

**THE
DYER
MUNICIPAL
CODE**

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

in cooperation with the
TENNESSEE MUNICIPAL LEAGUE

September 1997

Change 2, February 25, 2013

CITY OF DYER, TENNESSEE

MAYOR

Chris Younger

ALDERMEN

Judy Baker
Michael Barron
Bitsy Gilliland
Roger Gray
Robert T. Johnson
Belinda Oliver
Nathan Reed
Marilyn Williamson

RECORDER

Jason Griggs

PREFACE

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

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

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

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

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

- (1) That all ordinances relating to subjects treated in the code or which should be added to the code are adopted as amending, adding, or deleting specific chapters or sections of the code (see section 8 of the adopting ordinance).
- (2) That one copy of every ordinance adopted by the city is kept in a separate ordinance book and forwarded to MTAS annually.

(3) That the city agrees to reimburse MTAS for the actual costs of reproducing replacement pages for the code (no charge is made for the consultant's work, and reproduction costs are usually nominal).

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 Bobbie J. Sams, the MTAS Word Processing Specialist who did all the typing on this project, and Tracy G. Gardner, Administrative Services Assistant, is gratefully acknowledged.

Steve Lobertini
Codification Specialist

**ORDINANCE ADOPTION PROCEDURES PRESCRIBED BY THE
CITY CHARTER¹**

¹The Dyer city charter contains no provisions on the ordinance adoption procedures. See § 1-104 of the municipal code.

ORDINANCE NO. 97-90

AN ORDINANCE ADOPTING AND ENACTING A CODIFICATION AND REVISION OF THE ORDINANCES OF THE CITY OF DYER TENNESSEE.

WHEREAS some of the ordinances of the City of Dyer are obsolete, and

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

WHEREAS the City Council of the City of Dyer, 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 "Dyer Municipal Code," now, therefore:

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DYER, TENNESSEE, THAT:

Section 1. Ordinances codified. The ordinances of the city of a general, continuing, and permanent application or of a penal nature, as codified and revised in the following "titles," namely "titles" 1 to 20, both inclusive, are ordained and adopted as the "Dyer Municipal Code," hereinafter referred to as the "municipal code."

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

Section 3. Ordinances saved from repeal. The repeal provided for in Section 2 of this ordinance shall not affect: Any offense or act committed or done, or any penalty or forfeiture incurred, or any contract or right established or accruing before the effective date of the municipal code; any ordinance or resolution promising or requiring the payment of money by or to the city or authorizing the issuance of any bonds or other evidence of said city's indebtedness; any appropriation ordinance or ordinance providing for the levy of taxes or any budget ordinance; any contract or obligation assumed by or in favor of said city; any ordinance establishing a social security system or providing coverage under that system; any administrative ordinances or resolutions not in conflict or inconsistent with the provisions of such code; the portion of any ordinance not in conflict with such code which regulates speed, direction of travel, passing, stopping, yielding, standing, or parking on any

specifically named public street or way; any right or franchise granted by the city; any ordinance dedicating, naming, establishing, locating, relocating, opening, paving, widening, vacating, etc., any street or public way; any ordinance establishing and prescribing the grade of any street; any ordinance providing for local improvements and special assessments therefor; any ordinance dedicating or accepting any plat or subdivision; any prosecution, suit, or other proceeding pending or any judgment rendered on or prior to the effective date of said code; any zoning ordinance or amendment thereto or amendment to the zoning map; nor shall such repeal affect any ordinance annexing territory to the city.

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

Section 5. Penalty clause. Unless otherwise specified in a title, chapter or section of the municipal code, including the codes and ordinances adopted by reference, whenever in the municipal code any act is prohibited or is made or declared to be a civil offense, or whenever in the municipal code the doing of any act is required or the failure to do any act is declared to be a civil offense, the violation of any such provision of the municipal code shall be punished by a civil penalty of not more than five hundred dollars (\$500.00) and costs for each separate violation; provided, however, that the imposition of a civil penalty under the provisions of this municipal code shall not prevent the revocation of any permit or license or the taking of other punitive or remedial action where called for or permitted under the provisions of the municipal code or other applicable law. In any place in the municipal code the term "it shall be a misdemeanor" or "it shall be an offense" or "it shall be unlawful" or similar terms appears in the context of a penalty provision of this municipal code, it shall mean "it shall be a civil offense." Anytime the word "fine" or similar term appears in the context of a penalty provision of this municipal code, it shall mean "a civil penalty."¹

When a civil penalty is imposed on any person for violating any provision of the municipal code and such person defaults on payment of such penalty, he may be required to perform hard labor, within or without the workhouse, to the extent that his physical condition shall permit, until such civil penalty is discharged by payment, or until such person, being credited

¹State law reference

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

with such sum as may be prescribed for each day's hard labor, has fully discharged said penalty.

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

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

Section 7. Reproduction and amendment of code. The municipal code shall be reproduced in loose-leaf form. The city council, by motion or resolution, shall fix, and change from time to time as considered necessary, the prices to be charged for copies of the municipal code and revisions thereto. After adoption of the municipal code, each ordinance affecting the code shall be adopted as amending, adding, or deleting, by numbers, specific chapters or sections of said code. Periodically thereafter all affected pages of the municipal code shall be revised to reflect such amended, added, or deleted material and shall be distributed to city officers and employees having copies of said code and to other persons who have requested and paid for current revisions. Notes shall be inserted at the end of amended or new sections, referring to the numbers of ordinances making the amendments or adding the new provisions, and such references shall be cumulative if a section is amended more than once in order that the current copy of the municipal code will contain references to all ordinances responsible for current provisions. One copy of the municipal code as originally adopted and one copy of each amending ordinance thereafter adopted shall be furnished to the Municipal Technical Advisory Service immediately upon final passage and adoption.

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

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

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

Passed 1st reading, OCTOBER 27, 1992.

Passed 2nd reading, NOVEMBER 10, 1992.

Walter Thompson
Mayor

Kenneth W. McEwen, CAC
Recorder

TITLE 1

GENERAL ADMINISTRATION¹

CHAPTER

1. CITY COUNCIL.
2. MAYOR.
3. RECORDER.
4. CITY ATTORNEY.
5. CODE OF ETHICS.

CHAPTER 1

CITY COUNCIL²

SECTION

- 1-101. Time and place of regular meetings.
- 1-102. Order of business.
- 1-103. General rules of order.
- 1-104. Passage of ordinances and resolutions.
- 1-105. Salary of aldermen.

1-101. Time and place of regular meetings. The city council shall hold regular monthly meetings at 7:00 P.M. on the second and fourth Monday nights of each month at the Dyer City Hall at 235 South Royal Street. A regular meeting of the city council may, in the alternative, be held at such place within

¹Charter references

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

Municipal code references

Building and plumbing inspectors: title 12.
Public safety department: title 20, chapter 2.
Utilities: titles 18 and 19.
Wastewater treatment: title 18.
Zoning: title 14.

²Charter references

Compensation: art. II, § 3.
Powers: art. II, § 4.
Quorum: art. II, § 4.
Term of office: art. IV, § 1.

the City of Dyer as the mayor may designate provided at least three (3) days notice of such location change is given to each alderman by personal notification, and to the public by posting notice on the front door of the city hall, no later than 5:00 P.M. on the third day preceding the regular board meeting in question. The mayor may designate a time at which said meeting is to be convened provided notice of such time change is given as specified in the preceding sentence. Such a change in time or location shall apply only to the meeting specified in said notice. (1983 Code, § 1-101, as amended by Ord. 93-45, July 1993, and replaced by Ord. #99-101, April 1999)

1-102. Order of business. At each meeting of the city council, the following regular order of business shall be observed unless dispensed with by a majority vote of the members present:

- (1) Call to order by the mayor.
- (2) Roll call by the recorder.
- (3) Reading of minutes of the previous meeting by the recorder, and approval or correction.
- (4) Grievances from citizens.
- (5) Communications from the mayor.
- (6) Reports from committees, members of the city council, and other officers.
- (7) Old business.
- (8) New business.
- (9) Adjournment. (1983 Code, § 1-102)

1-103. General rules of order. The rules of order and parliamentary procedure contained in the current edition of Robert's Rules of Order, Newly Revised, shall govern the transaction of business by and before the city council 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. (1983 Code, § 1-103, as amended by Ord. # 95-67, Oct. 1995)

1-104. Passage of ordinances and resolutions. Ordinances shall be introduced in written form and shall be passed on two (2) separate readings and there shall be no more than one (1) reading on any one (1) day. An ordinance may receive first reading upon its introduction. Ordinances shall take effect upon final reading, adoption and signed by the mayor unless a different effective date is designated in the ordinance.

Resolutions shall be introduced in written form and shall become effective on one (1) reading. (Ord. #95-60, Feb. 1995)

1-105. Salary of aldermen. Effective July 1, 1987, the salary of aldermen shall be \$50.00 per month. (1983 Code, § 1-105)

CHAPTER 2**MAYOR¹****SECTION**

1-201. Generally supervises city's affairs.

1-202. Salary and expense allowance.

1-201. Generally supervises city's affairs. The mayor shall have general supervision of all municipal affairs. (1983 Code, § 1-201)

1-202. Salary and expense allowance. Effective July 1, 1987, the salary of the mayor shall be \$500.00 per month and his expense allowance shall be \$300.00 per month. (1983 Code, § 1-202, as amended by Ord. #91-38, July 1991)

¹Charter references

Compensation: art. II, § 3 and art. III, § 9.

Term of office: art. IV, § 1.

Vacancy in office: art. III, § 7.

CHAPTER 3

RECORDER¹

SECTION

1-301. Performs general administrative duties, etc.

1-302. To work with cemetery association.

1-301. Performs general administrative duties, etc. The recorder shall perform all administrative duties for the city council and for the city which are not expressly assigned by the charter, this code, or the city council to another corporate officer. He shall also have custody of and be responsible for maintaining all corporate bonds, records, and papers in such fireproof vault or safe as the city shall provide. (1983 Code, § 1-301)

1-302. To work with cemetery association. The recorder shall keep the books for the Oakwood Cemetery Association and perform such other reasonable duties as may be required of him by the association. (1983 Code, § 1-302)

¹Charter references

Bond required: art. III, § 12.

Compensation: art. III, § 13.

Duties: art. III, § 14.

CHAPTER 4

CITY ATTORNEY

SECTION

1-401. Board of mayor and aldermen and industrial board to have separate attorneys.

1-401. Board of mayor and aldermen and industrial board to have separate attorneys. The attorney for the City of Dyer Board of Mayor and Aldermen and the attorney for the City of Dyer Industrial Board shall be separate individuals selected from separate practices, without alliances. (Ord. #95-65, June 1995)

CHAPTER 5

CODE OF ETHICS

SECTION

- 1-501. Applicability.
- 1-502. Definition of "personal interest."
- 1-503. Disclosure of personal interest by official with vote.
- 1-504. Disclosure of personal interest in nonvoting matters.
- 1-505. Acceptance of gratuities, etc.
- 1-506. Use of information.
- 1-507. Use of municipal time, facilities, etc.
- 1-508. Use of position or authority.
- 1-509. Outside employment.
- 1-510. Ethics complaints.
- 1-511. Violations.
- 1-512. Notification to be sent to Tennessee Ethics Commission.

1-501. Applicability. This chapter is the code of ethics for personnel of the City of Dyer, Tennessee. 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. The words "municipal" and "municipality" include these separate entities. (as added by Ord. #2007-152, May 2007)

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

- (a) Any financial interest in the subject of a vote by a municipal board not otherwise regulated by state statutes on conflicts of interests;
- (b) Any financial ownership, or employment interest in a matter to be regulated or supervised; or
- (c) Any financial ownership, or employment interest of the official's or employee's spouse, parent(s), stepparent(s), grandparent(s), sibling(s), child(ren), or stepchild(ren).

(2) The words "employment interest" includes 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 a vote or that is to be regulated or supervised.

(3) In any situation in which a personal interest is also a conflict of interest under state law, the provisions of the state law take precedence over the provisions of this chapter. (as added by Ord. #2007-152, May 2007)

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

meeting at which the vote takes place, before the vote and so it appears in the minutes, any personal interest that affects or would lead a responsible 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. (as added by Ord. #2007-152, May 2007)

1-504. Disclosure of personal interest in nonvoting matters. An official or employee who must exercise discretion relative to any matter, other than casting a vote, and who has a personal interest in the matter that affects or that would lead a reasonable person to infer that it affects the exercise of the discretion shall disclose, before the exercise of the discretion when possible, the interest on a form provided by and filed with the city recorder. In addition, the official or employee may, to the extent allowed by law, charter, ordinance, or policy, recuse himself from the exercise of discretion in the matter. (as added by Ord. #2007-152, May 2007)

1-505. Acceptance of gratuities, etc. an official or employee may not accept, directly or indirectly, any money, gift, gratuity, or other consideration or favor valued more than one hundred dollars (\$100.00) from anyone other than the municipality:

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

(2) That might reasonably be interrupted as an attempt to influence his action, or reward him for past action, in executing municipal business. (as added by Ord. #2007-152, May 2007)

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

(2) An official or employee may not use or disclose information obtained in his official capacity or position of employment with the intent to result in financial gain for himself or any other person or entity. (as added by Ord. #2007-152, May 2007)

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

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

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

to any private person or entity, except as authorized by legitimate contract or lease that is determined by the board of mayor and aldermen to be in the best interests of the City of Dyer. (as added by Ord. #2007-152, May 2007)

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

(2) An official or employee may not use or attempt to use his position to secure any privilege or exemption for himself or others that is not authorized by the city charter, general law, or ordinance or policy of the City of Dyer. (as added by Ord. #2007-152, May 2007)

1-509. Outside employment. An official or employee may not accept or continue any outside employment if the work unreasonably inhibits the performance of any affirmative duty of the municipal position or conflicts with any provision of the city charter or any ordinance or policy. (as added by Ord. #2007-152, May 2007)

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

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

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

(c) When a complaint of a violation of any provision of this chapter is lodged against a member of the board of mayor and aldermen, the board of mayor and aldermen shall either determine that the complaint has merit, determine that the complaint does not have merit, or determine that the complaint has sufficient merit to warrant further investigation. If the board of mayor and aldermen 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.

(4) When a violation of this chapter also constitutes a violation of the personnel policy, rule, or regulation, or a civil service policy, rule, or regulation, the violation shall be dealt with as a violation of the personnel or civil service provisions rather than as a violation of this code of ethics. (as added by Ord. #2007-152, May 2007)

1-511. Violations. An elected official or appointed member of a separate municipal board, commission, committee, authority, corporation, or other instrumentality who violates any provision of this chapter is subject to punishment as provided by the city's charter or other applicable law and in addition is subject to censure by the board of mayor and aldermen. An appointed official who violates any provision of this chapter is subject to disciplinary action. (as added by Ord. #2007-152, May 2007)

1-512. Notification to be sent to Tennessee Ethics Commission. Upon adoption by the board of mayor and aldermen, the city recorder is hereby directed to notify the Tennessee Ethics Commission in writing that the ethics policy was adopted by the City of Dyer and the date such action was taken. (as added by Ord. #2007-152, May 2007)

TITLE 2

BOARDS AND COMMISSIONS, ETC.

CHAPTER

1. CITY BEAUTIFUL COMMISSION ADVISORY BOARD.
2. DYER TREE BOARD.

CHAPTER 1

CITY BEAUTIFUL COMMISSION ADVISORY BOARD

SECTION

- 2-101. Creation; membership; officers.
- 2-102. Removal of members; vacancies.
- 2-103. Officers; meetings.
- 2-104. Functions, powers, and duties.

2-101. Creation; membership; officers. There is hereby established a city beautiful commission advisory board hereinafter referred to as the commission. The commission shall consist of eight (8) to twelve (12) members, all of whom shall be citizens of the City of Dyer. The mayor with the concurrence of a majority of the aldermen shall appoint the members of this commission. The commission members shall serve without compensation and at the pleasure of the city council. The commission at their first meeting shall select a chairman and a secretary and will maintain minutes of their proceedings. (Ord. #94-59, Jan. 1995)

2-102. Removal of members; vacancies. Members of the commission may be removed by a majority vote of the city council, or because of having accumulated three (3) or more consecutive unexcused absences from commission meetings. Any vacancy occurring in the membership of the commission shall be filled by the city council for the remainder of the term of office of the commission member whose resignation, death, or removal caused the vacancy. Said appointment is to be made within thirty (30) days after formal notification to the city council that a vacancy or cause of removal exists. (1983 Code, § 1-1102)

2-103. Officers; meetings. (1) The secretary shall prepare an agenda for each meeting and shall consult with the chairman of the commission regarding the agenda.

(2) The minimum number of commission members in attendance which shall constitute a quorum and shall permit a declaration that an official meeting is in session shall be four (4) members.

(3) Minutes shall be kept during all meetings with copies to be distributed to the city council and the original copy to be placed in the files of the recorder.

(4) In performance of their duties set forth in this chapter, the commission shall hold at least one (1) regular meeting each month. Special meetings may be called by the commission chairman, upon reasonable prior notification to all commission members. All meetings shall be held in a city-owned building and shall be open to the public. (1983 Code, § 1-1103)

2-104. Functions, powers, and duties. (1) The commission shall act in an advisory capacity only (nonadministrative), serving as representatives of the citizenry and adjuncts of the city council in all nonbudgetary matters pertaining to the buildings, open areas, city facilities, and public and private land in this city and shall perform such other duties as may be designated by the city council from time to time. Such advisory duties shall include the recommendation of improvements and operational personnel, rules and regulations, and similar controls pertaining to usage of public and private property in the city.

(2) The commission may solicit, and acquire on behalf of the city, by gift or donation, any property for public recreation purposes, provided that the solicitation of the donation or real property shall have prior concurrence of the city council. Any tentative donation of real property shall be processed in the normal manner for acquiring city property, and, if accepted, title thereto shall be taken in the name of the city.

(3) The commission shall keep records and accounts of all activities of the commission and shall make reports to the city council whenever requested to do so.

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

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

(6) Nothing in this chapter shall be construed as authorizing or empowering the city beautiful commission advisory board or any of its members to impose any liability of any nature, financial or otherwise, upon the city. (1983 Code, § 1-1104)

CHAPTER 2
DYER TREE BOARD

SECTION

- 2-201. Creation, members, terms, compensations, vacancies.
- 2-202. Duties and responsibilities.
- 2-203. Operations.
- 2-204. Tree cutting and trimming.
- 2-205. Tree species and spacing.
- 2-206. Cooperation with other segments of city government.

2-201. Creation, members, terms, compensation, vacancies. A board to be known as the Dyer Tree Board is hereby created. The board shall consist of six members of the Dyer community to be appointed by the mayor and ratified by city council to serve for terms of three years or until their successors are appointed. A member of the city council shall be appointed to serve as an ex-officio member. However, the first members shall be appointed for such terms that the term of two members shall expire annually thereafter. The members of the tree board shall serve without pay. Any vacancy on the board occurring otherwise than by expiration of a term shall be filled only for the unexpired term and such appointment shall be made by the mayor. (Ord. #90-36, March 1990)

2-202. Duties and responsibilities. The purpose of the tree board is to develop and administer a comprehensive city forestry program. It will help create a new awareness and appreciation of trees among the residents of the community with an Arbor Celebration held annually during the first week of March. The tree board is hereby authorized to devise and execute a plan of tree planting and landscaping for the David Robinson Park. The tree board is also authorized to appoint task forces for special projects. The tree board shall advise the city council concerning other worthwhile activities to improve the physical environment and improve the aesthetic quality of the Dyer Community. (Ord. #90-36, March 1990)

2-203. Operations. The tree board shall choose its own officers, make regulations and keep a journal of its proceedings. A majority of the members shall be a quorum for the transaction of business. (Ord. #90-36, March 1990)

2-204. Tree cutting and trimming. In regard to the private sector, the tree board will act in an advisory capacity only. It will offer tree consultation and advice to Dyer community citizens. Periodically, public information will be provided, principally through newspaper articles. (Ord. #90-36, March 1990)

2-205. Tree species and spacing. The species of the street and park trees planted and the spacing of the trees will be in accordance with the requirements

and specifications that are established and approved by the tree board. (Ord. #90-36, March 1990)

2-206. Cooperation with other segments of city government. There shall be cooperation between the tree board and all other segments of city government and volunteer citizen groups. (Ord. #90-36, March 1990)

TITLE 3

MUNICIPAL COURT¹

CHAPTER

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

CHAPTER 1

CITY JUDGE

SECTION

3-101. City judge.

3-101. City judge. The officer designated by the charter to handle judicial matters within the city shall preside over the city court, and shall be known as the city judge. (1983 Code, § 1-501)

¹Charter reference: art. VII.

CHAPTER 2

COURT ADMINISTRATION

SECTION

- 3-201. Maintenance of docket.
- 3-202. Imposition of fines, penalties, and costs.
- 3-203. Disposition and report of fines, penalties, and costs.
- 3-204. Disturbance of proceedings.
- 3-205. Trial and disposition of cases.
- 3-206. Pretrial or judicial diversion.

3-201. Maintenance of docket. The city judge shall keep a complete docket of all matters coming before him in his judicial capacity. The docket shall include for each defendant such information as his name; warrant and/or summons numbers; alleged offense; disposition; fines, penalties, and costs imposed and whether collected; whether committed to workhouse; and all other information that may be relevant. (1983 Code, § 1-502)

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

In all cases heard or determined by him, the city judge shall tax in the bill of costs the same amounts and for the same items allowed in courts of general sessions¹ for similar work in state cases. (1983 Code, § 1-508)

3-203. Disposition and report of fines, penalties, and costs. All funds coming into the hands of the city judge in the form of fines, penalties, costs, and forfeitures shall be recorded by him and paid over daily to the city. At the end of each month he shall submit to the city council a report accounting for the collection or non-collection of all fines, penalties, and costs imposed by his court during the current month and to date for the current fiscal year. (1983 Code, § 1-511)

3-204. Disturbance of proceedings. It shall be unlawful for any person to create any disturbance of any trial before the city court by making loud or unusual noises, by using indecorous, profane, or blasphemous language, or by any distracting conduct whatsoever. (1983 Code, § 1-512)

¹State law reference

Tennessee Code Annotated, § 8-21-401.

3-205. Trial and disposition of cases. Every person charged with violating a municipal ordinance shall be entitled to a speedy trial and disposition of his case, provided the city court is in session or the city judge is reasonably available. However, the provisions of this section shall not apply when the alleged offender, by reason of drunkenness or other incapacity, is not in a proper condition or is not able to appear before the court. (1983 Code, § 1-506)

3-206. Pretrial or judicial diversion. (1) In any case properly before the city court where the defendant is charged with violation of any ordinance or other offense for which the city court has jurisdiction and where the defendant does not have a prior conviction of violation of city ordinance or other offense over which the city court has jurisdiction within the three year period next proceeding the date of the alleged offense, the parties may by a Memorandum of Understanding agree that the prosecution will be suspended for a specified period, not to exceed two years from the filing of the Memorandum of Understanding, on the condition that the defendant comply with all terms of said Memorandum of Understanding.

(2) **Pretrial diversion.** The Memorandum of Understanding may be entered into between the defendant and the officer issuing the citation and presented to the city judge prior to the entering of a plea by the defendant. The city judge may accept the Memorandum of Understanding or, if in his discretion he believes the case is improper for pretrial diversion, reject the Memorandum of Understanding and proceed with a trial on the merits.

(3) **Judicial diversion.** The Memorandum of Understanding may be entered into by the defendant and the city judge at any time prior to sentencing if, in the sole discretion of the city judge, the city judge believes the case is proper for diversion.

(4) **Memorandum of understanding.** Prosecution of the defendant shall not be suspended unless the parties, in the Memorandum of Understanding, agree that the defendant observe the following conditions during the period in which the prosecution is suspended:

(a) The defendant will, during the term of the diversion, abide by all the city ordinances of the City of Dyer and the laws of the State of Tennessee and particularly to those laws and ordinances that pertain to the operation of motor vehicles and the control of vehicular traffic.

(b) The defendant shall report all arrests, including violations, regardless of disposition, to the Police Department of the City of Dyer, Tennessee.

(c) The defendant shall pay the court costs of the case plus a five dollar (\$5.00) administration fee.

(d) The defendant shall conduct himself/herself in a manner consistent with good citizenship.

(e) The defendant shall make restitution to the victim, if applicable, in this cause in full within 30 days of the date of the entry of the Memorandum of Understanding, and if said restitution is not so made, it shall be a violation of the Memorandum of Understanding and cause said case to be prosecuted immediately. (Ord. #94-51, July 1994)

CHAPTER 3

WARRANTS, SUMMONSES AND SUBPOENAS

SECTION

3-301. Issuance of arrest warrants.

3-302. Issuance of summonses.

3-303. Issuance of subpoenas.

3-301. Issuance of arrest warrants.¹ The city recorder or assistant city recorder shall have the power to issue warrants for the arrest of persons charged with violating municipal ordinances. (Ord. #94-52, Oct. 1994)

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 to personally appear before the city court at a time specified therein to answer to the charges against him. The summons shall contain a brief description of the offense charged but need not set out verbatim the provisions of the ordinance alleged to have been violated. Upon failure of any person to appear before the city court as commanded in a summons lawfully served on him, the cause may be proceeded with ex parte, and the judgment of the court shall be valid and binding subject to the defendant's right of appeal. (1983 Code, § 1-504)

3-303. Issuance of subpoenas. The city judge may subpoena as witnesses all persons whose testimony he believes will be relevant and material to matters coming before his court, and it shall be unlawful for any person lawfully served with such a subpoena to fail or neglect to comply therewith. (1983 Code, § 1-505)

¹State law reference

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

CHAPTER 4

BONDS AND APPEALS

SECTION

3-401. Appearance bonds authorized.

3-402. Appeals.

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

3-401. Appearance bonds authorized. When the city judge is not available or when an alleged offender requests and has reasonable grounds for a delay in the trial of his case, he may, in lieu of remaining in jail pending disposition of his case, be allowed to post an appearance bond with the city judge or, in the absence of the judge, with the ranking police officer on duty at the time, provided such alleged offender is not drunk or otherwise in need of protective custody. (1983 Code, § 1-507)

3-402. Appeals. Any defendant who is dissatisfied with any judgment of the city court against him may, within ten (10) entire days thereafter, Sundays exclusive, appeal to the next term of the circuit court upon posting a proper appeal bond.¹ (1983 Code, § 1-509)

3-403. Bond amounts, conditions, and forms. An appearance bond in any case before the city court shall be in such amount as the city judge shall prescribe and shall be conditioned that the defendant shall appear for trial before the city court at the stated time and place. An appeal bond in any case shall be in the sum of two hundred and fifty dollars (\$250.00) and shall be conditioned that if the circuit court shall find against the appellant the fine or penalty and all costs of the trial and appeal shall be promptly paid by the defendant and/or his sureties. An appearance or appeal bond in any case may be made in the form of a cash deposit or by any corporate surety company authorized to do business in Tennessee or by two (2) private persons who individually own real property located within the county. No other type bond shall be acceptable. (1983 Code, § 1-510)

¹State law reference

Tennessee Code Annotated, § 27-5-101.

CHAPTER 5

COURT COST

SECTION

3-501. Court cost.

3-501. Court cost. The court costs to be used by the city judge in assessing the bill of costs in the city court shall be sixty-two dollars (\$62.00). Such court costs shall be in addition to any special court costs that may be assessed under the provisions of the municipal charter. (as added by Ord. #2005-146, Oct. 2005)

TITLE 4**MUNICIPAL PERSONNEL****CHAPTER**

1. SOCIAL SECURITY FOR OFFICERS AND EMPLOYEES.
2. PERSONNEL RULES AND REGULATIONS.
3. INFECTIOUS DISEASE CONTROL POLICY.
4. SEXUAL HARASSMENT POLICY.
5. TRAVEL REIMBURSEMENT REGULATIONS.

CHAPTER 1**SOCIAL SECURITY FOR OFFICERS AND EMPLOYEES****SECTION**

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

4-101. Policy and purpose as to coverage. It is hereby declared to be the policy and purpose of the city to provide for all eligible employees and officials of the city, whether employed in connection with a governmental or proprietary function, the benefits of the system of federal old age and survivors insurance. In pursuance of said policy, and for that purpose, the city shall take such action as may be required by applicable state and federal laws or regulations. (1983 Code, § 1-701)

4-102. Necessary agreements to be executed. The mayor is hereby authorized and directed to execute all the necessary agreements and amendments thereto with the state executive director of old age insurance, as agent or agency, to secure coverage of employees and officials as provided in the preceding section. (1983 Code, § 1-702)

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. (1983 Code, § 1-703)

4-104. Appropriations for employer's contributions. There shall be appropriated from available funds such amounts at such times as may be required by applicable state or federal laws or regulations for employer's contributions, and the same shall be paid over to the state or federal agency designated by said laws or regulations. (1983 Code, § 1-704)

4-105. Records and reports to be made. The city shall keep such records and make such reports as may be required by applicable state and federal laws or regulations. (1983 Code, § 1-705)

CHAPTER 2

PERSONNEL RULES AND REGULATIONS

SECTION

- 4-201. Purpose.
- 4-202. Coverage.
- 4-203. Department heads.
- 4-204. Classes of employees.
- 4-205. Hiring procedures.
- 4-206. Compensation.
- 4-207. Benefits.
- 4-208. Separations and disciplinary actions.
- 4-209. Miscellaneous personnel policies.
- 4-210. Nepotism prohibited.
- 4-211. Employees at-will.

4-201. Purpose. The purpose of this chapter is to establish a system of personnel administration for the City of Dyer that is based on merit and fitness. The system shall provide means to select, develop, and maintain an effective municipal work force through the impartial application of personnel policies and procedures free of personal and political considerations and regardless of race, sex, age, religion, color, national origin, or disability. Nothing in this personnel policy shall be interpreted or construed as granting any employee a property right to his or her job. Any employee of the City of Dyer may be suspended, disciplined or terminated at any time and for any reason and without access to an administrative appeal or grievance hearing. (Ord. #93-44, March 1993, as replaced by Ord. #2012-205, March 2012)

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

- (1) All elected officials.
- (2) Members of appointed boards and commissions.
- (3) Consultants, advisers, and legal counsel rendering temporary professional service.
- (4) The city attorney.
- (5) Independent contractors.
- (6) Persons employed by the municipality for not more than three months during a fiscal year.

- (7) Part-time employees paid by the hour of the day, and not considered regular.
- (8) Volunteer personnel appointed without compensation.
- (9) The city judge.
- (10) [Deleted.]

All employment positions of the municipal government not expressly exempted from coverage by this section shall be subject to the provisions of the city charter. (Ord. #93-44, March 1993, as amended by Ord. #2001-114, June 2001)

4-203. Department heads. For the purpose of this chapter, the individuals occupying the following positions shall be deemed "department heads" as the term department is used within this chapter:

- (1) Chief of police.
- (2) Public works supervisor.
- (3) City recorder.
- (4) Fire chief. (Ord. #93-44, March 1993)

4-204. Classes of employees. (1) Regular full time. Full-time employees are individuals employed by the municipal government who work more than 35 hours per week and have completed a 3 month probationary period.

(2) Regular part time. Temporary part-time employees are individuals who do not work on a daily basis and whose hours cannot exceed 20 hours per week unless approved by the mayor. (Ord. #93-44, March 1993)

4-205. Hiring procedures. (1) Policy statement. The primary objective of this hiring policy is to insure compliance with the law and to obtain qualified personnel to serve the citizens of the city. Appointments to positions are based on merit, technical knowledge and work experience and no person shall be employed, promoted, demoted, or discharged, or in any way favored or discriminated against because of race, sex, age, color, religion, creed, ancestry, handicapped status, or national origin.

(2) Recruitment. The city will employ only capable and responsible personnel who are of good character and reputation. When a vacancy occurs, the mayor will prepare and post the appropriate position description at various locations in town and in the local media, if necessary, in an effort to bring notice of the vacancy to as many qualified persons as possible.

(3) Application process. All persons seeking appointment or employment with the city shall complete an application form as provided by the municipal government. Applications for employment shall be accepted in the recorder's office during regular office hours only.

(4) Interviews. All appointments are subject to an interview with the mayor and appropriate department head. This subsection does not apply to any position to which the charter of the City of Dyer vests the exclusive power to hire and remove employees from with the mayor.

(5) Appointments. All permanent appointments to positions in the City of Dyer shall be made by the city council. This subsection does not apply to any position to which the charter of the City of Dyer vests the exclusive power to hire and remove employees from with the mayor.

(6) Probation. Applicants appointed to positions with the City of Dyer are required to serve a 3-month probationary period. An employee may be terminated during this period for any reason without respect or reference to the procedures set forth in this document, the charter or other ordinances. If the probationary period is determined satisfactory, the employee is recommended for a full-time appointment.

(7) Physicals. Before appointment, all applicants shall be required to pass a pre-employment physical examination conducted by a licensed physician. Employees may be required to pass periodical physical examinations. (Ord. #93-44, March 1993)

4-206. Compensation. (1) Salaries. The city council shall set all salaries paid by the City of Dyer. Due consideration shall be given to duties performed, responsibilities, technical knowledge and skills required to perform the work satisfactorily, the labor market, and availability of persons having the desired qualifications. This subsection does not apply to any position to which the charter of the City of Dyer vests the exclusive power to hire and remove employees from with the mayor.

(2) Hours of work. The mayor and committee chairman and department head shall establish the hours of work per week for each position in the service or the city. This subsection does not apply to any position to which the charter of the City of Dyer vests the exclusive power to hire and remove employees from with the mayor.

(3) Pay period. The pay period for all full-time employees of the City of Dyer shall begin at 0001 hours each Monday and end at 2400 hours each Sunday. All full-time employees of the City of Dyer shall be paid on a weekly basis.

(4) Payroll deductions. (a) Federal income tax. Federal taxes are withheld from employee's paychecks based on the number of dependents claimed by the individual. Employees are required to keep on file with the municipal government a copy of the W-4 form. In the event of changes in the employee exemption status, a revised W-4 must be filed before payroll deduction adjustments will be made.

(b) Social security. Social security payments and deductions will be made in accordance with the Social Security Act. The recorder

shall keep such records and make such reports as may be required by applicable state and federal laws or regulations.

(c) Retirement. Retirement payments and deductions will be made in accordance with Tennessee Code Annotated, title 8, chapters 34 through 37, as they relate to the Tennessee Consolidated Retirement System. The recorder shall keep such records and make such reports as may be required by applicable state and federal laws or regulations.

(d) Others. Other deductions may be made from an employee's pay only with consent of the city council and signed consent from the employee or upon an order from a court with such jurisdiction.

(5) Overtime. Employees who are in a pay status other than sick leave, who are required to work overtime (any pay hours other than sick hours above and beyond forty (40) hours per pay period) shall be compensated at one and one-half time regular rate for overtime hours worked. Exception to this rule are police officers who work forty-three (43) hours per pay period at regular time rate before overtime rate (one and one-half time regular rate) is effective.

(6) Emergency standby call pay. Public works employees who are on emergency standby call, other than regular working hours, receive four (4) hours pay per day at regular time; and when the employee responds to an emergency call the employee is paid at one and one-half time regular hourly rate while on the emergency call. (Ord. #93-44, March 1993, as amended by Ord. #95-64, April 1995; Ord. #96-76, Aug. 1996; and Ord. #2001-114, June 2001)

4-207. Benefits. (1) Eligibility. All full-time employees are eligible for all benefits provided by the city.

(2) Holidays. All offices of the City of Dyer, except emergency and necessary operations, will be closed and employees allowed a day off with pay on the following legal holidays:

New Years's Day	January 1st
Martin Luther King Day	3rd Monday in January
President's Day	3rd Monday in February
Good Friday	Friday preceding Easter
Memorial Day	Last Monday in May
Independence Day	July 4th
Labor Day	First Monday in September
Veteran's Day	November 11th
Thanksgiving Day	Fourth Thursday in November
Post Thanksgiving Day	Friday following Thanksgiving Day
Christmas Eve	December 24th
Christmas Day	December 25th

When a legal holiday falls on Saturday, offices will be closed the preceding Friday. When a holiday falls on Sunday, the following Monday will be observed.

Employees must be in a pay status on the work day before and on the work day after the holiday, unless otherwise excused by the supervisor, in order to receive compensation for the holiday.

(3) Vacation leave. All full-time employees who have worked for the municipal government for at least one (1) continuous year of service shall be entitled to five (5) days of vacation with pay per year. After five (5) years of continuous service, full-time employees shall be entitled to ten (10) days of vacation with pay per year. After ten (10) years of continuous service, full-time employees shall be entitled to fifteen (15) days of vacation with pay per year. The vacation period shall be on a calendar-year basis from January 1 through December 31. Employees will become eligible for vacation with pay on the first anniversary date of their employment. Thereafter, as of January 1 of each year, such employees shall become eligible for vacation for the ensuing year. Such employees shall also become eligible for the additional week of vacation on their fifth and tenth year anniversary dates. Such vacation shall be taken at a time approved by the mayor or such officers as designated. Except in unusual circumstances and written approval of the mayor, vacation leave must be taken between January 1 and December 31 or lost without compensation. Upon separation, employees are entitled to be reimbursed for any unused vacation.

(4) Personal leave. All full-time employees who complete the required 3-month probationary period receive two (2) days of personal leave per calendar year. All full-time employees who complete three (3) years of continued service receive one (1) additional day each year through year five (5). Such personal leave is taken within the calendar year received. Upon separation, employees are entitled to be reimbursed for any unused personal leave days. If personal days are not taken in the calendar year earned, they will be lost without compensation.

(5) Sick leave. All full-time employees shall be given credit for one day of sick leave with pay for each month of work for the municipality. The maximum credit for accrued sick leave shall be 120 days. Sick leave may be granted for any of the following reasons:

(a) Personal illness or physical incapacity resulting from causes beyond the employee's control.

(b) Exposure to contagious disease so that their presence at work might jeopardize the health of other employees.

(c) Medical, dental, optical or other professional treatments or examinations.

(d) Acute illness of a member of the employee's immediate family (spouse, parents, children).

Upon termination or resignation any unused sick leave shall not be cashed in for compensation.

(6) Funeral leave. Full-time employees shall be allowed three (3) days of bereavement leave with pay for the death of an employee's spouse, parents, step-parents, children, step-children, siblings, in-laws, grandparents, foster

parents, or grandchildren. Employees may elect to take two (2) additional sick days to be deducted from accumulated sick leave. One (1) day of sick leave is allowed for the death of other relatives of the employee.

(7) Jury duty. All municipal employees who are summoned for jury in accordance with the laws of the State of Tennessee shall report for same at the time and place designated. Should an employee so summoned, not be selected for jury duty, he shall return to work, along with a statement from the proper court official and he shall receive his normal rate of pay, less the jury duty payment. Should the employee be selected to serve on the jury and shall serve during working hours of 7:00 A.M. to 4:00 P.M., the City of Dyer shall then supplement the jury pay so that he receives his normal payment for normal work day.

Should the employee so summoned for jury duty, not selected, and choose not to return to work, no supplemental pay will be authorized.

(8) Civil leave. Civil leave with pay may be granted to employees for the following reasons:

(a) Answer a subpoena to testify for the city.

(b) Perform emergency duty for National Defense.

(9) Voting. When elections are held in the state, leave for the purpose of voting shall be in accordance with Tennessee Code Annotated, § 2-1-106 herein reprinted:

"EMPLOYERS MAY DESIGNATE PERIODS OF PERMISSIBLE ABSENTEEISM. Any person entitled to vote in an election held in this state may be absent from any service or employment on the day of the election for a reasonable period of time, not to exceed three hours, necessary to vote during the time the polls are open in the county where he/she is a resident. A voter who is absent from work to vote in compliance with this section may not be subjected to any penalty or reduction in pay for his absence. If the tour of duty of an employee begins three or more hours after the opening of the polls or ends three or more hours before the closing of the polls of the county where he/she is a resident, he/she may not take time off under this section. The employer may specify the hours during which the employee may be absent. Request for such an absence shall be made to the employer before twelve noon of the day before the election."

(10) Worker's compensation. All full-time employees of the City of Dyer are covered under Worker's Compensation insurance.

(11) Other benefits. The City of Dyer provides uniforms for police officers and protective clothing for firefighters.

(12) Retire health insurance. (Ord. #93-44, March 1993, as amended by Ord. #95-64, April 1995; Ord. #96-71, May 1996, Ord. #2001-114, June 2001, 2004-136, May 2004, Ord. #2006-148, Feb. 2006, Ord. #2012-213, Nov. 2012, and Ord. #2013-214, Feb. 2013)

4-208. Separation and disciplinary actions. (1) Types of separations.

All separations of employees from positions with the municipal government shall be designated as one of the following types and shall be accomplished in the manner indicated: resignations, lay-offs, disability, death, retirement, suspension, and dismissal. At the time of separation and prior to final payment, all records, assets, and other items of city property in the employee's custody must be transferred to the department. Any amount due because of shortages shall be withheld from the employee's final compensation.

(2) Resignation. In the event an employee decides to leave the municipal government's employ, a two week notice shall be given to his/her supervisor so that arrangements for a replacement can be made. In such a case employees will be expected to return any/or all municipal government equipment assigned. Any unauthorized absence from work for a period of three consecutive working days may be considered by the department head as a resignation.

If a former employee returns to municipal government employment, their status of seniority, pay, leave, etc. will be the same as any new employee beginning work for the first time.

(3) Lay-off. The department head, upon approval from the mayor and council and finance committee may lay-off an employee in the municipal government service when he/she deems it necessary by reason of shortage of funds, the abolition of a position, or other material changes in the duties of the organization of the employee's position, or for related reasons that are outside the employees control and that do not reflect discredit upon the service of the employee.

The duties performed by an employee laid off may be assigned to other employees already working who hold position in the appropriate class. Temporary employees shall be laid off prior to the lay-off of probationary or regular employees. The order of layoff shall be in reverse order to total continuous time served upon the date established for the layoff to become effective.

(4) Disability. An employee may be separated for disability when he/she cannot perform required duties because of physical or mental impairment. Action may be initiated by the employee or the municipality, but in all cases it must be supported by medical evidence acceptable to the mayor. The municipal government may require an examination at its expense and performed by a licensed physician of its choice.

(5) Death. Separation shall be effective as of the date of death of an employee. All compensation due in accordance with these rules shall be paid to the estate of the employee, except for such sums as by law must be paid to the surviving spouse.

(6) Disciplinary action. Whenever an employee's performance, attitude, work habits or personal conduct fall below a desirable level, supervisors shall inform employees promptly and specifically of such lapses and

shall give them counsel and assistance. If appropriate and justified, a reasonable period of time for improvement may be allowed before initiating disciplinary action. In some instances, a specific incident in and of itself may justify severe initial disciplinary action; however, the action to be taken depends on the seriousness of the incident and the whole pattern of the employee's past performance and conduct. The types of disciplinary actions are:

- (a) Oral reprimand.
- (b) Written reprimand.
- (c) Suspension.
- (d) Dismissal.

(7) Oral reprimand. Whenever an employee's performance, attitude, work habits, or personal conduct fall below a desirable level, the supervisor shall inform the employee promptly and specifically of such lapses and shall give him/her counsel and assistance. If appropriate and justified a reasonable period of time for improvement may be allowed before initiating disciplinary actions.

(8) Written reprimand. In situations where an oral warning has not resulted in the expected improvement, or when more severe initial action is warranted, such as situations where the employee is guilty of misconduct, negligence, incompetence, insubordination, unauthorized absences, falsification of records in violation of any of the provisions of the charter, ordinances or laws of the United States or State of Tennessee, a written reprimand may be sent to the employee and a copy shall be placed in the employee's personnel folder. Three (3) written reprimands within a twelve (12) month period will result in the immediate suspension of the employee with an automatic recommendation to the city council for dismissal of that employee. A written reprimand may be issued by the employee's department head, the mayor, the committee overseeing the employee's department or the full city council.

(9) Suspension. An employee may be suspended with or without pay, for the reasons enumerated in paragraphs (6) and (8) above, by that employee's department head, the mayor, the committee of the city council overseeing the employee's department or the full city council for a period not to exceed five (5) working days. Suspension of an employee with or without pay for a period of not less than six (6) days nor more than thirty (30) days shall be permitted upon approval of the mayor and the employee's department head, upon approval of the mayor and the committee of the city council overseeing that employee's department, or upon approval of the full city council.

(10) Dismissal. An employee may be dismissed by a vote of the full city council.

(11) Employee not to contact mayor or alderman. No employee who is appealing a disciplinary action pursuant to this chapter or who has brought a grievance pursuant to the grievance procedure set out in this chapter, shall contact or discuss with the mayor or any member of the city council the disciplinary action appeal or grievance procedure outside of the scope of the appeal's process and grievance procedure set forth in this chapter. Any such

contact or discussion shall constitute grounds for dismissal of said employee. (Ord. 93-44, March 1993, as amended by Ord. #95-64, April 1995, and Ord. #2012-205, March 2012)

4-209. Miscellaneous personnel policies. (1) Business dealings. Except for receipt of such compensation as may be lawfully provided for the performance of his municipal duties, it shall be unlawful for any municipal employee to be privately interested in, or to profit, directly or indirectly, from business dealings with the city.

(2) Acceptance of gratuities. No municipal employee shall accept any money or other consideration or favor from anyone other than the city 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 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 city business.

(3) Outside employment. No full-time employee of the city shall accept any outside employment without written authorization from the mayor and department head. The mayor and department head shall not grant such authorization if the work is likely to interfere with the satisfactory performance of the employee's duties, or is incompatible with the employee's municipal employment, or is likely to cause discredit upon or create embarrassment for the municipal government. Approval to work a second job may be withdrawn for any of the reasons above.

(4) Use of municipal time, facilities, etc.. No employee of the City of Dyer shall use or authorize the use of municipal time, facilities, equipment, or supplies for private gain or advantage to oneself or any other private person or group.

(5) Political activity. (Nothing in this section is intended to prohibit any municipal government employee from privately expressing his/her political views or from casting his/her vote in all elections).

Municipal government employees are prohibited from participation in municipal office elections or campaigns while on duty or in uniform.

(6) Use of position. No municipal employee shall make or attempt to make private purchases, for cash or otherwise, in the name of the city, nor shall he otherwise use privileges or exemptions for himself or others.

(7) Employee absence. All municipal employees shall report for duty at the time and duty station set forth by their supervisor, the municipal officers, or the city council. Any employee failing to report at the appointed time and place must have a reason therefor and must notify the supervisor or other municipal officer in charge for the reason of that absence. For any unexcused absence, the employee shall be given an oral reprimand for the first unexcused absence; for a second unexcused absence, the employee shall be given an official written reprimand with two (2) days suspension from the job without pay. On

the third occasion for an unexcused absence by the employee, he shall be given a notice of termination from work.

