

**THE
CUMBERLAND GAP
MUNICIPAL
CODE**

Prepared by the

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

in cooperation with the

TENNESSEE MUNICIPAL LEAGUE

August 2003

Change 6, January 4, 2016

TOWN OF CUMBERLAND GAP, TENNESSEE

MAYOR

Bill McGaffee

ALDERMEN

Susan Bain

Chuck Coffey

Teresa Fuson

Jerry Hopson

John Ravnum

Phillip Waller

RECORDER

Linda Moyers

PREFACE

The Cumberland Gap Municipal Code contains the codification and revision of the ordinances of the Town of Cumberland Gap, 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 town's ordinance book or the city recorder for a comprehensive and up to date review of the town's ordinances.

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

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

1. That all ordinances relating to subjects treated in the code or which should be added to the code are adopted as amending, adding, or deleting specific chapters or sections of the code (see section 7 of the adopting ordinance).
2. That one copy of every ordinance adopted by the town is kept in a separate ordinance book and forwarded to MTAS annually.
3. That the town agrees to pay the annual update fee as provided in the MTAS codification service charges policy in effect at the time of the update.

When the foregoing conditions are met MTAS will reproduce replacement pages for the code to reflect the amendments and additions made by such ordinances. This service will be performed at least annually and more often if

justified by the volume of amendments. Replacement pages will be supplied with detailed instructions for utilizing them so as again to make the code complete and up to date.

The able assistance of Linda Dean, the MTAS Sr. Word Processing Specialist who did all the typing on this project, and Dianna Habib, Administrative Services Assistant, is gratefully acknowledged.

Steve Lobertini
Codification Consultant

**ORDINANCE ADOPTION PROCEDURES PRESCRIBED BY THE
TOWN CHARTER**

SECTION 9. . . All ordinances or resolutions shall be approved and signed by the Mayor on or before the next meeting of the Council, and the Mayor shall have veto power. If the Mayor should refuse to approve any ordinance or resolution, the Mayor shall return same to the Council at its next meeting, with the reasons for refusal in writing; and in such case such ordinance or resolution shall not be valid, unless the Council by a two-thirds (2/3) vote pass the same over the Mayor's veto; but if the Mayor does not veto same as provided, it shall be valid without the Mayor's signature. The Mayor shall also take care that all the ordinances of the Town are duly enforced, respected, and observed within the Town limits; shall call special sessions of the Council when such is deemed expedient, and shall perform such other duties as the Council may by ordinance or otherwise impose.

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ORDINANCE NO. 9-2003**AN ORDINANCE ADOPTING AND ENACTING A CODIFICATION AND REVISION OF THE ORDINANCES OF THE TOWN OF CUMBERLAND GAP TENNESSEE.**

WHEREAS some of the ordinances of the Town of Cumberland Gap are obsolete, and

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

WHEREAS the Town Council of the Town of Cumberland Gap, 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 "Cumberland Gap Municipal Code," now, therefore:

BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF CUMBERLAND GAP, TENNESSEE, THAT:

Section 1. Ordinances codified. The ordinances of the town of a general, continuing, and permanent application or of a penal nature, as codified and revised in the following "titles," namely "titles" 1 to 20, both inclusive, are ordained and adopted as the "Cumberland Gap 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 town or authorizing the issuance of any bonds or other evidence of said town's indebtedness; any appropriation ordinance or ordinance providing for the levy of taxes or any budget ordinance; any contract or obligation assumed by or in favor of said town; any ordinance establishing a social security system or

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

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

Section 5. Penalty clause. Unless otherwise specified in a title, chapter or section of the municipal code, including the codes and ordinances adopted by reference, whenever in the municipal code any act is prohibited or is made or declared to be a civil offense, or whenever in the municipal code the doing of any act is required or the failure to do any act is declared to be a civil offense, the violation of any such provision of the municipal code shall be punished by a civil penalty of not more than fifty dollars (\$50.00) and costs for each separate violation; provided, however, that the imposition of a civil penalty under the provisions of this municipal code shall not prevent the revocation of any permit or license or the taking of other punitive or remedial action where called for or permitted under the provisions of the municipal code or other applicable law. In any place in the municipal code the term "it shall be a misdemeanor" or "it shall be an offense" or "it shall be unlawful" or similar terms appears in the context of a penalty provision of this municipal code, it shall mean "it shall be a civil offense." Anytime the word "fine" or similar term appears in the context of a penalty provision of this municipal code, it shall mean "a civil penalty."¹

¹State law reference

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

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

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

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

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

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.

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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, August 18, 2023

John D. Douglas
Mayor

Ronda Meyers
Recorder

ORDINANCE NO. 13-2004

AN ORDINANCE ADOPTING AND ENACTING SUPPLEMENTAL AND REPLACEMENT PAGES FOR THE MUNICIPAL CODE OF THE TOWN OF CUMBERLAND GAP, TENNESSEE.

BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF CUMBERLAND GAP, TENNESSEE, THAT:

Section 1. Ordinances codified. The supplemental and replacement pages contained in Change 1 to the Town of Cumberland Gap Municipal Code, hereinafter referred to as the "supplement," are incorporated by reference as if fully set out herein and are ordained and adopted as part of the Town of Cumberland Gap Municipal Code.

Change 1 includes revisions required to the municipal code when considering Ordinance Number R3-2002 (June 2002). Code sections affected by this ordinance contain a citation to the amending ordinance at the end of the code section.

Section 2. Continuation of existing provisions. Insofar as the provisions of the supplement are the same as those of ordinances existing and in force on its effective date, the provisions shall be considered to be continuations thereof and not as new enactments.

Section 3. Penalty clause. Unless otherwise specified, wherever in the supplement, including any codes and ordinances adopted by reference, any act is prohibited or is made or declared to be unlawful or an offense or a misdemeanor, or wherever the doing of any act is required or the failure to do any act is declared to be unlawful, the violation of any such provision shall be punishable by a penalty of not more than fifty dollars (\$50.00) and costs for each separate violation; provided, however, that the imposition of a penalty under the provisions of this section shall not prevent the revocation of any permit or license or the taking of other punitive or remedial action where called for or permitted under the provisions of the supplement or the municipal code or other applicable law.

When any person is fined for violating any provision of the supplement and defaults on payment of the penalty, he may be required to perform hard labor, within or without the workhouse, to the extent that his physical condition shall permit, until the penalty is discharged by payment, or until the person, being credited with such sum as may be prescribed for each day's hard labor, has fully discharged the penalty.¹

¹State law reference

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

Section 4. Severability clause. Each section, subsection, paragraph, sentence, and clause of the supplement, including any codes and ordinances adopted by reference, are hereby declared to be separable and severable. The invalidity of any section, subsection, paragraph, sentence, or clause in the supplement shall not affect the validity of any other portion, and only any portion declared to be invalid by a court of competent jurisdiction shall be deleted therefrom.

Section 5. Construction of conflicting provisions. Where any provision of the supplement is in conflict with any other provision of the supplement or municipal code, the provision which establishes the higher standard for the promotion and protection of the public health, safety, and welfare shall prevail.

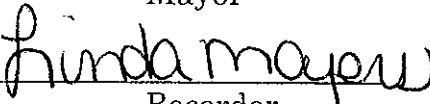
Section 6. Code available for public use. Three copies of the supplement shall be kept available in the recorder's office for public use and inspection at all reasonable times.

Section 7. Date of effect. This supplement, including all the codes and ordinances therein adopted by reference, shall take effect from and after final passage, the public welfare requiring it, and shall be effective on and after that date.

Passed NOVEMBER, 1, 2004.



Mayor



Recorder

TITLE 1

GENERAL ADMINISTRATION¹

CHAPTER

- 1. BOARD OF MAYOR AND ALDERMEN.
- 2. MAYOR.
- 3. RECORDER AND TREASURER.
- 4. INSPECTION AND COPYING OF PUBLIC RECORDS.
- 5. CODE OF ETHICS.

CHAPTER 1

BOARD OF MAYOR AND ALDERMEN²

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.

1-101. Time and place of regular meetings. The board of mayor and aldermen shall hold regular monthly meetings at 7:00 P.M. on the first Monday of each month at the town hall. (1979 Code, § 1-101, as amended by Ord. #11-2013, Jan. 2014)

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

- (1) Call to order by mayor.

¹Charter references

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

Municipal code references

- Building, plumbing, electrical and gas inspectors: title 12.
- Fire department: title 7.
- Utilities: titles 18 and 19.
- Wastewater treatment: title 18.
- Zoning: title 14.

²Charter references

- Elections: § 6.
- Quorum: § 8.
- Vacancies: § 8.

- (2) Pledge to the flag.
- (3) Roll call by the recorder.
- (4) Approval or correction of minutes of the previous meeting.
- (5) Approval of financial statement.
- (6) Approval of bills.
- (7) Reports from committees, members of the board, and other officers.
- (8) Old business.
- (9) Citizen comments.
- (10) New business.
- (11) Adjournment. (1979 Code, § 1-102, as replaced by Ord. #11-2013, Jan. 2014)

1-103. General rules of order. The rules of order and parliamentary procedure contained in Robert's Rules of Order, Newly Revised, shall govern the transaction of business by and before the board of mayor and aldermen at its meetings in all cases to which they are applicable and in which they are not inconsistent with provisions of the charter or this code. (1979 Code, § 1-103, modified, and amended by Ord. #11-2013, Jan. 2014)

1-104. Passage of ordinances. All ordinances must be introduced in written form and passed on two (2) readings, after which they shall become effective in accordance with their terms. (1979 Code, § 1-104, as amended by Ord. #11-2013, Jan. 2014)

CHAPTER 2

MAYOR¹

SECTION

1-201. Generally supervises town's affairs.

1-202. Executes town's contracts.

1-201. Generally supervises town's affairs. The mayor shall have general supervision of all town affairs and may require such reports from the officers and employees as he may reasonably deem necessary to carry out his executive responsibilities. (1979 Code, § 1-201)

1-202. Executes town's contracts. The mayor shall execute all contracts as authorized by the town board. (1979 Code, § 1-202, as amended by Ord. #11-2013, Jan. 2014)

¹Charter references
Duties, etc.: § 9.
Oath: § 8.

CHAPTER 3

RECORDER AND TREASURER¹

SECTION

1-301. Offices of recorder and treasurer combined.

1-302. To be bonded.

1-303. To preserve ordinances.

1-304. To perform general administrative duties, etc.

1-301. Offices of recorder and treasurer combined. As authorized in section 11 of the town's charter, the offices of recorder and treasurer are hereby combined. (1979 Code, § 1-301)

1-302. To be bonded. The recorder and treasurer shall be bonded in the sum of two thousand five hundred dollars (\$2,500) with a surety company authorized to do business in Tennessee as surety. (1979 Code, § 1-302, modified)

1-303. To preserve ordinances. The recorder and treasurer shall preserve the original copy of all ordinances in a separate ordinance book. (1979 Code, § 1-303)

1-304. To perform general administrative duties, etc. The recorder and treasurer shall perform all administrative duties for the board of mayor and aldermen and for the town which are not assigned by the charter, this code, or the board of mayor and aldermen to another corporate officer. He shall also have custody of and be responsible for maintaining all corporate bonds, records, and papers in such fireproof vault or safe as the town shall provide. (1979 Code, § 1-304, as amended by Ord. #11-2013, Jan. 2014)

¹Charter references
Duties, etc.: § 11.

CHAPTER 4

INSPECTION AND COPYING OF PUBLIC RECORDS

SECTION

- 1-401. General policy.
- 1-402. Definitions.
- 1-403. Request - general public and public officials.
- 1-404. Limitations on disclosure of confidential records - general public and public officials.
- 1-405. Costs of inspection - general public and public officials.
- 1-406. Custody of records.
- 1-407. Generally general public and public officials.
- 1-408. The special case of electronic records - general public and public officials.
- 1-409. Cost of copies - town's equipment.
- 1-410. Cost of copies - commercial equipment.
- 1-411. Procedures regarding access to and inspection of public records.

1-401. General policy. (1) It is the policy and intent of the town to:

(a) Comply with Tennessee's Open Records Law (Tennessee Code Annotated, § 10-7-504, et seq.) by permitting the inspection and copying of the public records of the town;

(b) Provide access to the town's public records, and copies of those records, to public officials charged with legislative and administrative duties under the town's charter or municipal code, and other county, state and federal officials.

(2) The department head shall have the responsibility to:

(a) Preserve the confidentiality of public records that are confidential under the Tennessee Open Records Law (Tennessee Code Annotated, § 10-7-504, et seq.).

(b) Protect public records from damage or disorganization;

(c) Balance the allocation of personnel to records inspection and copying duty against the prevention of excessive interference with other essential functions of the town. (as added by Ord. #5-2004, June 2004)

1-402. Definitions. In the interpretation and application of this policy, the following terms shall have the meanings indicated:

(1) "Confidential record" is any record, or part of a record, with is defined by the Tennessee Open Records Law as being exempt from public inspection, including, but not limited to, those records listed in Tennessee Code Annotated, § 10-7-504.

(2) "Public official" means any elected or appointed town official who has legislative or administrative duties prescribed by the town's charter, the town's municipal code, or any ordinance or resolution of the town. It also includes any county, state or federal official who makes a request for the cities records on behalf the government he or she represents.

(3) "Public record" means all documents, papers, letters, maps, books, photographs, microfilms, electronic data processing files and output, films, sound recordings, or other material, regardless of physical form or characteristics made or received pursuant to law or ordinance in connection with the transaction of official business by the town.

(4) "Department head" means the town recorder, treasurer, police chief, fire chief, the director of public works, the personnel director, and any other person designated a department head by the town charter or the municipal code, or his or her designee or designees. (as added by Ord. #5-2004, June 2004)

1-403. Request - general public and public officials. Persons and public officials wishing to inspect or copy town records shall make a request for inspection to the department of the town that maintains the records. If the requestor does not know which department maintains the records, the request shall be made to the town recorder, who will direct the requestor to the appropriate department. The request shall be made upon the form prescribed in Appendix A.¹ (as added by Ord. #5-2004, June 2004)

1-404. Limitations on disclosure of confidential records - general public and public officials. Upon receiving a request to inspect a copy of a public record, the department head shall grant the request unless it determines that the record requested is confidential, in whole or in part, under the Tennessee Open Records Law. In cases of records that are confidential in part, the department head shall deliver for inspection that part of the record not confidential. Where the department head is uncertain whether a requested record is confidential, he or she shall as expeditiously as possible consult with the town recorder. If after consultation with the recorder, uncertainty still exists, the department head and the town recorder shall as expeditiously as possible consult with the town attorney. The department head shall inform the requestor that uncertainty exists as to the confidentiality of the record, and on the request indicate the reason for the uncertainty with as much specificity as possible, and the approximate date the uncertainty will be resolved.

If the department head determines that the record is confidential he or she shall notify the requestor, and specifically supply him with a rejection of the request form noting the reason that the record is confidential, citing, if possible, the statute supporting the confidentiality contained in Appendix B.² (as added by Ord. #5-2004, June 2004)

¹Appendices to this chapter can be found at the end of the code as appendices A, B, and C.

²Appendices to this chapter can be found at the end of the code as appendices A, B, and C.

1-405. Costs of inspection - general public and public officials.

Generally, there shall be no charge for the inspection of public records.

However, where the public records requested are electronic records, and the records are not in the format requested by the requestor, and special computer programs must be created to retrieve such records in the requested format, the department head shall estimate the cost of creating such programs, including the time and labor of town employees based upon their hourly pay rate, but not counting social security, insurance and other benefits. The requestor shall pay to the town the estimated cost of the special programs before the records are compiled in the requested format. If the cost of the special programs exceeds the amount previously paid by the requestor, he or she shall pay the balance to the town prior to the inspection of the records in the requested format. If the cost of the special programs is less than the amount previously paid by the requestor, the town shall refund to the requestor the difference upon the delivery of the records for inspection.

If the requestor is a public official, the board of mayor and aldermen has the authority at its discretion to waive the costs involving in creating special programs. (as added by Ord. #5-2004, June 2004, and amended by Ord. #11-2013, Jan. 2014)

1-406. Custody of records. All records shall remain in the physical custody of the town at all times. (as added by Ord. #5-2004, June 2004)

1-407. Generally general public and public officials. Any requestor who has submitted to the town a request for records shall be entitled to a copy of any record open for inspection. To the extent possible copies shall be made on the town's copying equipment. Where such equipment does not exist, is inoperative, is not designed to copy the records requested, or the requestor wants the copies in a format the town's equipment cannot duplicate, such copies may be made on commercial copying equipment. (as added by Ord. #5-2004, June 2004)

1-408. The special case of electronic records - general public and public officials. Some public records that are stored, contained or available as data or information within the memory or storage facilities of computer or electronic equipment, might be subject to inspection (and copying) only through the services of town employees familiar with the operation of equipment that facilitates such inspection (or copying). However, where such records create special problems of determining confidentiality of all or some of their parts before they are viewed, or if the requestor wants the records in a format different than contained in the computer, additional delays in the delivery of such records not typical of paper copies of records, may occur. The department head shall keep such delays to a minimum. The department head shall notify the requestor of the approximate length of delay in the delivery of the records for inspection, and enter the same on the request for records.

The requestor shall have the option of viewing the information on the town's computer screen, or of having the records transferred to a diskette or other compatible storage medium, or request paper copies of such records. (as added by Ord. #5-2004, June 2004)

1-409. Cost of copies - town's equipment. (1) General public. Requester must pay for copies of records based on a per page cost contained in Appendix C.¹ Payment for the cost of copies shall be made by the requestor before the copies are made. The payment shall be based on the approximate number of copies requested. If the actual cost of the copies exceeds the amount previously paid by the requestor, the balance shall be paid by the requestor before the delivery of the copies. If the previous payment made by the requestor exceeds the cost of the copies, the excess shall be refunded to the requestor upon the delivery of the copies.

(2) Public officials. Public officials shall not be charged for copies of records where the total per page cost prescribed for copies of public records for the general public does not exceed \$25.00. For records that exceed that cost, public officials shall pay the same costs for public records as is required to be paid by the general public. The department head has the discretion to waive this requirement where such waiver appears in the interest of the town. However, the department head's authority to make such a waiver shall not exceed an addition \$30, for a total cost of \$50.00 for such records. All requests for copies of public records by a public official made within a ten (10) day period shall be treated as a single request for the purpose of calculating the cost of \$25.00, or \$50.00 in the case of department heads. The board of mayor and aldermen has the authority to make such cost waivers as in its discretion it deems advisable. (as added by Ord. #5-2004, June 2004, and amended by Ord. #11-2013, Jan. 2014)

1-410. Cost of copies - commercial equipment. (1) General public. Where the town's copying equipment is incapable of reproducing copies of the records requested, or its copying equipment is inoperative, the department head shall notify the requestor. If the requestor decides that he or she wants a commercially made copy of the records, he or she shall notify the department head, who shall determine the estimated cost of such copies. If the requestor desires to obtain the commercial copies he or she shall pay the estimated cost of the copies, plus 50% of the estimated cost. If the actual cost of the copies exceeds the amount previously paid by the requestor, the balance shall be paid by the requestor before the delivery of the copies. If the previous payment made by the requestor exceeds the cost of the copies, the excess will be refunded to the requestor upon the delivery of the copies.

¹Appendices to this chapter can be found at the end of the code as appendices A, B, and C.

(2) Public officials. Public officials shall be charged for copies of commercially copied records under the same procedure prescribed for commercially copied records provided for the general public. The board of mayor and aldermen has the authority to make such cost waivers as in its discretion it deems advisable. (as added by Ord. #5-2004, June 2004, and amended by Ord. #11-2013, Jan. 2014)

1-411. Procedures regarding access to and inspection of public records. Persons and public officials wishing to inspect or copy town records shall make a request for inspection to the town recorder. The request shall be made upon the form providing by the town.

(1) Consistent with the Public Records Act of Tennessee, personnel of the Town of Cumberland Gap shall provide full access and assistance in a timely and efficient manner to persons who request access to open public records.

(2) Employees of the Town of Cumberland Gap shall protect the integrity and organization of public records with respect to the manner in which the records are inspected and copied. All inspections of records must be performed under the supervision of employees of the town/town. All copying of public records must be performed by employees of the town.

(3) In order to prevent excessive disruptions of the work of employees of the town, and disruptions of the essential functions and duties of such employees, persons requesting inspection and/or copying of public records shall complete a records request form to be furnished by the town. Persons requesting access to open public records shall describe such records with particularity, so the records may be located and copied by employees.

(4) When voluminous records are requested in writing using the designated form, the person requesting such access shall make an appointment with the records supervisor or his designee of the department holding such records. Appointments for inspection of records shall be for no longer than two (2) hours in one day per request. If further inspection is needed by the requesting party, another appointment may be scheduled. The purpose of this policy is to prevent monopolization of working hours of town/town employees, and interference with their work duties. Employees shall make every effort to schedule appointments and copying of records so as to provide full access to the requesting party.

(5) Payment of copying fees are due when the copies are received by the requesting party. If voluminous copies are requested, the town reserves the right to take 48 hours, during the workweek, to prepare such copies pursuant to a written request. Removal of records from town hall is not permitted.

(6) If the public records requested are frail due to age or other conditions, and copying of such records will cause damage to the original records, the requesting party may be required to make an appointment for inspection as provided in paragraph (4). (as added by Ord. #5-2004, June 2004)

CHAPTER 5

CODE OF ETHICS¹

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 non-voting 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.

1-501. Applicability. This chapter is the code of ethics for personnel of the Town of Cumberland Gap. It applies to all full-time and part-time elected or appointed officials and employees, whether compensated or not, including those of any separate board, commission, committee, authority, corporation, or other instrumentality appointed or created by the town. The words "municipal" and "town" or "Town of Cumberland Gap" include these separate entities. (as added by Ord. #6-2006, Nov. 2006)

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

¹State statutes dictate many of the ethics provisions that apply to municipal officials and employees. For provisions relative to the following, see the Tennessee Code Annotated, (T.C.A.) sections indicated:

Campaign finance - T.C.A. title 2, chapter 10.

Conflict of interests - T.C.A. § 5 6-54-107, 108; 12-4-101, 102.

Conflict of interests disclosure statements - T.C.A. § 8-50-501 and the following sections.

Consulting fee prohibition for elected municipal officials - T.C.A. § 5-2-10-122, 124.

Crimes involving public officials (bribery, soliciting unlawful compensation, buying and selling in regard to office) - T.C.A. § 39-16-101 and the following sections.

Crimes of official misconduct, official oppression, misuse of official information - T.C.A. § 39-16-401 and the following sections.

Ouster law - T.C.A. § 8-47-101 and the following sections.

A brief synopsis of each of these laws appears in the appendix of the municipal code.

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

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

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

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

(3) In any situation in which a personal interest is also a conflict of interest under state law, the provisions of the state law take precedence over the provisions of this chapter. (as added by Ord. #6-2006, Nov. 2006)

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 that would lead a reasonable person to infer that it affects the official's vote on the measure. In addition, the official may recuse himself¹ from voting on the measure. (as added by Ord. #6-2006, Nov. 2006)

1-504. Disclosure of personal interest in non-voting matters. An official or employee who must exercise discretion relative to any matter, other than casting a vote, and who has a personal interest in the matter that affects or that would lead a reasonable person to infer that it affects the exercise of the discretion shall disclose, before the exercise of the discretion when possible, the interest on a form provided by and filed with the recorder. In addition, the official or employee may, to the extent allowed by law, charter, ordinance, or policy, recuse himself from the exercise of discretion in the matter. (as added by Ord. #6-2006, Nov. 2006)

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 of any kind from anyone other than the town:

(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

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

(2) That might reasonably be interpreted as an attempt to influence his action, or reward him for past action, in executing municipal business. (as added by Ord. #6-2006, Nov. 2006)

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. #6-2006, Nov. 2006)

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 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 town. (as added by Ord. #6-2006, Nov. 2006, and amended by Ord. #11-2013, Jan. 2014)

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 town.

(2) An official or employee may not use or attempt to use his position to secure any privilege or exemption for himself or others that is not authorized by the charter, general law, or ordinance or policy of the town. (as added by Ord. #6-2006, Nov. 2006)

1-509. Outside employment. A full-time employee of the town may not accept any outside employment without written authorization from the mayor. (as added by Ord. #6-2006, Nov. 2006)

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

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

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

(c) When a complaint of a violation of any provision of this chapter is lodged against a member of 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 code of ethics also constitutes a violation of a personnel policy, rule, or regulation or a civil service policy, rule, or regulation, the violation shall be dealt with as a violation of the personnel or civil service provisions rather than as a violation of this code of ethics. (as added by Ord. #6-2006, Nov. 2006, and amended by Ord. #11-2013, Jan. 2014)

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 municipality's charter or other applicable law, and in addition is subject to censure by the board of mayor and aldermen. An appointed official or an employee who violates any provision of this chapter is subject to disciplinary action. (as added by Ord. #6-2006, Nov. 2006, and amended by Ord. #11-2013, Jan. 2014)

TITLE 2

BOARDS AND COMMISSIONS, ETC.

[RESERVED FOR FUTURE USE]

TITLE 3

MUNICIPAL COURT¹

CHAPTER

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

CHAPTER 1

TOWN JUDGE

SECTION

- 3-101. Appointment.
- 3-102. Powers and functions.
- 3-103. Qualifications.
- 3-104. Vacancies.
- 3-105. Oath of office.
- 3-106. Compensation.
- 3-107. Bond.
- 3-108. Absence or disability.

3-101. Appointment. The Board of mayor and aldermen of the Town of Cumberland Gap shall appoint the town judge in accordance with § 10 of the charter. (Ord. #A, Jan. 1999, modified, and amended by Ord. #11-2013, Jan. 2014)

3-102. Powers and functions. The town judge shall be vested with the judicial powers and functions provided in § 10 of the charter. (Ord. #A, Jan. 1999, modified)

3-103. Qualifications. The town judge shall be 21 years of age, and duly licensed to practice law in the State of Tennessee. (Ord. #A, Jan. 1999, as amended by Ord. #6-2007, Dec. 2007)

3-104. Vacancies. Vacancies in the office of the city judge shall be filled by the board of mayor and aldermen. (Ord. #A, Jan. 1999, as amended by Ord. #11-2013, Jan. 2014)

¹Charter references
Town court: § 10.

3-105. Oath of office. The town judge shall, before entering upon the duties of his office, take an oath or affirmation, before anyone in Tennessee authorized to administer oaths, as follows:

I, _____, solemnly swear that I will support the Constitution of the United States and of the State of Tennessee and the ordinances of the Town of Cumberland Gap, and that I will administer justice without respect to persons' race, color, creed, condition or status, and afford equal rights to the poor and the rich, and that I will faithfully and impartially discharge, to the best of my ability, all the duties incumbent upon me as a town judge. (Ord. #A, Jan. 1999)

3-106. Compensation. The compensation of the town judge shall be as set by the board of mayor and aldermen by ordinance. (Ord. #A, Jan. 1999, modified, and amended by Ord. #11-2013, Jan. 2014)

3-107. Bond. Before assuming his or her duties, the town judge shall execute a surety bond acceptable to the board of mayor and aldermen in the amount of twenty-five thousand dollars (\$25,000.00), conditioned upon his or her faithful account of all funds coming into his or her hands as town judge. The cost of the bond shall be paid by the town. (Ord. #A, Jan. 1999, as amended by Ord. #11-2013, Jan. 2014)

3-108. Absence or disability. During the absence or disability of the town judge lasting more than 90 days, the board of mayor and aldermen shall appoint a town judge pro tem to serve until the town judge returns to his or her duties. The town judge pro tem shall have all the qualifications of the town judge under this chapter and shall take the same oath of office, and shall have all the authority and power of the town judge. (Ord. #A, Jan. 1999, as amended by Ord. #11-2013, Jan. 2014)

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. Court costs.

3-201. Maintenance of docket. The recorder shall keep a complete docket of all matters coming before the town judge 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 and costs imposed and whether collected; whether committed to workhouse; and all other information that may be relevant. (1979 Code, § 1-502, modified)

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

In all cases heard or determined by him, the town 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. (1979 Code, § 1-508, modified)

3-203. Disposition and report of fines, penalties, and costs. All funds coming into the hands of the town judge in the form of fines, penalties, costs, and forfeitures shall be recorded by the recorder and paid over daily to the town. At the end of each month he shall submit to the board of mayor and aldermen a report accounting for the collection or non-collection of all fines and costs imposed by his court during the current month and to date for the current fiscal year. (1979 Code, § 1-511, modified, and amended by Ord. #11-2013, Jan. 2014)

3-204. Disturbance of proceedings. It shall be unlawful for any person to create any disturbance of any trial before the town court by making loud or unusual noises, by using indecorous, profane, or blasphemous language, or by any distracting conduct whatsoever. (1979 Code, § 1-512, modified)

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 an immediate trial and disposition of his case, provided the town court is in session or the town 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. (1979 Code, § 1-506, modified)

3-206. Court costs. The court costs to be used by the city judge in assessing the bill of costs in cases in the city court shall be \$100.00, plus the \$13.75 state litigation tax. 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. #11-2005, Dec. 2005)

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 town judge shall have the power to issue warrants for the arrest of persons charged with violating municipal ordinances. (1979 Code, § 1-503, modified)

3-302. Issuance of summonses. When a complaint of an alleged ordinance violation is made to the town 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 town 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 town 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. (1979 Code, § 1-504, modified)

3-303. Issuance of subpoenas. The town 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. (1979 Code, § 1-505, modified)

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 town 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 town 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. (1979 Code, § 1-507, modified)

3-402. Appeals. Any defendant who is dissatisfied with any judgment of the town court against him may, within ten (10) days next after such judgment is rendered, Sundays exclusive, appeal to the next term of the circuit court upon posting a proper appeal bond.¹ (1979 Code, § 1-509, modified)

3-403. Bond amounts, conditions, and forms. An appearance bond in any case before the town court shall be in such amount as the town judge shall prescribe and shall be conditioned that the defendant shall appear for trial before the town 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 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. (1979 Code, § 1-510, modified)

¹State law reference

Tennessee Code Annotated, § 27-5-101.

TITLE 4

MUNICIPAL PERSONNEL

CHAPTER

1. PERSONNEL RULES AND REGULATIONS.
2. PERSONNEL SYSTEM.
3. OCCUPATIONAL SAFETY AND HEALTH PROGRAM.

CHAPTER 1

PERSONNEL RULES AND REGULATIONS

SECTION

- 4-101. General purpose/scope.
- 4-102. Hiring procedures.
- 4-103. Classes of employees.
- 4-104. Working hours.
- 4-105. Compensation.
- 4-106. Social security.
- 4-107. Travel away from the town.
- 4-108. Compensation upon termination.
- 4-109. Performance evaluations and training.
- 4-110. Training policy.
- 4-111. Vacation and sick leave.
- 4-112. Benefits.
- 4-113. Personnel regulations.
- 4-114. Vehicle use policy.

4-101. General purpose/scope. (1) This is a general informational guide to the town current employment policies and shall not be construed as a contract, implied or otherwise. The town reserves the right to amend, delete, supplement, or rescind any of the provisions of this manual, as the town deems necessary and appropriate, without advance notice. These policies shall not be construed to create contractual rights or any type of promise or guarantee of specific treatment upon which any employee may rely. The town also reserves the right to deviate from these policies in emergency situations, in order to achieve primary mission of providing orderly and cost efficient services to its citizens.

(2) These personnel policies shall apply to all town employees. They shall not apply to elected officials and independent contractors. (Ord. #8-2003, Aug. 2003)

4-102. Hiring procedures. (1) Policy statement. Appointments to positions is based on merit, technical knowledge, and work experience. No person shall be employed, promoted, demoted, discharged, or in any way favored or discriminated against because of race, gender, age, color, religion, creed, ancestry, disability, or national origin. Nothing in the personnel rules and regulations shall be deemed to give employees any property in their jobs.

(a) Employment with the Town of Cumberland Gap is voluntary on the part of both parties. Either the employee or the town may terminate the employment relationship at any time, with or without cause, as either party may deem appropriate.

(b) Employees with life threatening illnesses, such as cancer, heart disease, or AIDS/HIV conditions, or communicable diseases such as tuberculosis or influenza, are treated the same as all other employees. They are permitted to continue working so long as they are able to maintain an acceptable level of performance and medical evidence shows they are not a threat to themselves or their co-workers. The town will work to preserve the safety of all its employees and reserves the right to reassign employees or take other job actions when a health or safety risk to fellow town employees or the public exists.

(2) Sexual harassment. (a) It is the policy of the town to provide a work environment for its employees, which is free from discrimination and intimidation. The town will not tolerate any form of sexual harassment. Prompt disciplinary action will be taken against an employee who commits or participates in any form of sexual harassment.

(b) Sexual harassment is defined as unwanted, unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct which has the effect of creating an offensive, intimidating, degrading or hostile work environment, or adversely interferes or affects an employee's work performance.

(c) Any employee who believes he or she is being sexually harassed by supervisors or co-workers should immediately notify the department head. In the event the harassment involves the department head, the employee should notify the chief executive officer. The town will not retaliate against an employee who complains of sexual harassment.

(3) Employee personnel records. (a) Personnel files are kept confidential to the maximum extent permitted by law. Except for routine verifications of employment, no information from an employee's personnel file will be related to the public, including the press, without a written report for specific information.

(b) The following records shall not be open to the public or be released.

(i) Medical records.

(ii) Psychological evaluations or profiles.

(iii) Martial counseling records, or any other records protected by state law.

(c) A police officer shall be notified within three days after someone makes a request for review of his personnel file as per provisions of state law.

(4) References. (a) The town does not give references, other than to confirm the dates of employment and last salary, without the express written consent of the employee.

(b) Only the chief executive officer or designee will provide employment references on current or former regular town employees.

(5) Substance abuse. The town may discipline or terminate an employee possessing, consuming, controlling, selling or using alcohol, drugs or other controlled substances during work hours. The town may also discipline or terminate an employee who exhibits an on-going dependence on alcohol, drugs or other controlled substances which, in the town opinion, impairs the employee's work performance, poses a threat to the public confidence, or is a safety risk to the town or others. The town is committed to supporting employees who undergo treatment and rehabilitation for alcohol or other chemical dependency.

(a) Employees who voluntarily report an alcohol, drug or controlled substance dependency problem will not be subject to retaliation or discrimination. Employees who voluntarily seek treatment may use sick leave to attend a bona fide treatment or counseling program. The town may condition continued employment on the employee's successful completion of treatment or counseling programs and future avoidance of alcohol, drugs or other controlled substances.

(b) An employee may be required to submit to alcohol, drug or controlled substance testing when the employee's work performance causes a reasonable suspicion that the employee is impaired due to current intoxication, drug or controlled substance use or in cases where employment has been conditioned upon remaining alcohol, drug or controlled substance free following treatment. Refusal to submit to testing, when requested, may result in immediate disciplinary action, including termination.

(c) Employees using any prescription or over the counter drugs which might impair their work performance should notify their department head. At the option of the department head, an employee may be reassigned to less hazardous duty or be placed on sick leave if impaired work performance might pose a threat to the public confidence or to the safety of the employee or others.

(6) Drug-free workplace. (a) The manufacturing, distribution, dispensation, possession and use of unlawful drugs or alcohol on town premises or during work hours by town employees is strictly prohibited.

(b) Employees must notify the town within five (5) days of any conviction for a drug violation in the workplace.

(c) Violation of this policy can result in disciplinary action, including termination. Continued poor performance or failure to successfully complete an assigned rehabilitation program is grounds for termination.

(d) Employees who are required to maintain a Commercial Driver's License (CDL) are subject to drug testing as required by the federal government in conformance with adopted town policy.

(7) Discipline and terminations. (a) All employees are expected to exercise good judgement, loyalty, common sense, dedication, and courtesy in the performance of their duties. The primary mission of every employee is to provide courteous, orderly, efficient, and economic delivery of services to the citizens of the town.

(b) Acts, errors, or omissions which discredit the public service or impair the provision of orderly services to the citizens of the town may result in the discipline, including termination.

(c) The chief executive officer or department head, as appropriate, has full discretion and authority to impose disciplinary action in accordance with town policy and the circumstances of the particular case.

(d) The following examples of the types of behavior, which may result in discipline up to and including employment termination:

(i) Drinking alcohol or the abuse of non-prescription drugs or other controlled substances on the job, or arriving on the job under the influence of or while in possession of alcohol, drugs, or other controlled substances.

(ii) Violation of a lawful duty.

(iii) Insubordination.

(iv) Absence from work without first notifying and securing permission from the supervisor.

(v) Habitual absence or tardiness for any reason.

(vi) Unsatisfactory job performance, as determined by the town.

(vii) Conviction of a felony or a misdemeanor involving moral turpitude.

(viii) Acceptance of fees, gratuities or other valuable items in the performance of the employee's official duties for the town.

(ix) Inability, refusal or failure to perform the duties of the assigned job.

(x) Violation of duties or rules imposed by this manual, or by any other town, regulation or administrative order.

(e) This list is not all-inclusive, but only serves as a general guide. The town may discipline or terminate employees for other reasons not stated above or reasons that may not be stated herein.

(f) In the event that discipline is necessary, the following types of disciplinary actions may be used, depending on the particular situation:

(i) Oral warning. An oral warning is a counseling session between the employee's supervisor and the employee on the subject of the employee's conduct and performance, or their failure to observe a rule, regulation, or administrative instruction. It is intended to increase an employee's efficiency and value to the town changing the employee's conduct, attitude, habits, or work methods. Following the counseling session the supervisor shall document the oral warning.

(ii) Reprimand. A reprimand is a formal written disciplinary action for misconduct, inadequate performance, or repeated lesser infractions. Written reprimands are placed in the employee's personnel file.

(iii) Suspension. A suspension is a temporary, unpaid absence from duty, which may be imposed as a penalty for significant misconduct or repeated lesser infractions. A suspension is a severe disciplinary action which is made part of the employee's permanent record.

(g) Suspensions with pay, where the employee is placed on administrative leave, may be utilized by the chief executive officer pending the results of an investigation or disciplinary action where the chief executive officer determines that factors such as public confidence, the safety of the employee or the efficient functioning of the town call for such a suspension.

(8) Termination. (a) An employee may be terminated from town employment for any of the reasons listed below:

(i) During or at the end of the employee's trial period.

(ii) As a result of disciplinary action.

(iii) Due to loss of skills, certifications or other conditions which would make the employee unfit for service.

(iv) When the board of mayor and aldermen or chief executive officer has made a determination that a lack of work for funding exists with respect to the employee's position.

(v) If the employee has a physical or mental impairment that prevents the employee from performing the required duties of the employee's position and the employee cannot be reasonably accommodated. Termination must be supported by medical evidence which establishes that the individual is unable to perform bona fide job requirements. The town may require an examination

at its expense performed by a physician of its choice. Failure to submit to such request may result in termination.

