incorporated by reference as if fully set out herein and are ordained and adopted as part of the Town of Mount Carmel Municipal Code.

This includes revisions required to the municipal code when considering ordinance #246 which amended title 1, "time and place of regular meetings" and ordinances #303 (Sept. 2005), #334 (June 2008), #339 (April 2010), and #355 (Oct. 2010), which amended title 14, "zoning." Code sections affected by these ordinances contain a citation to the amending ordinance at the end of the code section.

<u>Section 2. Continuation of existing provisions.</u> Insofar as the provisions of the supplement are the same as those of ordinances existing and in force on its effective date, the provisions shall be considered to be continuations thereof and not as new enactments.

Section 3. Penalty clause. Unless otherwise specified, wherever in the supplement, including any codes and ordinances adopted by reference, any act is prohibited or is made or declared to be unlawful or an offense or a misdemeanor, or wherever the doing of any act is required or the failure to do any act is declared to be unlawful, the violation of any such provision shall be punishable by a penalty of not more than fifty dollars (\$50.00) and costs for each separate violation; provided, however, that the imposition of a penalty under the provisions of this section 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 supplement or the municipal code or other applicable law.

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

'State law reference

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For authority to allow deferred payment of fines, or payment by installments, see <u>Tennessee Code Annotated</u>, section 40-24-10 let seq.

Section 4. Severability clause. Each section, subsection, paragraph, sentence, and clause of the supplement, including any codes and ordinances adopted by reference, are hereby declared to be separable and severable. The invalidity of any section, subsection, paragraph, sentence, or clause in the supplement shall not affect the validity of any other portion, and only any portion declared to be invalid by a court of competent jurisdiction shall be deleted therefrom.

Section 5. Construction of conflicting provisions. Where any provision of the supplement is in conflict with any other provision of the supplement or municipal code, the provision which establishes the higher standard for the promotion and protection of the public health, safety, and welfare shall prevail.

Section 6. Code available for public use. A copy of the municipal code shall be kept available in the recorder's office for use and inspection at all reasonable times.

Section 7. Date of effect. This supplement, including all the codes and ordinances therein adopted by reference, shall take effect from and after final passage, the public welfare requiring it, and shall be effective on and after that date.

Passed 1st Reading December 28, 2010

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Passed 2nd Reading January 25, 2011

aus Gary Lawson, Mayor

Marian Sandidge, Recorder