(8) Drugs or intoxicants. All municipal employees shall report for duty at their work station in fit physical condition to perform their duties. Any person reporting for duty under the influence of drugs or intoxicants shall be given a written reprimand and a three (3) day suspension from work without pay. On the 2nd occasion that an employee reports for duty under the influence of drugs or intoxicants, he shall be given notice of termination from work immediately. On any occasion that a municipal employee appears to be under the influence of drugs or intoxicants in violation of city ordinance or state law, that information shall be relayed to the appropriate police authorities immediately for any and all action directed by ordinance or the statutes of the State of Tennessee. Exceptions to the above enumerated policy shall be when an employee, under doctor's directions, shall be taking medication and in accordance with physicians' directives, the employee is certified fit for duty. (Ord. #93-44, March 1993)

4-210. Nepotism prohibited. The City of Dyer shall not show favoritism in the recruitment or employment of municipal employees nor in their supervision. Immediate family members of the mayor, the aldermen, city recorder, or a city department head, shall not be employed by the City of Dyer unless no other qualified applicants are available. For the purpose of this section, the term "immediate family member" shall mean the spouse, mother, father, brother, sister, children, grandparents, grandchildren, guardian, step-mother, step-father, step-brother, step-sister, half-brother, half-sister, child or step-child, uncle, aunt, nephew, niece or any person having the same relationship with the mayor's or an alderman's spouse. (as added by Ord. #2004-142, Nov. 2004)

4-211. Employees at-will. All employees hired after the effective date of the ordinance comprising this section, whether part-time or full-time, are employees at-will, without due process entitlements, unless the specific job description under which that particular employee was hired states to the contrary. (as added by Ord. #2011-202, June 2011)

CHAPTER 3

INFECTIOUS DISEASE CONTROL POLICY

SECTION

- 4-301. Purpose.
- 4-302. Coverage.
- 4-303. Administration.
- 4-304. Definitions.
- 4-305. Policy statement.
- 4-306. General guidelines.
- 4-307. Hepatitis B vaccinations.
- 4-308. Reporting potential exposure.
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- 4-310. Human immunodeficiency virus post-exposure management.
- 4-311. Disability benefits.
- 4-312. Training regular employees.
- 4-313. Training high risk employees.
- 4-314. Training new employees.
- 4-315. Records and reports.
- 4-316. Legal rights of victims of communicable diseases.
- 4-317. Amendments.
- 4-318. Addendum to other manuals.

4-301. Purpose. It is the responsibility of the City of Dyer to provide employees a place of employment which is free from recognized hazards that may cause death or serious physical harm. In providing services to the citizens of the City of Dyer, employees may come in contact with life-threatening infectious diseases which can be transmitted through job related activities. It is important that both citizens and employees are protected from the transmission of diseases just as it is equally important that neither is discriminated against because of basic misconceptions about various diseases and illnesses.

The purpose of this policy is to establish a comprehensive set of rules and regulations governing the prevention of discrimination and potential occupational exposure to Hepatitis B Virus (HBV), the Human Immunodeficiency Virus (HIV), and Tuberculosis (TB). (Ord. #92-43, Jan. 1993)

4-302. Coverage. Occupational exposures may occur in many ways, including needle sticks, cut injuries or blood spills. Several classes of employees are assumed to be at high risk for blood borne infections due to their routinely increased exposure to infectious material from potentially infected individuals. Those high risk occupations include but are not limited to:

- (1) Health clinic nurses;

- (2) Police officers;
- (3) Firefighters;
- (4) Any other employee deemed to be at high risk per this policy and an exposure determination. (Ord. #92-43, Jan. 1993)

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

- (1) Exercise leadership in implementation and maintenance of an effective infection control policy subject to the provisions of this chapter, other ordinances, the city charter, and federal and state law relating to OSHA regulations;
- (2) Make an exposure determination for all employee positions to determine a possible exposure to blood or other potentially infectious materials;
- (3) Maintain records of all employees and incidents subject to the provisions of this chapter;
- (4) Conduct periodic inspections to determine compliance with the infection control policy by municipal employees;
- (5) Coordinate and document all relevant training activities in support of the infection control policy;
- (6) Prepare and recommend any amendments or changes to the infection control policy;
- (7) Identify any and all housekeeping operations involving substantial risk of direct exposure to potentially infectious materials and shall address the proper precautions to be taken while cleaning rooms and blood spills; and
- (8) Perform such other duties and exercise such other authority as may be required. (Ord. #92-43, Jan. 1993)

4-304. Definitions. (1) "Body fluids" - fluids that have been recognized by the Center for Disease Control as directly linked to the transmission of HIV and/or HBV and/or to which universal precautions apply: blood, semen, blood products, vaginal secretions, cerebrospinal fluid, synovial fluid, pericardial fluid, amniotic fluid, and concentrated HIV or HBV viruses.

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

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

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

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

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

(6) "Universal precautions" - refers to a system of infectious disease control which assumes that every direct contact with body fluid is infectious and requires every employee exposed to direct contact with potentially infectious materials to be protected as though such body fluid were HBV or HIV infected. (Ord. #92-43, Jan. 1993)

4-305. Policy statement. All blood and other potentially infectious materials are infectious for several blood-borne pathogens. Some body fluids can also transmit infections. For this reason, the Center for Disease Control developed the strategy that everyone should always take particular care when there is a potential exposure. These precautions have been termed "universal precautions."

Universal precautions stress that all persons should be assumed to be infectious for HIV and/or other blood-borne pathogens. Universal precautions apply to blood, tissues, and other potentially infectious materials. Universal precautions also apply to semen, (although occupational risk or exposure is quite limited), vaginal secretions, and to cerebrospinal, synovial, pleural, peritoneal, pericardial and amniotic fluids. Universal precautions do not apply to feces, nasal secretions, human breast milk, sputum, saliva, sweat, tears, urine, and vomitus unless these substances contain visible blood. (Ord. #92-43, Jan. 1993)

4-306. General guidelines. General guidelines which shall be used by everyone include:

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

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

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

(4) All workers shall take precautions to prevent injuries caused by needles, scalpel blades, and other sharp instruments. To prevent needle stick injuries, needles shall not be recapped, purposely bent or broken by hand, removed from disposable syringes, or otherwise manipulated by hand. After

they are used, disposable syringes and needles, scalpel blades and other sharp items shall be placed in puncture resistant containers for disposal. The puncture resistant container shall be located as close as practical to the use area.

(5) The city will provide gloves of appropriate material, quality and size for each affected employee. The gloves are to be worn when there is contact (or when there is a potential contact) with blood or other potentially infectious materials to which universal precautions apply:

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

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

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

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

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

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

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

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

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

All required tags shall meet the following criteria:

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

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

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

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

The employee responsible for transporting soiled linen should always wear protective gloves to prevent possible contamination. After removing the gloves, hands or other skin surfaces shall be washed thoroughly and whenever possible, disposable equipment shall be used to minimize and contain clean-up. (Ord. #92-43, Jan. 1993)

4-307. Hepatitis B vaccinations. The City of Dyer shall offer the appropriate Hepatitis B vaccination to employees at risk of exposure free of charge and in amounts and at times prescribed by standard medical practices. The vaccination shall be voluntarily administered. High risk employees who wish to take the HBV vaccination should notify their department head who shall make the appropriate arrangements through the Infectious Disease Control Coordinator. (Ord. #92-43, Jan. 1993)

4-308. Reporting potential exposure. City employees shall observe the following procedures for reporting a job exposure incident that may put them at risk for HIV or HBV infections (i.e., needle sticks, blood contact on broken skin, body fluid contact with eyes or mouth, etc...):

(1) Notify the Infectious Disease Control Coordinator of the contact incident and details thereof.

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

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

Once an exposure has occurred, a blood sample should be drawn after consent is obtained from the individual from whom exposure occurred and tested for Hepatitis B surface antigen (HBsAg) and/or antibody to human immunodeficiency virus (HIV antibody). Testing of the source individual should be done at a location where appropriate pretest counseling is available. Post-test counseling and referral for treatment should also be provided. (Ord. #92-43, Jan. 1993)

4-309. Hepatitis B virus post-exposure management. For an exposure to a source individual found to be positive for HBsAg, the worker who has not previously been given the hepatitis B vaccine should receive the vaccine series. A single dose of hepatitis B immune globulin (HBIG) is also recommended, if it can be given within seven (7) days of exposure.

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

If the source individual is negative for HBsAg and the worker has not been vaccinated, this opportunity should be taken to provide the hepatitis B vaccine series. HBIG administration should be considered on an individual basis when the source individual is known or suspected to be at high risk of HBV infection. Management and treatment, if any, of previously vaccinated workers who receive an exposure from a source who refuses testing or is not identifiable should be individualized. (Ord. #92-43, Jan. 1993)

4-310. Human immunodeficiency virus post-exposure management. For any exposure to a source individual who has AIDS, who is found to be positive for HIV infection, or who refuses testing, the worker should be counseled regarding the risk of infection and evaluated clinically and serologically for evidence of HIV infection as soon as possible after the exposure. The worker should be advised to report and seek medical evaluation for any acute febrile illness that occurs within 12 weeks after the exposure. Such an illness, particularly one characterized by fever, rash, or lymphadenopathy, may be indicative of recent HIV infection.

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

If the source individual was tested and found to be seronegative, baseline testing of the exposed worker with follow-up testing 12 weeks later may be performed if desired by the worker or recommended by the health care provider. If the source individual cannot be identified, decisions regarding appropriate follow-up should be individualized. Serologic testing should be made available by the city to all workers who may be concerned they have been infected with HIV through an occupational exposure. (Ord. #92-43, Jan. 1993)

4-311. Disability benefits. Entitlement to disability benefits and any other benefits available for employees who suffer from on-the-job injuries will be determined by the Tennessee Worker's Compensations Bureau in accordance with the provisions of T.C.A. 50-6-303. (Ord. #92-43, Jan. 1993)

4-312. Training regular employees. On an annual basis all employees shall receive training and education on precautionary measures, epidemiology, modes of transmission and prevention of HIV/HBV infection and procedures to be used if they are exposed to needle sticks or potentially infectious materials. They shall also be counseled regarding possible risks to the fetus from HIV/HBV and other associated infectious agents. (Ord. #92-43, Jan. 1993)

4-313. Training high risk employees. In addition to the above, high risk employees shall also receive training regarding the location and proper use of personal protective equipment. They shall be trained concerning proper work practices and understand the concept of "universal precautions" as it applies to their work situation. They shall also be trained about the meaning of color coding and other methods used to designate contaminated material. Where tags are used, training shall cover precautions to be used in handling contaminated material as per this policy. (Ord. #92-43, Jan. 1993)

4-314. Training new employees. During the new employee's orientation to his/her job, all new employee will be trained on the effects of infectious disease prior to putting them to work. (Ord. #92-43, Jan. 1993)

4-315. Records and reports. (1) Reports. Occupational injury and illness records shall be maintained by the infectious disease control coordinator. Statistics shall be maintained on the OSHA-200 report. Only those work-related injuries that involve loss of consciousness, transfer to another job, restriction of work or motion, or medical treatment are required to be put on the OSHA-200.

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

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

(4) Employee interviews. Should the city be inspected by the U.S. Department of Labor Office of Health Compliance, the compliance safety and health officer may wish to interview employees. Employees are expected to cooperate fully with the compliance officers. (Ord. #92-43, Jan. 1993)

4-316. Legal rights of victims of communicable diseases. Victims of communicable diseases have the legal right to expect, and municipal employees, including police and emergency service officers are duty bound to provide, the same level of service and enforcement as any other individual would receive.

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

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

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

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

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

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

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

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

(9) Victims of a communicable disease and their families have a right to conduct their lives without fear of discrimination. An employee shall not

make public, directly or indirectly, the identity of a victim or suspected victim of a communicable disease.

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

(11) Any employee who disseminates confidential information in regard to a victim, or suspected victim of a communicable disease in violation of this policy shall be subject to serious disciplinary action and/or civil and/or criminal prosecution. (Ord. #92-43, Jan. 1993)

4-317. Amendments. Amendments or revisions of these rules may be recommended for adoption by any elected official or by department heads. Such amendments or revisions of these rules shall be by ordinance and shall become effective on adoption by the mayor and council. (Ord. #92-43, Jan. 1993)

4-318. Addendum to other manuals. This policy shall become an addendum and/or amendment to the Police Department Policy and Procedures Manual, the Fire Department Policy and Procedures Manual, and the Dyer Clinic Policy and Procedures Manual. (Ord. #92-43, Jan. 1993)

CHAPTER 4

SEXUAL HARASSMENT POLICY

SECTION

- 4-401. General policy.
- 4-402. Definition.
- 4-403. Sexual harassment complaints.
- 4-404. Reporting and investigation of sexual harassment complaints.
- 4-405. Action on complaints of sexual harassment.
- 4-406. Obligation of employees.
- 4-407. Open records.

4-401. General policy. The City of Dyer has a strict policy against sexual harassment. Sexual harassment by or of any employee will not be tolerated.

The sexual harassment of any employee of the City of Dyer by any other employee or non employee is demeaning to both the victim of the harassment and to the city. It can result in high turnover, absenteeism, low morale, and an uncomfortable work environment. Some forms of sexual harassment, including certain kinds of unwelcome physical contact, may also be criminal offenses. The city will not tolerate the sexual harassment of any of its employees, and will take immediate, positive steps to stop when said harassment occurs.

Sexual harassment is a violation of Title VII of the Civil Rights Act of 1964. In some cases it has been found to be a violation the victims' U.S. Constitutional rights. In some states it has been held to be a violation of state, statutory and common law. Successful sexual harassment suits are common and almost always result in money being awarded the victim no matter what legal grounds exist for the suit. Even in sexual harassment suits in which municipalities are successful, the costs of defense are extremely high.

It is not the purpose of this policy to outline the legal grounds for sexual harassment complaints and suits in Tennessee. It is sufficient to say that legal grounds exist in every state in both federal and state courts, and that sexual harassment suits are costly whether they are won or lost.

The masculine gender is used in this policy only for grammatical clarity and convenience. (Ord. #96-74, July 1996)

4-402. Definition. Sexual harassment is unwanted sexual conduct, or conduct based upon sex, by an employee's supervisor(s) or fellow employees or others at the work place that adversely affects an employee's job or job performance.

Unwelcome advances, requests for sexual favors and other verbal or physical conduct of a sexual nature constitute sexual harassment when:

- (1) Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's performance; or
- (2) Submission or rejection of such contact is used as a basis for employment decisions affecting an individual; or
- (3) Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive work environment.

Sexual harassment is unwelcome conduct in the form of pinching, grabbing, patting, propositioning; making either explicit or implied job threats or promises in return for submission to sexual favors; making inappropriate sex oriented comments on appearance, including dress or physical features; telling embarrassing sex oriented stories; displaying sexually explicit or pornographic material, no matter how it is displayed; or sexual assaults on the job by supervisors, employees, or on occasion, non-employees when any of such of the foregoing unwelcome conduct affects employment decisions, makes the job environment hostile, distracting, or unreasonably interferes with work performance.

The definition of sexual harassment includes conduct directed by men toward women, conduct directed by men toward men, conduct directed by women toward men, and conduct by women toward women. Consequently, this policy applies to all officers and employees of the City of Dyer, including but not limited to, full and part time employees, elected officials, permanent and temporary employees, employees covered or exempt from the personnel rules or regulation of the city, and employees working under contract for the city.

This policy will be distributed to all officials and employees of the city. Every official and employee will be required to acknowledge his or her receipt of this policy in writing. A copy of that acknowledgement shall be kept on permanent file in the city. Department heads and supervisors shall also be responsible for insuring that all employees under their direction are familiar with this policy.

All officials and employees of the city are entitled to a work environment free of such forms of harassment. The grant or refusal of employment, of advancement opportunities, pay increases or other conditions of employment based upon consent or refusal of sexual behavior is beyond the scope and authority of any official or employee of the City of Dyer. Personnel actions determined to be based upon such criteria will be reviewed with appropriate remedial and disciplinary action, up to and including the discharge of the involved official or employee. (Ord. #96-74, July 1996)

4-403. Sexual harassment complaints. The city may be held liable for the actions of all employees with regards to sexual harassment and therefore, will not tolerate the sexual harassment of its employees. The city will take immediate, positive steps to stop it when it occurs.

By law the city is responsible for acts of sexual harassment in the work place where the city (or its agents or supervisory employees) knows or should have known of the conduct, unless it can be shown that the city took immediate and appropriate corrective action. The city may also be responsible for the acts of non-employees, with respect to the sexual harassment of employees in the work place, where the city (or its agents or supervisory employees) knows or should have known of the conduct and failed to take immediate and appropriate corrective action.

Prevention is the best rule for the elimination of sexual harassment. Therefore, the following rules shall be strictly enforced:

(1) An employee who feels he or she is being subjected to sexual harassment should immediately contact one of the persons below with whom the employee feels the most comfortable. Complaints may be made orally or in writing to:

- (a) The employee's immediate supervisor;
- (b) The employees's department head;
- (c) The city recorder; or
- (d) The mayor.

(2) Employees have the right to circumvent the employee chain of command in selecting which person to whom to make a complaint of sexual harassment. Regardless of to which of the above persons the employee makes a complaint of sexual harassment, the employee should be prepared to provide the following information:

- (a) Officials or employees name, department and position title;
- (b) The name of the person or persons committing the sexual harassment, including their title(s), if known.
- (c) The specific nature of the sexual harassment, how long it has gone on, and any employment action (demotion, failure to promote, dismissal, refusal to hire, transfer, etc.....) taken against the employee as a result of the harassment, or any other threats made against the employee as a result of the harassment;
- (d) Witness to the harassment;
- (e) Whether the employee has previously reported such harassment, and, if so, when and to whom. (Ord. #96-74, July 1996)

4-404. Reporting and investigation of sexual harassment complaints. The recorder is the person designated by the city to be the investigator of complaints of sexual harassment against employees. In the event the sexual harassment complaint is against the recorder, the investigator shall be a municipal employee appointed by the mayor.

When an allegation of sexual harassment is made by any employee, the person to whom the complaint is made shall immediately prepare a report of the complaint according to the preceding section and submit it to the recorder, or in the event the sexual harassment complaint is against the recorder, to the mayor.

The investigator shall make and keep a written record of the investigation, including notes of verbal responses made to the investigator by the person complaining of sexual harassment, witnesses interviewed during the investigation, the person against whom the complaint of sexual harassment was made, and any other person contacted by the investigator in connection with the investigation. The note shall be made at the time the verbal interview is in progress.

When the investigator receives a complaint of sexual harassment, he or she shall immediately:

(a) Obtain a written statement from the person complaining of sexual harassment which includes a comprehensive report of the nature of the sexual harassment complained of, and the times, dates, and places where the sexual harassment occurred. The investigator shall verbally question the person complaining of sexual harassment about any information in the written statement which is not clear or needs amplification.

(b) Obtain written statements from witnesses which include a comprehensive report of the nature of the conduct witnessed, and the times, dates, and places where the conduct occurred, and the conduct of the person complaining of sexual harassment toward the person against whom the complaint of sexual harassment was made. The investigator shall verbally question witnesses about any information in their written statements which is not clear or needs amplification.

(c) Obtain a written statement from the person against whom the complaint of sexual harassment has been made. The investigator shall verbally question the person against whom the complaint of sexual harassment has been made about any information in the written statement which is not clear or needs amplification.

(d) Prepare a report of the investigation, which includes the written statement of the person complaining of sexual harassment, the written statements of witnesses, the written statement of the person against whom the complaint of sexual harassment was made, and all the investigators' notes connected to the investigation, and submit the report to the mayor.

Complaints of sexual harassment against elected officials shall be investigated by a city employee appointed by the city council.

The investigator shall investigate the complaint against an elected official in the same manner as is outlined in this policy for the investigation of complaints against employees. However, upon the completion of the investigation, the investigator shall submit the report of the investigation to the city council. (Ord. #96-74, July 1996)

4-405. Action of complaints of sexual harassment. Upon receipt of report of the investigation of a complaint of sexual harassment against an

employee, the mayor shall immediately review the report. If the mayor determines that the report is not complete in some respect, he may question the person complaining of sexual harassment, the person against whom this complaint of sexual harassment has been made, witnesses to the conduct in question or any other person who may have knowledge about the conduct in question. The mayor shall also keep written records of his investigation in the same matter prescribed for the investigator. However, if the mayor feels the investigation report is adequate he may make a determination of whether sexual harassment occurred, based on the report.

Based upon the report, and his own investigation, where one is made, the mayor shall, within a reasonable time, determine whether the conduct of the person against whom a complaint of sexual harassment has been made constitutes sexual harassment. In making that determination, the mayor shall look at the record as a whole and at the totality of the circumstances, including the nature of the conduct in question, the context in which the conduct, if any, occurred, and the conduct of the person complaining of sexual harassment. The determination of whether sexual harassment occurred will be made on a case by case basis.

If the mayor determines that the complaint of sexual harassment is founded, he shall take immediate and appropriate disciplinary action against the employee guilty of sexual harassment, consistent with his authority under the municipal charter, ordinances, or rules governing his authority to discipline employees. If the mayor feels that disciplinary action stronger than he is authorized to impose by the charter, ordinances, resolutions or rules governing employee discipline is warranted, he shall make that determination known to the city council together with the report of the investigation. If the city council determines that the complaint of sexual harassment was founded, it may discipline the employee consistent with its authority under the municipal charter, ordinances, resolutions or rules governing employee discipline.

The disciplinary action shall be consistent with the nature and severity of the offense, the rank of the employee, and any other factors the city council believe relate to fair and efficient administration of the city, including, but not limited to, the effect of the offense on employee morale and public perception of the offense, and the light in which it cast the city. The disciplinary action may include demotion, suspension, dismissal, warning or reprimand. A determination of the level of disciplinary action shall also be made on a case by case basis.

A written record of disciplinary action taken shall be kept, including verbal reprimands.

In all events, an employee found guilty of sexual harassment shall be warned not to retaliate in any way against the person making the complaint of sexual harassment, witnesses or any other person connected with the investigation of the complaint of sexual harassment.

In cases where the sexual harassment is committed by a non-employee against a city employee in the work place, the mayor shall take whatever lawful action against the non-employee is necessary to bring the sexual harassment to an immediate end.

The city council may discipline an elected official in whatever manner it deems appropriate, consistent with its authority under state law, the municipal charter, ordinances, resolutions or other rules governing discipline of elected officials. (Ord. #96-74, July 1996)

4-406. Obligation of employees. Employees are not only encouraged to report instances of sexual harassment, they are obligated to report instances of sexual harassment. Sexual harassment exposes the city to liability, and a part of each employee's job is to reduce the city's exposure to liability.

Employees are obligated to cooperate in every investigation of sexual harassment. The obligation includes, but is not necessarily limited to, coming forward with evidence, both favorable and unfavorable, to a person accused of sexual harassment, fully and truthfully making a written report or verbally answering questions when required to do so by an investigator during the course of an investigation of sexual harassment.

Employees are also obligated to refrain from making bad faith accusations of sexual harassment.

Disciplinary action may also be taken against any employee who fails to report instances of sexual harassment, or who fails or refuses to cooperate in the investigation of a complaint of sexual harassment, or who files a complaint of sexual harassment in bad faith. (Ord. #96-74, July 1996)

4-407. Open records. The Tennessee Open Records Law at Tennessee Code Annotated §§ 10-7-503 through 10-7-506 probably applies to the records in sexual harassment cases, as it does to virtually all other municipal records. In other words, complaints and reports of sexual harassment, including the investigative report probably cannot be kept confidential, perhaps not even during the investigation. However, the value of written records in sexual harassment cases, as in most other cases where an investigation occurs from which disciplinary action against an employee might arise, requires that a written record of the investigation be kept to help insure justice and efficient municipal administration. (Ord. #96-74, July 1996)

CHAPTER 5

TRAVEL REIMBURSEMENT REGULATIONS

SECTION

- 4-501. Purpose.
- 4-502. Enforcement.
- 4-503. Travel policy.
- 4-504. Miscellaneous expenses.
- 4-505. Travel reconciliation.

4-501. Purpose. The purpose of this chapter and referenced regulations is to bring the city into compliance with Public Acts 1993, Chapter 433. This act requires Tennessee municipalities to adopt travel and expense regulations governing 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 in 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 city employees and volunteers. It's the intent of this policy to assure fair and equitable treatment to all individuals traveling on city business at city expense. (as added by Ord. #98-98, Nov. 1998)

4-502. Enforcement. The mayor of the city or his or her designee shall be responsible for the enforcement of travel regulations. (as added by Ord. #98-98, Nov. 1998)

4-503. Travel policy. (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, the employees of such boards and committees, and volunteers 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 city 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 city. Reimbursement expenses shall include expenses for transportation; lodging; meals; registration fees for conferences, conventions, and seminars; parking fees; and other actual and necessary expenses related to official business as determined by the mayor. Under certain conditions, entertainment expenses may be eligible for reimbursement.

(3) Authorized travelers can request either a travel advance for the projected cost of authorized travel, or advance billing directly to the city for registration fees, air fares, meals, lodging, conferences, and similar expenses.

Travel advance requests aren't considered documentation of travel expenses. If travel advances exceed documented expenses, the traveler must immediately reimburse the city. It will be the responsibility of the mayor 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) The travel expense reimbursement form will be used to document all expense claims.

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

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

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

The mayor may make exceptions for unusual circumstances.

(7) The hotel/motel reimbursement rate shall be actual lodging cost not to exceed \$65.00 per day. Even if it costs more, travelers are allowed to stay at the officially designated hotel of the meeting at the conference-lodging rate. It will be the traveler's responsibility to provide documentation of the "officially designated meeting site" room rates, if these rates are higher than the normal reimbursable amounts.

(8) Receipts aren't required for meals. The authorized traveler may be reimbursed the daily amount based on the rate schedule and the authorized length of stay. The per diem meal amounts are expected to cover meals, tips, and incidental expenses. Whether meals may be claimed depends on when the traveler leaves and returns to the official station. The traveler's official station is home or work, whichever produces the least cost to the city. When partial day travel is involved, the current per diem allowance is determined as follows:

MEAL	PER DIEM	DEPARTURE OR RETURN	
		BEFORE	AFTER
Breakfast	\$ 8.00	0700	0800
Lunch	\$10.00	1100	1330
Dinner	\$12.00	1700	1830

(9) Employees should use city vehicles when possible. Use of a private vehicle must be approved in advance by the mayor. The city will pay the mileage rate allowable by Internal Revenue Code Section 162. The miles for reimbursement shall be paid from origin to destination and back by the most

direct route. Necessary vicinity travel related to official city business will be reimbursed.

If two or more travelers on the same trip use a privately owned automobile, only the traveler who owns or has custody of the automobile will be reimbursed for mileage. It's the responsibility of the traveler to provide adequate insurance to hold harmless the city for any liability from the use of the private vehicle.

Reasonable tolls will be allowed when the most direct travel route requires them. (as added by Ord. #98-98, Nov. 1998)

4-504. Miscellaneous expenses. (1) Registration fees for approved conferences, conventions, seminars, meetings, and other educational programs will be allowed. Registration fees should be specified on the original travel authorization form and can include a request for pre-registration fee payment.

(2) A \$5.00 allowance will be reimbursable for hotel/motel check-in and baggage handling expenses.

(3) Parking fees and other actual and necessary expenses related to official business are reimbursable.

(4) Laundry, valet service, tips, and gratuities are considered personal expenses and aren't reimbursable. (as added by Ord. #98-98, Nov. 1998)

4-505. Travel reconciliation. (1) Within 10 days of return from travel the traveler is expected to complete and file the expense reimbursement form. The traveler must certify that the amount due is true and accurate. Original lodging, travel, taxi, parking, and other receipts must be attached.

If the city provided a travel advance or made advance payment, the traveler should include that information on the expense form. In the case of advances, the form should have a reconciliation summary, reflecting total claimed expenses with advances and city pre-payments indicated. The balance due the traveler or the refund due the city should be clearly shown - below the total claim on the form or in a cover memo attached to the front of the form.

(2) If the traveler received a travel advance and spent less than the advance, the traveler should attach a check made payable to the city for that difference.

(3) The mayor will address special circumstances and issues not covered in this chapter on a case-by-case basis.

(4) Any person attempting to defraud the city or misuse city travel funds is subject to legal action for recovery of fraudulent travel claims and/or advances. (as added by Ord. #98-98, Nov. 1998)

TITLE 5

MUNICIPAL FINANCE AND TAXATION¹

CHAPTER

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

CHAPTER 1

MISCELLANEOUS

SECTION

- 5-101. Official depositories for city funds.
- 5-102. Maximum amount for purchases without public advertisement and competitive bidding.

5-101. Official depositories for city funds. The Bank of Dyer and the Farmers and Merchants Bank of Dyer, Tennessee, are hereby designated as the official depositories for all municipal funds. (1983 Code, § 6-101)

5-102. Maximum amount for purchases without public advertisement and competitive bidding. Public advertisement and competitive bidding shall be required for the purchase of all goods and services exceeding an amount of seven thousand five hundred dollars (\$7,500.00) except for those purchases specifically exempted from advertisement and bidding by the Municipal Planning Act of 1983. (as added by Ord. #2010-183, July 2010)

¹Charter reference: art. VI.

CHAPTER 2

REAL PROPERTY TAXES

SECTION

5-201. When due and payable.

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

5-201. When due and payable.¹ Taxes levied by the city against real property shall become due and payable annually on the first Monday of October of the year for which levied. (1983 Code, § 6-201)

5-202. When delinquent--penalty and interest.² All real property taxes shall become delinquent on and after the first day of March next after they become due and payable and shall thereupon be subject to such penalty and interest as is authorized and prescribed by the state law for delinquent county real property taxes.³ (1983 Code, § 6-202)

¹State law references

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

²Charter and state law reference

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

³Charter and state law references

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

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

CHAPTER 3

PRIVILEGE TAXES

SECTION

5-301. Tax levied.

5-302. "Business Tax Act" implemented.

5-303. License required.

5-301. Tax levied. Except as otherwise specifically provided in this code, there is hereby levied on all vocations, occupations, and businesses declared by the general laws of the state to be privileges taxable by municipalities, an annual privilege tax in the maximum amount allowed by state laws. (1983 Code, § 6-301)

5-302. "Business Tax Act" implemented. The taxes provided in the State's "Business Tax Act" (Tennessee Code Annotated, title 67, chapter 4) are hereby enacted, ordained, and levied on the business activities, vocations, or occupations doing business or exercising a taxable privilege as provided by said Act in Dyer, Tennessee, at the rates and in the manner prescribed by the said Act. The proceeds of the privilege taxes herein levied shall be accrued to the general fund. Provided, however, that the "Business Tax Act" heretofore adopted by the City of Dyer be amended as follows: The privilege tax rates for classifications 1, 2, 3, and 4, as defined by Tennessee Code Annotated, §§ 67-4-702, 67-4-704, 67-4-706, 67-4-710, 67-4-727, and 67-4-728, be hereby established at 100% of the total tax due under the rate as prescribed by Tennessee Code Annotated, §§ 67-4-702, 67-4-704, 67-4-706, 67-4-710, 67-4-727, and 67-4-728, with a minimum tax of \$15.00 payable by each person or each place, location, or outlet from which business is carried on. In addition to the privilege tax levied above, the city recorder shall collect, as allowed by Tennessee Code Annotated, § 67-4-717, a collection and recording fee in the amount of \$5.00. (1983 Code, § 6-302, as amended by Ord. #97-83, June 1997)

5-303. License required. No person shall exercise any such privilege within the city without a currently effective privilege license, which shall be issued by the recorder to each applicant therefor upon the applicant's payment of the appropriate privilege tax. (1983 Code, § 6-303)

CHAPTER 4**WHOLESALE BEER TAX****SECTION**

5-401. To be collected.

5-401. To be collected. The recorder is hereby directed to take appropriate action to assure payment to the city of the wholesale beer tax levied by the "Wholesale Beer Tax Act," as set out in Tennessee Code Annotated, title 57, chapter 6.¹ (1983 Code, § 6-401)

¹State law reference

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

TITLE 6

LAW ENFORCEMENT¹

CHAPTER

1. WORKHOUSE.

CHAPTER 1

WORKHOUSE

SECTION

6-101. County workhouse to be used.

6-102. Inmates to be worked.

6-103. Compensation of inmates.

6-101. County workhouse to be used. The county workhouse is hereby designated as the municipal workhouse, subject to such contractual arrangement as may be worked out with the county. (1983 Code, § 1-601)

6-102. Inmates to be worked. All persons committed to the workhouse, to the extent that their physical condition shall permit, shall be required to perform such public work or labor as may be lawfully prescribed for the county prisoners. (1983 Code, § 1-602)

6-103. Compensation of inmates. Each workhouse inmate shall be allowed five dollars (\$5.00) per day as credit toward payment of the fines assessed against him.² (1983 Code, § 1-603)

¹Municipal code reference

Public safety department: title 20, chapter 2.

²State law reference

Tennessee Code Annotated, § 40-24-106.

TITLE 7**FIRE PROTECTION AND FIREWORKS¹****CHAPTER**

1. FIRE DISTRICT.
2. FIRE CODE.
3. FIRE SERVICE OUTSIDE CITY LIMITS.
4. STORAGE OF ANHYDROUS AMMONIA TANKS.

CHAPTER 1**FIRE DISTRICT****SECTION**

7-101. Fire limits described.

7-101. Fire limits described. The corporate fire limits shall be and include the area described by and designated as B-1 and B-2 business districts as shown on the official zoning map. (1983 Code, § 7-101)

¹Municipal code reference

Building, utility and housing codes: title 12.

Public safety department: title 20, chapter 2.

CHAPTER 2

FIRE CODE¹

SECTION

- 7-201. Fire code adopted.
- 7-202. Enforcement.
- 7-203. Definition of "municipality."
- 7-204. Storage of explosives, flammable liquids, etc.
- 7-205. Gasoline trucks.
- 7-206. Variances.
- 7-207. Violations.

7-201. Fire code adopted. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506, and for the purpose of prescribing regulations governing conditions hazardous to life and property from fire or explosion, the Standard Fire Prevention Code,² 1994 edition with 1995 revisions, as recommended by the Southern Building Code Congress International, Inc., is hereby adopted by reference and included herein as a part of this code; except the following shall be added to Section 2002.2:

It is hereby permitted that fireworks, as allowed by the state of Tennessee, to be sold in the City of Dyer, Tennessee, during the periods June 20 through July 5 and December 10 through January 2; and fireworks may be used or expended in the City of Dyer, Tennessee during the days that fireworks may be sold within the City of Dyer, Tennessee.

Pursuant to the requirement of Tennessee Code Annotated, § 6-54-502, one (1) copy of the fire prevention code has been filed with the recorder and is available for public use and inspection. Said fire prevention code is adopted and incorporated as fully as if set out at length herein and shall be controlling within the corporate limits. (Ord. #95-68, Oct. 1995, modified)

7-202. Enforcement. The fire prevention code herein adopted by reference shall be enforced by the fire chief. He shall have the same powers as the state fire marshal. When reference is made to the duties of a certain official named herein, that designated official of the City of Dyer who has duties corresponding to those of the named official in the fire code shall be deemed to

¹Municipal code reference

Building, utility and housing codes: title 12.

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

be the responsible official insofar as enforcing the provisions of the fire code are concerned. (1983 Code, § 7-202, as amended by Ord. #96-75, July 1996)

7-203. Definition of "municipality." Whenever the word "municipality" is used in the fire prevention code herein adopted, it shall be held to mean the City of Dyer, Tennessee. (1983 Code, § 7-203)

7-204. Storage of explosives, flammable liquids, etc. The limits referred to in § 1901.4.2 of the fire prevention code, in which storage of explosive materials is prohibited, are hereby declared to be the fire limits as set out in § 7-101 of this code.

The limits referred to in § 902.1.1 of the fire prevention code, in which storage of flammable or combustible liquids in outside above ground tanks is prohibited, are hereby declared to be the fire limits as set out in § 7-101 of this code.

The limits referred to in § 906.1 of the fire prevention code, in which new bulk plants for flammable or combustible liquids are prohibited, are hereby declared to be the fire limits as set out in § 7-101 of this code.

The limits referred to in § 1701.4.2 of the fire prevention code, in which bulk storage of liquefied petroleum gas is restricted, are hereby declared to be the fire limits as set out in § 7-101 of this code. (1983 Code, § 7-204)

7-205. Gasoline trucks. No person shall operate or park any gasoline tank truck within the central business district or within any residential area at any time except for the purpose of and while actually engaged in the expeditious delivery of gasoline. (1983 Code, § 7-205)

7-206. Variances. The fire chief may recommend to the city council variances from the provisions of the fire prevention code upon application in writing by any property owner or lessee, or the duly authorized agent of either, when there are practical difficulties in the way of carrying out the strict letter of the code, provided that the spirit of the code shall be observed, public safety secured, and substantial justice done. The particulars of such variances when granted or allowed shall be contained in a resolution of the city council. (1983 Code, § 7-206)

7-207. Violations. It shall be unlawful for any person to violate any of the provisions of this chapter or the fire prevention code herein adopted, or fail to comply therewith, or violate or fail to comply with any order made thereunder; or build in violation of any detailed statement of specifications or plans submitted and approved thereunder, or any certificate or permit issued thereunder, and from which no appeal has been taken; or fail to comply with such an order as affirmed or modified by the city council or by a court of competent jurisdiction, within the time fixed herein. The application of a

penalty under the general penalty clause for the municipal code shall not be held to prevent the enforced removal of prohibited conditions. (1983 Code, § 7-207)

CHAPTER 3

FIRE SERVICE OUTSIDE CITY LIMITS

SECTION

7-301. Fire service outside city limits.

7-302. Rural fire service.

7-301. Fire service outside city limits. (1) The Mayor of the City of Dyer, Tennessee, is authorized and empowered to enter into "Mutual Aid Fire Protection Interlocal Cooperation Agreements" on behalf of the City of Dyer, Tennessee.

(2) The city fire chief of the City of Dyer, Tennessee, is designated and directed to be the official representative of the City of Dyer, Tennessee, to the joint board created to carry out the powers of such agreement as provided therein. (1983 Code, § 7-301)

7-302. Rural fire service. No fire equipment shall be used for fighting any fire outside the corporate limits of the city unless a rural fire service contract has been properly executed and filed with the city recorder. This contract will state that the property owner will be responsible for the \$500 fee and contains a certification of appropriate coverage by the insurance agent. The city fire department shall not answer any call for rural fire service if the property owner has failed to file rural fire service contract, unless there is life endangered, a request is made by the state highway patrol, sheriff's department, rescue squad, ambulance personnel, and the discretion of the Dyer Fire Department officers to respond to a vehicle accident or vehicle fire, or unless the fire is on city owned property. The owner shall be billed the \$500 fee and if not paid the bill shall be referred to the city attorney for collection.

There is hereby established a Rural Fire Service List with an annual charge of fifty dollars (\$50.00) per house and/or barn, payable in advance, and no rural fire shall be attended by the Dyer Fire Department unless the same is on the Rural Fire Service List. No service shall be offered beyond the area of the official Rural Fire Service Map in the Recorder's Office in Dyer, Tennessee. (Ord. #97-86, June 1997, as amended by Ord. #2004-137, June 2004, and Ord. #2008-162, June 2008)

CHAPTER 4

STORAGE OF ANHYDROUS AMMONIA TANKS

SECTION

7-401. Storage of anhydrous ammonia tanks.

7-401. Storage of anhydrous ammonia tanks. It shall be unlawful for any property owner, lessor, lessee, or corporation to store or allow to be stored any tanks or containers which contain anhydrous ammonia within the city limits of Dyer, Tennessee unless the following requirements are met:

(1) Anhydrous ammonia tanks are stored within the city limits of Dyer, Tennessee must be illuminated during hours of darkness with sufficient lighting for intruders to be easily observed.

(2) Any area in which anhydrous ammonia is stored must have signs clearly displayed that prohibit criminal trespassing. The signs shall be positioned around all sides of the tanks perimeter.

(3) Anhydrous ammonia tanks stored within the city limits of Dyer, Tennessee must be contained by a metal fence at least six feet in height. The style/type of fence utilized may be determined by the owner/occupant of the property, as long as the fence does not obstruct the view of the tanks or allow entry on said property where said tanks are located. Persons already storing anhydrous ammonia tanks within the Dyer city limits shall have sixty (60) days from the enactment of this chapter to comply with all requirements thereof. Notice will be given to the violator(s) allowing them ten days to correct the violation.

(4) Notice will be given to any violator of this chapter allowing them ten days to correct the violation before citation issues.

(5) The City of Dyer Police Department is charged with the enforcement of this chapter. When a violation of this chapter occurs the property owner, lessor, lessee, or corporation responsible for the property and/or storage of anhydrous ammonia shall be issued a citation requiring their appearance at the next scheduled session of Dyer City Court. The Dyer City Court shall take whatever action is necessary to enforce this chapter. A continuing penalty of \$50.00 per day will be assessed for each day the violator fails to comply with this chapter. (as added by Ord. #2002-127, Feb. 2002)

TITLE 8

ALCOHOLIC BEVERAGES¹

CHAPTER

1. INTOXICATING LIQUORS.
2. BEER.

CHAPTER 1

INTOXICATING LIQUORS

SECTION

- 8-101. Defined; sale, transport, and delivery prohibited.
8-102. Certain uses permitted.

8-101. Defined; sale, transport, and delivery prohibited. It shall be unlawful for any person to solicit orders, receive, possess, store, transport, sell, or furnish any intoxicating liquor within the city except as otherwise provided in this chapter. "Intoxicating liquor" shall be defined to include whisky, 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. (1983 Code, § 2-101)

8-102. Certain uses permitted. Nothing in § 8-101 shall make it unlawful:

(1) For any priest or minister of any religious denomination or sect to receive and possess wines for sacramental purposes, or for any common or other carrier to ship or transport wine for said purposes to any priest or minister of any religious denomination or sect.

(2) For druggists to receive and possess alcohol and other intoxicating liquors and such preparations as may be sold by druggists for the special purposes and in the manner as provided by law; for manufacturers of medicines that conform to the provisions of the law applicable to pure food and pure drugs, or for bona fide hospitals and manufacturers of perfumery and toilet articles and flavoring extracts to receive and possess alcohol for use of bona fide patients of such hospitals, or in the manufacturing of such medicines, flavoring extracts, or perfumery or toilet articles; or for any common or other carrier to ship or transport such liquor or alcohol for said purposes to such druggists, hospitals, or manufacturers of medicines, flavoring, perfumery, or toilet articles.

¹State law reference

Tennessee Code Annotated, title 57.

(3) For any person engaged in the manufacture of thermostatic devices or temperature regulators to import alcohol into the city for use in the manufacture and charging of said devices and regulators.

(4) For bona fide educational institutions to receive and possess alcohol for scientific and therapeutical purposes, or for any common or other carrier to ship or transport such alcohol for said purposes to such bona fide educational institutions. (1983 Code, § 2-102)

CHAPTER 2

BEER¹

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. Beer permits shall be restrictive.
- 8-209. On-premises consumption permits.
- 8-210. Off-premises permit.
- 8-211. Limitation on number of permits.
- 8-212. Issuance of permits to illegal aliens prohibited.
- 8-213. Interference with public health, safety, and morals prohibited.
- 8-214. Issuance of permits to persons convicted of certain crimes prohibited.
- 8-215. Prohibited conduct or activities by beer permit holders.
- 8-216. Revocation of beer permits.

8-201. Beer board established. There is hereby established a beer board to be composed of the Board of Mayor and Aldermen of the City of Dyer. The mayor shall serve as chairperson of the beer board. Members of the beer board shall serve without compensation. (1983 Code, § 2-201, as replaced by Ord. #2009-169, June 2009)

8-202. Meetings of the beer board. All meetings of the beer board shall be open to the public. The board shall hold regular meetings in the Dyer 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 chairperson, provided that a reasonable notice thereof is provided to each member. The board may adjourn a meeting at any time to another place and time. (1983 Code, § 2-202, as replaced by Ord. #2009-169, June 2009)

¹State law reference

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

8-203. Record of beer board proceedings to be kept. The city 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 information:

- (1) The date and time of each meeting;
- (2) The names of the board members present and absent;
- (3) The names of the members introducing and seconding motions and resolutions, etc. before the board;
- (4) A copy of each such motion or resolution presented;
- (5) The vote of each member thereon;
- (6) The provisions of each beer permit issued by the board. (1983 Code, § 2-203, as replaced by Ord. #2009-169, June 2009)

8-204. Requirements for beer board quorum and action. The attendance of at least a majority of the members of the beer board shall be required to constitute a quorum for the purpose of transacting business. Matters before the board shall be decided by a majority of the members present if a quorum is constituted. Any member present but not voting shall be deemed to have cast a "nay" vote. (1983 Code, § 2-204, as replaced by Ord. #2009-169, June 2009)

8-205. Powers and duties of the beer board. The beer board shall have the power, and is hereby directed, to regulate the selling, storing for sale, distributing for sale, and manufacturing of beer within the City of Dyer, in accordance with the provisions of this chapter. (1983 Code, § 2-205, as replaced by Ord. #2009-169, June 2009)

8-206. "Beer" defined. The term "beer," as used in this chapter, shall mean and include all beers, ales, and other malt liquors having an alcoholic content of not more than five percent (5%) by weight. (1983 Code, § 2-206, as replaced by Ord. #2009-169, June 2009)

8-207. Permit required for engaging in beer business. It shall be unlawful for any person, group of persons, business, or corporation to sell, store for sale, distribute for sale, or manufacture beer without first making application to and obtaining a permit from the beer board. Such application shall be made on such form as the board shall prescribe or furnish. Each applicant must be a person of good moral character and must certify that he/she has read and is familiar with the provisions of this chapter. As specified in Tennessee Code Annotated, § 57-5-104(a), each applicant for a beer permit shall be required to pay an application fee of two hundred fifty dollars (\$250.00) to the City of Dyer. No portion of the application fee shall be refunded to the applicant, notwithstanding whether an application is approved or denied. Pursuant to Tennessee Code Annotated, § 57-5-104(b), there is hereby imposed on the

business selling, distributing, storing or manufacturing beer in the City of Dyer a privilege tax of one hundred dollars (\$100.00) per year. (1983 Code, § 2-207, as replaced by Ord. #2009-169, June 2009)

8-208. Beer permits shall be restrictive. All beer permits shall be restrictive as to the type of beer business authorized under them. Separate permits shall be required for selling at retail, storing, distributing, or manufacturing. It shall be unlawful for any permit holder to engage in any type or phase of the beer business not expressly authorized by his/her permit. It shall likewise be unlawful for any permit holder to fail to comply with any and all express restrictions or conditions which may be written into his/her permit by the beer board. (1983 Code, § 2-208, as replaced by Ord. #2009-169, June 2009)

8-209. On-premises consumption permits. An on-premises consumption permit shall be issued for the consumption of beer only on the premises. To qualify for an on-premises consumption permit, the establishment must, in addition to meeting the other regulations and restrictions in this chapter:

- (1) Be primarily a restaurant or an eating place; and
- (2) Have operable and cleanly maintained commercial cooking equipment on the premises; and
- (3) Be able to seat a minimum of seventy (70) people, including children, in booths and at tables, in the interior of the building under a permanent roof; in addition to any other seating it may have; and
- (4) Have been in continual operation for a period of at least six (6) months; and
- (5) Be kept and maintained in a safe, clean, and sanitary condition as required for a rating of class "B" or better as established by the Tennessee Department of Conservation, Division of Hotels and Restaurant Inspections.

In addition, the monthly beer sales of any establishment which holds an on-premises license shall not exceed fifty percent (50%) of the gross sales of the establishment. Any such establishment which for two (2) consecutive months, or for any three (3) months in any calendar year, has sales exceeding fifty percent (50%) of its gross sales, shall have its beer permit revoked. (as added by Ord. #2009-169, June 2009)

8-210. Off-premises permit. An off-premises beer permit shall be issued for the consumption of beer only off the premises of the permittee. To qualify for an off-premises permit, an establishment must, in addition to meeting the other regulations and restrictions of this chapter:

- (1) Be a grocery store or a convenience type market; and
- (2) In either case, be primarily engaged in the sale of grocery, personal, and home care and cleaning articles, but also may sell gasoline.

In addition, the monthly beer sales of any establishment which holds an off-premises permit shall not exceed twenty-five percent (25%) of the gross sales of the establishment. Any establishment which for two (2) consecutive months, or for three (3) months in any calendar year, has beer sales exceeding twenty-five percent (25%) of its gross sales, shall have its beer permit revoked. (as added by Ord. #2009-169, June 2009)

8-211. Limitation on number of permits. The beer board shall limit the number of beer permits issued in the City of Dyer as follows:

- (1) On-premises permits: not to exceed five (5) permits.
- (2) Off-premises permits: not to exceed ten (10) permits.