(vi) Whenever the chief executive officer determines to make changes deemed to be in the best interest of the town. (Ord. #8-2003, Aug. 2003, as amended by Ord. #11-2013, Jan. 2014)

4-103. Classes of employees. (1) Regular full time. Regular full-time employees are individuals employed by the municipal government who work more than thirty five (35) hours per week, and have completed at least a ninety (90) day introductory period. Regular full-time employees receive full benefits unless specifically excluded by the town charter, code, or ordinances.

(2) Regular part time. Regular part-time employees are individuals who work on a daily basis and whose hours cannot exceed twenty (20) hours per week unless approved by the mayor. Regular part-time employees are excluded from all benefits afforded full-time employees. The board of mayor and aldermen may, at its discretion, provide specific prorated benefits.

(3) Temporary full-time employee. A temporary full-time employee is an individual who works for the city/town for no more than six (6) months during one (1) calendar year. Temporary employees receive no benefits.

(4) Temporary par-time employee. A part-time employee is an individual who works not more than twenty (20) hours per week. Temporary part-time employees receive no benefits.

(5) Volunteer employee. A volunteer is an individual who works for the town for little or no compensation.

(6) Police reserve. Reserve officers are appointed by the mayor with the approval of board. Reserve officers receive no compensation and no other benefits except coverage under the Special Reserve Police Insurance Coverage Policy.

(7) Paid volunteer firefighter. A paid volunteer firefighter is an individual who receives a monthly allowance (not compensation for the work that they perform) to encourage him or her to donate time to the fire department and to nominally reimburse him or her for out-of-pocket expenses incurred in responding to alarms, attending training, and other activities performed on behalf of the city and the fire department. The amount is set by the board of mayor and alderman in conjunction with the annual budget. (Ord. #8-2003, Aug. 2003, as amended by Ord. #11-2013, Jan. 2014)

4-104. Working hours. (1) A normal working schedule for regular, full-time employees consists of forty (40) hours each workweek. Different work schedules, such as in the case of police employees, may be established by the town to meet job assignments and provide necessary town services. Each employee's department head will advise the employee regarding their specific working hours.

(2) Part-time and temporary employees will work as specified by their department heads. (Ord. #8-2003, Aug. 2003, as amended by Ord. #11-2013, Jan. 2014)

4-105. Compensation. (1) Salaries. Board shall approve all salaries and wages paid by the town. 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 people having the desired qualifications.

(a) Employees shall be paid within the limits of the salary range to which their positions are assigned.

(b) Usually, new employees will start their employment at the minimum salary rate for their classification. However, a new employee may be employed at a higher rate than the minimum when the employee's experience, training or proven capability warrant, or when prevailing market conditions require a starting rate greater than the minimum.

(c) Pay increases are contingent on satisfactory performance. If an employee's performance is consistently unsatisfactory, the chief executive officer or designee may defer a scheduled pay increase for a stipulated period of time or until the employee's job performance is satisfactory.

(d) The chief executive officer may propose and the board of mayor and aldermen may grant an across the board pay adjustment (cost-of living increase) from time to time, raising the salaries of all positions by a specified amount within a defined group of classifications. Such adjustments, if any, will not change an employee's pay anniversary date.

(2) Hours of work. Board shall establish the hours of work per day and per week for each position in the service of the town. A day shall mean eight (8) hours of work or as defined by the Fair Labor Standards Act. Employees unavoidably late or absent from work due to illness or other cause must notify their supervisor within the period established by board.

(3) Citizenship and alien status verification. The town will not discriminate based on a person's national origin or citizenship status with regard to recruitment, hiring, or discharge. However, the town will not knowingly employ any person who is or becomes an unauthorized alien. In compliance with the Immigration Reform and Control Act, all employees hired after November 6, 1986, regardless of national origin, ancestry, or citizenship, must provide suitable documentation to verify identity and employability. The documentation must be provided within three (3) days of employment or the individual will not be hired.

(4) Introductory period. Applicants appointed to position with the Town of Cumberland Gap are required to serve a ninety (90) day introductory

period. This is a period of time for the employer to observe work habits, performance, and attitude, and it is also a time for the employee to determine whether the work is suitable. During this period, the employee's work performance will be subject to review regarding the competence of the employee to fill the position. An employee may be terminated during this period for any reason, or for no reason, without respect or reference to the procedures set forth in this document, the charter, or other ordinances. If the introductory period is satisfactory, the employee may be recommended for a full-time appointment. The introductory period may be extended by the mayor when written notification is given to the employee with reasons for the extension. Benefits begin after the introductory period.

(5) Transfers. A transfer of an employee, or employees, among the various departments in the town may be approved by board upon the recommendation of the mayor. A transfer may be implemented due to reductions in force, or whenever board feels that a transfer is in the best interest of the employee of the town. A transfer may also be implemented as a reasonable accommodation when an employee is unable, due to disability, to continue to perform the essential functions of the job.

(6) Promotions/demotions. Promotions or demotions may be approved by board upon the recommendation of the mayor. A demotion may be implemented as a reasonable accommodation when an employee, due to a disability, becomes unable to perform the essential functions on the job.

(7) Call back. (a) All employees are subject to call back in emergencies or as needed by the town to provide necessary services to the public. A refusal to respond to a call back is grounds for immediate disciplinary action, including possible termination. Employees called back to duty will be paid their appropriate rate of pay for hours worked (the overtime rate, if applicable).

(b) A candidate may be disqualified from consideration if:

(i) Found physically unable to perform the duties of the position (and the individual's condition cannot reasonably be accommodated in the workplace);

(ii) The candidate refuses to submit to a medical or complete history forms; or

(iii) If the exam reveals use of alcohol and/or controlled substance.

(8) Hiring. (a) Applicants for positions in which the applicant is expected to operate a motor vehicle must be at least eighteen (18) years old and will be required to present a valid state driver's license with any necessary endorsements. Driving records of applicants may be checked. Applicants with poor driving records, as determined by the town, may be disqualified for employment with the town in positions requiring driving.

(b) The town may administer pre-employment examinations to test the qualifications and ability of applicants, as determined necessary

by the town. The town may contract with any competent agency or individual to prepare and/or administer examinations.

(c) After an offer of employment has been made and prior to commencement of employment, the employee shall not receive either overtime pay or compensatory time in lieu of overtime pay.

(9) Compensatory time. (a) Non-exempt employees entitled to overtime pay may elect to receive compensatory time off instead of cash payment. This is approved on a case-by-case basis by the employee's department head. If the compensatory time option is exercised, the employee is credited with one and one-half times (1 1/2) the hours worked as overtime. Maximum accruals of compensatory time shall be limited to forty (40) hours for regular employees, seventy-two (72) hours for fire personnel and eighty (80) hours for uniformed police personnel. After maximum accrual, overtime compensation shall be paid.

(b) Employees may use compensatory time within a reasonable time period after making a request to their department head, unless doing so would unduly disrupt town operations. Compensatory time should be used for short-term absences from work during times mutually agreed to by the employee and the department head. Accumulation of compensatory time to be used as a substitute for extended vacation time off is not normally permitted.

(c) If an employee is unable to use accrued compensatory time within a reasonable period, usually ninety (90) days, the employee will be paid for their original overtime wage.

(10) Attendance. (a) Punctual and consistent attendance is a condition of employment. Each department head is responsible for maintaining an accurate attendance record of their employees.

(b) Employees unable to work or unable to report to work on time should notify their supervisor as soon as possible, ordinarily before the work day begins or within thirty (30) minutes of the employee's usual starting time. If an absence continues beyond one day, the employee is responsible for reporting in each day. If the supervisor is unavailable, the employee may leave a message with the chief executive officer or designated representative, stating the reason for being late or unable to report for work.

(c) Employee are expected to be at work even during inclement weather. Department heads may allow employees to be late or leave early during severe weather conditions; however, non-attendance will be counted as absence from work and will be charged to accrued vacation time.

(d) An employee who is absent without authorization or notification is subject to disciplinary action, including possible termination.

(11) Leave without pay. (a) The chief executive officer or designee may grant leaves of absence without pay for absence from work not covered by any other type of leave or if other leave balances are exhausted. Examples of situations for which leave without pay may be granted include time off work for personal reasons, such as prolonged illness, parenting, caring for all ill relative, pursuing an education, or fulfilling a military obligation in excess of fifteen (15) days per year.

(b) Only regular full-time and part-time employees who have satisfactorily completed their trial period are eligible for leave without pay. The following requirements apply:

(i) Leave may be granted to an employee for a period of up to ninety (90) days upon the approval of the chief executive officer or designee. Further extensions are at the discretion of the chief executive officer or designee.

(ii) Accrued compensatory time, if any, and vacation leave must be exhausted before taking any leave without pay.

(iii) An employee's benefits are suspended during the period of unpaid leave until the employee returns to work. Vacation, sick leave and/or any other benefits do not accrue while an employee is on leave without pay.

(iv) In certain circumstances, self-payment of benefits may apply. See Section 6.3 on Insurance Benefits.

(v) An employee who fails to report promptly at the end of the unpaid leave is presumed to have resigned. An employee returning from a temporary position at a comparable rate of pay.

(vi) If the leave without pay is due to an illness, the town may require a doctor's certificate stating that the employee is capable of returning to work and performing the work, duties and responsibilities of the employee's position.

(12) Jury and witness leave. (a) Employees may be granted time off with pay to serve on a jury or as a court witness. If an employee is summoned during a critical work period, the town may ask the employee to request a waiver from duty.

(b) An employee granted such leave shall reimburse the town for any pay received while serving as a juror or witness.

(13) Administrative leave. On a case-by-case basis, the town may place an employee on administrative leave with pay for an indefinite period of time, as determined by the chief executive officer to be in the best interests of the town during the pendency of an investigation or other administrative proceeding.

(14) Military leave. Employees who are members of the National Guard or federal reserve military units may be absent from their duties, for a period of up to fifteen (15) days per calendar year when they are performing ordered military training duty and while going to and from that duty.

(15) Religious holidays. If an employee's religious beliefs require observance of a holiday not included in the basic holiday schedule, the employee may, with the department head's approval, take the day off using vacation, compensatory time, or leave without pay. (Ord. #8-2003, Aug. 2003, as amended by Ord. #11-2013, Jan. 2014)

4-106. Social security. (1) Policy and purpose as to coverage. It is hereby declared to be the policy and purpose of the Town of Cumberland Gap to provide of all eligible employees of the town, whether employed in connection with a governmental or proprietary function, the benefits of the system of federal old age and survivors insurance. In pursuance to said policy, and for that purpose, the town shall take such action as may be required by applicable state and federal laws or regulations.

(2) 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 as provided in the preceding section.

(3) Withholdings from salaries or wages. Withholdings from the salaries or wages of employees 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.

(4) Appropriations for employer's contributions. These shall be appropriated from available funds such amounts at such times as may be required by the 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.

(5) Records and reports to be made. The recorder and treasurer shall keep such records and make such reports as may be required by applicable state and federal laws or regulations. (Ord. #8-2003, Aug. 2003)

4-107. Travel away from the town. (1) In the interpretation and application of this section, the term "traveler" or "authorized traveler" means any elected or appointed municipal officer or employee, including members of municipal boards and committees appointed by the mayor or the municipal governing body, and the employees of such boards and committees who are traveling on official municipal business and whose travel was authorized in accordance with this section. "Authorized traveler" shall not include the spouse, children, other relatives, friends, or companions accompanying the authorized traveler on town business, unless the person(s) otherwise qualifies as an authorized traveler under this section.

(2) All travel away from the town must be approved in advance by the mayor or vice mayor. Prior to travel a "request for travel" form must be filed out and approved. Unauthorized travel cost may not be reimbursed.

(3) Authorized travelers are entitled to reimbursement of certain expenditures incurred while traveling on official business for the town. Reimbursable expenses shall include expenses for transportation; lodging; meals; registration fees for conferences, conventions and seminars; and other actual and necessary expenses related to official business as determined by the mayor. Tips, not to exceed fifteen percent (15%), for meals, taxis or baggage handling are reimbursable. All expenses for alcoholic beverages will be excluded.

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

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

(6) The travel expense reimbursement form will be used to document all expense claims. The form must be signed by the employee and the supervisor.

(7) To qualify for reimbursement, travel expenses must be directly related to the conduct of the town business for which travel was authorized; and actual, reasonable and necessary under the circumstances. The mayor may make exceptions for unusual circumstances. Expenses considered excessive will not be allowed.

(8) Claims for travel expense reimbursement must be supported by the original paid receipt for lodging, vehicle rental, phone call, public carrier travel, conference fee and other reimbursable costs.

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

(10) Mileage and motel expenses incurred within the town are not ordinarily considered eligible expenses for reimbursement.

(11) Travel reimbursement rate schedules. Authorized travelers are reimbursed according to the State of Tennessee travel regulation rates. The town's travel reimbursement rates will automatically change when the state rates are adjusted.

The municipality may pay directly to the provider for expenses such as meals, lodging and registration fees for conferences, conventions, seminars and other education programs. (Ord. #8-2003, Aug. 2003, as replaced by Ord. #8-2013, Oct. 2013)

4-108. Compensation upon termination. When an employee's employment with the town is terminated, the employee will receive the following compensation:

- (1) Regular wages for all hours worked up to the time of termination which have not already been paid.
- (2) Any overtime or holiday pay due.
- (3) A lump sum payment of any accrued but unused vacation and compensatory time. (Ord. #8-2003, Aug. 2003)

4-109. Performance evaluations and training. (1) To achieve the town's goal to train, promote and retain the best-qualified employee for every job, the town may conduct periodic performance evaluations for all positions.

(2) The chief executive officer is responsible for developing and maintaining the town's performance evaluation program.

(3) Employees are to be evaluated by their department heads prior to completion of their trial period and at least once every twelve (12) months thereafter.

(4) The evaluation is part of an employee's personnel record and may be a factor in determining the employee's conversion to regular status, whether the employee receives a wage increase, or is to be promoted, transferred, demoted, laid off, or terminated. (Ord. #8-2003, Aug. 2003)

4-110. Training policy. The town seeks, within the limits of available resources, to offer training to increase an employee's skills, knowledge and abilities directly related to town employment, to obtain or maintain required licenses and certifications, and to develop staff resources. Opportunities may include, but are not limited to: on-the-job training, in-house workshops, and seminars sponsored by other agencies or organizations. (Ord. #8-2003, Aug. 2003)

4-111. Vacation and sick leave. (1) Applicability of chapter. (a) This chapter shall apply to all full-time municipal employees except those operating under the jurisdiction of a school, utility, or other separate board or commission.

(b) All new employees must satisfactorily complete their trial period to be entitled the accrual and use of vacation leave. Regular part-time employees will receive vacation on a pro-rata basis. Temporary employees are not eligible for any vacation benefits.

(2) Vacation leave. All full-time employees shall be allowed .83 days per month of annual vacation leave with pay after one year of employment. All vacation days are based on a calendar year January 1 through December 31. Such vacation leave shall be taken at a time approved by the mayor or such other officer as he may designate. At no time shall a person's total credit for

accrued vacation leave exceed ten (10) days for the first five (5) years, and fifteen (15) days after five (5) years. See chart below.

REGULAR FULL-TIME EMPLOYEES		
Years of Service	Days Earned Per Month	Days per Year
1 to 5	.83 days	10
5+	1.25	15

(3) Sick leave. All full-time employees shall be given a credit of one-half (1/2) working day of sick leave with pay for each month of employment hereafter served. Sick leave shall be taken only when approved by the mayor or such other officer as he may designate. Sick leave, up to the number of days accrued, shall be approved for all full-time employees whose absence from duty is due to illness, bodily injury, exposure to contagious disease, or death in the immediate family of the employee. However, the mayor may, in his discretion, require doctors' certificates or other satisfactory evidence that absences are properly chargeable as sick leave. The maximum credit for accrued sick leave under the provisions of this section shall be thirty (30) days.

(a) Employees who use all their accumulated sick leave and require more time off work due to illness or injury may, with their department head's prior approval, take leave without pay.

(4) Termination or resignation. Upon termination or resignation, any unused sick leave shall not be cashed in for compensation. After an employee has exhausted his/her accrued sick leave, a leave of absence without pay may be granted, at the discretion of the mayor as a reasonable accommodation to people with disabilities, or the employee may be placed on special leave without pay, or the employee may be terminated if he/she is unable to perform his/her job or another job with or without reasonable accommodation. Should the employee be able later to return to work, upon presentation of certification by a doctor, he/she shall be given preference for a position for which he/she is qualified.

(5) Leave records. The mayor shall cause to be kept, for each employee, a record currently up to date at all times showing credit earned and leave taken under this chapter. (Ord. #8-2003, Aug. 2003, as amended by Ord. #11-2013, Jan. 2014)

4-112. Benefits. (1) Eligibility. All full-time regular employees are eligible for all benefits provided by the town, subject to required waiting periods identified elsewhere in these policies.

(2) Holidays. All full-time employees are allowed a day off with pay on the following six (6) holidays.

HOLIDAY	OBSERVED	NO. OF HOURS PAID
New Year's Day	January 1	8
Memorial Day	Last Monday in May	8
Independence Day	July 4	8
Labor Day	First Monday in September	8
Thanksgiving Day	Fourth Thursday in November	8
Christmas Day	December 25	8

If a holiday falls on Sunday, it will be observed the following Monday. If the holiday falls on Saturday, it will be observed on the preceding Friday. To receive compensation for the holiday, full-time employees must be in a pay status on the workday before and on the workday after the holiday unless otherwise excused by the supervisor.

(3) Insurance allowance. In lieu of the town offering medical insurance to employees, all full-time employees who receive medical insurance elsewhere are eligible to receive an insurance reimbursement. The amount is set by board of mayor and aldermen in conjunction with the annual budget. Proof of insurance must be provided to the recorder on an annual basis. (Ord. #8-2003, Aug. 2003, as amended by Ord. #11-2013, Jan. 2014)

4-113. Personnel regulations. (1) Political activity. (a) Employees shall not politic while on city time, in uniform, or using a city vehicle. Town employees shall not serve on the board of mayor and aldermen.

(b) Except as noted in this policy, town employees are otherwise free to fully exercise their constitutional First Amendment Rights.

(2) No smoking policy. For health and safety considerations, the town prohibits smoking by employees in all town facilities, including town-owned buildings, vehicles, and offices or other facilities rented or leased by the town, including individual employee offices.

(3) Use of municipal time, facilities, etc. (a) Use of town phones for local personal phone calls should be kept to a minimum; long distance personal use is prohibited. Other town equipment, including vehicles, should be used by employees for town business only. An employees' misuse of town services, telephones, vehicles, equipment or supplies can result in disciplinary action including termination.

(b) Information of special interest to all employees is posted regularly on the town bulletin boards. Employees may not post any

information on these bulletin boards without the authorization of the town chief executive officer.

(c) The chief executive officer or designated department heads shall be responsible for all official contacts with the news media during working hours, including answering of questions from the media. The chief executive officer or department head may designate specific employees to give out procedural, factual or historical information on particular subjects.

(d) Anyone operating or riding in town vehicles must wear seat belts at all times if the vehicles are equipped with seat belts.

(e) As part of the requirements for certain specific town positions, an employee may be required to hold a valid state driver's license.

(f) If an employee's license is revoked, suspended or lost, or is in any other way not current, valid and in the employee's possession, the employee shall promptly notify the department head and will be immediately suspended from driving duties. The employee may not resume driving until proof of a valid, current license is provided to the department head.

(g) Depending on the duration of license suspension, revocation or other inability to drive, an employee may be subject to disciplinary action, including termination.

(h) Every employee is responsible for maintaining a safe work environment and following the town's safety rules. Negligence in adherence to on-the-job safety standards will be considered grounds for discipline and/or termination. Each employee shall promptly report all unsafe or potentially hazardous conditions to the department head. The town will make every effort to remedy problems as quickly as possible.

(i) In case of an accident involving a personal injury, regardless of how serious, employees shall immediately notify their department head and the chief executive officer.

(4) General policy. (a) The safety and welfare of the town's citizens shall at all times be held as a central mission of government. All town employees are expected to represent the town to the public in a professional manner which is courteous, efficient and helpful. Employees must maintain a clean and neat appearance appropriate to their work assignment, as determined by their position and department head.

(b) Since the proper working relationship between employees and the town depends on each employee's on-going job performance, professional conduct and behavior, the town has established certain minimum standards of personal conduct. Among the town's expectations are: Basic tact and courtesy towards the public and fellow employees; adherence to town policies, procedures, safety rules and safe work practices; compliance with directions from supervisors; preserving and

protecting the town's equipment, grounds, facilities and resources; and providing orderly and cost efficient services to its citizens.

(5) Strikes and unions. No municipal employee shall participate in any strike against the town, nor shall he join, be a member of, or solicit any other municipal officer or employee to join any labor union which authorizes the use of strikes by government employees. (Ord. #8-2003, Aug. 2003, as amended by Ord. #6-2006, Nov. 2006, and Ord. #11-2013, Jan. 2014)

4-114. Vehicle use policy. (1) Statement of policy. Generally, only town employees, members of the governing board, members of boards and committees appointed by the mayor or board engaged in the transportation of town personnel and/or material and supplies used to carry out the functions and operations of the department of the town, and for which the immediate use of a vehicle is actually necessary or convenient, shall drive or ride in the town-owned vehicles or use town-owned equipment.

(2) The following are exceptions to the above general policy:

(a) In emergencies where the town employee has a reasonable belief, based on a totality of circumstances, that the life, safety, health, or physical welfare of a citizen would be immediately threatened without the security and/or transportation the town-owned vehicle could provide him or her. Examples of such emergencies include, but are not limited to accidents involving personal injury, acute illness, and actual and potential victims of crime and violence.

(b) In motorist passenger assistance where there is no immediate emergency, but under a totality of circumstances, the town employee has a reasonable belief that the failure to transport the motorist and/or passengers in a town-owned vehicle could result in such person being left in real or potentially real danger, or would result in extreme inconvenience to them. The use of town-owned vehicle in such case shall be limited to transporting motorists and their passengers only to those places where they are reasonably safe, and have a reasonable opportunity to obtain continued help without further conveyance in a town-owned vehicle.

(c) When it is necessary for reasons of inclement weather, late hour, lack of transportation, or other reasonable cause, to transport non-town personnel to and from town-owned property, and to repair, supply and similar facilities, so that such personnel can install, repair, or maintain town equipment essential to the continuation or restoration of public services essential to the safety, health, and welfare of the citizens of the town.

(d) In the transportation of federal, state, and local officers and employees and the news media, private consultants, businesspersons, and other private persons visiting the town for the purpose of directly

analyzing, reviewing, supporting, assisting or promoting the town's functions and operations.

(e) When the vehicle is being driven to or picked up from private maintenance or repair facilities, and while it is being "road-tested" while in the possession of such facilities.

(f) The Fire Department Operating Policy Manual and the Police Department Operating Policy Manual provisions that include the use of city owned vehicles are considered as part of the general policies of the town and as such are considered to be supplemental to the above stated policies.

(g) Vehicle storage. All vehicles are the property of the Town of Cumberland Gap. It may be necessary for multi-functional use of said vehicles and/or equipment for the overall good of the town. Therefore, all town owned vehicles are to be stored within the town garage or parking area unless the mayor and board of alderman have otherwise granted prior approval.

(h) Drivers license required. Persons authorized to drive or operate said vehicles and/or equipment are required to have a valid driver's license. (as added by Ord. #2-2004, Feb. 2004)

CHAPTER 2

PERSONNEL SYSTEM

SECTION

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

4-201. Purpose. The purpose of this chapter is to establish a system of personnel administration in the Town of Cumberland Gap that is based on merit and fitness. The system shall provide a means to select, develop, and maintain an effective municipal work force through impartially applying personnel policies and procedures free of personal and political considerations and regardless of race, color, gender, age, creed, national origin, or disability. (Ord. #1-2001, Sept. 2001)

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 town'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) Town attorney;
- (5) Independent contractors;
- (6) People employed by the municipality for not more than three months during a fiscal year.
- (7) Volunteer personnel appointed without compensation; and
- (8) Town judge.

All employment positions of the municipal government not expressly exempt from coverage by this section shall be subject to the provisions of the town charter. (Ord. #1-2001, Sept. 2001)

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

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

(2) Recommend to the board of mayor and aldermen policies and procedures for recruiting, appointing, and disciplining all employees of the municipality subject to those policies as set forth in this chapter, the town charter and the municipal code;

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

(4) Foster and develop programs for improving employee effectiveness, including training, safety, and health;

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

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

(7) Recommend a position classification plan and install and maintain such a plan upon approval by the board of mayor and aldermen;

(8) Prepare and recommend a pay plan for all municipal government employees;

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

(10) Be responsible for certification of payrolls; and

(11) Perform such other duties and exercise such other authority in personnel administration as may be prescribed by law. (Ord. #1-2001, Sept. 2001, as amended by Ord. #11-2013, Jan. 2014)

4-204. Personnel rules and regulations. The mayor and the board of mayor and aldermen shall develop rules and regulations, an employee handbook, necessary for effectively administering the personnel system. The board of mayor and aldermen shall adopt the rules presented to them by the mayor. If the board of mayor and aldermen has taken no action by the next board meeting after receiving the draft personnel rules and regulations, they shall become effective as if they have been adopted, and shall have the full force and effect of law.

Amendments to the rules and regulations shall be made in accordance with the procedure below. Nothing in the personnel rules and regulations document shall be deemed to give employees any more property rights in their job than may already be given by the town charter. The town reserves the right to alter or change any or all of these rules without prior notice to employees. (Ord. #1-2001, Sept. 2001, as amended by Ord. #11-2013, Jan. 2014)

4-205. Records. The recorder shall maintain adequate records of the employment record of every employee as specified herein. (Ord. #1-2001, Sept. 2001)

4-206. Right to contract for special services. The board of mayor and aldermen may direct the mayor to contract with any competent agency for performing such technical services in connection with the establishment of the personnel system or with its operation as may be deemed necessary. (Ord. #1-2001, Sept. 2001, as amended by Ord. #11-2013, Jan. 2014)

4-207. Discrimination. No person in the classified service or seeking admission thereto shall be employed, promoted, demoted, discharged, or in any way favored or discriminated against because of political opinions or affiliations, race, color, creed, national origin, gender, age, religious belief, or disability. (Ord. #1-2001, Sept. 2001)

4-208. Amendments. Amendments or revisions of these rules may be recommended for adoption by the board of mayor and aldermen. Such amendments or revisions of these rules shall become effective after approval by the governing body. (Ord. #1-2001, Sept. 2001, as amended by Ord. #11-2013, Jan. 2014)

CHAPTER 3

OCCUPATIONAL SAFETY AND HEALTH PROGRAM

SECTION

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

4-301. Title. This chapter shall be known as the "Occupational Safety and Health Program Plan" for the employees of the Town of Cumberland Gap. (as added by Ord. #2-2013, April 2013)

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

- (1) Provide a safe and healthful place and condition of employment that includes:
 - (a) Top management commitment and employee involvement;
 - (b) Continually analyze the worksite to identify all hazards and potential hazards;
 - (c) Develop and maintain methods for preventing or controlling existing or potential hazards; and
 - (d) Train managers, supervisors, and employees to understand and deal with worksite hazards.
- (2) Acquire, maintain, and require the use of safety equipment, personal protective equipment and devices reasonably necessary to protect employees.
- (3) Record, keep, preserve, and make available to the Commissioner of Labor and Workforce Development, or persons within the Department of Labor and Workforce Development to whom such responsibilities have been delegated, adequate records of all occupational accidents and illnesses and personal injuries for proper evaluation and necessary corrective action as required.
- (4) Consult with the Commissioner of Labor and Workforce Development with regard to the adequacy of the form and content of records.
- (5) Consult with the Commissioner of Labor and Workforce Development, as appropriate, regarding safety and health problems which are considered to be unusual or peculiar and are such that they cannot be achieved under a standard promulgated by the state.

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

(7) Provide for education and training of personnel for the fair and efficient administration of occupational safety and health standards, and provide for education and notification of all employees of the existence of this program plan. (as added by Ord. #2-2013, April 2013)

4-303. Coverage. The provisions of the occupational safety and health program plan for the employees of the Town of Cumberland Gap shall apply to all employees of each administrative department, commission, board, division, or other agency whether part-time or full-time, seasonal or permanent. (as added by Ord. #2-2013, April 2013)

4-304. Standards authorized. The occupational safety and health standards adopted by the Town of Cumberland Gap are the same as, but not limited to, the State of Tennessee Occupational Safety and Health Standards promulgated, or which may be promulgated, in accordance with section 6 of the Tennessee Occupational Safety and Health Act of 1972.¹ (as added by Ord. #2-2013, April 2013)

4-305. Variances from standards authorized. Upon written application to the Commissioner of Labor and Workforce Development of the State of Tennessee, we may request an order granting a temporary variance from any approved standards. Applications for variances shall be in accordance with Rules of Tennessee Department of Labor and Workforce Development Occupational Safety and Health, Variances from Occupational Safety and Health Standards, chapter 0800-01-02, as authorized by Tennessee Code Annotated, title 50. Prior to requesting such temporary variance, we will notify or serve notice to our employees, their designated representatives, or interested parties and present them with an opportunity for a hearing. The posting of notice on the main bulletin board shall be deemed sufficient notice to employees. (as added by Ord. #2-2013, April 2013)

4-306. Administration. For the purposes of this chapter, the chief of maintenance is designated as the safety director of the occupational safety and health to perform duties and to exercise powers assigned to plan, develop, and administer this program plan. The safety director shall develop a plan of

¹State law reference

Tennessee Code Annotated, title 50, chapter 3.

operation¹ for the program plan in accordance with Rules of Tennessee Department of Labor and Workforce Development Occupational Safety and Health, Safety and Health Provisions for the Public Sector, chapter 0800-01-05, as authorized by Tennessee Code Annotated, title 50. (as added by Ord. #2-2013, April 2013)

4-307. Funding the program plan. Sufficient funds for administering and staffing the program plan pursuant to this chapter shall be made available as authorized by the Town of Cumberland Gap. (as added by Ord. #2-2013, April 2013)

¹The plan of operation can be found in this municipal code as Appendix D.

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

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

CHAPTER 1**REAL PROPERTY TAXES¹****SECTION**

- 5-101. When due and payable.
5-102. When delinquent--penalty and interest.

5-101. When due and payable.² Taxes levied by the town against real and personal property shall become due and payable annually on the first Monday of October of the year for which levied. (1979 Code, § 6-101)

¹Charter reference

Assessment and collection of taxes: § 11.

²State 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.

5-102. When delinquent--penalty and interest.¹ 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.² (1979 Code, § 6-102)

¹Charter 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.

²Charter and state law references

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

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

CHAPTER 2

PRIVILEGE TAXES

SECTION

5-201. Tax levied.

5-202. License required.

5-201. Tax levied. Except as otherwise specifically provided in this code, there is hereby levied on all vocations, occupations, and businesses declared by the general laws of the state to be privileges taxable by municipalities, an annual privilege tax in the maximum amount allowed by state laws. The taxes provided for in the state's "Business Tax Act" (Tennessee Code Annotated, § 67-4-701, et seq.) are hereby expressly enacted, ordained, and levied on the businesses, business activities, vocations, and occupations carried on within the town at the rates and in the manner prescribed by the act. (1979 Code, § 6-201)

5-202. License required. No person shall exercise any such privilege within the town without a currently effective privilege license, which shall be issued by the recorder and treasurer to each applicant therefor upon the applicant's compliance with all regulatory provisions in this code and payment of the appropriate privilege tax. (1979 Code, § 6-202)

CHAPTER 3

WHOLESALE BEER TAX

SECTION

5-301. To be collected.

5-301. To be collected. The recorder and treasurer is hereby directed to take appropriate action to assure payment to the town of the wholesale beer tax levied by the "Wholesale Beer Tax Act," as set out in Tennessee Code Annotated, title 57, chapter 6.¹ (1979 Code, § 6-301)

¹State law reference

Tennessee Code Annotated, title 57, chapter 6 provides for a tax equal to thirty-five dollars and sixty cents (\$35.60) per barrel of thirty-one (31) liquid gallons of beer sold. The tax upon barrels containing more or less than thirty-one (31) gallons shall be taxed at a proportionate rate. Every wholesaler is required to remit to each municipality the amount of the net tax on beer wholesale sales to retailers and other persons within the corporate limits of the municipality.

CHAPTER 4

PURCHASING PROCEDURES

SECTION

- 5-401. Miscellaneous.
- 5-402. Sealed bids or proposals.
- 5-403. Non-performance policy.
- 5-404. Delinquent delivery.
- 5-405. Contractual purchases.
- 5-406. Items covered by warranty or guarantee.
- 5-407. Signatures.
- 5-408. Trade-ins.
- 5-409. Sale of surplus property.
- 5-410. Professional service contracts (Tennessee Code Annotated 12-3-1209).
- 5-411. Certain insurance (TCA 29-20-407).
- 5-412. Purchases through state - general services (TCA 12-3-1001).
- 5-413. "Buy America" Act (TCA 54-5-135).
- 5-414. Purchases of confiscated property from the state (TCA 12-2-201).
- 5-415. Interest of officer in municipal contracts (TCA 6-54-107).
- 5-416. Personal interest of officers prohibited (TCA 12-4-101).
- 5-417. Other general information.

5-401. Miscellaneous. The mayor shall act as purchasing agent for the town, with power, except as set out in these procedures, to purchase materials, supplies, equipment, and services; secure leases and lease-purchases; and dispose of and transfer surplus property for the proper conduct of the town's business. All contracts, leases, and lease-purchase agreements extended beyond the end of any fiscal year must have prior approval of the governing body.

The purchasing agent shall have the authority to make purchases, leases, and lease-purchases of more than \$1,000 and less than \$10,000 singly or in the aggregate during any fiscal year and, except as otherwise provided herein, shall require two competitive bids or quotations, either verbal or written whenever possible prior to each purchase. Competitive bids or quotations for the purchase of items which cost less than \$1,000 are desirable but not mandatory. All competitive bids or quotations received shall be recorded and maintained in the office of the town recorder for a minimum of two years after audit. Awards shall be made to the lowest responsible bidder.

A description of all projects or purchases, except as herein provided, which require the expenditure of town funds of \$10,000 or more singly or in the aggregate during any fiscal year shall be prepared by the purchasing agent and submitted to the governing body for authorization to call for bids or proposals. After the determination that adequate funds are budgeted and available for a purchase, the governing body may authorize the purchasing agent to advertise

for bids or proposals. The award of purchases, leases, or lease-purchases of \$10,000 or more shall be made by the governing body to the lowest responsible bidder.

Purchases amounting to \$10,000 or more, which do not require public advertising and sealed bids or proposals, may be allowed only under the following circumstances and, except as otherwise provided herein, when such purchases are approved by the governing body:

- Sole source of supply or proprietary products as determined after complete search by the purchasing agent, with governing body approval.
- Emergency expenditures with subsequent approval of the governing body.
- Purchases from instrumentalities created by two or more cooperating governments.
- Purchases from non-profit corporations whose purpose or one of whose purposes is to provide goods or services specifically to municipalities.
- Purchases, leases, or lease-purchases of real property.
- Purchases, leases, or lease-purchases, from any federal, state, or local governmental unit or agency, of second-hand articles or equipment or other materials, supplies, commodities, and equipment.
- Purchases through other units of governments as authorized by the Municipal Purchasing Law of 1983.
- Purchases directed through or in conjunction with the state Department of General Services.
- Purchases from Tennessee state industries.
- Professional service contracts as provided in Tennessee Code Annotated, 12-3-1209.
- Tort Liability Insurance as provided in TCA 29-20-407.
- Purchases of perishable commodities.
- Professional services shall not be bid.

The purchasing agent shall be responsible for following these procedures and the Municipal Purchasing Law of 1983, as amended, including keeping and filing required records and reports, as if they were set out herein and made a part hereof and within definitions of words and phrases from the law as herein defined.

The purchasing agent may use a town purchase order to outline the terms and conditions for a purchase. A sample purchase order is attached.¹

A receiving report, copy attached,¹ must be matched to each purchase order prior to payment.

If the purchase is over the dollar limit, under no circumstances may multiple forms be used in an effort to avoid competitive bidding. Any variations

¹Attachments to Ord. #11-2003, Dec. 2003 are of record in the recorder's office.

in the purchase order and invoiced amount for purchases exceeding \$10,000 shall be approved by the board of mayor and aldermen.

(1) Emergency purchases are to be made only when normal functions and operations of the town would be hampered by purchasing in the regular manner, or where property, equipment, or life are endangered through unexpected circumstances and materials, services, etc., and are needed immediately. If a tool breaks and the repair is needed immediately an emergency purchase may be necessary. If a town waits until the last minute to purchase a police vehicle, and needs it for tomorrow evenings shift, it may be poor management instead of an emergency.

(2) A summary of bids form should be used to record all bids. The form should be included in the information presented to the governing body for consideration of award of the bid. All bids should be opened in public at a specified time. Late bids should not be accepted or opened. A copy of the Bid Summary Form is attached.¹ (as added by Ord. #11-2003, Dec. 2003, and amended by Ord. #1-2015, March 2015)

5-402. Sealed bids or proposals. Sealed bids are required on purchases of \$10,000 or more. Bids must be advertised in a local newspaper of general circulation not less than five days before bid opening date.

(1) Purchasing agent's responsibility.

- Prepare bid requests.
- Establish date and time for bid opening.
- Select possible sources of supply.
- Prepare specifications (unless of a technical nature, such as architectural, engineering, etc.
- Mail bid requests and advertise as appropriate. If delivered by hand, a receipt of the bid request should be signed by the vendor.
- Receive and open bids.
- Evaluate bids using staff or professional assistance.
- Make recommendations on award to governing body for approval.
- Process purchase order after governing body approval.
- Maintain all specification and bid data files.

(2) General information. The following policies shall apply to sealed bids:

(a) Bid or proposal opening: Bids will be opened at the time and date specified on the bid request. All bids are opened publicly and read aloud, with a tabulation provided to all vendors participating. Proposals for extensive systems, complicated equipment, or construction projects,

¹Attachments to Ord. #11-2003, Dec. 2003 are of record in the recorder's office.

may be evaluated privately with a public recommendation to the governing board after evaluation and study.

(b) Late bids: No bids received after closing time will be accepted. All late bids will be returned unopened to the vendor. Bids postmarked on the bid opening date but received after the specified time will be considered late and will be returned unopened. It is important that the integrity of the bidding process be maintained.

(c) Bid opening schedule: The purchasing agent is responsible for setting bid opening dates and times.

(d) Telephone bids: The purchasing agent will not accept any bid by telephone. He may accept telephone quotes for amounts less than \$10,000.

(e) Bid form: When the purchasing agent sends duplicate copies of bid request forms to each bidder, thereby enabling the bidder to return one and maintain a file copy, bids will not be accepted on any vendor letterhead, vendor bid form or other substitutions unless special permission is given by the purchasing agent.