There shall be no limit on the number of permits issued for the storage, distribution, or manufacture of beer. (as added by Ord. #2009-169, June 2009)

8-212. Issuance of permits to illegal aliens prohibited. No permit to engage in the beer business shall be granted by the beer board to any alien determined to be illegally in the United States of America. (as added by Ord. #2009-169, June 2009)

8-213. Interference with public health, safety, and morals prohibited. (1) No permit authorizing the sale of beer will be issued when such business would cause congestion of traffic or would interfere with the operation of schools, churches, or other places of public gathering, or would otherwise interfere with the public health, safety, and morals.

(2) Subject to the exception for restaurants hereinafter provided, no permit shall be issued authorizing the retail sale of beer for consumption on the premises of the permit holder if such premises are located within four hundred feet (400') of any school, church, playground, ballpark, hospital, nursery, or nursing home.

(3) No permit shall be issued for the retail sale of beer to be removed from the premise of the permit holder if such premises are located within three hundred feet (300') of any school, church, playground, ballpark, hospital, nursery, or nursing home. The distance herein above established shall be measured along straight lines from building to building nearest corner to nearest corner. Further, the distance restrictions herein above established shall apply only to applications for permits to sell beer submitted after the effective date of this chapter and shall have no effect on the holders of permits issued before that date.

(4) A restaurant within the municipal limits of the city may be issued a permit authorizing the sale and storage of beer for consumption on the premises if either of the following two (2) conditions are met:

- (a) The restaurant is the holder in good standing of a license issued by the State of Tennessee Alcoholic Beverage Commission

authorizing the sale of spirits and liquor by the drink. And such restaurant shall be classified as a Category I restaurant; or

(b) The restaurant is primarily an eating place, derives a minimum of fifty percent (50%) of its gross receipts from the sale of food, is located more than one hundred fifty feet (150') from any playground, ballpark, hospital, nursery, or nursing home and is located more than four hundred feet (400') from any school or church. Any such restaurant shall be classified as a Category II restaurant.

All restaurants holding beer permits shall submit annually, prior to January 15 for the year ending December 31, a certified statement that they are in full compliance with this section and that a minimum of fifty percent (50%) of its gross receipts are derived from the sale of food. The certified statement shall be accompanied by proof of gross receipts and purchases for food and beer for the year in question. The City of Dyer may make a reasonable inquiry to verify the information on the certified statement and accompanying documentation within six (6) months of filing, of the certified statement. Failure to submit a certified statement in compliance with this section may result in the revocation of the non-complying restaurant's permit. (as added by Ord. #2009-169, June 2009)

8-214. Issuance of permits to persons convicted of certain crimes prohibited. No beer permit shall be issued to any person who has been convicted for the illegal possession, sale, manufacture, or transportation of intoxicating liquor, or any crime involving moral turpitude, within the ten (10) year period preceding the date of application for a beer permit. (as added by Ord. #2009-169, June 2009)

8-215. Prohibited conduct or activities by beer permit holders. It shall be unlawful for any beer permit holder to:

(1) Employ any person convicted for the illegal possession, sale, manufacture, or transportation of intoxicating liquor, or a crime involving moral turpitude within ten (10) years of such person's employment with the permittee.

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

(3) Make or allow any sale of beer between the hours of 12:00 midnight and 5:00 A.M. during any night of the week and Sunday between 12:00 midnight and 12:00 noon and 6:00 P.M. and 5:00 A.M. Monday.

(4) Allow any loud, unusual, or obnoxious noises to emanate from the permittee's premises.

(5) Make or allow any sale of beer to any person less than twenty-one (21) years of age.

(6) Allow any minor under the age of eighteen (18) years of age to loiter in or about the permittee's place of business.

(7) Make or allow any sale of beer to any intoxicated persons.

(8) Allow intoxicated or disruptive persons to loiter about the permittee's premises.

(9) Serve, sell, or allow the consumption on the permittee's premises of any alcoholic beverage with an alcoholic content greater than five percent (5%) by weight.

(10) Allow pool or billiard playing in the same room where beer is sold and/or consumed.

(11) Fail to provide and maintain sanitary toilet facilities. (as added by Ord. #2009-169, June 2009)

8-216. Revocation of beer permits. The beer board shall have the power to revoke any beer permit issued under the provisions of this chapter when the holder thereof is guilty of making a false statement or misrepresentation in his/her application or of violating any of the provisions of this chapter. However, no beer permit shall be revoked until a public hearing is held by the board after giving reasonable notice to all the known parties of interest. Revocation proceedings may be initiated by the police chief or by any member of the municipal governing body. (as added by Ord. #2009-169, June 2009)

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

1. MISCELLANEOUS.
2. PEDDLERS, ETC.
3. CHARITABLE SOLICITORS.
4. TAXICABS.
5. POOL ROOMS.
6. CABLE TELEVISION.
7. BURIAL PERMITS.

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

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

9-101. "Going out of business" sales. It shall be unlawful for any person falsely to represent a sale as being a "going out of business" sale. A "going out of business" sale, for the purposes of this section, shall be a "fire sale," "bankrupt sale," "loss of lease sale," or any other sale made in anticipation of the termination of a business at its present location. When any person, after advertising a "going out of business" sale, adds to his stock or fails to go out of business within ninety (90) days he shall prima facie be deemed to have violated this section. (1983 Code, § 5-101)

¹Municipal code references

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

Junkyards: title 13.

Liquor and beer regulations: title 8.

Noise reductions: title 11.

Zoning: title 14.

CHAPTER 2

PEDDLERS, ETC.¹

SECTION

- 9-201. Permit required.
- 9-202. Exemptions.
- 9-203. Application for permit.
- 9-204. Issuance or refusal of permit.
- 9-205. Appeal.
- 9-206. Bond.
- 9-207. Loud noises and speaking devices.
- 9-208. Use of streets.
- 9-209. Exhibition of permit.
- 9-210. Public safety officers to enforce.
- 9-211. Revocation or suspension of permit.
- 9-212. Reapplication.
- 9-213. Expiration and renewal of permit.

9-201. Permit required. It shall be unlawful for any peddler, canvasser, solicitor, or transient merchant to ply his trade within the corporate limits without first obtaining a permit therefor in compliance with the provisions of this chapter. No permit shall be used at any time by any person other than the one to whom it is issued. (1983 Code, § 5-201)

9-202. Exemptions. The terms of this chapter shall not be applicable to persons selling at wholesale to dealers, nor to newsboys, nor to bona fide merchants who merely deliver goods in the regular course of business, nor to bona fide charitable, religious, patriotic or philanthropic organizations. (1983 Code, § 5-202)

9-203. Application for permit. Applicants for a permit under this chapter must file with the city recorder a sworn written application containing the following:

- (1) Name and physical description of applicant.
- (2) Complete permanent home address and local address of the applicant and, in the case of transient merchants, the local address from which proposed sales will be made.
- (3) A brief description of the nature of the business and the goods to be sold.

¹Municipal code reference
Privilege taxes: title 5.

(4) If employed, the name and address of the employer, together with credentials therefrom establishing the exact relationship.

(5) The length of time for which the right to do business is desired.

(6) A recent clear photograph approximately two (2) inches square showing the head and shoulders of the applicant.

(7) The names of at least two (2) reputable local property owners who will certify as to the applicant's good moral reputation and business responsibility, or in lieu of the names of references, such other available evidence as will enable an investigator properly to evaluate the applicant's moral reputation and business responsibility.

(8) A statement as to whether or not the applicant has been convicted of any crime or misdemeanor or for violating any municipal ordinance and, if so, the nature of the offense and the punishment or penalty assessed therefor.

(9) The last three (3) cities or towns, if that many, where applicant carried on business immediately preceding the date of application and, in the case of transient merchants, the addresses from which such business was conducted in those municipalities.

(10) At the time of filing the application, a fee of five dollars (\$5.00) shall be paid to the city to cover the cost of investigating the facts stated therein. (1983 Code, § 5-203)

9-204. Issuance or refusal of permit. (1) Each application shall be referred to the chief of police for investigation. The chief shall report his findings to the city recorder within seventy-two (72) hours.

(2) If as a result of such investigation the chief reports the applicant's moral reputation and/or business responsibility to be unsatisfactory, the city recorder shall notify the applicant that his application is disapproved and that no permit will be issued.

(3) If, on the other hand, the chief's report indicates that the moral reputation and business responsibility of the applicant are satisfactory, the city recorder shall issue a permit upon the payment of all applicable privilege taxes and the filing of the bond required by § 9-206. The city recorder shall keep a permanent record of all permits issued. (1983 Code, § 5-204)

9-205. Appeal. Any person aggrieved by the action of the chief of police and/or the city recorder in the denial of a permit shall have the right to appeal to the city council. Such appeal shall be taken by filing with the mayor within fourteen (14) days after notice of the action complained of, a written statement setting forth fully the grounds for the appeal. The mayor shall set a time and place for a hearing on such appeal, and notice of the time and place of such hearing shall be given to the appellant. The notice shall be in writing and shall be mailed, postage prepaid, to the applicant at his last known address at least five (5) days prior to the date set for hearing, or shall be delivered by a public

safety officer in the same manner as a summons at least three (3) days prior to the date set for hearing. (1983 Code, § 5-205)

9-206. Bond. Every permittee shall file with the city recorder a surety bond running to the city in the amount of one thousand dollars (\$1,000.00). The bond shall be conditioned that the permittee shall comply fully with all the provisions of the ordinances of the city and the statutes of the state regulating peddlers, canvassers, solicitors, transient merchants, itinerant merchants, or itinerant vendors, as the case may be, and shall guarantee to any citizen of the city that all money paid as a down payment will be accounted for and applied according to the representations of the permittee, and further guaranteeing to any citizen of the city doing business with said permittee that the property purchased will be delivered according to the representations of the permittee. Action on such bond may be brought by any person aggrieved and for whose benefit, among others, the bond is given. The surety may be relieved without costs of all further liability by paying, pursuant to order of the court, the face amount of the bond to the clerk of the court in which the suit is commenced. (1983 Code, § 5-206)

9-207. Loud noises and speaking devices. No permittee, nor any person in his behalf, shall shout, cry out, blow a horn, ring a bell or use any sound amplifying device upon any of the sidewalks, streets, alleys, parks or other public places of the city or upon private premises where sound of sufficient volume is emitted or produced therefrom to be capable of being plainly heard upon the adjacent sidewalks, streets, alleys, parks, or other public places, for the purpose of attracting attention to any goods, wares or merchandise which such permittee proposes to sell. (1983 Code, § 5-207)

9-208. Use of streets. No permittee shall have any exclusive right to any location in the public streets, nor shall any be permitted a stationary location thereon, nor shall any be permitted to operate in a congested area where the operation might impede or inconvenience the public use of the streets. For the purpose of this chapter, the judgment of a public safety officer, exercised in good faith, shall be deemed conclusive as to whether the area is congested and the public impeded or inconvenienced. (1983 Code, § 5-208)

9-209. Exhibition of permit. Permittees are required to exhibit their permits at the request of any public safety officer or citizen. (1983 Code, § 5-209)

9-210. Public safety officers to enforce. It shall be the duty of all public safety officers to see that the provisions of this chapter are enforced. (1983 Code, § 5-210)

9-211. Revocation or suspension of permit. (1) Permits issued under the provisions of this chapter may be revoked by the city council after notice and hearing, for any of the following causes:

(a) Fraud, misrepresentation, or incorrect statement contained in the application for permit, or made in the course of carrying on the business of solicitor, canvasser, peddler, transient merchant, itinerant merchant, or itinerant vendor.

(b) Any violation of this chapter.

(c) Conviction of any crime or misdemeanor.

(d) Conducting the business of peddler, canvasser, solicitor, transient merchant, itinerant merchant, or itinerant vendor, as the case may be, in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety, or general welfare of the public.

(2) Notice of the hearing for revocation of a permit shall be given by the city recorder in writing, setting forth specifically the grounds of complaint and the time and place of hearing. Such notice shall be mailed to the permittee at his last known address at least five (5) days prior to the date set for hearing, or it shall be delivered by a public safety officer in the same manner as a summons at least three (3) days prior to the date set for hearing.

(3) The mayor may suspend a permit pending the revocation hearing when he considers such action reasonably necessary in the public interest. (1983 Code, § 5-211)

9-212. Reapplication. No permittee whose permit has been revoked shall make further application until a period of at least six (6) months has elapsed since the last revocation. (1983 Code, § 5-212)

9-213. Expiration and renewal of permit. Permits issued under the provisions of this chapter shall expire on the same date that the permittee's privilege license expires and shall be renewed without cost if the permittee applies for and obtains a new privilege license within thirty (30) days thereafter. Permits issued to permittees who are not subject to a privilege tax shall be issued for one (1) year. An application for a renewal shall be made substantially in the same form as an original application. However, only so much of the application shall be completed as is necessary to reflect conditions which have changed since the last application was filed. (1983 Code, § 5-213)

CHAPTER 3

CHARITABLE SOLICITORS

SECTION

9-301. Permit required.

9-302. Prerequisites for a permit.

9-303. Denial of a permit.

9-304. Exhibition of permit.

9-305. Charitable or religious solicitors at street intersections.

9-301. Permit required. No person shall solicit contributions or anything else of value for any real or alleged charitable or religious purpose without a permit from the city recorder authorizing such solicitation. Provided, however, that this section shall not apply to any locally established organization or church operated exclusively for charitable or religious purposes if the solicitations are conducted exclusively among the members thereof, voluntarily and without remuneration for making such solicitations, or if the solicitations are in the form of collections or contributions at the regular assemblies of any such established organization or church. (1983 Code, § 5-301)

9-302. Prerequisites for a permit. The recorder shall issue a permit authorizing charitable or religious solicitations when, after a reasonable investigation, he finds the following facts to exist:

(1) The applicant has a good character and reputation for honesty and integrity, or if the applicant is not an individual person, that every member, managing officer, or agent of the applicant has a good character or reputation for honesty and integrity.

(2) The control and supervision of the solicitation will be under responsible and reliable persons.

(3) The applicant has not engaged in any fraudulent transaction or enterprise.

(4) The solicitation will not be a fraud on the public but will be for a bona fide charitable or religious purpose.

(5) The solicitation is prompted solely by a desire to finance the charitable cause described by the applicant. (1983 Code, § 5-302)

9-303. Denial of a permit. Any applicant for a permit to make charitable or religious solicitations may appeal to the city council if he has not been granted a permit within fifteen (15) days after he makes application therefor. (1983 Code, § 5-303)

9-304. Exhibition of permit. Any solicitor required by this chapter to have a permit shall exhibit such permit at the request of any public safety officer or person solicited. (1983 Code, § 5-304)

9-305. Charitable or religious solicitors at street intersections.
The city desires to restrict the solicitations of "Roadblocks" to the following rules:

- (1) Application from the city recorder's office;
- (2) Certificate of liability insurance;
- (3) Only four (4) permits issued annually thus being one (1) permit issued per month of March, April, September, and October;
- (4) Located at the intersection of Main Street and College Street;
- (5) Permitted for two (2) hours only between the hours of 0600 and 1200;
- (6) Mandatory reflective vests supplied by the organization conducting the roadblock worn at all times;
- (7) No more than two (2) people permitted in street at any time;
- (8) Adult supervision required for the entire event;
- (9) Application approved by chief of police. (as added by Ord. #2009-168, April 2009)

CHAPTER 4

TAXICABS¹

SECTION

- 9-401. Taxicab permit and privilege license required.
- 9-402. Requirements as to application and hearing.
- 9-403. Liability insurance required.
- 9-404. Revocation or suspension of permit.
- 9-405. Mechanical condition of vehicles.
- 9-406. Cleanliness of vehicles.
- 9-407. Inspection of vehicles.
- 9-408. License and permit required for drivers.
- 9-409. Qualifications for driver's permit.
- 9-410. Revocation or suspension of driver's permit.
- 9-411. Drivers not to solicit business.
- 9-412. Parking restricted.
- 9-413. Drivers to use direct routes.
- 9-414. Taxicabs not to be used for illegal purposes.
- 9-415. Miscellaneous prohibited conduct by drivers.
- 9-416. Transportation of more than one passenger at the same time.

9-401. Taxicab permit and privilege license required. It shall be unlawful for any person to engage in the taxicab business unless he has first obtained a taxicab permit from the city and has a currently effective privilege license. (1983 Code, § 5-401)

9-402. Requirements as to application and hearing. No person shall be eligible to apply for a taxicab permit if he has a bad character or has been convicted of a felony within the last ten (10) years. Applications for taxicab permits shall be made under oath and in writing to the chief of police. The application shall state the name and address of the applicant, the name and address of the proposed place of business, the number of cabs the applicant desires to operate, the makes and models of said cabs, and such other pertinent information as the chief of police may require. The application shall be accompanied by at least two (2) affidavits of reputable local citizens attesting to the good character and reputation of the applicant. Within ten (10) days after receipt of an application, the chief of police shall make a thorough investigation of the applicant; determine if there is a public need for additional taxicab service; present the application to the city council; and make a recommendation

¹Municipal code reference
Privilege taxes: title 5.

to either grant or refuse a permit to the applicant. The city council shall thereupon hold a public hearing at which time witnesses for and against the granting of the permit shall be heard. In deciding whether or not to grant the permit, the city council shall consider the public need for additional service, the increased traffic congestion, parking space requirements, and whether or not the safe use of the streets by the public, both vehicular and pedestrian, will be preserved by the granting of such an additional franchise. Those persons already operating taxicabs when this code is adopted shall not be required to make applications under this section but shall be required to comply with all of the other provisions hereof. (1983 Code, § 5-402)

9-403. Liability insurance required. No taxicab permit shall be issued or continued in operation unless there is in full force and effect a liability insurance policy or bond for each vehicle authorized in an amount equal to that required by the state's financial responsibility law as set out in Tennessee Code Annotated, title 55, chapter 12. The insurance policy required by this section shall contain a provision that it shall not be cancelled except after at least twenty (20) days' written notice is given by the insurer to both the insured and the recorder of the city. (1983 Code, § 5-403)

9-404. Revocation or suspension of permit. The city council, after a public hearing, may revoke or suspend any taxicab permit for misrepresentations or false statements made in the application therefor or for traffic violations or violations of this chapter by the taxicab owner or any driver. (1983 Code, § 5-404)

9-405. Mechanical condition of vehicles. It shall be unlawful for any person to operate any taxicab in the city unless such taxicab is equipped with four (4) wheel brakes, front and rear lights, safe tires, horn, muffler, windshield wipers, and rear vision mirror, all of which shall conform to the requirements of state law. Each taxicab shall be equipped with a handle or latch or other opening device attached to each door of the passenger compartment so that such doors may be operated by the passenger from the inside of the taxicab without the intervention or assistance of the driver. The motor and all mechanical parts shall be kept in such condition or repair as may be reasonably necessary to provide for the safety of the public and the continuous satisfactory operation of the taxicab. (1983 Code, § 5-405)

9-406. Cleanliness of vehicles. All taxicabs operated in the city shall, at all times, be kept in a reasonably clean and sanitary condition. They shall be thoroughly swept and dusted at least once each day. At least once every week they shall be thoroughly washed and the interior cleaned with a suitable antiseptic solution. (1983 Code, § 5-406)

9-407. Inspection of vehicles. All taxicabs shall be inspected at least semiannually by the chief of police to insure that they comply with the requirements of this chapter with respect to mechanical condition, cleanliness, etc. (1983 Code, § 5-407)

9-408. License and permit required for drivers. No person shall drive a taxicab unless he is in possession of a state special chauffeur's license and a taxicab driver's permit issued by the chief of police. (1983 Code, § 5-408)

9-409. Qualifications for driver's permit. No person shall be issued a taxicab driver's permit unless he complies with the following to the satisfaction of the chief of police:

- (1) Makes written application to the chief of police.
- (2) Is at least eighteen (18) years of age and holds a state special chauffeur's license.
- (3) Undergoes an examination by a physician and is found to be of sound physique, with good eyesight and hearing and not subject to epilepsy, vertigo, heart trouble or any other infirmity of body or mind which might render him unfit for the safe operation of a public vehicle.
- (4) Is clean in dress and person and is not addicted to the use of intoxicating liquor or drugs.
- (5) Produces affidavits of good character from two (2) reputable citizens of the city who have known him personally and have observed his conduct for at least two (2) years next preceding the date of his application.
- (6) Has not been convicted of a felony, drunk driving, driving under the influence of an intoxicant or drug, or of frequent minor traffic offenses.
- (7) Is familiar with the state and local traffic laws. (1983 Code, § 5-409)

9-410. Revocation or suspension of driver's permit. The city council, after a public hearing, may revoke or suspend any taxicab driver's permit for violation of traffic regulations, for violation of this chapter, or when the driver ceases to possess the qualifications as prescribed in § 9-409. (1983 Code, § 5-410)

9-411. Drivers not to solicit business. All taxicab drivers are expressly prohibited from indiscriminately soliciting passengers or from cruising upon the streets of the city for the purpose of obtaining patronage for their cabs. (1983 Code, § 5-411)

9-412. Parking restricted. It shall be unlawful to park any taxicab on any street except in such places as have been specifically designated and marked by the city for the use of taxicabs. It is provided, however, that taxicabs may stop upon any street for the purpose of picking up or discharging

passengers if such stops are made in such manner as not to unreasonably interfere with or obstruct other traffic and provided the passenger loading or discharging is promptly accomplished. (1983 Code, § 5-412)

9-413. Drivers to use direct routes. Taxicab drivers shall always deliver their passengers to their destinations by the most direct available route. (1983 Code, § 5-413)

9-414. Taxicabs not to be used for illegal purposes. No taxicab shall be used for or in the commission of any illegal act, business, or purpose. (1983 Code, § 5-414)

9-415. Miscellaneous prohibited conduct by drivers. It shall be unlawful for any taxicab driver, while on duty, to be under the influence of, or to drink any intoxicating beverage or beer; to use profane or obscene language; to shout or call to prospective passengers; to unnecessarily blow the automobile horn; or to otherwise disturb the peace, quiet and tranquility of the city in any way. (1983 Code, § 5-415)

9-416. Transportation of more than one passenger at the same time. No person shall be admitted to a taxicab already occupied by a passenger without the consent of such other passenger. (1983 Code, § 5-416)

CHAPTER 5

POOL ROOMS¹

SECTION

- 9-501. Hours of operation regulated.
- 9-502. Minors to be kept out; exception.
- 9-503. Violations.
- 9-504. View from outside to be unobstructed.
- 9-505. Business phones.
- 9-506. Restroom facilities.

9-501. Hours of operation regulated. It shall be unlawful for any person to open, maintain, conduct, or operate any place where pool tables or billiard tables are kept for public use or hire at any time on Sunday or between the hours of 12:00 midnight and 6:00 A.M. on other days. (1983 Code, § 5-501, as amended by Ord. #94-47, April 1994)

9-502. Minors to be kept out; exception. It shall be unlawful for any person engaged regularly, or otherwise, in keeping billiard, bagatelle, or pool rooms or tables, or for their employees, agents, servants, or other persons for them, knowingly to permit any person under the age of eighteen (18) years to play on said tables at any game of billiards, bagatelle, pool, or other games requiring the use of cue and balls, without first having obtained the written consent of the mother and father of said minor, if living; if the father is dead, then the mother, guardian, or other persons having legal control of such minors; or if the minor be in attendance as a student at some literary institution, then the written consent of the principal or person in charge of such school, if there be no mother, father, guardian or other person having legal control. This section shall not apply to use of billiards, bagatelle, and pool tables kept in private residences. (Ord. #92-42, Oct. 1992)

9-503. Violations. Any person, association, or corporation violating this chapter shall be punishable under the general penalty clause for this code; provided further, the city council may revoke the license or permit of the violator and upon such terms or conditions as shall be to the best interest of the public safety and welfare. (1983 Code, § 5-504)

9-504. View from outside to be unobstructed. It shall be unlawful for any owner, keeper, or other person in charge of a billiard or pool room or

¹Municipal code reference
Privilege taxes: title 5.

public place where billiards or pool is allowed to be played, to have, keep, or maintain any character of screen or blind in front of or above the door, or any window in said building, or for any painted, frosted, or darkened window by which a clear view of the interior of such premises is or may be obstructed or prevented from the outside and such premises shall be adequately lighted, both inside and outside. (Ord. #92-42, Oct. 1992)

9-505. Business phones. Any person associated with or a corporation owning and operating a billiard or pool room or public place where billiards or pool is allowed to be played, shall have a business phone accessible to the employees, patrons, and management at all times during the operating hours of the business. (Ord. #92-42, Oct. 1992)

9-506. Restroom facilities. It shall be unlawful for any owner, keeper, or person in charge of a billiard or pool room or public place where billiards or pool is allowed to be played, to operate such facility without a restroom or toilet facility in good operating order and condition, said facility shall be available to employees and patrons to the business. (Ord. #92-42, Oct. 1992)

CHAPTER 6

CABLE TELEVISION

SECTION

9-601. To be furnished under franchise.

9-601. To be furnished under franchise. Cable television shall be furnished to the City of Dyer and its inhabitants under franchise granted to North Gibson County Cable T.V. Company by the city council of the City of Dyer, Tennessee. The rights, powers, duties and obligations of the City of Dyer and its inhabitants and the grantee of the franchise agreement executed by, and which shall be binding upon the parties concerned.¹

¹For complete details relating to the cable television franchise agreement see Ord. dated November 13, 1972, as amended by Ord. #84-18, in the office of the city recorder.

CHAPTER 7

BURIAL PERMITS

SECTION

9-701. Permits.

9-702. Permit and grave opening fee.

9-701. Permits. Cemeteries that are operated by legally constituted associations or corporations in the City of Dyer which are governed by the rules set forth by the legally constituted association or corporation shall register with the city recorder receiving the appropriate fees as set forth in the regulations for his duties therein. All places of burial not governed by a legally constituted association or corporation shall be subject to the following rules: All individuals, associations of individuals, and corporations that desire to bury any person in the municipally operated cemeteries shall first obtain a permit therefor from the city recorder prior to the commencement of excavation of the grave site and place of interment. This permit shall be required even though interment is in a mausoleum or other above-ground structure for such burial purpose. (1983 Code, § 12-301)

9-702. Permit and grave opening fee. All individuals, associations of individuals, and corporations, shall pay to the city recorder the sum of \$10.00 as a fee for such permit and the special maintenance required after the opening and closing of the grave and interment. Such fee shall be paid in every instance whether the burial is in a mausoleum or other above ground burial facilities. (1983 Code, § 12-302)

TITLE 10

ANIMAL CONTROL

CHAPTER

1. IN GENERAL.
2. DOGS.
3. PIT BULLS AND OTHER VICIOUS DOGS.

CHAPTER 1

IN GENERAL

SECTION

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

10-101. Running at large prohibited. It shall be unlawful for any person owning or being in charge of any cows, swine, sheep, horses, mules, goats, or other livestock, or any chickens, ducks, geese, turkeys, or other domestic fowl, knowingly or negligently to permit any of them to run at large in any street, alley, or unenclosed lot within the corporate limits. (1983 Code, § 3-101)

10-102. Keeping near a residence or business restricted. No person shall keep any animal or fowl enumerated in the preceding section within two hundred (200) feet of any residence, place of business, or public street, without a permit from the health officer. The health officer shall issue a permit only when in his sound judgment the keeping of such an animal in a yard or building under the circumstances as set forth in the application for the permit will not injuriously affect the public health. (1983 Code, § 3-102)

10-103. Pen or enclosure to be kept clean. When animals or fowls are kept within the corporate limits, the building, structure, corral, pen, or enclosure in which they are kept shall at all times be maintained in a clean and sanitary condition. (1983 Code, § 3-103)

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

All feed shall be stored and kept in a rat-proof and fly-tight building, box, or receptacle. (1983 Code, § 3-104)

10-105. Keeping in such manner as to become a nuisance prohibited. No animal or fowl shall be kept in such a place or condition as to become a nuisance because of either noise, odor, contagious disease, or other reason. (1983 Code, § 3-105)

10-106. Cruel treatment prohibited. It shall be unlawful for any person unnecessarily to beat or otherwise abuse or injure any dumb animal or fowl. (1983 Code, § 3-106)

10-107. Seizure and disposition of animals. Any animal or fowl found running at large or otherwise being kept in violation of this chapter may be seized by the health officer or by any police officer and confined in a pound provided or designated by the city council. 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 pound 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 city council. The pound keeper shall be entitled to collect from each person claiming an impounded animal or fowl a reasonable fee, to cover the costs of impoundment and maintenance. (1983 Code, § 3-107)

10-108. Inspections of premises. For the purpose of making inspections to insure compliance with the provisions of this title, the health officer, or his authorized representative, shall be authorized to enter, at any reasonable time, any premises where he has reasonable cause to believe an animal or fowl is being kept in violation of this chapter. (1983 Code, § 3-108)

CHAPTER 2

DOGS

SECTION

- 10-201. Rabies vaccination required.
- 10-202. Dogs to wear rabies tags.
- 10-203. Seizure of dogs running at large - redemption by owner.
- 10-204. Property damage by dog running at large.
- 10-205. Confining or isolating dog upon suspicion of rabies.
- 10-206. Liability of non-owner for death or injury to dog.
- 10-207. Bitches to be confined while proud.
- 10-208. No liability for killing proud bitch at large.
- 10-209. Penalty for violation.
- 10-210. Maximum number of dogs and cats allowed.

10-201. Rabies vaccination required. It is unlawful for any person to own, keep or harbor any dog or cat which has not been vaccinated against rabies as required by the Tennessee Anti-Rabies Act as codified at Tennessee Code Annotated, § 68-8-101 et seq. (Ord. #94-58, Dec. 1994)

10-202. Dogs to wear rabies tags. It shall be unlawful for any person to own, keep or harbor any dog which does not wear a metal tag evidencing the vaccination of said dog in compliance with the Tennessee Anti-Rabies Act and the preceding section. (Ord. #94-58, Dec. 1994)

10-203. Seizure of dogs running at large - redemption by owner.

(1) Any dog found running at large may be seized by the health officer or by any police officer and placed in the designated dog pound. For the purposes of this chapter, running at large shall be defined as not being in a secure enclosure or on a leash or chain, regardless of whether the dog is on its owner's property or not.

(2) (a) If the dog is wearing a tag evidencing rabies vaccination, the owner shall be notified by a postcard addressed to the owner's last known mailing address to appear at city hall within five (5) days and redeem the owner's dog by paying a pound fee of \$10.00 or the dog shall be destroyed.

(b) If the dog is not wearing a tag evidencing rabies vaccination, the dog shall be destroyed, unless legally claimed by the owner within two (2) days; the owner shall pay a pound fee of \$10.00 prior to the release of said dog.

(3) No dog shall be released in any event from the pound unless and until it has been vaccinated and a tag placed on its collar.

(4) When, because of its viciousness or apparent infection with rabies, a dog found running at large cannot be safely impounded, it may be summarily destroyed by the health officer or any policeman. (Ord. #94-58, Dec. 1994)

10-204. Property damage by dog running at large. The owner of any dog running at large in violation of this chapter shall be liable for any property damage caused by said dog. Should the owner of said dog be a minor, the minor's parent, guardian or custodian shall be liable for said damage. (Ord. #94-58, Dec. 1994)

10-205. Confining or isolating dog upon suspicion of rabies. If any dog has bitten any person or is suspected of having bitten any person or is for any reason suspected of being infected with rabies, the health officer or chief of police may cause the dog to be confined or isolated for such time as said health officer or chief of police reasonably deems necessary to determine if such dog is rabid. (Ord. #94-58, Dec. 1994)

10-206. Liability of non-owner for death or injury to dog. The owner or occupant of any property within the city limits shall have no liability for any injury or death occurring on the property owned or occupied by said persons to any dog found to be destroying property, causing a nuisance or displaying any viciousness upon said property owned or occupied by said person. Should the health officer or any police officer respond to a call from the owner or occupant of any property within the city limits with regard to a dog not belonging to said property owner or occupant which is found to be destroying property, causing a nuisance or displaying any viciousness, said health officer or police officer shall react appropriately any shall incur no liability for any injury or death occurring to said dog in the actions of said health officer or police officer in removing or otherwise tending to the situation involving said dog. (Ord. #94-58, Dec. 1994)

10-207. Bitches to be confined while proud. Every owner of a bitch is required to confine the same during such time as she is proud. (Ord. #94-58, Dec. 1994)

10-208. No liability for killing proud bitch at large. Any person crippling, killing, or any way destroying a proud bitch that is running at large shall not be held liable for the damages due to such killing or destruction. (Ord. #94-58, Dec. 1994)

10-209. Penalty for violation. Any person adjudicated in violation of this chapter shall be subject to fine of not less than twenty-five and no/100 dollars (\$25.00) and not more than five hundred and no/100 dollars (\$500.00) plus the court costs. (Ord. #94-58, Dec. 1994)

10-210. Maximum number of dogs and cats allowed. (1) Maximum allowable number of dogs and cats at single family residence. Except as otherwise provided in this section, no person shall keep more than a total of six (6) dogs or cats over the age of six (6) months per household in any single family residence in Dyer. These restrictions mean a total of six (6) animals, for example, four (4) dogs and two (2) cats, or five (5) cats and one (1) dog, but in no event shall the total number exceed six (6) such animals per household.

(2) Maximum allowable number of dogs and cats at multiple family residence. Except as otherwise provided in this section, no person residing at a multiple family residence shall keep more than a total of two (2) dogs or cats over the age of six (6) months per household in Dyer. These restrictions mean a total of two (2) animals for example, one (1) dog and one (1) cat but in no event shall the total number exceed two (2) such animals per multiple family household. For the purposes of this section, a multiple family residence shall include all duplexes, triplexes, apartment buildings, and other structures in which more than one (1) family resides.

(3) Exceptions. The provisions of subsections (1) and (2) of this section shall not apply to the following types of property or conditions:

(a) Single family residences located on lots which are five (5) acres or larger (217,800 square feet).

(b) Single family residences located on property which is listed on the rolls of the Gibson County Tax Assessor as agricultural land.

(c) Commercially licensed kennels, or a kennel maintained in conjunction with a small animal clinic.

(d) Where the maximum allowable number of animals is exceeded due to birth(s), the property owner shall have six (6) weeks following such birth(s) to achieve compliance with subsections (1) and (2), as applicable, of this section.

(e) Newly annexed properties and properties on which more than the maximum allowable number of animals were kept and maintained on the effective date of the ordinance comprising this section, subject to the following conditions:

(i) The animals are kept and maintained in a decent, safe, and sanitary condition; and

(ii) The number of animals kept and maintained on the premises is not increased following the effective date of the ordinance comprising this section; and

(iii) Until compliance with subsections (1) or (2), as applicable, is achieved, no person shall replace any animal which has died, been sold or given away, or which for any reason ceased being kept or maintained on the premises.

(4) Violation and penalty. Any violation of any subsection of this section shall subject the offender to a penalty of up to fifty dollars (\$50.00) for

each offense. Each day the violation shall continue shall constitute a separate offense. (as added by Ord. #2007-158, Sept. 2007)

CHAPTER 3

PIT BULLS AND OTHER VICIOUS DOGS

SECTION

10-301. Pit bull dogs.

10-302. Vicious dogs.

10-303. Penalties.

10-301. Pit bull dogs. (1) Definitions. The words, terms, and phrases, and their derivations as used in this chapter, except where the context clearly indicates otherwise, shall have the following meanings:

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

(i) The bull terrier breed of dog;

(ii) The Staffordshire bull terrier breed of dog;

(iii) The American pit bull terrier breed of dog;

(iv) The American Staffordshire breed of dog;

(v) Dogs of mixed breed or of other breeds than above listed which breed or mixed breed is known as pit bull, pit bull dogs, or pit bull terriers; and

(vi) Any dog which has the appearance and characteristics of being predominantly of the breeds of dogs known as bull terrier, Staffordshire bull terrier, American pit bull terrier, American Staffordshire terrier, and any other breed commonly known as pit bulls, pit bull dogs or pit bull terriers; or a combination of any of these breeds.

(b) "Predominately" means knowledge through identification procedures or otherwise, or admission by owner, keeper, or harbored that a dog is more than fifty percent (50%) pit bull. Predominately also means that the dog exhibits the physical characteristics of a pit bull more than that of any other breed of dog.

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

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

(e) "Confined" means to be securely kept indoors, within an automobile or other vehicle, or kept in a securely enclosed and locked pen or structure upon the premises of the owner or keeper of such dog.

(f) "Securely enclosed and locked pen or structure" means a fenced-in area that shall be a minimum of ten feet (10') wide, ten feet (10') long, and six feet (6') in height above grade, and with a horizontal top covering said area, all to be at least nine (9) gauge chain link fencing with

necessary steel supporting posts. The floor shall be at least three inches (3") of poured concrete with the bottom edge of the fencing embedded in the concrete or extending at least two feet (2') below grade. The gate must be of the same materials as the fencing, fit securely, and be kept securely locked. The owner shall post the enclosure with a clearly visible warning sign, including a warning symbol to inform children, that there is a dangerous dog on the property. The enclosure shall contain and provide shelter and protection from the elements, adequate exercise room, be adequately lighted and ventilated, and kept in a sanitary condition.

(g) "Physical restraint" means a muzzle and a leash not to exceed four feet (4') in length.

(h) "Under restraint" means that the dog is secured by a leash, led under the control of a person who is at least eighteen (18) years of age and physically capable of restraining the dog, and that the dog is obedient to that person's commands. A dog kept within a securely enclosed and locked pen or structure shall also be considered to be under restraint.

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

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

(2) Pit bull restrictions. It shall be unlawful to keep, harbor, own, or in any way possess a pit bull dog within the corporate limits of Dyer. Provided, however, that persons owning such dogs at the time the ordinance comprising this chapter is adopted shall be allowed to keep them, provided that they comply with all of the provisions of this chapter, including § 10-301(3), within thirty (30) days of the effective date of the ordinance comprising this chapter.

(3) Standards and requirements for pit bulls. The following standards and requirements shall apply to pit bull dogs located within the corporate limits of Dyer:

(a) Permit required. Each owner, keeper, harbored, or possessor of a pit bull dog shall annually obtain a pit bull permit from the Dyer City Recorder. Such pit bull permit shall cost thirty dollars (\$30.00) per year and the pit bull's owner shall make a personal appearance at the Dyer City Recorder's office when submitting an application for a permit. The thirty dollar (\$30.00) annual permit fee shall be non-refundable and shall be paid prior to any consideration of the permit application or issuance of the permit.

(b) Physical restraint. No person having charge, custody, control, or possession of a pit bull shall permit the dog to go outside its

kennel, pen, or other securely enclosed and locked pen or structure unless such dog is under restraint. No person shall permit a pit bull dog to be kept on a chain, rope, or other type of leash shorter than four feet (4') in length outside its kennel or pen unless such person is of at least eighteen (18) years of age and is in physical control of the leash. Such dogs shall not be leashed to inanimate objects such as trees, posts, buildings, or structures.

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

(d) Outdoor confinement. Except when leashed and muzzled as provided in this subsection, all pit bull dogs shall be securely confined as defined in subsection (1)(f) of this section. All structures used to confine pit bull dogs must be locked with a key or combination lock when such animals are within the structure. All structures erected to house pit bull dogs must comply with zoning and building ordinances and regulations of the City of Dyer.

(e) Indoor confinement. No pit bull dog shall be kept on a porch, patio, or in any part of a dwelling or structure that would allow the dog to exit such building on its own volition. In addition, no such dog may kept in a dwelling or structure when the windows are open or when screen windows or screen doors are the only obstacles preventing the dog from exiting the structure.

(f) Signs. All owners, keepers, harborers, or possessors of pit bull dogs shall display in a prominent place on their premises a sign easily readable by the public using the words "Beware of Dog" and including a warning symbol to inform children that there is a dangerous dog on the property. All such signs shall be displayed within twenty-four (24) hours of the issuance of a pit bull permit by the City of Dyer.

(g) Insurance. Prior to the issuance of a pit bull permit by the City of Dyer, all owners, keepers, harborers, or possessors of pit bull dogs shall provide a certificate of insurance to the Dyer City Recorder as evidence that they have public liability insurance in a single incident amount of one hundred thousand dollars (\$100,000.00) for bodily injury to or death of any person or persons or for damage to property owned by any persons which may result from owning, possessing, keeping, or maintaining such animal. Such insurance policy shall provide that no cancellation of the policy will be made unless ten (10) days advance written notice is first given to the Dyer City Recorder. Failure to maintain such liability insurance or any other lapse in such coverage

shall be grounds for the immediate revocation of the pit bull permit issued by the City of Dyer.

(h) Identification photographs. Prior to the issuance of a pit bull permit by the City of Dyer all owners, keepers, possessors, or harborers, of pit bull dogs shall provide to the city recorder two (2) color photographs of the dog clearly showing the color and approximate size of the animal.

(i) Reporting requirements. All owners, keepers, possessors, or harborers of pit bull dogs shall within ten (10) days of the incident report the following information in writing to the Dyer City Recorder as required hereinafter:

(i) The removal from the city or death of a pit bull dog.

(ii) The birth of offspring of a pit bull dog.

(iii) The new address of a pit bull dog owner, keeper, possessor, or harborer move his residence within the corporate limits of the City of Dyer.

(4) Sale or transfer of ownership prohibited. No person shall sell, barter, or in any other way transfer possession of a pit bull dog to any person within the City of Dyer unless the recipient person resides permanently in the same household and on the same premises as the owner of such dog; provided that the owner of a pit bull dog may sell or otherwise dispose of a pit bull dog or the offspring of such dog to persons who do not reside within the City of Dyer.

(5) Animals born of registered dogs. All offspring born of pit bull dogs within the City of Dyer shall be removed from the City of Dyer within six (6) weeks of the birth of such animal.

(6) Rebuttable presumptions. There shall be a rebuttable presumption that any dog registered with the City of Dyer as a pit bull dog or any of those breeds defined by subsection (1)(a) of this section is in fact a dog subject to the requirements of this chapter.

(7) Impoundment. Any pit bull dog, not kept in compliance with the provisions of this chapter, may be taken into custody by the appropriate authorities of the City of Dyer or agents acting on its behalf, and impounded. The dog's owner shall be solely responsible for payment of all boarding fees associated with the impounding of the dog, in addition to any punitive fines to be paid.

(8) Court proceedings against the owner. If any pit bull dog is impounded, the City of Dyer may institute proceedings in municipal court charging the owner with violation of this chapter. Nothing in this section, however, shall be construed as preventing the city or any citizen from instituting a proceeding for violation of this chapter where there has been no impoundment.

(9) Court findings. If a complaint has been filed in municipal court against the owner of a dog for violation of this chapter, the dog shall not be released from impoundment or disposed of except on order of the court and payment of all charges and costs incurred under this chapter, including penalties for violating this chapter. The court may, at its discretion, order the

dog to be destroyed in a humane manner. (as added by Ord. #2007-157, Sept. 2007)

10-302. Vicious dogs. (1) Definitions. The definitions included in § 10-301(c) through (j) of this chapter shall apply to this section. Additionally, the following words, terms, and phrases, and their derivations as used in this chapter, except where the context clearly indicates otherwise, shall have the following meanings:

(a) "Vicious dog" means a dog of any breed other than a pit bull which:

(i) Approaches any person in an aggressive, menacing or terrorizing manner or in an apparent attitude of attack if such person is upon any public ways, including streets and sidewalks, or any public or private property; or

(ii) Has a known propensity, tendency, or disposition to attack, inflict injury to or to otherwise endanger the safety of persons or domestic animals; or

(iii) Without provocation, bites or inflicts injury or otherwise attacks or endangers the safety of any person or domestic animal; or

(iv) Is trained for dog fighting or which is owned or kept primarily or in part for the purpose of dog fighting.

(2) Vicious dogs prohibited. It shall be unlawful for any person to own, keep, harbor, or possess a vicious dog within the corporate limits of the City of Dyer unless such dog is confined in compliance with this chapter.

(3) Procedure for determining that a dog is vicious. (a) Upon his own complaint alleging a dog to be vicious, or upon the receipt of such complaint signed by one (1) or more residents of Dyer, the Dyer City Recorder or his designee shall hold a hearing within five (5) days of serving notice to the dog owner. The purpose of the hearing shall be to determine whether such dog is, in fact, vicious. The dog owner shall be notified by a certified letter of the date, time, place, and purpose of the hearing and may attend and have an opportunity to be heard.

(b) In making the determination as to whether a dog is vicious, the city recorder or his designee shall consider, but is not limited to, the following criteria:

(i) Provocation;

(ii) Severity of attack or injury;

(iii) Previous aggressive history of the dog;

(iv) Observable behavior of the dog;

(v) Site and circumstances of the incident giving rise to the complaint;

(vi) Age of the victim;

(vii) Statements from witnesses and other interested parties;

(viii) Reasonable enclosures already in place;

(ix) Height and weight of the dog.

(c) Within five (5) days of the hearing, the city recorder or his designee shall determine whether to declare the dog vicious and shall within five (5) days after such determination notify the dog's owner by certified mail of the dog's designation as a vicious dog and the specific restrictions and conditions for keeping the dog. If the dog is declared vicious, its owner shall confine the dog with a securely enclosed and locked pen or structure, and whenever the dog is removed from such secure enclosure it shall be physically restrained and under restraint as defined in this chapter. The owner of the vicious dog shall notify residents of all abutting properties, including those across the street, of such findings. This notice to occupants of abutting properties shall be by certified mail, return receipt requested, and shall be at the owner's sole expense. The city recorder may:

(i) Vary the minimum requirements of a secure enclosure if the owner's residence cannot accommodate a secure enclosure as defined in this chapter; or

(ii) Permit an alternate method of enclosure provided that, in the sole discretion of the city recorder, such alternate method fulfills the objectives as a secure enclosure.

(d) No dog shall be declared vicious if the threat, injury, or damage was sustained by a person who:

(i) Was committing a crime or willful trespass or other tort upon the premises occupied by the owner of the dog; or

(ii) Was teasing, tormenting, abusing, or provoking the dog; or

(iii) Was committing or attempting to commit a crime.

(4) Impoundment of vicious dogs. Any vicious dog, not in compliance with the provisions of this chapter, may be taken into custody by the appropriate authorities of the City of Dyer or agents acting on behalf of the city, and impounded. The dog's owner shall be solely responsible for payment of all boarding fees associated with such impoundment in addition to any punitive fines to be paid. No dog which has been declared vicious pursuant to this chapter shall be released from impoundment unless and until the standards and requirements for keeping vicious dogs, as specified in subsection (5) of this section have been met.

(5) Standards and requirements for keeping vicious dogs. The following standards and requirements shall apply to the keeping of vicious dogs located within the corporate limits of Dyer:

(a) Registration. Within ten (10) days of a dog being declared vicious pursuant to this chapter, the owner, keeper, harborer, or possessor of such dog shall register the dog with the Dyer City Recorder.

(b) Physical restraint. No person having charge, custody, control, or possession of a vicious dog shall permit the dog to go outside its kennel, pen, or other securely enclosed and locked pen or structure unless such dog is under restraint. No person shall permit a vicious dog to be kept on a chain, rope, or other type of leash outside its kennel or pen unless a person of suitable age and discretion is in physical control of the leash. Such dogs shall not be leashed to inanimate objects such as trees, posts, buildings, or structures.

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

(d) Outdoor confinement. Except when leashed and muzzled as provided in this chapter, all vicious dogs shall be securely confined as described in § 18-301(c)(iv) of this chapter. All structures used to confine vicious dogs must be locked with a key or combination lock when such animals are within the structure. All outdoor structures erected to house vicious dogs must comply with zoning and building ordinances and regulations of the City of Dyer and construction of such structures shall be completed within thirty (30) days of the owner's dog being declared vicious.

(e) Indoor confinement. No vicious dog shall be kept on a porch, patio, or in any part of a dwelling or structure that would allow the dog to exit such building on its own volition. In addition, no such dog may be kept in a dwelling or structure when the windows are open or when screen windows or screen doors are the only obstacles preventing the dog from exiting the structure.

(f) Signs. All owners, keepers, harborers, or possessors of pit bull dogs shall display in a prominent place on their premises a sign easily readable by the public using the words "Beware of Dog" and including a warning symbol to inform children that there is a dangerous dog on the property. All such signs required by this chapter shall be installed and in place within fourteen (14) days of an owner's dog being declared vicious.

(g) Insurance. Within fourteen (14) days of being declared vicious, all owners, keepers, harborers, or possessors of vicious dogs shall provide proof to the city recorder of public liability insurance in a single incident amount of one hundred thousand dollars (\$100,000.00) for bodily injury to or death of any person or persons or for damage to property

owned by any persons which may result from owning, possessing, keeping, or maintaining such animal. Such insurance policy shall provide that no cancellation of the policy will be made unless ten (10) days advance written notice is first given to the Dyer City Recorder.

(h) Identification photographs. Within fourteen (14) days of being declared vicious, all owners, keepers, possessors, or harborers of vicious dogs shall provide to the Dyer City Recorder two (2) color photographs of the dog clearly showing the color and approximate size of the animal.

(i) Reporting requirements. All owners, keepers, possessors, or harborers of pit bull dogs shall within ten (10) days of the incident report the following information in writing to the Dyer City Recorder as required hereinafter:

(i) The removal from the city or death of a vicious dog.

(ii) The birth of offspring of a vicious dog.

(iii) The new address of a vicious dog owner, keeper, possessor, or harborer should such owner, keeper, possessor, or harborer move his residence within the corporate limits of the City of Dyer.

(6) Sale or transfer of ownership prohibited. No person shall sell, barter, or in any other way transfer possession of a vicious dog to any person within the City of Dyer unless the recipient person resides permanently in the same household and on the same premises as the owner of such dog; provided that the owner of a vicious dog may sell or otherwise dispose of a vicious dog or the offspring of such dog to persons who do not reside within the City of Dyer.

(7) Court proceedings against the owner. If any vicious dog is impounded, the City of Dyer may institute proceedings in municipal court charging the owner with violation of this chapter. Nothing in this section, however, shall be construed as preventing the city or any citizen from instituting a proceeding for violation of this chapter where there has been no impoundment.

(8) Court findings. If a complaint has been filed in municipal court against the owner of a dog for violation of this chapter, the dog shall not be released from impoundment or disposed of except on order of the court and payment of all charges and costs incurred under this chapter, including penalties for violating this chapter. The court may, upon a finding that the dog is vicious pursuant to this chapter, order the dog to be destroyed in a humane manner.

(9) Guard dogs. It shall be unlawful for any person to place or maintain guard dogs in any area of the City of Dyer for the protection of persons or property unless the following provisions are met:

(a) The guard dog shall be confined; or

(b) The guard dog shall be under the direct and absolute control of a handler at all times when not confined; and

(c) The owner or other persons in control of the premises upon which a guard dog is maintained shall post warning signs stating that such a dog is on the premises. At least one (1) such sign shall be posted at each driveway or entranceway to said premises. Such signs shall be in lettering clearly visible from either the curb line or a distance of fifty feet (50'), whichever is lesser and shall contain a telephone number where some person responsible for controlling the guard dog can be reached twenty-four (24) hours a day. (as added by Ord. #2007-157, Sept. 2007)

10-303. Penalties. Any person found violating the provisions of §§ 10-301 and 10-302 of this chapter upon conviction shall be fined fifty dollars (\$50.00) and each day of violation shall be deemed a separate violation. (as added by Ord. #2007-157, Sept. 2007)

TITLE 11

MUNICIPAL OFFENSES¹

CHAPTER

1. ALCOHOL.
2. FORTUNE TELLING, ETC.
3. OFFENSES AGAINST THE PERSON.
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. MISCELLANEOUS.
9. STATE TRAFFIC STATUTES AND REGULATIONS.

CHAPTER 1

ALCOHOL²

SECTION

- 11-101. Drinking alcoholic or intoxicating beverages, using intoxicating drugs, etc., on streets, etc.
- 11-102. Minors in beer places.

11-101. Drinking alcoholic or intoxicating beverages, using intoxicating drugs, etc., on streets, etc.. It shall be unlawful for any person to drink or consume, or have an open can or bottle of alcoholic or intoxicating beverage or to use intoxicating drugs in or on any public street, alley, avenue, highway, sidewalk, public park, public school grounds or other public place unless the place has a permit and license for on premises consumption of such intoxicating or alcoholic beverage. (1983 Code, § 10-229)

¹Municipal code references

Animals and fowls: title 10.

Housing and utilities: title 12.

Fireworks and explosives: title 7.

Traffic offenses: title 15.

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

²Municipal code reference

Sale of alcoholic beverages, including beer: title 8.

State law reference

See Tennessee Code Annotated § 33-8-203 (Arrest for Public Intoxication, cities may not pass separate legislation).

11-102. Minors in beer places. No minor under twenty-one (21) years of age shall loiter in or around, work in, or otherwise frequent any place where beer is sold at retail for consumption on the premises. (1983 Code, § 10-222, modified)

CHAPTER 2**FORTUNE TELLING, ETC.****SECTION**

11-201. Fortune telling, etc.

11-201. Fortune telling, etc. It shall be unlawful for any person to hold himself forth to the public as a fortune teller, clairvoyant, hypnotist, spiritualist, palmist, phrenologist, or other mystic endowed with supernatural powers. (1983 Code, § 10-235)

CHAPTER 3

OFFENSES AGAINST THE PERSON

SECTION

11-301. Assault and battery.

11-301. Assault and battery. It shall be unlawful for any person to commit an assault or an assault and battery upon any person. (1983 Code, § 10-201)

CHAPTER 4

OFFENSES AGAINST THE PEACE AND QUIET

SECTION

11-401. Disturbing the peace.

11-402. Anti-noise regulations.

11-401. Disturbing the peace. No person shall disturb, tend to disturb, or aid in disturbing the peace of others by violent, tumultuous, offensive, or obstreperous conduct, and no person shall knowingly permit such conduct upon any premises owned or possessed by him or under his control. (1983 Code, § 10-202)

11-402. Anti-noise regulations. Subject to the provisions of this section, the creating of any unreasonably loud, disturbing, and unnecessary noise is prohibited. Noise of such character, intensity, or duration as to be detrimental to the life or health of any individual, or in disturbance of the public peace and welfare, is prohibited.

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

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

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

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

disturb the quiet, comfort, or repose of any 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 municipal authorities.

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

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

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

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

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

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

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

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

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

(c) Noncommercial and nonprofit use of loudspeakers or amplifiers. The reasonable use of amplifiers or loudspeakers in the course of public addresses which are noncommercial in character and in the course of advertising functions sponsored by nonprofit organizations. However, no such use shall be made until a permit therefor is secured from the recorder. Hours for the use of an amplifier or public address system will be designated in the permit so issued and the use of such systems shall be restricted to the hours so designated in the permit. (1983 Code, § 10-234)

CHAPTER 5

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. Resisting or interfering with city personnel.

11-505. Coercing people not to work.

11-501. Escape from custody or confinement. It shall be unlawful for any person under arrest or otherwise in custody of or confined by the city to escape or attempt to escape, or for any other person to assist or encourage such person to escape or attempt to escape from such custody or confinement. (1983 Code, § 10-209)

11-502. Impersonating a government officer or employee. No person other than an official police officer of the city shall wear the uniform, apparel, or badge, or carry any identification card or other insignia of office like or similar to, or a colorable imitation of that adopted and worn or carried by the official police officers of the city. Furthermore, no person shall deceitfully impersonate or represent that he is any government officer or employee. (1983 Code, § 10-211)

11-503. False emergency alarms. It shall be unlawful for any person intentionally to 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. (1983 Code, § 10-217)

11-504. Resisting or interfering with city 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 city while such officer or employee is performing or attempting to perform his municipal duties. (1983 Code, § 10-210)

11-505. Coercing people not to work. It shall be unlawful for any person in association or agreement with any other person to assemble, congregate, or meet together in the vicinity of any premises where other persons are employed or reside for the purpose of inducing any such other person by threats, coercion, intimidation, or acts of violence to quit or refrain from entering a place of lawful employment. It is expressly not the purpose of this section to prohibit peaceful picketing. (1983 Code, § 10-231)

CHAPTER 6

FIREARMS, WEAPONS AND MISSILES

SECTION

11-601. Air rifles, etc.

11-602. Throwing missiles.

11-603. Weapons and firearms generally.

11-601. Air rifles, etc. It shall be unlawful for any person in the city to discharge any air gun, air pistol, air rifle, "BB" gun, or sling shot capable of discharging a metal bullet or pellet, whether propelled by spring, compressed air, expanding gas, explosive, or other force-producing means or method. (1983 Code, § 10-213)

11-602. Throwing missiles. It shall be unlawful for any person maliciously to throw any stone, snowball, bottle, or any other missile upon or at any vehicle, building, tree, or other public or private property or upon or at any person. (1983 Code, § 10-214)

11-603. Weapons and firearms generally. It shall be unlawful for any person to carry in any manner whatever, with the intent to go armed, any razor, dirk, knife, blackjack, brass knucks, pistol, revolver, or any other dangerous weapon or instrument except the army or navy pistol which shall be carried openly in the hand. However, the foregoing prohibition shall not apply to members of the United States Armed Forces carrying such weapons as are prescribed by applicable regulations nor to any officer or public safety officer engaged in his official duties, in the execution of process, or while searching for or engaged in arresting persons suspected of having committed crimes. Furthermore, the prohibition shall not apply to persons who may have been summoned by such officer or policeman to assist in the discharge of his said duties, nor to any conductor of any passenger or freight train of any steam railroad while he is on duty. It shall also be unlawful for any unauthorized person to discharge a firearm within the city. (1983 Code, § 10-212)

CHAPTER 7

TRESPASSING, MALICIOUS MISCHIEF AND INTERFERENCE WITH TRAFFIC

SECTION

- 11-701. Trespassing.
- 11-702. Trespassing on trains.
- 11-703. Malicious mischief.
- 11-704. Interference with traffic.

11-701. Trespassing. The owner or person in charge of any lot or parcel of land or any building or other structure within the corporate limits may post the same against trespassers. It shall be unlawful for any person to go upon any such posted lot or parcel of land or into any such posted building or other structure without the consent of the owner or person in charge.

It shall be unlawful and deemed to be a trespass for any peddler, canvasser, solicitor, transient merchant, or other person to fail promptly to leave the private premises of any person who requests or directs him to leave. (1983 Code, § 10-226)

11-702. Trespassing on trains. It shall be unlawful for any person to climb, jump, step, stand upon, or cling to, or in any other way attach himself to any locomotive engine or railroad car unless he works for the railroad corporation and is acting the scope of his employment or unless he is a lawful passenger or is otherwise lawfully entitled to be on such vehicle. (1983 Code, § 10-221)

11-703. Malicious mischief. It shall be unlawful and deemed to be malicious mischief for any person willfully, maliciously, or wantonly to damage, deface, destroy, conceal, tamper with, remove, or withhold real or personal property which does not belong to him. (1983 Code, § 10-225)

11-704. Interference with traffic. It shall be unlawful for any person to stand, sit, or engage in any activity whatever on any public street, sidewalk, bridge, or public ground in such a manner as unreasonably to prevent, obstruct, or interfere with the free passage of pedestrian or vehicular traffic thereon. (1983 Code, § 10-233)

CHAPTER 8

MISCELLANEOUS

SECTION

11-801. Abandoned refrigerators, etc.

11-802. Caves, wells, cisterns, etc.

11-803. Posting notices, etc.

11-804. Curfew for minors.

11-805. Wearing masks.

11-801. Abandoned refrigerators, etc. It shall be unlawful for any person to leave in any place accessible to children any abandoned, unattended, unused, or discarded refrigerator, icebox, or other container with any type latching or locking door without first removing therefrom the latch, lock, or door. (1983 Code, § 10-223)

11-802. Caves, wells, cisterns, etc. It shall be unlawful for any person to permit to be maintained on property owned or occupied by him any cave, well, cistern, or other such opening in the ground which is dangerous to life and limb without an adequate cover or safeguard. (1983 Code, § 10-232)

11-803. Posting notices, etc. No person shall fasten, in any way, any show-card, poster, or other advertising device upon any public or private property unless legally authorized to do so. (1983 Code, § 10-227)

11-804. Curfew for minors. It shall be unlawful for any minor, under the age of eighteen (18) years, to be abroad at night after 12:00 P.M. unless going directly to or from a lawful activity or upon a legitimate errand for, or accompanied by, a parent, guardian, or other adult person having lawful custody of such minor. (1983 Code, § 10-224)

11-805. Wearing masks. It shall be unlawful for any person to appear on or in any public way or place while wearing any mask, device, or hood whereby any portion of the face is so hidden or covered as to conceal the identity of the wearer. The following are exempted from the provisions of this section:

- (1) Children under the age of ten (10) years.
- (2) Workers while engaged in work wherein a face covering is necessary for health and/or safety reasons.
- (3) Persons wearing gas masks in civil defense drills and exercises or emergencies.
- (4) Any person having a special permit issued by the city recorder to wear a traditional holiday costume. (1983 Code, § 10-236)

CHAPTER 9

STATE TRAFFIC STATUTES AND REGULATIONS

SECTION

11-901. Adoption of state traffic statutes and regulations.

11-901. Adoption of state traffic statutes and regulations. All violations of state regulations for the operation of vehicles committed within the corporate limits of the municipality and which state law defines are hereby designated and declared to be offenses against the City of Dyer also. This provision shall not apply to any offenses in which the state courts have exclusive jurisdiction. (as added by Ord. #2005-145, Oct. 2005)

TITLE 12

BUILDING, UTILITY, ETC. CODES

CHAPTER

1. BUILDING CODE.
2. PLUMBING CODE.
3. RESIDENTIAL CODE.
4. MODEL ENERGY CODE.
5. MECHANICAL CODE.
6. SWIMMING POOL ENCLOSURE.
7. EXISTING BUILDING CODE.

CHAPTER 1

BUILDING CODE¹

SECTION

- 12-101. Building code adopted.
- 12-102. Modifications.
- 12-103. Available in recorder's office.
- 12-104. Violations.

12-101. Building code adopted. A certain document, one (1) of which is on file in the office of the building official of the City of Dyer/Gibson County, being marked and designated as the International Building Code,² 2006 edition, including Appendix chapters, as published by the International Code Council, be and is hereby adopted as the Building Code of the City of Dyer, in the State of Tennessee for regulating and governing the conditions and maintenance of all property, buildings and structures; by providing the standards for supplied utilities and facilities and other physical things and conditions essential to ensure that structures are safe, sanitary and fit for occupation and use; and the condemnation of buildings and structures unfit for human occupancy and the use and the demolition of such structures as herein provided; providing for the

¹Municipal code references

Fire protection, fireworks, and explosives: title 7.

Planning and zoning: title 14.

Streets and other public ways and places: title 16.

Utilities and services: titles 18 and 19.

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

issuance of permits and collection of fees as set by the city; and each and all of the regulations, provisions, penalties, conditions and terms of said building code on file in the office of the building official are hereby referred to, adopted, and made a part hereof, as if fully set out in this chapter, with the additions, insertions, deletions and changes, if any, prescribed in § 12-102 of this chapter. (Ord. #96-75, July 1996, modified, as replaced by Ord. #2010-188, Sept. 2010)

12-102. Modifications. Whenever the building code refers to the "Chief Appointing Authority" or the "Chief Administrator," it shall be deemed to be a reference to the city council. When the "Building Official" or "Director of Public Works" is named it shall, for the purposes of the building code, mean such person as the city council shall have appointed or designated to administer and enforce the provisions of the building code. When reference is made to the duties of a certain official named herein, that designated official of the City of Dyer who has duties corresponding to those of the building code shall be deemed to be the responsible official insofar as enforcing the provisions of the building code are concerned.

Provided further, that wherever there shall be a conflict between the following provisions and any other provision of the building code, the following provisions shall be applicable and controlling:

(1) Permits. All individuals, association of individuals, and corporations that desire to erect new buildings or move old buildings within the corporate limits, shall first obtain a permit from the building inspector prior to the commencement of construction or moving of such building.

(2) Zoning requirements, etc. All individuals, association of individuals, and corporations shall submit their building plans to the building inspector prior to the commencement of any construction, or moving of buildings, and which plans and specifications shall comply with the existing zoning ordinances, fire code, and construction codes which include the plumbing code. Any building that is moved from one location to another within the corporate limits shall comply with all such codes and ordinances to the same extent required for new construction.

(3) Special requirements for moving buildings. Any building that is moved from one location to another within or without the corporate limits must conform to the general appearance of the buildings in the area to which such building is being moved and also meet the general value of like buildings in the area after such move is accomplished.

(4) Fees. (a) New construction and improvements. The building inspector shall charge such prospective builder a fee for the issuance of the building permit, determined by the following table:

<u>Total Valuation of Work</u>	<u>Fee</u>
\$1000.00 and less	\$10.00

\$1001.00 to \$50,000.00	\$10.00 for the first \$1000.00 plus \$3.00 for each additional thousand or fraction thereof, to and including \$50,000.00.
\$50,001.00 to \$100,000.00	\$157.00 for the first \$50,000.00 plus \$2.50 for each additional thousand or fraction thereof, to and including \$100,000.00.
\$100,001.00 to \$500,000.00	\$282.00 for the first \$100,000.00 plus \$2.00 for each additional thousand or fraction thereof, to and including \$500,000.00.
\$500,001.00 and up	\$1,082.00 for the first \$500,000.00 plus \$1.50 for each additional thousand or fraction thereof.
Accessory buildings less than \$3000.00 in value, zoning inspection only	\$10.00

If, in the opinion of the building inspector, the valuation of work appears to be underestimated on the application, the building inspector may use the latest valuation tables as published by the Southern Building Code Congress International Inc., unless the applicant can show detailed estimates to meet the approval of the building inspector. Permit valuations shall include total cost, such as electrical, gas mechanical, plumbing equipment and other systems, including materials and labor.

(b) Moving of buildings or structures. The building inspector shall charge the person moving an existing building or structure from one location to another within or without the corporate limits, a moving fee in the amount of \$50.00.

(c) Demolition of buildings or structures. The building inspector shall charge the person demolishing any building or structure, a minimum fee of \$25.00 plus \$0.25 per 1,000 cubic feet over and above 100,000 cubic feet.

(d) Failure to obtain permit prior to construction. Any person commencing work for which a permit is required pursuant to section (1) above, shall obtain the required permit of which the fees computed in subsection (a), (b), or (c) shall be doubled; the payment of said double fees shall not relieve any persons from fully complying with the requirements of the building code in the execution of the work nor from any other penalties prescribed by law.

(e) Plan-checking fees. In all cases in which drawings and specifications are required by the building code or other laws to be submitted, the building inspector shall charge such prospective builder a fee in addition to that required by subsection (a) above in the amount of 1/2 of the amount required by subsection (a) above.

(5) Permit expiration date. Each permit issued hereunder shall be effective for a period of six (6) months, and after the expiration of such period, any building or moving permit issued hereunder shall expire unless actual construction or moving has been commenced within said six (6) month period following the date of issuance of such building permit.

The following sections are hereby revised:

Section 101.1

Section 1612.3

Section 3410.2 (1983 Code, § 4-102, as amended by Ord. #96-75, July 1996, Ord. #98-95, July 1998, and Ord. #2010-188, Sept. 2010)

12-103. Available in recorder's office. Pursuant to the requirements of the Tennessee Code Annotated, § 6-54-502, one (1) copy of the building code has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public. (1983 Code, § 4-103, modified)

12-104. Violations. It shall be unlawful for any person to violate or fail to comply with any provision of the building code as herein adopted by reference and modified. (1983 Code, § 4-104)

CHAPTER 2

PLUMBING CODE¹

SECTION

12-201. Plumbing code adopted.

12-202. Modifications.

12-203. Available in recorder's office.

12-204. Violations.

12-201. Plumbing code adopted. A certain document, three (3) copies of which are on file in the office of the building official of the City of Dyer/Gibson County being marked and designated as the International Plumbing Code,² 2006 edition, including Appendix chapters, as published by the International Code Council, be and is hereby the design, construction, quality of materials, erection, installation, alteration, repair, location, relocation, replacement, addition to, use or maintenance of plumbing systems as herein provided; providing for the issuance of permits and collection of fees therefor; and each and all the regulations, provisions, penalties, conditions and terms of said plumbing code on file in the office of the building official are hereby referred to, adopted, and made a part hereof, as if fully set out in this chapter, with the additions, insertions, deletions and changes, if any, prescribed in § 12-202 of this chapter. (Ord. #96-75, July 1996, modified, as replaced by Ord. #2010-189, Sept. 2010)

12-202. Modifications. Wherever the plumbing code refers to the "Chief Appointing Authority," the "Administrative Authority," or the "Governing Authority," it shall be deemed to be a reference to the city council.

Wherever "City Engineer," "Engineering Department," "Plumbing Official," or "Inspector" is named or referred to, it shall mean the person appointed or designated by the city council to administer and enforce the provisions of the plumbing code. Section 107 of the plumbing code is hereby deleted. When reference is made to the duties of a certain official named herein, that designated official of the City of Dyer who has duties corresponding to those

¹Municipal code references

Cross connections: title 18, chapter 5.

Street excavations: title 16.

Wastewater treatment: title 18.

Water and sewer system administration: title 18.

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

of the named official in the plumbing code shall be deemed to be the responsible official insofar as enforcing the provisions of the plumbing code are concerned.

The following sections are hereby revised:

Section 101.1 Insert: City of Dyer;

Section 106.6.2 Insert: Fees as adopted;

Section 106.6.3 Insert: 30 days;

Section 108.4 Insert: Class C/50.00 each day. (1983 Code, § 4-202, as amended by Ord. #96-75, July 1996, and Ord. #2010-189, Sept. 2010)

12-203. Available in recorder's office. Pursuant to the requirements of Tennessee Code Annotated, § 6-54-502, one (1) copy of the plumbing code has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public. (1983 Code, § 4-203, modified)

12-204. Violations. It shall be unlawful for any person to violate or fail to comply with any provision of the plumbing code as herein adopted by reference and modified. (1983 Code, § 4-204)

CHAPTER 3

RESIDENTIAL CODE

SECTION

- 12-301. Residential code adopted.
- 12-302. Modifications.
- 12-303. Available in recorder's office.
- 12-304. Violations.

12-301. Residential code adopted. A certain document, one (1) copy of which is on file in the office of the building official of the City of Dyer/Gibson County, being marked and designated as the International Residential Code,¹ 2006 edition, including Appendix chapters, as published by the International Code Council, be and is hereby adopted as the residential code of the City of Dyer, in the State of Tennessee for regulating and governing the construction, alteration, movement, enlargement, replacement, repair, equipment, location, removal and demolition of the detached one (1) and two (2) family dwellings and multiple single family dwellings (townhouses) not more than three (3) stories in height with separate means of egress as herein provided; providing for the issuance of permits and collection of fees therefor; and each and all the regulations, provisions, penalties, conditions and terms of said residential code on file in the office of the building official are hereby referred to, adopted, and made a part hereof, as if fully set out in this chapter, with the additions, insertions, deletions and changes, if any, prescribed in § 12-302 of this chapter. (1983 Code, § 4-301, modified, as replaced by Ord. #2010-191, Sept. 2010)

12-302. Modifications. Wherever the residential code refers to the "Building Official" it shall mean the person appointed or designated by the city council to administer and enforce the provisions of the residential code. Wherever the "Department of Law" is referred to it shall mean the city attorney. Wherever the "Applicable Governing Body" is referred to it shall mean the city council.

The following sections are hereby revised:

Section R101.1

Table R301.2(1)

Section P2603.6.1

Section P3103.1. (1983 Code, § 4-302, as amended by Ord. #2010-191, Sept. 2010)

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

12-303. Available in recorder's office. Pursuant to the requirements of Tennessee Code Annotated, § 6-54-502, one (1) copy of the residential code has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public. (1983 Code, § 4-303, modified, as amended by Ord. #2010-191, Sept. 2010)

12-304. Violations. It shall be unlawful for any person to violate or fail to comply with any provision of the residential code as herein adopted by reference and modified. (1983 Code, § 4-304, as amended by Ord. #2010-191, Sept. 2010)

CHAPTER 4

MODEL ENERGY CODE¹

SECTION

12-401. Model energy code adopted.

12-402. Modifications.

12-403. Available in recorder's office.

12-404. Violation and penalty.

12-401. Model energy code adopted. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506, and for the purpose of regulating the design of buildings for adequate thermal resistance and low air leakage and the design and selection of mechanical, electrical, water-heating and illumination systems and equipment which will enable the effective use of energy in new building construction, the Model Energy Code² 1992 edition, as prepared and maintained by The Council of American Building Officials, is hereby adopted and incorporated by reference as a part of this code, and is hereinafter referred to as the energy code.

12-402. Modifications. Whenever the energy code refers to the "responsible government agency," it shall be deemed to be a reference to the City of Dyer. When the "building official" is named it shall, for the purposes of the energy code, mean such person as the city council shall have appointed or designated to administer and enforce the provisions of the energy code.

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

¹State law reference

Tennessee Code Annotated, § 13-19-106 requires Tennessee cities either to adopt the Model Energy Code, 1992 edition, or to adopt local standards equal to or stricter than the standards in the energy code.

Municipal code references

Fire protection, fireworks, and explosives: title 7.

Planning and zoning: title 14.

Streets and other public ways and places: title 16.

Utilities and services: titles 18 and 19.

²Copies of this code (and any amendments) may be purchased from The Council of American Building Officials, 5203 Leesburg, Pike Falls Church, Virginia 22041.

12-404. Violation and penalty. It shall be a civil offense for any person to violate or fail to comply with any provision of the energy code as herein adopted by reference and modified. The violation of any section of this chapter shall be punishable by a penalty of up to five hundred dollars (\$500) for each offense. Each day a violation is allowed to continue shall constitute a separate offense.

CHAPTER 5

MECHANICAL CODE¹

SECTION

12-501. Mechanical code adopted.

12-502. Modifications.

12-501. Mechanical code adopted. Pursuant to authority granted by Tennessee Code Annotated §§ 6-54-501 through 6-54-516 and for the purpose of regulating the installation of mechanical systems, including alterations, repairs, replacement, equipment, appliances, fixtures, fittings and/or appurtenances thereto, including ventilating, heating, cooling, air conditioning, and refrigeration systems, incinerators, and other energy-related systems, the Standard Mechanical Code², 1997 edition, as prepared and adopted by the Southern Building Code Congress International, Inc., is hereby adopted and incorporated by reference as a part of this code and is hereinafter referred to as the mechanical code. (Ord. #96-75, July 1996, modified)

12-502. Modifications. When reference is made to the duties of a certain official named herein, that designated official of the City of Dyer who has duties corresponding to those of the named official in the mechanical code shall be deemed to be the responsible official insofar as enforcing the provisions of the mechanical code are concerned. (Ord. #96-75, July 1996)

¹Municipal code references

Street excavations: title 16.

Wastewater treatment: title 18.

Water and sewer system administration: title 18.

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

CHAPTER 6

SWIMMING POOL ENCLOSURE

SECTION

12-601. Fence required.

12-602. Gates and doors to be self-closing, etc.

12-603. Application of requirements.

12-604. Modifications.

12-605. Permit required.

12-601. Fence required. Every outdoor swimming pool or family pool within the City of Dyer shall be completely surrounded by a fence or wall not less than five (5) feet in height, which shall be so constructed as not to have openings, holes, or gaps larger than four (4) inches in any dimension except for doors and gates. A dwelling house or accessory building may be used as a part of such enclosure. (1983 Code, § 4-401)

12-602. Gates and doors to be self-closing, etc. All gates or doors opening into such enclosure shall be equipped with a self-closing and self-latching device for keeping the gate or door securely closed at all times when not in actual use, except the door of any building which forms a part of the enclosure need not be so equipped. Latches shall be placed a minimum of 4 1/2 feet above the underlying ground or otherwise made inaccessible from the outside to small children. (1983 Code, § 4-402)

12-603. Application of requirements. This requirement for enclosures of swimming pools shall be applicable to all municipal pools or family pools hereafter constructed, other than indoor pools, and shall apply to all existing pools which have the depth of at least 18 inches of water. No person in possession of land within the city, either as owner, purchaser, lessee, tenant, or licensee, upon which is situated a swimming pool or family pool having a depth of at least 18 inches of water shall fail to provide and maintain such fence or wall as herein provided. (1983 Code, § 4-403)

12-604. Modifications. The building inspector may make modifications in individual cases, upon a showing of good cause, with respect to the height, nature, or location of the fence, wall, gates, or latches, provided the protection of small children is not reduced thereby. The building inspector of Dyer may permit other protective devices or structures to be used so long as the degree of protection afforded by the substitute devices or structures is not less than the protection afforded by the wall, fence, gate, and latches described herein. The building inspector shall allow a reasonable period within which to comply with the requirements of this chapter. (1983 Code, § 4-404)

12-605. Permit required. No enclosure required herein shall be constructed without first securing a permit for the construction of same from the building inspector. (1983 Code, § 4-405)

CHAPTER 7

EXISTING BUILDING CODE

SECTION

12-701. Existing building code adopted.

12-702. Modifications.

12-701. Existing building code adopted. A certain document, one (1) copy of which is on file in the office of the Building Official of Dyer/Gibson County, being marked and designated as the International Existing Building Code,¹ 2006 edition, including Appendix chapters, as published by the International Code Council, be and is hereby adopted as the Existing Building Code of the City of Dyer/Gibson County, in the State of Tennessee for regulating and governing the repair, alteration, change of occupancy, addition and relocation of existing buildings, including historic buildings, as herein provided; providing for the issuance of permits and collection fees therefore; and each and all of the regulations, provisions, penalties, conditions, and terms of said existing building code on file in the office of the building official are hereby referred to, adopted, and made a part hereof, as if fully set out in this chapter, with the additions, insertions, deletions and changes, if any, prescribed in § 12-702 of this chapter. (as added by Ord. #2010-190, Sept. 2010)

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

Section 101.1

Section 1301.2. (as added by Ord. #2010-190, Sept. 2010)

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

TITLE 13

PROPERTY MAINTENANCE REGULATIONS¹

CHAPTER

1. MISCELLANEOUS.
2. JUNKYARDS.
3. ABANDONED MOTOR VEHICLES.
4. UNFIT STRUCTURES.

CHAPTER 1

MISCELLANEOUS

SECTION

- 13-101. Health officer.
- 13-102. Smoke, soot, cinders, etc.
- 13-103. Stagnant water.
- 13-104. Weeds and grass.
- 13-105. Dead animals.
- 13-106. Health and sanitation nuisances.
- 13-107. House trailers.
- 13-108. Open burning (leaves) within the city limits.

13-101. Health officer. The "health officer" shall be such municipal, county, or state officer as the city council shall appoint or designate to administer and enforce health and sanitation regulations within the city. (1983 Code, § 8-101)

13-102. Smoke, soot, cinders, etc. It shall be unlawful for any person to permit or cause the escape of such quantities of dense smoke, soot, cinders, noxious acids, fumes, dust, or gases as to be detrimental to or to endanger the 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. (1983 Code, § 8-105)

13-103. Stagnant water. It shall be unlawful for any person knowingly to allow any pool of stagnant water to accumulate and stand on his property without treating it so as effectively to prevent the breeding of mosquitoes.

¹Municipal code references

Animal control: title 10.

Littering streets, etc.: § 16-107.

Violators are subject to immediate citation into city court. (1983 Code, § 8-106, as amended by Ord. #95-62, April 1995)

13-104. Weeds and grass. Any property owner or tenant shall be subject to immediate citation into city court should weeds or grass reach a height of over twelve (12) inches. (Ord. #95-62, April 1995)

13-105. Dead animals. Any person owning or having possession of any dead animal not intended for use as food shall promptly bury the same or notify the health officer and dispose of such animal in such manner as the health officer shall direct. (1983 Code, § 8-108)

13-106. Health and sanitation nuisances. It shall be unlawful for any person to permit any premises owned, occupied, or controlled by him/her:

(1) 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. Violators are subject to immediate citation into city court.

(2) To permit appliances to set on property for the purpose of storage. This includes but is not limited to stoves, ranges, washers, dryers, television sets, and refrigerators. Violators are subject to immediate citation into city court.

(3) To permit the gathering of combustible material or other material that could provide a haven for rodents or insects. This includes but is not limited to cardboard, paper, wood, and rags. Violators are subject to immediate citation into city court.

All properties within 150' of any street or sidewalk which is visible from the street or sidewalk shall be maintained in a clean manner, devoid of:

- (a) Items that could be construed as junk or refuse and
- (b) Any kind of objects, including but not limited to machinery, that are strewn and provide an eyesore. Violators are subject to immediate citation into city court. (Ord. #95-62, April 1995)

13-107. House trailers. It shall be unlawful for any person to park, locate, or occupy any house trailer or portable building unless it complies with all plumbing, electrical, sanitary, and building provisions applicable to stationary structures and the proposed location conforms to the zoning provisions of the city and unless a permit therefor shall have been first duly issued by the building official, as provided for in the building code. (1983 Code, § 8-104)

13-108. Open burning (leaves) within the city limits. These are the rules to be followed as they relate to open burning (leaves) within the city limits of Dyer, Tennessee, to wit:

(1) That leaves (only) be allowed to be burned inside the city limits of Dyer, Tennessee on Fridays and Saturdays between the hours of 8:00 A.M. and 8:00 P.M.

(2) That no burning of leaves shall take place within fifty (50) feet of any structure in order to eliminate fire hazard.

(3) That the fire must be attended by a person at all times; moreover, that a water hose must be available and connected to a source of water sufficient to reach the burning site and reasonable surrounding area.

(4) That no burning shall take place when the wind is of sufficient force to create a dangerous situation in that the leaves cannot be burned safely.

(5) That no burning of leaves shall take place if prohibited by any other order or directive of any other government agency or official; or fire official of the city.

(6) That any damages caused as a result of the burning of leaves to the property of others may be the responsibility of the person burning said leaves and/or the owner of the property where the leaves are burned.

(7) That violation of these rules and/or any ordinance of the city relating to open burning of leaves shall be subject to court citations, fines, and costs.

(8) It shall be the duty of the person burning the leaves of the owner of the property on which said leaves are being burned to see that the burning is done in a safe and cautious manner; and that the burning of said leaves shall be the risk and responsibility of those involved in said burning.

The council feels that the open burning of leaves is appropriate but subject to restrictions and rules which protect the person and property of others. The permit requirement as promulgated in the Standard Fire Prevention Code, § 501.11 et seq., as established by the Southern Standard Building Code Congress International, Inc., 1994 edition, as adopted by the City of Dyer is hereby expressly waived. All provisions set forth in this section not in conflict, if any, with the above stated adopted fire protection code shall be deemed in addition to said code. (Ord. #97-78, Feb. 1997)

CHAPTER 2

JUNKYARDS

SECTION

13-201. Junkyards.

13-201. Junkyards.¹ All junkyards within the corporate limits shall be operated and maintained subject to the following regulations:

(1) All junk stored or kept in such yards shall be so kept that it will not catch and hold water in which mosquitoes may breed and so that it will not constitute a place, or places in which rats, mice, or other vermin may be harbored, reared, or propagated.

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

(3) Such yards shall be so maintained as to be in a sanitary condition and so as not to be a menace to the public health or safety. Violators of this section are subject to immediate citation into city court. (1983 Code, § 8-110, as amended by Ord. #95-62, April 1995)

¹State law reference

The provisions of this section were taken substantially from the Bristol ordinance upheld by the Tennessee Court of Appeals as being a reasonable and valid exercise of the police power in the case of Hagaman v. Slaughter, 49 Tenn. App. 338, 354 S.W.2d 818 (1961).

CHAPTER 3

ABANDONED MOTOR VEHICLES

SECTION

- 13-301. Unlawful to store, leave, etc., abandoned motor vehicles.
- 13-302. Abandoned motor vehicles declared nuisance.
- 13-303. Notice to remove abandoned motor vehicles.
- 13-304. Violations after notice.
- 13-305. Removal and disposal of abandoned motor vehicles by the public safety department.
- 13-306. Authority to enter upon the premises to remove abandoned motor vehicles.
- 13-307. Right of possessor to remove or house abandoned motor vehicles.
- 13-308. Alternative remedies of the city.

13-301. Unlawful to store, leave, etc., abandoned motor vehicles. It shall be unlawful to park, store, or leave, or to permit the parking or storing of any licensed or unlicensed motor vehicle of any kind for a period in excess of seventy-two hours which is in a rusted, wrecked, junked, partially dismantled, inoperative, or abandoned condition, whether attended or not, upon any public property including any city street, alley, parking lot, or other city property, or private property within the city unless the same is completely enclosed within a building or unless it is connected with a business enterprise operated in a lawful place and manner and licensed as such, when necessary to the operation of such business enterprise. (1983 Code, § 9-701)

13-302. Abandoned motor vehicles declared nuisance. The accumulation and storage of one or more such motor vehicles in violation of the provisions of this chapter shall constitute rubbish and unsightly debris, and a nuisance detrimental to the health, safety, and general welfare of the inhabitants of the City of Dyer, and it shall be the duty of the registered owner of such motor vehicle and of the person in charge or control of the private property upon which such motor vehicle is located, whether as owner, tenant, occupant, lessee, or otherwise, to remove the same to a place of lawful storage or to have the motor vehicle housed within a building where it will not be visible from the street. (1983 Code, § 9-702)

13-303. Notice to remove abandoned motor vehicles. Whenever there are reasonable grounds to believe that a violation of the provisions of this chapter exists, the chief of police shall give or cause to be given written notice that said motor vehicle violates the provisions of this chapter, and demanding that said motor vehicle be removed to a place of lawful storage within ten days

of the serving of such notice, or that within ten days of the serving of such notice said motor vehicles be housed in a building where it will not be visible from the street and advising of the intention of the chief of police to remove and impound such motor vehicle if it has not been removed or housed at the end of such time. Such notice shall be given by:

- (1) Affixing such notice to such motor vehicle;
- (2) Sending notice by certified mail to owner of such motor vehicle at his last known address if the owner is reasonably ascertainable;
- (3) By sending notice by certified mail to the person owning or controlling the property on which such motor vehicle is located;
- (4) Or serving notice by any city officer as with the service of any process; or
- (5) Publication as provided by the laws of the State of Tennessee. (1983 Code, § 9-703)

13-304. Violations after notice. Any person who fails, neglects, or refuses to remove the abandoned, wrecked, junked, partially dismantled, or inoperative motor vehicle or to house the same and abate said nuisance in accordance with the notice given pursuant to the provisions of § 13-303 shall be in violation of the provisions of this chapter and shall be guilty of a misdemeanor. (1983 Code, § 9-704)

13-305. Removal and disposal of abandoned motor vehicles by the public safety department. In addition to and not in lieu of any other procedure prescribed in this chapter for removal of abandoned motor vehicles from any public or private property, if the registered owner of any motor vehicle which is in violation of this chapter or the owner or person in lawful possession or control of the private property upon which the same is located shall fail, neglect, or refuse to remove or house such abandoned, wrecked, junked, partially dismantled, or inoperative motor vehicle in accordance with the notice given pursuant to the provisions of § 13-303, the chief of police may remove and impound said motor vehicle until lawfully claimed. If it is not lawfully claimed within a period of ten days, he may dispose of the same at public sale and thereafter maintain an action in the name of the City of Dyer in the appropriate court against any person or persons upon whom notice was served as required by § 13-303 to recover the costs of removing, impounding, and disposing of such motor vehicle. In the event the proceeds of any sale thereof shall be insufficient to recover such costs, any such unsatisfied costs shall become a lien upon the real property upon which said motor vehicle was located in violation of this chapter, said lien to be satisfied as any other delinquent tax lien. (1983 Code, § 9-705)

13-306. Authority to enter upon the premises to remove abandoned motor vehicles. The chief of police or any regularly employed and salaried

officer of the public safety department of the City of Dyer, contracting agents of the City of Dyer and employees of such contracting agents and authorized officers, employees, and agents of the City of Dyer are hereby expressly authorized to enter upon private property for the purpose of enforcing the provisions of this chapter. It shall be unlawful for any person to interfere, hinder, or refuse to allow them to enter upon private property for such purposes and to remove any motor vehicle in accordance with the provisions of this chapter. (1983 Code, § 9-706)

13-307. Right of possessor to remove or house abandoned motor vehicles. Any person to whom notice was given pursuant to § 13-303 shall have the right to remove or house such motor vehicle in accordance with said notice at his own expense, at any time prior to the arrival of the chief of police or his authorized representative for the purpose of removal of said motor vehicle. (1983 Code, § 9-707)

13-308. Alternative remedies of the city. Authority is reserved for the City of Dyer to follow the provisions of this chapter or the provisions of Tennessee Code Annotated, §§ 55-16-103 through 55-16-109, or use the provisions of this chapter and referenced code, or portions thereof, jointly, severally, or part joint and part several. (1983 Code, § 9-708)

CHAPTER 4

UNFIT STRUCTURES

SECTION

13-401. Definitions.

13-402. Structures unfit for habitation to be repaired or closed and/or demolished.

13-403. Procedures for abating structures.

13-404. Conditions rendering structure unfit for human occupation or use.

13-405. Service of complaints or orders.

13-406. Powers of public officer.

13-407. Chapter confers supplementary powers and procedures.

13-401. Definitions. The following terms whenever used or referred to in this chapter shall have the following respective meanings for the purposes of this chapter unless a different meaning clearly appears from the context:

(1) "Dwelling" shall mean any building or structure, or part thereof, used and occupied for human habitation or intended to be so used, and includes any outhouses and appurtenances belonging thereto or usually enjoyed therewith.

(2) "Governing body" shall mean the city council of the City of Dyer, Tennessee.

(3) "Municipality" shall mean the City of Dyer, Tennessee.

(4) "Owner" shall mean the holder of the title in fee simple and every mortgagee of record.

(5) "Parties in interest" shall mean all individuals, associations, corporations and others who have interests of record in a dwelling and any who are in possession thereof.

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

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

(8) "Public officer" shall mean the building inspector, who is hereby designated and authorized to exercise the powers prescribed by this chapter and by the Tennessee Code Annotated, title 13, chapter 21.

(9) "Structure" means any dwelling or place of public accommodation.
(Ord. #93-46, July 1993)

13-402. Structures unfit for habitation to be repaired or closed and/or demolished. The City of Dyer hereby finds that there exists in this municipality structures which are unfit for human habitation and hereby ordains that such structures shall be required repaired or closed and/or demolished in the manner herein provided. (Ord. #93-46, July 1993)

13-403. Procedures for abating unfit structures. (1) Whenever a petition is filed with the public officer by a public authority or by at least five (5) residents of the municipality charging that any structure is unfit for human occupation or use, or whenever it appears to the public officer, on his own motion, that any structure is unfit, the public officer shall, if his preliminary investigation discloses a basis for such charges, issue and cause to be served upon the owner of and parties in interest of such structures a complaint stating the charges in that respect and containing a notice that a hearing will be held before the public officer at a place therein fixed, not less than ten (10) nor more than thirty (30) days after the serving of said complaint; that the owner and parties in interest shall be given the right to file an answer to the complaint and to appear in person, or otherwise, and give testimony at the place and time fixed in the complaint; and that the rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the public officer.

(2) If after such notice and hearing, the public officer determines that the structure under consideration is unfit for human occupation or use, the public officer 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, not to exceed fifty percent (50%) of 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 habitation or to vacate and close the structure; 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, not to exceed fifty percent (50%) of the value of the structure, requiring the owner, within the time specified in the order, to remove or demolish such structure.

(3) If the owner fails to comply with an order to repair, vacate, close, remove or demolish the structure, the public officer may cause such dwelling to be dealt with as required by the order served on said owner, and the public officer shall cause to be posted on the main entrance of any structure so closed, a placard with the following words: "THIS BUILDING IS UNFIT FOR HUMAN OCCUPATION OR USE; THE USE OR OCCUPATION OF THIS BUILDING IS PROHIBITED AND UNLAWFUL."

(4) The amount of the cost of such repairs, alterations or improvements, or vacating and closing, or removal or demolition by the public officer shall, upon the filing of the notice with the Gibson County Register of Deeds, be a lien on the property in favor of the municipality, second only to liens of the state, county and municipality for taxes, any lien of the municipality for special assessments, and any valid lien, right, or interest in such property duly recorded or duly perfected by filing, prior to the filing of such notice. These costs shall be placed upon the tax rolls of the municipality as a lien and shall be added to property tax bills to be collected at the same time and in the same manner as property taxes are collected. If the owner fails to pay the costs, they may be collected at the same time and in the same manner as delinquent property taxes are collected and shall be subject to the same penalty and interest as delinquent property taxes. If the structure is removed or demolished by the public officer, he shall sell the materials of such structure and shall credit the proceeds of such sales against the cost of the removal or demolition, and any balance remaining shall be deposited with the Clerk and Master of the Chancery Court of Gibson County, Tennessee, by the public officer, shall be secured in such manner as may be directed by such court, and shall be disbursed by such court to the person found to be entitled thereto by final order to 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 municipality to define and declare nuisance and to cause their removal or abatement, by summary proceedings or otherwise. (Ord. #93-46, July 1993)

13-404. Conditions rendering structure unfit for human occupation or use. The public officer 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, safety or morals of the occupants of such structure, the occupants of neighboring structure or other residents of the municipality; such conditions include, but are not limited to, the following:

- (1) Defects therein increasing the hazards of fire, accident, or other calamities;
- (2) Lack of adequate ventilation, light, or sanitary facilities;
- (3) Dilapidation;
- (4) Disrepair;
- (5) Structural defects;
- (6) Uncleanliness. (Ord. #93-46, July 1993)

13-405. Service of complaints or orders. Complaints or orders issued by the public officer pursuant to this chapter shall be served upon persons either personally or by registered mail but if the whereabouts of such person is unknown and the same cannot be ascertained by the public officer in the exercise of reasonable diligence, and the public officer makes affidavit to such 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 The Tri-City Reporter, a newspaper with its principal office in Dyer, Tennessee, or other such newspaper as may then be the newspaper with its principal office nearest Dyer, Tennessee. A copy of such complaint or order shall be posted in a conspicuous place on premises affected by the complaint or order. A copy of such complaint or order shall also be filed for record with the Gibson County Register of Deeds, and such filing of the complaint or order shall have the same force and affect as other lis pendens notices provided by law. (Ord. #93-46, July 1993)

13-406. Powers of public officer. The public officer is hereby authorized to exercise such powers as may be necessary or convenient to carry out and effectuate the purposes and provisions of this chapter, including, but not limited to, the following powers in addition to others herein granted:

(1) To investigate the structure conditions in the municipality in order to determine which structures therein are unfit for human occupation or use;

(2) To administer oaths and affirmations, examine witnesses and receive evidence;

(3) To enter upon premises for the purpose 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.

(4) To appoint and fix the duties of such officers, agents and employees as he deems necessary to carry out the purposes of this chapter;

(5) To delegate any of his functions and power under this chapter to such officers and agents as he may designate. (Ord. #93-46, July 1993)

13-407. Chapter confers supplementary powers and procedures. Nothing in this chapter shall be construed to abrogate or impair the powers of the courts or of any department of the municipality to enforce any provisions of its charter or other ordinances or regulations, nor to prevent or punish violations thereof, and the powers and procedures prescribed by this chapter shall be in addition and supplemental to the powers conferred by any other law. (Ord. #93-46, July 1993)

TITLE 14

ZONING AND LAND USE CONTROL

CHAPTER

1. MUNICIPAL PLANNING COMMISSION.
2. ZONING ORDINANCE.
3. PROVISIONS GOVERNING FLOOD HAZARD DISTRICTS.
4. MOBILE HOME PARKS.