(f) Unsigned bids: Failure of a vendor representative to sign a bid proposal removes that bid from consideration. A typed official's name will not be acceptable without that person's written signature.

(g) Acceptance of bids: The town reserves the right to reject any or all bids, to waive any irregularities in a bid, to make awards to more than one bidder, to accept any part or all of a bid, or to accept that bid (or bids) which in the judgment of the governing body is in the best interest of the city.

(h) Shipping charges: Bids are to include all shipping charges to the point of delivery. Bids will only be considered on the basis of delivered price, except as otherwise authorized by the governing body. In many instances, the amount of shipping charges will be the deciding factor in making a purchase.

(i) Sample product policy: The purchasing agent may request a sample product as part of a bid. If this is stated on the bid proposal form, the vendor is required to comply with this request or have the bid removed from consideration.

(j) Approval equal policy: Specifications in the request for bids are intended to establish a desired quality or performance level or other minimum requirements which will provide the town with the best product available at the lowest possible price.

When a brand name and/or model is designated, it signifies the minimum quality acceptable. If an alternate is offered, the bidder must include the brand name or model to be furnished, along with complete specifications and descriptive literature and, if requested, a sample for testing.

Brands and/or models other than those designated as "equal to" products shall receive equal consideration.

(k) Alternate bids: Should it be found, after bids have been opened, that a product has been offered with an alternative specification and that this product would be better for the city to use, all bids for that item may be rejected and specifications redrawn to allow all bidders an equal opportunity to submit bids on the alternate item.

(l) Tie bids: A tie bid is one in which two or more vendors bid identical items at the same unit cost. Tie bids may be determined by one of the following factors:

- (i) Discount allowed,
- (ii) Delivery schedule,
- (iii) Previous vendor performance,
- (iv) Vendor location, or
- (v) Trade-in value offered.

If the tie cannot be resolved in this manner to the satisfaction of the governing body, the decision shall be based upon a coin toss as directed by the governing body.

(m) Cancellation of invitation for bid or request for proposal: An invitation to bid, a request for proposal, or other solicitations may be canceled, or any or all bids or proposals may be rejected in part as may be specified in the solicitation when it is in the best interest of the town. The reasons shall be made a part of the bid or proposal file.

(n) Public advertisement: In addition to publication in a newspaper of general circulation as required by law, the purchasing agent may make any other efforts to let all prospective bidders know about the invitation to bid. This may be accomplished by delivery, verbally, mail, or by posting the invitation to bid in a public place. It is not required that specifications be included in the invitation to bid. However, the notice should state clearly the purchase to be made.

(o) Other aspects to be considered in bid awards:

- The ability of the bidder to perform the contract or provide the material or service required.
- Whether the bidder can perform the contract or provide the material or service promptly or within the time specified, without delay or interference.
- The character, integrity, reputation, experience, and efficiency of the bidder.
- The previous and existing compliance, by the bidder, with laws and ordinances relating to the contract or service.
- The ability of the bidder to provide future maintenance and service for the use of the subject contract.
- Terms and conditions stated in the bid.

- Compliance and specifications or request for proposal. (as added by Ord. #11-2003, Dec. 2003)

5-403. Non-performance policy. Failure of a bidder to complete a contract, bid, or purchase order in the specified time agreed on, or failure to provide the service, materials, or supplies required by such contract, bid, or purchase order, or failure to honor a quoted price on services, materials, or supplies on a contract, bid, or purchase order may result in one or more of the following actions:

- Removal of a vendor from a bid list for a period to be determined by the governing body.
- Allowing the vendor to find the needed item for the town from another supplier at no additional cost to the town.
- Allowing the city to purchase the needed services, materials, or supplies from another source and charge the vendor for any difference in cost resulting from this purchase.
- Allowing monetary settlement. (as added by Ord. #11-2003, Dec. 2003)

5-404. Delinquent delivery. Once the purchasing agent has issued a purchase order, no follow-up work should be done unless the item has not been received. If this happens, the purchasing agent may initiate action, either written or verbal as time allows, to investigate the delay. (as added by Ord. #11-2003, Dec. 2003)

5-405. Contractual purchases. Such materials, supplies, or services which are constantly needed for town operations will be taken on a formal bid and will be awarded by the governing body for a contract period determined to be in the best interest of the town. This procedure shall be used in cases where the amount of the purchase of said materials, supplies, or services will be \$10,000 or more within the fiscal year. For amounts below \$10,000 the award will be made by the purchasing agent. (as added by Ord. #11-2003, Dec. 2003)

5-406. Items covered by warranty or guarantee. The city buys many items which have a warranty or guarantee for a certain length of time, such as tires, batteries, water heaters, roofs, and equipment. Before these items are repaired or replaced, the purchasing agent should be consulted to see if the item is covered by such warranty or guarantee. The city recorder shall maintain an active current file with complete information on such warranties or guarantees. All warranties must be remitted to the purchasing agent with the invoice indicating date of receipt. (as added by Ord. #11-2003, Dec. 2003)

5-407. Signatures. Contracts, applications for title, tax exemption certificates, agreements, and contracts for utilities shall not be signed by any

city employee unless authorized in writing by the purchasing agent or by action of the governing body. (as added by Ord. #11-2003, Dec. 2003)

5-408. Trade-ins. List of equipment to be used as trade-in shall accompany the request and specifications. The list includes the model, year, serial and city tag numbers, and other pertinent data. (as added by Ord. #11-2003, Dec. 2003)

5-409. Sale of surplus property. When the purchasing agent decides there is surplus equipment or material in the city, he shall figure out the best way to dispose of those items with an estimated value of less than \$100 and dispose of them with a report to the governing board. Items with an estimated value of more than \$100 shall be advertised for bidding, which will begin after the purchasing agent has received approval from the governing body. Such equipment or materials will be sold to the highest bidder. (as added by Ord. #11-2003, Dec. 2003)

5-410. Professional service contracts (Tennessee Code Annotated, 12-3-1209). Professional services include legal services, fiscal agent, financial adviser or advisory services, educational consultant services, and similar services by professional people or groups with "high ethical standards." Only contracts for services performed within the professional's field of expertise are to be considered professional service contracts. Leasing office space from an attorney or purchasing computer services from an accountant, for example, are not professional services and will require competitive bids.

Contracts for professional services will be awarded on the basis of recognized competence and integrity, rather than on competitive bids. This does not stop a city from requesting proposals from eligible service providers, then deciding about the capabilities of each. Although cost may be considered in choosing the service provider, it must not be the sole factor. (as added by Ord. #11-2003, Dec. 2003, and amended by Ord. #1-2015, March 2015)

5-411. Certain insurance (TCA 29-20-407). Cities may purchase tort liability insurance, without competitive bidding, from the Tennessee Municipal League, or any other plan authorized by any organization of governmental entities representing cities and counties. (as added by Ord. #11-2003, Dec. 2003)

5-412. Purchases through state-general services (TCA 12-3-1001). Cities may take advantage of so called "state prices" regardless of any charter or general law requirements. Not all prices quoted to the state are available to local governments. The items, price, and vendor information are available from the purchasing division of the Department of General Services. (as added by Ord. #11-2003, Dec. 2003)

5-413. "Buy America" Act (TCA 54-5-135). Cities must not buy any materials used for highway or roadway construction, resurfacing, or maintenance from any foreign government, any company wholly owned or controlled by a foreign government, or any agency of such foreign government or company. Materials include, but are not limited to asphalt cement, asphalt emulsion, rock, aggregate, liquid and solid additives, sealers, and oils. This legislation will not apply if materials made by American companies are of unsatisfactory condition, are not of sufficient quantity, or increase the overall project cost by 5 percent more than the overall project costs using materials produced by foreign companies. (as added by Ord. #11-2003, Dec. 2003)

5-414. Purchases of confiscated property from the state (TCA 12-2-201). A city may buy a motor vehicle that has been confiscated by the state by any city officer, employee, or their agent when the purchase is for municipal use. (as added by Ord. #11-2003, Dec. 2003)

5-415. Interest of officer in municipal contracts (TCA 6-54-107). No one holding a city office, elected or appointed, shall contract with the city for any work. Nor shall such person hold or have any direct interest in such a contract. Direct interest is defined as any business in which the official is the sole proprietor, a partner, or the person who has the controlling interest. Controlling interest means the person with the ownership or control of the largest number of outstanding shares owned by any individual or corporation.

No city officer shall be indirectly interested in any contract with the municipality unless the officer publicly acknowledges his interest. Indirectly interested is defined as any contract in which the officer is interested, but not directly, but includes contracts where the officer is directly interested, but is the sole supplier in the municipality. (as added by Ord. #11-2003, Dec. 2003)

5-416. Personal interest of officers prohibited (TCA 12-4-101). It is unlawful for any person whose duty is to vote for or to supervise any contract with a city to be directly interested in such a contract. No city officer or other person whose duty is to superintend any contract with a city shall be indirectly interested in any such contract, unless the officer or person publicly acknowledges his interest. (as added by Ord. #11-2003, Dec. 2003)

5-417. Other general information. (1) Preference to local dealers: When buying supplies, materials, equipment, and services for the city's requirements, preference shall be given dealers who have stores or warehouses within the city-price, quality, delivery, and service being equal.

(2) Federal excise tax: The town is exempt from the payment of excise taxes imposed by the federal government, and suppliers should be required to deduct the amount of such taxes from their bids, quotations, and invoices. The town is not required to pay sales tax on purchases.

(3) Public inspection of records: The purchasing agent shall keep a complete record of all quotations, bids, and purchase orders. Such records shall be open to public inspection.

(4) Designee: The purchasing agent may designate the city recorder to serve as purchasing officer under his supervision and direction.

(5) Within the limits of the approved budget: Purchases must stay within appropriation limits in funds requiring budgets either by law, regulation, or policy. Appropriation limits do not apply to nonexpendable funds not requiring budgets, such as enterprise funds, intra governmental service funds, and nonexpendable trust funds.

(6) Performance and bid bonds: Performance and bid bonds as may be determined by the purchasing agent or the governing body.

(7) Payment bond: A payment bond is required for all contracts of \$25,000 or more to insure that all materials are paid for by the contractor. This is a requirement of Tennessee Law.

(8) Architect or engineer required: Plans, specifications, and estimates for any public works project exceeding \$25,000 must be prepared by a registered architect or engineer as required by TCA 62-2-107. (as added by Ord. #11-2003, Dec. 2003)

TITLE 6

LAW ENFORCEMENT

CHAPTER

1. POLICE DEPARTMENT.
2. ARREST PROCEDURES.
3. DELETED.

CHAPTER 1

POLICE DEPARTMENT¹

SECTION

- 6-101. Policemen subject to chief's orders.
6-102. Policemen to preserve law and order, etc.
6-103. Police department records.
6-104.--6-108. [Deleted.]

6-101. Policemen subject to chief's orders. All policemen shall obey and comply with such orders and administrative rules and regulations as the police chief may officially issue. (1979 Code, § 1-401, as replaced by Ord. #3-2015, May 2015)

6-102. Policemen to preserve law and order, etc. Policemen shall preserve law and order within the town. They shall patrol the town and shall assist the town court during the trial of cases. Policemen shall also promptly serve any legal process issued by the town court. (1979 Code, § 1-402, as replaced by Ord. #3-2015, May 2015)

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

- (1) All known or reported offenses and/or crimes committed within the corporate limits.
- (2) All arrests made by policemen.
- (3) All police investigations made, funerals, convoyed, fire calls answered, and other miscellaneous activities of the police department.

¹Municipal code reference

Issuance of citation in lieu of arrest in traffic cases: title 15, chapter 7. "Mutual Aid and Emergency and Disaster Assistance Agreement Act of 2004": § 7-401(1).

(4) Any other records required to be kept by the board of mayor and aldermen or by law.

The police chief shall be responsible for insuring that the police department complies with the section. (1979 Code, § 1-403, as replaced by Ord. #3-2015, May 2015)

6-104.--6-108. [Deleted]. (as deleted by Ord. #3-2015, May 2015)

CHAPTER 2

ARREST PROCEDURES

SECTION

6-201. When policemen to make arrests.

6-202. Disposition of persons arrested.

6-203. [Deleted.]

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

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

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

(3) Whenever a felony has in fact been committed and the officer has probable cause to believe the person has committed it. (1979 Code, § 1-601, as replaced by Ord. #3-2015, May 2015)

6-202. Disposition of persons arrested. (1) For code or ordinance violations. Unless otherwise provided by law, a person arrested for a violation of this code or other town ordinance, shall be brought before the town court. However, if the town court is not in session, the arrested person shall be allowed to post bond with the town court clerk, or, if the town court clerk is not available, with the ranking police officer on duty. If the arrested person is under the influence of alcohol or drugs when arrested, even if he is arrested for an offense unrelated to the consumption of alcohol or drugs, the person shall be confined until he does not pose a danger to himself or to any other person.

(2) Felonies or misdemeanors. A person arrested for a felony or a misdemeanor shall be disposed of in accordance with applicable federal and state law and the rules of the court which has jurisdiction over the offender. (1979 Code, § 1-602, as replaced by Ord. #3-2015, May 2015)

6-203. [Deleted]. (1979 Code, § 1-603, as deleted by Ord. #3-2015, May 2015)

¹Municipal code reference

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

CHAPTER 3

This chapter was deleted by Ord. #3-2015, May 2015)

TITLE 7

FIRE PROTECTION AND FIREWORKS¹

CHAPTER

1. FIRE DISTRICT.
2. FIRE CODE.
3. VOLUNTEER FIRE DEPARTMENT.
4. FIRE SERVICE OUTSIDE TOWN LIMITS.

CHAPTER 1

FIRE DISTRICT

SECTION

7-101. Fire limits described.

7-101. Fire limits described. The corporate fire limits shall be the municipal limits of the Town of Cumberland Gap. (1979 Code, § 7-101, as replaced by Ord. #4-2015, June 2015)

¹Municipal code reference

Building, utility and housing codes: title 12.

CHAPTER 2

FIRE CODE¹

SECTION

- 7-201. Fire code adopted.
- 7-202. Enforcement.
- 7-203. Modifications.
- 7-204. Definition of "municipality."
- 7-205. Gasoline trucks.
- 7-206. Variances.
- 7-207. Violations and penalties.

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 providing a reasonable level of life safety and property protection from the hazards of fire, explosion or dangerous conditions in new and existing buildings, structures, and premises, and to provide safety to fire fighters and emergency responders during emergency operations, the International Fire Code,² 2012 edition, as recommended by the International Code Council is hereby adopted by reference and included as a part of this code. 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 code is adopted and incorporated as fully as if set out at length herein and shall be controlling within the corporate limits. (1979 Code, § 7-201, as amended by Ord. #31999, June 1999, Ord. #11-2004, Aug. 2004, and Ord. #1-2008, April 2008, and replaced by Ord. #4-2015, June 2015)

7-202. Enforcement. The fire code herein adopted by reference shall be enforced by the chief of the fire department. He shall have the same powers as the state fire marshal. (1979 Code, § 7-202, as replaced by Ord. #4-2015, June 2015)

7-203. Modifications. The fire code adopted in § 7-201 above is modified by deleting therefrom the section, titled "Board of Appeals," in its entirety; § 7-207 below shall control appeals. (1979 Code, § 7-203, as replaced by Ord. #4-2015, June 2015)

¹Municipal code reference

Building, utility and housing codes: title 12.

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

7-204. Definition of "municipality." Whenever the word "municipality" is used in the fire code herein adopted, it shall be held to mean the Town of Cumberland Gap, Tennessee. (1979 Code, § 7-204, as replaced by Ord. #4-2015, June 2015)

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. (1979 Code, § 7-205, as replaced by Ord. #4-2015, June 2015)

7-206. Variances. The chief of the volunteer fire department may recommend to the board of mayor and alderman variances from the provisions of the fire code upon application in writing by any property owner or lessee, or the duly authorized agent of either, when there are practical difficulties in the way of carrying out the strict letter of the code, provided that the spirit of the code shall be observed, public safety secured, and substantial justice done. The particulars of such variances when granted or allowed shall be contained in a resolution of board of mayor and alderman. (1979 Code, § 7-206, as replaced by Ord. #4-2015, June 2015)

7-207. Violations and penalties. It shall be unlawful for any person to violate any of the provisions of this chapter or the fire 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 board of mayor and alderman or by a court of competent jurisdiction, within the time fixed herein. The violation of any section of this chapter shall be punishable by a penalty under the general penalty provision of this code. Each day a violation is allowed to continue shall constitute a separate offense. 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 (1979 Code, § 7-207, as replaced by Ord. #4-2015, June 2015)

CHAPTER 3

VOLUNTEER FIRE DEPARTMENT¹

SECTION

7-301. Establishment, equipment, and membership.

7-302. Objectives.

7-303. Organization, rules, and regulations.

7-304. Records and reports.

7-305. Tenure and compensation of members.

7-306. Chief responsible for training and maintenance.

7-307. Chief to be assistant to state officer.

7-301. Establishment, equipment, and membership. There is hereby established a volunteer fire department to be supported and equipped from appropriations by the board of mayor and alderman. Any funds raised by the volunteer fire department as a whole, or by any individual or group of volunteer firemen in the name of the volunteer fire department, and any gifts to the volunteer fire department shall be turned over to and become the property of, the town and the town shall use such funds in the equipping of the volunteer fire department (as requested by the fire department or as directed by the donor). All other apparatus, equipment, and supplies shall be purchased by or through the town and shall be and remain the property of the town. The volunteer fire department shall be composed of a chief appointed by the board of mayor and alderman and such number of physically-fit subordinate officers and firemen as the chief shall appoint, may be subject to approval by the board of mayor and alderman. (1979 Code, § 7-301, as replaced by Ord. #4-2015, June 2015)

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

- (1) To prevent uncontrolled fires from starting.
- (2) To prevent the loss of life and property because of fires.
- (3) To confine fires to their places of origin.
- (4) To extinguish uncontrolled fires.
- (5) To prevent loss of life from asphyxiation or drowning.
- (6) To perform such rescue work as its equipment and/or the training of its personnel makes practicable.
- (7) To coordinate the activities of all town agencies relating to planning, preparation and implementation of the town's emergency management plan. (1979 Code, § 7-302, as replaced by Ord. #4-2015, June 2015)

¹Municipal code reference

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

7-303. Organization, rules, and regulations. The chief of the volunteer fire department shall set up the organization of the department, make definite assignments to individuals, and shall formulate and enforce such rules and regulations as shall be necessary for the orderly and efficient operation of the volunteer fire department. (1979 Code, § 7-303, as replaced by Ord. #4-2015, June 2015)

7-304. Records and reports. The chief of the volunteer fire department shall keep adequate records of all fires, inspections, apparatus, equipment, personnel, training, and work of the department. He shall submit a written report on such matters to the mayor or to the board of mayor and alderman once each month, and at the end of the year a detailed annual report shall be made. (1979 Code, § 7-304, as replaced by Ord. #4-2015, June 2015)

7-305. Tenure and compensation of members. The chief shall hold office so long as his conduct and efficiency are satisfactory to the board of mayor and alderman. However, so that adequate discipline may be maintained, the chief shall have the authority to suspend or discharge any other member of the volunteer fire department when he deems such action to be necessary for the good of the department. The chief may be suspended up to thirty (30) days by the mayor but may be dismissed only by the board of mayor and alderman.

All personnel of the volunteer fire department are eligible to receive a nominal fee set by the board of mayor and alderman in conjunction with the annual budget. (1979 Code, § 7-305, as replaced by Ord. #4-2015, June 2015)

7-306. Chief responsible for training and maintenance. The chief of the volunteer fire department shall be fully responsible for the training of the firemen and for maintenance of all property and equipment of the volunteer fire department (may be subject to the requirements of the board of mayor and alderman). (1979 Code, § 7-306, as replaced by Ord. #4-2015, June 2015)

7-307. Chief to be assistant to state officer. Pursuant to requirements of Tennessee Code Annotated, § 68-102-108, the chief of the volunteer fire department is designated as an assistant to the state commissioner of commerce and insurance and is subject to all the duties and obligations imposed by Tennessee Code Annotated, title 68, chapter 102, and shall be subject to the directions of the commissioner in the execution of the provisions thereof. (1979 Code, § 7-308, as replaced by Ord. #4-2015, June 2015)

CHAPTER 4**FIRE SERVICE OUTSIDE TOWN LIMITS****SECTION**

7-401. Fire service outside town limits.

7-401. Fire service outside town limits. The board shall have full power and authority to authorize the use of the town's fire-fighting equipment and personnel outside the corporate limits to suppress and extinguish fires subject to such conditions and limitations of such action as the board may impose pursuant to the authority of:

(1) Tennessee Code Annotated, § 58-8-101, et seq., the Mutual Aid and Emergency Disaster Assistance Agreement Act of 2004, which authorizes municipalities to respond to requests from other governmental entities affected by situations in which its resources are inadequate to handle. The act provides procedures and requirements for providing assistance. No separate mutual aid agreement is required unless assistance is provided to entities in other states, but a municipality may, by resolution, continue existing agreements or establish separate agreements to provide assistance. Assistance to entities in other states is still provided pursuant to Tennessee Code Annotated, § 12-9-101, et seq. "Assistance" is defined in the act as "the provision of personnel, equipment, facilities, services, supplies, and other resources to assist in firefighting, law enforcement, the provision of public works services, the provision of emergency medical care, the provision of civil defense services, or any other emergency assistance one governmental entity is able to provide to another in response to a request for assistance in a municipal, county, state, or federal state of emergency."

(2) Tennessee Code Annotated, § 12-9-101, et seq., the Interlocal Cooperation Act, which authorizes municipalities and other governments to enter into mutual aid agreements of various kinds.

(3) Tennessee Code Annotated, § 6-54-601, which authorizes municipalities to:

(a) Enter into mutual aid agreements with other municipalities, counties, privately incorporated fire departments, utility districts and metropolitan airport authorities which provide for firefighting service, and with industrial fire departments, to furnish one another with firefighting assistance.

(b) Enter into contracts with organizations of residents and property owners of unincorporated communities to provide such communities with firefighting assistance.

(c) Provide fire protections outside their town limits to either citizens on an individual contractual basis, or to citizens in an area without individual contracts, whenever an agreement has first been entered into between the municipality providing the fire service and the

county or counties in which the fire protection is to be provided. (Counties may compensate municipalities for the extension of fire services.) (1979 Code, § 7-307, as replaced by Ord. #4-2015, June 2015)

TITLE 8**ALCOHOLIC BEVERAGES**¹**CHAPTER**

1. INTOXICATING LIQUORS.
2. BEER.

CHAPTER 1**INTOXICATING LIQUORS****SECTION**

8-101. Prohibited generally.

8-101. Prohibited generally. Except when he is lawfully acting pursuant to applicable state laws², it shall be unlawful for any person acting for himself or for any other person, to manufacture, receive, possess, store, transport, sell, furnish, or solicit orders for any intoxicating liquor within the Town of Cumberland Gap. "Intoxicating liquor" shall be defined to include whiskey, wine, "home brew," "moonshine," and all other intoxicating, spirituous, vinous, or malt liquors and beers which contain more than five percent (5%) of alcohol by weight. (1979 Code, § 2-101)

¹State law reference
Tennessee Code Annotated, title 57.

²State law reference
Tennessee Code Annotated, title 39, chapter 17.

CHAPTER 2

BEER¹

SECTION

- 8-201. Generally.
- 8-202. Definitions.
- 8-203. Beer business lawful, but subject to regulations, etc.
- 8-204. Beer permit board created; quorum.
- 8-205. The city recorder shall be ex officio secretary of the beer board.
- 8-206. Permits limitation, permit required for engaging in beer business.
- 8-207. Places where permits will be issued..
- 8-208. Establishments from which beer may be sold.
- 8-209. Advertisements allowed.
- 8-210. Application for permit; requirements as to applicants; regulations to be followed.
- 8-211. Duration of permit.
- 8-212. Revocation or suspension of permits.
- 8-213. Display of permit.
- 8-214. Civil penalty in lieu of suspension.
- 8-215. Permits not transferable.
- 8-216. Sales to certain persons prohibited; proper sanitary facilities required.
- 8-217. All existing permits to be in force.
- 8-218. All beer sales areas to be constructed so that beer sales are not conducted during "No Sale" hours.
- 8-219. Wholesalers, etc., to deliver only to holders of retail beer permits.
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- 8-221. Violations generally.
- 8-222. Loss of clerk's certification for sale to minor.
- 8-223. Clubs.
- 8-224. Permit holder requirements.
- 8-225. Permit holder and wholesaler restriction.
- 8-226. Grandfathered permittees.
- 8-227. Special event/temporary beer permits.

8-201. Generally. Except when he is lawfully acting pursuant to applicable state laws, it shall be unlawful for any person, acting for himself or for any other person, to manufacture, receive, possess, store, transport, sell,

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).

furnish, or solicit orders for any intoxicating liquor within the Town of Cumberland Gap. (1979 Code, § 2-201, as replaced by Ord. #1-2006, May 2006)

8-202. Definitions. "Intoxicating liquor" shall be defined to include whiskey, wine, "home brew," "moonshine," and all other intoxicating, spirituous, vinous, or malt liquors and beers which contain more than five percent (5%) of alcohol by weight.

"Beer" shall be defined as any beverage with contains five percent (5%) or less of alcohol by weight as defined by Tennessee law.

"Restaurant" shall be defined as any public place kept, used, maintained, advertised and held out to the public as a place where meals are served and where meals are actually and regularly served with or without sleeping accommodations, such place being provided with adequate and sanitary kitchen and dining room equipment and seating capacity of at least seventy-five (75) people (TCA 57-4-101) at tables, having employed therein a sufficient number and kind of employees to prepare, cook and serve suitable food for guest. At least one meal per day shall be served at least five days a week, with the exception of holidays, vacations and periods of redecorating, and the serving of such meals shall be the principal business conducted. (TCA 57-4-102. Definitions) (1979 Code, § 2-202, as replaced by Ord. #1-2006, May 2006, and amended by Ord. #1-2007, Feb. 2007)

8-203. Beer business lawful, but subject to regulations, etc. It shall hereafter be lawful to transport, store, sell, distribute, possess, receive, or manufacture beer of alcoholic content of not more than five percent (5%) by weight, as is allowed by the statutory law of the State of Tennessee, or any other beverage of like alcoholic content, within the corporate limits of the Town of Cumberland Gap, Tennessee, subject to all the regulations, limitations, and restrictions promulgated by authorized public officials or boards. (1979 Code, § 2-203, as replaced by Ord. #1-2006, May 2006)

8-204. Beer permit board created; quorum. There is hereby created a beer permit board which shall consist of all the members of the board of mayor and aldermen who shall hold office for a period coterminous with their respective terms of office. A majority of the beer permit board shall constitute a quorum. Members of the beer board shall serve without additional compensation. (1979 Code, § 2-204, as replaced by Ord. #1-2006, May 2006, as amended by Ord. #7-2008, Oct. 2008)

8-205. The city recorder shall be ex officio secretary of the beer board. It shall be her duties to keep a record of all the proceedings of the board and to keep on file in her office all original applications, as well as duplicate of each permit issued by the board. The recorder shall monitor the convictions of

city court dealing with beer law violations and advise the board. (1979 Code, § 2-205, as replaced by Ord. #1-2006, May 2006)

8-206. Permits limitation, permit required for engaging in beer business. It shall be unlawful for any person, corporation or partnership to sell, store for sale, distribute for sale, or manufacture beer without first making application to and obtaining a permit from the beer board. The application shall be made on such form as the board shall prescribe and/or furnish, pursuant to Tennessee Code Annotated, § 57-5-101 (b), and shall be accompanied by a non-refundable application fee of two hundred and fifty dollars (\$250). Said fee shall be in the form of cash or a cashier's check payable to the Town of Cumberland Gap. No person, firm, joint-stock company, syndicate, or association having at least a five percent (5%) ownership interest in the applicant nor any person to be employed in the distribution or sale of beer shall have been convicted of any violation of the laws against possession, sale, manufacture, or transportation of beer or other alcoholic beverages or any crime involving moral turpitude within the past ten (10) years. Furthermore, any person, firm, joint-stock company, syndicate or association must obtain a certificate from the chief of police that they have submitted to a background check and further certify that they have read and are familiar with the provisions of this section and the beer laws of the State of Tennessee. (1979 Code, § 2-206, as replaced by Ord. #1-2006, May 2006, as amended by Ord. #1-2007, Feb. 2007 and Ord. #7-2008, Oct. 2008)

8-207. Places where permits will be issued. (1) Generally. Permits shall be issued to sell beer under the following circumstances:

(a) Where applicants and permit holders are not in violation of any provision of the state laws.

(b) Where such sales will not cause traffic congestion or interference with schools, churches or other places of public gathering or otherwise interfere with the public health, safety and morals. The judgment of the town's beer board on such matters shall be final except as the same is subject to review in law.

(c) Where the businesses are no closer than two hundred (200) feet of a church, places of public gathering, or a school. Such measurement shall be in a straight line at 90 degree angles at turns.

(d) In an area of the town that is zoned C-1, C-2, or C-3 commercial by town zoning.

(2) Restrictions for on premises consumption permits.

(a) On-premises consumption permits may be issued to any restaurant in a C-1, C-2, and C-3 commercial area only if the restaurant has a Class 1 rating from the State of Tennessee and has the capacity to seat and serve a minimum of seventy-five (75) people.

(b) Establishments that hold an on-premises consumption permit cannot have beer sales that exceed more than forty-nine percent

(49%) of the gross sales of the establishment (At least fifty-one percent (51%) of sales must be food or items other than beer.)

(c) For beer sales where outside seating is provided, the outside seating area must be enclosed by a fence.

(i) Definition of "fence." For the purposes of this section, a fence shall be defined as a rigid or self-standing structure or partition, all of which shall contain a continuous wall to enclose the outside seating area of an establishment that holds an on-premises consumption permit.

(ii) Permitted fence materials. Fence wall surfaces shall be constructed of redwood cedar, pressure treated lumber, wood and vinyl plank or lattice, wrought iron, concrete, stone or masonry material.

(iii) Prohibited fence. Fences made of plywood, plastic sheeting, cloth and similar nondurable materials are prohibited.

(d) Beer permits shall not be granted to drive-in restaurants or restaurants offering curb service.

(3) There shall be no beer sales/food or other items sales ratio restriction on the sale of beer in establishments that hold off-premises consumption permits.

(4) All buildings where beer is sold must meet the town's building codes. (1979 Code, § 2-207, as replaced by Ord. #1-2006, May 2006, as amended by Ord. #1-2007, Feb. 2007, as replaced by Ord. #7-2008, Oct. 2008)

8-208. Establishments from which beer may be sold. All beer permits shall be restrictive as to the type of beer business authorized under them. It shall be unlawful for any person not to comply with any and all express restrictions or conditions which may be written into the permit by the beer board.

Beer may be sold at the following types of establishments;

(1) Establishments for consumption off the premises. This is an establishment for the sole purpose of selling beer for consumption elsewhere than the vending location. Under no circumstances may beer be consumed at the establishment.

(2) Establishments for consumption on the premises. A regularly opened restaurant which seats seventy-five (75) or more. This establishment may be opened in a regularly operated motel or hotel which has a restaurant or lounge in connection therewith that has a seating capacity of seventy-five (75) seats or more. Under no circumstances are these establishments allowed to sell beer for consumption off the premises. (1979 Code, § 2-208, as amended by Ord. #____, Jan. 1994, and replaced by Ord. #1-2006, May 2006, as amended by Ord. #1-2007, Feb. 2007, as amended by Ord. #7-2008, Oct. 2008)

8-209. Signage. No outdoor sign, advertisement or display that advertises beer may be erected or maintained on the property on which a retail beer establishment is located other than one (1) sign, advertisement or display which makes reference to the fact that the establishment sells beer but does not use brand names, pictures, numbers, prices or diagrams relating to beer. The sign cannot be any larger than three (3) feet by five (5) feet.

Additional signage is required for off-premises permit holders that states "No Consumption on These Premises." This additional signage must be printed on a sign at least eighteen (18) inches by twenty-four (24) inches and must be posted on the walls adjacent to all entrances and above all exits.

Additional signage is required for on-premises permit holders to be posted at exit locations of exterior seating areas that state "No alcoholic beverages allowed beyond this point."

Responsible vendors (as defined in § 8-214) shall post signs on the vendor's premises informing customers of the vendor's policy against selling beer to underage persons. The signs shall be not less than eight and one-half inches by eleven (8 ½ x 11 inches), and contain the following language: STATE LAW REQUIRES IDENTIFICATION FOR THE SALE OF BEER.

Furthermore, vendors shall post signs on the vendor's premises informing customers of the vendor's policy against selling beer to underage persons. The signs shall be not less than eight and one-half inches by five and one-half (8 ½ x 5 ½ inches), and shall contain the following language: IF YOU AREN'T AGE TWENTY-ONE (21) OR OLDER AND ARE IN POSSESSION OF BEER, YOU COULD LOSE YOUR DRIVER LICENSE. (1979 Code, § 2-209, as replaced by Ord. #1-2006, May 2006, as replaced by Ord. #7-2008, Oct. 2008)

8-210. Application for permit; requirements as to applicants; regulations to be followed. (1) Before any permit is issued by the beer permit board, the applicant shall file a sworn application to the board in writing, and establish the following:

(a) Names of owners, corporations principle officers, partnerships, firm, syndicate, association or joint stock company who will own the premises.

(b) Names of the persons or agents who will be responsible to operate the business.

(c) The location of the premises at which the business shall be conducted.

(d) That the applicant will not engage in the sale of such beverages except in the place or places for which the beer permit board has issued the permits.

(e) The applicant will apply for a "on premises" permit for consumption on the premises or for an "off premises" permit for beer sales to go.

(f) That the applicant will only make beer sales in accordance with the permit issued by the board by not allowing any consumption on the premises of a "off premises" permit and the holders of a "on premises" permits shall not sell beer to go off premises.

(g) That no sales will be made to minors and the applicant will not permit minors, disorderly or disreputable persons heretofore connected with the violation of liquor laws to loiter around the place of business.

(h) That no minors will be employed directly in the sales or distribution of such beverages.

(i) That the applicant will not allow gambling or gambling devices on the premises of the business.

(j) That neither the applicant nor any persons employed or to be employed by him/her in such distribution or sale of such beverages has been convicted of any violation of the laws against provision, sale, the manufacture or transportation of intoxicating liquors or of any crime involving moral turpitude within the past five (5) years.

(2) Any applicant who applies for a permit without an existing building may receive approval for a permit to be issued upon the completion of the building, but the building must be under construction within six (6) months or completed within one (1) year from the date of approval for the permit. (1979 Code, § 2-210, as replaced by Ord. #1-2006, May 2006)

8-211. Duration of permit. All permits issued by the beer board shall be perpetual or until revoked by the beer board for just cause and, there is hereby imposed on the business of selling, distributing, storing or manufacturing beer an annual privilege tax of one hundred dollars (\$100). Any person, firm, corporation, joint stock company, syndicate or association engaged in the sale, distribution, storage or manufacturing of beer shall remit the tax on January 1, 2007, and each successive January 1, to the Town of Cumberland Gap, Tennessee. At the time a new permit is issued to any business subject to this tax, the permit holder shall be required to pay the privilege tax on a prorated basis for each month or portion thereof remaining until the next tax payment date. (1979 Code, § 2-211, as replaced by Ord. #1-2006, May 2006)

8-212. Revocation or suspension of permits. All permits issued by the beer board under the provisions of this ordinance shall be subject to suspension or revocation by said board for the violation of any of the provisions of the state beer laws or any of the provisions of this ordinance. The board is vested with full and complete power to investigate charges against any permit holder and to cite any permit holder to appear and show cause why his permit should not be revoked for any violation of the provisions of this chapter or the provisions of the state beer laws.

Any complaint filed against a permit holder for the purpose of suspending or revoking his permit shall be made in writing and filed with the board. When the board shall have reason to believe that any permit holder shall have violated any of the provisions of this ordinance, or any of the provisions of the state beer laws, the board is authorized, in its discretion, to notify the permittee in writing, of said alleged violations and to cite said permittee, by such notice to appear and show cause why his permit should not be suspended or revoked for such violations. Said notice to appear and show cause shall state the alleged violations charged and shall be served upon the permittee either by registered letter or a designated member of any law enforcement agency. The notice shall be served upon the permittee at least ten (10) days before the date of the hearing. At the hearing the board shall publicly hear the evidence both in support of the charges and on behalf of the permittee. After such hearing, if the charges are sustained by the evidence, the board may, in its discretion, suspend or revoke said permit. The action of the board in all such hearings shall be final, subject only to review by the courts as provided in the state beer laws.

Pursuant to Tennessee Code Annotated, § 57-5-608, the beer board shall not revoke or suspend the permit of a "responsible vendor" qualified under the requirements of Tennessee Code Annotated, § 57-5-606 for a clerk's illegal sale of beer to a minor if the clerk is properly certified and has attended annual meetings since the clerk's original certification, unless the vendor's status as a certified responsible vendor has been revoked by the alcoholic beverage commission. If the responsible vendor's certification has been revoked, the vendor shall be punished by the beer board as if the vendor were not certified as a responsible vendor. "Clerk" means any person working in a capacity to sell beer directly to consumers for off-premises consumption. Under Tennessee Code Annotated, § 57-5-608, the alcoholic beverage commission shall revoke a vendor's status as a responsible vendor upon notification by the beer board that the board has made a final determination that the vendor has sold beer to a minor for the second time in a consecutive twelve (12) month period. The revocation shall be for three (3) years. (1979 Code, § 2-212, as amended by Ord. #____, March 1988; Ord. #____, March 1992; and Ord. #____, July 1993; and replaced by Ord. #1-2006, May 2006, as amended by Ord. #7-2008, Oct. 2008)

8-213. Display of permit. The permit required by this chapter shall be posted in a conspicuous place on the premises of the permit holder. (1979 Code, § 2-213, as amended by Ord. #____, Dec. 1993, and replaced by Ord. #1-2006, May 2006)

8-214. Civil penalty in lieu of suspension. (1) Definition. "Responsible vendor" means a person, corporation or other entity that has been issued a permit to sell beer for off-premises consumption and has received certification by the Tennessee Alcoholic Beverage Commission under the

"Tennessee Responsible Vendor Act of 2006," Tennessee Code Annotated, § 57-5-601, et seq.

(2) Penalty, revocation or suspension. The beer board may, at the time it imposes a revocation or suspension, offer a permit holder that is not a responsible vendor the alternative of paying a civil penalty not to exceed two thousand five hundred dollars (\$2,500.00) for each offense of making or permitting to be made any sales to minors, or a civil penalty not to exceed one thousand dollars (\$1,000.00) for any other offense.