CHAPTER 1

MUNICIPAL PLANNING COMMISSION

SECTION

- 14-101. Creation.
- 14-102. Membership.
- 14-103. Organization, rules, staff, and finances.
- 14-104. Powers and duties.

14-101. Creation. Pursuant to the provisions of Tennessee Code Annotated, § 13-4-101 there is hereby created a municipal planning commission, hereinafter referred to as the planning commission. (1983 Code, § 11-101)

14-102. Membership. The municipal planning commission shall consist of seven (7) members. One of the members shall be the mayor of the City of Dyer; one shall be a member of the city council selected by the city council, and the five (5) remaining members shall be citizens appointed by the mayor. The terms of the five (5) appointive members shall be for three years, excepting that in the appointment of the first municipal planning commission under the terms of this chapter, two (2) of said commission members shall be appointed for terms of two (2) years and one (1) for a term of one (1) year. Any vacancy in an appointive membership shall be filled for the unexpired term by the mayor, who shall have the authority to remove any appointive member at his pleasure. The term of the member selected from the city council shall run concurrently with his membership on the city council. All members shall serve without compensation. (1983 Code, § 11-102)

14-103. Organization, rules, staff, and finances. The municipal planning commission shall elect its chairman from among its appointive members. The term of chairman shall be one year with eligibility for re-election. The commission shall adopt rules for the transactions, findings, and determinations, which record shall be a public record. The commission may appoint such employees and staff as it may deem necessary for its work and may

contract with city planners and other consultants for such services as it may require. The expenditures of the commission, exclusive of gifts, shall be within the amounts appropriated for the purpose by the city council. (1983 Code, § 11-103)

14-104. Powers and duties. From and after the time when the municipal planning commission shall have organized and selected its officers, together with the adoption of its rules of procedures, then said commission shall have all the powers, duties, and responsibilities as set forth in Tennessee Code Annotated, title 13. (1983 Code, § 11-104)

CHAPTER 2

ZONING ORDINANCE

SECTION

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

14-201. Land use to be governed by zoning ordinance. Land use within the City of Dyer shall be governed by Ordinance of July 12, 1971, titled "Zoning Ordinance, Dyer, Tennessee," and any amendments thereto.¹

¹Ordinance of July 12, 1971, and any amendments thereto, are published as separate documents and are of record in the office of the city recorder.

CHAPTER 3

PROVISIONS GOVERNING FLOOD HAZARD DISTRICTS

SECTION

14-301. Flood damage control to be governed by flood damage prevention ordinance.

14-301. Flood damage control to be governed by flood damage prevention ordinance. Regulations governing flood damage control within the City of Dyer shall be governed by Ordinance #2008-159, titled "The City of Dyer Municipal Flood Damage Prevention Ordinance" and any amendments thereto.¹

¹Ordinance #87-26, as replaced by Ord. #2008-159, and any amendments thereto, are published as separate documents and are of record in the office of the city recorder.

CHAPTER 4

MOBILE HOME PARKS

SECTION

- 14-401. Definitions.
- 14-402. License.
- 14-403. Application for license.
- 14-404. Park plan.
- 14-405. Location of parks.
- 14-406. Water supply.
- 14-407. Sanitation facilities.
- 14-408. Laundry facilities.
- 14-409. Sewage and refuse disposal.
- 14-410. Refuse storage, collection, and disposal.
- 14-411. Fire prevention.
- 14-412. Additions to mobile homes and parking restrictions.
- 14-413. Registration of occupants.
- 14-414. Revocation of license.
- 14-415. Posting of license.

14-401. Definitions. (1) "Dwelling" means a house, apartment building or other permanent building designed or used primarily for human habitation.

(2) "Natural or artificial barrier" means any river, pond, canal, railroad, levee, embankment, fence or hedge.

(3) "Park" means mobile home park.

(4) "Person" means any natural individual.

(5) "Mobile home" shall mean and include any vehicle or similar portable structure constructed so as to permit its being used as a conveyance on a public street and so as to permit the occupancy thereof as a dwelling by one or more persons.

(6) "Mobile home park" means any plot of ground upon which two or more mobile homes, occupied for dwelling or sleeping purposes, are located, regardless of whether or not a charge is made for such accommodation.

(7) "Mobile home space" means a lot or plot of ground within a mobile home park designed for the accommodation of one mobile home.

(8) "Dependent mobile home" means a mobile home that does not have a toilet and a bath or shower, or running water.

(9) "Independent mobile home" means a mobile home that has a toilet and a bath or shower, and running water.

(10) "Dependent mobile home space" means a mobile home which is designed to accommodate a dependent mobile home and does not have sewer and water connections to accommodate a toilet and a bath or shower in a mobile home.

(11) "Independent mobile home space" means a mobile home space which has sewer and water connections designed to accommodate toilet and bath or shower contained in an independent mobile home.

(12) "Health officer." The term "health officer" shall mean the health officer of the City of Dyer, Tennessee or in absence thereof, the health officer of Gibson County, or his authorized representative. (Ord. #89-32, July 1989)

14-402. License. (1) It shall be unlawful for any person to maintain or operate within the corporate limits of the City of Dyer, Tennessee, any mobile home park unless such person shall first obtain a license therefor.

(2) License shall not be transferrable. (Ord. #89-32, July 1989)

14-403. Application for license. Applications for a mobile home park license shall be filed with and issued by the building inspector. Applications shall be in writing signed by the applicant and shall contain the following:

- (1) The name and address of the applicant.
- (2) The location and legal description of the mobile home park.
- (3) A complete plan of the park showing compliance with § 18-504.
- (4) Plans and specifications of all buildings and other improvements constructed or to be constructed within the mobile home park. The sketch shall be drawn to scale showing the number and arrangement of mobile home lots, roadways, water supply, water outlets, location and type of sewage, liquid and garbage disposal and the location of the buildings for toilets, baths, laundries and other facilities.

(5) Such further information as may be requested by the building inspector to enable him to determine if the proposed park will comply with legal requirements.

The application and all accompanying plans and specifications shall be filed in triplicate. The building inspector, the health officer and the mayor shall investigate the applicant and inspect the proposed plans and specifications. If the applicant is found to be of good moral character, and the proposed mobile home park will be in compliance with all provisions of this chapter or all other applicable ordinances or statutes, the building inspector shall approve the application and upon completion of the park according to the plans shall issue the license.

Mobile homes shall not be parked on any public thoroughfare, street, alley or public place in the City of Dyer, Tennessee, for longer than one hour when no emergency for repairs exist.

None of the provisions of this chapter shall be construed as prohibiting the parking of mobile homes for display by a duly authorized and licensed dealer or sales agency, provided that the lot where such mobile homes are parked is within an area or zone where such type of business is permitted by the Zoning Ordinance of the City of Dyer, Tennessee. (Ord. #89-32, July 1989)

14-404. Park plan. (1) The mobile home park shall conform to the following requirements:

(a) The park shall be located on a well drained site, properly graded to insure rapid drainage and freedom from stagnant pools of water.

(b) Mobile home plot size and spacing of mobile homes: Mobile home spaces shall be clearly defined and mobile homes parked so that there will be at least fifteen (15) feet of clear space between mobile homes or any attachment, such as a garage or porch; twenty (20) feet of clear space between mobile homes and any building or structure; and at least ten (10) feet between any mobile home and the park property line. No mobile home shall be located closer than thirty (30) feet to any public street or highway.

(2) The individual plot sizes for mobile home spaces shall be determined as follows:

(a) Minimum width shall be equal to the width of mobile home plus twenty (20) feet.

(b) Minimum depth with end parking of automobile shall be equal to the length of mobile home plus thirty-five (35) feet.

(c) Minimum depth with side or street parking shall be equal to the length of mobile home plus twenty (20) feet.

(d) In no case shall the space be less than sixty (60) feet in depth and thirty (30) feet in width.

(3) All mobile home spaces shall abut upon a driveway of not less than thirty (30) feet in width which shall have unobstructed access to a public street, alley or highway. All driveways shall be lighted at night with 25 watt lamps at intervals of one hundred (100) feet located approximately fifteen (15) feet from the ground.

(4) Paved walkways not less than two (2) feet wide shall be provided from the mobile home spaces to the service buildings. The walkways shall be lighted at night with 25 watt lamps at intervals of one hundred (100) feet approximately fifteen (15) feet from the ground.

(5) Each park that accepts a dependent trailer shall provide service buildings to house toilet facilities, bathing facilities, laundry facilities and other sanitary facilities as hereinafter more particularly prescribed.

(6) Electricity: An electrical outlet supplying at least 110 volts shall be provided for each mobile home space, and shall be weatherproof and accessible to the parked mobile home. All electrical installations shall be in compliance with the National Electrical Code, and Tennessee Department of Commerce and Insurance Regulation No. 15, entitled "Regulation Relating to

Electrical Installations in the State of Tennessee," and shall satisfy all requirements of the local electric service organizations. (Ord. #89-32, July 1989)

14-405. Location of parks. Mobile home parks may be located in any district or area provided in the Zoning Ordinance of the City of Dyer, Tennessee.¹ (Ord. #89-32, July 1989)

14-406. Water supply. An adequate supply of water under pressure from a source and of a quality approved by the Tennessee Department of Health shall be provided; where possible, approved municipal water supplies shall be used. Water shall be piped to each mobile home lot. There shall be a water outlet in each shower room, wash room, laundry room, sink and night waste container washing facilities. (Ord. #89-32, July 1989)

14-407. Sanitation facilities. Each park that accepts a dependent trailer shall be provided with toilets, baths or showers, slop sinks and other sanitation facilities which shall conform to the following requirements.

(1) Toilet facilities for men and women shall be either in separate buildings at least twenty (20) feet apart or shall be separated, if in the same building, by a soundproof wall.

(2) Toilet facilities for women shall consist of not less than two (2) flush toilets for every ten (10) dependent mobile home spaces. Each toilet, shower and bathtub shall be in a private compartment.

(3) Toilet and urinal facilities for men shall consist of not less than one (1) flush toilet for every ten (10) dependent mobile home spaces, one (1) shower or bathtub for every ten (10) dependent mobile home spaces, one (1) lavatory for every ten (10) dependent mobile home spaces. Each toilet, shower and bathtub shall be in a private compartment.

(4) A dependent mobile home may be parked on an independent mobile home space, but in such event such space shall be regarded as being dependent mobile home space during the period of such occupancy by a dependent mobile home for the purpose of determining compliance with the provisions of § 18-507 (2) and (3).

(5) Service buildings housing the toilet facilities shall be permanent structures complying with all applicable ordinances and statutes regulating building electrical installations, plumbing, gas and sanitation systems, and shall be located not closer than fifteen (15) feet or farther than one hundred fifty (150) feet from any dependent mobile home space.

(6) Each service building shall contain at least one slop sink for each sex located in a separate compartment.

¹The zoning ordinance is of record in the office of the recorder.

(7) The service buildings shall be well lighted at all times of the day and night, shall be well ventilated with screened openings, shall be constructed of such moisture-proof materials, including painted woodwork, as shall permit repeated cleaning and washing, and shall be maintained at a temperature of at least 70 degrees Fahrenheit during the period from October 1 to May 1, and to supply a minimum of three (3) gallons of hot water per hour per mobile home space during time of peak demands. The floors of the service building shall be of concrete or approved tile material and shall slope to a floor drain connected with the sewerage system.

(8) Liquefied petroleum gas. Liquefied petroleum gas for cooking purposes shall not be used at individual mobile home spaces unless the containers are properly connected by copper or other suitable metallic tubing. Liquefied petroleum gas cylinders shall be securely fastened in place, and adequately protected from the weather. No cylinder containing liquefied petroleum gas shall be located in a mobile home, nor within five (5) feet of a door thereof.

(9) All service buildings, mobile homes, mobile home spaces and the grounds of the park shall be maintained in a clean, sightly condition and kept free of any conditions that will menace the health of any occupant or the public or constitute a nuisance. (Ord. #89-32, July 1989)

14-408. Laundry facilities. When required the laundry facilities shall be provided in the ratio of one (1) double laundry tub and ironing board for every twenty (20) mobile home spaces. An electrical outlet supplying current sufficient to operate an iron shall be located conveniently near the ironing board. Drying spaces shall be provided sufficient to accommodate the laundry of the mobile home occupants. The service building housing the laundry facilities shall be a permanent structure complying with all applicable ordinances and statutes regulating buildings, electrical installations, plumbing, gas and sanitation systems. (Ord. #89-32, July 1989)

14-409. Sewage and refuse disposal. Waste from showers, bathtubs, toilets, slop sinks and laundries shall be discharged into a public sewer system in compliance with applicable ordinances or into a private sewer disposal plant or septic tank system of such construction and in such manner to conform to the specifications of the health officer. All kitchen sinks, washbasins, bath or shower tubs in any mobile home harbored in any park shall empty into the sanitary sink drain located on the mobile home space. Mobile home parks within three hundred (300) feet of the municipal sewer shall connect thereto, with approved and sized lines. (Ord. #89-32, July 1989)

14-410. Refuse storage, collection, and disposal. Storage, collection, and disposal of refuse shall be accomplished as provided in title 17 of this code. (Ord. #89-32, July 1989)

14-411. Fire prevention. The mobile home park shall be subject to the provisions contained in title 7 of this code. (Ord. #89-32, July 1989)

14-412. Additions to mobile homes and parking restrictions. No permanent additions of any kind shall be built on to, nor become a part of, any mobile home. Skirting of mobile homes is permissible, but such skirting shall not permanently attach the mobile home to the ground, provide a harborage for rodents, or create a fire hazard. The wheels of the mobile home shall not be removed, except temporarily when necessary for repairs. Jacks or stabilizers may be placed under the frame of the mobile home to prevent movement on the springs while the mobile home is parked and occupied. (Ord. #89-32, July 1989)

14-413. Registration of occupants. It shall be the duty of the licensee to keep a register containing a record of all mobile home owners and occupants located within the park. The register shall contain the following information:

- (1) Name and address of each occupant.
- (2) The make, model and year of all automobiles and mobile homes.
- (3) License number and owner of each mobile home and automobile by which it is towed.
- (4) The state issuing such license.
- (5) The dates of arrival and departure of each mobile home.

The park shall keep the register available for inspection at all times by law enforcement officers, public health officers and other officials whose duties necessitate acquisition of the information contained in the register, the register records shall not be destroyed for a period of three (3) years following the date of registration. (Ord. #89-32, July 1989)

14-414. Revocation of license. The health officer shall make periodic inspection of the park to assure compliance with this chapter. In case of non-compliance with any provisions of this chapter, the health officer shall serve warning to the licensee. Thereafter upon failure of the licensee to remove said violation, the health officer shall recommend to the city council revocation of the offending park's license. The city council shall hold hearing on the matter, and upon determination of non-compliance revoke said license. The license may be reissued if the circumstances leading to revocation have been remedied and the park can be maintained and operated in full compliance with the law. (Ord. #89-32, July 1989)

14-415. Posting of license. The license certificate shall be conspicuously posted in the office of or on the premises of the mobile home park at all times. (Ord. #89-32, July 1989)

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. REGISTRATION OF MOTOR VEHICLES.
8. ENFORCEMENT.
9. MEDIUM SPEED VEHICLES ON CITY STREETS.

CHAPTER 1

MISCELLANEOUS²

SECTION

- 15-101. Motor vehicle requirements.
- 15-102. Driving on streets closed for repairs, etc.
- 15-103. Reckless driving.
- 15-104. Unlaned streets.
- 15-105. Laned streets.
- 15-106. Yellow lines.
- 15-107. Miscellaneous traffic-control signs, etc.
- 15-108. General requirements for traffic-control signs, etc.
- 15-109. Unauthorized traffic-control signs, etc.
- 15-110. Presumption with respect to traffic-control signs, etc.

¹Municipal code reference

Excavations and obstructions in streets, etc.: title 16.

²State law references

Under Tennessee Code Annotated, § 55-10-307, the following offenses are exclusively state offenses and must be tried in a state court or a court having state jurisdiction: driving while intoxicated or drugged, as prohibited by Tennessee Code Annotated, § 55-10-401; failing to stop after a traffic accident, as prohibited by Tennessee Code Annotated, § 55-10-101, et seq.; driving while license is suspended or revoked, as prohibited by Tennessee Code Annotated, § 55-7-116; and drag racing, as prohibited by Tennessee Code Annotated, § 55-10-501.

- 15-111. School safety patrols.
- 15-112. Driving through funerals or other processions.
- 15-113. Clinging to vehicles in motion.
- 15-114. Riding on outside of vehicles.
- 15-115. Backing vehicles.
- 15-116. Projections from the rear of vehicles.
- 15-117. Causing unnecessary noise.
- 15-118. Vehicles and operators to be licensed.
- 15-119. Passing.
- 15-120. Damaging pavements.
- 15-121. Bicycle riders, etc.
- 15-122. Compliance with financial responsibility law required.

15-101. Motor vehicle requirements. It shall be unlawful for any person to operate any motor vehicle within the corporate limits unless such vehicle is equipped with properly operating muffler, lights, brakes, horn, and such other equipment as is prescribed and required by Tennessee Code Annotated, title 55, chapter 9. (1983 Code, § 9-101)

15-102. Driving on streets closed for repairs, etc. Except for necessary access to property abutting thereon, no motor vehicle shall be driven upon any street that is barricaded or closed for repairs or other lawful purpose. (1983 Code, § 9-106)

15-103. Reckless driving. Irrespective of the posted speed limit, no person, including operators of emergency vehicles, shall drive any vehicle in willful or wanton disregard for the safety of persons or property. (1983 Code, § 9-107)

15-104. Unlaned streets. (1) Upon all unlaned streets of sufficient width, a vehicle shall be driven upon the right half of the street except:

(a) When lawfully overtaking and passing another vehicle proceeding in the same direction.

(b) When the right half of a roadway is closed to traffic while under construction or repair.

(2) All vehicles proceeding at less than the normal speed of traffic at the time and place and under the conditions then existing shall be driven as close as practicable to the right hand curb or edge of the roadway, except when overtaking and passing another vehicle proceeding in the same direction or when preparing for a left turn. (1983 Code, § 9-109)

15-105. Laned streets. On streets marked with traffic lanes, it shall be unlawful for the operator of any vehicle to fail or refuse to keep his vehicle within the boundaries of the proper lane for his direction of travel except when

lawfully passing another vehicle or preparatory to making a lawful turning movement.

On two (2) lane and three (3) lane streets, the proper lane for travel shall be the right hand lane unless otherwise clearly marked. On streets with four (4) or more lanes, either of the right hand lanes shall be available for use except that traffic moving at less than the normal rate of speed shall use the extreme right hand lane. (1983 Code, § 9-110)

15-106. Yellow lines. On streets with a yellow line placed to the right of any lane line or center line, such yellow line shall designate a no-passing zone, and no operator shall drive his vehicle or any part thereof across or to the left of such yellow line except when necessary to make a lawful left turn from such street. (1983 Code, § 9-111)

15-107. Miscellaneous traffic-control signs, etc.¹ It shall be unlawful for any pedestrian or the operator of any vehicle to violate or fail to comply with any traffic-control sign, signal, marking, or device placed or erected by the state or the city unless otherwise directed by a public safety 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 public safety officer. (1983 Code, § 9-112)

15-108. General requirements for traffic-control signs, etc. All traffic-control signs, signals, markings, and devices shall conform to the latest revision of the Manual on Uniform Traffic Control Devices for Streets and Highways,² 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 city. This section shall not be construed as being mandatory but is merely directive. (1983 Code, § 9-113)

15-109. Unauthorized traffic-control signs, etc. No person shall place, maintain, or display upon or in view of any street, any unauthorized sign, signal, marking, or device which purports to be or is an imitation of or resembles an official traffic-control sign, signal, marking, or device or railroad sign or signal, or which attempts to control the movement of traffic or parking of vehicles, or which hides from view or interferes with the effectiveness of any

¹Municipal code references

Stop signs, yield signs, flashing signals, traffic control signals generally: §§ 15-505--15-508.

²This manual may be obtained from the Superintendent of Documents, U. S. Government Printing Office, Washington, D.C. 20402.

official traffic-control sign, signal, marking, or device or any railroad sign or signal. (1983 Code, § 9-114)

15-110. Presumption with respect to traffic-control signs, etc. When a traffic-control sign, signal, marking, or device has been placed, the presumption shall be that it is official and that it has been lawfully placed by the proper authority. All presently installed traffic-control signs, signals, markings and devices are hereby expressly authorized, ratified, and approved irrespective of whether or not they were lawfully placed originally. (1983 Code, § 9-115)

15-111. School safety patrols. All motorists and pedestrians shall obey the directions or signals of school safety patrols when such patrols are assigned under the authority of the chief of police and are acting in accordance with instructions; provided, that such persons giving any order, signal, or direction shall at the time be wearing some insignia and/or using authorized flags for giving signals. (1983 Code, § 9-116)

15-112. Driving through funerals or other processions. Except when otherwise directed by a public safety officer, no driver of a vehicle shall drive between the vehicles comprising a funeral or other authorized procession while they are in motion and when such vehicles are conspicuously designated. (1983 Code, § 9-117)

15-113. Clinging to vehicles in motion. It shall be unlawful for any person traveling upon any bicycle, motorcycle, coaster, sled, roller skates, or any other vehicle to cling to, or attach himself or his vehicle to any other moving vehicle upon any street, alley, or other public way or place. (1983 Code, § 9-119)

15-114. Riding on outside of vehicles. It shall be unlawful for any person to ride, or for the owner or operator of any motor vehicle being operated on a street, alley, or other public way or place, to permit any person to ride on any portion of such vehicle not designed or intended for the use of passengers. This section shall not apply to persons engaged in the necessary discharge of lawful duties nor to persons riding in the load-carrying space of trucks. (1983 Code, § 9-120)

15-115. Backing vehicles. The driver of a vehicle shall not back the same unless such movement can be made with reasonable safety and without interfering with other traffic. (1983 Code, § 9-121)

15-116. 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 ($\frac{1}{2}$) hour after sunset and one-half ($\frac{1}{2}$) hour before sunrise, there shall be displayed in place of the flag a red light plainly visible under normal atmospheric conditions at least two hundred (200) feet from the rear of such vehicle. (1983 Code, § 9-122)

15-117. Causing unnecessary noise. It shall be unlawful for any person to cause unnecessary noise by unnecessarily sounding the horn, "racing" the motor, or causing the "screeching" or "squealing" of the tires on any motor vehicle. (1983 Code, § 9-123)

15-118. Vehicles and operators to be licensed. It shall be unlawful for any person to operate a motor vehicle in violation of the "Tennessee Motor Vehicle Title and Registration Law" or the "Uniform Motor Vehicle Operators' and Chauffeurs' License Law." (1983 Code, § 9-124)

15-119. Passing. Except when overtaking and passing on the right is permitted, the driver of a vehicle passing another vehicle proceeding in the same direction shall pass to the left thereof at a safe distance and shall not again drive to the right side of the street until safely clear of the overtaken vehicle. The driver of the overtaken vehicle shall give way to the right in favor of the overtaking vehicle on audible signal and shall not increase the speed of his vehicle until completely passed by the overtaking vehicle.

When the street is wide enough, the driver of a vehicle may overtake and pass upon the right of another vehicle which is making or about to make a left turn.

The driver of a vehicle may overtake and pass another vehicle proceeding in the same direction either upon the left or upon the right on a street of sufficient width for four (4) or more lanes of moving traffic when such movement can be made in safety.

No person shall drive off the pavement or upon the shoulder of the street in overtaking or passing on the right.

When any vehicle has stopped at a marked crosswalk or at an intersection to permit a pedestrian to cross the street, no operator of any other vehicle approaching from the rear shall overtake and pass such stopped vehicle.

No vehicle operator shall attempt to pass another vehicle proceeding in the same direction unless he can see that the way ahead is sufficiently clear and unobstructed to enable him to make the movement in safety. (1983 Code, § 9-125)

15-120. Damaging pavements. No person shall operate or cause to be operated upon any street of the city any vehicle, motor propelled or otherwise, which by reason of its weight or the character of its wheels, tires, or track is likely to damage the surface or foundation of the street. (1983 Code, § 9-118)

15-121. Bicycle riders, etc. Every person riding or operating a bicycle, motorcycle, or motor scooter shall be subject to the provisions of all traffic ordinances, rules, and regulations of the city applicable to the driver or operator of other vehicles except as to those provisions which by their nature can have no application to bicycles, motorcycles, or motor scooters.

No person operating or riding a bicycle, motorcycle, or motor scooter shall ride other than upon or astride the permanent and regular seat attached thereto, nor shall the operator carry any other person upon such vehicle other than upon a firmly attached and regular seat thereon.

No bicycle, motorcycle, or motor scooter shall be used to carry more persons at one time than the number for which it is designed and equipped.

No person operating a bicycle, motorcycle, or motor scooter shall carry any package, bundle, or article which prevents the rider from keeping both hands upon the handlebar.

No person under the age of sixteen (16) years shall operate any motorcycle, motorbike, or motor scooter while any other person is a passenger upon said motor vehicle.

All motorcycles and motor driven cycles operated on public ways within the corporate limits shall be equipped with crash bars approved by the state's commissioner of safety.

Each driver of a motorcycle or motor driven cycles and any passenger thereon shall be required to wear on his head a crash helmet of a type approved by the state's commissioner of safety.

Every motorcycle or motor driven cycle operated upon any public way within the corporate limits shall be equipped with a windshield of a type approved by the state's commissioner of safety, or, in the alternative, the operator and any passenger on any such motorcycle or motor driven cycle shall be required to wear safety goggles of a type approved by the state's commissioner of safety for the purpose of preventing any flying object from striking the operator or any passenger in the eyes.

It shall be unlawful for any person to operate or ride on any vehicle in violation of this section and it shall also be unlawful for any parent or guardian knowingly to permit any minor to operate a motorcycle or motor driven cycle in violation of this section. (1983 Code, § 9-126)

15-122. Compliance with financial responsibility law required.

(1) Every vehicle operated within the corporate limits must be in compliance with the financial responsibility law.

(2) At the time the driver of a motor vehicle is charged with any moving violation under title 55, chapters 8 and 10, parts 1-5, chapter 50; any provision in this title of this municipal code; or at the time of an accident for which notice is required under Tennessee Code Annotated, § 55-10-106, the officer shall request evidence of financial responsibility as required by this section. In case of an accident for which notice is required under Tennessee Code

Annotated, § 55-10-106, the officer shall request such evidence from all drivers involved in the accident, without regard to apparent or actual fault.

(3) For the purposes of this section, "financial responsibility" means:

(a) Documentation, such as the declaration page of an insurance policy, an insurance binder, or an insurance card from an insurance company authorized to do business in Tennessee, stating that a policy of insurance meeting the requirements of the Tennessee Financial Responsibility Law of 1977, compiled in Tennessee Code Annotated, chapter 12, title 55, has been issued;

(b) A certificate, valid for one (1) year, issued by the commissioner of safety, stating that a cash deposit or bond in the amount required by the Tennessee Financial Responsibility Law of 1977, compiled in Tennessee Code Annotated, chapter 12, title 55, has been paid or filed with the commissioner, or has qualified as a self insurer under Tennessee Code Annotated, § 55-12-111; or

(c) The motor vehicle being operated at the time of the violation was owned by a carrier subject to the jurisdiction of the Department of Safety or the Interstate Commerce Commission, or was owned by the United States, the State of Tennessee or any political subdivision thereof, and that such motor vehicle was being operated with the owner's consent.

(4) Civil offense. It is a civil offense to fail to provide evidence of financial responsibility pursuant to this section. Any violation to this section is punishable by a civil penalty of up to fifty dollars (\$50.00). The civil penalty prescribed by this section shall be in addition to any other penalty prescribed by the laws of this state or by the city's municipal code of ordinances.

(5) Evidence of compliance after violation. On or before the court date, the person charged with a violation of this section may submit evidence of compliance with this section in effect at the time of the violation. If the court is satisfied that compliance was in effect at the time of the violation, the charge of failure to provide evidence of financial responsibility may be dismissed. (as added by Ord. #2009-177, Oct. 2009)

CHAPTER 2

EMERGENCY VEHICLES

SECTION

15-201. Authorized emergency vehicles defined.

15-202. Operation of authorized emergency vehicles.

15-203. Following emergency vehicles.

15-204. Running over fire hoses, etc.

15-201. Authorized emergency vehicles defined. Authorized emergency vehicles shall be fire department vehicles, police vehicles, and such ambulances and other emergency vehicles as are designated by the chief of police. (1983 Code, § 9-102)

15-202. Operation of authorized emergency vehicles.¹ (1) The driver of an authorized emergency vehicle, when responding to an emergency call, or when in the pursuit of an actual or suspected violator of the law, or when responding to but not upon returning from a fire alarm, may exercise the privileges set forth in this section, subject to the conditions herein stated.

(2) The driver of an authorized emergency vehicle may park or stand, irrespective of the provisions of this title; proceed past a red or stop signal or stop sign, but only after slowing down to ascertain that the intersection is clear; exceed the maximum speed limit and disregard regulations governing direction of movement or turning in specified directions so long as he does not endanger life or property.

(3) The exemptions herein granted for an authorized emergency vehicle shall apply only when the driver of any such vehicle while in motion sounds an audible signal by bell, siren, or exhaust whistle and when the vehicle is equipped with at least one (1) lighted lamp displaying a red light visible under normal atmospheric conditions from a distance of 500 feet to the front of such vehicle, except that an authorized emergency vehicle operated as a police vehicle need not be equipped with or display a red light visible from in front of the vehicle.

(4) The foregoing provisions shall not relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons, nor shall such provisions protect the driver from the consequences of his reckless disregard for the safety of others. (1983 Code, § 9-103)

¹Municipal code reference

Operation of other vehicle upon the approach of emergency vehicles:
§ 15-501.

15-203. Following emergency vehicles. No driver of any vehicle shall follow any authorized emergency vehicle apparently travelling in response to an emergency call closer than five hundred (500) feet or drive or park such vehicle within the block where fire apparatus has stopped in answer to a fire alarm. (1983 Code, § 9-104)

15-204. Running over fire hoses, etc. It shall be unlawful for any person to drive over any hose lines or other equipment of the fire department except in obedience to the direction of a public safety officer. (1983 Code, § 9-105)

CHAPTER 3

SPEED LIMITS

SECTION

15-301. In general.

15-302. At intersections.

15-303. In school zones.

15-304. In congested areas.

15-301. In general. It shall be unlawful for any person to operate or drive a motor vehicle upon any highway or street at a rate of speed in excess of thirty (30) miles per hour except where official signs have been posted indicating other speed limits, in which cases the posted speed limit shall apply. (1983 Code, § 9-201)

15-302. At intersections. It shall be unlawful for any person to operate or drive a motor vehicle through any intersection at a rate of speed in excess of fifteen (15) miles per hour unless such person is driving on a street regulated by traffic-control signals or signs which require traffic to stop or yield on the intersecting streets. (1983 Code, § 9-202)

15-303. In school zones. Generally, pursuant to Tennessee Code Annotated, § 55-8-152, special speed limits in school zones shall be enacted based on an engineering investigation; shall not be less than fifteen (15) miles per hour; and shall be in effect only when proper signs are posted with a warning flasher or flashers in operation. It shall be unlawful for any person to violate any such special speed limit enacted and in effect in accordance with this paragraph. Speed limits enacted pursuant to this paragraph shall not apply at school entrances and exits to and from controlled access highways on the system of state highways.

When the city council 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 forty (40) minutes before the opening hour of a school or a period of forty (40) 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. (1983 Code, § 9-203)

15-304. In congested areas. It shall be unlawful for any person to operate or drive a motor vehicle through any congested area at a rate of speed in excess of any posted speed limit when such speed limit has been posted by authority of the city. (1983 Code, § 9-204)

CHAPTER 4

TURNING MOVEMENTS

SECTION

15-401. Generally.

15-402. Right turns.

15-403. Left turns on other than two-way roadways.

15-404. U-turns.

15-401. Generally. No person operating a motor vehicle shall make any turning movement which might affect any pedestrian or the operation of any other vehicle without first ascertaining that such movement can be made in safety and signaling his intention in accordance with the requirements of the state law.¹ (1983 Code, § 9-301)

15-402. Right turns. Both the approach for a right turn and a right turn shall be made as close as practicable to the right hand curb or edge of the roadway. (1983 Code, § 9-302)

15-403. Left turns on other than two-way roadways. At any intersection where traffic is restricted to one direction on one or more of the roadways, the driver of a vehicle intending to turn left at any such intersection shall approach the intersection in the extreme left hand lane lawfully available to traffic moving in the direction of travel of such vehicle and after entering the intersection the left turn shall be made so as to leave the intersection, as nearly as practicable, in the left hand lane lawfully available to traffic moving in such direction upon the roadway being entered. (1983 Code, § 9-304, as renumbered by Ord. #99-103, Sept. 1999)

15-404. U-turns. U-turns are prohibited. (1983 Code, § 9-305, as renumbered by Ord. #99-103, Sept. 1999)

¹State law reference

Tennessee Code Annotated, § 55-8-143.

CHAPTER 5

STOPPING AND YIELDING

SECTION

- 15-501. Upon approach of authorized emergency vehicles.
- 15-502. When emerging from alleys, etc.
- 15-503. To prevent obstructing an intersection.
- 15-504. At railroad crossings.
- 15-505. At "stop" signs.
- 15-506. At "yield" signs.
- 15-507. At traffic-control signals generally.
- 15-508. At flashing traffic-control signals.
- 15-509. Stops to be signaled.

15-501. Upon approach of authorized emergency vehicles.¹ Upon the immediate approach of an authorized emergency vehicle making use of audible and/or visual signals meeting the requirements of the laws of this state, or of a police vehicle properly and lawfully making use of an audible signal only, 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 public safety officer. (1983 Code, § 9-401)

15-502. When emerging from alleys, etc. The drivers of all vehicles emerging from alleys, parking lots, driveways, or buildings shall stop such vehicles immediately prior to driving onto any sidewalk or street. They shall not proceed to drive onto the sidewalk or street until they can safely do so without colliding or interfering with approaching pedestrians or vehicles. (1983 Code, § 9-402)

15-503. To prevent obstructing an intersection. No driver shall enter any intersection or marked crosswalk unless there is sufficient space on the other side of such intersection or crosswalk to accommodate the vehicle he is operating without obstructing the passage of traffic in or on the intersecting street or crosswalk. This provision shall be effective notwithstanding any traffic-control signal indication to proceed. (1983 Code, § 9-403)

¹Municipal code reference

Special privileges of emergency vehicles: title 15, chapter 2.

15-504. At railroad crossings. Any driver of a vehicle approaching a railroad grade crossing shall stop within not less than fifteen (15) feet from the nearest rail of such railroad and shall not proceed further while any of the following conditions exist:

(1) A clearly visible electrical or mechanical signal device gives warning of the approach of a railroad train.

(2) A crossing gate is lowered or a human flagman signals the approach of a railroad train.

(3) A railroad train is approaching within approximately fifteen hundred (1500) feet of the highway crossing and is emitting an audible signal indicating its approach.

(4) An approaching railroad train is plainly visible and is in hazardous proximity to the crossing. (1983 Code, § 9-404)

15-505. At "stop" signs. The driver of a vehicle facing a "stop" sign shall bring his vehicle to a complete stop immediately before entering the crosswalk on the near side of the intersection or, if there is no crosswalk, then immediately before entering the intersection, and shall remain standing until he can proceed through the intersection in safety. (1983 Code, § 9-405)

15-506. At "yield" signs. The drivers of all vehicles shall yield the right of way to approaching vehicles before proceeding at all places where "yield" signs have been posted. (1983 Code, § 9-406)

15-507. At traffic-control signals generally. Traffic-control signals exhibiting the words "Go," "Caution," or "Stop," or exhibiting different colored lights successively one at a time, or with arrows, shall show the following colors only and shall apply to drivers of vehicles and pedestrians as follows:

(1) Green alone, or "Go":

(a) Vehicular traffic facing the signal may proceed straight through or turn right or left unless a sign at such place prohibits such turn. But vehicular traffic, including vehicles turning right or left, shall yield the right-of-way to other vehicles and to pedestrians lawfully within the intersection or an adjacent crosswalk at the time such signal is exhibited.

(b) Pedestrians facing the signal may proceed across the roadway within any marked or unmarked crosswalk.

(2) Steady yellow alone, or "Caution":

(a) Vehicular traffic facing the signal is thereby warned that the red or "Stop" signal will be exhibited immediately thereafter, and such vehicular traffic shall not enter or be crossing the intersection when the red or "Stop" signal is exhibited.

(b) Pedestrians facing such signal shall not enter the roadway.

(3) Steady red alone, or "Stop":

(a) Vehicular traffic facing the signal shall stop before entering the crosswalk on the near side of the intersection or, if there is no crosswalk, then before entering the intersection and shall remain standing until green or "Go" is shown alone. Provided, however, that a right turn on a red signal shall be permitted at all intersections within the city, provided that the prospective turning car comes to a full and complete stop before turning and that the turning car yields the right of way to pedestrians and cross traffic traveling in accordance with their traffic signal. However, said turn will not endanger other traffic lawfully using said intersection. A right turn on red shall be permitted at all intersections except those clearly marked by a "No Turns On Red" sign, which may be erected by the city at intersections which the city decides require no right turns on red in the interest of traffic safety.

(b) Pedestrians facing such signal shall not enter the roadway.

(4) Steady red with green arrow:

(a) Vehicular traffic facing such signal may cautiously enter the intersection only to make the movement indicated by such arrow but shall yield the right-of-way to pedestrians lawfully within a crosswalk and to other traffic lawfully using the intersection.

(b) Pedestrians facing such signal shall not enter the roadway.

(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. (1983 Code, § 9-407)

15-508. At flashing traffic-control signals. (1) Whenever an illuminated flashing red or yellow signal is used in a traffic sign or signal placed or erected in the city it shall require obedience by vehicular traffic as follows:

(a) Flashing red (stop signal). When a red lens is illuminated with intermittent flashes, drivers of vehicles shall stop before entering the nearest crosswalk at an intersection or at a limit line when marked, or if there is no crosswalk or limit line, then before entering the intersection, and the right to proceed shall be subject to the rules applicable after making a stop at a stop sign.

(b) Flashing yellow (caution signal). When a yellow lens is illuminated with intermittent flashes, drivers of vehicles may proceed through the intersection or past such signal only with caution.

(2) This section shall not apply at railroad grade crossings. Conduct of drivers of vehicles approaching railroad grade crossings shall be governed by the rules set forth in § 15-504 of this code. (1983 Code, § 9-408)

15-509. Stops to be signaled. No person operating a motor vehicle shall stop such vehicle, whether in obedience to a traffic sign or signal or otherwise, without first signaling his intention in accordance with the requirements of the state law,¹ except in an emergency. (1983 Code, § 9-409)

¹State law reference

Tennessee Code Annotated, § 55-8-143.

CHAPTER 6

PARKING

SECTION

- 15-601. Generally.
- 15-602. Angle parking.
- 15-603. Occupancy of more than one space.
- 15-604. Where prohibited.
- 15-605. Loading and unloading zones.
- 15-606. Presumption with respect to illegal parking.

15-601. Generally. No person shall leave any motor vehicle unattended on any street without first setting the brakes thereon, stopping the motor, removing the ignition key, and turning the front wheels of such vehicle toward the nearest curb or gutter of the street.

Except as hereinafter provided, every vehicle parked upon a street within the City of Dyer shall be parked so that its right wheels are approximately parallel to and within eighteen (18) inches of the right 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. (1983 Code, § 9-501)

15-602. Angle parking. On those streets which have been signed or marked by the city for angle parking, no person shall park or stand a vehicle other than at the angle indicated by such signs or markings. No person shall angle park any vehicle which has a trailer attached thereto or which has a length in excess of twenty-four (24) feet. (1983 Code, § 9-502)

15-603. Occupancy of more than one space. No person shall park a vehicle in any designated parking space so that any part of such vehicle occupies more than one such space or protrudes beyond the official markings on the street or curb designating such space unless the vehicle is too large to be parked within a single designated space. (1983 Code, § 9-503)

15-604. Where prohibited. (1) In general. No person shall park a vehicle in violation of any sign placed or erected by the state or city, nor:

- (a) On a sidewalk.
- (b) In front of a public or private driveway.

- (c) Within an intersection or within fifteen (15) feet thereof.
- (d) Within fifteen (15) feet of a fire hydrant.
- (e) Within a pedestrian crosswalk.
- (f) Within fifty (50) feet of a railroad crossing.
- (g) Within twenty (20) feet of the driveway entrance to any fire station, and on the side of the street opposite the entrance to any fire station within seventy-five (75) feet of the entrance.
- (h) Alongside or opposite any street excavation or obstruction when other traffic would be obstructed.
- (i) On the roadway side of any vehicle stopped or parked at the edge or curb of a street.

(j) Upon any bridge.

(k) Alongside any curb painted yellow or red by the city.

(l) On or alongside any portion of Main Street being Highway 45W from the north boundary of Ashley Street to the south boundary of Broad Street at those respective intersections with Main Street. Any automobile found to be parked along the section of Main Street between Ashley Street and Broad Street other than for forty-five (45) minute limitation for the purpose of loading or unloading merchandise within designated loading zones shall be subject to the issuance of citations to city court with the following penalties to apply:

First offense - Fine of ten dollars (\$10.00) .

Second offense - Fine of twenty dollars (\$20.00) and costs.

Third and subsequent offenses: Police department shall be directed to have the automobile towed and impound the automobile to be redeemed by the owner paying towing fees, plus court costs.

(2) Tractor trailer trucks. Except for short-term loading and unloading operations, it shall be unlawful to park a tractor trailer truck on any street of the city except in special areas designated for that purpose. (1983 Code, § 9-504)

15-605. Loading and unloading zones. No person shall park a vehicle for any purpose or period of time other than for the expeditious loading or unloading of passengers or merchandise in any place marked by the city as a loading and unloading zone. (1983 Code, § 9-505)

15-606. Presumption with respect to illegal parking. When any unoccupied vehicle is found parked in violation of any provision of this chapter, there shall be a prima facie presumption that the registered owner of the vehicle is responsible for such illegal parking. (1983 Code, § 9-506)

CHAPTER 7

REGISTRATION OF MOTOR VEHICLES

SECTION

- 15-701. Registration and fees.
- 15-702. Transfer of title of vehicle.
- 15-703. General exemptions.
- 15-704. Special exemptions.
- 15-705. Display of registration license or certificate.
- 15-706. Use of funds.
- 15-707. Violations.

15-701. Registration and fees. Each resident of the city who owns, leases, or operates a motor vehicle which is required to be registered with the state department of revenue motor vehicle division shall be responsible for registering such motor vehicle with the city recorder between January 1st and April 15th of each year. The fee shall be thirty dollars (\$30.00) per registration.

Any registration purchased after April 15th of each year or after 30 days established residence within the City of Dyer shall be assessed an additional \$42.00 late charge. (Ord. #89-34, Sept. 1989, as amended by Ord. #97-79, March 1997, Ord. #97-84, June 1997, Ord. #2001-113, June 2001, Ord. #2003-133, July 2003, and Ord. #2009-178, Dec. 2009)

15-702. Transfer of title of vehicle. Whenever the ownership of any registered vehicle shall become changed by sale or otherwise, the purchaser or receiver thereof shall be required to notify the city recorder of such transfer and shall receive a new sticker in his name for which he shall pay the city recorder a fee of one dollar (\$1.00) (1983 Code, § 9-602)

15-703. General exemptions. This chapter shall not apply to cars operating under the supervision of the public utilities commission nor to vehicles owned and operated by the county, state, or federal government when operating exclusively for county, state, or federal purposes. (1983 Code, § 9-603)

15-704. Special exemptions. All dealers or manufacturers of motor vehicles, motorcycles, auto trucks, or like vehicles, when such vehicles are owned by them, shall make application to and receive from the city recorder a general distinguishing number or mark, which shall be known as a demonstration number, and the same shall be used by said dealer or manufacturer only while such vehicle is actually being demonstrated to a customer or prospective purchaser. Motor vehicles, motorcycles, auto trucks, or like vehicles used in the service of the manufacturer, sales agent, or dealer must be provided with a regular license as provided for in § 15-701 and shall not at

any time use or display the special or demonstration number plate while in the service of the owner, agent, or dealer other than for demonstration as aforesaid. (1983 Code, § 9-604)

15-705. Display of registration license or certificate. Upon payment of the applicable license fee by the vehicle owner or operator, the city recorder shall issue a serially numbered tag or sticker which the owner or operator shall firmly attach to the metal state license plate issued to his vehicle so that it may be readily observed from the outside of the vehicle. (Ord. #89-34, Sept. 1989)

15-706. Use of funds. The revenue from the license fees collected under this chapter shall be used in paying for the cost of administration of this chapter, the enforcement of its provisions, for the promotion of traffic safety and installation of signs, signals, markings, and other safety devices, and for regulating traffic on the streets of the city. (1983 Code, § 9-606)

15-707. Violations. Any persons, firm, or corporation operating or undertaking to operate any motor vehicle in violation of this chapter shall be guilty of a misdemeanor and each day any violation continues or occurs shall constitute a separate offense. (Ord. #97-79, March 1997)

CHAPTER 8

ENFORCEMENT

SECTION

- 15-801. Issuance of traffic citations.
- 15-802. Failure to obey citation.
- 15-803. Illegal parking.
- 15-804. Impoundment of vehicles.
- 15-805. Deposit of chauffeur's or operator's license in lieu of bail--receipt--
failure to appear.
- 15-806. Violation and penalty.

15-801. Issuance of traffic citations.¹ When a public safety 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. (1983 Code, § 9-801)

15-802. Failure to obey citation. It shall be unlawful for any person to violate his written promise to appear in court after giving said promise to an officer upon the issuance of a traffic citation, regardless of the disposition of the charge for which the citation was originally issued. (1983 Code, § 9-802)

15-803. Illegal parking. Whenever any motor vehicle without a driver is found parked or stopped in violation of any of the restrictions imposed by this code, the officer finding such vehicle shall take its license number and may take any other information displayed on the vehicle which may identify its user, and shall conspicuously affix to such vehicle a citation for the driver and/or owner to answer for the violation within ten (10) days during the hours and at a place specified in the citation. (1983 Code, § 9-803, modified)

15-804. Impoundment of vehicles. Members of the public safety department are hereby authorized, when reasonably necessary for the security

¹State law reference

Tennessee Code Annotated, § 7-63-101, et seq.

of the vehicle or to prevent obstruction of traffic, to remove from the streets and impound any vehicle whose operator is arrested or any unattended vehicle which is parked so as to constitute an obstruction or hazard to normal traffic. Any impounded vehicle shall be 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, or until it is otherwise lawfully disposed of. The fee for impounding a vehicle shall be five dollars (\$5.00) and the storage cost shall be one dollar (\$1.00) for each twenty-four (24) hour period or fraction thereof that the vehicle is stored. (1983 Code, § 9-804)

15-805. Deposit of chauffeur's or operator's license in lieu of bail--receipt--failure to appear. Whenever any non-resident of the City of Dyer, Tennessee, lawfully possessed of a chauffeur's or operator's license theretofore issued to him by the Tennessee Department of Safety, or under the driver licensing laws of any other state or territory or the District of Columbia, is, within the geographic boundaries of Dyer, Tennessee, issued a citation or arrested and charged with violation of state statutes regulating traffic, except those statutes the violation of which calls for the mandatory revocation of an operator's or chauffeur's license for any period of time, such person shall have the option of depositing his chauffeur's or operator's license with the officer or court demanding bail in lieu of any other security required for his appearance in the city court in answer to such charge before the court.

The provisions of this section are adopted pursuant to Tennessee Code Annotated, §§ 55-50-801 through 55-50-805, and the recorder is directed to make the proper notifications as required by the Tennessee Code Annotated. (1983 Code, § 9-805)

15-806. Violation and penalty. Any violation of this title shall be a civil offense punishable as follows: (1) Traffic citations. Traffic citations shall be punishable by a civil penalty up to fifty dollars (\$50.00) for each separate offense.

(2) Parking citations. For parking violations, the offender may, waive his right to a judicial hearing and have the charges disposed of out of court, but the fines shall be three dollars (\$3.00) within ten (10) days, and five dollars (\$5.00) thereafter. (1983 Code, § 9-803, modified)

CHAPTER 9

MEDIUM SPEED VEHICLES ON CITY STREETS

SECTION

15-901. Definitions.

15-902. Permitted streets.

15-903. License requirements.

15-904. Vehicle requirements.

15-905. Registration requirements.

15-901. Definitions. The following definitions shall apply in the interpretation and enforcement of this chapter unless it is apparent from the context that a different meaning is intended:

(1) "Medium speed vehicle" means any four (4) wheeled electric or gasoline-powered vehicle, excluding golf carts, whose top speed is greater than thirty miles per hour (30 mph), including neighborhood electric vehicles. Medium speed vehicles must comply with the standards in 49 C.F.R. 571.500. (as added by Ord. #2012-211, Oct. 2012)

15-902. Permitted streets. The City of Dyer hereby permits medium speed vehicles to operate on all city streets with a posted speed limit of not more than forty miles per hour (40 mph) except Main Street, and Poplar Grove Road (State Highway 185). A medium speed vehicle is permitted to cross streets that exceed this forty mile per hour (40 mph) limit. (as added by Ord. #2012-211, Oct. 2012)

15-903. License requirements. Operators of medium speed vehicles must have a valid Class D driver license in their possession when operating these vehicles on Tennessee's roads. (as added by Ord. #2012-211, Oct. 2012)

15-904. Vehicle requirements. All medium speed vehicles permitted to operate on city streets must meet the definition of a medium speed vehicle. As outlined in Tennessee Code Annotated, § 55-1-125, a medium speed vehicle must meet all of the following conditions:

(1) The vehicle's top speed is greater than thirty miles per hour (30 mph) but not greater than thirty-five miles per hour (35 mph).

(2) The vehicle shall contain the following items, as outlined in 49 Code of Federal Regulations (C.F.R.) 571:

- (a) Headlights;
- (b) Stop lights;
- (c) Front and rear turn signal lights;
- (d) Tail lights;

- (e) Reflex reflectors, one (1) red on each side near the rear and one (1) on the rear;
- (f) Parking brake;
- (g) One (1) exterior mirror on the driver's side and one (1) additional mirror, either on the passenger side or in the interior;
- (h) Windshield that conforms to the federal motor vehicle safety standard on glazing materials (49 C.F.R. 571.205);
- (i) Seat belts (Type 1 or 2) located at each seating position;
- (j) Vehicle ID Number (VIN), conforming to 49 C.F.R. 565. (as added by Ord. #2012-211, Oct. 2012)

15-905. Registration requirements. All medium speed vehicles shall be inspected and issued a registration sticker from the City of Dyer prior to being operated on city streets.

- (1) All medium speed vehicles must be registered as such with the State of Tennessee through the county clerk.
- (2) All medium speed vehicles operated on city streets must be registered pursuant to § 15-705 of the Dyer Municipal Code.
- (3) An inspection of medium speed vehicles shall be conducted by the chief of police or his designee before a city registration sticker is issued.
- (4) An annual registration/permit sticker shall be affixed to the metal license plate as designated in § 15-705 of the Dyer Municipal Code. (as added by Ord. #2012-211, Oct. 2012)

TITLE 16

STREETS AND SIDEWALKS, ETC¹

CHAPTER

1. MISCELLANEOUS.
2. EXCAVATIONS AND CUTS.
3. UNIFORM SYSTEM FOR DESIGNATING BUILDINGS AND STREETS.
4. DYER MUNICIPAL REGIONAL SUBDIVISION 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 regulated.
- 16-111. Operation of trains at crossings regulated.
- 16-112. Animals and vehicles on sidewalks.
- 16-113. Fires in streets, etc.
- 16-114. Placement of basketball goals alongside or within public rights-of-way.

16-101. Obstructing streets, alleys, or sidewalks prohibited. No person shall use or occupy any portion of any public street, alley, sidewalk, or right of way for the purpose of storing, selling, or exhibiting any goods, wares, merchandise, or materials. (1983 Code, § 12-101)

16-102. Trees projecting over streets, etc., regulated. It shall be unlawful for any property owner or occupant to allow any limbs of trees on his property to project out over any street or alley at a height of less than fourteen (14) feet or over any sidewalk at a height of less than eight (8) feet. (1983 Code, § 12-102)

¹Municipal code reference

Related motor vehicle and traffic regulations: title 15.

16-103. Trees, etc., obstructing view at intersections prohibited. It shall be unlawful for any property owner or occupant to have or maintain on his property any tree, hedge, billboard, or other obstruction which prevents persons driving vehicles on public streets or alleys from obtaining a clear view of traffic when approaching an intersection. (1983 Code, § 12-103)

16-104. Projecting signs and awnings, etc., restricted. Signs, awnings, or other structures which project over any street or other public way shall be erected subject to the requirements of the building code.¹ (1983 Code, § 12-104)

16-105. Banners and signs across streets and alleys restricted. It shall be unlawful for any person to place or have placed any banner or sign across any public street or alley except when expressly authorized by the city council. (1983 Code, § 12-105)

16-106. Gates or doors opening over streets, alleys, or sidewalks prohibited. It shall be unlawful for any person owning or occupying property to allow any gate or door to swing open upon or over any street, alley, or sidewalk except when required by law. (1983 Code, § 12-106)

16-107. Littering streets, alleys, or sidewalks prohibited. It shall be unlawful for any person to litter, place, throw, track, or allow to fall on any street, alley, or sidewalk any refuse, glass, tacks, mud, or other objects or materials which are unsightly or which obstruct or tend to limit or interfere with the use of such public ways and places for their intended purposes. (1983 Code, § 12-107)

16-108. Obstruction of drainage ditches. It shall be unlawful for any person to permit or cause the obstruction of any drainage ditch in any public right of way. (1983 Code, § 12-108)

16-109. Abutting occupants to keep sidewalks clean, etc. The occupants of property abutting on a sidewalk are required to keep the sidewalk clean. Also, immediately after a snow or sleet, such occupants are required to remove all accumulated snow and ice from the abutting sidewalk. (1983 Code, § 12-109)

16-110. Parades regulated. It shall be unlawful for any club, organization, or similar group to hold any meeting, parade, demonstration, or exhibition on the public streets without some responsible representative first securing a permit from the recorder. No permit shall be issued by the recorder

¹Municipal code reference
Building code: title 12, chapter 1.

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. (1983 Code, § 12-110)

16-111. Operation of trains at crossings regulated. No person shall operate any railroad train across any street or alley without giving a warning of its approach as required by state law. It shall also be unlawful to stop a railroad train so as to block or obstruct any street or alley for a period of more than five (5) consecutive minutes. (1983 Code, § 12-111, modified)

16-112. Animals and vehicles on sidewalks. It shall be unlawful for any person to ride, lead, or tie any animal, or ride, push, pull, or place any vehicle across or upon any sidewalk in such manner as unreasonably to 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. (1983 Code, § 12-112)

16-113. Fires in streets, etc. It shall be unlawful for any person to set or contribute to any fire in any public street, alley, or sidewalk. (1983 Code, § 12-113)

16-114. Placement of basketball goals alongside or within public rights-of-way. (1) No portable or fixed basketball goal shall be placed, erected or maintained on or alongside the right-of-way of any public street within the municipal limits of the City of Dyer so as to allow a person or persons to play within the street. The placement of any basketball goal within a public right-of-way or the presence of persons within a public street playing basketball on such a goal shall be a violation of this section.

(2) Any violation of this section shall be punishable by a fine of fifty dollars (\$50.00). (as added by Ord. #2004-140, July 2004)

CHAPTER 2

EXCAVATIONS AND CUTS¹

SECTION

- 16-201. Permit required.
- 16-202. Applications.
- 16-203. Fee.
- 16-204. Deposit or bond.
- 16-205. Manner of excavating--barricades and lights--temporary sidewalks.
- 16-206. Restoration of streets, etc.
- 16-207. Insurance.
- 16-208. Time limits.
- 16-209. Supervision.
- 16-210. Driveway curb cuts.

16-201. Permit required. It shall be unlawful for any person, firm, corporation, association, or others, to make any excavation in any street, alley, or public place, or to tunnel under any street, alley, or public place without having first obtained a permit as herein required, and without complying with the provisions of this chapter; and it shall also be unlawful to violate, or vary from, the terms of any such permit; provided, however, any person maintaining pipes, lines, or other underground facilities in or under the surface of any street may proceed with an opening without a permit when emergency circumstances demand the work to be done immediately and a permit cannot reasonably and practicably be obtained beforehand. The person shall thereafter apply for a permit on the first regular business day on which the office of the recorder is open for business, and said permit shall be retroactive to the date when the work was begun. (1983 Code, § 12-201)

16-202. Applications. 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

¹State law reference

This chapter was patterned substantially after the ordinance upheld by the Tennessee Supreme Court in the case of City of Paris, Tennessee v. Paris-Henry County Public Utility District, 207 Tenn. 388, 340 S.W.2d 885 (1960).

recorder or other designated person within twenty-four (24) hours of its filing. (1983 Code, § 12-202)

16-203. Fee. The fee for such permits shall be two dollars (\$2.00) for excavations which do not exceed twenty-five (25) square feet in area or tunnels not exceeding twenty-five (25) feet in length; and twenty-five cents (\$.25) for each additional square foot in the case of excavations, or lineal foot in the case of tunnels; but not to exceed one hundred dollars (\$100.00) for any permit. (1983 Code, § 12-203)

16-204. Deposit or bond. 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 city engineer 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 city engineer shall deem adequate to cover the costs to the city if the applicant fails to make proper restoration. (1983 Code, § 12-204)

16-205. Manner of excavating--barricades and lights--temporary sidewalks. Any person, firm, corporation, association, or others making any excavation or tunnel shall do so according to the terms and conditions of the application and permit authorizing the work to be done. 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. (1983 Code, § 12-205)

16-206. Restoration of streets, etc. Any person, firm, corporation, association, or others making any excavation or tunnel in or under any street, alley, or public place in this city shall restore said street, alley, or public place to its original condition except for the surfacing, which shall be done by the city, but shall be paid for promptly upon completion by such person, firm, corporation, association, or others for which the excavation or tunnel was made. In case of unreasonable delay in restoring the street, alley, or public place, the recorder shall give notice to the person, firm, corporation, association, or others

that unless the excavation or tunnel is refilled properly within a specified reasonable period of time, the city will do the work and charge the expense of doing the same to such person, firm, corporation, association, or others. If within the specified time the conditions of the above notice have not been complied with, the work shall be done by the city, an accurate account of the expense involved shall be kept, and the total cost shall be charged to the person, firm, corporation, association, or others who made the excavation or tunnel. (1983 Code, § 12-206)

16-207. Insurance. In addition to making the deposit or giving the bond hereinbefore required to insure that proper restoration is made, each person applying for an excavation permit shall file a certificate of insurance indicating that he is insured against claims for damages for personal injury as well as against claims for property damage which may arise from or out of the performance of the work, whether such performance be by himself, his subcontractor, or anyone directly or indirectly employed by him. Such insurance shall cover collapse, explosive hazards, and underground work by equipment on the street, and shall include protection against liability arising from completed operations. The amount of the insurance shall be prescribed by the recorder in accordance with the nature of the risk involved; provided, however, that the liability insurance for bodily injury shall not be less than \$100,000 for each person and \$300,000 for each accident, and for property damages not less than \$25,000 for any one (1) accident, and a \$75,000 aggregate. (1983 Code, § 12-207)

16-208. Time limits. Each application for a permit shall state the length of time it is estimated will elapse from the commencement of the work until the restoration of the surface of the ground or pavement, or until the refill is made ready for the pavement to be put on by the city if the city 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. (1983 Code, § 12-208)

16-209. Supervision. The city engineer shall from time to time inspect all excavations and tunnels being made in or under any public street, alley, or other public place in the city and see to the enforcement of the provisions of this chapter. Notice shall be given to him at least ten (10) hours before the work of refilling any such excavation or tunnel commences. (1983 Code, § 12-209)

16-210. Driveway curb cuts. No one shall cut, build, or maintain a driveway across a curb or sidewalk without first obtaining a permit from the city engineer. Such a permit will not be issued when the contemplated driveway is to be so located or constructed as to create an unreasonable hazard to pedestrian and/or vehicular traffic. No driveway shall exceed thirty-five (35) feet in width at its outer or street edge and when two (2) or more adjoining driveways are

provided for the same property a safety island of not less than ten (10) feet in width at its outer or street edge shall be provided. Driveway aprons shall not extend out into the street. (1983 Code, § 12-210)

CHAPTER 3

UNIFORM SYSTEM FOR DESIGNATING BUILDINGS AND STREETS

SECTION

- 16-301. System authorized.
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- 16-309. Subdivision plats.
- 16-310. Names may be changed by resolution.
- 16-311. Plan for effecting system.
- 16-312. Effective date of system.

16-301. System authorized. There is hereby established a uniform system for numbering buildings fronting on all streets, avenues, and public ways in the City of Dyer, and all houses and other buildings shall be numbered in accordance with the provisions of this chapter. (1983 Code, § 11-201)

16-302. Designation of base line and directions. College Street shall constitute the base line which will divide the city into northern and southern parts. Hereafter all streets north of this base line and running generally in a northerly-southerly direction shall be considered "North" streets, and likewise all streets south of this base line and running generally in a northerly-southerly direction shall be considered "South" streets. Main Street shall be considered the base line which divides the city into east and west parts. Hereafter streets east of this base line and running in a generally easterly-westerly direction shall be considered "East" streets and likewise streets west of Main Street and running in a generally easterly-westerly direction shall be considered "West" streets.

(1) Each building north of College Street and facing a street running in a northerly direction shall carry a number and address indicating its location north of said base streets.

(2) Each building south of the north-south base line and facing a street running in a southerly direction shall carry a number and address indicating its location south of said base streets.

(3) Each building east of Main Street, and facing a street running in an easterly direction shall carry a number and address indicating its location east of said base street.

(4) Each building west of Main Street, and facing a street running in a westerly direction shall carry a number and address indicating its location west of said base street.

(5) All buildings on diagonal streets shall be numbered the same as buildings on northerly and southerly streets if the diagonal runs more from the north to the south, and the same rule shall apply on easterly and westerly streets if the diagonal runs more from the east to the west. (1983 Code, § 11-202)

16-303. Method of numbering buildings. The numbering of buildings on each street shall begin at the base line. All numbers shall be assigned on the basis of one number for each 25 feet of frontage along the street. Grid lines, as shown on the property numbering map, indicate the point at which numbers will change from a hundred to the next higher hundred. All buildings on the south of east-west streets and east of north-south streets shall bear odd numbers and likewise all buildings on the north side of east-west streets and west of north-south streets shall bear even numbers.

(1) Where any building has more than one entrance serving separate occupants, a separate number shall be assigned to each entrance serving an occupant.

(2) The building shall be assigned the number of the 25-foot interval in which the main entrance of the building falls. In measuring the 25-foot intervals of street frontage, if main entrance of the building falls exactly upon the line which divides a 25-foot interval from the next higher interval, either the number of the lower interval or the number of the next higher interval will be assigned to that entrance.

(3) A multiple family dwelling having only one entrance shall be assigned only one number, and separate apartments in the building will carry a letter designation such as A, B, C, in addition to the number assigned to the main entrance of the building.

(4) The duplex houses having 2 front entrances shall have a separate number for each entrance. In the event that both entrances fall within the same increment, either the preceding number or next highest number shall be used for one entrance number, and the interval number in which the entrances fall shall be used for the other entrance.

(5) All buildings facing streets not extending through to the base line shall be assigned the same relative numbers as if the said street had extended to the said base line. (1983 Code, § 11-203)

16-304. Directional designation of streets, avenues, etc. In addition to the numbers placed on each house or other building as heretofore provided, all streets, avenues, and other public ways within the city are hereby given the following directional designation.

- (1) All streets north of College Street and running in a generally northerly direction are given the direction North as part of the street name.
- (2) All streets south of College Street and running in a generally southerly direction are given the direction South as part of the street name.
- (3) All streets east of Main Street and running in an easterly direction are given the direction East as part of the street name.
- (4) All streets west of Main Street and running in a westerly direction are given the direction West as part of the street name. (1983 Code, § 11-204)

16-305. Numbering of buildings, houses, etc., is required. The mayor and city council shall cause the necessary survey to be made and completed within six (6) months from the date of adoption of this chapter and thereafter there shall be assigned to each house and other residential or commercial building located on any street, avenue, or public way in said city, its respective number under the uniform system provided for in this chapter according to said survey. When the said survey shall have been completed and each house or building has been assigned its respective number or numbers, the owner, occupant, or agent shall place or cause to be placed upon each house or building controlled by him the number or numbers assigned under the uniform system as provided in this chapter.

- (1) Such numbers shall be placed on existing buildings on or before the effective date of this chapter and within twenty (20) days after the assigning of the proper number in case of numbers assigned after the effective date of this chapter. The cost of the numbers shall be paid for by the property owner and numbers affixed to property at the price of seventy-five (75) cents the cost of such units to the city. The numbers used shall not be less than three (3) inches in height and shall be made of durable and clearly visible material.

- (2) The numbers shall be conspicuously placed immediately above, on, or at the side of the proper door of each building so that the number can be seen plainly from the street line. Whenever any building is situated more than seventy-five (75) feet from the street line, the numbers shall be placed near the walk, driveway, or common entrance to such building upon a gate post, fence, tree post, or other appropriate place so as to be easily discernible from the sidewalk. (1983 Code, § 11-205)

16-306. Plat book of streets, avenues, etc., must be maintained. For the purpose of facilitating a correct numbering, a plat book of all streets, avenues, and public ways within the city showing the proper numbers of all houses or other buildings fronting upon all streets, avenues, or public ways shall be kept on file in the office of the city superintendent of streets. These plats shall be open to inspection of all persons during the office hours of the superintendent. Duplicate copies of such plats shall be furnished to the engineer and building inspector by the superintendent of streets. (1983 Code, § 11-206)

16-307. Duty of street superintendent. It shall be the duty of the city superintendent of streets to inform any party applying therefor of the number or numbers belonging to or embraced within the limits of any said lot or property as provided in this chapter. In case of conflict as to the proper number to be assigned to any building, the said superintendent shall determine the number of such building. (1983 Code, § 11-207)

16-308. New houses, buildings, etc. Whenever any house, building, or structure shall be erected or located in the City of Dyer after the establishment of a uniform system of house and building numbering has been completed, in order to preserve the continuity and uniformity of numbers of the houses, buildings, and structures, it shall be the duty of the owner to procure the correct number or numbers as designated from the city superintendent of streets for the said property and immediately to fasten the said number or numbers so assigned upon said building as provided by this chapter. No building permit shall be issued for any house, building, or structure until the owner has procured from the superintendent of streets the official number of the premises. Final approval of any structure erected, repaired, altered, or modified after the effective date of this chapter shall be withheld by the city building inspector until permanent and property numbers have been affixed to said structure. (1983 Code, § 11-208)

16-309. Subdivision plats. Every subdivision plat submitted to the planning commission for their approval after the effective date of this chapter shall show the proper names of any and all streets, and these street designations shall be approved by the planning commission before such new streets are officially named. (1983 Code, § 11-209)

16-310. Names may be changed by resolution. The city council by resolution may change, rename, or name an existing or newly established street within the limits of said city at any time after the adoption of this chapter upon recommendation of the planning commission and after consultation with the county court or county planning commission, if any, and any other governmental agency directly affected thereby. (1983 Code, § 11-210)

16-311. Plan for effecting system. For the purpose of clarifying and systematizing the present street naming pattern in the City of Dyer and to implement the application of the matters set forth in previous sections, there is hereby adopted the following plan.

(1) The planning commission of said city is hereby authorized to prepare and present to the mayor and city council a complete plan for the naming of all streets, avenues, and public ways within said city.

(2) Said planning commission shall follow the general plan set forth in previous sections and such other rules as are herein set forth.

(3) If said commission shall find an existing street now carrying more than one name, it shall recommend that said street shall bear the name under which it currently travels the longest distance both inside and outside the city limits of said city unless circumstances indicate that another and different name would be desirable. Said commission, if it sees fit, may hold public hearings at which interested property owners may express their views concerning the changing of the name or names of any street. (1983 Code, § 11-211)

16-312. Effective date of system. This chapter and all house and building numbers assigned under the provisions hereof shall become effective six months from the date the city council shall by resolution accept and ratify the recommendations made by the planning commission, and shall determine that the superintendent of streets has completed the survey required by this chapter. (1983 Code, § 11-212)

CHAPTER 4

DYER MUNICIPAL REGIONAL SUBDIVISION REGULATIONS

SECTION

16-401. Subdivision regulations to be governed by planning commission.

16-401. Subdivision regulations to be governed by planning commission.
The Subdivision Regulations are governed by the Dyer Regional Planning Commission with a copy of these regulations available in the Dyer city hall.

TITLE 17

REFUSE AND TRASH DISPOSAL¹

CHAPTER

1. REFUSE.

CHAPTER 1

REFUSE

SECTION

- 17-101. Definitions.
- 17-102. Collection service.
- 17-103. Fee for collection service.
- 17-104. Billing.
- 17-105. Collection service for non-residents.
- 15-106. Solid waste fund.

17-101. Definitions. Residents, for the purposes of this chapter, are defined as any person, firm, or corporation within the corporate limits that is required to pay a water bill, and any other person, firm, or corporation that might desire such service and requests the same of the city. (1983 Code, § 8-201)

17-102. Collection service. All residents of the city are hereby required to collect all of their personal trash and refuse and place the same at the curb or edge of the street in front of their residence, apartment, home, mobile home, or business where there is no alley or street in the rear of such residence, apartment home, mobile home, or business on Tuesday, the third day of each week; however, those residents whose residence, apartment, home, mobile home, or business has an alley or street at the rear of same which provides a convenient means of ingress and egress by the city trash or garbage trucks shall place such trash or refuse at the edge of such alley or street at the rear of their residences, apartment, home, mobile home, or business. (1983 Code, § 8-202)

17-103. Fee for collection service. All residents who are charged with a water bill, monthly or otherwise, or who have requested such service, shall pay

¹Municipal code reference

Property maintenance regulations: title 13.

a fee for such trash and refuse collection service to be fixed by resolution from time to time by the city council.¹ (1983 Code, § 8-203)

17-104. Billing. The monthly collection charge as provided for in § 17-103 shall be billed with the monthly water bill and collected with the same. (1983 Code, § 8-204)

17-105. Collection service for non-residents. The city council shall negotiate with non-residential users for charges made for the services described in this chapter, but in no event shall the charge be less than one dollar (\$1.00) per month. (1983 Code, § 8-205)

17-106. Solid waste fund. (1) Created. There is hereby created a Solid Waste Fund for the City of Dyer. The solid waste fund shall be the depository for all revenues generated by the solid waste department and shall be the source for all expenditures made by the solid waste department. The city recorder shall, within thirty (30) days of the effective date of the ordinance comprising this section, show proof that a solid waste fund has been created at the bank serving as the city's depository and that financial records have been created to reflect all transactions involving the solid waste fund.

(2) Use of solid waste funds. No officer or employee of the City of Dyer shall permit the funds of the solid waste fund to be used for any purpose except those approved in the annual budget, and any amendments thereto, for the operation of the solid waste department. Funds committed to the solid waste fund shall not be co-mingled or deposited with any other municipal fund; except that nothing in this section shall be construed to prohibit the use of solid waste funds to reimburse the general fund for pro-rata administrative overhead and management of the solid waste department. (as added by Ord. #2012-204, February 2012)

¹Administrative resolutions and ordinances are of record in the recorder's office.

TITLE 18**WATER AND SEWERS¹****CHAPTER**

1. WATER.
2. WATER MAINS AND FIRE PLUGS.
3. SEWERS.
4. SEWAGE AND SEWAGE DISPOSAL.
5. CROSS CONNECTIONS, AUXILIARY INTAKES, ETC.

CHAPTER 1**WATER****SECTION**

- 18-101. Application and scope.
- 18-102. Definitions.
- 18-103. Obtaining service.
- 18-104. Application and contract for service.
- 18-105. Service charges for temporary service.
- 18-106. Connection charges.
- 18-107. Main extensions to developed areas.
- 18-108. Main extensions to other areas.
- 18-109. Variances from and effect of preceding rules as to extensions.
- 18-110. Meters.
- 18-111. Meter tests.
- 18-112. Multiple services through a single meter.
- 18-113. Billing.
- 18-114. Discontinuance or refusal of service.
- 18-115. Re-connection charge.
- 18-116. Termination of service by customer.
- 18-117. Access to customers' premises.
- 18-118. Inspections.
- 18-119. Customer's responsibility for system's property.
- 18-120. Customer's responsibility for violations.
- 18-121. Supply and resale of water.
- 18-122. Unauthorized use of or interference with water supply.
- 18-123. Limited use of unmetered private fire line.

¹Municipal code references

Building, utility and housing codes: title 12.

Refuse disposal: title 17.

- 18-124. Damages to property due to water pressure.
- 18-125. Liability for cutoff failures.
- 18-126. Restricted use of water.
- 18-127. Interruption of service.
- 18-128. Schedule of rates.
- 18-129. Leak adjustment procedure.

18-101. Application and scope. These rules and regulations are a part of all contracts for receiving water service from the city and shall apply whether the service is based upon contract, agreement, signed application, or otherwise. (1983 Code, § 13-101)

18-102. Definitions. (1) "Customer" means any person, firm, or corporation who receives water service from the city under either an express or implied contract.

(2) "Household" means any two (2) or more persons living together as a family group.

(3) "Service line" shall consist of the pipe line extending from any water main of the city to private property. Where a meter and meter box are located on private property, the service line shall be construed to include the pipe line extending from the city's water main to and including the meter and meter box.

(4) "Discount date" shall mean the date ten (10) days after the date of a bill, except when some other date is provided by contract. The discount date is the last date upon which water bills can be paid at net rates.

(5) "Dwelling" means any single structure, with auxiliary buildings, occupied by one or more persons or households for residential purposes.

(6) "Premise" means any structure or group of structures operated as a single business or enterprise, provided, however, the term "premise" shall not include more than one (1) dwelling. (1983 Code, § 13-102)

18-103. Obtaining service. A formal application for either original or additional service must be made and be approved by the city before connection or meter installation orders will be issued and work performed. (1983 Code, § 13-103)

18-104. Application and contract for service. Each prospective customer desiring water service will be required to sign a standard form of contract at least five (5) working days before service is supplied. If, for any reason, a customer, after signing a contract for service, does not take such service by reason of not occupying the premises or otherwise, he shall reimburse the city for the expense incurred by reason of its endeavor to furnish said service.

The receipt of a prospective customer's application for service, regardless of whether or not accompanied by a deposit, shall not obligate the city to render the service applied for. If the service applied for cannot be supplied in accordance with these rules, regulations, and general practice, the liability of the city to the applicant for such service shall be limited to the return of any deposit made by such applicant. (1983 Code, § 13-104)

18-105. Service charges for temporary service. Customers requiring temporary service shall pay all costs for connection and disconnection incidental to the supplying and removing of service in addition to the regular charge for water used. (1983 Code, § 13-105)

18-106. Connection charges. Service lines will be laid by the city from the water main to the property line at the expense of the applicant for service. The location of such lines is determined by the city.

Before a new service line is laid by the city, the applicant shall pay the following fees:

(1) One hundred seventy dollars (\$170.00) for a three-fourths inch (3/4") tapping permit inside the corporate limits and three hundred forty dollars (\$340.00) for a three-fourths inch (3/4") tapping permit outside the corporate limits; plus the cost of material used for lines laid to private property line including meter setter, water meter, and meter box with all other material used.

(2) Two hundred dollars (\$200.00) for a one inch (1") tapping permit inside the corporate limits and four hundred dollars (\$400.00) for a one inch (1") permit outside the corporate limits; plus the cost of material used for lines laid to private property line including meter setter, water meter, and meter box with all other material used.

(3) Two hundred fifty dollars (\$250.00) for a two inch (2") tapping permit inside the corporate limits and five hundred dollars (\$500.00) for a two inch (2") tapping permit outside the corporate limits; plus the cost of material used for lines laid to private property line including meter setter, water meter, and meter box with all other material used.

In addition, there shall be a fifty dollar (\$50.00) deposit required for each meter used, which deposit shall be refunded upon termination of service and payment of all charges due the city by the customer.

When a service line is completed, the city shall be responsible for the maintenance and upkeep of such service line from the main to and including the meter and meter box, and such portion of the service line shall belong to the city. The remaining portion of the service line beyond the meter box shall belong to and be the responsibility of the customer.

From time to time, the city council sets the charges and fees for water, sewer, trash collection, or deposit on meters by either appropriate ordinance or resolution. (1983 Code, § 13-106, as amended by Ord. #91-39, Sept. 1991, and replaced by Ord. #2001-116, July 2001)

18-107. Main extensions to developed areas. The provisions of this section shall apply only to water main extensions of 500 feet or less to areas where there is a demand for water service by the occupants of existing houses. This section shall in no event be applicable to land development projects and subdivision promotion, even though accompanied by the erection of occasional houses within such areas.

Owners of property to be served by a proposed water main extension of the character to which this section applies shall pay to the city the regular charge for each connection desired immediately and shall also assume one minimum monthly bill for each 100 feet, or fraction thereof, of said proposed extension, the connection charge to be paid and the agreement to pay minimum monthly bills to be signed before the work is begun. The city shall require a cash deposit as security for such minimum bill agreement, in an amount that does not exceed the estimated cost of the main extension, before making any such requested extension. Beginning with the completion of the water main extension, such persons shall pay water bills at least equal to the minimum monthly charges agreed upon, until the obligation for the payment of such minimum monthly water bills shall have been assumed by other persons acceptable to the city, at which times pro rata amounts of the cash deposit shall also be returned to the depositors. (1983 Code, § 13-107)

18-108. Main extensions to other areas. The provisions of this section shall apply to all areas to which the preceding section is not applicable. Customers desiring water main extensions pursuant to this section must pay all of the cost of making such extensions.

For installations under this or the preceding section, cement-lined cast iron pipe, class 150 American Water Works Association Standard, not less than six (6) inches in diameter shall be used to the dead end of any line and to form loops or continuous lines, so that fire hydrants may be placed on such lines at locations no farther than 500 feet from the most distant part of any dwelling structure and no farther than 600 feet from the most distant part of any commercial, industrial, or public building, such measurements to be based on road or street distances; cement-lined cast iron pipe two (2) inches in diameter, to supply dwellings only, may be used to supplement such lines. All such lines shall be installed either by city forces or by other forces working directly under the supervision of the city.

Upon completion of such extensions and their approval by the city, such water mains shall become the property of the city. The persons paying the cost of constructing such mains shall execute any written instruments requested by the city to provide evidence of the city's title to such mains. In consideration of such mains being transferred to it, the city shall incorporate said mains as an integral part of the municipal water system and shall furnish water therefrom in accordance with these rules and regulations, subject always to such limitations as may exist because of the size and elevation of said mains. As

further consideration, the city shall repay to the person or persons paying the cost of such water main extension, for a period of five (5) years, but no longer, from the date of completion of said extension the sum of \$50.00 for each connection that is made to such main extension; provided, however, that the total payments shall in no event exceed the cost of the said extension paid by such person or persons. Provided, also, that before making any such payment the city shall have the right to require that the customer making the connection in question shall sign a contract for water service for a period of time to be fixed by the city, but not to exceed three (3) years.

No repayment shall be made for service line connections not made directly to the water main extension in question, even though such service line connections are made to a main extended from, or receiving water through, the main extension in question. (1983 Code, § 13-108)

18-109. Variances from and effect of preceding rules as to extensions. Whenever the city council is of the opinion that it is to the best interest of the water system to construct a water main extension without requiring strict compliance with §§ 18-107 and 18-108, such extension may be constructed upon such terms and conditions as shall be approved by a majority of the members of the city council.

The authority to make water main extensions under §§ 18-107 and 18-108 is permissive only and nothing contained therein shall be construed as requiring the city to make water main extensions or to furnish service to any person or persons. (1983 Code, § 13-109)

18-110. Meters. All meters shall be installed, tested, repaired, and removed only by the city.

No one shall do anything which will in any way interfere with or prevent the operation of a meter. No one shall tamper with or work on a water meter without the written permission of the city. No one shall install any pipe or other device which will cause water to pass through or around a meter without the passage of such water being registered fully by the meter. (1983 Code, § 13-110)

18-111. Meter tests. The city will, at its own expense, make routine tests of meters when it considers such tests desirable.

In testing meters, the water passing through a meter will be weighed or measured at various rates of discharge and under varying pressures. To be considered accurate, the meter registration shall check with the weighed or measured amounts of water within the percentage shown in the following table:

<u>Meter Size</u>	<u>Percentage</u>
5/8", 3/4", 1", 2"	2%
3"	3%

4"	4%
6"	5%

The city will also make tests or inspections of its meters at the request of the customer. However, if a test requested by a customer shows a meter to be accurate within the limits stated above, the customer shall pay a meter testing charge in the amount stated in the following table:

<u>Meter Size</u>	<u>Test Charge</u>
5/8", 3/4", 1"	\$2.00
1-1/2", 2"	5.00
3"	8.00
4"	12.00
6" and over	20.00

If such test show a meter not to be accurate within such limits, the cost of such meter test shall be borne by the city. (1983 Code, § 13-111)

18-112. Multiple services through a single meter. No customer shall supply water service to more than one dwelling or premise from a single service line and meter without first obtaining the written permission of the city. (1983 Code, § 13-113)

18-113. Billing. The monthly water service charge may be billed to the customer and user thereof with the monthly electric, sewage, and garbage bill. Water bills must be paid on or before the discount date shown thereon to obtain the net rate; otherwise the gross rate shall apply. Failure to receive a bill will not release a customer from payment obligation, nor extend the discount date.

The water bill shall advise the customer that his service may be discontinued if the bill is not paid on or before the fourth Thursday of the month. The city shall not be liable for any damages resulting from discontinuing service under the provisions of this section, even though payment of the bill is made at any time on the day that service is actually discontinued.

Should the final date of payment of a bill at the net rate fall on Sunday or a holiday, the business day next following the final date will be the last day to obtain the net rate. A net remittance received by mail after the time limit for payment at the net rate will be accepted by the city if the envelope is date-stamped on or before the final date for payment of the net amount.

If a meter fails to register properly, or if a meter is removed to be tested or repaired, or if water is received other than through a meter, the city reserves the right to render an estimated bill based on the best information available.

Should a customer remain in default of payment of his monthly water bill after the fourth Thursday of the month, then water service to such customer shall be discontinued and a penalty of ten percent (10%) shall be added to the

total charge, plus other charges as provided by municipal code. (1983 Code, § 13-114, as replaced by Ord. #2010-193, Oct. 2010)

18-114. Discontinuance or refusal of service. The city shall have the right to discontinue service or to refuse to connect service for a violation of, or a failure to comply with, any of the following:

- (1) These rules and regulations.
- (2) The customer's application for service.
- (3) The customer's contract for service.

Discontinuance of service by the city for any cause stated in these rules and regulations shall not release the customer from liability for service already received or from liability for payments that thereafter become due under other provisions of the customer's contract.

No service shall be discontinued unless the customer is given reasonable notice in advance of such impending action and the reason therefor. The customer shall also be notified of his right to a hearing prior to such disconnection if he disputes the reason therefor and requests such hearing by the date specified in the notice. When a hearing is requested, the customer shall have the right to have a representative at such hearing and shall be entitled to testify and to present witnesses on his behalf. Also, when such hearing has been requested the customer's service shall not be terminated until a final decision is reached by the hearing officer and the customer is notified of that decision. (1983 Code, § 13-115)

18-115. Re-connection charge. Whenever service has been discontinued as provided for above, a re-connection charge of fifty dollars (\$50.00) shall be collected by the city before service is restored. (Ord. #96-72, May 1996, as replaced by Ord. #2004-139, June 2004)

18-116. Termination of service by customer. Customers who have fulfilled their contract terms and wish to discontinue service must give at least three (3) days written notice to that effect unless the contract specifies otherwise. Notice to discontinue service prior to the expiration of a contract term will not relieve the customer from any minimum or guaranteed payment under such contract or applicable rate schedule.

When service is being furnished to an occupant of premises under a contract not in the occupant's name, the city reserves the right to impose the following conditions on the right of the customer to discontinue service under such a contract:

- (1) Written notice of the customer's desire for such service to be discontinued may be required; and the city shall have the right to continue such service for a period of not to exceed ten (10) days after receipt of such written notice, during which time the customer shall be responsible for all charges for such service. If the city should continue service after such ten (10) day period

subsequent to the receipt of the customer's written notice to discontinue service, the customer shall not be responsible for charges for any service furnished after the expiration of such ten (10) day period.

(2) During the ten (10) day period, or thereafter, the occupant of premises to which service has been ordered discontinued by a customer other than such occupant, may be allowed by the city to enter into a contract for service in the occupant's own name upon the occupant's complying with these rules and regulations with respect to a new application for service. (1983 Code, § 13-117)

18-117. Access to customers' premises. The city's identified representatives and employees shall be granted access to all customers' premises at all reasonable times for the purpose of reading meters, for testing, inspecting, repairing, removing, and replacing all equipment belonging to the city, and for inspecting customers' plumbing and premises generally in order to secure compliance with these rules and regulations. (1983 Code, § 13-118)

18-118. Inspections. The city shall have the right, but shall not be obligated, to inspect any installation or plumbing system before water service is furnished or at any later time. The city reserves the right to refuse service or to discontinue service to any premises not meeting standards fixed by municipal ordinances regulating building and plumbing, or not in accordance with any special contract, these rules and regulations, or other requirements of the city.

Any failure to inspect or reject a customer's installation or plumbing system shall not render the city liable or responsible for any loss or damage which might have been avoided, had such inspection or rejection been made. (1983 Code, § 13-119)

18-119. Customer's responsibility for system's property. Except as herein elsewhere expressly provided, all meters, service connections, and other equipment furnished by or for the city shall be and remain the property of the city. Each customer shall provide space for and exercise proper care to protect the property of the city on his premises. In the event of loss or damage to such property, arising from the neglect of a customer properly to care for same, the cost of necessary repairs or replacements shall be paid by the customer. (1983 Code, 13-120)

18-120. Customer's responsibility for violations. Where the city furnishes water service to a customer, such customer shall be responsible for all violations of these rules and regulations which occur on the premises so served. Personal participation by the customer in any such violations shall not be necessary to impose such personal responsibility on him. (1983 Code, § 13-121)

18-121. Supply and resale of water. All water shall be supplied within the city exclusively by the city and no customer shall, directly or indirectly, sell, sublet, assign, or otherwise dispose of the water or any part thereof except with written permission from the city. (1983 Code, § 13-122)

18-122. Unauthorized use of or interference with water supply. No person shall turn on or turn off any of the city's stop cocks, valves, hydrants, spigots, or fire plugs without permission or authority from the city. (1983 Code, § 13-123)

18-123. Limited use of unmetered private fire line. Where a private fire line is not metered, no water shall be used from such line or from any fire hydrant thereon, except to fight fire or except when being inspected in the presence of an authorized agent of the city.

All private fire hydrants shall be sealed by the city, and shall be inspected at regular intervals to see that they are in proper condition and that no water is being used therefrom in violation of these rules and regulations. When the seal is broken on account of fire, or for any other reason, the customer taking such service shall immediately give the city a written notice of such occurrence. (1983 Code, § 13-124)

18-124. Damages to property due to water pressure. The city shall not be liable to any customer for damages caused to his plumbing or property by high pressure, low pressure, or fluctuations in pressure in the city's water mains. (1983 Code, § 13-125)

18-125. Liability for cutoff failures. The city's liability shall be limited to the forfeiture of the right to charge a customer for water that is not used but is received from a service line under any of the following circumstances:

- (1) After receipt of at least ten (10) days' written notice to cut off water service, the city has failed to cut off such service.
- (2) The city has attempted to cut off a service but such service has not been completely cut off.
- (3) The city has completely cut off a service, but subsequently, the cutoff develops a leak or is turned on again so that water enters the customer's pipes from the city's main.

Except to the extent stated above, the city shall not be liable for any loss or damage resulting from cutoff failures. If a customer wishes to avoid possible damage for cutoff failures, the customer shall rely exclusively on privately owned cutoffs and not on the city's cutoff. Also, the customer (and not the city) shall be responsible for seeing that his plumbing is properly drained and is kept properly drained, after his water service has been cut off. (1983 Code, § 13-126)

18-126. Restricted use of water. In times of emergencies or in times of water shortage, the city reserves the right to restrict the purposes for which water may be used by a customer and the amount of water which a customer may use. (1983 Code, § 13-127)

18-127. Interruption of service. The city will endeavor to furnish continuous water service, but does not guarantee to the customer any fixed pressure or continuous service. The city shall not be liable for any damages for any interruption of service whatsoever.

In connection with the operation, maintenance, repair, and extension of the municipal water system, the water supply may be shut off without notice when necessary or desirable, and each customer must be prepared for such emergencies. The city shall not be liable for any damages from such interruption of service or for damages from the resumption of service without notice after any such interruption. (1983 Code, § 13-128)

18-128. Schedule of rates. All water furnished by the city shall be measured or estimated in gallons to the nearest multiple of ten (10) and shall be furnished under the rates:

Per month, inside corporate limits--\$14.40 per month base fee; \$.27 per 100 gallons of usage plus sales tax as provided by law; and

Per month, outside corporate limits--\$16.40 per month base fee; \$.27 per 100 gallons of usage plus sales tax as provided by law; and

Per month, inside corporate limits Commercial--\$15.40 per month base fee; \$.27 per 100 gallons of usage plus sales tax as provided by law;

Per month; outside corporate limits commercial--\$17.40 per month base fee; \$.27 per 100 gallons of usage plus sales tax as provided by law; and

The foregoing schedule of rates and charges shall apply only to single dwellings or commercial units. Where two (2) or more dwelling units are served from a common meter, such as an apartment building, the total monthly consumption shall be divided between the number of dwelling units serviced, for computation of applicable brackets, and each dwelling unit served will be computed according to the foregoing schedule.

The minimum charge shall apply to each dwelling unit served.

The charges and rates to be made against any industry requiring a minimum of one million (1,000,000) gallons of water per month may negotiate its rate with the city council.

From time to time, the city council sets the charges and fees for water, sewer, trash collection, or deposit on meters by appropriate ordinance. (1983 Code, § 13-112, as replaced by Ord. #2001-118, July 2001, Ord. #2002-121, April 2002, Ord. #2008-163, June 2008, Ord. #2009-170, July 2009, Ord. #2010-181, June 2010, Ord. #2010-195, Nov. 2010, and Ord. #2011-199, June 2011)

18-129. Leak adjustment procedure. (1) A customer may apply once every twelve (12) months to have their water and sewer bill adjusted due to a leak or plumbing malfunction on the customer's side of the meter.

(2) Dyer will use the following method to calculate the adjustment:

(a) Request for adjustments for any unusual high bills are submitted in writing explaining the problem and conditions to the city recorder's office.

(b) If adjustment is approved, customer pays the entire amount of metered water; but the sewer charge is adjusted to a minimum sewer fee.

If the customer is not satisfied with this decision, it may be appealed before the entire board of aldermen. (as added by Ord. #2010-194, Nov. 2010)

CHAPTER 2

WATER MAINS AND FIRE PLUGS¹

SECTION

18-201. Standards and specifications.

18-202. General application of this chapter.

18-203. Violations and penalties.

18-201. Standards and specifications. The State Inspection Bureau standards and specifications for the construction of water mains and installation of fire plugs within the corporate limits shall be applicable to all water mains and fire plugs installed by the City of Dyer and any utility district authorized to service water customers within the City of Dyer. Provided, however, the minimum specifications for the installation of water mains shall be six-inch (6") cast iron water mains, and fire plugs installed thereon shall not be in excess of five hundred (500) feet from the nearest residence. (1983 Code, § 13-201)

18-202. General application of this chapter. The requirements for the installation of fire plugs shall be applicable to all installed by the City of Dyer or by any utility district within the corporate limits of the City of Dyer. Any lines constructed by the City of Dyer and any fire plugs installed thereon by the City of Dyer shall be at the expense of the City of Dyer, and any lines that any utility district is authorized to install and any fire plugs installed thereon by said utility district shall be at the expense of the utility district; and such lines and fire plugs shall remain the property of the respective parties; but the City of Dyer shall have the right to use said fire plugs for the purpose of combating fires in those areas within the corporate limits serviced by any utility district. (1983 Code, § 13-202)

18-203. Violations and penalties. Any person, firm, corporation, or governmental entity found in violation of this chapter shall be punishable under the general penalty clause of this code. (1983 Code, § 13-203)

¹Municipal code references

Building and plumbing codes: title 12.

Fire code: title 7.

CHAPTER 3

SEWERS¹

SECTION

- 18-301. Use of system regulated.
- 18-302. Permit and supervision required for connecting to system.
- 18-303. Connection fees.
- 18-304. Installation of lateral lines, etc.
- 18-305. Sewer service charges.
- 18-306. Extension policies.

18-301. Use of system regulated. All persons using, desiring, or required to use the public sanitary sewer system shall comply with the provisions of this chapter and with such written rules and regulations as may be prescribed by the superintendent of the sewer system when such rules and regulations have been approved by the city council. (1983 Code, § 13-301)

18-302. Permit and supervision required for connecting to system. No premises shall be connected to the public sanitary sewer system without a permit from the city recorder. Also all connections to the system must be made under the direct supervision of the superintendent of the sewer system or someone designated by him. (1983 Code, § 13-302)

18-303. Connection fees. No permit to connect to the public sanitary sewer system shall be granted unless the applicant first pays to the city recorder the following sewer connection fees:

(1) One hundred seventy-five dollars for a four inch (4") tapping permit inside the corporate limits and three hundred fifty dollars for a four inch (4") outside the corporate limits; plus the cost of all material used for lines laid to private property line.

(2) Three hundred fifty dollars for a six inch (6") tapping permit inside the corporate limits and seven hundred dollars for a six inch (6") outside the corporate limits plus the cost of all material used for lines laid to private property line.

From time to time, the city council sets the charges and fees for sewer collection by either appropriate ordinance or resolution. (1983 Code, § 13-303, as amended by Ord. #91-40, Sept. 1991, and replaced by Ord. #2001-117, July 2001)

¹Municipal code references

Plumbing provisions: title 12.

Sewers and sewage disposal: title 18, chapter 4.

18-304. Installation of lateral lines, etc. When connections to the public sanitary sewer system are required and/or permitted, the city shall be responsible for installing all the necessary lateral lines and facilities from the sewer main to the property line unless there is a written contract between the city council and the property owner to the contrary. All necessary installations within the property lines shall be made by the owner. (1983 Code, § 13-304)

18-305. Sewer service charges. Sewer service charges shall be collected from the persons billed for water services to any premises with an accessible sanitary sewer at the rate set forth in the following schedule:

Per month, inside the corporate limits--\$10.25 per month base fee; \$.39 per 100 gallons of metered water usage; and

Per month, outside corporate limits--\$12.25 per month base fee; \$.39 per 100 gallons of metered water usage; and

All industrial and commercial users of the system shall be subject to negotiation provided in the sewer use ordinance (this title, chapter 4).

The sewer water charges shall be collected as a unit and no municipal employee shall accept a payment of water service charges from any customer without receiving at the same time, payment of all sewer services charges owed by such customer. Water service may be disconnected for non-payment of the combined bill.