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

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

Payment of the civil penalty in lieu of revocation or suspension by a permit holder shall be an admission by the holder of the violation so charged and shall be paid to the exclusion of any other penalty that the city may impose. (1979 Code, § 2-215, as replaced by Ord. #1-2006, May 2006, as replaced by Ord. #7-2008, Oct. 2008)

8-215. Permits not transferable. Permits issued under the provisions of this ordinance are not transferable, either as to location or to successor by purchase, or otherwise, of the business for which the permit was issued, and in either case, a new permit is required in the manner provided herein. (1979 Code, § 2-216, as replaced by Ord. #1-2006, May 2006)

8-216. Sales to certain persons prohibited; proper sanitary facilities required. Hereafter, it shall be unlawful and it is hereby declared to be a misdemeanor for any person, firm, corporation, or association engaged in the business regulated hereunder to make, or to permit to be made, any sales or distribution of such beverages to persons who are feeble minded, intoxicated, insane, or otherwise mentally incapacitated or to fail to provide proper sanitary facilities for the consumers of said beverages. (1979 Code, § 2-217, as amended by Ord. #_____, Dec. 1988, and replaced by Ord. #1-2006, May 2006)

8-217. All existing permits to be in force. All existing permits to be in force as per § 8-211 of this ordinance. (1979 Code, § 2-218, as replaced by Ord. #1-2006, May 2006)

8-218. All beer sales areas to be constructed so that beer sales are not conducted during "No Sale" hours. Any business with a beer permit issued under this chapter that is open on a twenty four (24) basis must be able

to close all beer sales areas of the business during the hours specified in this ordinance. (as added by Ord. #1-2006, May 2006)

8-219. Wholesalers, etc., to deliver only to holders of retail beer permits. It shall be unlawful for any wholesaler, distributor, or manufacturer of beer, or any of their salesmen or representatives to sell or deliver beer enroute, or from delivery vehicles, to any person other than to holders of valid retail beer permits, and it shall be the duty of such wholesaler, distributor, or manufacturer, their salesmen or representatives, to ascertain whether each purchaser is a holder of a valid retail beer permit. It shall be unlawful for any wholesaler, distributor, or manufacturer of beer to have any interest in any retail sale of beer other than the interest as a wholesaler, distributor, or manufacturer. (as added by Ord. #1-2006, May 2006)

8-220. Days and hours of sales. It shall hereafter be unlawful and it is hereby declared to be a misdemeanor for any permit holder of the town to sell, distribute or allow consumption on the premises any of such beverages regulated by permit, within the limits of the Town of Cumberland Gap, Tennessee during the hereafter listed hours.

Off-the premises establishments are prohibited from selling beer between the hours of 12:00 midnight and 6:00 A.M, or anytime on Sunday after 12:00 midnight and before 1:00 P.M., or after 9:00 P.M.

On the premises establishments shall not sell beer between the hours of 12:00 midnight and 6:00 A.M. The premises must be vacated by 12:30 A.M. (as added by Ord. #1-2006, May 2006, as deleted and renumbered by Ord. #7-2008, Oct. 2008)

8-221. Violations generally. Each day's violation of each or any provision of this chapter by any permit holder, or each sale made in violation of any provision of this chapter shall constitute a separate misdemeanor which shall be punishable by a fine or penalty under the general penalty clause for this code or by suspension or revocation of the permit issued hereunder, or by both such fine or penalty and suspension or revocation. (as added by Ord. #1-2006, May 2006, as renumbered by Ord. #7-2008, Oct. 2008)

8-222. Loss of clerk's certification for sale to minor. If the beer board determines that a clerk of an off-premises beer permit holder certified under Tennessee Code Annotated, § 57-5-606, sold beer to a minor, the beer board shall report the name of the clerk to the alcoholic beverage commission within fifteen (15) days of determination of the sale. The certification of the clerk shall be invalid and the clerk may not reapply for a new certificate for a period of one (1) year from the date of the beer board's determination. (as added by Ord. #1-2006, May 2006, as replaced and renumbered by Ord. #7-2008, Oct. 2008)

8-223. Clubs. Clubs, as defined in Tennessee Code Annotated, § 57-4-102, selling liquor shall first apply to the board of mayor and aldermen for a certificate of good moral character and shall meet all zoning and building regulations and codes of the city. In addition, no such club shall locate in a congested area; within two thousand feet of a school (either public or private), church, or other place of public gathering; closer than five hundred feet to a residence; or where such sale will interfere with the public health, safety, and morals. (as added by Ord. #1-2006, May 2006, as renumbered by Ord. #7-2008, Oct. 2008)

8-224. Permit holder requirements. (1) Begin the sale of beer in the establishment for which the permit has been issued, within thirty (30) days following the issuance of the permit. The establishment for which the permit is issued shall continuously remain open during the time and hours prescribed by this chapter, and shall sell beer in such establishment during the entire life of the beer permit.

(2) Permit holders are required to submit to the beer board by the 20th of each month proof of beer purchases of five hundred dollars (\$500.00) or greater from a beer distributor or beer distributors.

If for any reason the permit holder does not comply with the provisions of this section for more than thirty (30) (days/months) with respect to subsection (1), or one (1) months with respect to subsection (2), the permit shall be subject to revocation, unless the permit holder can show good cause to the beer board for the violation of this section, and can offer to the beer board a plan satisfactory for coming into compliance with this section within a reasonable time.

This provision shall apply to both present and future beer permit holders. (as added by Ord. #1-2006, May 2006, as amended and renumbered by Ord. #7-2008, Oct. 2008)

8-225. Permit holder and wholesaler restriction. No retailer or permit holder shall purchase any alcoholic beverages from anyone other than a licensed wholesaler, nor shall any wholesaler sell alcoholic beverages to anyone other than a licensed retailer, or a licensed wholesaler. (as added by Ord. #1-2006, May 2006, as renumbered by Ord. #7-2008, Oct. 2008)

8-226. Grandfathered permittees. Existing permittees are grandfathered as to the distance requirements from schools, churches, or residences. All other regulations under the police powers of the town are applicable upon adoption of this ordinance. (as added by Ord. #1-2006, May 2006, as renumbered by Ord. #7-2008, Oct. 2008)

8-227. Special event/temporary beer permits. Special event/temporary beer permits must comply with all other regulations found in title 8, chapter 2 with the exception of §§ 8-207(1), (2)(a) and (b); 8-208(2); 8-211 and 8-224. Special event/temporary beer permits are permissible in the Town of Cumberland Gap with the following additional requirements:

(1) Permits are valid for the length of the event or a maximum of seventy-two (72) hours during town-sanctioned and/or sponsored festivals, celebrations, and events.

(2) No more than two (2) permits will be issued for a single festival, celebration and event.

(3) Permit applications must be submitted thirty (30) days prior to the start of the event for which a permit is requested.

(4) In addition to the permit application requirements described in §§ 8-206 and 8-210 the following information must be submitted with an application for a special event permit:

(a) The organization applying for the special event permit, contact person, address and phone number.

(b) Date(s) and time(s) of event.

(c) The sponsors of the event and the sponsor's contact person's address and phone number.

(d) The specific location where beer is to be sold or served.

(e) The individual(s) with such organization responsible for supervising the sale and dispensing of the beer.

(f) Plans for security and policing the area(s) where beer is sold.

(g) If the events covered by the "special event permit" will be held on land not owned by the applicant, a written statement of approval from the landowner must accompany the special event application.

(5) Permit applications are valid only for on-premises consumption inside an enclosed and/or fenced area with restricted ingress/egress points.

(6) The sponsors of the proposed event and the applicant shall send a representative or representatives to such Town of Cumberland Gap Beer Board meeting to address any questions or issues arising out of the proposed special event/temporary permit.

(7) If approved the special event/temporary permit shall have affixed on its face the name of the proposed vendor(s) of beer, the specific location(s) and date(s) where such vendor is permitted to sell beer under the special event permit. (as added by Ord. #2-2010, April 2010)

TITLE 9

BUSINESS, PEDDLERS, SOLICITORS, ETC.¹

CHAPTER

1. MISCELLANEOUS.
2. PEDDLERS, ETC.
3. CHARITABLE SOLICITORS.
4. CABLE TELEVISION.
5. ADULT ORIENTED ESTABLISHMENTS.
- 6 - 7. DELETED.

CHAPTER 1

MISCELLANEOUS

SECTION

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

9-101. "Going out of business" sales. It shall be unlawful for any person to falsely represent a sale as being a "going out of business" sale. A "going out of business" sale, for the purposes of this section, shall be a "fire sale," "bankrupt sale," "loss of lease sale," or any other sale made in anticipation of the termination of a business at its present location. When any person, after advertising a "going out of business" sale, adds to his stock or fails to go out of business within ninety (90) days he shall prima facie be deemed to have violated this section. (1979 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. Definitions.
- 9-202. Exemptions.
- 9-203. Permit required.
- 9-204. Permit procedure.
- 9-205. Restrictions on peddlers, street barkers and solicitors.
- 9-206. Restrictions on transient vendors.
- 9-207. Display of permit.
- 9-208. Suspension or revocations of permit.
- 9-209. Expirations and renewal of permit.
- 9-210. Violation and penalty.

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

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

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

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

¹Municipal code references
Privilege taxes: title 5.

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

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

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

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

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

(6) "Street barker," means any peddler who does business during recognized festival or parade days in the town and who limits his business to selling or offering to sell novelty items and similar goods in the area of the festival or parade. (1979 Code, § 5-201, as replaced by Ord. #3-2007, March 2007)

¹State law reference

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

The definition of "transient vendors" is taken from Tennessee Code Annotated, § 67-4-702(a)(24). Note also that Tennessee Code Annotated, § 67-4-710(2) prescribes that transient vendors "shall pay a fee of fifty dollars (\$50.00) for each fourteen-day period in each county or municipality, or both, in which such vendors sell or offer to sell merchandise or for which they are issued a license. Notwithstanding any law to the contrary, the fee shall not be liable for the tax levied under" Tennessee Code Annotated, § 67-4-709.

9-202. Exemptions. The terms of this chapter shall not apply to persons selling at wholesale to dealers, nor to newsboys delivering newspaper subscriptions, nor to bona fide merchants who merely deliver goods in the regular course of business, nor to persons selling agricultural products, who, in fact, themselves produced the products being sold, or vendors at Cumberland Gap Business Association or town sponsored or co-sponsored events. (1979 Code, § 5-202, as replaced by Ord. #3-2007, March 2007)

9-203. Permit required. No person, firm or corporation shall operate a business as a peddler, transient vendor, solicitor or street barker, and no solicitor for charitable or religious purposes or solicitor for subscriptions shall solicit within the town unless the same has obtained a permit from the town in accordance with the provisions of this chapter. (1979 Code, § 5-203, as replaced by Ord. #3-2007, March 2007)

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

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

(b) The applicants complete name, social security number, permanent address and telephone number.

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

(d) The date(s) for which the applicant intends to do business or make solicitations.

(e) The location(s) for which the applicant intends to do business or make solicitations.

(f) The complete names, social security numbers, permanent addresses, and driver's license (or other acceptable photo identification) for all persons who will make sales or solicitations with the town.

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

(h) A statement as to whether or not the applicant (and all persons associated with the permit) has been convicted of any crime or misdemeanor or for any municipal ordinance: the nature of the offense, and the punishment or penalty assessed.

(i) A list of the last three (3) cities or towns (if that many) where the applicant has engaged in business immediately preceding the date of this application.

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

(2) Permit fee. Each applicant for a permit as a peddler, transient vendor, solicitor or street baker shall submit with application a nonrefundable fee of fifteen dollars (\$15.00). This fee shall apply to transient vendors, peddlers, and street bakers. There is no fee for an application for a permit as a solicitor for charitable or religious purposes and for solicitors of subscriptions.

In addition to the permit fee, transient vendors shall pay a tax of fifty dollars (\$50.00) for each fourteen (14) day period in which such vendors sell or offer to sell merchandise or for which they are issued a business license. Such tax shall be paid prior to the first day of engaging in business.

(3) Issuance or refusal of permit. (a) Upon receipt of such application and fee prescribed in § 9-204, the recorder shall cause the same to be examined and investigated.

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

(c) If as a result of such investigation the applicant's moral reputation and business responsibility are satisfactory, the town recorder shall issue the permit. (1979 Code, § 5-204, as replaced by Ord. #3-2007, March 2007, and Ord. #8-2015, Aug. 2015)

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

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

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

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

(4) Call attention to his business or merchandise or to his solicitation efforts by crying out, by blowing a horn, by ringing a bell, or creating other noise, except that the street baker shall be allowed to cry out to call attention to his business or merchandise during recognized parade or festival days of the town.

(5) Enter in or upon any premises or attempt to enter in or upon any premises wherein a sign or placard bearing the notice "Peddlers or Solicitors Prohibited," or similar language carrying the same meaning, is located. (1979, Code, § 5-205, as replaced by Ord. #3-2007, March 2007)

9-206. Restrictions on transit vendors. (1) A transient vendor shall not advertise, represent, or hold forth a sale of goods, wares or merchandise as an insurance, bankrupt, insolvent, assignee, trustee, estate, executor, administrator, receiver's manufacturer's wholesale, cancelled order, or misfit sale, or closing-out sale, or a sale of any goods damaged by smoke, fire, water or otherwise, unless such advertisement, representation or holding forth is actually of the character it is advertised, represented or held forth.

(2) No transient vendor shall be permitted to exhibit and/or sell his merchandise upon any street, or public way and place in the town. (1979 Code, § 5-206, as replaced by Ord. #3-2007, March 2007, and amended by Ord. #8-2015, Aug. 2015)

9-207. Display of permit. Each peddler, street barker, solicitor, solicitor for charitable purposes or solicitor for subscriptions is required to have in his possession a valid permit while making sales or solicitations, and shall be required to display the same to any police officer upon demand. (1979 Code, § 5-207, as replaced by Ord. #3-2007, March 2007)

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

- (a) Fraud, misrepresentation, or incorrect statement contained or omitted in the application for permit, or made in the course of carrying out the business as defined in the permit application.
- (b) Any violation of this chapter.
- (c) Conviction of any crime or misdemeanor.
- (d) Conducting the business as defined in the permit application in an unlawful manner or in such 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) Appeal of suspension or revocation. Any applicant whose permit has been issued in accordance with the requirements under this chapter which has been suspended or revoked by the town recorder may appeal such suspension or revocation to the board of mayor and alderman. Upon such appeal and after notice thereof, board of mayor and alderman shall schedule a hearing to hear testimony on behalf of the permit holder and the town in regards to said suspension or revocation. Notice of the hearing shall include the grounds for which the permit application, at least five (5) business days prior to the date set for the hearing, or it shall be delivered by a police officer in the same manner as a summons at least three (3) business days prior to the date set for the hearing.

(3) Action of board of mayor and alderman. The board of mayor and alderman, at the hearing as defined in § 9-208(2) shall have the authority to uphold the actions of the town recorder, or reinstate the suspended or revoked

permit as deemed appropriate by a majority vote of board. Such action of board of mayor and alderman shall be final. (1979 Code, § 5-208, as replaced by Ord. #3-2007, March 2007, and amended by Ord. #8-2015, Aug. 2015)

9-209. Expiration and renewal of permit. (1) The permit of peddlers, solicitors and transient vendors expires at the end of six (6) months. While transient vendors may be issued a permit for six (6) months, they are still required to pay the fifty dollars (\$50.00) privilege tax for each fourteen (14) day period as described in § 9-204(2).

(2) The permit of street barkers shall be for a period corresponding to the dates of the recognized parade or festival days of the town.

(3) The permit of solicitors for religious or charitable purposes and solicitors for subscriptions shall expire on the date provided in the permit, not to exceed thirty (30) days. (1979 Code, § 5-209, as replaced by Ord. #3-2007, March 2007, and amended by Ord. #8-2015, Aug. 2015)

9-210. Violation and penalty. In addition to any other action the town may take against a permit holder in violation of this chapter, such violation shall be punishable according to the general penalty provision of this municipal code of ordinances. Each day a violation occurs shall constitute a separate offense. (1979 Code, § 5-210, as replaced by Ord. #3-2007, March 2007, and amended by Ord. #8-2015, Aug. 2015)

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. Trespassing.
- 9-306. Violations.

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 recorder and treasurer 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. (1979 Code, § 5-301)

9-302. Prerequisites for a permit. The recorder and treasurer 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. (1979 Code, § 5-302)

9-303. Denial of a permit. Any applicant for a permit to make charitable or religious solicitations may appeal to the governing body if he has not been granted a permit within fifteen (15) days after he makes application therefor. (1979 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 policeman or person solicited. (1979 Code, § 5-304)

9-305. Trespassing. It shall be unlawful and deemed to be a trespass for any permittee acting under this chapter to fail to leave promptly the private premises of any person who requests or directs him to leave. (1979 Code, § 5-305)

9-306. Violations. Any person violating any provision of this chapter or making a false or fraudulent statement either in his application for a permit or in the process of making a solicitation shall be subject to the penalty provided for violations of this municipal code. In addition to or in lieu of any pecuniary penalty, if a violator has been issued a permit, his permit shall be cancelled and revoked by the court. (1979 Code, § 5-306)

CHAPTER 4

CABLE TELEVISION

SECTION

9-401. To be furnished under franchise.

9-401. To be furnished under franchise. Cable television service shall be furnished to the Town of Cumberland Gap and its inhabitants under franchise as the board of mayor and aldermen shall grant. The rights, powers, duties and obligations of the Town of Cumberland Gap and its inhabitants and the grantee of the franchise shall be clearly stated in the franchise agreement which shall be binding upon the parties concerned.¹ (as renumbered by Ord. #8-2015, Aug. 2015)

¹For complete details relating to the cable television franchise agreement see Ord. #_____ dated March 1, 1993 in the office of the recorder and treasurer.

CHAPTER 5**ADULT-ORIENTED ESTABLISHMENTS****SECTION**

9-501. Purpose.

9-502. Definitions.

9-503. Tennessee Code Annotated requirements.

9-504. Unlawful acts.

9-505. Locations.

9-506. Fines.

9-507.--9-516. [Deleted.]

9-501. Purpose. It is the purpose of this chapter to regulate sexually oriented businesses and related activities to promote the health, safety, morals, and general welfare of the citizens of the city, and to establish reasonable and uniform regulations to prevent the deleterious location and concentration of sexually oriented businesses within the city. The provisions of this chapter have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is not the intent nor effect of this chapter to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this chapter to condone or legitimize the distribution of obscene materials. (Ord. #9-2002, Aug. 2002, as renumbered and replaced by Ord. #8-2015, Aug. 2015)

9-502. Definitions. (1) "Adult bookstore" means an establishment having as a substantial or significant portion its stock and trade, "substantial portion" meaning over 20% of floor area, over 20% of inventory by units or value, or over 20% of revenues, or an inventory of 200 or more units, in books, films, video cassettes, magazines, computer software, other periodicals, sex novelties or other objects of a sexual nature which are distinguished or characterized by their emphasis on matter depicting, describing or relating to "specified sexual activities;" or "specified anatomical area."

(2) "Adult cabaret" means a cabaret which features topless dancers, go-go dancers, exotic dancers, strippers, male or female impersonators, or similar entertainers.

(3) "Adult oriented businesses" shall include but not limited to: adult cabaret, massage parlor, adult bookstore, and adult video store.

(4) "Adult oriented video store" means a commercial establishment having a majority of its stock or a majority of its floor space dedicated to "sexually oriented videos," which are rented or sold. "Sexually oriented videos"

means a video, CD, laser disk or similar medium with a cover that depicts "specified sexual activities" or "specified anatomical areas" or a transparent or less than opaque cover through which "specified sexual activities" or "specified anatomical areas" can be viewed.

(5) Establishment means and includes any of the following:

(a) The opening or commencement of any sexually oriented business as a new business;

(b) The conversion of any existing business, whether or not a sexually oriented business, to any sexually oriented business;

(c) The additions of any sexually oriented business to any other existing sexually oriented business; or

(d) The relocation of any sexually oriented business; or

(e) A sexually oriented business or premises on which the sexually oriented business is located.

(6) "Massage parlor" means an establishment or place primarily in the business of providing massage or tanning services for purposes of sexual stimulation or where one or more of the employees exposes to public view of the patrons within said establishment, at any time, "specified anatomical areas."

(7) "Sexually oriented" means any exhibition of any motion pictures, films or videos depicting "specified sexual activities" or "specified anatomical area" or any live performance, display or dance of any type, removal of articles of clothing or appearing unclothed, pantomime, modeling, or any other personal service offered customers a significant or substantial portion of which depicts any actual or simulated performance of "specified sexual activities" or exhibition and viewing of "specified anatomical areas."

(8) "Sexually oriented business/establishment" means any commercial establishment which for a fee or incidentally to another service, regularly presents material or exhibitions distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" as defined in this section for observation by patrons therein. "Sexually oriented business/establishment" also means any commercial establishment to which the public, patrons or members are invited or admitted and where are so physically arranged as to provide booths, separate from the common areas of the premises for the purpose of viewing sexually oriented motion pictures, sexually oriented movies, sexually oriented films or sexually oriented videos.

(9) "Specified anatomical areas" means:

(a) Less than completely and opaquely covered:

(i) Human genitals;

(ii) Pubic region;

(iii) Buttocks; and

(iv) Female breasts below a point immediately above the top of the areola; and

(b) Human male genitals in a discernibly turgid state, even if completely opaquely covered.

(10) "Specified sexual activities" means and includes any of the following:

(a) The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, female breasts;

(b) Sex acts, normal or perverted, actual or simulated; or

(c) Masturbation, actual or simulated; or

(d) Human genitals in a state of sexual arousal. (Ord. #9-2002, Aug. 2002, as renumbered and replaced by Ord. #8-2015, Aug. 2015)

9-503. Tennessee Code Annotated requirements. (1) All persons, operators, or owners of an adult-oriented establishments, as defined herein, or by applicable state law, shall comply to the requirements of Tennessee Code Annotated, §§ 39-17-901 through 39-17-908 and Tennessee Code Annotated, § 39-17-911, and Tennessee Code Annotated, § 39-17-914, and Tennessee Code Annotated, §§ 39-17-918 through 39-17-920, or be subject to prosecution under said state law.

(2) All persons, operators or owners of an adult-oriented establishment, as defined herein, or by applicable state law, shall comply with the requirements of Tennessee Code Annotated, § 39-13-511 or be subject to prosecution under the provisions of said statute. (Ord. #9-2002, Aug. 2002, as renumbered and replaced by Ord. #8-2015, Aug. 2015)

9-504. Unlawful acts. No person who maintains, owns or operates an adult-oriented establishment shall permit "specified sexual activities" as defined in this chapter to occur on the premises. (Ord. #9-2002, Aug. 2002, as renumbered and replaced by Ord. #8-2015, Aug. 2015)

9-505. Locations. No adult-oriented establishment may begin to operate except within the confines of a C-3 zoning district as defined under the zoning laws of the Town of Cumberland Gap. (Ord. #9-2002, Aug. 2002, as renumbered and replaced by Ord. #8-2015, Aug. 2015)

9-506. Fines. Any person violating this chapter shall commit an offense against the Town of Cumberland Gap, Tennessee, and upon conviction shall be fined under appropriate state law, or shall be fined for a conviction with the Town Court of Cumberland Gap, Tennessee, with the maximum fine allowed by law. Each day such violation shall continue shall constitute a separate offense and be subject to the maximum fine. Nothing in this chapter shall be construed to infringe upon or to violate the First Amendment of the United States Constitution or any provisions of the Constitution of the State of Tennessee. (Ord. #9-2002, Aug. 2002, as renumbered and replaced by Ord. #8-2015, Aug. 2015)

Change 6, January 4, 2016

9-14

9-507.--9-516. [Deleted]. (Ord. #9-2002, Aug. 2002, as renumbered and deleted by Ord. #8-2015, Aug. 2015)

Change 6, January 4, 2016

9-15

CHAPTERS 6 & 7

These chapters were deleted by Ord. #8-2015, Aug. 2015

TITLE 10

ANIMAL CONTROL

CHAPTER

1. IN GENERAL.
2. 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.
- 10-109. Violation and penalty.

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 any chickens, ducks, geese, turkeys, or other domestic fowl, cattle, or livestock, knowingly or negligently to permit any of them to run at large in any street, alley, or unenclosed lot within the corporate limits. (1979 Code, § 3-101)

10-102. Keeping near a residence or business restricted. No person shall keep or allow any animal or fowl enumerated in the proceeding section, excluding dogs and cats, to come within three hundred feet (300') of any residence, place of business, or public street, without approval from the board of mayor and alderman. (1979 Code, § 3-102, as replaced by Ord. #9-2015, Aug. 2015)

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. (1979 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 and safety.

All feed shall be stored and kept in a rat-proof and fly-tight building, box, or receptacle. (1979 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. (1979 Code, § 3-105)

10-106. Cruel treatment prohibited. It shall be unlawful for any person to beat or otherwise abuse or injure any animal or fowl. (1979 Code, § 3-106, as amended by Ord. #9-2015, Aug. 2015)

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 mayor, or authorized representative, and confined in the Claiborne County Animal Shelter. If the owner is known he/she shall be given notice in person, by telephone, or by letter addressed to his/her last known mailing address. If 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. (1979 Code, § 3-107, as replaced by Ord. #9-2015, Aug. 2015)

10-108. Inspections of premises. For the purpose of making inspections to insure compliance with the provisions of this title, the mayor, 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. (1979 Code, § 3-108, as amended by Ord. #9-2015, Aug. 2015)

10-109. Violation and penalty. Any violation of any section of this chapter shall subject the offender to a penalty under the general provision of this code. Each day the violation shall continue shall constitute a separate offense. (as added by Ord. #9-2015, Aug. 2015)

CHAPTER 2

DOGS

SECTION

10-201. Rabies vaccination and registration required.

10-202. Dogs to wear tags.

10-203. Running at large prohibited.

10-204. Vicious dogs to be securely restrained.

10-205. Noisy dogs prohibited.

10-206. Confinement of dogs suspected of being rabid.

10-207. Seizure and disposition of dogs.

10-201. Rabies vaccination and registration required. It shall be unlawful for any person to own, keep, or harbor any dog without having the same duly vaccinated against rabies and registered in accordance with the provisions of the "Tennessee Anti-Rabies Law" (Tennessee Code Annotated, §§ 68-8-101 through 68-8-114) or other applicable law. (1979 Code, § 3-201)

10-202. Dogs to wear tags. It shall be unlawful for any person to own, keep, or harbor any dog which does not wear a tag evidencing the vaccination and registration required by the preceding section. (1979 Code, § 3-202)

10-203. Running at large prohibited.¹ It shall be unlawful for any person knowingly to permit any dog owned by him or under his control to run at large within the corporate limits. (1979 Code, § 3-203)

10-204. Vicious dogs to be securely restrained. It shall be unlawful for any person to own or keep any dog known to be vicious or dangerous unless such dog is so confined and/or otherwise securely restrained as to provide reasonably for the protection of other animals and persons. (1979 Code, § 3-204)

10-205. Noisy dogs prohibited. No person shall own, keep, or harbor any dog which, by loud and frequent barking, whining, or howling, annoys, or disturbs the peace and quiet of any neighborhood. (1979 Code, § 3-205)

10-206. Confinement of dogs suspected of being rabid. If any dog has bitten any person or is suspected of having bitten any person or is for any reason suspected of being infected with rabies, the health officer or chief of

¹State law reference

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

police may cause such dog to be confined or isolated for such time as he deems reasonably necessary to determine if such dog is rabid. (1979 Code, § 3-206)

10-207. Seizure and disposition of dogs. Any dog found running at large or otherwise being kept in violation of this chapter may be seized by the mayor, or authorized representative, and confined in the Claiborne County Animal Shelter. If the owner is known he/she shall be given notice in person, by telephone, or by letter addressed to his/her last known mailing address. If owner is not known or cannot be located, a notice describing the impounded dog will be posted in at least three (3) public places within the corporate limits.

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 mayor, or authorized representative, or any policeman.¹ (1979 Code, § 3-207, as replaced by Ord. #9-2015, Aug. 2015)

¹State law reference

For a Tennessee Supreme Court case upholding the summary destruction of dogs pursuant to appropriate legislation, see Darnell v. Shapard, 156 Tenn. 544, 3 S.W.2d 661 (1928).

TITLE 11

MUNICIPAL OFFENSES¹

CHAPTER

1. ALCOHOL.
2. OFFENSES AGAINST THE PEACE AND QUIET.
3. INTERFERENCE WITH PUBLIC OPERATIONS AND PERSONNEL.
4. FIREARMS, WEAPONS AND MISSILES.
5. TRESPASSING, MALICIOUS MISCHIEF AND INTERFERENCE WITH TRAFFIC.
6. MISCELLANEOUS.
7. LITTERING.

CHAPTER 1

ALCOHOL²

SECTION

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

11-101. Drinking beer, etc., on streets, etc. It shall be unlawful for any person to drink, consume, have an open can, bottle or container of beer, intoxicating liquor in on any public street, alley, avenue, highway, sidewalk, public park, public school ground other public place unless the place has an appropriate permit and license for on premises consumption. (1979 Code, § 10-229, as amended by Ord. #10-2015, Aug. 2015)

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. It shall be unlawful for any beer permit holder, employee, or person engaged in the sale of beer to employ any minor under eighteen (18) years of age in the sale, storage, distribution or manufacture of beer and to allow any person under twenty-one (21) years of age to loiter in or about place of business. (1979 Code, § 10-222, as replaced by Ord. #10-2015, Aug. 2015)

CHAPTER 2

OFFENSES AGAINST THE PEACE AND QUIET

SECTION

- 11-201. Disturbing the peace.
- 11-202. Anti-noise regulations.
- 11-203. Violation and penalty.

11-201. Disturbing the peace. No person shall disturb, tend to disturb, or aid in disturbing the peace of others by violent, tumultuous, offensive, or obstreperous conduct, and no person shall knowingly permit such conduct upon any premises owned or possessed by him or under his control. (1979 Code, § 10-202, as renumbered by Ord. #10-2015, Aug. 2015)

11-202. Anti-noise regulations. Subject to the provisions of this section, the creating of any unreasonably loud, disturbing, and unnecessary noise is prohibited. Noise of such character, intensity, or duration as to be detrimental to the life or health of any individual, or in disturbance of the public peace and welfare, is prohibited under the following parameters. In residentially and commercially zoned areas, as defined under title 14 of this code, excess of the following decibel limits is prohibited:

	<u>Time of Day</u>
<u>Zoning</u>	<u>11:00 P.M.-7:00 A.M.</u>
Residential	40 db (A)
Commercial	45 db (A)

Decibel recordings are made with an American National Standards Institute Type II approved device at the approximate location of the property line or the boundary of the public way, at a height of at least four (4) feet above the immediate surrounding surface.

(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 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, whistling, or singing on the public streets, particularly during the hours between 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 combust 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, particularly during the hours between 11:00 P.M. and 7:00 A.M., 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 11:00 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 11:00

P.M. and 7:00 A.M. upon application being made at the time the permit for the work is awarded or during the process of the work.

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

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

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

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

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

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

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

(c) Noncommercial and nonprofit use of loudspeakers or amplifiers. The reasonable use of amplifiers or loudspeakers in the course of public addresses which are noncommercial in character and in the course of advertising functions sponsored by nonprofit organizations. (1979 Code, § 10-234, as replaced by Ord. #2-2008, May 2008, and renumbered and amended by Ord. #10-2015, Aug. 2015)

11-203. Violation and penalty. Any violation of any section of this chapter shall subject the offender to a penalty under the general provision of this code. (as added by Ord, #10-2015, Aug. 2015)

CHAPTER 3

INTERFERENCE WITH PUBLIC OPERATIONS AND PERSONNEL

SECTION

11-301. Impersonating a government officer or employee.

11-302. False emergency alarms.

11-303. Violation and penalty.

11-301. Impersonating a government officer or employee. No person other than an official police officer of the town shall wear the uniform, apparel, or badge, or carry any identification card or other insignia of office like or similar to, or a colorable imitation of that adopted and worn or carried by the official police officers of the town. Furthermore, no person shall deceitfully impersonate or represent that he is any government officer or employee. (1979 Code, § 10-211, as renumbered by Ord. #10-2015, Aug. 2015)

11-302. 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. (1979 Code, § 10-217, as renumbered by Ord. #10-2015, Aug. 2015)

11-303. Violation and penalty. Any violation of any section of this chapter shall subject the offender to a penalty under the general provision of this code. (as added by Ord. #10-2015, Aug. 2015)

CHAPTER 4

FIREARMS, WEAPONS AND MISSILES

SECTION

11-401. Throwing missiles.

11-402. Weapons and firearms generally.

11-403. Violation and penalty.

11-401. 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. (1979 Code, § 10-213, as renumbered and replaced by Ord. #10-2015, Aug. 2015)

11-402. Weapons and firearms generally. It shall be unlawful for any unauthorized person to discharge a firearm within the town. (1979 Code, § 10-214, as renumbered and replaced by Ord. #10-2015, Aug. 2015)

11-403. Violation and penalty. Any violation of any section of this chapter shall subject the offender to a penalty under the general provision of this code. (1979 Code, § 10-212, as renumbered and replaced by Ord. #10-2015, Aug. 2015)

CHAPTER 5

TRESPASSING, MALICIOUS MISCHIEF AND INTERFERENCE WITH TRAFFIC

SECTION

- 11-501. Trespassing.
- 11-502. Trespassing on trains.
- 11-503. Malicious mischief.
- 11-504. Interference with traffic.
- 11-505. Violation and penalty.

11-501. Trespassing. (1) On premises open to the public.

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

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

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

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

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

(5) Peddlers, etc. It shall also be unlawful and deemed to be a trespass for any peddler, canvasser, solicitor, transient merchant, or other person to fail to promptly leave the private premises of any person who requests or directs him to leave.¹ (1979 Code, § 10-226, as renumbered and replaced by Ord. #10-2015, Aug. 2015)

¹Municipal code reference

Provisions governing peddlers: title 9, chapter 1.

11-502. Trespassing on trains. It shall be unlawful for any person to climb, jump, step, stand upon, or cling to, or in any other way attach himself to any locomotive engine or railroad car unless he works for the railroad corporation and is acting the scope of his employment or unless he is a lawful passenger or is otherwise lawfully entitled to be on such vehicle. (1979 Code, § 10-221, as renumbered by Ord. #10-2015, Aug. 2015)

11-503. 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. (1979 Code, § 10-225, as renumbered by Ord. #10-2015, Aug. 2015)

11-504. Interference with traffic. It shall be unlawful for any person to stand, sit, or engage in any activity whatever on any public street, sidewalk, bridge, or public ground in such a manner as to prevent, obstruct, or interfere unreasonably with the free passage of pedestrian or vehicular traffic thereon. (1979 Code, § 10-232, as renumbered by Ord. #10-2015, Aug. 2015)

11-504. Violation and penalty. Any violation of any section of this chapter shall subject the offender to a penalty under the general provision of this code. (as added by Ord. #10-2015, Aug. 2015)

CHAPTER 6

MISCELLANEOUS

SECTION

- 11-601. Abandoned refrigerators, etc.
- 11-602. Caves, wells, cisterns, etc.
- 11-603. Posting notices, etc.
- 11-604. Curfew for minors.
- 11-605. Wearing masks.
- 11-606. Fishing and swimming in Gap Creek.
- 11-607. Defacing of covered bridges.
- 11-608. False emergency alarms.

11-601. 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. A violation of this section shall subject the offender to a penalty under the general penalty provision of this code. (1979 Code, § 10-223, as renumbered and amended by Ord. #10-2015, Aug. 2015)

11-602. 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. A violation of this section shall subject the offender to a penalty under the general penalty provision of this code. (1979 Code, § 10-231, as renumbered and amended by Ord. #10-2015, Aug. 2015)

11-603. 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. A violation of this section shall subject the offender to a penalty under the general penalty provision of this code. (1979 Code, § 10-227, as renumbered and amended by Ord. #10-2015, Aug. 2015)

11-604. Curfew for minors. It shall be unlawful for any person, under the age of eighteen (18) years, to be abroad at night between 11:00 P.M. and 5:00 A.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. A violation of this section shall subject the offender to a penalty under the general penalty provision of this code. (1979 Code, § 10-224, as renumbered and amended by Ord. #10-2015, Aug. 2015)

11-605. 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 recorder and treasurer to wear a traditional holiday costume.
- (5) A violation of this section shall subject the offender to a penalty under the general penalty provision of this code. (1979 Code, § 10-235, as renumbered and amended by Ord. #10-2015, Aug. 2015)

11-606. Fishing and swimming in Gap Creek. It shall be unlawful for any person to fish, sein or otherwise remove or destroy the fish or to swim in the section of Gap Creek which is in the corporate limits of the Town of Cumberland Gap. A violation of this section shall subject the offender to a penalty under the general penalty provision of this code. (Ord. #10-236, Sept. 1993, as renumbered and amended by Ord. #10-2015, Aug. 2015)

11-607. Defacing of covered bridges. (1) It shall be unlawful for anyone to hang, display, or write signs or words, or to deface in any manner the surface of covered rail bridges across Brooklyn Street, across Gap Creek, or other locations within the Town of Cumberland Gap. Such covered rail bridges are designated as aesthetic and historical in nature and it is the intent of the board of mayor and alderman that such structures not be defaced in any manner.

(2) Violators of this section shall be subject to a \$50.00 penal fine per day of violation and up to \$500.00 in remedial fines for each offense. (as added by Ord. #4-2004, May 2004, as renumbered by Ord. #10-2015, Aug. 2015)

11-608. False emergency alarms. (1) Definitions. Unless it is apparent from the context that another meaning is intended, the following words used in this section shall have the meanings indicated herein:

(a) "Alarm system" means any assembly of equipment, mechanical or electrical, arranged to signal the fire department and/or police department that an emergency exists or that the services of that department are needed. "Alarm system" shall also mean any alarm device which automatically emits an audible, visual, or other response upon the occurrence of any hazard or emergency and is intended to alert persons outside the building to the existence of said hazard or emergency.

(b) "False emergency alarm." Any signal actuated by an emergency alarm to which the fire department responds which is not the result of fire or other actual emergency and not caused by a violent act of nature.

(c) "Owner and/or operator." A person or persons who reside in or operate a business or residence in which an emergency alarm is connected.

(2) The following schedule of notice, warnings, penalties, and costs shall be assessed to the owners and/or operators of emergency alarm systems for false emergency alarms transmitted to the fire department within any calendar year.

First false alarm -	Verbal notification by a fire department officer.
Second false alarm -	Notice letter informing the owner or operator of the alarm system of the provisions of this chapter.
Third false alarm -	Warning letter and notice to insure that the alarm system is in proper working order. Once the third false emergency alarm has been received the fire chief shall send, by certified mail, a notice to the owner and/or operator that further false emergency alarms will result in the imposition of a penalty and or costs of providing such service.
Fourth false alarm -	A fee assessment of \$25.00 shall be imposed.
Fifth and more -	A fee assessment of \$50.00 for each additional false alarm.