From time to time, the city council sets the charges and fees for water, sewer, trash collection, or deposit on meters by appropriate ordinance. (1983 Code, § 13-305, as replaced by Ord. #2001-119, July 2001, Ord. #2002-122, April 2002, Ord. #2008-164, June 2008, Ord. #2009-171, July 2009, Ord. #2010-182, June 2010, Ord. #2010-196, Nov. 2010, and Ord. #2011-200, June 2011)

18-306. Extension policies. Insofar as practicable, the various policies set forth in chapter 1 of this title with respect to extending water service facilities shall also apply to extending sewer service facilities except that where, in such provisions, a six-inch cement-lined cast iron pipe is specified for water purposes, an eight-inch pipe of salt glazed vitrified clay or other construction approved by the city council shall be substituted for sewer purposes. (1983 Code, § 13-306)

CHAPTER 4**SEWERS AND SEWAGE DISPOSAL****SECTION**

- 18-401. Purpose and policy.
- 18-402. Definitions.
- 18-403. Requirements for proper wastewater disposal.
- 18-404. Physical connection to public sanitary sewers.
- 18-405. Inspection of connections.
- 18-406. Maintenance of building sewers.
- 18-407. Availability of public sewers.
- 18-408. Requirements for private wastewater disposal systems.
- 18-409. Permit for septic tank cleaners.
- 18-410. Fees.
- 18-411. Designated disposal locations for septic tank equipment.
- 18-412. Revocation of permit for septic tank cleaners.
- 18-413. Applications for discharge of domestic wastewater.
- 18-414. Industrial wastewater discharge permits.
- 18-415. Confidential information.
- 18-416. General discharge prohibitions.
- 18-417. Protection of treatment plant influent.
- 18-418. Federal categorical pretreatment standards.
- 18-419. Right to establish more restrictive criteria.
- 18-420. Special agreements.
- 18-421. Exceptions to discharge criteria.
- 18-422. Accidental discharge.
- 18-423. Monitoring facilities for industrial users.
- 18-424. Inspection and sampling.
- 18-425. Compliance date report.
- 18-426. Periodic compliance reports.
- 18-427. Maintenance of records.
- 18-428. Safety.
- 18-429. Issuance of cease and desist orders.
- 18-430. Submission of time.
- 18-431. Show cause hearing.
- 18-432. Legal action.
- 18-433. Emergency termination of service.
- 18-434. Public nuisance.
- 18-435. Correction of violation and collection of costs.
- 18-436. Damage to facilities.
- 18-437. Civil liabilities.
- 18-438. Civil penalties.
- 18-439. Falsifying information.

- 18-440. Purpose.
- 18-441. Types of charges and fees.
- 18-442. Fees for applications for discharge.
- 18-443. Inspection fee and tapping fee.
- 18-444. Sewer user charges.
- 18-445. Surcharge fees.
- 18-446. Industrial wastewater discharge permit fees.
- 18-447. Fees for industrial discharge monitoring.
- 18-448. Billing.

18-401. Purpose and policy. This chapter sets forth uniform requirements for the disposal of wastewater in the service area of the City of Dyer, Tennessee, wastewater treatment system. The objectives of this chapter are:

- (1) To protect the public health;
- (2) To provide problem free wastewater collection and treatment service;
- (3) To prevent the introduction of pollutants into the municipal wastewater treatment system, which will interfere with the system's operation, will cause the city's discharge to violate its National Pollutant Discharge Elimination System (NPDES) permit or other applicable state requirements or will cause physical damage to the wastewater treatment system;
- (4) To provide for full and equitable distribution of the cost of the wastewater treatment system;
- (5) To enable the City of Dyer to comply with the provisions of the Federal Clean Water Act, the General Pretreatment Regulations (40 CFR Part 403), and other applicable federal and state laws and regulations.
- (6) To improve the opportunity to recycle and reclaim wastewaters and sludges from the wastewater treatment system.

In meeting these objectives, this chapter provides that all persons in the service area of the City of Dyer must have adequate wastewater treatment system or, where the system is not available, an appropriate private disposal system. The chapter also provides for the issuance of permits to system users, for the regulations of wastewater discharge volume and characteristics, for monitoring and enforcement activities; and for the setting of fees for the full and equitable distribution of costs resulting from the operation, maintenance, and capital recovery of the wastewater treatment system and from other activities required by the enforcement and administrative program established herein.

This chapter shall apply to the City of Dyer, Tennessee, and to persons outside the city who are, by contract or agreement with the city, users of the municipal wastewater treatment system. Except as otherwise provided herein, the water and sewer superintendent of the City of Dyer shall administer, implement, and enforce the provisions of this chapter. (1983 Code, § 8-301)

18-402. Definitions. Unless the context specifically indicates otherwise, the following terms and phrases as used in this chapter, shall have the meanings hereinafter designated:

(1) "Act or "the Act." The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. 1251 et seq.

(2) "Approval authority." The director in an NPDES state with an approved state pretreatment program and the administrator of the EPA in a non-NPDES state or NPDES state without an approved state pretreatment program.

(3) "Authorized representative of industrial user." An authorized representative of an industrial user may be:

(a) A principal executive officer of at least the level of vice-president, if the industrial user is a corporation;

(b) A general partner or proprietor if the industrial user is a partnership or proprietorship, respectively;

(c) A duly authorized representative of the individual designated above if such representative is responsible for the overall operation of the facilities from which the indirect discharge originates.

(4) "Biochemical oxygen demand (BOD)." The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure, five (5) days at 20 degrees centigrade expressed in terms of weight and concentration (milligrams per liter (mg/l)).

(5) "Building sewer." A sewer conveying wastewater from the premises of a user to the publicly owned treatment works.

(6) "Categorical standards." National categorical pretreatment standards or pretreatment standard.

(7) "City." The City of Dyer or the city council, City of Dyer, Tennessee.

(8) "Compatible pollutant." Shall mean BOD, suspended pH, and fecal coliform bacteria, and such additional pollutants as are now or may be in the future specified and controlled in this city's NPDES permit for its wastewater treatment works where sewer works have been designated and used to reduce or remove such pollutants.

(9) "Cooling water." The water discharged from any use as air conditioning, cooling, or refrigeration, or to which the only pollutant added is heat.

(10) "Control authority." The term "control authority" shall refer to the "approval authority", defined hereinabove; or the superintendent if the city has an approved pretreatment program under the provisions of 40 CFR, 403.11.

(11) "Customer." Any individual, partnership, corporation, association, or group who receives sewer service from the city under either an express or implied contract requiring payment to the city for such service.

(12) "Direct discharge." The discharge of treated or untreated wastewater directly to the waters of the State of Tennessee.

(13) "Domestic wastewater." Wastewater that is generated by a single family, apartment, or other dwelling unit equivalent containing sanitary facilities for the disposal of wastewater and used for residential purposes only.

(14) "Environmental Protection Agency, or EPA." The U. S. Environmental Protection Agency, or where appropriate the term may also be used as a designation for the administrator or other duly authorized official of the said agency.

(15) "Garbage." Solid wastes from the domestic and commercial preparation, cooking, and dispensing of food, and from the handling, storage and sale of produce.

(16) "Grab sample." A sample which is taken from a waste stream on a one time basis with no regard to the flow in the waste stream and without consideration of time.

(17) "Holding tank waste." Any waste from holding tanks such as vessels, chemical toilets, campers, trailers, septic tanks, and vacuum-pump tank trucks.

(18) "Incompatible pollutant." Any pollutant which is not a "compatible pollutant" as defined in this section.

(19) "Indirect discharge." The discharge or the introduction of nondomestic pollutants from any source regulated under section 307(b) or (c) of the Act, (33 U.S.C. 1317), into the POTW (including holding tank waste discharged into the system).

(20) "Industrial user." A source of indirect discharge which does not constitute a "discharge of pollutants" under regulations issued pursuant to Section 402, of the Act (33 U.S.C. 1342).

(21) "Interference." The inhibition or disruption of the municipal wastewater treatment processes or operations which contributes to a violation of any requirement of the city's NPDES permit. The term includes prevention of sewage sludge use or disposal by the POTW in accordance with 405 of the Act, (33 U.S.C. 1345) or any criteria, guidelines, or regulations developed pursuant to the Solid Waste Disposal Act (SWDA), the Clean Air Act, the Toxic Substances Control Act, or more stringent state criteria (including those contained in any state sludge management plan prepared pursuant to Title IV of SWDA) applicable to the method of disposal or use employed by the municipal wastewater treatment system.

(22) "National categorical pretreatment standard or pretreatment standards." Any regulation containing pollutant discharge limits promulgated by the EPA in accordance with Section 307(b) and (c) of the Act (33 U.S.C. 1347) which applies to a specific category of industrial users.

(23) "NPDES (Natural Pollutant Discharge Elimination System)." The program for issuing, conditioning, and denying permits for the discharge of pollutants from point sources into navigable waters, the contiguous zone, and the oceans pursuant to Section 402 of the Federal Water Pollution Control Act as amended.

(24) "New source." Any source, the construction of which is commenced after the publication of proposed regulations prescribing a Section 307(c) (33 U.S.C. 1317) categorical pretreatment standard which will be applicable to such source, if such standard is thereafter promulgated within 120 days of proposal in the Federal Register. Where the standard is promulgated later than 120 days after proposal, a new source means any source, the construction of which is commenced after the date of promulgation of the standard.

(25) "Person." Any individual, partnership, copartnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or other legal entity, or their legal representatives, agents, or assigns. The masculine gender shall include the feminine and the singular shall include the plural where indicated by the context.

(26) "pH." The logarithm (base 10) of the reciprocal of the concentration of hydrogen ions expressed in grams per liter of solution.

(27) "Pollution." The man-made or man-induced alteration of the chemical, physical, biological, and radiological integrity of water.

(28) "Pollutant." Any dredged spoil, solid waste, incinerator residue, sewage sludge, munitions, chemicals substances, biological materials, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt, and industrial, municipal, and agricultural waste discharged into water.

(29) "Pretreatment or treatment." The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into a POTW. The reduction or alteration can be obtained by physical, chemical, or biological processes, or process changes other means, except as prohibited by 40 CFR Section 40.36(d).

(30) "Pretreatment requirements." Any substantive or procedural requirement related to pretreatment, other than a national pretreatment standard imposed on an industrial user.

(31) "Publicly owned treatment works (POTW)." A treatment works as defined by Section 212 of the Act, (33 U.S.C. 1292) which is owned in this instance by the city. This definition includes any sewers that convey wastewater to the POTW treatment plant, but does not include pipes, sewers or other conveyances not connected to a facility providing treatment. For the purpose of this chapter, "POTW" shall also include any sewers that convey wastewater to the POTW from persons outside the city who are, by contract or agreement with the city, users of the city's POTW.

(32) "POTW treatment plant." That portion of the POTW designed to provide treatment to wastewater.

(33) "Shall" is mandatory; "may" is permissive.

(34) "Slug." Any discharge of water, sewage, or industrial waste which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than fifteen (15) minutes more than five (5) times the

average twenty-four (24) hour concentration of flows during normal operation or any discharge of whatever duration that causes the sewer to overflow or back up in an objectionable way or any discharge of whatever duration that interferes with the proper operation of the wastewater treatment facilities or pumping stations.

(35) "State." State of Tennessee.

(36) "Standard industrial classification (SIC)." A classification pursuant to the standard industrial classification manual issued by the Executive Office of the President, Office of Management and Budget, 1972.

(37) "Storm water." Any flow occurring during or following any form of natural precipitation and resulting therefrom.

(38) "Storm sewer or storm drain." A pipe or conduit which carries storm and surface waters and drainage, but excludes sewage and industrial wastes; it may, however, carry cooling waters and unpolluted waters, upon approval of the superintendent.

(39) "Suspended solids." The total suspended matter that floats on the surface of, or is suspended in, water, wastewater, or other liquids, and which is removable by laboratory filtering.

(40) "Superintendent." The person designated by the city to supervise the operation of the publicly owned treatment works and who is charged with certain duties and responsibilities by this chapter, or his duly authorized representative.

(41) "Toxic pollutant." Any pollutant or combination of pollutants listed as toxic in regulations promulgated by the administrator of the Environmental Protection Agency under the provision of CWA (307 (a)) or other Acts.

(42) "Twenty-four (24) hour flow proportional composite sample." A sample consisting of several portions collected during a 24-hour period in which the portions of a sample are proportioned to the flow and combined to form a representative sample.

(43) "User." Any person who contributes, causes, or permits the contribution of wastewater into the city's POTW.

(44) "Wastewater." The liquid and water-carried industrial or domestic wastes from dwellings, commercial buildings, industrial facilities, and institutions, whether treated or untreated which is contributed into or permitted to enter the POTW.

(45) "Wastewater treatment systems." Defined the same as POTW.

(46) "Waters of the state." All streams, lakes, ponds, marshes, watercourses, waterways, springs, reservoirs, aquifers, irrigation systems, drainage systems, and all other bodies or accumulation of water, surface or underground, and natural or artificial public or private, which are contained within, flow through, or border upon the state or any portion thereof. (1983 Code, § 8-302)

18-403. Requirements for proper wastewater disposal. (1) It shall be unlawful for any person to place, deposit or permit to be deposited in any unsanitary manner on public or private property within the service area of the City of Dyer, any human or animal excrement, garbage, or other objectionable waste.

(2) It shall be unlawful to discharge to any waters of the state within the service area of the City of Dyer any sewage or other polluted waters, except where suitable treatment has been provided in accordance with the subsequent provisions of this chapter.

(3) Except as hereinafter provided, it shall be unlawful to construct any privately owned and operated facility or system for sewage treatment and disposal.

(4) Except as provided in subsection (5) below, the owner of all houses, buildings, or properties used for human occupancy, employment, recreation, or other purposes situated within the service area and abutting on any street, alley, or right-of-way in which there is now located or may in the future be located a public sanitary sewer in the service area, is hereby required at his expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper public sanitary sewer in accordance with the provisions of this chapter, within sixty (60) days after date of official notice to do so, provided that said public sewer is within five hundred (500) feet of the building drain as defined herein.

(5) The owner of a manufacturing facility may discharge wastewater to the waters of the state provided that he obtains an NPDES permit and meets all requirements of the Federal Clean Water Act, the NPDES permit, and any other applicable local, state, or federal statutes or regulations.

(6) Where a public sanitary sewer is not available under the provisions of subsection (4), the building sewer shall be connected to a private sewage disposal system complying with the provisions of §§ 18-407 and 18-408 of this chapter. (1983 Code, § 8-303)

18-404. Physical connection to public sanitary sewers. (1) No unauthorized person shall uncover, make any connections with or opening into, use, alter, or disturb any public sanitary sewer or appurtenance thereof without first obtaining a written permit from the superintendent as required by §§ 18-413--18-415 of this chapter.

(2) All costs and expenses incident to the installation, connection, and inspection of the building sewer shall be borne by the owner. The owner shall indemnify the city from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

(3) A separate and independent building sewer shall be provided for every building; except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard, or driveway, the building sewer

from the front building may be extended to the rear building and the whole considered as one building sewer. Provided, however, that in no case shall the building sewer from the front building to the public sanitary sewer be less than six (6) inches in diameter.

(4) Old building sewers may be used in connection with new buildings only when they are found, on examination and tested by the superintendent to meet all requirements of this chapter. All others must be sealed to the specifications of the superintendent.

(5) Building sewers shall conform to the following requirements:

(a) The minimum size of a building sewer shall be four (4) inches.

(b) The minimum depth of a building sewer shall be eighteen (18) inches.

(c) Four (4) inch building sewers shall be laid on a grade greater than 1/8 inch per foot. Larger sewers shall be laid on a grade that will produce a velocity when flowing full at least 2.0 feet per second.

(d) All building sewers shall be constructed on a straight alignment and constant grade from the building drain to the public sanitary sewer, or in between cleanouts.

(e) Building sewers shall be constructed only of:

(i) Concrete or clay sewer pipe using rubber or neoprene compression joints of approved type;

(ii) Cast iron soil pipe with leaded or compression joints;

(iii) Polyvinyl chloride pipe with solvent welded or with rubber compression joints;

(iv) ABS composite sewer pipe with solvent welded or rubber compression joints of approved type; or

(v) Such other materials of equal or superior quality as may be approved by the superintendent. Under no circumstances will cement mortar joints be acceptable.

(f) A cleanout shall be located five feet outside the building on the building sewer and where it connects with the public sanitary sewer system. Also, cleanouts shall be placed at each change of direction, each change of grade, intervals not greater than 75 feet apart on building sewers of 4 inch nominal diameter, and not more than 100 feet apart for larger pipes. Cleanouts shall be extended to or above the finished grade level of the ground directly above the place where the cleanout is installed. A "Y" (wye) and 1/8 bend shall be used for the cleanout base. Cleanouts shall not be smaller than four (4) inches in diameter.

(g) Connections of building sewers to the public sanitary sewer system shall be made at the appropriate existing wye or tee branch using compression type couplings or collar type rubber joint with corrosion resisting or stainless steel bands. Where an existing wye or tee branches are not available, connections of building sewers shall be made by either

removing a length of pipe and replacing it with a wye or tee fitting or cutting a clean opening in the existing public sanitary sewer and installing a tee-saddle or tee-insert of a type approved by the superintendent. All such connections shall be made gastight and watertight.

(h) In cases where the building sewer, when extended to the building drain from the public sanitary sewer in accordance with the grades specified above, and the end of the building sewer is above the building drain, the sanitary sewage from the building drain shall be lifted by an approved means and discharged to the building sewer at the expense of the owner. Also, at the expense of the owner, shall be provided check valves or other backflow prevention devices to protect the building from flooding from the public sanitary sewer.

(i) The methods to be used in excavating, placing of pipe, jointing, testing, backfilling the trench, or other activities in the construction of a building sewer which have not been described above shall conform to the requirements of the building and plumbing code or other applicable rules and regulations of the city or to the procedures set forth in appropriate specifications of the ASTM and Water Pollution Control Federal Manual of Practice No. 9. Any deviation from the prescribed procedures and materials must be approved by the superintendent before installation.

(j) An installed building sewer shall be gastight and watertight.

(6) All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the city.

(7) No person shall make connection of roof downspouts, exterior foundation drains, areaway drains, basement drains, or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer. (1983 Code, § 8-304)

18-405. Inspection of connections. (1) The sewer connection and all of the building sewer from the building to the public sanitary sewer shall be inspected by the superintendent or his authorized representative before the underground portion is covered.

(2) The applicant for discharge shall notify the superintendent when the building sewer is ready for inspection and connection to the public sanitary sewer. The connection shall be made under the supervision of the superintendent or his representative. (1983 Code, § 8-305)

18-406. Maintenance of building sewers. Each individual property owner or user of the POTW shall be entirely responsible for the maintenance of the building sewer located on his private property. This maintenance will

include repair or replacement of the building sewer as deemed necessary by the superintendent to meet the city's requirements. (1983 Code, § 8-306)

18-407. Availability of public sewers. Where a public sanitary sewer is not available under the provisions of § 18-403(4), the building sewer shall be connected to a private wastewater disposal system complying with the provisions of this and succeeding sections. Provided however, that when a public sanitary sewer becomes available, the building sewer shall be connected to said sewers within sixty (60) days after date of official notice to do so. (1983 Code, § 8-307)

18-408. Requirements for private domestic wastewater disposal systems. (1) A private domestic wastewater disposal system may not be constructed within the service area unless and until a certificate is obtained from the superintendent stating that a public sewer is not accessible to the property and no such sewer is proposed for construction in the immediate future. No certificate shall be issued for any private domestic wastewater disposal system employing subsurface soil absorption facilities where the area of the lot is less than one-half (1/2) acre.

(2) Before commencement of construction of a private sewage disposal system, the owner shall first obtain written permission from the superintendent. The owner shall supply any plans, specifications, and other information as are deemed necessary.

(3) A private sewage disposal system shall not be placed in operation until the operation is completed to the satisfaction of the superintendent. He or his representative shall be allowed to inspect the work at any stage of construction and in any event, the owner shall notify the superintendent when the work is ready for the final inspection, and before any under ground portions are covered. The inspection shall be made within a reasonable period of time after the receipt of notice.

(4) The type, capacity, location, and layout of a private sewage disposal system shall comply with all recommendations of the Department of Health of the State of Tennessee. No private sewage disposal system shall be permitted to discharge to any natural outlet.

(5) The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times, at no expense to the city.

(6) No statement contained in this section shall be construed to interfere with any additional requirements that may be imposed by the City of Dyer. (1983 Code, § 8-308)

18-409. Permit for septic tank cleaners. No person, firm, association, or corporation shall clean out, drain or flush any septic tank or any other type of wastewater or excreta disposal system, unless such person, firm, association, or corporation desiring a permit to perform such services shall file an

application on the prescribed form. Upon any such application, said permit shall be issued by the superintendent when the conditions of this chapter have been met and providing the superintendent is satisfied the applicant has adequate and proper equipment to perform the services contemplated in a safe and competent manner. (1983 Code, § 8-309)

18-410. Fees. For each permit issued under the provisions of this chapter, an annual service charge therefor shall be paid to the city to be set as specified in §§ 18-440--18-448. Any such permit granted shall be for one full fiscal year or fraction of the fiscal year, and shall continue in full force and effect from the time issued until the ending of the fiscal year unless sooner revoked, and shall be nontransferable. The number of the permit granted hereunder shall be plainly painted on each side of the motor vehicle used in the conduct of the business permitted hereunder. (1983 Code, § 8-310)

18-411. Designated disposal locations for septic tank equipment. The superintendent shall designate approved locations for the emptying and cleansing of all equipment used in the performance of the services rendered under the permit herein provided for, and it shall be a violation hereof for any person, firm, association, or corporation to empty or clean such equipment at any place other than a place so designated. No person nor any other person operating at their direction, shall discharge any incompatible or toxic waste into any portion of the disposal system.

No person, firm, association, or corporation nor any other person operating at their direction, shall discharge any incompatible or toxic waste into any portion of the disposal system. (1983 Code, § 8-311)

18-412. Revocation of permit for septic tank cleaners. Failure to comply with all the provisions of this chapter shall be sufficient cause for the revocation of such permit by the superintendent. The possession within the service area by any person of any motor vehicle equipped with a body type and accessories of a nature and design capable of serving a septic tank of wastewater or excreta disposal system cleaning unit shall be prima facie evidence that such person is engaged in the business of cleaning, draining, or flushing septic tanks or other wastewater or excreta disposal systems within the service area of the City of Dyer. (1983 Code, § 8-312)

18-413. Applications for discharge of domestic wastewater. All users or prospective users which generate domestic wastewater shall make application to the superintendent for written authorization to discharge to the POTW. Applications shall be required from all new dischargers as well as for any existing discharger desiring additional service. Connection to the public sanitary sewer shall not be made until the application is received and approved by the superintendent, the building sewer is installed in accordance with

§§ 18-403--18-406 of this chapter, and an inspection has been performed by the superintendent or his representative.

The receipt by the city of a prospective customer's application for service shall not obligate the city to render the service. If the service applied for cannot be supplied in accordance with this chapter and the city's rules and regulations and general practice, the connection charge will be refunded in full, and there shall be no liability of the city to the applicant for such service, except that conditional waivers for additional services may be granted by the superintendent for interim periods if compliance may be assured within a reasonable period of time. (1983 Code, § 8-313)

18-414. Industrial wastewater discharge permits. (1) General requirements. All industrial users proposing to connect to or to contribute to the POTW shall obtain a wastewater discharge permit before connecting to or contributing to the POTW. All existing industrial users connected to or contributing to the POTW shall within 180 days after the effective date of this chapter meet all requirements of the chapter.

(2) Applications for wastewater discharge permits shall be required as follows:

(a) Users required to obtain a wastewater discharge permit shall complete and file with the superintendent an application in the form prescribed by the superintendent, and accompanied by the appropriate fee. Existing users shall apply for a wastewater contribution permit within 60 days after the effective date of this chapter, and proposed new users shall apply at least 90 days prior to connecting to or contributing to the POTW.

(b) The application shall be in the prescribed form for the city and shall include, but not be limited to, the following information: name, address and SIC number of applicant; wastewater volume; wastewater constituents and characteristics; discharge variations - daily, monthly, seasonal and 30 minute peaks; a description of all toxic materials handled on the premises; site plans, floor plans, mechanical and plumbing plans and details showing all sewers and appurtenances by size, location, and elevation; a description of existing and proposed pretreatment and/or equalization facilities and any other information deemed necessary by the superintendent.

(c) Any user who elects or is required to construct new or additional facilities for pretreatment shall as part of the application for wastewater discharge permit submit plans, specifications, and other pertinent information relative to the proposed construction to the superintendent for approval. Plans and specifications submitted for approval must bear the seal of a professional engineer registered to practice engineering in the State of Tennessee. A wastewater discharge permit shall not be issued until such plans and specifications are

approved. Approval of such plans and specifications shall in no way relieve the user from the responsibility of modifying the facility as necessary to produce an effluent acceptable to the city under the provisions of this chapter.

(d) If additional pretreatment and/or O & M will be required to meet the pretreatment standards, the application shall include the shortest schedule by which the user will provide such additional pretreatment. The completion date of this schedule shall not be later than the compliance date established for the applicable pretreatment standard. For the purpose of this paragraph, "pretreatment standard" shall include either a national pretreatment standard or a pretreatment standard imposed by §§ 18-416--18-422 of this chapter.

(e) The city will evaluate the data furnished by the user and may require additional information. After evaluation and acceptance of the data furnished, the city may issue a wastewater discharge permit subject to terms and conditions provided herein.

(f) The receipt by the city of a prospective customer's application for wastewater discharge permit shall not obligate the city to render the wastewater collection and treatment service. If the service applied for cannot be supplied in accordance with this chapter or the city's rules and regulations and general practice, the application shall be rejected and there shall be no liability of the city to the applicant of such service.

(g) The superintendent will act only on applications containing all the information required in this section. Persons who have filed incomplete applications will be notified by the superintendent that the application is deficient and the nature of such deficiency and will be given thirty (30) days to correct the deficiency. If the deficiency is not corrected within thirty (30) days or within such extended period as allowed by the superintendent, the superintendent shall submit the application to the mayor with a recommendation that it be denied and notify the applicant in writing of such action.

(3) Permit conditions. Wastewater discharge permits shall be expressly subject to all provisions of this chapter and all other applicable regulations, user charges, and fees established by the city. Permits may contain the following:

(a) The unit charge or schedule of user charges and fees for the wastewater to be discharged to a community sewer;

(b) Limits on the average and maximum wastewater constituents and characteristics;

(c) Limits on average and maximum rate and time of discharge or requirements and equalization;

(d) Requirements for installation and maintenance of inspections and sampling facilities;

(e) Specifications for monitoring programs which may include sampling locations, frequency of sampling, number, types, and standards for tests and reporting schedule;

(f) Compliance schedules;

(g) Requirements for submission of technical reports or discharge reports;

(h) Requirements for maintaining and retaining plant records related to wastewater discharge as specified by the city, and affording city access thereto;

(i) Requirements for notification of the city of any new introduction of wastewater discharge or any substantial change in the volume or character of the wastewater constituents being introduced into the wastewater treatment system;

(j) Requirements for notification of slug discharge;

(k) Other conditions as deemed appropriate by the city to ensure compliance with this chapter.

(4) Permit modifications. Within nine months of the promulgation of a national categorical pretreatment standard, the wastewater discharge permit of users subject to such standards shall be revised to require compliance with such standard within the time frame prescribed by such standard. A user with an existing wastewater discharge permit shall submit to the superintendent within 180 days after the promulgation of an applicable federal categorical pretreatment standard the information required by subsections (2)(b) and (2)(c). The terms and conditions of the permit may be subject to modification by the superintendent during the term of the permit as limitations or requirements are modified or other just cause exists. The user shall be informed of any proposed changes in this permit at least 30 days prior to the effective date of change. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.

(5) Permit duration. Permits shall be issued for a specified time period, not to exceed five (5) years. A permit may be issued for a period less than a year or may be stated to expire on a specific date. The user shall apply for permit reissuance a minimum of 180 days prior to expiration of the user's existing permit.

(6) Permit transfer. Wastewater discharge permits are issued to a specific user for a specific operation. A wastewater discharge permit shall not be reassigned or transferred or sold to a new owner, new user, different premises, or a new or changed operation without the approval of the city. Any succeeding owner or user shall also comply with the terms and conditions of the existing permit.

(7) Revocation of permit. Any permit issued under the provisions of this chapter is subject to be modified, suspended, or revoked in whole or in part during its term for cause including, but not limited to, the following:

- (a) Violation of any terms or conditions of the wastewater discharge permit or other applicable federal, state, or local law or regulation.
- (b) Obtaining a permit by misrepresentation or failure to disclose fully all relevant facts.
- (c) A change in any condition that requires either a temporary or permanent reduction or elimination of the permitted discharge.
- (d) Intentional failure of the user accurately to report the discharge constituents and characteristics or to report significant changes in plant operations or wastewater characteristics. (1983 Code, § 8-314)

18-415. Confidential information. All information and data on a user obtaining from reports, questionnaires, permit application, permits and monitoring programs and from inspections shall be available to the public or any other governmental agency without restriction unless the user specifically requests and is able to demonstrate to the satisfaction of the superintendent that the release of such information would divulge information, processes, or methods of production entitled to protection as trade secrets of the user.

When requested by the person furnishing the report, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public, but shall be made available to governmental agencies for uses related to this chapter or the city's or user's NPDES permit. Provided, however, that such portions of a report shall be available for use by the state or any state agency in judicial review or enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics will not be recognized as confidential information.

Information accepted by the superintendent as confidential shall not be transmitted to any governmental agency or to the general public by the superintendent until and unless prior and adequate notification is given to the user. (1983 Code, § 8-315)

18-416. General discharge prohibitions. No user shall contribute or cause to be contributed, directly or indirectly, any pollutant or wastewater which will interfere with the operation and performance of the POTW. These general prohibitions apply to all such users of a POTW whether or not the user is subject to national categorical pretreatment standards or any other national, state, or local pretreatment standards or requirements. A user may not contribute the following substances to any POTW:

- (1) Any liquids, solids, or gases which by reason of their nature or quantity are, or may be, sufficient either alone or by interaction with other substances to cause fire or explosion or be injurious in any way to the POTW or to the operation of the POTW. At no time shall two successive readings on an explosion hazard meter, at the point of discharge into the system (or at any

point in the system), be more than five percent (5%) nor any single reading over twenty percent (20%) of the lower explosive limit (LEL) of the meter. Prohibited materials include, but are not limited to, gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromate, carbides, hydrides, and sulfides and any other substances which the city, the state, or EPA has notified the user is a fire hazard or a hazard to the system.

(2) Solid or viscous substances which may cause obstruction to the flow in a sewer or other interference with the operation of the wastewater treatment system such as, but not limited to: grease, garbage with particles greater than one-half inch (1/2") in any dimension, paunch manure, bones, hair, hides, or fleshings, entrails, whole blood, feathers, ashes, cinders, sand, spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, waste paper, wood, plastics, gas, tar, asphalt residues, residues from refining, or processing of fuel or lubricating oil, mud, or glass grinding or polishing wastes.

(3) Any wastewater having a pH less than 5.0 or higher than 9.5 or wastewater having any other corrosive property capable of causing damage or hazard to structures, equipment, and/or personnel of the POTW.

(4) Any wastewater containing any toxic pollutants, chemical elements, or compounds in sufficient quantity, either singly or by interaction with other pollutants, to injure or interfere with any wastewater treatment process, constitute a hazard to humans or animals, create a toxic effect in the receiving waters of the POTW, or to exceed the limitation set forth in a categorical pretreatment standard. A toxic pollutant shall include but not be limited to any pollutant identified pursuant to Section 307(a) of the Act. Any noxious or malodorous liquids, gases, or solids which either singly or by interaction with other wastes are sufficient to create a public nuisance or hazard to life or are sufficient to prevent entry into the sewers or would require unusual maintenance and repair to the POTW.

(5) Any substance which may cause the POTW's effluent or any other product of the POTW such as residues, sludges, or scums to be unsuitable for reclamation or reuse or to interfere with the reclamation process. In no case, shall a substance discharged to the POTW cause the POTW to be in non-compliance with sludge use or disposal criteria, guidelines or regulations developed under section 405 of the Act; any criteria, guidelines, or regulations affecting sludge use or disposal developed pursuant to the Solid Waste Disposal Act, or state criteria applicable to the sludge management method being used.

(6) Any substance which will cause the POTW to violate the NPDES permit or the receiving water quality standards.

(7) Any wastewater causing discoloration of the wastewater treatment plant effluent to the extent that the receiving stream water quality requirements would be violated, such as, but not limited to, dye wastes and vegetable tanning solutions.

(8) Any wastewater having a temperature which will inhibit biological activity in the POTW treatment plant resulting in interference, but in no case wastewater with a temperature at the introduction into the POTW which exceeds 40 degrees C. (104 degrees F).

(9) Any pollutants, including oxygen demanding pollutants (BOD, etc.) released at a flow rate and/or pollutant concentration which a user knows or has reason to know will cause interference to the POTW.

(10) Any waters or wastes causing an unusual volume of flow or concentration of waste constituting "slug" as defined herein.

(11) Any wastewater containing any radioactive wastes or isotopes of such halflife or concentration as may exceed limits established by the superintendent in compliance with applicable state or federal regulations.

(12) Any wastewater which causes a hazard to human life or creates a public nuisance.

(13) Any waters or wastes containing fats, wax, grease, or oil, whether emulsified or not, in excess of one hundred (100) mg/l or containing substances which may solidify or become viscous at temperatures between thirty-two (32) or one hundred fifty (150) degrees F (0 and 65 degrees C).

(14) Any storm water, surface water, groundwater, roof runoff, subsurface drainage, uncontaminated cooling water, or unpolluted industrial process waters to any sanitary sewer. Storm water and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as storm sewers, or to a natural outlet approved by the superintendent and the Tennessee Department of Health. Industrial cooling water or unpolluted process waters may be discharged on approval of the superintendent and the Tennessee Department of Health, to a storm sewer or natural outlet. (1983 Code, § 8-316, as amended by Ord. #98-92, Jan. 1998)

18-417. Protection of treatment plant influent. The superintendent shall monitor the treatment works influent for each parameter in the following table. Industrial users shall be subject to reporting and monitoring requirements regarding these parameters as set forth in this chapter. In the event that the influent at the POTW reaches or exceeds the levels established by this table, the superintendent shall initiate technical studies, involving the appropriate offices of the Tennessee Department of Health, to determine the cause of the influent violation and shall recommend to the city the necessary remedial measures, including, but not limited to, the establishment of new or revised pretreatment levels for these parameters. The superintendent shall also recommend changes to any of these criteria in the event that the POTW effluent standards are changed, there are changes in any applicable law or regulation affecting same, or changes are needed for more effective operation of the POTW.

PLANT PROTECTION CRITERIA

Parameter	Mo./Avg. mg/l	Daily maximum mg/l
Aluminum		
dissolved (A1)	**	3.0
Antimony (SB)	**	1.0
Arsenic (AS)	**	0.06
Barium (Ba)	**	**
Boron (B)	**	0.43
Cadmium (cd)	0.000012	0.0015
Chromium Hex	0.001	0.07
Chromium Trivalent	0.2	2.2
Cobalt (Co)	**	0.03
Copper (Cu)	0.015	0.25
Cyanide (CN)	**	0.007
Fluoride (F)	**	0.60
Iron (Fe)	**	3.0
Lead (Pb)	**	0.004
Manganese (Mn)	**	0.11
Mercury (Hg)	**	0.00004
Nickle (Ni)	0.056	1.1
Pesticides &		
Herbicides	**	0.001
Phenols	**	1.0
Selenium (Se)	**	0.01
Silver (Ag)	**	0.002
Sulfide	**	**
Zinc (Zn)	0.047	0.18
Total Kjeldahl	**	**
Nitrogen	**	**
Oil & Grease	**	**
MBAS	**	5.0
BOD		*
COD		*
Suspended Solids		*

*Not to exceed the design capacity of treatment works.

**As categorical standards of criteria are needed or as individual standards are established and approved by the state and federal authorities, City of Dyer will adopt. (1983 Code, § 8-317)

18-418. Federal categorical pretreatment standards. Upon the promulgation of the federal categorical pretreatment standards for a particular industrial subcategory, the federal standard, if more stringent than limitations imposed under chapter for sources in that subcategory, shall immediately supersede the limitations imposed under this chapter. The superintendent shall notify all affected users of the applicable reporting requirements under 40 CFR, section 403.12. (1983 Code, § 8-318)

18-419. Right to establish more restrictive criteria. No statement in this chapter is intended or may be construed to prohibit the superintendent from establishing specific wastewater discharge criteria more restrictive where wastes are determined to be harmful or destructive to the facilities of the POTW or to create a public nuisance, or to cause the discharge of the POTW to violate effluent or stream quality standards, or to interfere with the use or handling of sludge, or to pass through the POTW resulting in a violation of the NPDES permit, or to exceed industrial pretreatment standards for discharge to municipal wastewater treatment systems as imposed or as may be imposed by the Tennessee Department of Health and/or the United States Environmental Protection Agency. (1983 Code, § 8-319)

18-420. Special agreements. Nothing in this section shall be construed so as to prevent any special agreement or arrangement between the city and any user of the wastewater treatment system whereby wastewater of unusual strength or character is accepted into the system and specially treated subject to any payments or user charges as may be applicable. The making of such special agreements or arrangements between the city and the user shall be strictly limited to the capability of the POTW to handle such wastes without interfering with unit operations or sludge use and handling or allowing the pass through of pollutants which would result in a violation of the NPDES permit. No special agreement or arrangement may be made without documentation by the industry of the use of good management practice in the reduction of wastewater volume and strength. (1983 Code, § 8-320)

18-421. Exceptions to discharge criteria. (1) Application for exception. Non-residential users of the POTW may apply for a temporary exception to the prohibited and restricted wastewater discharge criteria listed in §§ 18-414 and 18-417 of this chapter. Exceptions can be granted according to the following guidelines.

The superintendent shall allow applications for temporary exceptions at any time. However, the superintendent shall not accept an application if the applicant has submitted the same or substantially similar application within the preceding year and the same has been denied by the city.

All applications for an exception shall be in writing, and shall contain sufficient information for evaluation of each of the factors to be considered by the city in its review of the application.

(2) Conditions. All exceptions granted under this paragraph shall be temporary and subject to revocation at any time by the superintendent upon reasonable notice.

The user requesting the exception must demonstrate to the superintendent that he is making a concentrated and serious effort to maintain high standards of operation control and housekeeping levels, etc., so that discharges to the POTW are being minimized. If negligence is found, permits will be subject to termination. The user requesting the exception must demonstrate that compliance with stated concentration and quantity standards is technically or economically infeasible and the discharge, if expected, will not:

(a) Interfere with the normal collection and operation of the wastewater treatment system.

(b) Limit the sludge management alternatives available or increase the cost of providing adequate sludge treatment.

(c) Pass through the POTW in quantities and/or concentrations that would cause the POTW to violate its NPDES permit.

The user must show that the exception, if granted, will not cause the discharger to violate its enforce federal pretreatment standards unless the exception is granted under the provisions of the applicable pretreatment regulations.

A surcharge shall be applied to any exception granted under this subsection. These surcharges shall be applied for that concentration of the pollutant for which the variance has been granted in excess of the concentration stipulated in this chapter based on the average daily flow of the user.

(3) Review of application by the superintendent. All applications for an exception shall be reviewed by the superintendent. If the application does not contain sufficient information for complete evaluation, the superintendent shall notify the applicant of the deficiencies and request additional information. The applicant shall have thirty (30) days following notification by the superintendent to correct such deficiencies. This thirty (30) day period may be extended by the city upon application and for just cause shown. Upon receipt of a complete application, the superintendent shall evaluate same within thirty (30) days and shall submit his recommendations to the city at its next regular scheduled meeting.

(4) Review of application by the city. The city shall review and evaluate all applications for exceptions and shall take into account the following factors:

(a) Whether or not the applicant is subject to a national pretreatment standard containing discharge limitations more stringent than those in § 18-416 and grant an exception only if such exception may be granted within limitations of applicable federal regulations;

(b) Whether or not the exception would apply to discharge of a substance classified as a toxic substance under regulations promulgated by the Environmental Protection Agency under the provisions of Section 307(a) of the Act (33 U.S.C. 1317), and then grant an exception only if such exception may be granted within the limitations of applicable federal regulations;

(c) Whether or not the granting of an exception would create conditions that would reduce the effectiveness of the treatment works taking into consideration the concentration of said pollutant in the wastewater treatment system's influent and the design capability of the treatment system;

(d) The cost of pretreatment or other types of control techniques which would be necessary for the user to achieve effluent reduction, but prohibitive costs alone shall not be the basis for granting an exception;

(e) The age of equipment and industrial facilities involved to the extent that such factors effect the quality or quantity of wastewater discharge;

(f) The process employed by the user and process changes available which would affect the quality of wastewater discharge;

(g) The engineering aspects of various types of pretreatment or other control techniques available to the user to improve the quality of wastewater discharge. (1983 Code, § 8-321)

18-422. Accidental discharge. (1) Protection from accidental discharge. All industrial users shall provide such facilities and institute such procedures as are reasonably necessary to prevent or minimize the potential for accidental discharge into the POTW of waste regulated by this chapter from liquid or raw material storage areas, from truck or rail car loading and unloading areas, from implant transfer or processing and materials handling areas, and from diked areas or holding ponds of any waste regulated by this chapter. The wastewater discharge permit of any user who has a history of significant leaks, spills, or other accidental discharge of waste regulated by this chapter shall be subject on a case-by-case basis to a special permit condition or requirement for the construction of facilities, establishment of procedures which will prevent or minimize the potential for such accidental discharge. Facilities to prevent accidental discharge of prohibited materials shall be provided and maintained at the user's expense. Detailed plans showing the facilities and operating procedures shall be submitted to the superintendent before the facility is constructed.

The review and approval of such plans and operating procedures will in no way relieve the user from the responsibility of modifying the facility to provide the protection necessary to meet the requirements of this chapter.

(2) Notification of accidental discharge. Any person causing or suffering from any accidental discharge shall immediately notify the

superintendent (or his designated official) by telephone to enable countermeasures to be taken by the superintendent to minimize damages to the POTW, the health and welfare of the public, and the environment.

This notification shall be followed, within five (5) days of the date of occurrence, by a detailed written statement describing the cause of the accidental discharge and the measures being taken to prevent future occurrence.

Such notification will not relieve the user of liability for any expense, loss, or damage to the POTW, fish kills, or any other damage to person or property; nor shall such notification relieve the user of any fines, civil penalties, or other liability which may be imposed by this chapter or state or federal law.

(3) Notice to employees. A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees whom to call in the event of a dangerous discharge. Employers shall ensure that all employees who may cause or suffer such a dangerous discharge to occur are advised of the emergency notification procedure. (1983 Code, § 8-322)

18-423. Monitoring facilities for industrial users. The installation of a monitoring facility shall be required for all industrial users having wastes which receive pretreatment, are otherwise altered or regulated before discharge, or are unusually strong and thereby subject to a surcharge. Monitoring facility shall be manhole or other suitable facility approved by the superintendent.

When, in the judgment of the superintendent, there is a significant difference in wastewater constituents and characteristics produced by different operations of a single user, the superintendent may require that separate monitoring facilities be installed for each separate source of discharge.

Monitoring facilities that are required to be installed shall be constructed and maintained at the user's expense. The purpose of the facility is to enable inspection, sampling, and flow measurement of wastewater produced by a user. If sampling or metering equipment is also required by the superintendent, it shall be provided and installed at the user's expense.

The monitoring facility will normally be required to be located on the user's premises outside the building. The superintendent may, however, when such a location would be impractical or cause undue hardship on the user, allow the facility to be constructed in the public street right-of-way with the approval of the public agency having jurisdiction of that right-of-way and located so that it will not be obstructed by landscaping or parking vehicles.

There shall be ample room in or near such sampling manhole or facility to allow accurate sampling and preparation of samples for analysis. The facility, sampling, and measuring equipment shall be maintained at all times in a safe and proper operating condition at the expense of the user.

Whether constructed on public or private property, the monitoring facilities shall be constructed in accordance with the superintendent's requirements and all applicable local agency construction standards and specifications. When, in the judgment of the superintendent, a monitoring

facility is required, he shall notify the user in writing. Construction must be completed within 180 days following written notification unless an extension is granted by the superintendent. (1983 Code, § 8-323)

18-424. Inspection and sampling. The city shall inspect the facilities of any user to ascertain whether the purpose of this chapter is being met and all requirements are being complied with. Persons or occupants of premises where wastewater is created or discharged shall allow the city or their representative ready access at all reasonable times to all parts of the premises for the purpose of inspection, sampling, records examination or in the performance of any of their duties. The city, approval authority, and EPA shall have the right to set up on the user's property such devices as are necessary to conduct sampling inspection, compliance monitoring, and/or metering operations. Where a user has security measures in force which would require proper identification and clearance before entry into their premises, the user shall make necessary arrangements with their security guards so that upon presentation of suitable identification, personnel from the city, approval authority, and EPA will be permitted to enter, without delay, for the purposes of performing their specific responsibility. The superintendent or his representative shall have no authority to inquire into any manufacturing process beyond that point having a direct bearing on the level and sources of discharge to the sewers, waterways, or facilities for waste treatment. (1983 Code, § 8-324)

18-425. Compliance date report. Within 180 days following the date for final compliance with applicable pretreatment standards or, in the case of a new source, following commencement of the introduction of wastewater into the POTW, any user subject to pretreatment standards and requirements shall submit to the superintendent a report indicating the nature and concern ration of all pollutants in the discharge from the regulated process which are limited by pretreatment standards and requirements and the average and maximum daily flow for these process units in the user facility which are limited by such pretreatment standards or requirements. The report shall state whether the applicable pretreatment standards or requirements are being met on a consistent basis and, if not, what additional O & M and/or pretreatment is necessary to bring the user into compliance with the applicable pretreatment standards or requirements. This statement shall be signed by an authorized representative of the industrial user, and certified to by a qualified professional. (1983 Code, § 8-325)

18-426. Periodic compliance reports. (1) Any user subject to a pretreatment standard, or in the case of a new source, after commencement of the discharge into the POTW, shall submit to the superintendent during the months of June and December, unless required more frequently in the pretreatment standard or by the superintendent, report indicating the nature

and concentration of pollutants in the effluent which are limited by such pretreatment standards. In addition, this report shall include a record of all daily flows which during the reporting period exceeded the average daily flow. At the discretion of the superintendent and in consideration of such factors as local high or low flow rates, holidays, budget cycles, etc., the superintendent may agree to alter the months during which the above reports are to be submitted.

(2) The superintendent may impose mass limitations on users where the imposition of mass limitations are appropriate. In such cases, the report required by subsection (1) of this section shall indicate the mass of pollutants regulated by pretreatment standards in the effluent of the user.

(3) The reports required by this section shall contain the results of sampling and analysis of the discharge, including the flow and the nature and concentration, or production and mass where requested by the superintendent, of pollutants contained therein which are limited by the applicable pretreatment standards. The frequency of monitoring shall be prescribed in the wastewater discharge permit or the pretreatment standard. All analysis shall be performed in accordance with procedures established by the administrator pursuant to Section 304(g) of the Act and contained in 40 CFR, part 136 and amendments thereto or with any test procedures approved by the superintendent. Sampling shall be performed in accordance with the techniques approved by the superintendent. (1983 Code, § 8-326)

18-427. Maintenance of records. Any industrial user subject to the reporting requirements established in this section shall maintain records of all information resulting from any monitoring activities required by this section. Such records shall include for all samples:

- (1) The date, exact place, method, and time of sampling and the names of the persons taking the samples;
- (2) The dates analyses were performed;
- (3) Who performed the analyses;
- (4) The analytical techniques/methods used; and
- (5) The results of such analyses.