(3) It shall be a violation of this section to intentionally cause a false alarm, and any person who intentionally causes a false alarm shall be subject to the penalty provisions contained herein.

(4) Any alarm business testing or servicing any alarm system shall notify the fire department and/or police department and central dispatch and instruct such department of the location and time of said testing or servicing. The fees provided for will not apply to the alarm user if prior notice of testing or servicing has been made to the department as outlined in this section.

(5) Penalty for offenses. Any person failing to comply with any of the provisions of this section shall be guilty of a violation, and upon conviction in town court, shall be subject to a civil penalty of up to fifty dollars (\$50.00) per offense. Each occurrence shall constitute a separate offense. (as added by Ord. #6-2009, Dec. 2009, as renumbered and amended by Ord. #10-2015, Aug. 2015)

CHAPTER 7

LITTERING

SECTION

- 11-701. Definitions.
- 11-702. Littering offenses.
- 11-703. Scope of regulation.
- 11-704. Violations and penalty.

11-701. Definitions. As used in this chapter, unless the context otherwise requires:

(1) "Commercial purpose" means litter discarded by a business, corporation, association, partnership, sole proprietorship, or any other entity conducting business for economic gain, or by an employee or agent of the entity;

(2) "Garbage" includes putrescible animal and vegetable waste resulting from the handling, preparation, cooking and consumption of food;

(3) "Litter" includes garbage, refuse, rubbish and all other waste material, including a tobacco product as defined in Tennessee Code Annotated, § 39-17-1503(9) and any other item primarily designed to hold or filter a tobacco product while the tobacco is being smoked.

(4) "Refuse" includes all putrescible and nonputrescible solid waste; and

(5) "Rubbish" includes nonputrescible solid waste consisting of both combustible and non-combustible waste. (as added by Ord. #10-2015, Aug. 2015)

11-702. Littering offenses. (1) A person commits the civil offense of littering who:

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

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

(c) Negligently discharges sewage, minerals, oil products or litter into any public waters or lakes within this state.

(2) Whenever litter is placed, dropped, or thrown from any motor vehicle, boat, airplane, or other conveyance in violation of this section, the town judge may, in his or her discretion and in consideration of the totality of the circumstances, infer that the operator of the conveyance has committed littering.

(3) Whenever litter discovered on public or private property is found to contain any article or articles, including, but not limited to, letters, bills,

publications, or other writings that display the name of a person thereon in such a manner as to indicate that the article belongs or belonged to such person, the town judge may, in his or her discretion and in consideration of the totality of the circumstances, infer that such person has committed littering. (as added by Ord. #10-2015, Aug. 2015)

11-703. Scope of regulation. The regulation of litter in this chapter is limited to amounts of litter less than or equal to five pounds (5 lbs.) in weight or seven and one-half (7.5) cubic feet in volume. (as added by Ord. #10-2015, Aug. 2015)

11-704. Violations and penalty. Littering is a civil offense punishable by a penalty under the general penalty provision of this code. (as added by Ord. #10-2015, Aug. 2015)

TITLE 12

BUILDING, UTILITY, ETC. CODES

CHAPTER

1. BUILDING CODE.
2. PLUMBING CODE.
3. ELECTRICAL CODE.
4. GAS CODE.
5. EXISTING BUILDINGS CODE.
6. PROPERTY MAINTENANCE CODE.
7. ENERGY CONSERVATION CODE.
8. RESIDENTIAL CODE.
9. MECHANICAL CODE.
10. ZONING CODE.

CHAPTER 1

BUILDING CODE¹

SECTION

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

12-101. Building code adopted. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506, and for the purpose of regulating the construction, alteration, repair, use, occupancy, location, maintenance, removal, and demolition of every building or structure or any appurtenance connected or attached to any building or structure, the International Building Code,² 2012 edition, excluding appendixes A-M, as prepared and adopted by the International Code Council, is hereby adopted and incorporated by reference as a part of this code, and is hereinafter referred to as

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.

the building code. (1979 Code, § 4-101, as amended by Ord. #31999, June 1999, and replaced by Ord. #11-2004, Aug. 2004, Ord. #1-2008, April 2008, and Ord. #5-2015, June 2015)

12-102. Modifications. (1) Definitions. Whenever in the building code when reference is made to the duties of a certain official named therein, that designated official of the Town of Cumberland Gap who has duties corresponding to those of the named official in said code shall be deemed to be the responsible official insofar as enforcing the provisions of the building code are concerned.

(2) Permit fees. The schedule of permit fees shall be as follows:

The schedule of building permit fees shall be as follows based on total valuation of construction:

\$1,000 and less	No fee, unless inspection required, in which case a \$25.00 Fee + a \$5.00 recording fee for each inspection shall be charged.
\$1,001 to \$49,999	\$25.00 + \$5.00 recording fee for the first \$1,000.00 plus \$5.00 for each additional thousand or fraction thereof, to, and including \$49,999.
\$50,000.00 to \$99,999	\$260.00 for the first \$50,000.00 plus \$4.00 for each additional thousand or fraction thereof, to, and including \$99,999
\$100,000 to \$599,999	\$460.00 for the first \$100,000.00 plus \$3.00 for each additional thousand or fraction thereof, to and including \$599,999
\$600,000 and up	\$1,660.00 for the first \$600,000 plus \$2.00 for each additional thousand or fraction thereof.

(a) Plan check fees. When the valuation of the proposed construction is \$300,000 or more a plan-checking fee is required and shall be paid at the time of submitting plans and specifications. The fee shall be paid to the Town of Cumberland Gap and then disbursed to the building inspector in increments. Such plan-checking fee is in addition to the building permit fee. The plan-checking fee is as follows:

For a project totaling \$300,000 - \$599,999 the plan-checking fee would be one-half (1/2) times the building permit.

For a project totaling \$600,000 and up the plan-checking fee would be one (1) times the building permit.

When buildings and plans are identical, the plan-checking fee for the additional buildings will be one-half (1/2) of the original plan-checking fee.

(b) Moving fee. For the moving of any building or structure, the fee shall be \$60.00.

(c) Demolition fee. For the demolition of any building or structure, the fee shall be \$60.00.

(d) Penalties. Where work for which permit is required by this code is started or proceeded prior to obtaining said permit, the fees herein specified shall be doubled, but the payment of such double fee shall not relieve any persons from fully complying with the requirements of this code in the execution of the work nor from any other penalties prescribed herein. (1979 Code, § 4-102, as amended by Ord. #31999, June 1999, and replaced by Ord. #11-2004, Aug. 2004, Ord. #1-2008, April 2008, and Ord. #5-2015, June 2015)

12-103. Available in recorder's office. Pursuant to the requirements of 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. (1979 Code, § 4-103, as replaced by Ord. #11-2004, Aug. 2004, and Ord. #5-2015, June 2015)

12-104. Violations and penalty. 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. The violation of any section of this chapter shall be punishable by a penalty under the general penalty provision of this code. Each day a violation is allowed to continue shall constitute a separate offense. (1979 Code, § 4-104, deleted by Ord. #11-2004, Aug. 2004, and added by Ord. #5-2015, June 2015)

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. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506, and for the purpose of regulating plumbing installations, including alterations, repairs, equipment, appliances, fixtures, fittings, and the appurtenances thereto, within or without the town, when such plumbing is or is to be connected with the town water or sewerage system, the International Plumbing Code,² 2012 edition, as prepared and adopted by the International Code Council is hereby adopted and incorporated by reference as a part of this code and is hereinafter referred to as the plumbing code. (1979 Code, § 4-201, as amended by Ord. #31999, June 1999, Ord. #11-2004, Aug. 2004, Ord. #1-2008, April 2008, and Ord. #5-2015, June 2015)

12-202. Modifications. Within the plumbing code, when reference is made to the duties of a certain official named therein, that designated official of the Town of Cumberland Gap, Claiborne, Tennessee who has duties corresponding to those of the named official in said code shall be deemed to be the responsible official insofar as enforcing the provisions of said code are concerned. (1979 Code, § 4-202, as amended by Ord. #31999, June 1999, modified, and Ord. #5-2015, June 2015)

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

¹Municipal code references

Cross connections: title 18.

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.

been placed on file in the recorder's office and shall be kept there for the use and inspection of the public. (1979 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. The violation of any section of this chapter shall be punishable by a penalty under the general penalty of this code. Each day a violation is allowed to continue shall constitute a separate offense. (1979 Code, § 4-204, as amended by Ord. #5-2015, June 2015)

CHAPTER 3

ELECTRICAL CODE¹

SECTION

- 12-301. Electrical code adopted.
- 12-302. Available in recorder's office.
- 12-303. Permit required for doing electrical work.
- 12-304. Violations.
- 12-305. Enforcement.
- 12-306. Fees.

12-301. Electrical code adopted. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506, and for the purpose of providing practical minimum standards for the safeguarding of persons and of buildings and their contents from hazards arising from the use of electricity for light, heat, power, radio, signaling, or for other purposes, the National Electrical Code,² 2014 edition, as prepared by the National Fire Protection Association, is hereby adopted and incorporated by reference as a part of this code and is hereinafter referred to as the electrical code. (1979 Code, § 4-301, modified, and amended by Ord. #5-2015, June 2015)

12-302. Available in recorder's office. Pursuant to the requirements of Tennessee Code Annotated, § 6-54-502, one (1) copy of the electrical code has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public. (1979 Code, § 4-302, modified)

12-303. Permit required for doing electrical work. No electrical work shall be done within this town until a permit therefor has been issued by the town. The term "electrical work" shall not be deemed to include minor repairs that do not involve the installation of new wire, conduits, machinery, apparatus, or other electrical devices generally requiring the services of an electrician. (1979 Code, § 4-303)

12-304. Violations. It shall be unlawful for any person to do or authorize any electrical work or to use any electricity in such manner or under such circumstances as not to comply with this chapter and/or the requirements

¹Municipal code references

Fire protection, fireworks and explosives: title 7.

²Copies of this code may be purchased from the National Fire Protection Association, 1 Batterymarch Park, Quincy, Massachusetts 02269-9101.

and standards prescribed by the electrical code. The violation of any section of this chapter shall be punishable by a penalty under the general penalty of this code. Each day a violation is allowed to continue shall constitute a separate offense. (1979 Code, § 4-304, as amended by Ord. #5-2015, June 2015)

12-305. Enforcement. The electrical inspector shall be such person as the board of mayor and alderman shall appoint or designate. It shall be his duty to enforce compliance with this chapter and the electrical code as herein adopted by reference. He is authorized and directed to make such inspections of electrical equipment and wiring, etc., as are necessary to insure compliance with the applicable regulations, and may enter any premises or building at any reasonable time for the purpose of discharging his duties. He is authorized to refuse or discontinue electrical service to any person or place not complying with this chapter and/or the electrical code. (1979 Code, § 4-305, as amended by Ord. #5-2015, June 2015)

12-306. Fees. The electrical inspector shall collect the same fees as are authorized in Tennessee Code Annotated, § 68-102-143, for electrical inspections by deputy inspectors of the state fire marshal. (1979 Code, § 4-306)

CHAPTER 4

GAS CODE¹

SECTION

12-401. Fuel gas code adopted.

12-402. Modifications.

12-403. Available in recorder's office.

12-404. Violations and penalty.

12-401. Fuel gas code adopted. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506, and for the purpose of establishing regulations for fuel gas systems and gas-fired appliances using prescriptive and performance-related provisions, the International Fuel Gas Code,² 2012 edition, as prepared and adopted by the International Code Council, is hereby adopted and incorporated by reference as a part of this code, and is hereinafter referred to as the fuel gas code. (Ord. #31999, June 1999, as amended by Ord. #11-2004, Aug. 2004, and Ord. #1-2008, April 2008, and replaced by Ord. #5-2015, June 2015)

12-402. Modifications. (1) Definitions. Whenever in the fuel gas code when reference is made to the duties of a certain official named therein, that designated official of the Town of Cumberland Gap who has duties corresponding to those of the named official in said code shall be deemed to be the responsible official insofar as enforcing the provisions of the fuel gas code are concerned. (Ord. #31999, June 1999, as replaced by Ord. #5-2015, June 2015)

12-403. Available in recorder's office. Pursuant to the requirements of Tennessee Code Annotated, § 6-54-502, one (1) copy of the fuel gas code has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public. (as added by Ord. #5-2015, June 2015)

12-404. Violations and penalty. It shall be unlawful for any person to violate or fail to comply with any provision of the fuel gas code as herein adopted by reference and modified. The violation of any section of this chapter shall be punishable by a penalty under the general penalty provision of this code. Each

¹Municipal code reference

Gas system administration: title 19, chapter 2.

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

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day a violation is allowed to continue shall constitute a separate offense. (as added by Ord. #5-2015, June 2015)

CHAPTER 5

EXISTING BUILDINGS CODE¹

SECTION

12-501. Existing building code adopted.

12-502. Modifications.

12-503. Available in recorder's office.

12-504. Violations.

12-501. Existing building code adopted. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506, and for the purpose of providing a concise set of regulations and procedures to effect safety in occupancy, the International Existing Building Code,² 2012 edition, as prepared by the International Code Council is adopted and the same is incorporated herein by reference, subject to modifications as hereinafter provided, and shall be known and referred to as the existing building code. (Ord. #31999, June 1999, as amended by Ord. #11-2004, Aug. 2004, and Ord. #1-2008, April 2008, and renumbered and replaced by Ord. #5-2015, June 2015)

12-502. Modifications. Whenever in the existing building code when reference is made to the duties of a certain official named therein, that designated official of the Town of Cumberland Gap who has duties corresponding to those of the named official in said code shall be deemed to be the responsible official insofar as enforcing the provisions of the existing building code are concerned. (Ord. #31999, June 1999, as renumbered and replaced by Ord. #5-2015, June 2015)

12-503. Available in recorder's office. Pursuant to the requirements of Tennessee Code Annotated, § 6-54-502, one (1) copy of the existing building code shall be placed on file in the office of the recorder and the same shall be kept there for the use and inspection of the public. (as added by Ord. #5-2015, June 2015)

¹Municipal code references

Fire protection, fireworks, and explosives: title 7.

Planning and zoning: title 14.

Streets and other public ways and places: title 16.

Utilities and services: titles 18 and 19.

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

12-504. Violations. It shall be unlawful for any person to violate or fail to comply with any provision of the existing building code or any final order made pursuant thereto. Such violation is declared an offense against the town and for which punishment shall be a fine of not more than fifty dollars (\$50.00) for each such violation. Each day that a violation occurs shall be deemed a separate offense. The building official or his or her deputy or assistant is empowered to issue citations to answer in the municipal court of the town by any person, firm or corporation found to be in such violation. (as added by Ord. #5-2015, June 2015)

CHAPTER 6

PROPERTY MAINTENANCE CODE¹

SECTION

- 12-601. Property maintenance code adopted.
- 12-602. Modifications.
- 12-603. Available in recorder's office.
- 12-604. Violations and penalty.

12-601. Property maintenance code adopted. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506, and for the purpose of providing minimum requirements and standards for premises, structures, equipment and facilities for light, ventilation, space, heating, sanitation, protection from the elements, life safety, safety from fire and other hazards, and for safe and sanitary maintenance, the International Property Maintenance Code,² 2012 edition, as prepared and adopted by the International Code Council, is hereby adopted and incorporated by reference as a part of this municipal code, and is hereinafter referred to as the property maintenance code. (Ord. #31999, June 1999, as amended by Ord. #11-2004, Aug. 2004, and Ord. #1-2008, April 2008, and renumbered and replaced by Ord. #5-2015, June 2015)

12-602. Modifications. Whenever in the property maintenance code when reference is made to the duties of a certain official named therein, that designated official of the Town of Cumberland Gap who has duties corresponding to those of the named official in said code shall be deemed to be the responsible official insofar as enforcing the provisions of the property maintenance code are concerned. (Ord. #31999, June 1999, as renumbered and replaced by Ord. #5-2015, June 2015)

12-603. Available in recorder's office. Pursuant to the requirements of the Tennessee Code Annotated, § 6-54-502, one (1) copy of the property maintenance code has been placed on file in the recorder's office and shall be

¹Municipal code references

Fire protection: 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.

kept there for the use and inspection of the public. (as added by Ord. #5-2015, June 2015)

12-604. Violations and penalty. It shall be unlawful for any person to violate or fail to comply with any provision of the property maintenance code as herein adopted by reference and modified. The violation of any section of this chapter shall be punishable by a penalty under the general penalty provision of this code. Each day a violation is allowed to continue shall constitute a separate offense. (as added by Ord. #5-2015, June 2015)

CHAPTER 7

ENERGY CONSERVATION CODE¹

SECTION

12-701. Energy conservation code adopted.

12-702. Available in recorder's office.

12-703. Violations and penalty.

12-701. Energy conservation code adopted. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506, and for the purpose of regulating the design of buildings for adequate thermal resistance and low air leakage and the design and selection of mechanical, electrical, water-heating and illumination systems and equipment which will enable the effective use of energy in new building construction, the International Energy Conservation Code,² 2012 edition, as prepared and maintained by the International Code Council, is hereby adopted and incorporated by reference as a part of this code, and is hereinafter referred to as the energy code. (as renumbered and replaced by Ord. #5-2015, June 2015)

12-702. 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. (as renumbered and replaced by Ord. #5-2015, June 2015)

12-703. Violations 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 under the general penalty provision of

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 International Code Council, 900 Montclair Road, Birmingham, Alabama 35213.

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this code. Each day a violation is allowed to continue shall constitute a separate offense. (as renumbered and replaced by Ord. #5-2015, June 2015)

CHAPTER 8

RESIDENTIAL CODE

SECTION

12-801. Residential code adopted.

12-802. Available in recorder's office.

12-803. Violations and penalty.

12-901. Residential code adopted. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506, and for the purpose of providing building, plumbing, mechanical and electrical provisions, the International Residential Code for One and Two Family Dwellings,¹ 2012 edition, as prepared and adopted by the International Code Council, is hereby adopted and incorporated by reference as a part of this code, and is hereinafter referred to as the residential code. (as added by Ord. #11-2004, Aug. 2004, amended by Ord. #1-2008, April 2008, and renumbered and replaced by Ord. #5-2015, June 2015)

12-802. Available in recorder's office. Pursuant to the requirements of the Tennessee Code Annotated, § 6-54-502, one (1) copy of the residential code has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public. (as added by Ord. #5-2015, June 2015)

12-803. Violations and penalty. 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. The violation of any section of this chapter shall be punishable by a penalty under the general penalty provision of this code. Each day a violation is allowed to continue shall constitute a separate offense. (as added by Ord. #5-2015, June 2015)

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

CHAPTER 9

MECHANICAL CODE

SECTION

12-901. Mechanical code adopted.

12-902. Available in recorder's office.

12-903. Violations.

12-1001. Mechanical code adopted. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506, and for the purpose of establishing minimum regulations for mechanical systems using prescriptive and performance-related provisions, the International Mechanical Code,¹ 2012 edition, as prepared and adopted by the International Code Council, is hereby adopted and incorporated by reference as a part of this code and is hereinafter referred to as the mechanical code. (as added by Ord. #11-2004, Aug. 2004, amended by Ord. #1-2008, April 2008, and renumbered and replaced by Ord. #5-2015, June 2015)

12-902. Available in recorder's office. Pursuant to the requirements of Tennessee Code Annotated, § 6-54-502, one (1) copy of the mechanical code has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public. (as added by Ord. #5-2015, June 2015)

12-903. Violations. It shall be unlawful for any person to violate or fail to comply with any provision of the mechanical code as herein adopted by reference and modified. (as added by Ord. #5-2015, June 2015)

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

CHAPTER 10

ZONING CODE

SECTION

12-1001. Zoning code adopted.

12-1002. Available in recorder's office.

12-1003. Violations

12-1101. Zoning code adopted. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506, and for the purpose of safeguarding the health, property, and public welfare controlling the design, location, use or occupancy of all buildings and structures through the regulated and orderly development of land and land uses, the International Zoning Code,¹ 2012 edition, as prepared and adopted by the International Code Council, is hereby adopted and incorporated by reference as a part of this code and is hereinafter referred to as the zoning code. (as added by Ord. #11-2004, Aug. 2004, amended by Ord. #1-2008, April 2008, and renumbered and replaced by Ord. #5-2015, June 2015)

12-1002. Available in recorder's office. Pursuant to the requirements of Tennessee Code Annotated, § 6-54-502, one (1) copy of the zoning code has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public. (as added by Ord. #5-2015, June 2015)

12-1003. Violations. It shall be unlawful for any person to violate or fail to comply with any provision of the zoning code as herein adopted by reference and modified. (as added by Ord. #5-2015, June 2015)

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. SLUM CLEARANCE.
3. JUNKYARDS.

CHAPTER 1

MISCELLANEOUS

SECTION

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

13-101. Smoke, soot, cinders, etc. It shall be unlawful for any person to permit or cause the escape of such quantities of dense smoke, soot, cinders, noxious acids, fumes, dust, or gases as to be detrimental to or to endanger the health, comfort, and safety of the public or so as to cause or have a tendency to cause injury or damage to property or business. (1979 Code, § 8-105, as renumbered by Ord. #12-2015, Oct. 2015)

13-102. Stagnant water. It shall be unlawful for any person knowingly to allow any pool of stagnant water to accumulate and stand on his property without treating it so as effectively to prevent the breeding of mosquitoes. (1979 Code, § 8-106, as renumbered by Ord. #12-2015, Oct. 2015)

13-103. Weeds and grass. Every owner or tenant of property shall periodically cut the grass and other vegetation commonly recognized as weeds on his property, and it shall be unlawful for any person to fail to comply with an order by the recorder to cut such vegetation when it has reached a height of over

¹Municipal code references
Animal control: title 10.
Littering streets, etc.: § 16-107.

one (1) foot. (1979 Code, § 8-107, as renumbered and amended by Ord. #12-2015, Oct. 2015)

13-104. 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 mayor and town recorder and dispose of such animal in such manner as the mayor and town recorder shall direct. (1979 Code, § 8-108, as renumbered and amended by Ord. #12-2015, Oct. 2015)

13-105. Health and sanitation nuisances. It shall be unlawful for any person to permit any premises owned, occupied, or controlled by him to become or remain in a filthy condition, or permit the use or occupation of same in such a manner as to create noxious or offensive smells and odors in connection therewith, or to allow the accumulation or creation of unwholesome and offensive matter or the breeding of flies, rodents, or other vermin on the premises to the menace of the public health or the annoyance of people residing within the vicinity. (1979 Code, § 8-109, as renumbered by Ord. #12-2015, Oct. 2015)

13-106. 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 town and unless a permit therefor shall have been first duly issued by the building official, as provided for in the building code. (1979 Code, § 8-104, as renumbered by Ord. #12-2015, Oct. 2015)

13-107. Violations and penalty. Violations of this chapter shall subject the offender to a penalty under the general penalty provision of this code. Each day a violation is allowed to continue shall constitute a separate offense. (as added by Ord. #12-2015, Oct. 2015)

CHAPTER 2

SLUM CLEARANCE¹

SECTION

- 13-201. Findings of board.
- 13-202. Definitions.
- 13-203. "Public officer" designated; powers.
- 13-204. Initiation of proceedings; hearings.
- 13-205. Orders to owners of unfit structures.
- 13-206. When public officer may repair, etc.
- 13-207. When public officer may remove or demolish.
- 13-208. Lien for expenses; sale of salvage materials; other powers not limited.
- 13-209. Basis for a finding of unfitness.
- 13-210. Service of complaints or orders.
- 13-211. Enjoining enforcement of orders.
- 13-212. Additional powers of public officer.
- 13-213. Powers conferred are supplemental.
- 13-214. Structures unfit for human habitation deemed unlawful.

13-201. Findings of board. Pursuant to Tennessee Code Annotated, § 13-21-101, et seq., the board of mayor and alderman finds that there exists in the town structures which are unfit for human occupation due to dilapidation, defects increasing the hazards of fire, accident or other calamities, lack of ventilation, light or sanitary facilities, or due to other conditions rendering such dwellings unsafe or unsanitary, or dangerous or detrimental to the health, safety and morals, or otherwise inimical to the welfare of the residents of the town. (Ord. #6-2000, Jan. 2001, as amended by Ord. #12-2015, Oct. 2015)

13-202. Definitions. (1) "Dwelling" means any building or structure, or part thereof, used and occupied for human occupation or use or intended to be so used, and includes any outhouses and appurtenances belonging thereto or usually enjoyed therewith.

(2) "Governing body" shall mean the board of mayor and alderman charged with governing the town.

(3) "Municipality" shall mean the Town of Cumberland Gap, Tennessee, and the areas encompassed within existing town limits or as hereafter annexed.

(4) "Owner" shall mean the holder of title in fee simple and every mortgagee of record.

¹State law reference

Tennessee Code Annotated, title 13, chapter 21.

(5) "Parties in interest" shall mean all individuals, associations, corporations and others who have interests of record in a dwelling and any who are in possession thereof.

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

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

(8) "Public officer" means any officer or officers of a municipality or the executive director or other chief executive officer of any commission or authority established by such municipality or jointly with any other municipality who is authorized by this chapter to exercise the power prescribed herein and pursuant to Tennessee Code Annotated, § 13-21-101, et seq.

(9) "Structure" means any dwelling or place of public accommodation or vacant building or structure suitable as a dwelling or place of public accommodation. (Ord. #6-2000, Jan. 2001, as amended by Ord. #12-2015, Oct. 2015)

13-203. "Public officer" designated; powers. There is hereby designated and appointed a "public officer," to be the building official of the town, to exercise the powers prescribed by this chapter, which powers shall be supplemental to all others held by the building official. (Ord. #6-2000, Jan. 2001)

13-204. Initiation of proceedings; hearings. Whenever a petition is filed with the public officer by a public authority or by at least five (5) residents of the town charging that any structure is unfit for human occupancy or use, or whenever it appears to the public officer (on his own motion) that any structure is unfit for human occupation or use, the public officer shall, if his preliminary investigation discloses a basis for such charges, issue and cause to be served upon the owner of, and parties in interest of, such structure a complaint stating the charges in that respect and containing a notice that a hearing will be held before the public officer (or his designated agent) at a place therein fixed, not less than ten (10) days nor more than thirty (30) days after the service of the complaint; and the owner and parties in interest shall have the right to file an answer to the complaint and to appear in person, or otherwise, and give testimony at the time and place fixed in the complaint; and the rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the public officer. (Ord. #6-2000, Jan. 2001)

13-205. Orders to owners of unfit structures. If, after such notice and hearing as provided for in the preceding section, the public officer

determines that the structure under consideration is unfit for human occupation or use, he shall state in writing his finding of fact in support of such determination and shall issue and cause to be served upon the owner thereof an order:

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

(2) If the repair, alteration or improvement of said structure cannot be made at a reasonable cost in relation to the value of the structure (not to exceed fifty percent [50%] of the value of the premises), requiring the owner within the time specified in the order, to remove or demolish such structure. (Ord. #6-2000, Jan. 2001)

13-206. When public officer may repair, etc. If the owner fails to comply with the order to repair, alter, or improve or to vacate and close the structure as specified in the preceding section hereof, the public officer may cause such structure to be repaired, altered, or improved, or to be vacated and closed; and the public officer may cause to be posted on the main entrance of any dwelling so closed, a placard with the following words: "This building is unfit for human occupation or use. The use or occupation of this building for human occupation or use is prohibited and unlawful." (Ord. #6-2000, Jan. 2001)

13-207. When public officer may remove or demolish. If the owner fails to comply with an order, as specified above, to remove or demolish the structure, the public officer may cause such structure to be removed and demolished. (Ord. #6-2000, Jan. 2001)

13-208. Lien for expenses; sale of salvaged materials; other powers not limited. The amount of the cost of such repairs, alterations or improvements, or vacating and closing, or removal or demolition by the public officer, as well as reasonable fees for registration, inspections, and professional evaluations of the property, shall be assessed against the owner of the property, and shall upon the filing of the notice with the office of the register of deeds of Claiborne County, be a lien on the property in favor of the municipality, second only to liens of the state, county and municipality for taxes, any lien of the municipality for special assessments, and any valid lien, right, or interest in such property duly recorded or duly perfected by filing, prior to the filing of such notice. These costs shall be collected by the municipal tax collector or county trustee at the same time and in the same manner as property taxes are collected. If the owner fails to pay the costs, they may be collected at the same time and in the same manner as set forth in Tennessee Code Annotated,

§ 67-5-2010 and § 67-5-2410, as delinquent property taxes are collected and shall be subject to the same penalty and interest as delinquent property taxes. In addition, the municipality may collect the costs assessed against the owner through an action for debt filed in any court of competent jurisdiction. The municipality may bring one (1) action for debt against more than one or all of the owners of properties against whom said costs have been assessed and the fact that multiple owners have been joined in one (1) action shall not be considered by the court as a misjoinder of parties. If the structure is removed or demolished by the public officer, he shall sell the materials of such structure and shall credit the proceeds of such sale against the cost of the removal or demolition, and any balance remaining shall be deposited in the chancery court of Claiborne County by the public officer, shall be secured in such manner as may be directed by such court, and shall be disbursed by such court to the person found to be entitled thereto by final order or decree of such court. Nothing in this section shall be construed to impair or limit in any way the power of the Town of Cumberland Gap to define and declare nuisances and to cause their removal or abatement, by summary proceedings or otherwise. (Ord. #6-2000, Jan. 2001, as amended by Ord. #12-2015, Oct. 2015)

13-209. Basis for a finding of unfitness. The public officer defined herein shall have the power and may determine that a structure is unfit for human occupation and use if he finds that conditions exist in such structure which are dangerous or injurious to the health, safety or morals of the occupants or users of such structure, the occupants or users of neighboring structures or other residents of the Town of Cumberland Gap. Such conditions may include the following (without limiting the generality of the foregoing): defects therein increasing the hazards of fire, accident, or other calamities; lack of adequate ventilation, light, or sanitary facilities; dilapidation; disrepair; structural defects; or uncleanliness. (Ord. #6-2000, Jan. 2001)

13-210. 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 persons are unknown and the same cannot be ascertained by the public officer in the exercise of reasonable diligence, and the public officer shall make an affidavit to that effect, then the serving of such complaint or order upon such persons may be made by publishing the same once each week for two (2) consecutive weeks in a newspaper printed and published in the town. In addition, a copy of such complaint or order shall be posted in a conspicuous place on premises affected by the complaint or order. A copy of such complaint or order shall also be filed for record in the Register's Office of Claiborne County, Tennessee, and such filing shall have the same force and effect as other lis pendens notices provided by law. (Ord. #6-2000, Jan. 2001)

13-211. Enjoining enforcement of orders. Any person affected by an order issued by the public officer served pursuant to this chapter may file a bill in chancery court for an injunction restraining the public officer from carrying out the provisions of the order, and the court may, upon the filing of such suit, issue a temporary injunction restraining the public officer pending the final disposition of the cause; provided, however, that within sixty (60) days after the posting and service of the order of the public officer, such person shall file such bill in the court.

The remedy provided herein shall be the exclusive remedy and no person affected by an order of the public officer shall be entitled to recover any damages for action taken pursuant to any order of the public officer, or because of noncompliance by such person with any order of the public officer. (Ord. #6-2000, Jan. 2001)

13-212. Additional powers of public officer. The public officer, in order to carry out and effectuate the purposes and provisions of this chapter, shall have the following powers in addition to those otherwise granted herein:

(1) To investigate conditions of the structures in the town in order to determine which structures therein are unfit for human occupation or use;

(2) To administer oaths, affirmations, examine witnesses and receive evidence;

(3) To enter upon premises for the purpose of making examination, provided that such entry shall be made in such manner as to cause the least possible inconvenience to the persons in possession;

(4) To appoint and fix the duties of such officers, agents and employees as he deems necessary to carry out the purposes of this chapter (subject to approval of the board of mayor and alderman); and

(5) To delegate any of his functions and powers under this chapter to such officers and agents as he may designate. (Ord. #6-2000, Jan. 2001, as amended by Ord. #12-2015, Oct. 2015)

13-213. Powers conferred are supplemental. This chapter shall not be construed to abrogate or impair the powers of the town with regard to the enforcement of the provisions of its charter or any other ordinances or regulations, nor to prevent or punish violations thereof, and the powers conferred by this chapter shall be in addition and supplemental to the powers conferred by the charter and other laws. (Ord. #6-2000, Jan. 2001)

13-214. Structures unfit for human habitation deemed unlawful. It shall be unlawful for any owner of record to create, maintain or permit to be maintained in the town structures which are unfit for human occupation due to dilapidation, defects increasing the hazards of fire, accident or other calamities, lack of ventilation, light or sanitary facilities, or due to other conditions rendering such dwellings unsafe or unsanitary, or dangerous or detrimental to

the health, safety and morals, or otherwise inimical to the welfare of the residents of the town.

Violations of this section shall subject the offender to a penalty under the general penalty provision of this code. Each day a violation is allowed to continue shall constitute a separate offense. (Ord. #6-2000, Jan. 2001, as amended by Ord. #12-2015, Oct. 2015)

CHAPTER 3

JUNKYARDS

SECTION

13-301. Junkyards.

13-302. Violations and penalty.

13-301. 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. (1979 Code, § 8-111)

13-302. Violations and penalty. Violations of this chapter shall subject the offender to a penalty under the general penalty provision of this code. Each day a violation is allowed to continue shall constitute a separate offense. (as added by Ord. #12-2015, Oct. 2015)

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).

TITLE 14

ZONING AND LAND USE CONTROL

CHAPTER

1. MUNICIPAL PLANNING COMMISSION.
2. GENERAL ZONING PROVISIONS.
3. R-1 DISTRICTS.
4. R-2 DISTRICTS.
5. C-1 DISTRICTS.
6. C-2 DISTRICTS.
7. C-3 DISTRICTS.
8. C-4 HIGHWAY BUSINESS DISTRICT.
9. H-1 DISTRICT AND FP-1 FLOODPLAIN DISTRICT.
10. SUPPLEMENTARY PROVISIONS APPLYING TO SPECIFIC, TO SEVERAL, OR TO ALL DISTRICTS.
11. EXCEPTIONS AND MODIFICATIONS.
12. ADMINISTRATION AND ENFORCEMENT.
13. BOARD OF ZONING APPEALS.
14. HISTORIC ZONING COMMISSION.
15. AMENDMENT.
16. BILLBOARDS.
17. FLOOD DAMAGE PREVENTION ORDINANCE.

CHAPTER 1

MUNICIPAL PLANNING COMMISSION

SECTION

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

14-101. Creation and membership. Pursuant to the provisions of Tennessee Code Annotated, § 13-4-101 there is hereby created a municipal planning commission, hereinafter referred to as the planning commission. The planning commission shall consist of seven (7) members; two (2) of these shall be the mayor and another member of the town council selected by the town council; the other five (5) members shall be appointed by the mayor. All members of the planning commission shall serve as such without compensation. Except for the initial appointments, the terms of the five (5) members appointed by the mayor shall be for five (5) years each. The five (5) members first appointed shall be appointed for terms of one (1), two (2), three (3), four (4), and five (5) years respectively so that the term of one (1) member expires each year. The terms of the mayor and the member selected by the town council shall run

concurrently their terms of office. Any vacancy in an appointive membership shall be filled for the unexpired term by the mayor. (1979 Code, § 11-101)

14-102. Organization, powers, duties, etc. The planning commission shall be organized and shall carry out its powers, functions, and duties in accordance with all applicable provisions of Tennessee Code Annotated, title 13. (1979 Code, § 11-102)

CHAPTER 2

GENERAL ZONING PROVISIONS

SECTION

- 14-201. Purpose of zoning code.
- 14-202. Title.
- 14-203. Definitions.
- 14-204. Zoning district map.
- 14-205. Interpretation of district boundaries.
- 14-206. Application of district regulations.
- 14-207. Classification of districts.
- 14-208. Specific district regulations.

1-201. Purpose of zoning code. The zoning regulations and districts as herein set forth have been made in accordance with a comprehensive plan for the purpose of promoting the public health, safety, morals, convenience, order, prosperity, and general welfare of the community. They have been designed to lessen congestion in the streets, to secure safety from fires, floods, panic, and other dangers, to provide adequate light and air, to prevent the overcrowding of land, to avoid undue concentration of population, to facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements. They have been made with reasonable consideration among other things as to the character of each district and its peculiar uses, and with a view of conserving the value of buildings and encouraging the most appropriate use of land throughout the town. (1979 Code, § 11-201)

14-202. Title. Chapters 2 through 13 of this title shall be known as the "Zoning Ordinance of Cumberland Gap, Tennessee," dated May 21, 1975. The zoning map shall be referred to as the "Zoning Map of Cumberland Gap, Tennessee," and it along with all explanatory matter thereon are hereby adopted and made a part of chapters 2 through 13 of this title. (1979 Code, § 11-202)

14-203. Definitions. For the purpose of chapters 2 through 13 of this title, and in order to carry out the provisions and intentions as set forth herein, certain words, terms, and phrases are to be used and interpreted as defined hereinafter. Words used in the present tense shall include the future tense; words in the singular number include the plural and words in the plural number include the singular; the word "person" includes a firm, partnership, or corporation as well as an individual; the term "shall" is always mandatory and not directory; and the word "may" is permissive. The word "used" or "occupied" as applied to any land or building shall be construed to include the words "intended, arranged, or designed to used or occupied."

The following words, terms, and phrases are hereby defined as follows and shall be interpreted as such throughout chapters 2 through 13 of this title. The terms not herein defined shall have the meaning customarily assigned to them.

(1) "Access." The right to cross between public and private property, thereby permitting pedestrians and vehicles to enter and leave property.

(2) "Accessory building." A subordinate building, the use of which is incidental to that of a main building and located on the same lot therewith.

(3) "Accessory use." A use customarily incidental, appropriate, and subordinate to the principal use of land or buildings and located upon the same lot therewith.

(4) "Alley." A minor right-of-way, dedicated to the public use, which affords a secondary means of vehicular access to the back or side of properties otherwise abutting a street, and which may be used for public utility purposes.

(5) "Area, building." The total areas taken on a horizontal plane at the main grade level of the principal building and all accessory buildings exclusive of uncovered porches, terraces, and steps.

(6) "Automobile, wrecking, junk, or salvage yard." Any lot or place which is exposed to weather and upon which five (5) motor vehicles of any kind, incapable of being operated, and which it would not be economically practical to make operative, are placed, located, or found.

(7) "Building area of a lot." That portion of a lot bounded by the required rear yard, side yards, and the building setback line.

(8) "Building." Any structure intended for shelter, housing, or enclosure of persons, animals, or chattel, including lunch wagons, dining cars, and similar structures whether stationary or movable.

(9) "Building, main or principal." A building in which is conducted the principal use of the lot on which it is situated. In any residential district any dwelling shall be deemed to be a main building of the lot on which it is situated.