Any industrial user subject to the reporting requirement established in this section shall be required to retain for a minimum of three (3) years all records of monitoring activities and results (whether or not such monitoring activities are required by this section) and shall make such records available for inspection and copying by the superintendent, Director of the Division of Water Quality Control, Tennessee Department of Health, or the Environmental Protection Agency. This period of retention shall be extended during the course of any unresolved litigation regarding the industrial user or when requested by the superintendent, the approval authority, or the Environmental Protection Agency. (1983 Code, § 8-327)

18-428. Safety. While performing the necessary work on private properties, the superintendent or duly authorized employees of the city shall observe all safety rules applicable to the premises established by the company and the company shall be held harmless for injury or death to the city employees and the city shall indemnify the company against loss or damage to its property by city employees and against liability claims and demands for personal injury or property damage asserted against the company and growing out of the monitoring and sampling operation, except as such may be caused by negligence or failure of the company to maintain safe conditions. (1983 Code, § 8-328)

18-429. Issuance of cease and desist orders. When the superintendent finds that a discharge of wastewater has taken place in violation of prohibitions or limitations of this chapter or the provisions of a wastewater discharge permit, the superintendent shall issue an order to cease and desist, and direct that these persons not complying with such prohibitions, limits requirements, or provisions to:

- (1) Comply forthwith;
- (2) Comply in accordance with a time schedule set forth by the superintendent;
- (3) Take appropriate remedial or preventive action in the event of a threatened violation; or
- (4) Surrender his applicable user's permit if ordered to do so after a show cause hearing.

Failure of the superintendent to issue a cease and desist order to a violating user shall not in any way relieve the user from any consequences of a wrongful or illegal discharge. (1983 Code, § 8-329)

18-430. Submission of time. When the superintendent finds that a discharge of wastewater has been taking place in violation of prohibitions or limitations prescribed in this chapter, or wastewater source control requirements, effluent limitations of pretreatment standards, or the provisions of a wastewater discharge permit, the superintendent shall require the user to submit for approval, with such modifications as it deems necessary, a detailed time schedule of specifications, which the user shall take in order to prevent or correct a violation of requirements. Such schedule shall be submitted to the superintendent within 30 days of the issuance of the cease and desist order. (1983 Code, § 8-330)

18-431. Show cause hearing. (1) The city may order any user who causes or allows an unauthorized discharge to enter the POTW to show cause before the city council why the proposed enforcement action should not be taken. A notice shall be served on the user specifying the time and place of a hearing to be held by the city council regarding the violation, the reasons why the action is to be taken, the proposed enforcement action, and directing the user to show

cause before the city council why the proposed enforcement action should not be taken. The notice of the hearing shall be served personally or by registered or certified mail (return receipt requested) at least ten (10) days before the hearing.

(2) The city council may itself conduct the hearing and take the evidence, or may designate any of its members or any officer or employee of the water and sewer department to:

(a) Issue in the name of the city council notices of hearings requesting the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in such hearings;

(b) Take the evidence;

(c) Transmit a report of the evidence and hearing, including transcripts and other evidence, together with recommendations to the city council for action thereon.

(3) At any hearing held pursuant to this chapter, testimony taken must be under oath and recorded. The transcript, so recorded, will be made available to any member of the public or any party to the hearing upon payment of the usual charges thereof.

(4) After the city council has reviewed the evidence, it may issue an order to the user responsible for the discharge directing that, following a specified time period, the sewer service be discontinued unless adequate treatment facilities, devices, or other related appurtenances shall have been installed on existing treatment facilities, and that these devices or other related appurtenances are properly operated. Further orders and directives as are necessary and appropriate may be issued. (1983 Code, § 8-331)

18-432. Legal action. If any person discharges sewage, industrial wastes, or other wastes into the city's POTW contrary to the provisions of this chapter, federal or state pretreatment requirements, or any order of the city, the city attorney may commence an action for appropriate legal and/or equitable relief in the chancery court of this county. (1983 Code, § 8-332)

18-433. Emergency termination of service. In the event of an actual or threatened discharge to the POTW of any pollutant which in the opinion of the superintendent presents or may present an imminent and substantial endangerment to the health or welfare of persons, or cause interferences with POTW, the superintendent or in his absence the person then in charge of the treatment system shall immediately notify the mayor of the nature of the emergency. The superintendent shall also attempt to notify the industrial user or other person causing the emergency and request their assistance in abating same. Following consultation with the aforementioned officials of the city or in their absence such elected officials of the city as may be available, the superintendent shall temporarily terminate the service of such user or users as are necessary to abate the condition when such action appears reasonably

necessary. Such service shall be restored by the superintendent as soon as the emergency situation has been abated or corrected. (1983 Code, § 8-333)

18-434. Public nuisance. Discharges of wastewater in any manner in violation of this chapter or of any order issued by the superintendent as authorized by this chapter, is hereby declared a public nuisance and shall be corrected or abated as directed by the superintendent. Any person creating a public nuisance shall be subject to the provisions of the city codes or ordinances governing such nuisance. (1983 Code, § 8-334)

18-435. Correction of violation and collection of costs. In order to enforce the provisions of this chapter, the superintendent shall correct any violation hereof. The cost of such correction shall be added to any sewer service charge payable by the person violating the chapter or the owner or tenant of the property upon which the violation occurred, and the city shall have such remedies for the collection of such costs as it has for the collection of sewer charges. (1983 Code, § 8-335)

18-436. Damage to facilities. When a discharge of wastes causes an obstruction, damage, or any other physical or operational impairment to the POTW, the superintendent shall assess a charge against the user for the work required to clean or repair the facility and add such charge to the user's sewer service charge. (1983 Code, § 8-336)

18-437. Civil liabilities. Any person or user who intentionally or negligently violates any provision of this chapter, requirements, or conditions set forth in permit duly issued, or who discharges wastewater which causes pollution or violates any cease and desist order, prohibition, effluent limitation, national standard or performance, pretreatment, or toxicity standard, shall be liable civilly.

The City of Dyer shall sue for such damage in any court of competent jurisdiction. In determining the damages, the court shall take into consideration all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the nature and persistence of the violation, the length of time over which the violation occurs, and the correcting action, if any. (1983 Code, § 8-337)

18-438. Civil penalties. Any user who is found to have violated an order of the city council or who willfully or negligently failed to comply with any provision of this chapter, and the order, rules, regulations and permits issued hereunder, shall be fined in accordance with the general penalty clause for this code of ordinances. In addition to the penalties provided herein, the city may recover reasonable attorney's fees, court costs, court reporters' fees, and other expenses of litigation by appropriate suit of law against the person found to have

violated this chapter or the orders, rules, regulations, and permits issued hereunder. (1983 Code, § 8-338)

18-439. Falsifying information. Any person who knowingly makes false statements, representation, or certification in any application, record, plan or other document filed are required to be maintained pursuant to this chapter, or wastewater discharge permit, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this chapter, shall upon conviction be punished by a fine in accordance with the general penalty clause for this code of ordinances. (1983 Code, § 8-339)

18-440. Purpose. It is one of the purposes of this chapter to provide for the equitable recovery of costs from users of the city's wastewater treatment system, including costs of operation, maintenance, administration, bond service costs, capital improvements, depreciation, and equitable cost recovery of EPA administered federal wastewater grants. (1983 Code, § 8-340)

18-441. Types of charges and fees. The charges and fees are established in the city's schedule of charges and fees, may include, but not be limited to:

- (1) Inspection fee and tapping fee;
- (2) Fees for applications for discharge;
- (3) Sewer use charges;
- (4) Surcharge fees;
- (5) Industrial wastewater discharge permit fees;
- (6) Fees for industrial discharge monitoring; and
- (7) Other fees as the city may deem necessary to carry out the requirements of this chapter. (1983 Code, § 8-341)

18-442. Fees for applications for discharge. A fee may be charged when a user or prospective user makes application for discharge as required by §§ 18-413--18-415 of this chapter. (1983 Code, § 8-342)

18-443. Inspection fee and tapping fee. An inspection fee and tapping fee for the building sewer installation shall be paid to the city's sewer department in the time the application is filed. Fees shall cover the costs of inspecting new and/or existing plumbing within subject building establishments as well as inspection of building sewers, property sewers, and sewer service lines and connections to the public sewers. The inspection fee and tapping fee shall be set by the city council. (1983 Code, § 8-343)

18-444. Sewer user charges. (1) Classification of users. Users of the wastewater system shall be classified into two (2) general classes or categories

depending upon the user's contribution of wastewater loads, each class user being identified as follows:

(a) Class I: Those users whose average biochemical oxygen demand is two hundred fifty milligrams per liter (250 mg/l) by weight or less, and whose suspended solids discharge is two hundred fifty milligrams per liter (250 mg/l) by weight or less.

(b) Class II: Those users whose average biochemical oxygen demand exceeds two hundred fifty milligrams per liter concentration (250 mg/l) by weight and whose suspended solids exceeds two hundred fifty milligrams per liter concentration (250 mg/l).

(2) Determination of costs. The city council shall establish monthly rates and charges for the user of the wastewater system and for the services supplied by the wastewater system. Said charges shall be based upon the cost categories of administration costs, including billing and accounting costs; operation and maintenance costs of the wastewater collection and treatment system; and debt service costs.

(a) All users who fall under Class I shall pay a single unit charge expressed as dollars per 1,000 gallons of water purchased (1,000 gallons) with the unit charge being determined in accordance with the following formula:

$$C_i - \frac{T.S.C.}{V_t}$$

Where:

C_i = The class total unit cost in 1,000 gallons.

T.S.C. = The total operation and maintenance, administration, and debt service determined by yearly budget projections.

V_t = The total volume of wastewater contribution of all users per year as determined from projections from one city fiscal year to the next.

(b) All users who fall within the Class II classification shall pay the same base unit charge per 1,000 gallons of water purchased as for the Class I users and in addition shall pay a surcharge rate on the excessive amounts of biochemical oxygen demand and suspended solids in direct proportion to the actual discharge quantities.

(c) The volume of water purchased which is used in the calculation of sewer use charges may be adjusted by the superintendent if a user purchases a significant volume of water for a consumptive use

and does not discharge it to the public sewers (i.e. filling swimming pools, industrial heating, and humidifying equipment, etc.). The user shall be responsible for documenting the quantity of waste discharge to the public sewer.

(d) When either or both the total suspended solids or biochemical oxygen demand quantities discharged into the POTW is in excess of those described in, above, this being classified as Class II users, the following formula shall be used to compute the appropriate user charge:

$$C_u = V_c V_u + B_c B_u + S_c S_u$$

Where:

C_u = Total user charge per unit of time.

V_c = Total cost for transportation and treatment of a unit of wastewater volume.

V_u = Volume contribution per unit of time.

B_c = Total cost for treatment of a unit of biochemical oxygen demand (BOD)

B_u = Total BOD contribution for a user per unit of time.

S_c = Total cost of treatment of a unit of suspended solids.

S_u = Total suspended solids contribution from a user per unit of time.
(1983 Code, § 8-344)

18-445. Surcharge fees. If it is determined by the city that the discharge of other loading parameters or wastewater substances are creating excessive operation and maintenance costs within the wastewater system, whether collection or treatment, then the monetary effect of such parameters shall be borne by the discharge of such parameters in proportion to the amount of discharge. (1983 Code, § 8-345)

18-446. Industrial wastewater discharge permit fees. A fee may be charged for the issuance of an industrial wastewater discharge fee in accordance with §§ 18-413--18-415 of this chapter. (1983 Code, § 8-346)

18-447. Fees for industrial discharge monitoring. Fees may be collected from industrial users having pretreatment or other discharge

requirements to compensate the city for the necessary compliance monitoring and other administrative duties of the pretreatment program. (1983 Code, § 18-347)

18-448. Billing. The billing for normal domestic wastewater services shall consist of monthly billing in accordance with the rates specified by the city, subject to net and gross rates. (1983 Code, § 8-348)

CHAPTER 5

CROSS CONNECTIONS, AUXILIARY INTAKES, ETC.¹

SECTION

- 18-501. Definitions.
- 18-502. Standards.
- 18-503. Construction, operation, and supervision.
- 18-504. Statement required.
- 18-505. Inspections required.
- 18-506. Right of entry for inspections.
- 18-507. Correction of existing violations.
- 18-508. Use of protective devices.
- 18-509. Unpotable water to be labeled.
- 18-510. Violations.

18-501. Definitions. The following definitions and terms shall apply in the interpretation and enforcement of this chapter:

(1) "Public water supply." The waterworks system furnishing water to the municipality for general use and which supply is recognized as the public water supply by the Tennessee Department of Health.

(2) "Cross connection." Any physical connection whereby the public water supply is connected with any other water supply system, whether public or private, either inside or outside of any building or buildings, in such manner that a flow of water into the public water supply is possible either through the manipulation of valves or because of any other arrangement.

(3) "Auxiliary intake." Any piping connection or other device whereby water may be secured from a source other than that normally used.

(4) "Bypass." Any system of piping or other arrangement whereby the water may be diverted around any part or portion of a water purification plant.

(5) "Interconnection." Any system of piping or other arrangement whereby the public water supply is connected directly with a sewer, drain, conduit, pool, storage reservoir, or other device which does or may contain sewage or other waste or liquid which would be capable of imparting contamination to the public water supply.

(6) "Person." Any and all persons, natural or artificial, including any individual, firm, or association, and any municipal or private corporation

¹Municipal code references

Plumbing code: title 12.

Water and sewer system administration: title 18.

Wastewater treatment: title 18.

organized or existing under the laws of this or any other state or country. (1983 Code, § 8-401)

18-502. Standards. The City of Dyer Public Water Supply is to comply with Tennessee Code Annotated, §§ 68-221-701 through 68-221-720 as well as the Rules and Regulations for Public Water Supplies, legally adopted in accordance with this code, which pertain to cross connections, auxiliary intakes, bypasses, and interconnections, and establish an effective ongoing program to control these undesirable water uses. (1983 Code, § 8-402)

18-503. Construction, operation, and supervision. It shall be unlawful for any person to cause a cross connection to be made, or allow one to exist for any purpose whatsoever, unless the construction and operation of same have been approved by the Tennessee Department of Health and the operation of such cross connection, auxiliary intake, bypass or interconnection is at all times under the direct supervision of the water superintendent of the City of Dyer water supply. (1983 Code, § 8-403)

18-504. Statement required. Any person whose premises are supplied with water from the public water supply and who also has on the same premises a separate source of water supply, or stores water in an uncovered or unsanitary storage reservoir from which the water stored therein is circulated through a piping system, shall file with the water superintendent a statement of the non-existence of unapproved or unauthorized cross connections, auxiliary intakes, bypasses, or interconnections. Such statement shall also contain an agreement that no cross connection, auxiliary intake, bypass, or interconnection will be permitted upon the premises. (1983 Code, § 8-404)

18-505. Inspections required. It shall be the duty of the water superintendent of the public water supply to cause inspections to be made of all properties served by the public water supply where cross connections with the public water supply are deemed possible. The frequency of inspections and reinspections based on potential health hazards involved, shall be established by the water superintendent of the City of Dyer Public Water System and as approved by the Tennessee Department of Health. (1983 Code, § 8-405)

18-506. Right of entry for inspections. The water superintendent or authorized representative shall have the right to enter, at any reasonable time, any property served by a connection to the City of Dyer Public Water Supply for the purpose of inspecting the piping system or systems therein for cross connections, auxiliary intakes, bypasses, or interconnections. On request, the owner, lessee, or occupant of any property so served shall furnish to the inspection agency any pertinent information regarding the piping system or systems on such property. The refusal of such information or refusal of access,

when requested, shall be deemed evidence of the presence of cross connections. (1983 Code, § 8-406)

18-507. Correction of existing violations. Any person who now has cross connections, auxiliary intakes, bypasses, or interconnections in violation of the provisions of this chapter shall be allowed a reasonable time within which to comply with the provisions of this chapter. After a thorough investigation of existing conditions and an appraisal of the time required to complete the work, the amount of time shall be designated by the water superintendent of the City of Dyer Public Water Supply.

The failure to correct conditions threatening the safety of the public water system as prohibited by this chapter and the Tennessee Code Annotated, § 68-221-711, within a reasonable time and within the time limits set by the City of Dyer Public Water Supply, shall be grounds for denial of water service. If proper protection has not been provided after a reasonable time, the utility shall give the customer legal notification that water service is to be discontinued and shall physically separate the public water supply from the customer's on-site piping system in such a manner that the two systems cannot again be connected by an unauthorized person.

Where cross connections, interconnections, auxiliary intakes, or bypasses are found that constitute an extreme hazard of immediate concern of contaminating the public water system, the management of the water supply shall require that immediate corrective action be taken to eliminate the threat to the public water system. Immediate steps shall be taken to disconnect the public water supply from the on-site piping system unless the imminent hazard(s) is (are) corrected immediately. (1983 Code, § 8-407)

18-508. Use of protective devices. Where the nature of use of the water supplied a premises by the water department is such that it is deemed:

- (1) Impractical to provide an effective air-gap separation.
- (2) That the owner and/or occupant of the premises cannot, or is not willing, to demonstrate to the official in charge of the water supply, or his designated representative, that the water use and protective features of the plumbing are such as to propose no threat to the safety or potability of the water supply.
- (3) That the nature and mode of operation within a premises are such that frequent alterations are made to the plumbing.
- (4) There is a likelihood that protective measures may be subverted, altered, or disconnected.

The water superintendent of the City of Dyer Public Water Supply, or his designated representative, shall require the use of an approved protective device on the service line serving the premises to assure that any contamination that may originate in the customer's premises is contained therein. The protective device shall be a reduced pressure zone type backflow preventer approved by the

Tennessee Department of Health as to manufacture, model, and size. The method of installation of backflow protective devices shall be approved by the water superintendent of the Public Water Supply prior to installation and shall comply with the criteria set forth by the Tennessee Department of Health. The installation shall be at the expense of the owner or occupant of the premises.

Personnel of the City of Dyer Public Water Supply shall have the right to inspect and test the device or devices on an annual basis or whenever deemed necessary by the water superintendent or his designated representative. Water service shall not be disrupted to test the device without the knowledge of the occupant of the premises.

Where the use of water is critical to the continuance of normal operations or protection of life, property, or equipment, duplicate units shall be provided to avoid the necessity of discontinuing water service to test or repair the protective device or devices. Where it is found that only one unit has been installed and the continuance of service is critical, the water superintendent shall notify, in writing, the occupant of the premises of plans to discontinue water service and arrange for a mutually acceptable time to test and/or repair the device. The superintendent shall require the occupant of the premises to make all repairs indicated promptly, to keep the unit(s) working properly, and the expense of such repairs shall be borne by the owner or occupant of the premises. Repairs shall be made by qualified personnel acceptable to the water superintendent of the City of Dyer Public Water Supply.

The failure to maintain backflow prevention devices in proper working order shall be grounds for discontinuing water service to a premises. Likewise, the removal, bypassing, or altering of the protective devices or the installation thereof so as to render the devices ineffective shall constitute grounds for discontinuance of water service. Water service to such premises shall not be restored until the customer has corrected or eliminated such conditions or defects to the satisfaction of the City of Dyer Public Water Supply. (1983 Code, § 8-408)

18-509. Unpotable water to be labeled. The potable water supply made available to premises served by the public water supply shall be protected from possible contamination as specified herein. Any water outlet which could be used for potable or domestic purposes and which is not supplied by the potable system must be labeled in a conspicuous manner as:

WATER UNSAFE
FOR DRINKING

The minimum acceptable sign shall have black letters at least one-inch high located on a red background. (1983 Code, § 8-409)

18-510. Violations. The requirements contained herein shall apply to all premises served by the City of Dyer Water System whether located inside or outside the corporate limits and are hereby made a part of the conditions required to be met for the city to provide water services to any premises. Such action, being essential for the protection of the water distribution system against the entrance of contamination which may render the water unsafe healthwise, or otherwise undesirable, shall be enforced rigidly without regard to location of the premises, whether inside or outside the City of Dyer corporate limits.

Any person who neglects or refuses to comply with any of the provisions of this chapter shall be deemed guilty of a misdemeanor and, upon conviction therefor, shall be fined not less than ten dollars (\$10.00) nor more than one hundred dollars (\$100.00), and each day of continued violation after conviction shall constitute a separate offense. (1983 Code, § 8-410)

TITLE 19

ELECTRICITY AND GAS

CHAPTER

1. ELECTRICITY.
2. GAS.

CHAPTER 1

ELECTRICITY

SECTION

19-101. To be furnished under franchise.

19-101. To be furnished under franchise. Electricity shall be furnished for the municipality and its inhabitants under such franchise as the governing body shall grant.¹ The rights, powers, duties, and obligations of the municipality, its inhabitants, and the grantee of the franchise shall be clearly stated in the written franchise agreement which shall be binding on all parties concerned.

¹The agreements are of record in the office of the city recorder.

CHAPTER 2

GAS

SECTION

19-201. To be furnished under franchise.

19-201. To be furnished under franchise. Gas service shall be furnished for the municipality and its inhabitants under such franchise as the governing body shall grant. The rights, powers, duties, and obligations of the municipality, its inhabitants, and the grantee of the franchise shall be clearly stated in the written franchise agreement which shall be binding on all parties concerned.¹

¹The agreements are of record in the office of the city recorder.

TITLE 20

MISCELLANEOUS

CHAPTER

1. GIBSON COUNTY CIVIL DEFENSE ORGANIZATION.
2. PUBLIC SAFETY DEPARTMENT.
3. FAIR HOUSING ORDINANCE.
4. DAVID ROBINSON MUNICIPAL PARK.

CHAPTER 1

GIBSON COUNTY CIVIL DEFENSE ORGANIZATION

SECTION

- 20-101. Creation of organization.
- 20-102. Authority and responsibility of organization.
- 20-103. Creation of office of director and designation of its authority and responsibility.
- 20-104. Creation of civil defense corps.
- 20-105. Liability.
- 20-106. Finances.

20-101. Creation of organization. There is hereby created the Gibson County Civil Defense Organization, which shall be a joint operation by the City of Dyer and the County of Gibson for the purpose of organizing and directing civil defense for the citizens of the entire county. All other civil defense agencies within the corporate limits of other municipalities of Gibson County shall be considered as a total part of the county-wide civil defense emergency resources and when such agencies operate out of their corporate limits it shall be at the direction of, subordinate to, and a part of the Gibson County civil defense. (1983 Code, § 1-1001)

20-102. Authority and responsibility of organization. (1) Authority. In accordance with federal and state enactments of law, the Gibson County civil defense organization is hereby authorized to assist the regular government of the county and governments of all political subdivisions therein, as may be necessary due to enemy caused emergency or natural disasters, including but not limited to: storms, floods, fires, explosions, tornadoes, hurricanes, drought, or peace-time man-made disasters, which might occur affecting the lives, health, safety, welfare, and property of the citizens of Gibson County. The Gibson County civil defense organization is hereby authorized to perform such duties and functions as may be necessary on account of said disasters. The Gibson County civil defense organization is hereby designated the official agency to assist regular forces in time of said emergencies.

(2) **Responsibilities.** The Gibson County civil defense organization shall be responsible for preparation and readiness against enemy caused and natural emergencies arising in Gibson County, to establish and coordinate emergency plans, forces, means, and resources, and is hereby designated the official agency to establish such emergency plans. (1983 Code, § 1-1002)

20-103. Creation of office of director and designation of its authority and responsibility. (1) The office of the director of civil defense is hereby created. The director shall have authority to request the declaration of the existence of an emergency by the mayor and county executive or either or by higher authorities as appropriate.

(2) The director shall have overall responsibility for the preparation of all plans, recruitment, and training of personnel. All local civil defense plans will be in consonance with state plans and shall be approved by the state civil defense office.

(3) The director is hereby given the authority to delegate such responsibility and authority as is necessary to carry out the purposes of this chapter subject to the approval of the chief executive officers of the city and county.

(4) The director shall be responsible to the chief executive officers of the city and county for the execution of the authorities, duties, and responsibilities of the Gibson County civil defense organization and for the preparation of all plans and administrative regulations and for recruitment and training of personnel. (1983 Code, § 1-1003)

20-104. Creation of civil defense corps. The Gibson County civil defense corps is hereby created. The corps shall be under the direction of the director of civil defense and his staff members with delegated authority; it shall consist of designated regular government employees and volunteer workers. Duties and responsibilities of the corps members shall be outlined in the civil defense emergency plan. (1983 Code, § 1-1004)

20-105. Liability. Liability of the city and county in carrying out duties under this chapter shall be as provided by law. (1983 Code, § 1-1005)

20-106. Finances. No person shall have the right to expend any public funds of the city or county in carrying out any civil defense activities authorized by this chapter without prior approval by the governing bodies of the city and/or county; nor shall any person have any right to bind the city or county by contract, agreement, or otherwise without prior and specific approval by the governing bodies of the city and/or county. The civil defense director shall disburse such monies as may be provided annually by appropriation of the city and county for the operation of the civil defense organization. He shall be responsible for the preparation and submission of a budget with

recommendations as to its adoption by the city and county. All funds shall be disbursed upon vouchers properly executed by the director of civil defense, subject to audit by either the City of Dyer or Gibson County. The civil defense director is hereby authorized to accept federal contributions in money, equipment, or otherwise, when available, or state contributions, and is further authorized to accept contributions to the civil defense organization, such funds becoming liable for audit by the city or county. (1983 Code, § 1-1006)

CHAPTER 2

PUBLIC SAFETY DEPARTMENT¹

SECTION

- 20-201. Established.
- 20-202. Chiefs.
- 20-203. General powers and duties of chiefs.
- 20-204. Public safety officers.
- 20-205. Public safety officers subject to chiefs' orders.
- 20-206. Public safety officers to preserve law and order, etc.
- 20-207. Public safety officers to wear uniforms and be armed.
- 20-208. When public safety officers to make arrests.
- 20-209. Officers may require assistance in making arrests.
- 20-210. Disposition of persons arrested.
- 20-211. Equipment generally.
- 20-212. Qualifications of fire chief; special training for fire fighters.
- 20-213. Fire equipment.
- 20-214. Police power of fire chief.
- 20-215. Responsibilities and duties of fire chief.
- 20-216. Responsibilities and duties of assistant fire chief.
- 20-217. Fire chief to be assistant to state officer.

20-201. Established. There is hereby created and established a public safety department of the City of Dyer (hereafter referred to as department). This department shall be charged with the performance of all police and fire functions of the city. (1983 Code, § 1-401)

20-202. Chiefs. There are hereby created and established in the department the offices of chief of fire and chief of police.

The chief of police shall supervise the operations of the public safety department at all times except when there is an emergency requiring firefighting personnel and equipment.

When the public safety department is engaged in fighting fires and other fire-related functions, the fire chief will be in charge. (1983 Code, § 1-402)

¹Charter references

Election of the marshal and the appointment of police officers: art. II, § 13.
Police department: art. VIII.

Municipal code reference

Fire protection and fireworks: title 7.
Law enforcement: title 6.
Traffic citations, etc.: title 15.

20-203. General powers and duties of chiefs. The chief of police and fire chief shall be responsible to the city council for the proper administration of the activities and operations of the department pursuant to state law, city ordinances and resolutions, and policies established by the city council with powers and duties as follows:

(1) To supervise and direct the activities of the members of the public safety department.

(2) Whenever they deem such action necessary or desirable for the good of the service to demote or suspend any member of the department subject to the right of such member to file a written appeal within ten days with the city council for reinstatement.

(3) To analyze and present problems to the city council pertaining to the department which require policy decisions and keep the city council advised concerning developments pertaining to department administration, business, and affairs, and to make recommendations from time to time for improving the quality and efficiency of the services performed by the department.

(4) To supervise and control all mobile and other equipment of the department and to be responsible for its proper maintenance.

(5) To maintain or cause to be maintained complete and detailed records of all police and fire activities in which the department engages.

(6) To perform such other duties as may from time to time be delegated to them by the city council. (1983 Code, § 1-403)

20-204. Public safety officers. There is hereby created and established the position of public safety officer. There shall be no distinction between police duties and fire duties, these duties being combined and made a part of the duties of public safety officers. Volunteer personnel, however, shall perform no police duties. (1983 Code, § 1-404)

20-205. Public safety officers subject to chiefs' orders. All public safety officers shall obey and comply with such orders and administrative rules and regulations as the police chief and fire chief may officially issue. (1983 Code, § 1-405)

20-206. Public safety officers to preserve law and order, etc. Public safety officers (excluding volunteer personnel) shall preserve law and order within the city. They shall patrol the city and shall assist the city court during the trial of cases. They shall also promptly serve any legal process issued by the city court. (1983 Code, § 1-406)

20-207. Public safety officers to wear uniforms and be armed. All public safety officers (excluding volunteer personnel) shall wear such uniform and badge as the city council shall authorize and shall carry a service pistol and

billy club at all times while on duty unless otherwise expressly directed by the chief for a special assignment. (1983 Code, § 1-407)

20-208. When public safety officers to make arrests.¹ Unless otherwise authorized or directed in this code or other applicable law, an arrest of the person shall be made by a public safety officer (excluding volunteer personnel) 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. (1983 Code, § 1-408)

20-209. Officers may require assistance in making arrests. It shall be unlawful for any person willfully to refuse to aid a public safety officer in making a lawful arrest when such person's assistance is requested by the officer and is reasonably necessary to make the arrest. (1983 Code, § 1-409)

20-210. Disposition of persons arrested. Unless otherwise authorized by law, when any person is arrested for any offense other than one involving drunkenness, he shall be brought before the city court for immediate trial or allowed to post bond. When the arrested person is drunk or when the city judge is not immediately available and the alleged offender is not able to post the required bond, he shall be confined. (1983 Code, § 1-410)

20-211. Equipment generally. All apparatus, equipment, and supplies of the public safety department shall be purchased by or through the city and shall be and remain the property of the city. (1983 Code, § 1-411)

20-212. Qualifications of fire chief; special training for fire fighters. The fire chief shall be a person especially qualified for the duties incumbent upon him and shall hold office at the pleasure of the city council, and shall be removed only for cause after public trial before the city council; and further, there shall be an assistant fire chief elected biannually. Special training shall be required for such engineers and drivers as may be needed in fighting fires. (1983 Code, § 1-412)

20-213. Fire equipment. The City of Dyer shall furnish to the members of the public safety department rubber coats or other suitable clothing, fire

¹Municipal code reference

Traffic citations, etc.: title 15, chapter 8.

helmets, and rubber boots to be worn at fires, drills, and on duty only. The clothing shall be and remain the property of the city and shall be ordered subject to the approval of the mayor. (1983 Code, § 1-413)

20-214. Police power of fire chief. The fire chief shall be authorized to exercise police powers at time of fire and summon to his assistance such additional help as he may deem necessary to control the fire; further, the fire chief shall and is hereby authorized to enforce all fire prevention ordinances contained in the municipal code. (1983 Code, § 1-414)

20-215. Responsibilities and duties of fire chief. (1) It shall be the duty of the fire chief to examine the condition of the fire apparatus, hose, and all other fire equipment once a week, and whenever directed by the mayor.

(2) The fire chief shall drill the department at least monthly in the use of fire apparatus and equipment, also hold one or more meetings a month in discussing equipment, proper fire fighting methods, fire hazards, and other business in line of duty, such as hydrants and mains and water supply.

(3) The fire chief shall attend all fires when not providentially hindered or excused by the mayor, and he shall direct the members in matters pertaining to their duties. He may in his judgement suspend members from duty and make report of such action to the city council as soon as practicable thereafter.

(4) The fire chief shall, with other members of the department, make inspections of all mercantiles, schools, churches, and factories at least twice a year.

(5) The fire chief shall, on absenting himself from the city, first notify the assistant chief to take charge of the department in case fire fighting personnel are activated.

(6) The fire chief shall inspect each fire truck and all other equipment once a week with the engineer or driver and see that all equipment is on each truck. The fire chief shall examine the fire truck daily and after each run and also check the oil, gas, water, tires, and keep a record of time pumped and pressure on hydrants, and at stated intervals must examine all fire hydrants in the city and report all defects to the city council. (1983 Code, § 1-415)

20-216. Responsibilities and duties of assistant fire chief. The assistant fire chief shall take charge in the absence of the chief and assume the same powers as devolve upon the chief. At all other times he shall perform such duties as to fire equipment, etc., as the fire chief may direct. (1983 Code, § 1-416)

20-217. Fire chief to be assistant to state officer. Pursuant to requirements of Tennessee Code Annotated, § 68-102-108, the fire chief is designated as an assistant to the state commissioner of insurance and is subject

to all the duties and obligations imposed by Tennessee Code Annotated, title 68, chapter 102, and shall be subject to the directions of the commissioner in the execution of the provisions thereof. (1983 Code, § 1-418)

CHAPTER 3

FAIR HOUSING ORDINANCE

SECTION

- 20-301. Policy.
- 20-302. Definitions.
- 20-303. Unlawful practice.
- 20-304. Discrimination in the sale or rental of housing.
- 20-305. Discrimination in the financing of housing.
- 20-306. Discrimination in the provision of brokerage services.
- 20-307. Exemption.
- 20-308. Administration.
- 20-309. Education and conciliation.
- 20-310. Enforcement.
- 20-311. Investigations; subpoenas; giving of evidence.
- 20-312. Enforcement by private persons.

20-301. Policy. It is the policy of the City of Dyer, Tennessee to provide, within constitutional limitations, for fair housing throughout the community. (Ord. #99-100, March 1999)

20-302. Definitions. (1) "Dwelling" means any building, structure, or portion thereof which is occupied as, or designed or intended for occupancy as a residence by one or more families, and any vacant land which is offered for sale or lease for the construction or location thereon of any such building, structure, or portion thereof.

(2) "Family" includes a single individual.

(3) "Person" includes one or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, receivers, and judiciaries.

(4) "To rent" includes to lease, to sublease, to let and otherwise to grant for a consideration the right to occupy premises owned by the occupant.

(5) "Discriminatory housing practice" means an act that is unlawful under §§ 20-304, 20-305, or 20-306. (Ord. #99-100, March 1999)

20-303. Unlawful practice. Subject to the provisions of subsection (2) and § 20-307, the prohibitions against discrimination in the sale or rental of housing set forth in § 20-304 shall apply to:

(1) All dwellings except as exempted by subsection (2).

(2) Nothing in § 20-304 shall apply to:

(a) Any single-family house sold or rented by an owner.

Provided that such private individual owner does not own more than

three such single-family houses at any one time. Provided further that in the case of the sale of any such single-family house by a private individual owner not residing in such house at the time of such sale or who was not the most recent resident of such house prior to such sale, the exemption granted by this subsection shall apply only with respect to one such sale within any twenty-four month period: Provided further that such bona fide private individual owner does not own any interest in, nor is owned or reserved on his behalf, under any express or voluntary agreement, title to or any right to all or a portion of the proceeds from the sale or rental of, more than three such single-family houses at any one time. Provided further that the sale or rental of any such single-family house shall be excepted from the application of this title only if such house is sold or rented

(i) Without the use in any manner of the sale or rental facilities or the sale or rental services of any real estate broker, agent, or salesman, or of such facilities or services of any person in the business of selling or renting dwellings, or of any employee or agent of any such broker, agent, salesman, or person and

(ii) Without the publication, posting or mailing, after notice of any advertisement or written notice in violation of § 20-304(3) of this chapter, but nothing in this proviso shall prohibit the use of attorneys, escrow agents, abstractors, title companies, and other such professional assistance as necessary to perfect or transfer the title, or

(b) Rooms or units in dwellings containing living quarters occupied or intended to be occupied by no more than four families living independently of each other, if the owner actually maintains and occupies one of such living quarters as his residence.

(3) For the purpose of subsection (2), a person shall be deemed to be in the business of selling or renting dwellings if:

(a) He has, within the preceding twelve months, participated as principal in three or more transactions involving the sale or rental of any dwelling or any interest therein, or

(b) He has, within the preceding twelve months, participated as agent, other than in the sale of his own personal residence in providing sales or rental facilities or sales or rental services in two or more transactions involving the sale or rental of any dwelling or any interest therein, or

(c) He is the owner of any dwelling designed or intended for occupancy by, or occupied by, five or more families. (Ord. #99-100, March 1999)

20-304. Discrimination in the sale or rental of housing. As made applicable by § 20-303 and except as exempted by §§ 20-303(2) and 20-307, it shall be unlawful:

(1) To refuse to sell or rent after the making of a bona fide offer, or to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling to any person because of race, color, religion, sex, national origin, familial status or disability.

(2) To discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith, because of race, color, religion, sex, national origin, familial status or disability.

(3) To make, print, or publish, or cause to be made, printed, or published any notice, statement, or advertisement, with respect to the sale or rental of a dwelling that indicates any preference, limitations, or discrimination based on race, color, religion, sex, national origin, familial status or disability, or any intention to make any such preference, limitation, or discrimination.

(4) To represent to any person because of race, color, religion, sex, national origin, familial status or disability that any dwelling is not available for inspection, sale, or rental when such dwelling is in fact so available.

(5) For profit, to induce or attempt to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, sex, national origin, familial status or disability.

(6) To refuse to permit, at the expense of the person with a disability, reasonable modifications of existing premises occupied or to be occupied by that person if such modifications are necessary to afford that person full enjoyment of the premises.

(7) To refuse to make reasonable accommodations in rules, policies, practices, or service, when such accommodations are necessary to afford a person with a disability equal opportunity to use and enjoy a dwelling. (Ord. #99-100 March 1999)

20-305. Discrimination in the financing of housing. It shall be unlawful for any bank, building and loan association, insurance company or other corporation, association, firm or enterprise whose business consists in whole or in part in the making or commercial real estate loans, to deny a loan or other financial assistance to a person applying therefor for the purpose of purchasing, constructing, improving, repairing, or maintaining a dwelling, or to discriminate against him in the fixing of the amount, interest rate, duration, or other terms or conditions of such loan or other financial assistance, because of the race, color, religion, sex, national origin, familial status or disability of such person or of any person associated with him in connection with such loan or other financial assistance or the purposes of such loan or other financial assistance, or of the present or prospective owners, lessees, tenants, or

occupants of the dwelling or dwellings in relation to which such loan or other financial assistance is to be made or given: Provided, that nothing contained in this section shall impair the scope or effectiveness of the exception contained in § 20-303(2). (Ord. #99-100, March 1999)

20-306. Discrimination in the provision of brokerage services. It shall be unlawful to deny any person access to or membership or participation in any multiple-listing service, real estate brokers organization or other service, organization, or facility relating to the business of selling or renting dwellings, or to discriminate against him in the terms of conditions of such access, membership, or participation, on account of race, color, religion, sex, national origin, familial status or disability. (Ord. #99-100, March 1999)

20-307. Exemption. Nothing in this chapter shall prohibit a religious organization, association, or society or any non-profit institution or organization operated, supervised or controlled by or in conjunction with a religious organization, association, or society, from limiting the sale, rental or occupancy of dwellings which it owns or operates for other than a commercial purpose to persons of the same religion, or from giving preference to such persons, unless membership in such religion is restricted on account of race, color, sex, national origin, familial status or disability. Nor shall anything in this chapter prohibit a private club not in fact open to the public, which as an incident to its primary purpose or purposes provides lodgings which it owns or operates for other than a commercial purpose, from limiting the rental or occupancy of such lodgings to its members or from giving preference to its members. (Ord. #99-100, March 1999)

20-308. Administration. (1) The authority and responsibility for administering this Act shall be in the Mayor of the City of Dyer, Tennessee.

(2) The mayor may delegate any of these functions, duties, and powers to employees of the community or to boards of such employees, including functions, duties, and powers with respect to investigating conciliating, hearing, determining, ordering, certifying, reporting or otherwise acting as to any work, business, or matter under this chapter. The mayor shall by rule prescribe such rights of appeal from the decisions of his hearing examiners to other hearing examiners or to other officers in the community, to boards of officers or to himself, as shall be appropriate and in accordance with law.

(3) All executive departments and agencies shall administer their programs and activities relating to housing and urban development in a manner affirmatively to further the purposes of this chapter and shall cooperate with the mayor to further such purposes. (Ord. #99-100, March 1999)

20-309. Education and conciliation. Immediately after the enactment of this chapter, the mayor shall commence such educational and conciliatory

activities as will further the purpose of this chapter. He shall call conferences of persons in the housing industry and other interested parties to acquaint them with the provisions of this chapter and his suggested means of implementing it, and shall endeavor with their advice to work out programs of voluntary compliance and of enforcement. (Ord. #99-100, March 1999)

20-310. Enforcement. (1) Any person who claims to have been injured by a discriminatory housing practice or who believes that he will be irrevocably injured by a discriminatory housing practice that is about to occur (hereafter "person aggrieved") may file a complaint with the mayor. Complaints shall be in writing and shall contain such information and be in such form as the mayor requires. Upon receipt of such a complaint, the mayor shall furnish a copy of the same to the person or persons who allegedly committed or is about to commit the alleged discriminatory housing practice. Within thirty days after receiving a complaint, or within thirty days after the expiration of any period of reference under subsection (3), the mayor shall investigate the complaint and give notice in writing to the person aggrieved whether he intends to resolve it. If the mayor decides to resolve the complaints, he shall proceed to try to eliminate or correct the alleged discriminatory housing practice by information methods of conference, conciliation, and persuasion. Nothing said or done in the course of such informal endeavors may be made public or used as evidence in a subsequent proceeding under this chapter without the written consent of the persons concerned. Any employee of the mayor who shall make public any information in violation of this provision shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not more than \$1,000 or imprisoned not more than one year.

(2) A complaint under subsection (3) shall be filed within one hundred and eighty days after the alleged discriminatory housing practice occurred. Complaints shall be in writing and shall state the facts upon which the allegations of a discriminatory housing practice are based. Complaints may be reasonably and fairly amended at any time. A respondent may file an answer to the complaint against him and with the leave of the mayor, which shall be granted whenever it would be reasonable and fair to do so, may amend his answer at any time. Both complaints and answers shall be verified.

(3) If within thirty days after a complaint is filed with the mayor, the mayor has been unable to obtain voluntary compliance with this chapter, the person aggrieved may, within thirty days thereafter, file a complaint with the Secretary of the Department of Housing and Urban Development. The mayor will assist in this filing.

(4) If the mayor has been unable to obtain voluntary compliance within thirty days of the complaint, the person aggrieved may, within thirty days hereafter commence a civil action in any appropriate court, against the respondent named in the complaint, to enforce the rights granted or protected by this chapter, insofar as such rights relate to the subject of the complaint. If

the court finds that a discriminatory housing practice has occurred or is about to occur, the court may enjoin the respondent from engaging in such practice or order such affirmative action as may be appropriate.

(5) In any proceeding brought pursuant to this section, the burden of proof shall be on the complaint.

(6) Whenever an action filed by an individual shall come to trial, the mayor shall immediately terminate all efforts to obtain voluntary compliance. (Ord. #99-100, March 1999)

20-311. Investigations; subpoenas; giving of evidence. (1) In conducting an investigation, the mayor shall have access at all reasonable times to premises, records, documents, individuals, and other evidence or possible sources of evidence and may examine, record, and copy such materials and take and record the testimony or statements of such persons as are reasonably necessary for the furtherance of the investigation: Provided, however, that the mayor first complies with the provisions of the Fourth Amendment relating to unreasonable searches and seizures. The mayor may issue subpoenas to compel his access to or the production of such materials, or the appearance of such persons, and may issue interrogatories to a respondent, to the same extent and subject to the same limitations as would apply if the subpoenas or interrogatories were issued or served in aid of a civil action in the United States District Court of the district in which the investigation is taking place. The mayor may administer oaths.

(2) Upon written application to the mayor, a respondent shall be entitled to the issuance of a reasonable number of subpoenas by and in the name of the mayor to the same extent and subject to the same limitations as subpoenas issued by the mayor himself. Subpoenas issued at the request of a respondent shall show on their face the name and address of such respondent and shall state that they were issued at his request.

(3) Witnesses summoned by subpoena of the mayor shall be entitled to the same witness and mileage fees as are witnesses in proceedings in the United States District Courts. Fees payable to the witness summoned by a subpoena issued at the request of a respondent shall be paid by him.

(4) Within five days after service of a subpoena upon any person, such person may petition the mayor to revoke or modify the subpoena. The mayor shall grant the petition if he finds that the subpoena requires appearance or attendance at an unreasonable time or place, that it requires production of evidence which does not relate to any matter under investigation, that it does not describe with sufficient particularity the evidence to be produced, that compliance would be unduly onerous, or for other good reason.

(5) In case of contumacy or refusal to obey a subpoena, the mayor or other person at whose request it was issued may petition for its enforcement in the municipal or state court for the district in which the person to whom the subpoena was addressed resides, was served, or transacts business.

(6) Any person who willfully fails or neglects to attend and testify or to answer any lawful inquiry or to produce records, documents, or other evidence, if in his power to do so, in obedience to the subpoena or lawful order of the mayor shall be fined not more than \$1,000 or imprisoned not more than one year, or both. Any person who, with intent thereby to mislead the mayor, shall make or cause to be made any false entry or statement or fact in any report, account, record, or other document submitted to the mayor pursuant to his subpoena or other order, or shall willfully neglect or fail to make or cause to be made full, true, and correct entries in such reports, accounts, records, or other documents, or shall willfully mutilate, alter, or by any other means falsify any documentary evidence, shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

(7) The City of Dyer, Tennessee's attorney shall conduct all litigation in which the mayor participates as a party or as amicus pursuant to this chapter. (Ord. #99-100, March 1999)

20-312. Enforcement by private persons. (1) The rights granted by §§ 20-303, 20-304, 20-305, and 20-306 may be enforced by civil actions in state or local courts of general jurisdiction. A civil action shall be commenced within one hundred and eighty days after the alleged discriminatory housing practice occurred: Provided, however, that the court shall continue such civil case brought to this section or § 20-310(4) from time to time before bringing it to trial or renting dwellings; or

(2) Any person because he is or has been, or in order to intimidate such person or any other person or any class of persons from:

(a) Participating, without discrimination on account of race, color, religion, sex, national origin, familial status or disability, in any of the activities, services, organizations or facilities; or

(b) Affording another person or class of persons opportunity or protection so to participate; or

(3) Any citizen because he is or has been, or in order to discourage such citizen or any other citizen from lawfully aiding or encouraging other persons to participate, without discrimination on account of race, color, religion or national origin, familial status or disability, in any of the activities, services, organizations or facilities, or participating lawfully in speech or peaceful assembly opposing any denial of the opportunity to so participate shall be fined not more than \$1,000 or imprisoned not more than one year, or both; and, if bodily injury results, shall be fined not more than \$10,000, or imprisoned not more than ten years, or both; and, if death results, shall be subject to imprisonment for any term of years or for life. (Ord. #99-100, March 1999)

CHAPTER 4

DAVID ROBINSON MUNICIPAL PARK

SECTION

20-401. Hours of operation.

20-402. Exception.

20-403. Violations.

20-401. Hours of operation. The David Robinson Municipal Park shall be open to the public daily, except that between the hours of 10:00 P.M. and 7:00 A.M. It shall be unlawful for any person under the age of eighteen (18) to be in the David Robinson Municipal Park unless accompanied by a parent or guardian. (as added by Ord. #2012-206, June 2012)

20-402. Exception. The provisions of § 20-401 of this chapter shall not apply to persons under the age of eighteen (18) who are attending any city-sanctioned activity in the park between the hours of 10:00 P.M. and 7:00 A.M. (as added by Ord. #2012-206, June 2012)

20-403. Violations. Violations of this chapter shall be punishable by a fine of not less than twenty dollars (\$20.00) nor more than fifty dollars (\$50.00) in the Dyer Municipal Court. (as added by Ord. #2012-206, June 2012)