(10) "Building setback line." A line delineating the minimum allowable distance between the property line and a building on a lot, within which no building or other structure shall be placed except as otherwise provided.

(11) "Customary home occupations." See § 14-803.

(12) "Dwelling, multiple." A dwelling designed for occupancy by two (2) or more families living independently of each other.

(13) "Dwelling unit." An enclosed structure or building or portion thereof designed and utilized as an abode. The term shall not include mobile homes, trailers, tents, motels, or other structures designed or used primarily for transient residents.

(14) "Flood." An overflow of lands not normally covered by water that results in significant adverse effects in the vicinity.

(15) "Floodway fringe areas." The channel of Gap Creek and the part of the adjoining floodplain designed to be the minimum area required for the passage of flood flow and in which no structures or filling shall be allowed.

(16) "Height of building." The vertical distance from the established average sidewalk grade, street grade, or finished grade at the building setback line, whichever is the higher, to the highest point of the building.

(17) "Junk yard or salvage yard." A lot, land, or structure, or part thereof, used primarily for the collecting, storage, and sale of waste paper, rags, scrap metal, or discarded material; or for the collecting, dismantling, storage, and salvaging of machinery or vehicles not in running condition, or for the sale of part thereof.

(18) "Loading and unloading space." An area ten (10) feet by forty (40) feet with a fourteen (14) foot height clearance providing for the standing, loading, or unloading of a truck or other vehicles.

(19) "Lot." A piece, parcel, or plot of land in one ownership, which may include one or more lots of record, occupied or to be occupied by one principal building and its accessory buildings including the open spaces required under chapters 2 through 13 of this title.

(20) "Lot, lines." The boundary dividing a given lot from the street, an alley, or adjacent lots.

(21) "Lot of record." A lot which is part of a subdivision recorded in the office of the county registrar of deeds, or a lot described by metes and bounds, the description of which has been recorded in the office of the county registrar of deeds prior to the effective date of the provisions of chapters 2 through 13 of this title.

(22) "Mobile home or trailer." An enclosed structure intended for year-round occupancy as a residential unit and designed and constructed in such a manner as to facilitate movement from one location to another. Essential elements of the design are steel beams parallel to the long axis of the unit which support the weight load of the unit; axle(s) or the capability of affixing axle(s) to the steel beams of the unit for the purpose of transporting the unit; and trailer hitch or capability of affixing a trailer hitch to the unit for the purpose of transporting the unit.

(23) "Nonconforming use." A building, structure, or use of land existing at the time of enactment of the provisions of chapters 2 through 13 of this title or subsequent amendment thereto which does not conform to the regulations of the district in which it is located.

(24) "Open space." An area on the same lot with a main building which is open, unoccupied, and unobstructed by structures from the ground to the sky except as otherwise provided in chapters 2 through 13 of this title.

(25) "Noxious matter." Material (in gaseous, liquid, solid, particulate, or any other form) which is capable of causing injury to living organisms, chemical reactions, or detrimental effects upon the social, economic, or psychological well-being of individuals.

(26) "Parking lot." An off-street facility including parking spaces along with adequate provisions for drives and aisles for maneuvering and getting access, and for entrance and exit.

(27) "Parking space." An off-street space available for parking one motor vehicle and having an area of not less than two hundred (200) square feet exclusive of passageways and driveways giving access thereto, and having access to a street or alley.

(28) "Principal use." The specific primary purpose for which land or a building is used.

(29) "Sign, billboard, or other advertising device." Any structure or part thereof or device attached thereto or represented thereon, which shall display or include any letter, words, model, banner, flag, pennant, insignia, or representation used as, or which is in the nature of an announcement, direction, or advertisement. The word "sign" includes the word "billboard" or any other type of advertising device, but does not include the flag, pennant, or insignia of any nation, state, city, or other political unit.

(30) "Story." That portion of a building included between the upper surface of any floor and the upper surface of the floor next above; or any portion of a building included between the topmost floor and the roof which is used for human occupancy or in which the floor area with eight (8) feet or more of head clearance equals fifty (50) percent or more of floor area of the next story below. Provided it is not used as a dwelling unit, a top floor in which the floor area with eight (8) feet or more of head clearance equals less than fifty (50) percent of the floor area of the story next below shall be a "half-story." A basement shall be considered as a story if its ceiling is more than five (5) feet above the level from which the "height of building" is measured or if it is used for residential purposes.

(31) "Street." A public or private thoroughfare which affords the principal means of access to abutting property.

(32) "Structure." Any combination of materials, including buildings, constructed or erected, the use of which required location on the ground or attachment to anything having location on the ground and including among other things, signs, billboards, and fences.

(33) "Swimming pools." An outdoor swimming pool shall be any pool or open tank not located within a completely enclosed building and containing or normally capable of containing water to a depth at any point greater than one and one-half (1) feet.

(34) "Travel trailer." A vehicular portable structure designed as a temporary dwelling for travel, recreation, and vacation uses.

(35) "Travel trailer park." A plot of land designed and equipped to accommodate travel trailers for short periods of time.

(36) "Use." The purpose for which land or a building or other structure is designed, arranged, or intended, or for which it is or may be occupied or maintained.

(37) "Yard." A yard is an open space on the same lot with a principal building, open, unoccupied, and unobstructed by buildings from the ground to

the sky except as otherwise provided in chapters 2 through 13 of this title, provided that accessory buildings may be located in a rear yard.

(38) "Yard, front." The yard extending across the entire width of the lot between the nearest part of the principal building, including covered porches, and the front lot line.

(39) "Yard, rear." The yard extending across the entire width of the lot between the nearest part of the principal building, including covered porches, and the rear lot line.

(40) "Side yard." A yard extending along the side lot line from the front yard to the rear yard, and lying between the side lot line and the nearest part of the principal building, including covered porches, and attached carports. (1979 Code, § 11-203)

14-204. Zoning district map. The location and boundaries of the zoning districts established by chapters 2 through 13 of this title are bounded and defined as shown on the map entitled Zoning Map of Cumberland Gap. The zoning map or zoning map amendment(s) shall be dated with the effective date of the ordinance that adopts the zoning map or zoning map amendment(s). Certified prints of the adopted zoning map or zoning map amendment shall be maintained in the City Hall of Cumberland Gap and shall be available for inspection by the public at all reasonable times, as long as chapters 2 through 13 of this title remain in effect. (1979 Code, § 11-204)

14-205. Interpretation of district boundaries. Unless otherwise noted, boundaries indicated as approximately following the center lines of streets, highways, or alleys shall be construed as following such center lines. Boundaries which are indicated as approximately following platted lot lines shall be construed as following lot lines. Boundaries which are indicated as approximately following city limits shall be construed as following such city limits. Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks. Boundaries which are indicated as approximately following the center lines of streams, rivers, and lakes, shall be construed to follow such center lines.

Distances not specifically indicated on the official zoning map shall be determined by the scale of the map. Questions concerning the exact locations of district boundaries shall be resolved by the board of zoning appeals.

Where a district boundary divides a lot existing at the time the provisions of chapters 2 through 13 of this title take effect and the major portion of said lot is in the less restricted district, the regulations relative to that district may extend as well to such portions of said lot as are not more than twenty (20) feet within the more restricted district. (1979 Code, § 11-205)

14-206. Application of district regulations. The regulations set by chapters 2 through 13 of this title within each district shall be minimum

regulations and shall apply uniformly to each class or kind of structure or land. No building, structure, or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved, or structurally altered except in conformity with all of the regulations herein specified for the district in which it is located. No building or other structure shall hereafter be erected or altered to exceed the height or bulk; to accommodate or house greater number of families; to occupy a greater percentage of lot area; to have narrower or smaller rear yards, front yards, side yards, or other open space; than herein required.

No part of a yard, or other open space, or off-street parking or loading space required about or in connection with any building for the purpose of complying with chapters 2 through 13 of this title shall be included as part of a yard, open space, or off-street parking and loading space similarly required for any other building. No yard or lot existing at the time of passage of the provisions of chapters 2 through 13 of this title shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this code shall meet at least the minimum requirements established by chapters 2 through 13 of this title. (1979 Code, § 11-206)

14-207. Classification of districts. For the purpose of chapters 2 through 13 of this title, the Town of Cumberland Gap, Tennessee, is hereby divided into seven (7) zoning districts as follows:

<u>Zoning Districts</u>	<u>District Abbreviations</u>
Estate and forestry	E-F
Low density residential	R-1
Medium density residential	R-2
Central business district	C-1
Highway business district	C-2
Historic district	H-1
Floodplain district	FP-1

(1979 Code, § 11-207, as amended by Ord. #0071, Nov. 1983)

14-208. Specific district regulations. The regulations of chapters 2 through 13 of this title shall apply in the zoning districts established in § 14-207. (1979 Code, § 11-208)

CHAPTER 3

R-1 DISTRICTS

SECTION

- 14-301. R-1 Low-Density Residential District.
- 14-302. Permitted uses and structures.
- 14-303. Special exceptions.
- 14-304. Prohibited uses and structures.
- 14-305. Height requirements.
- 14-306. Site development standards for required yards.
- 14-307. Parking, storage, and use of automobiles, major recreational equipment, or trucks.
- 14-308. Location of accessory buildings.

14-301. R-1 Low-Density Residential District. The Low-Density Residential District, R-1, is intended to provide areas which are suitable for low-density, single-family residential development. The following regulations shall apply in the low density residential district as defined by the zoning map of Cumberland Gap, Tennessee. (1979 Code, § 11-401)

14-302. Permitted uses and structures. The following uses and structures are permitted:

- (1) Detached single-family dwellings.
- (2) Accessory buildings or uses customarily incidental to single-family dwellings.
- (3) Signs as regulated in § 14-810.
- (4) Individual mobile homes on a single lot. (1979 Code, § 11-402)

14-303. Special exceptions. The following uses may be permitted on review by the board of zoning appeals according to § 14-1101:

- (1) Institutions (including churches, schools offering general education courses, and public libraries).
- (2) Horticulture, including forestry, not involving advertising, display, or public sale of products on the premises.
- (3) Accessory buildings or uses customarily incidental to any aforementioned uses.
- (4) Public parks and public recreation areas.
- (5) Cemeteries as regulated in § 14-804.
- (6) Customary home occupations as regulated in § 14-803. (1979 Code, § 11-403)

14-304. Prohibited uses and structures. Any other use not specifically permitted or permissible on review in this R-1, Low-Density Residential Zoning District is prohibited. (1979 Code, § 11-404)

14-305. Height requirements. No building shall exceed two (2) stories or thirty (30) feet in height, except as provided in § 14-903 of this code. (1979 Code, § 11-406, as renumbered by Ord. #17-2015, Jan. 2016)

14-306. Site development standards for required yards. The required yards of all uses shall be made fertile; planted with grass, shrubs, and/or trees or otherwise landscaped; and maintained in good order. (1979 Code, § 11-407, as renumbered by Ord. #17-2015, Jan. 2016)

14-307. Parking, storage, and use of automobiles, major recreational equipment, or trucks. Off-street passenger automobile parking space as required in § 14-808 of this code shall be provided. No vehicle or trailer of any kind or type without current license plates shall be parked or stored on any lot other than in a completely enclosed building. No major recreational equipment (including boat and boat trailer, travel trailers, partial travel trailer units, and the like, and cases or boxes used for transporting such, whether occupied by such equipment or not) shall be parked or stored on any lot except in a carport or enclosed building or behind the nearest portion of a building to a street, except for a temporary basis. No such equipment shall be used for living, sleeping, or housekeeping purposes when parked or stored on a residential lot, or in any location not approved for such use.

No truck of a rated capacity of greater than 3/4 ton nor any heavy equipment may be parked on any lot or in the public right-of-way adjacent to any lot overnight nor stored or parked while loading or unloading for periods in excess of twenty-four (24) hours except in an enclosed building. (1979 Code, § 11-408, as renumbered by Ord. #17-2015, Jan. 2016)

14-308. Location of accessory buildings. (1) No accessory building shall be erected in any required front or side yard. Accessory buildings shall not cover more than thirty (30) percent of any required rear yard.

(2) Accessory buildings on corner lots shall conform with front yard setbacks for both intersecting streets. (1979 Code, § 11-409, as renumbered by Ord. #17-2015, Jan. 2016)

CHAPTER 4

R-2 DISTRICTS

SECTION

- 14-401. R-2 Medium-Density Residential District.
- 14-402. Permitted uses and structures.
- 14-403. Special exceptions.
- 14-404. Prohibited uses and structures.
- 14-405. Area regulations.
- 14-406. Height requirement.
- 14-407. Site development standards for required yards.
- 14-408. Parking, storage, and use of automobiles, major recreational equipment, or trucks.
- 14-409. Location of accessory buildings.

14-401. R-2 Medium-Density Residential District. The Medium-Density Residential District, R-2, is intended to preserve the existing residential areas of Cumberland Gap along with providing an area for higher density development than available in the R-1 district. The following regulations shall apply in the Medium-Density Residential District as defined on the "Zoning Map for Cumberland Gap, Tennessee." (1979 Code, § 11-501)

14-402. Permitted uses and structures. The following uses and structures are permitted:

- (1) Detached single-family dwellings.
- (2) Accessory buildings or uses customarily incidental to single-family dwellings.
- (3) Multi-family dwellings provided, however, that such dwellings are served by a public water supply and sanitary sewer system as approved by the Tennessee Department of Public Health.
- (4) Signs as regulated in § 14-810. (1979 Code, § 11-502)

14-403. Special exceptions. The following uses may be permitted on review by the board of zoning appeals according to § 14-1101:

- (1) Institutions (including churches, schools offering general education courses, and public libraries).
- (2) Municipal, county, state, or federal uses, public utilities, except storage and warehousing areas, and public parks.
- (3) Customary home occupations, as regulated in § 14-803. (1979 Code, § 11-503)

14-404. Prohibited uses and structures. Any other use not specifically permitted or permissible on appeal in the R- 2, residential district is prohibited. (1979 Code, § 11-504)

14-405. Area regulations. All uses permitted in the medium density residential district, R-2, shall comply with the following requirements:

- (1) Minimum lot area 5,000 square feet.
- (2) Minimum lot width at building setback line . . 50 feet.
- (3) Minimum depth of front yard 30 feet.
- (4) Minimum depth of rear yard20 feet.
- (5) Minimum width of side yard:
 - 1 story building 10 feet per side.
 - 2 story building 10 feet per side.
 - 3 story building 10 feet per side.
- (6) Maximum building area . . 50 percent of the total lot area. (1979 Code, § 11-505, as amended by Ord. #1-2004, Jan. 2004)

14-406. Height requirement. No building shall exceed three (3) stories or forty (40) feet in height except as provided in § 14-903 of this code. (1979 Code, § 11-506)

14-407. Site development standards for required yards. The required yards of all uses shall be made fertile; planted with grass, shrubs, and/or trees or otherwise landscaped; and maintained in good order. (1979 Code, § 11-507)

14-408. Parking, storage, and use of automobiles, major recreational equipment, or trucks. Off-street passenger automobile parking space as required in § 14-809 of this code shall be provided.

No vehicle or trailer of any kind or type without current license plates shall be parked or stored on any lot other than in a completely enclosed building.

No major recreational equipment (including boats and boat trailers, travel trailers, partial travel trailer units, and the like, and cases or boxes used for transporting such, whether occupied by such equipment or not) shall be parked or stored on any lot except in a carport or enclosed building or behind the nearest portion of a building to a street, except for a temporary basis. No such equipment shall be used for living, sleeping, or housekeeping purposes when parked or stored on a residential lot, or in any location not approved for such use.

No truck of a rated capacity of greater than 3/4 ton nor any heavy equipment may be parked on any lot or in the public right-of-way adjacent to any lot overnight nor stored or parked while loading or unloading for periods in

excess of twenty-four (24) hours except in an enclosed building. (1979 Code, § 11-508)

14-409. Location of accessory buildings. (1) No accessory building shall be erected in any required front or side yard. Accessory buildings shall not cover more than thirty (30) percent of any required rear yard.

(2) Accessory buildings on corner lots shall conform with front yard setbacks for both intersecting streets. (1979 Code, § 11-509)

CHAPTER 5

C-1 DISTRICTS

SECTION

- 14-501. C-1 Central Business District.
- 14-502. Uses permitted.
- 14-503. Special exceptions.
- 14-504. Uses prohibited.
- 14-505. Area regulations.
- 14-506. Height requirements.
- 14-507. Parking requirements.

14-501. C-1 Central Business District. The C-1 Central Business District is established in order to protect and improve the main shopping areas of Cumberland Gap and to permit concentrated development of offices, shopping facilities, and general commercial activities. Within the C-1 Central Business District, as shown on the zoning map of Cumberland Gap Tennessee, the following regulations shall apply. (1979 Code, § 11-601)

14-502. Uses permitted. The following uses are permitted:

- (1) Retail stores and shops.
- (2) Grocery and drug stores, and meat and fruit markets.
- (3) Indoor and outdoor restaurants.
- (4) Finance, insurance, and real estate establishments.
- (5) Theatres, excluding drive-ins.
- (6) Professional and government services, excluding hospitals.
- (7) Branch laundry and dry cleaning establishments.
- (8) Signs as regulated in § 14-809. (1979 Code, § 11-602)

14-503. Special exceptions. The following uses may be permitted on review by the board of zoning appeals according to § 14-1101:

(1) The manufacturing of craftworks on the premises of and in conjunction with a retail store or shop. The square footage of floor space used for manufacturing and storage cannot be more than triple the amount of space used for retail sales.

(2) Museums and art galleries.

(3) Any use which, in the opinion of the board of zoning appeals, is of the same general character as the above permitted uses. (1979 Code, § 11-603)

14-504. Uses prohibited. All uses not specifically permitted or allowable as special exceptions are prohibited. (1979 Code, § 11-604)

14-505. Area regulations. There are no specific front, side, or rear yard requirements or lot coverage requirements except as needed to provide off-street loading and unloading.

Commercial buildings may be built next to a common lot line if the lot line walls have a fire resistance rating equal to that required by the Standard Building Code. In addition, commercial buildings and structures may be built next to the rear lot line provided a public alley-way exists at the side or rear of the property and that requirements set forth in § 14-805 of this code are met. (1979 Code, § 11-605)

14-506. Height requirements. No building shall exceed three (3) stories or forty (40) feet in height, except as provided in § 14-903 of this code. (1979 Code, § 11-606)

14-507. Parking requirements. As regulated in § 14-808. (1979 Code, § 11-607)

CHAPTER 6

C-2 DISTRICTS

SECTION

- 14-601. C-2 Highway Business District.
- 14-602. Permitted uses and structures.
- 14-603. Special exceptions.
- 14-604. Prohibited uses and structures.
- 14-605. Area regulations.
- 14-606. Height requirements.

14-601. C-2 Highway Business District. The Highway Business district, C-2, is established to provide areas in which the principal use of land is devoted to highway oriented commercial uses. The following regulations are designed to preserve the traffic carrying capacity of streets in the highway commercial district and to provide for necessary off-street parking and loading. The following regulations shall apply in the highway business district, C-2, as defined on the zoning map of Cumberland Gap, Tennessee. (1979 Code, § 11-701)

14-602. Permitted uses and structures. The following uses and structures are permitted:

- (1) Hotels, motels, indoor restaurants, and tourist shops.
- (2) Gasoline service stations as regulated in § 14-810.
- (3) Auto sales, repair, and wash services excluding automobile wrecking, junk, or salvage operations.
- (4) Signs as regulated in § 14-809. (1979 Code, § 11-702)

14-603. Special exceptions. The following uses may be permitted on review by the board of zoning appeals according to § 14-1101:

Any business or service which, in the opinion of the board of zoning appeals, is of the same general character as the above permitted uses, and subject to such conditions and safeguards as the board of zoning appeals may specify to preserve the character of the area. (1979 Code, § 11-703)

14-604. Prohibited uses and structures. All uses not specifically permitted or allowable as special exceptions are prohibited. (1979 Code, § 11-704)

14-605. Area regulations. All uses shall comply with the following requirements:

- (1) Minimum lot width at building line . . . 50 feet.
- (2) Minimum depth of front yard 35 feet.

- (3) Minimum depth of rear yard. 20 feet.
- (4) Minimum width of side yards:
 - 1 story building 10 feet each.
 - 2 story building 15 feet each.
 - 3 story building 20 feet each.
 - 4 story building 20 feet each.

However, commercial buildings may be built next to a common lot line, if the lot line walls have a fire resistance rating equal to that required by the Standard Building Code. (1979 Code, § 11-705)

14-606. Height requirements. No building shall exceed four stories or fifty (50) feet in height, except as provided in § 14-903 of this code. (1979 Code, § 11-706)

CHAPTER 7**C-3 DISTRICTS****SECTION**

- 14-701. C-3 Highway Business District.
- 14-702. Permitted uses and structures.
- 14-703. Special exceptions.
- 14-704. Prohibited uses and structures.
- 14-705. Area regulations.
- 14-706. Height requirements.
- 14-707. Boundaries.

14-701. C-3 Highway Business District. The highway business district, C-3 is established to provide areas along U.S. Highway 58 and located within the Town of Cumberland Gap, in which are located more than three hundred feet (300') from an establishment that is licensed to sell beer liquor or any other type of alcoholic beverage and which the principal use of land is devoted to highway oriented commercial businesses. The following regulations are designed to preserve the traffic carrying capacity of streets along the U.S. Highway 58 Commercial District and to provide for necessary off street parking and loading and to preserve for the safety of ingress and egress from U.S. Highway 58 into the established businesses. The following regulations shall apply in the highway business district, C-3, as defined on the zoning map of Cumberland Gap, Tennessee. (as added by Ord. #9-2005, Oct. 2005, as replaced by Ord. #10-2013, Dec. 2013)

14-702. Permitted uses and structures. The following uses and structures are permitted:

- (1) Hotels, motels, indoor restaurants, and tourist shops.
- (2) Gasoline service stations as regulated in § 14-1010.
- (3) Auto sales, repair and wash services excluding automobile wrecking, junk or salvage operations.
- (4) Signs as regulated in § 14-1009.
- (5) Adult book store establishments as regulated in § 9-601 et seq..
- (6) Any clinic, treatment center, business or any other type of establishment that derives fifty percent (50%) or more of its gross revenues from the treatment of drug addiction utilizing the distribution of Methadone.
- (7) Any clinic, treatment center, business or any other type of establishment that derives fifty percent (50%) or more of its gross revenues from the treatment of pain. Due to the administration of drugs and is commonly known as pain clinics. (as added by Ord. #9-2005, Oct. 2005, and replaced by Ord. #10-2013, Dec. 2013)

14-703. Special exceptions. The following uses may be permitted on review by the board of zoning appeals according to § 14-1301: Any business or service which, in the opinion of the board of zoning appeals, is the same general character as the above permitted uses, and subject to such conditions and safeguards as the board of zoning appeals may specify to preserve the character of the area. (as added by Ord. #9-2005, Oct. 2005, as replaced by Ord. #10-2013, Dec. 2013)

14-704. Prohibited uses and structures. All uses not specifically permitted or allowable as special exceptions are prohibited. (as added by Ord. #9-2005, Oct. 2005, as replaced by Ord. #10-2013, Dec. 2013)

14-705. Area regulations. All uses shall comply with the following requirements:

- (1) Minimum lot width at building line fifty feet (50').
- (2) Minimum depth of front yard thirty-five feet (35').
- (3) Minimum depth of rear yard twenty feet (20').
- (4) Minimum width of side yards;
 - 1 Story building..... ten feet (10') each.
 - 2 Story building..... fifteen feet (15')each.
 - 3 Story building..... twenty feet (20') each.
 - 4 Story building..... twenty feet (20') each.

However, commercial buildings may be built next to the common lot line, if the lot line walls have a fire resistance rating equal to that required by the standard building code. (as added by Ord. #9-2005, Oct. 2005, and replaced by Ord. #10-2013, Dec. 2013)

14-706. Height requirements. No building shall exceed four (4) stories of fifty feet (50') in height, except as provided in § 14-1103 of this code. (as added by Ord. #9-2005, Oct. 2005, and replaced by Ord. #10-2013, Dec. 2013)

14-707. Boundaries. The boundaries of the zone shall be designated as outlined on the zoning map attached and on display at the Town Hall of Cumberland Gap, Tennessee. (as added by Ord. #10-2013, Dec. 2013)

CHAPTER 8

C-4 HIGHWAY BUSINESS DISTRICT

SECTION

- 14-801. C-4 Highway business district.
- 14-802. Permitted uses and structures.
- 14-803. Special exceptions.
- 14-804. Prohibited uses and structures.
- 14-805. Area regulations.
- 14-806. Height requirements.
- 14-807. Boundaries.

14-801. C-4 Highway business district. The highway business district, C-4 is established to provide areas along U. S. Highway 58 and located within the Town of Cumberland Gap, in which are located more than three hundred feet (300') from an establishment that is licensed to sell beer liquor or any other type of alcoholic beverage and which the principal use of land is devoted to highway oriented commercial businesses. The following regulations are designed to preserve the traffic carrying capacity of streets along the U. S. Highway 58 commercial district and to provide for necessary off street parking and loading and to preserve for the safety of ingress and egress from U. S. Highway 58 into the established businesses. The following regulations shall apply in the highway business district, C-4, as defined on the zoning map of Cumberland Gap, Tennessee. (as added by Ord. #10-2013, Dec. 2013)

14-802. Permitted uses and structures. The following uses and structures are permitted:

- (1) Hotels, motels, indoor restaurants, and tourist shops.
- (2) Gasoline service stations as regulated in § 14-1010.
- (3) Auto sales, repair and was services excluding automobile wrecking, junk or salvage operations.
- (4) Signs as regulated in § 14-1009.
- (5) Any establishment which sells alcohol and or liquor that is designated as a private club pursuant to the laws of the State of Tennessee. (as added by Ord. #10-2013, Dec. 2013)

14-803. Special exceptions. The following uses may be permitted on review by the board of zoning appeals according to § 14-1301: Any business or service which, in the opinion of the board of zoning appeals, is the same general character as the above permitted uses, and subject to such conditions and safeguards as the board of zoning appeals may specify to preserve the character of the area. (as added by Ord. #10-2013, Dec. 2013)

14-804. Prohibited uses and structures. All uses not specifically permitted or allowable as special exceptions are prohibited. (as added by Ord. #10-2013, Dec. 2013)

14-805. Area regulations. All uses shall comply with the following requirements:

- (1) Minimum lot width at building line fifty feet (50').
- (2) Minimum depth of front yard thirty-five feet (35').
- (3) Minimum depth of rear yard twenty feet (20').
- (4) Minimum width of side yards;
 - 1 Story building..... ten feet (10')
 - 2 Story building..... fifteen feet (15')
 - 3 Story building..... twenty feet (20')
 - 4 Story building..... twenty feet (20')

However, commercial buildings may be built next to the common lot line, if the lot line walls have a fire resistance rating equal to that required by the standard building code. (as added by Ord. #10-2013, Dec. 2013)

14-806. Height requirements. No building should shall exceed four (4) stories of fifty feet (50') in height, except as provided in § 14-1103 of this code. (as added by Ord. #10-2013, Dec. 2013)

14-807. Boundaries. The boundaries of the zone shall be designated as outlined on the zoning map attached and on display at the Town Hall of Cumberland Gap, Tennessee. (as added by Ord. #10-2013, Dec. 2013)

CHAPTER 9**H-1 DISTRICT AND FP-1 FLOODPLAIN DISTRICT****SECTION**

14-901. H-1 Historical District.

14-902. FP-1 Floodplain District

14-901. H-1 Historical District. The H-1 Historical District is intended to preserve historical buildings and sites in the Town of Cumberland Gap. The requirements of the district are designed to protect and preserve historic and/or architectural value; provide protection from uses that would lessen the significance of the surrounding uses; create an aesthetic atmosphere; stabilize property values; enhance civic beauty; strengthen the economy; and promote education and cultural heritage of the present and future citizens of the Town of Cumberland Gap. In order to achieve the intent of the H-1 Historical District, as shown on the zoning map, the following regulations shall apply:

(1) No building permit for construction, internal and/or external repair, moving, or demolition to be carried on within the district shall be issued by the building inspector until it is submitted to and receives approval in writing from the Historical Zoning Commission. The historical zoning commission may, however, prepare a listing of prior approvals permitted in the Historical District.

(2) No signs, billboards, and/or other advertising structures shall be permitted to be erected in the H-1 Historical District unless prior approval is granted by the historical zoning commission.

The powers, duties, jurisdiction, and review criteria for the historical zoning commission are found in chapter 14 of this title. (1979 Code, § 11-801, as renumbered by Ord. #9-2005, Oct. 2005, and Ord. #10-2013, Dec. 2013, and amended by Ord. #17-2015, Jan. 2016)

14-902. FP-1 Floodplain District. The intent of the floodplain district is to require restrictions upon the use of lands which lie in floodways and floodplains within the town and to meet federal regulations as developed to implement the Flood Disaster Protection Act of 1973 as amended; thereby protecting persons, property and the community from dangers arising from periodic flooding. The floodplain district is shown on the Cumberland Gap Zoning Map which is a part of this ordinance. The floodplain district is an overlay district. In order to achieve the intent of this district the following regulations shall be required in addition or in lieu of the underlying district regulations.

(1) Within designated floodways, no permanent structures shall be allowed.

(2) Within flood fringe areas uses permitted in the underlying zoning district shall be allowed subject to the conditions established in the regulations governing the National Flood Disaster Act of 1973 as amended. (Ord. #0071, Nov. 1983, as renumbered by Ord. #9-2005, Oct. 2005, Oct. 2005, and Ord. #10-2013, Dec. 2013)

CHAPTER 10

**SUPPLEMENTARY PROVISIONS APPLYING TO SPECIFIC,
TO SEVERAL, OR TO ALL DISTRICTS**

SECTION

- 14-1001. Access control.
- 14-1002. Accessory use regulations.
- 14-1003. Customary home occupations.
- 14-1004. Development standards for cemeteries.
- 14-1005. General lot restrictions.
- 14-1006. Off-street loading and unloading requirements.
- 14-1007. Development standards for mobile homes.
- 14-1008. Off-street parking requirements.
- 14-1009. Signs, billboards, and other advertising structures.
- 14-1010. Gasoline service station provisions.
- 14-1011. Swimming pool restrictions.
- 14-1012. Temporary use regulations.
- 14-1013. Vision at street intersections.
- 14-1014. Planned development regulations.
- 14-1015. Wireless telecommunication towers and antennas.

14-1001. Access control. In order to promote the safety of the motorist and pedestrian and to minimize traffic congestion and conflict by reducing the points of contact, the following regulations shall apply:

- (1) A point of access for vehicles on to a street shall not exceed thirty (30) feet in width.
- (2) There shall be no more than two (2) points of access to any one public street for each four hundred (400) feet of lot frontage, or fraction thereof; provided, however, that lots less than one hundred (100) feet in width shall have no more than one point of access to any public street.
- (3) Where two driveways are provided for one lot frontage, the clear distance between driveways shall not be less than twenty-five (25) feet.
- (4) No point of access shall be allowed within twenty (20) feet of the right-of-way line of any public intersection.
- (5) No curbs on city streets or rights-of-way shall be cut or altered without written approval of the street department, or if a state highway, a permit must be obtained from the Tennessee Department of Highways. (1979 Code, § 11-901, as renumbered by Ord. #9-2005, Oct. 2005, and Ord. #10-2013, Dec. 2013)

14-1002. Accessory use regulations. The uses of land, buildings, and other structures permitted in each of the districts established by chapters 2 through 13 of this title are designated by listing the principal uses. In addition

to such principal uses, accessory uses which are customarily incidental to the permitted principal uses are also permitted in each district. Each accessory use shall:

- (1) Be customarily incidental to the principal use established on the same lot.
- (2) Be subordinate to and serve such principal use.
- (3) Be subordinate in area, intent, and purpose to such principal use.
- (4) Contribute to the comfort, convenience, or necessity of users of such principal use. (1979 Code, § 11-902, as renumbered by Ord. #9-2005, Oct. 2005, and Ord. #10-2013, Dec. 2013)

14-1003. Customary home occupations. A customary home occupation is a gainful occupation or profession conducted by members of a family residing on the premises and conducted entirely within the principal dwelling unit. In connection with a home occupation, no stock in trade shall be displayed outside the dwelling and no alteration to any building shall indicate from the exterior that the building is being utilized in whole or in part for any purpose other than a residential unit, including permitted accessory buildings. (1979 Code, § 11-903, as renumbered by Ord. #9-2005, Oct. 2005, and Ord. #10-2013, Dec. 2013)

14-1004. Development standards for cemeteries. The following regulations shall apply to all cemeteries:

- (1) The site proposed for a cemetery shall not interfere with the development of a system of streets and in addition shall have direct access to a thoroughfare.
- (2) Any new cemetery shall be located on a site containing not less than ten (10) acres.
- (3) All structures and facilities including but not limited to mausoleums, graves, burial lots, monuments, and maintenance buildings shall be set back at least thirty (30) feet from any property line or street right-of-way.
- (4) All required yards shall be landscaped and maintained.
- (5) Proposals for cemeteries must be approved by the board of zoning appeals prior to the issuance of a building permit. (1979 Code, § 11-904, as renumbered by Ord. #9-2005, Oct. 2005, and Ord. #10-2013, Dec. 2013)

14-1005. General lot restrictions. Only one principal building and its customary accessory buildings may be erected on any lot. This provision does not prohibit planned developments as permitted under § 14-814 of this title. No building shall be erected on a lot which does not abut at least one public street, unless an easement at least thirty (30) feet in width to a street is provided. Such building shall conform to the lot and yard requirements of the district in which it is located. When the rear yard of a lot abuts a public street, all structures built in that rear yard shall observe the same setback from the street

line, center line of the street, or property line as required for adjacent properties which front on that street. No lot, even though it may consist of one or more adjacent lots of record, shall be reduced in area so that yards, lot area per family, lot width, building area, or other requirements of chapters 2 through 13 of this title are not maintained. This section shall not apply when a portion of a lot is acquired for a public purpose. (1979 Code, § 11-906, as renumbered by Ord. #9-2005, Oct. 2005, and Ord. #10-2013, Dec. 2013)

14-1006. Off-street loading and unloading requirements. Every building or structure hereafter constructed and used for industry, business, or trade involving the receipt or distribution of vehicles, materials, or merchandise shall provide space for the loading and unloading of vehicles off the street or public alley. Such space shall have access to a public or private alley, or, if there is no alley, to a public street. The minimum required spaces for this provision shall be based on the total usable floor area of each principal building according to the following table:

Total usable floor area in square feet for each principal building	Spaces required
0 to 4,999 sq. ft	One (1) space
5,000 to 9,999 sq. ft.	Two (2) spaces
10,000 to 14,999 sq. ft	Three (3) spaces
15,000 to 19,999 sq. ft.	Four (4) spaces
Over 20,000 sq. ft.	Four (4) spaces plus one (1) space for each additional 20,000 square feet.

(1979 Code, § 11-907, as renumbered by Ord. #9-2005, Oct. 2005, and Ord. #10-2013, Dec. 2013)

14-1007. Development standards for mobile homes. The following land development standards shall apply for all mobile homes:

A single mobile home may be placed on a lot in the Residential District, R-1, provided that it has a permanent concrete or masonry foundation, driveway, means of ingress and egress, and provided all open space, parking, and setback provisions of the district are complied with; and further provided that all applicable housing and building code provisions are complied with. (1979 Code, § 11-908, as renumbered by Ord. #9-2005, Oct. 2005, and Ord. #10-2013, Dec. 2013)

14-1008. Off-street parking requirements. (1) In all districts except the Central Business District there shall be provided, at such time any building or structure is erected or enlarged or increased in capacity, off-street parking spaces. The number of parking spaces provided shall meet the minimum

requirements for the specific uses as set forth below. For uses not specifically mentioned herein, off-street parking requirements shall be determined by the planning commission.

(a) Single and two-family dwellings. Not less than one (1) space for each dwelling unit.

(b) Multiple-family dwellings. Not less than one and one half (1) spaces per dwelling unit.

(c) Boarding houses and rooming houses. Not less than one (1) space for each one (1) room occupied by boarders or roomers.

(d) Hotels, motels, and other tourist accommodations. Not less than one (1) space for each room offered for tourist accommodation.

(e) Commercial building or use. One space for each two hundred (200) square feet of floor space.

(f) Shopping centers. One and one-half (1) spaces for each one hundred (100) square feet of retail floor space.

(g) Medical or dental clinics. Four (4) spaces per doctor or one (1) space for each one hundred (100) square feet of usable floor space, whichever is greater.

(h) Gasoline stations. Three (3) spaces for each grease rack or similar facility.

(i) Theatres, auditoriums, churches, stadiums, or other uses designed to draw an assembly of persons. Not less than one (1) space for each five (5) seating spaces provided in such place of assembly.

(j) Offices. One (1) space for each one hundred (100) square feet of office space.

(k) Restaurants. One (1) space per one hundred and fifty (150) square feet of floor space, plus one (1) space for each two (2) employees. (For drive-in restaurants, one (1) space per fifty (50) square feet of floor area.)

(l) Private clubs and lodges. One (1) space per three (3) members or one (1) space per seventy (70) square feet of usable floor space.

(2) Certification of minimum parking requirements. Each application for a building permit shall include information as to the location and dimensions of off-street parking and loading space and the means of ingress and egress to such place. This information shall be in sufficient detail to enable the building inspector to determine whether or not the requirements of this regulation are met.

(3) Combination of required parking space. The required parking space for any number of separate uses may be combined in one lot but the required space assigned to one use may not be assigned to another use, except that the parking space required for churches, theatres, or assembly halls whose peak attendance will be at night or on Sundays may be assigned to a use which will be closed at night or on Sundays.

(4) Remote parking space. If the off-street parking space required by the zoning code cannot be reasonably provided on the same lot on which the principal use is located, such space may be provided on any land within four hundred (400) feet of any public entrance to such principal use, provided such land is in the same ownership as the principal use.

Such land shall be used for no other purpose so long as no other adequate provision of parking space, meeting the requirements of the zoning code, has been made for the principal use.

(5) Requirements for design of parking lots.

(a) Except for parcels of land devoted to one-and two-family residential uses, all areas devoted to off-street parking shall be so designed and be of such size that no vehicle is required to back into a public street to obtain egress.

(b) Each parking space shall be no less than two hundred (200) square feet in area.

(c) Entrances and exits for all off-street parking lots shall comply with the requirements of chapters 2 through 13 of this title.

(d) The parking lot shall be drained to eliminate surface water. (1979 Code, § 11-909, as renumbered by Ord. #9-2005, Oct. 2005, and Ord. #10-2013, Dec. 2013)

14-1009. Signs, billboards, and other advertising structures.

(1) Purpose of section. The purpose of this section is to create the legal framework for a comprehensive but balanced system of street graphics, and thereby to facilitate an easy and pleasant communication between people and their surroundings. With this purpose in mind, it is the intention of this section to authorize the use of street graphics which are:

- (a) Compatible with their surroundings.
- (b) Appropriate to the type of activity to which they pertain.
- (c) Expressive of the identity of individual proprietors and of the community as a whole.
- (d) Legible in the circumstances in which they are seen.

(2) Table of basic design elements. A Table of Basic Design Elements for street graphics is hereby attached to and made a part of chapters 2 through 13 of this title. Except in areas of special control, no street graphics may be erected, displayed, or substantially altered or reconstructed except in conformance with the Table of Basic Design Elements.

(TABLE OF BASIC DESIGN ELEMENTS)

Signs in Commercial Districts		Items of Information	Wall Sign Area Height		Ground Sign Area Height	Projecting Sign Area Height	
How Seen							
<u>Lanes</u>	<u>Speeds</u>						
2	15	10	40%	*	8	6'	**
2	30	10	40%	*	25	6'	**
2	45	10	40%	*	50	20'	**
2	60*	10	40%	*	100	24'	**
4	All Speeds	10	40%	*	200	35'	**

*See subsection (5) of this section.

**See subsection (6)(b) of this section.

Signs in Floodway Districts. Signs in Floodway Districts must meet the basic design element requirements of that district which the sign is located closest to.

(3) Items of information allowed.

(a) Each land use is entitled to display street graphics containing up to ten items of information on each street or highway to which it has access.

(b) An "item of information" means any of the following: A word; an abbreviation; a number; a symbol; a geometric shape. In addition, graphics combining several different geometric or non-geometrical shapes of unusual configuration are to be assessed one additional item for each non-continuous plane. The name of a business shall not be debited as more than three (3) items of information, no matter the number of words in the name.

(c) In computing items of information, the following lettering is not to be included:

(i) Lettering less than three inches in height, if it is contained in a wall graphic.

(ii) Letters less than 19 inches carved into or securely attached in such a way that they are an architectural detail of a building, provided:

(A) They are not illuminated apart from the building, are not made of a reflecting material, and do not contrast sharply in color with the building; and

(B) Do not exceed one inch in thickness.

(d) Credit card signs, one (1) square foot or less in area, shall not be debited as allowable items of information except for each such sign

over two per business. Then each sign over two (2) is counted as only one (1) item of information.

(e) Provided the items of information allowance authorized by this section is not exceeded, street graphics may be displayed as ground graphics, wall graphics, or projecting graphics, within the limitations and restrictions as further provided by this section.

(4) Ground graphics.

(a) Any activity may display one or more ground graphics of the area and height indicated in the Table of Basic Design Elements, provided:

(i) The activity is accessible by automobile and has off-street parking on the premises; or

(ii) The edge of the building or structure in which the activity is conducted is set back at least thirty-five (35) feet from the edge of the adjacent street or highway right-of-way. The height of a ground graphic shall be measured from the grade at the edge of the right-of-way.

(b) Ground graphics are also subject to the following additional limitations:

(i) A ground graphic which is 12 square feet or more in area may not be closer than 100 feet to any other ground graphic on the same lot which is 12 square feet or more in size;

(ii) An activity may have both ground and projecting graphics if only one of these graphics is six square feet or more in size.

(5) Wall graphics.

(a) Subject to the requirements of the Table of Basic Design Elements, any activity may display wall graphics. Wall graphics may be attached flat to or pinned away from the wall, and may not project from the wall by more than 12 inches.

(b) The permitted area of wall graphics is shown by the Table of Basic Design Elements, which indicates the percentage of the signable area of the building or structure which may be utilized for wall graphics. "Signable area" of the building means an area of the facade of the building up to the roof's eave line which is free of windows and doors or major architectural detail. The person displaying the wall graphic may determine the signable area by choosing one such area on the building facade below the height limits for wall graphics established by this subsection, and by then calculating the number of square feet which are unclosed by an imaginary rectangle or square which is drawn around this area.

(c) In calculating the signable wall area of a building which may be used for wall graphics, the following provisions also apply:

(i) If the graphic is enclosed by a box or outline, the total area of the graphic, including the background, is counted as part of the signable area. If the graphic consists of individual letters, only the area of the letters is counted as part of the signable area;

(ii) If individual letters or a box graphic is placed between window spandrels, the height of the letters or box may not exceed two-thirds of the height of the spandrel;

(iii) A graphic may not cover or interrupt major architectural features.

(d) Wall graphics are subject to the following height regulations:

(i) Wall graphics placed in the space between windows may not exceed in height more than two-thirds of the distance between the top of a window and the sill of the window above, or major architectural details related thereto;

(ii) Wall graphics may not extend above the eaves of the roof of the building to which the graphic is attached.

(6) Projection graphics.

(a) Any commercial or institutional activity may display one projecting graphic on each street frontage. The permitted area of projecting graphics is shown in the Table of Basic Design Elements.

(b) The following additional regulations also apply to projecting graphics:

(i) Projecting graphics must clear sidewalks by at least eight feet, and may project no more than four feet from the building (marquee graphics are excluded from this constraint) or one-third the width of the sidewalk, whichever is less;

(ii) Projecting graphics must be pinned away from the wall at least six inches;

(iii) Projecting graphics are not permitted at the intersection of corners, except at right angles to a building front;

(iv) Projecting graphics may not extend more than twice the allowable projection or to the eaves of the building, whichever is less.

(v) No projecting graphic may be displayed unless the building to which it is attached is 20 feet or more in width, and no projecting graphic may be closer than 50 feet to any other projecting graphic (unless one of the projecting graphics consists solely of a symbol).

(7) Prohibited signs.

(a) Off-premise signs are prohibited. No off-premise sign shall be allowed in any district except as provided herein:

(i) Off-premise signs at intersections. Along any principal arterial or major collector at its intersection with a road leading to a business which business shall not be located on said

arterial or collector, one (1) directional sign for said business may be located.

Along a four-lane highway, two (2) off-premise signs may be located at any one intersection. Along a four-lane highway, an off-premise sign must be located at the near corner of each travel lane (for example, a car traveling north along a highway would view a sign located in the southwest corner of an intersection. A car traveling south approaching the same intersection would view a sign in the northwest corner of the same intersection). Only one side of such an off-premise sign may be used to display advertising symbols. (Therefore, a car driving north in the above mentioned example would view information on the south side of the sign located in the southeast corner of the intersection.)

No other information other than the name and nature of, distance to, and trademark for, each business shall be allowed on such a sign. Arrows may be used on each sign to point the correct direction of each business. Off-premise signs must meet the design element requirement of the district in which it is located, with the exception of the items of information requirement.

In a situation where property is not available at an intersection for the placing of off-premise signs, the Town of Cumberland Gap may permit the location of such signs within the right-of-way of a road, providing that the location of such sign would not interfere with traffic movement and sight distances. Where property is not available and an off-premise sign cannot be satisfactorily located within the adjoining right-of-way, such sign may be located at the closest available property to the appropriate intersection. For such signs, information may be provided to allow for sufficient directions to each individual business advertised on the sign.

(ii) Off-premise directional signs. Off-premise non-promotional directional signs which directional signs direct travelers to the location of certain services and facilities such as parks, schools, and public and semi-public institutions, and which signs shall not exceed two (2) square feet in residential districts and four (4) square feet in all other districts.

(iii) Government signs. Signs established by, or by order of, any governmental agency.

(iv) Temporary posters. Temporary posters as regulated in subsection (9)(d).

(b) Rotating, moving, flashing, changing, reflecting, or blinking signs are prohibited. Signs which rotate, move, flash, reflect, blink, or appear to do any of the foregoing shall be prohibited unless required by law or utilized by a governmental agency.

(c) Signs on public property or right-of-way are prohibited. Signs on public property or right-of-way shall be prohibited unless otherwise authorized in chapters 2 through 13 of this title.

(d) Signs that may be reasonably confused with traffic control devices are prohibited. No sign shall be erected or maintained where by reason of its position, wording, illumination, size, shape, or color it may obstruct, impair, obscure, interfere with the view of, or be confused with, any authorized traffic control signs, signal, or device.

(e) Illuminated signs that reflect light onto residential properties are prohibited. No illuminated sign shall be permitted within fifty (50) feet of property in any residential district unless the illumination of such signs is so designed that it does not shine or reflect light onto such property.

(f) Signs on roofs are prohibited. No signs shall be placed on the roof of any building.

(g) Signs above eave lines and window sills prohibited. A wall graphic may not extend above the eave line of the building to which it is attached. A wall graphic may not extend above the window sill of the second story unless the establishment to which it pertains is located above the first floor, in which case the display may extend as high as the window of the floor above, but no higher.

(8) Signs permitted in any district.

(a) For sale signs. Non-illuminated "for sale", "No Trespassing," "For Rent" or similar signs not exceeding four (4) square feet in area.

(b) Trade construction signs. One sign advertising the various construction trades shall be permitted on construction sites. Such signs shall not exceed thirty-two (32) square feet in area, and shall be removed before a certificate of occupancy is issued.

(c) Government signs. Signs established by, or by order of, any governmental agency.

(d) Professional signs. Professional signs and signs for customary home occupations, which signs shall not exceed three (3) square feet in area in residential districts.

(e) Nameplates. Nameplates no more than two (2) square feet in area indicating name, address, house-number, and announcement of roomers or boarders.

(f) Land subdivision signs. Signs advertising land subdivisions shall be limited to one (1) double-faced sign of thirty-two (32) square feet per side, placed at a right angle to the street or two (2) thirty-two (32) square foot signs facing the street. Such signs should be at least two hundred (200) feet apart and shall be placed on the subdivision. Such signs shall be removed at the end of two (2) years or when ninety (90) percent of the subdivision is sold, whichever occurs first. These signs shall not be illuminated.

One permanent sign, not to exceed thirty-two (32) square feet in area, may be located at each principal entrance to a subdivision. Such sign shall bear no more information than the name of the subdivision.

(g) Lease potential sign. One sign advertising lease potential for future development, not to exceed twelve (12) square feet in area, shall be permitted for a single parcel multiple unit development. However, such a sign shall not be erected except during the course of construction of the building or buildings and all such signs shall be removed before a certificate of occupancy is issued for the building. These signs shall face the street and shall not be illuminated.

(h) Signs for public safety and convenience. When deemed necessary, the building inspector may authorize and approve signs not to exceed five (5) square feet to be used in conjunction with a use allowed in any district to serve the public safety or convenience, such as "Entrance" sign, "Office" sign, "Parking" sign and the like. One sign per business not more than sixteen (16) square feet in area is allowed for use of a parking area. Such signs are not included in computing allowable items of information.

(i) Awnings, canopies, and marquees. These are permitted for all activities in all areas. However, any letters over three inches in height which are displayed on an awning or canopy are debited against the items of information allowance established by subsections (2) and (3) of this section. Awnings and canopies may extend to within one foot of the vertical plane formed by the curb.

(9) General requirements.

(a) Yard requirements. Advertising structures, in districts other than highway commercial districts, shall be located at least one-half ($\frac{1}{2}$) the side, front, and rear yard requirements of the district in which located.

(b) Multiple frontages. If a building has frontage on or access to two or more streets, highways, or expressways, each side of the building is to be separately considered for purposes of determining compliance with the provisions of this section and of the Table of Basic Design Elements. Area allowances for street graphics may be utilized only on the side of the building from which they are calculated.

(c) Lots with more than one (1) business. Where two businesses are located on a single lot, each business is permitted not more than seven (7) items of information. Where three (3) or more businesses are located on the same lot, each business is permitted no more than five (5) items of information. The requirement that a ground graphic which is 12 square feet or more in size still applies in such instances.

(d) Temporary posters, such as political, circus, or auction advertisements. All posters, such as political, circus, or auction

advertisements or the like are subject to the following regulations as well as other applicable requirements of chapters 2 through 13 of this title:

- (i) The applicant shall post a one hundred dollar (\$100) cash bond with the town to guarantee removal of the signs.
- (ii) Each sign shall not exceed five (5) square feet in area.
- (iii) The signs shall not be located closer together than five hundred (500) feet.
- (iv) No such signs shall be allowed in any residential zone.
- (v) Such signs shall not be nailed to trees, fence posts, or public utility poles and shall not be located in the public right-of-way.
- (vi) All such signs advertising events shall be removed within ten (10) days after the event date or the bond posted shall be forfeited and the town shall use whatever part of the bond money as is necessary for removal. Any amount of the bond remaining shall be refunded upon request made within 90 days after the event.
- (vii) No fee or permit shall be required for the right to erect political signs but the applicant, or his agent, shall file with the building inspector a map or sketch, or otherwise adequately locate where the signs will be erected.
- (e) Obstructing signs. No sign shall be erected, constructed, or maintained so as to obstruct any fire escape or any window or door opening used as a means of egress or so as to prevent free passage from one part of a roof to any other part thereof, nor shall any such sign be attached in any form, shape, or manner as to interfere with any opening required for legal ventilation.
- (f) Signs in rights-of-way and on utility poles. No sign shall be erected or otherwise fixed to any utility poles. Nor shall any sign be erected on or otherwise fixed to any poles, tree, stone, fence, building, structure, or other object within the right-of-way of any street.
- (g) Signs facing private property prohibited. All signs authorized hereunder must be placed on the side of property facing on public or private right-of-way.
- (h) Time and temperature devices are permitted in any commercial district. They may be on the ground, projecting, or attached to the wall, and are subject to the regulations applicable to ground, projecting, and wall graphics. Only those symbols relating to a business are debited as allowable items of information.
- (i) Banners. Banners are permitted only for commercial and institutional activities. Each unworded banner counts as one (1) item of information. Worded banners are considered as any sign in reference to items of information.

(j) Temporary window graphics. These are permitted for all commercial activities in all areas. They may not exceed more than 25 percent of the area of the window in which they are displayed.

(k) Vision at street intersections. On a corner lot in intersecting or intercepting streets and a line joining points of such center lines at a distance of seventy-five (75) feet from their intersection, no sign shall be located that would obstruct vision between the height of three (3) feet and a height of ten (10) feet above the average grade of each street.

(10) Areas of special control. Information centers: As special exceptions and under the procedures outlined in chapters 2 through 13 of this title pertaining to special exceptions, the Cumberland Gap Board of Zoning Appeals may permit the establishment of information centers in any commercial district although the design of the project does not include standard signs and advertising displays, allowable numbers of signs, and allowable items of information, providing the departure from the foregoing standards can be made without destroying their intent. Signs in such information centers must be so oriented or screened that information on the signs is not highly viewable from any road right-of-way other than drives that are located within the information center itself. Height requirements may not be waived or varied under the terms of this section.

(11) Amortization.

(a) Any street graphic sign or other advertising device in existence on the effective date of the provisions of chapters 2 through 13 of this title which does not comply with the above regulations is deemed a non-conforming sign. Such a display shall be allowed to remain in existence for a length of time commensurate with initial costs as indicated in the following amortization schedule:

<u>Initial cost</u>	<u>Amortization period</u>
Less than \$100	6 months
\$100 to \$499.99	1 year
\$500 to \$999.99	2 years
\$1,000 to \$2,999.99	3 years
\$3,000 to \$5,000	4 years
Over \$5,000	5 years

(b) The owner or operator of any non-conforming sign must furnish the building inspector with acceptable proof of initial costs in the form of one of the following:

- (i) An original bill of sale;
- (ii) Depreciation schedules from federal or state tax returns;
- (iii) A written appraisal by a sign manufacturer.

(c) If more than one street graphic permitted for an activity is or becomes non-conforming, the original cost of all the street graphics so displayed shall be aggregated for purposes of determining the applicable

amortization period. (1979 Code, § 11-910, as renumbered by Ord. #9-2005, Oct. 2005, and Ord. #10-2013, Dec. 2013)

14-1010. Gasoline service station provisions. The following regulations shall apply to all gasoline service stations:

(1) There shall be a building setback from all street right-of-way lines of a distance of not less than forty (40) feet.

(2) Gasoline pumps shall not be located closer than fifteen (15) feet to any street right-of-way line.

(3) Sign requirements as established in this chapter shall be met. (1979 Code, § 11-911, as renumbered by Ord. #9-2005, Oct. 2005, and Ord. #10-2013, Dec. 2013)

14-1011. Swimming pool restrictions. The following regulation shall apply to all swimming pools:

(1) No swimming pool or part thereof, excluding aprons and walks, shall protrude into any required front yard in the Residential Districts, R-1 and R-2.

(2) The swimming pool area shall be walled or fenced so as to prevent uncontrolled access by children and pets from the street or from adjacent properties. Said fence or wall shall be not less than three (3) feet in height and maintained in good condition.

(3) Private swimming pools are permitted in R-1 and C-2 Districts provided that the pool is intended, and is to be used, solely for the enjoyment of the occupants and their guests of the property on which it is located. (1979 Code, § 11-912, as renumbered by Ord. #9-2005, Oct. 2005, and Ord. #10-2013, Dec. 2013)

14-1012. Temporary use regulations. The following regulations are necessary to govern the operation of certain necessary or seasonal uses non-permanent in nature. Application for a temporary use permit shall be made to the building inspector. Said application shall contain a graphic description of the property to be utilized and a site plan, a description of the proposed use, and sufficient information to determine yard requirements, setbacks, sanitary facilities, and parking space for the proposed temporary use. The following uses are deemed to be temporary uses and shall be subject to the specific regulations and time limits which follow and to the regulations of any district in which such use is located:

(1) Carnival or circus: May obtain a temporary use permit in the C-1 and C-2 districts; however, such permit shall be issued for a period of not longer than fifteen (15) days.

(2) Christmas tree sale: May obtain a 30-day temporary use permit for the display of Christmas trees on open lots in any district.

(3) Real estate sales office: In any district, a temporary use permit may be issued for a temporary real estate sales office in any new subdivision. Such office shall contain no living accommodations. The permit will be valid for one (1) year, but may be granted two (2) six-month extensions. Such office shall be removed upon completion of the development of the subdivision or upon expiration of the temporary use permit, whichever occurs sooner.

(4) Religious tent meetings: In any district, a temporary use permit shall be issued for a tent or other temporary structures to house a religious meeting. Such permit shall be issued for not more than a 30-day period.

(5) Seasonal sale of farm products: In any district, a temporary use permit may be issued for the sale of farm produce. Structures utilized for such sales shall be removed when not in use. The permit shall be issued for a five-month period. All structures must be set back from the roadway a minimum of thirty-five (35) feet.

(6) Temporary buildings: In any district, a temporary use permit may be issued for a contractor's temporary office and equipment sheds incidental to a construction project. Such permit shall not be valid for more than one (1) year but may be renewed for six-month extensions; however, not more than three (3) extensions shall be granted to a particular use. Such use shall be removed upon completion of the construction project, or upon expiration of the temporary use permit, whichever occurs sooner. (1979 Code, § 11-913, as renumbered by Ord. #9-2005, Oct. 2005, and Ord. #10-2013, Dec. 2013)

14-1013. Vision at street intersections. On a corner lot not in the central business district within the area formed by the center lines of the intersecting or intercepting streets and a line joining points on such center lines at a distance of thirty (30) feet from their intersection, there shall be no obstruction to vision between the height of three and one-half (3) feet and ten (10) feet above the average grade of each street at the center line thereof. The requirements of this section shall not be construed to prohibit any necessary retaining wall. (1979 Code, § 11-914, as renumbered by Ord. #9-2005, Oct. 2005, and Ord. #10-2013, Dec. 2013)

14-1014. Planned development regulations. In the case of planned developments of two or more buildings to be constructed on a plat of ground of four (4) acres or more, not subdivided into the customary streets and lots and which will not be so subdivided, or where the existing or contemplated street and lot lay-out makes it impracticable to apply the requirements of chapters 2 through 13 of this title to the individual building units in such group housing the application of the terms of chapters 2 through 13 of this title may be varied by the board of zoning appeals in a manner which will be in harmony with the character of the neighborhood and which will insure an intensity of land use no higher and a standard of open space no lower than that permitted by chapters 2 through 13 of this title in the district in which the proposed housing is to be

located. However, in no case shall the board of zoning appeals authorize a use prohibited in the district in which the housing is to be located, or a smaller lot area per family than the minimum required in such district, or a greater height or a larger coverage than the requirements chapters 2 through 13 of this title permit in such a district. (1979 Code, § 11-915, as renumbered by Ord. #9-2005, Oct. 2005, and Ord. #10-2013, Dec. 2013)

14-1015. Wireless telecommunication towers and antennas.

(1) Purpose. The purpose of this section is to establish general guidelines for the siting of wireless communication towers and antennas. The goals of this section are to:

(a) Protect residential areas and land uses from potential adverse impacts of towers and antennas;

(b) Encourage the location of towers in non-residential areas;

(c) Minimize the total number of towers throughout the community;

(d) Strongly encourage the joint use of new and existing tower sites as a primary option rather than construction of additional single-use towers;

(e) Encourage users of towers and antennas to locate them, to the extent possible, in areas where the adverse impact on the community is minimal;

(f) Encourage users of towers and antennas to configure them in a way that minimizes the adverse visual impact of the towers and antennas through careful design, siting, landscape screening, and innovative camouflaging techniques;

(g) Enhance the ability of the providers of telecommunications services to provide such services to the community quickly, effectively, and efficiently;

(h) Consider the public health and safety of communication towers; and

(i) Avoid potential damage to adjacent properties from tower failure through engineering and careful siting of tower structures. In furtherance of these goals, the town council shall give due consideration to the Town of Cumberland Gap's master plan, zoning map, existing land uses, and environmentally sensitive areas in approved sites for the location of towers and antennas.

(2) Definitions. As used in this section, the following terms shall have the meanings set forth below: (a) "Alternative tower structure" means man-made trees, clock towers, bell steeples, light poles and similar alternative-design mounting structures that camouflage or conceal the presence of antennas or towers.

(b) "Antenna" means any exterior transmitting or receiving device mounted on a tower, building or structure and used in

communications that radiate or capture electromagnetic waves, digital signals, analog signals, radio frequencies (excluding radar signals), wireless telecommunications signals or other communication signals.

(c) "Backhaul network" means the lines that connect a provider's towers/cell sites to one (1) or more cellular telephone switching offices, and/or long distance providers, or the public switched telephone network.

(d) "FAA" means the Federal Aviation Administration.

(e) "FCC" means the Federal Communications Commission.

(f) "Height" means, when referring to a tower or other structure, the distance measured from the finished grade of the parcel to the highest point on the tower or other structure, including the base pad and any antenna.

(g) "Tower" means any structure that is designed and constructed primarily for the purpose of supporting one (1) or more antennas for telephone, radio and similar communication purposes, including self-supporting lattice towers, guyed towers, or monopole towers. The term includes radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, alternative tower structures, and the like. The term includes the structure and any support thereto.

(3) Applicability. (a) New towers and antennas. All new towers or antennas in the Town of Cumberland Gap shall be subject to these regulations, except as provided in 3(b) through (d), inclusive.

(b) Amateur radio station operator/receive only antennas. § 14-1003 shall not govern any tower, or the installation of any antenna, that is under forty (40) feet in height and is owned and operated by an amateur radio station operator or is used exclusively for receive only antennas. All other applicable regulations to towers forty (40) feet and found within this section shall continue to apply.

(c) Preexisting towers or antennas. Preexisting towers and preexisting antennas shall not be required to meet the requirements of this section, other than the requirements of sections 4(f) and 4(g).

(d) AM array. For purposes of implementing this section, an AM array, consisting of one (1) or more tower units and supporting ground system which functions as on AM broadcasting antenna, shall be considered one (1) tower. Measurements for setbacks and separation distances shall be measured from the outer perimeter of the towers included in the AM array. Additional tower units may be added within the perimeter of the AM array by right.

(4) General requirements. (a) Principal or accessory use. Antennas and towers may be considered either principal or accessory uses. A different existing use of an existing structure on the same lot shall not preclude the installation of an antenna or tower on such lot.

(b) Lot size. For purposes of determining whether the installation of a tower or antenna complies with district development regulations, including but not limited to setback requirements, lot-coverage requirements, and other such requirements, the dimensions of the entire lot shall control, even though the antennas or towers may be located on leased parcels within such lot.

(c) Inventory of existing sites. Each applicant for an antenna and/or tower shall provide to the planning commission an inventory of its existing towers, antennas, or sites approved for towers or antennas that are either within the jurisdiction of the Town of Cumberland Gap or within Cumberland Gap's planning region thereof, including specific information about the location, height, and design of each tower. The planning commission may share such information with other applicants applying for administrative approvals or special use permits under this title or other organizations seeking to locate antennas within the jurisdiction of the Town of Cumberland Gap, provided, however that the planning commission is not, by sharing such information, in any way representing or warranting that such sites are available or suitable for tower construction.

(d) Aesthetics. Towers and antennas shall meet the following requirements:

(i) Towers shall either maintain a galvanized steel finish or, subject to any applicable standards of the FAA, be painted a neutral color so as to reduce visual obtrusiveness.

(ii) At a tower site, the design of the buildings and related structures shall, to the extent possible, use materials, colors, textures, screening, and landscaping that will blend them into the natural setting and surrounding buildings.

(iii) If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible.

(iv) The use of stealth type hidden/disguise antennas are to be encouraged by any applicant and given preference for a tower building permit in any area near a residential zone.

(e) Lighting. Towers shall not be artificially lighted, unless required by the FAA or other applicable authority. If lighting is required, the lighting alternatives and design chosen must cause the least disturbance to the surrounding views. Where lighting is required by FAA such lighting shall be of the "dual lighting" provisions as defined by the FAA (white during the day and red during the evening hours) or in the alternative, the structure may be red lighted and marked (painted) as

prescribed by the FAA regulations. White flashing lighting at night is strictly prohibited under this section.

(f) State or federal requirements. All towers must meet or exceed current standards and regulations of the FAA, the FCC, and any other agency of the state or federal government with the authority to regulate towers and antennas. If such standards and regulations are changed, then the owners of the towers and antennas governed by this section shall bring such towers and antennas into compliance with such revised standards and regulations within six (6) months of the effective date of such standards and regulations, unless a different compliance schedule is mandated by the controlling state or federal agency. Failure to bring towers and antennas into compliance with such revised standards and regulations shall constitute grounds for the removal of the tower or antenna at the owner's expense.

(g) Building codes: safety standards. To ensure the structural integrity of towers, the owner of a tower shall ensure that it is maintained in compliance with standards contained in applicable state or local building codes and the applicable standards for towers that are published by the Electronic Industries Association, as amended from time to time. If, upon inspection, the Town of Cumberland Gap concludes that a tower fails to comply with such codes and standards and constitutes a danger to persons or property, then upon notice being provided to the owner of the tower, the owner shall have thirty (30) days to bring such tower into compliance with such standards. Failure to bring such tower into compliance within said thirty (30) days shall constitute grounds for the removal of the tower or antenna at the owner's expense.

(h) Measurement. For purposes of measurement, tower setbacks and separation distances shall be calculated and applied to facilities located in the Town of Cumberland Gap irrespective of municipal and county jurisdictional boundaries.

(i) Franchises. Owners and/or operators of towers or antennas shall certify that all franchises, authorizations, licenses, and/or permits required by law for the construction and/or operation of a wireless communication system in the Town of Cumberland Gap have been obtained and shall file a copy of all required franchises with the town.

(j) Public notice. For purposes of this section, any special use request, variance request, or appeal of an administratively approved used or special use shall require public notice to all abutting property owners and all property owners of properties that are located within the corresponding separation distance listed in subsection 7(b)(5)(ii), table 2, in addition to any notice otherwise required by the zoning ordinance.

(k) Signs. No signs shall be allowed on an antenna or tower except for any structure identification sign as may be required by the FCC or the FAA. Such sign is not to exceed ten (10) inches by fifteen (15)

inches and is to be mounted at the base of the structure no higher than _____ feet from the ground.

(l) Buildings and support equipment. Buildings and support equipment associated with antennas or towers shall comply with the requirements of subsection (8).

(m) Multiple antenna/tower plans. The Town of Cumberland Gap encourages the users of towers and antennas to submit a single application for approval of multiple towers and/or antenna sites. Applications for approval of multiple sites shall be given priority in the review process.

(5) Exceptions. (a) The provisions of this part shall not apply to:

(i) Antennas or towers located on property owned, leased, or otherwise controlled by the town and under forty (40) feet in height.

(ii) Antennas or towers located on property owned, leased, or otherwise controlled by the town and over forty (40) feet in height, and in accordance with subsections (6)(a) and (b) of this part.

(6) Administratively approved uses. (a) General. The following provisions shall govern the issuance of administrative approvals for towers and antennas:

(i) The planning commission may administratively approve the uses listed in this section.

(ii) Each applicant for administrative approval shall apply to the planning commission providing the information set forth in (7)(b)(i) and (7)(b)(ii) of this section and a nonrefundable fee as established by resolution of the town council to reimburse the Town of Cumberland Gap for the costs of reviewing the application.

(iii) The planning commission shall review the application for administrative approval and determine if the proposed use complies with subsections (7)(b)(iv) and (7)(b)(v) of this section.

(iv) The planning commission shall respond to each such application within sixty (60) days after receiving it by either approving or denying the application. If the planning commission fails to respond to the applicant within said sixty (60) days, then the application shall be deemed to be approved.

(v) In connection with any such administrative approval, the planning commission may, in order to encourage the use of monopoles, administratively allow the reconstruction of an existing tower to monopole construction.

(vi) If an administrative approval is denied, the applicant shall file an application for a special use permit pursuant to

subsection (7) of this section and other applicable provisions of the special use permit found in title 14, chapter 12.

(b) List of administratively approved uses. The following uses may be approved by the planning commission after conducting an administrative review:

(i) Locating a tower or antenna, including the placement of additional buildings or other supporting equipment used in connection with said tower or antenna, in any business/transportation zone

(ii) Locating antennas on existing structures or towers consistent with the terms of subsections (A) and (B) below:

(A) Antennas on existing structures. Any antenna which is not attached to a tower may be approved by the planning commission as an accessory use to any commercial, industrial, professional, institutional, or multi-family structure of eight or more dwelling units, provided:

(1) The antenna does not extend more than ten (10) feet above the highest point of the structure; the main structure cannot exceed a maximum of fifty (50) feet; and

(2) The antenna complies with all applicable FCC and FAA regulations; and

(3) The antenna complies with all applicable building codes.

(B) Antennas on existing towers. An antenna which is attached to an existing tower may be approved by the planning commission and, to minimize adverse visual impacts associated with the proliferation and clustering of towers, collocation of antennas by more than one (1) carrier on existing towers shall take precedence over the construction of new towers, provided such collocation is accomplished in a manner consistent with the following:

(1) A tower which is modified or reconstructed to accommodate the collocation of an additional antenna shall be of the same tower type as the existing tower, unless the planning commission allows reconstruction as a monopole.

(2) Height.

(i) An existing tower may be modified or rebuilt to a taller height, not to exceed fifty (50) feet total height, to accommodate the collocation of an additional antenna.

(ii) The height change referred to in subsection (iii)(A) may only occur one (1) time per communication tower.

(iii) The additional height referred to in subsection (iii)(A) shall not require an additional distance separation as set forth in subsection (7). The tower's premodification height shall be used to calculate such distance separations.

(3) Onsite location.

(i) A tower which is being rebuilt to accommodate the collocation of an additional antenna may be moved onsite within fifty (50) feet of its existing location.

(ii) After the tower is rebuilt to accommodate collocation, only one (1) tower may remain on the site.

(iii) A relocated onsite tower shall continue to be measured from the original tower location for purposes of calculating separation distances between towers pursuant to subsection (7)(b)(v). The relocation of a tower hereunder shall in no way be deemed to cause a violation of subsection (7)(b)(v).

(iv) The onsite relocation of a tower which comes within the separation distances to residential units or residentially zoned lands as established in (7)(b)(v) shall only be permitted when approved by the planning commission.

(iii) New towers in non-residential zoning districts. Locating any new tower in a non-residential zoning district provided a licensed professional engineer certifies the tower can structurally accommodate the number of shared users proposed by the applicant; the planning commission concludes the tower has no electrical disturbance or interference (no manufacturing, processing or assembling use may create any electrical disturbance that adversely affects any operation or equipment other than those of the creator of such disturbance, or otherwise cause, create, or contribute to the interference with electronic signals (including television and radio broadcasting transmissions) to the extent that the operation of any equipment not owned

by the creator of such disturbance is adversely affected); and the requirements of subsection (4); the tower meets the setback requirements in subsection (7)(b)(iv) and separation distances in subsection (7)(b)(v) and all other provisions in subsection (7); and the tower meets the following height and usage criteria:

(A) For a single user, up to fifty (50) feet total height of main structure;

(B) For two (2) users, up to fifty (50) feet total height of main structure; and

(C) For three (3) or more users, fifty (50) feet total height of main structure;

(iv) Locating any alternative tower structure in a zoning district other than industrial or heavy commercial that in the judgment of the planning commission is in conformity with the goals set forth subsection (10) of this section.

(v) Installing a cable microcell network through the use of multiple low-powered transmitters/receivers attached to existing wireline systems, such as conventional cable or telephone wires, or similar technology that does not require the use of towers.

(7) Special use permits. (a) General. The following provisions shall govern the **issuance** of special use permits for towers or antennas by the board of zoning appeals.

(i) If the tower or antenna is not a permitted use under subsection (5) of this section or permitted to be approved administratively pursuant to subsection (6) of this section, then a special use permit shall be required for the construction of a tower or the placement of an antenna in all zoning district classifications.

(ii) Applications for special use permits under this section shall be subject to the procedures and requirements of title 14, chapter 12, except as modified in this section.

(iii) In granting a special use permit, the board of zoning appeals may impose conditions to the extent the board of zoning appeals concludes such conditions are necessary to minimize adverse effects of the proposed tower on adjoining properties.

(iv) Any information of an engineering nature that the applicant submits, whether civil, mechanical, or electrical, shall be certified by a licensed professional engineer under the guidelines of the State of Tennessee for such certifications.

(v) An applicant for a special use permit shall submit the information described in this section and a non-refundable fee as established by resolution of the town council to reimburse the

Town of Cumberland Gap for the costs of reviewing the application.

(b) Towers.

(i) Information required. In addition to any information required for applications for special use permits pursuant to title 14, chapter 12, applicants for a special use permit for a tower shall submit the following information:

(A) A scaled site plan clearly indicating the location, type and height of the proposed tower, on-site land uses and zoning, adjacent land uses and zoning (including when adjacent to other municipalities), master plan classification of the site and all properties within the applicable separation distances set forth in subsection (7)(b)(v), adjacent roadways, proposed means of access, setbacks from property lines, elevation drawings of the proposed tower and any other structures, topography, parking, and other information deemed by the planning commission to be necessary to assess compliance with this section.

(B) Legal description of the parent tract and leased parcel (if applicable). The setback distance between the proposed tower and the nearest residential unit, platted residentially zoned properties, and unplatted residentially zoned properties.

(C) The separation distance from other towers described in the inventory of existing sites submitted pursuant to subsection (4)(c) shall be shown on an updated site plan or map. The applicant shall also identify the type of construction of the existing tower(s) and the owner/operator of the existing tower(s), if known.

(D) A landscape plan showing specific landscape materials.

(E) Method of fencing, and finished color and, if applicable, the method of camouflage and illumination.

(F) A description of compliance with subsections (4)(c), (d), (e), (f), (g), (j), (l), and (m), (7)(b)(iv), (7)(b)(v) and all applicable federal, state or local laws.

(G) A notarized statement by the applicant as to whether construction of the tower will accommodate collocation of additional antennas for future users.

(H) A description of the suitability of the use of existing towers, other structures or alternative technology not requiring the use of towers or structures to provide the

services to be provided through the use of the proposed new tower.

(I) A description of the feasible location(s) of future towers or antennas within the Town of Cumberland Gap based upon existing physical, engineering, technological or geographical limitations in the event the proposed tower is erected.

(J) A copy of the stress analysis of the proposed structure including reasonably anticipated loads of additional users, and certified by a State of Tennessee licensed professional engineer.

(ii) Factors considered in granting special use permits for towers. In addition to any standards for consideration of special use permit applications pursuant to title 14, chapter 12, the board of zoning appeals shall consider the following factors in determining whether to issue a special use permit, although the board of zoning appeals may waive or reduce the burden on the applicant of one (1) or more of these criteria if the board of zoning appeals concludes that the goals of this section are better served thereby:

(A) Height of the proposed tower;

(B) Proximity of the tower to residential structures and residential district boundaries;

(C) Nature of uses on adjacent and nearby properties;

(D) Surrounding topography;

(E) Surrounding tree coverage and foliage;

(F) Design of the tower, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness;

(G) Proposed ingress and egress; and

(H) Availability of suitable existing towers, other structures, or alternative technologies not requiring the use of towers or structures, as discussed in subsection (7)(b)(iii) of this section.

(iii) Availability of suitable existing towers, other structures, or alternative technology. No new tower shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the board of zoning appeals that no existing tower, structure or alternative technology that does not require the use of towers or structures can accommodate the applicant's proposed antenna. An applicant shall submit information requested by the board of zoning appeals related to the availability of suitable existing towers, other structures or alternative technology.

Evidence submitted to demonstrate that no existing tower, structure or alternative technology can accommodate the applicant's proposed antenna may consist of any of the following:

(A) No existing towers or structures are located within the geographic area which meets applicant's engineering requirements.

(B) Existing towers or structures are not of sufficient height to meet applicant's engineering requirements.

(C) Existing towers or structures do not have sufficient structural strength to support applicant's proposed antenna and related equipment.

(D) The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna on the existing towers or structures would cause interference with the applicant's proposed antenna.

(E) The fees, costs, or contractual provisions required by the owner in order to share an existing tower or structure or to adapt an existing tower or structure for sharing are unreasonable. Costs exceeding new tower development are presumed to be unreasonable.

(F) The applicant demonstrates that there are other limiting factors that render existing towers and structures unsuitable.

(G) The applicant demonstrates that an alternative technology that does not require the use of towers or structures, such as a cable microcell network using multiple low-powered transmitters/receivers attached to a wireline system, is unsuitable. Costs of alternative technology that exceed new tower or antenna development shall not be presumed to render the technology unsuitable.

(H) Self supporting structures are to be encouraged over guyed towers. Applicant must demonstrate that a self-supported structure is not feasible before any guyed tower will be approved.

(iv) Setbacks. The following setback requirements shall apply to all towers for which a special use permit is required; provided, however, that the board of zoning appeals may reduce the standard setback requirements if the goals of this section would be better served thereby:

(A) Towers must be set back a distance equal to at least seventy-five percent (75%) of the height of the tower from any adjoining lot line.

(B) Guys and accessory buildings must satisfy the minimum zoning district setback requirements.

(v) Separation. The following separation requirements shall apply to all towers and antennas for which a special use permit is required; provided, however, that the board of zoning appeals may reduce the standard separation requirements if the goals of this section would be better served thereby.

(A) Separation from off-site uses/designated areas.

(1) Tower separation shall be measured from the base of the tower to the lot line of the off-site uses and/or designated areas as specified in table 1, except as otherwise provided in table 1.

(2) Separation requirements for towers shall comply with the minimum standards established in table 1.

Table 1:

Off-site Use/Designated Area	Separation Distance
Single-family or duplex residential units	200 feet or 300% height of tower whichever is greater
Vacant single-family or duplex residentially zoned land which is either platted or has preliminary subdivision plan approval which is not expired	200 feet or 300% height of tower whichever is greater
Vacant unplatted residentially zoned lands	200 feet or 200% height of tower whichever is greater
Existing multi-family residential units greater than duplex units	200 feet or 100% height of tower whichever is greater
Non-residentially zoned lands or non-residential uses	None; only setbacks apply

(B) Separation distances between towers.

(1) Separation distances between towers shall be applicable for and measured between the proposed tower and preexisting towers. The separation distances shall be measured by drawing or following a straight line between the base of the existing tower and the proposed base, pursuant to a site plan, of the proposed tower. The separation

distances (listed in linear feet) shall be as shown in table 2.

Table 2:
Existing Towers - Types

	Lattice	Guyed	Monopole 50 ft. in height	Monopole less than 50 ft. in height
Lattice	5,000	5,000	5,000	750
Guyed	5,000	5,000	5,000	750
Monopole 75 ft in height or greater	1,500	1,500	1,500	750
Monopole less than 75 ft in height	750	750	750	750

(vi) Security fencing. Towers shall be enclosed by security fencing not less than six (6) feet in height and shall also be equipped with an appropriate anti-climbing device; provided however, that the board of zoning appeals may waive such requirements, as it deems appropriate.

(vii) Landscaping. The following requirements shall govern the landscaping surrounding towers for which a special use permit is required; provided, however, that the board of zoning appeals may waive such requirements if the goals of this section would be better served thereby.

(A) Tower facilities shall be landscaped with a buffer of plant materials that effectively screens the view of the tower compound from property used for residences. The standard buffer shall consist of a landscaped strip at least four (4) feet wide outside the perimeter of the compound.

(B) In locations where the visual impact of the tower would be minimal, the landscaping requirement may be reduced or waived.

(C) Existing mature tree growth and natural land forms on the site shall be preserved to the maximum extent possible. In some cases, such as towers sited on large, wooded lots, natural growth around the property perimeter may be sufficient buffer.

(8) Buildings or other equipment storage. (a) Antennas mounted on structures or rooftops. The equipment cabinet or structure used in association with antennas shall comply with the following:

(i) The cabinet or structure shall not contain more than one hundred (100) square feet of gross floor area or be more than twelve (12) feet in height. In addition, for buildings and structures which are less than fifty (50) feet in height, the related unmanned equipment structure, if over one hundred (100) square feet of gross floor area or twelve (12) feet in height, shall be located on the ground and shall not be located on the roof of the structure.

(ii) If the equipment structure is located on the roof of a building, the area of the equipment structure and other equipment and structures shall not occupy more than ten percent (10%) of the roof area.

(iii) Equipment storage buildings or cabinets shall comply with all applicable building codes.

(b) Antennas mounted on utility poles or light poles. The equipment cabinet or structure used in association with antennas shall be located in accordance with the following:

(i) In residential districts, the equipment cabinet or structure may be located:

(A) In a front or side yard provided the cabinet or structure is no greater than twelve (12) feet in height or one hundred (100) square feet of gross floor area and the cabinet/structure is located a minimum of twenty-five (25) feet from all lot lines. The cabinet/structure shall be screened by an evergreen hedge with an ultimate height of at least forty-two to forty-eight (42-48) inches and a planted height of at least thirty-six (36) inches.

(B) in a rear yard provided the cabinet or structure is no greater than twelve (12) feet in height or one hundred (100) square feet in gross floor area. The cabinet/structure shall be screened by an evergreen hedge with an ultimate height of eight (8) feet and a planted height of at least thirty-six (36) inches.

(ii) In business/transportation districts the equipment cabinet or structure shall be no greater than twenty (20) feet in height or two hundred (200) square feet in gross floor area. The structure or cabinet shall be screened by an evergreen hedge with an ultimate height of eight (8) feet and a planted height of at least thirty-six (36) inches. In all other instances, structures or cabinets shall be screened from view of all residential properties which abut or are directly across the street from the structure or cabinet by a solid fence six (6) feet in height or an evergreen hedge with

ultimate height of twelve (12) feet and a planted height of at least thirty-six (36) inches.

(c) Equipment structures to be located on towers. The related unmanned equipment structure shall not contain more than one hundred (100) square feet of gross floor area or be more than twelve (12) feet in height, and shall be located no closer than forty (40) feet from all lot lines.

(d) Modification of building size requirements. The requirements of subsections 8(a) through (c) may be modified by the planning commission in case of administratively approved uses or by the board of zoning appeals in case of uses permitted by special use to encourage collocation.

(9) Removal of abandoned antennas and towers. Any antenna or tower that is not operated for a continuous period of twelve (12) months shall be considered abandoned, and the owner of such antenna or tower shall remove the same within ninety (90) days of receipt of notice from the Town of Cumberland Gap notifying the owner of such abandonment. Failure to remove an abandoned antenna or tower within said ninety (90) days shall be grounds to remove the tower or antenna at the owner's expense. If there are two (2) or more users of a single tower, then this provision shall not become effective until all users abandon the tower.

(10) Nonconforming uses. (a) Preexisting towers. Preexisting towers shall be allowed to continue their usage as they presently exist. Routine maintenance (including replacement with a new tower of like construction and height) shall be permitted on such preexisting towers. New construction other than routine maintenance on a preexisting tower shall comply with the requirements of this section. Any expansion of an existing use shall be reviewed and permitted according to the terms of this section.

(b) Rebuilding damaged or destroyed nonconforming towers or antennas. Notwithstanding subsection (9), bona fide nonconforming towers or antennas that are damaged or destroyed may be rebuilt without having to first obtain administrative approval or a special use permit and without having to meet the separation requirements specified in subsections (7)(b)(iv) and (7)(b)(v). The type, height, and location of the tower onsite shall be of the same type and intensity as the original facility approval. Building permits to rebuild the facility shall comply with the then applicable building codes and shall be obtained within one hundred eighty (180) days from the date the facility is damaged or destroyed. If no permit is obtained or if said permit expires, the tower or antenna shall be deemed abandoned as specified in subsection (9). (as added by Ord. #7-2007, Jan. 2008, and renumbered by Ord. #10-2013, Dec. 2013)

CHAPTER 11

EXCEPTIONS AND MODIFICATIONS

SECTION

- 14-1101. Scope.
- 14-1102. Non-conforming uses.
- 14-1103. Exceptions to height limitations.
- 14-1104. Lots of record.
- 14-1105. Exceptions to front setback requirements.
- 14-1106. Minimum lot size.

14-1101. Scope. This chapter is devoted to providing for the necessary exceptions and modifications to the specific zoning district provisions and supplementary provisions provided elsewhere in chapters 2 through 13 of this title. (1979 Code, § 11-1001, as renumbered by Ord. #9-2005, Oct. 2005, and Ord. #10-2013, Dec. 2013)

14-1102. Non-conforming uses. It is the intent of chapters 2 through 13 of this title to recognize that the elimination, as expeditiously as is reasonable, of the existing buildings and structures or uses that are not in conformity with the provisions hereof is as much a subject of health, safety, and welfare as is the prevention of the establishment of new uses that would violate the provisions of chapters 2 through 13 of this title. It is also the intent of chapters 2 through 13 of this title to so administer the elimination of non-conforming uses, buildings, and structures as to avoid an unreasonable invasion of established private property rights. Lawful non-conforming uses, buildings, and structures existing at the time of the passage of the provisions of chapters 2 through 13 of this title or any amendment thereto, shall be allowed to remain subject to the following provisions:

(1) An existing non-conforming use of a building may be changed to a conforming use or to another non-conforming use of the same classification; provided, however, that establishment of another non-conforming use of the same classification shall be subject to such conditions as the board of zoning appeals may require in order to protect the area.

(2) A non-conforming use of land or building which is being used as a commercial use may be expanded; provided that it is expanded in accordance with provisions of the district in which it is located, and that land used for expansion was not purchased after the enactment of the provisions of chapters 2 through 13 of this title.

(3) When a non-conforming use of any structure or land, excepting non-conforming mobile homes, has been discontinued for a period of six (6) months, it shall not be reestablished or changed to any use not in conformity

with the provisions of chapters 2 through 13 of this title. Immediately upon the removal of a non-conforming mobile home or discontinuance of a non-conforming mobile home or travel trailer park, the non-conformity of such structure and use of land shall lapse.

(4) Any non-conforming building or non-conforming use which is damaged by fire, flood, wind, or other act of God or man, may be reconstructed and used as before if it be done within twelve (12) months of such damage, unless damaged to the extent of more than seventy-five (75) percent of its fair sales value immediately prior to damage in which case any repair or reconstruction shall be in conformity with the provisions of chapters 2 through 13 of this title.

(5) A non-conforming building or building housing a non-conforming use shall not be structurally altered except in conformance with the provisions of chapters 2 through 13 of this title. This provision shall not be construed to prevent maintenance and repairs or alterations required for structural safety. (1979 Code, § 11-1002, as renumbered by Ord. #9-2005, Oct. 2005, and Ord. #10-2013, Dec. 2013)

14-1103. Exceptions to height limitations. The height limitations of chapters 2 through 13 of this title shall not apply to water towers, transmission towers, church belfries, chimneys, radio towers, and other structures, which in the opinion of the board of zoning appeals will not adversely affect the neighborhood. (1979 Code, § 11-1003, as renumbered by Ord. #9-2005, Oct. 2005, and Ord. #10-2013, Dec. 2013)

14-1104. Lots of record. Where the owner of a lot consisting of one or more adjacent lots of official record at the time of the adoption of the provisions of chapters 2 through 13 of this title does not own sufficient land to enable him to conform to the yard or other requirements hereof, an application may be submitted to the board of zoning appeals for a variance from the terms hereof. Such a lot may be used as a building site; provided, however, that the yard and other requirements of the district are complied with as closely in the opinion of the board of zoning appeals, as is possible. Where two or more lots of record with a continuous frontage are under the same ownership, or where a substandard lot of record has continuous frontage with a larger tract under the same ownership, such lots shall be combined to form one or more building sites meeting the minimum requirements of the district in which they are located. (1979 Code, § 11-1004, as renumbered by Ord. #9-2005, Oct. 2005, and Ord. #10-2013, Dec. 2013)

14-1105. Exceptions to front setback requirements. The front setback requirement of chapters 2 through 13 of this title for dwellings shall not apply to any lot where the average depth of existing setbacks on the developed

lots located within one hundred (100) feet on each side of such lot is less than the minimum required front yard depth. In such cases, the front yard setback may be less than required but not less than the average of the existing depth for front yards on developed lots within one hundred (100) feet on each side of the lot. In residential districts, however, the setback shall in no case be less than fifteen (15) feet from the street right-of-way line. (1979 Code, § 11-1005, as renumbered by Ord. #9-2005, Oct. 2005, and Ord. #10-2013, Dec. 2013)

14-1106. Minimum lot size. In no case shall the board of zoning appeals permit a residence to be erected on a lot whose width at the building line is less than fifty (50) feet and/or whose total lot area is less than five thousand (5,000) square feet. Due to new minimum lot size requirements those wishing to subdivide their land should first consult with the Tennessee Department of Public Health concerning lot size. (1979 Code, § 11-1006, as renumbered by Ord. #9-2005, Oct. 2005, and Ord. #10-2013, Dec. 2013)

CHAPTER 12**ADMINISTRATION AND ENFORCEMENT****SECTION**

- 14-1201. Administration.
- 14-1202. The enforcement officer.
- 14-1203. Building permits.
- 14-1204. Permit fees.
- 14-1205. Temporary use permits.
- 14-1206. Certificate of occupancy.
- 14-1207. Remedies.

14-1201. Administration. Except as otherwise provided, no structure or land shall, after the effective date of the provisions of chapters 2 through 13 of this title, be used and no structure or part thereof shall be erected, altered, or moved unless in conformity with the requirements herein specified for the district in which it is located. In their interpretation and application, the provisions of chapters 2 through 13 of this title shall be considered minimum requirements adopted for the promotion of public health, safety, morals, convenience, order, prosperity, and general welfare of the community. Where other ordinances, resolutions, or regulations heretofore adopted or which may be adopted hereafter impose greater restrictions than those specified herein, compliance with such other ordinances, resolutions, or regulations is mandatory. (1979 Code, § 11-1101, as renumbered by Ord. #9-2005, Oct. 2005, and Ord. #10-2013, Dec. 2013)

14-1202. The enforcement officer. The provisions of chapters 2 through 13 of this title shall be administered by the Cumberland Gap Building Inspector. The building inspector shall administer and enforce chapters 2 through 13 of this title and, in addition, he shall:

- (1) Issue all building permits and make and maintain records thereof.
- (2) Issue all certificates of occupancy and make and maintain records thereof.
- (3) Issue and renew, where applicable, all temporary use permits and make and maintain records thereof.
- (4) Maintain and keep current zoning maps and records of amendments thereto.
- (5) Conduct inspections as required in chapters 2 through 13 of this title and such other inspections as are necessary to insure compliance with the various other general provisions hereof. The building inspector shall possess the right to enter upon any premises for the purpose of making inspections of buildings or premises necessary to carry out his authorized duties. (1979 Code,

§ 11-1102, as renumbered by Ord. #9-2005, Oct. 2005, and Ord. #10-2013, Dec. 2013)

14-1203. Building permits. It shall be unlawful to commence the excavation for or the construction of any building or other structure, including accessory structures, to commence the moving, alteration, or repair of any structure, including accessory structures, or to commence the filling of land until the building inspector has issued for such work a building permit containing a statement that the plans, specifications, and intended use of such structure in all respects conform with the provisions of chapters 2 through 13 of this title. Application for a building permit shall be made in writing to the building inspector on forms provided for that purpose.

It shall be unlawful for the building inspector to approve the plans or issue a building permit for any excavation or construction until he has inspected such plans in detail and found them to be in conformity with the provisions of chapters 2 through 13 of this title. To this end, the building permit for excavation, construction, moving, or alteration shall be accompanied by a plan or plat drawn to a scale and showing the following in sufficient detail to enable the building inspector to ascertain whether the proposed excavation, construction, moving, or alteration is in conformance with the provisions of chapters 2 through 13 of this title:

(1) The actual shape, location, and dimensions of the lot to be built upon.

(2) The shape, size, and location of all buildings or other structures to be erected, altered, or moved and of buildings or other structures already on the lot.

(3) The existing and intended use of all such buildings or other structures.

(4) Location and design of off-street parking areas and off-street loading areas. Such other information concerning the lot or adjoining lots as may be essential for determining whether the provisions of chapters 2 through 13 of this title are being observed. If the proposed excavation, construction, moving, or alteration as set forth in the application is in conformity with the provisions hereof, the building inspector shall issue a building permit for such excavation or construction. If an application for a building permit is not approved, the building inspector shall state in writing on the application the cause for such disapproval. Issuance of a permit shall, in no case, be construed as waiving any provisions of chapters 2 through 13 of this title and building permits shall be void after six (6) months from date of issue unless substantial progress on the project has been made by that time. (1979 Code, § 11-1103, as renumbered by Ord. #9-2005, Oct. 2005, and Ord. #10-2013, Dec. 2013)

14-1204. Permit fees. (1) Schedule of building permit fees. The schedule of building permit fees shall be as follows based on total valuation of construction:

\$1,000 and less	No fee, unless inspection required, in which case a \$25.00 Fee + a \$5.00 recording fee for each inspection shall be charged.
\$1,001 to \$49,999	\$25.00 + \$5.00 recording fee for the first \$1,000.00 plus \$5.00 for each additional thousand or fraction thereof, to, and including \$49,999.
\$50,000.00 to \$99,999	\$260.00 for the first \$50,000.00 plus \$4.00 for each additional thousand or fraction thereof, to, and including \$99,999.
\$100,000 to \$599,999	\$460.00 for the first \$100,000.00 plus \$3.00 for each additional thousand or fraction thereof, to and including \$599,999.
\$600,000 and up	\$1,660.00 for the first \$600,000 plus \$2.00 for each additional thousand or fraction thereof.

(2) Plan check fees. When the valuation of the proposed construction is \$300,000 or more a plan-checking fee is required and shall be paid at the time of submitting plans and specifications. The fee shall be paid to the Town of Cumberland Gap and then disbursed to the building inspector in increments. Such plan-checking fee is in addition to the building permit fee. The plan-checking fee is as follows:

For a project totaling \$300,000 - \$599,999 the plan-checking fee would be one-half (1/2) times the building permit

For a project totaling \$600, 000 and up - the plan-checking fee would be one (1) times the building permit

When buildings and plans are identical, the plan-checking fee for the additional buildings will be one-half (1/2) of the original plan-checking fee

(3) Moving fee. For the moving of any building or structure, the fee shall be sixty dollars (\$60.00).

(4) Demolition fee. For the demolition of any building or structure, the fee shall be sixty dollars (\$60.00).

(5) **Penalties.** Where work for which permit is required by this code is started or proceeded prior to obtaining said permit, the fees herein specified shall be doubled, but the payment of such double fee shall not relieve any persons from fully complying with the requirements of this code in the execution of the work nor from any other penalties prescribed herein. (as added by Ord. #1-2014, Feb. 2014)

14-1205. Temporary use permits. It shall be unlawful to commence construction or development of any use of a temporary nature until a permit accompanied by a \$5.00 fee, has been secured from the Cumberland Gap Building Inspector, as provided for in § 14-912 of this code. Application for a temporary use permit shall be made in writing to the building inspector on forms provided for that purpose. (1979 Code, § 11-1104, as renumbered by Ord. #9-2005, Oct. 2005, Ord. #10-2013, Dec. 2013, and Ord. #1-2014, Feb. 2014)

14-1206. Certificate of occupancy. No land or building or other structure or part thereof hereafter erected, moved, or altered in its use shall be used until the building inspector shall have issued a certificate of occupancy stating that such land, structure, or part thereof is found to be in conformity with the provisions of chapters 2 through 13 of this title. Within three (3) days after notification that a building or premises or part thereof is ready for occupancy or use, it shall be the duty of the building inspector to make a final inspection thereof, and to issue a certificate of occupancy, if the building or premises or part thereof is found to conform with the provisions of chapters 2 through 13 of this title; or, if such certificate is refused, to state the refusal in writing with the cause of such refusal. (1979 Code, § 11-1105, as renumbered by Ord. #9-2005, Oct. 2005, Ord. #10-2013, Dec. 2013, and Ord. #1-2014, Feb. 2014)

14-1207. Remedies. In case any building or other structure is erected, constructed, altered, repaired, converted, or maintained, or any building, structure, or land is used in violation of chapters 2 through 13 of this title, the building inspector or any other appropriate authority or any adjacent or neighboring property owner who would be specifically damaged by such violation, in addition to other remedies, may institute injunction, mandamus, or other appropriate action or proceeding to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use; or to correct or abate such violation; or to prevent occupancy of such building, structure, or land. (1979 Code, § 11-1106, as renumbered by Ord. #9-2005, Oct. 2005, Ord. #10-2013, Dec. 2013, and Ord. #1-2014, Feb. 2014)

CHAPTER 13

BOARD OF ZONING APPEALS

SECTION

- 14-1301. Board of zoning appeals established.
- 14-1302. Procedure.
- 14-1303. Appeals to the board of zoning appeals.
- 14-1304. Powers of the board of zoning appeals.
- 14-1305. Variances.
- 14-1306. Procedure for authorizing special exceptions.

14-1301. Board of zoning appeals established. The Town of Cumberland Gap Board of Zoning Appeals is hereby established in accordance with Tennessee Code Annotated, §§ 13-7-205 through 13-7-207. The board of zoning appeals shall consist of the Cumberland Gap Municipal Planning Commission. (1979 Code, § 11-1201, as renumbered by Ord. #9-2005, Oct. 2005, and Ord. #10-2013, Dec. 2013)

14-1302. Procedure. Meetings of the board of zoning appeals shall be held at the call of the chairman, and at such other times as the board may determine. Such chairman, or in his absence, the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings of the board shall be open to the public. The board shall adopt rules of procedure and shall keep records of applications and action taken thereon which shall be public records. (1979 Code, § 11-1202, as renumbered by Ord. #9-2005, Oct. 2005, and Ord. #10-2013, Dec. 2013)

14-1303. Appeals to the board of zoning appeals. An appeal to the Cumberland Gap Board of Zoning Appeals may be taken by any person, firm, or corporation aggrieved, or by any governmental office, department, board, or bureau affected by any decision of the building inspector based in whole or in part upon the provisions of chapters 2 through 13 of this title. Such an appeal shall be taken by filing with the board of zoning appeals a notice of appeal specifying the grounds thereof. The building inspector shall transmit to the board all papers constituting the record upon which the action appealed was taken. The board shall fix a reasonable time for the hearing of the appeal, as well as due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing, any person or party may appear in person, by agent, or by attorney. (1979 Code, § 11-1203, as renumbered by Ord. #9-2005, Oct. 2005, and Ord. #10-2013, Dec. 2013)

14-1304. Powers of the board of zoning appeals. The board of zoning appeals shall have the following powers:

(1) Administrative review. To hear and decide appeals where it is alleged by the appellant that there is error in any order, requirement, permit, decision, determination, or refusal made by the building inspector or other administrative official in the carrying out or enforcement of any provision of chapters 2 through 13 of this title.

(2) Special exceptions. To hear and decide applications for special exceptions as specified in chapters 2 through 13 of this title, hear requests for interpretation of the zoning map, and for decision on any special questions upon which the board of zoning appeals is authorized to pass.

(3) Variances. To hear and decide applications for variances from the terms of chapters 2 through 13 of this title. (1979 Code, § 11-1204, as renumbered by Ord. #9-2005, Oct. 2005, and Ord. #10-2013, Dec. 2013)

14-1305. Variances. The purpose of a variance is to modify the strict application of the specific requirements of chapters 2 through 13 of this title in the case of exceptionally irregular, narrow, shallow, or steep lots, or other exceptional physical conditions, whereby such strict application would result in practical difficulty or unnecessary hardship which would deprive an owner of the reasonable use of his land. The variance shall be used only where necessary to overcome some obstacle which is preventing an owner from using his property under chapters 2 through 13 of this title.

(1) Application. After written denial of a permit, a property owner may make application for a variance, using any form which might be made available by the board of zoning appeals.

(2) Hearings. Upon receipt of an application and fee, the board shall hold a hearing to decide whether a variance to chapters 2 through 13 of this title is, in fact, necessary to relieve unnecessary hardships which act to deprive the property owner of the reasonable use of his land. The board shall consider and decide all applications for variances within thirty (30) days of such hearing and in accordance with the standards provided below.

(3) Standards for variances. In granting a variance, the board shall ascertain that the following criteria are met:

(a) Variances shall be granted only where special circumstances or conditions, fully described in the finding of the board, do not apply generally in the district.

(b) Variances shall not be granted to allow a use otherwise excluded from the particular district in which requested.

(c) For reasons fully set forth in the findings of the board, the aforesaid circumstances or conditions are such that the strict application of the provisions of chapters 2 through 13 of this title would deprive the

applicant of any reasonable use of his land. Mere loss in value shall not justify a variance. There must be a deprivation of beneficial use of land.

(d) The granting of any variance shall be in harmony with the general purposes and intent of chapters 2 through 13 of this title and shall not be injurious to the neighborhood, detrimental to the public welfare, or in conflict with comprehensive plan for development.

(e) In reviewing an application for a variance, the burden of showing that the variance should be granted shall be upon the person applying therefor. (1979 Code, § 11-1205, as renumbered by Ord. #9-2005, Oct. 2005, and Ord. #10-2013, Dec. 2013)

14-1306. Procedure for authorizing special exceptions. The following procedure is established to provide procedures for review of a proposed use by the Cumberland Gap Board of Zoning Appeals. The procedure shall be the same whether review is required by chapters 2 through 13 of this title or whether a review is requested by the building inspector to determine whether a proposed use is potentially noxious, dangerous, or offensive. This procedure shall also be used in submitting special exceptions for the board of zoning appeals review.

(1) Application. An application shall be filed with the board of zoning appeals for review. Said application shall show the location and intended uses of the site, the names of the property owners and existing land uses within two hundred(200) feet and any other material pertinent to the request which the board of zoning appeals may require.

(2) Restrictions. In the exercise of its approval, the board of zoning appeals may impose such conditions upon the proposed uses of buildings or land as it may deem advisable in the furtherance of the general purposes of chapters 2 through 13 of this title.

(3) Validity of plans. All approved plans, conditions, restrictions, and rules made a part of the approval of the board of zoning appeals shall constitute certification on the part of the applicant that the proposed use shall conform to such regulations at all times.

(4) Time limit. All applications reviewed by the board of zoning appeals shall be decided within sixty (60) days of the date of application, and the applicant shall be provided with either a written notice of approval or denial. (1979 Code, § 11-1206, as renumbered by Ord. #9-2005, Oct. 2005, and Ord. #10-2013, Dec. 2013)

CHAPTER 14

HISTORIC ZONING COMMISSION

SECTION

- 14-1401. Historic zoning commission established.
- 14-1402. Procedure.
- 14-1403. Historic zoning commission powers and duties.
- 14-1404. Jurisdiction.
- 14-1405. The Historic District.
- 14-1406. Design procedure.
- 14-1407. Building and fire codes.
- 14-1408. Certificate of Appropriateness (COA).
- 14-1409. Architectural style.
- 14-1410. Design guidelines for existing structures.
- 14-1411. Design guidelines for new construction.
- 14-1412. Guidelines for streetscapes.
- 14-1413. Building relocation.
- 14-1414. Building demolition.
- 14-1415. Amendment.
- 14-1416. Enforcement.

14-1401. Historic zoning commission established. In accordance with title 13, chapter 7, part 4 of Tennessee Code Annotated, a historic zoning commission is hereby established. The historic zoning commission shall consist of a representative of a local patriotic or historic organization; an architect, if available; and a member of the Cumberland Gap Municipal Planning Commission. The remaining members shall be appointed by the Mayor of the Town of Cumberland Gap from the community in general and shall be confirmed by the board of mayor and alderman. Appointments to membership on the historic zoning commission shall be arranged so that the term of one (1) member shall expire each year and his successor shall be appointed, or member whose term expires can be reappointed, in a like manner for a five (5) year term. All members shall serve without compensation. (1979 Code, § 11-1301, as renumbered by Ord. #9-2005, Oct. 2005, and Ord. #10-2013, Dec. 2013, and replaced by Ord. #17-2015, Jan. 2016)

14-1402. Procedure. Meetings of the historic zoning commission shall be held at the call of the chairman or by the majority of the membership. All meetings of the commission shall be open to the public. The commission shall keep minutes of its procedures showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact. (1979 Code,

§ 11-1302, as renumbered by Ord. #9-2005, Oct. 2005, and Ord. #10-2013, Dec. 2013, and replaced by Ord. #17-2015, Jan. 2016)

14-1403. Historic zoning commission powers and duties. The historic zoning commission shall have the following powers:

(1) To request detailed construction plans and related data pertinent to thorough review of any proposal before the commission.

(2) The historic zoning commission shall within thirty (30) days following availability of sufficient data, direct the granting of a building permit with or without conditions or direct the refusal of a building permit providing the grounds are stated in writing.

(3) Upon review of the application for a building permit in the H-1 Historic District, the historic zoning commission shall give prime consideration to:

(a) Historical and/or architectural value of present structures;

(b) Relationship of exterior architectural features of such structures to the remainder of the structures of the surrounding area;

(c) The general compatibility of exterior design, arrangement, texture, and materials proposed to be used with existing structures in the H-1 Historic District;

(d) To any other factor which is deemed pertinent.

(4) In no case shall the commission grant variances from the terms of this chapter. (1979 Code, § 11-1303, as renumbered by Ord. #9-2005, Oct. 2005, and Ord. #10-2013, Dec. 2013, and replaced by Ord. #17-2015, Jan. 2016)

14-1404. Jurisdiction. The historic zoning commission shall have exclusive jurisdiction relating to historic or architectural matters. Anyone aggrieved by any final order or judgment of the commission may have such order or judgment reviewed as specified in chapter 12 and/or in the courts by procedures of certiorari as provided in the Tennessee Code Annotated, §§ 27-9-102 and 27-9-103. (1979 Code, § 11-1304, as renumbered by Ord. #9-2005, Oct. 2005, and Ord. #10-2013, Dec. 2013, and replaced by Ord. #17-2015, Jan. 2016)

14-1405. The Historic District; geographic overview. The central business district, intermixed with some housing and the adjacent residential area compose the Cumberland Gap Historic District. It consists of two (2) primary streets: Colwyn (largely commercial) and Pennlyn (largely residential). The district is as illustrated on the map attached to Ord. #17-2015.¹ (1979 Code,

¹Ord. #17-2015 is available in the recorder's office.

§ 11-1305, as renumbered by Ord. #9-2005, Oct. 2005, and Ord. #10-2013, Dec. 2013, and replaced by Ord. #17-2015, Jan. 2016)

14-1406. Design procedure. (1) Historic zoning commission responsibilities. The Historic Zoning Commission (HZC) is responsible for reviewing changes in the exterior facades visible from the street. HZC reviews new construction and relocated buildings to ensure compatibility with existing buildings in the district. No structure can be demolished until reviewed by the HZC. The HZC reviews setbacks, building shape and height, facades, window and door proportions and groupings, overhangs, roofline, streetscape, signage and landscaping. Form and proportion shall harmonize with existing design elements in the district.

The HZC recommends that property owners and builders meet with the HZC at the pre-design stage to familiarize the HZC with the site and discuss the guidelines. A Certificate of Appropriateness (COA) from the HZC as well as approval from planning and zoning commission and the board of mayor and alderman is required before construction or renovation begins. The COA is available at town hall. (as added by Ord. #17-2015, Jan. 2016)

14-1407. Building and fire codes. Applicants shall comply with all town-adopted building and fire codes. (as added by Ord. #17-2015, Jan. 2016)

14-1408. Certificate of Appropriateness (COA). (1) Before applying to the planning and zoning commission for a building permit or beginning work on exterior changes, property owners shall obtain a certificate of appropriateness. A complete application for certificate of appropriateness shall be received at town hall on or before the first Tuesday of the month and approval of the application will be issued or denied at the next scheduled meeting of the historic zoning commission or within thirty (30) days, except when the time line has been extended by written mutual agreement between the property owner and the HZC. Inaction of the HZC on a completed application after thirty (30) days will result in an application's default approval.

(2) The chairman for the HZC, or town hall, shall notify the applicant of the result of the application at the scheduled meeting or by registered mail (on or before thirty (30) days after receipt of a complete application) and shall file a copy with town hall for planning and zoning. If an application is denied, such notice shall include the reasons for such actions as defined in the design guidelines. If the applicant is available at the HZC meeting the result can be noted in the minutes and a copy given to the applicant. (as added by Ord. #17-2015, Jan. 2016)

14-1409. Architectural style. The town's largest commercial buildings in the historic district are characterized by a horizontal division with the

upstairs being more private spaces such as apartments or offices, thus residential. And the downstairs is a commercial zone such as stores or banks. (as added by Ord. #17-2015, Jan. 2016)

14-1410. Design guidelines for existing structures. (1) Essential principles. In reviewing applications for certificates of appropriateness for existing structures, the HZC shall consider the historic and architectural significance of the structure. In its review, the HZC shall also take into account the following elements to ensure that the exterior form and appearance of the structure is consistent with the historic character of the district:

- The height of the building in relation to the average height of the nearest adjacent and opposite buildings
- The setback and placement on the lot of the building in relation to the average setback and placement of the nearest adjacent and opposite buildings
- Exterior construction materials, including textures and patterns
- Architectural detailing, such as doors, windows, lintels, cornices, brick bond, and foundation materials
- Roof shapes, overhangs, forms, and materials
- Proportions, shapes, positioning and locations, patterns and sizes of any elements of fenestration (an opening in a structure, such as a door or window)
- General form and proportions of buildings and structures
- Appendages, fixtures and other features such as lighting
- Architectural scale
- The rhythm of doors and windows
- The size, location, number, and materials of signage
- The type, materials, and character of the streetscape

In considering the appropriateness of alterations to existing buildings, the HZC shall be guided by the following principles:

- Avoid removing or altering original historic material or distinctive architectural features: if original and in good shape, it should not be removed or altered.
- Repair rather than replace wherever possible. If replacing, replicate the original based on existing materials. Do not invent something that "might have been."
- When extensive replacement is necessary for severely deteriorated material and replication to exactly match the original is not feasible, the new work should match the character of the original in terms of scale, texture, design, and composition.
- Do not try to make the building look older than it really is. Rehabilitation work should fit the character of the original building.

- The building may contain clues to guide decisions during rehabilitation. Original detailing may be covered with later materials or there may be physical evidence of what the original work was like and where it was located.
- A later addition to an old building, or a non-original facade or storefront may have gained significance over the years. Do not assume it is not historically significant just because it is not part of the original building.
- If no evidence of original materials or detailing exists, alterations should be simply detailed and new in design, yet fit the character of the building.

(2) Facades. Property owners shall preserve original facades, including windows, doors, transoms, and decorative architectural details by maintaining or restoring rather than replacing and base reproduction for replacement of missing elements on historic evidence such as photographs. If no evidence exists, property owners shall use similar examples from adjacent structures.

Original foundation materials and design shall not be concealed with concrete block, plywood panels, corrugated metal, or other non-original materials.

(3) Paint and paint colors. Unpainted masonry should be left unpainted. For other areas needing painting, acceptable paint colors are those listed in historic preservation literature.

(4) Screen and storm doors.

- Screen and storm doors shall be correctly sized to fit entrance openings. Door openings shall not be enlarged, reduced, or shortened for new door installation.
- New screen doors, in full-view, shall be wood or complementary materials. Structural members shall align with those of the original door.
- Rear and side entrances may be enhanced by adding simple signage, awnings, and lighting that is related to those of the front elevation. New windows and doors may be added when needed if in keeping with the size, design, materials, proportions, and location of the originals.

(5) Windows.

- Original windows shall be preserved in their original location, size, and design and with original materials and numbers of panes when available.
- Non-original windows shall not be added to primary facades or to secondary facades where readily visible.
- Windows of modern manufacturing are acceptable at the rear or sides of dwellings that are not readily visible from the street.
- Windows shall be repaired with materials to match the era. If repair is not feasible, replacement shall be with new windows to resemble the original in materials and dimensions.
- Decorative glass windows shall be similar to those in original location, in size, and design, and with their original materials and glass pattern and

shall be repaired rather than replaced. If repair is not feasible, replacement shall be with new decorative glass windows to resemble the original in materials and dimensions. Consultation with a glass specialist is recommended when extensive repairs are needed.

- Screens shall be correctly sized to fit the window opening including arched windows. Screens shall be wood or complementary materials and fit within frames, not overlap the frames. Screen window panels shall be full-view design or have the meeting rail match that of the window behind it.
- Storm windows should be of wood or aesthetically complementary materials
- Storm windows shall be sized and shaped to fit the window opening and shall be full-view design or with the central meeting rail at the same location as the historic window. Storm windows with built-in screens are acceptable. Interior storm windows are acceptable.
- Window shutters that are original to the building shall be maintained, but shall not be added unless they are consistent with a historical look. Shutters shall be of louvered or paneled wood construction and shall fit the window opening so that if closed, they would cover the opening. Vinyl or aluminum construction shutters are not permissible unless they have dimensions and textures that are compatible with historic dwellings.

(6) Porches.

- Porches on front and side facades shall be maintained in their original design and with original materials and detailing unless changes are approved by HZC.
- Porches shall not be removed if original to the building.
- Porches shall be repaired or replaced to match the original in design, materials, scale, and placement.
- Porch staircases and steps original to a property shall be retained in their original location and configuration.
- Porches on the fronts of buildings shall not be enclosed with wood, glass, or other materials that would alter the porch's open appearance.
- Porches may be screened if the structural framework for the screen panels is minimal and the open appearance of the porch is maintained. Screen panels shall be placed behind the original features such as columns or railings. Screen panels shall not hide decorative details or result in the removal of original porch materials.
- Porches with open areas in the foundation may be filled-in as traditional for the type and style of the house, or with decorative wood-framed skirting, vertical slats, or lattice panels.
- On front porches, columns and railings shall be consistent with historic designs in the district. Balusters and railings shall be appropriate for the building's style and period. Porch staircases and steps added to a building

shall have posts, balusters, treads and risers to match original porch construction.

(7) Roofs.

- Roofs shall be retained in their original shape and pitch with original features such as cresting, chimneys, finials, cupolas, etc.
- Replacement gutters and downspouts shall not result in the removal of significant architectural features on the building. Gutters and downspouts of boxed or built-in type shall be repaired rather than replaced if possible.
- Original roof materials such as metal shingles or metal sheet roofing shall be retained. Slate, asphalt, or fiberglass may be substituted if the original roof material is not available or economically feasible.
- The color of new asphalt or fiberglass shingles shall be colors complementary to the historic district's time period.
- Dormers, roof decks, balconies, or other additions shall not be added on fronts of dwellings, but may be added on the rear or sides of dwellings if not readily visible from the front.

(8) Maintenance. In considering the appropriateness of alterations to existing buildings, the HZC requires specific methods of material maintenance:

- Never sandblast. Cleaning dirt or old paint from a building shall be done by the gentlest means possible. No method to clean the brick or masonry surface shall be used that destroys the outer patina or "crust" of the brick and exposes the soft inner core which can lead to deterioration. Low-pressure water, detergent, and natural bristle brushes are adequate.
- Existing metal shall be maintained. If the metal needs to be stripped, use only a chemical paint remover designed, for that purpose, not dry grit blasting.
- Preserve cast iron by maintaining and restoring original cast iron columns and pilasters. Original cast iron columns or pilasters shall not be concealed or obscured.
- In general, do not seal historic brick and masonry.
- Brick shall be clean and free of vines, ivy and other plant material.
- Deeply recessed and crumbling mortar joints shall be re-pointed. Re-pointing masonry walls shall be done with a soft lime-based mortar mix rather than Portland cement. The mortar color, texture, type, and size of joint shall match the original.
- When it is necessary to replace brick, it shall match the original in color and size. If mismatched brick is unavoidable, painting is acceptable.
- Previously painted surfaces shall be repainted rather than chemically cleaned.
Re-point mortar, if necessary, before repainting the brick.
- Wood siding shall match other historic homes in the district. If replacement is necessary, wood siding and shingles shall be replaced with

new siding or shingles to match the original in size, placement, and design. Synthetic replacement materials such as vinyl, masonite, or aluminum are not acceptable. Siding shall not be of wood-based materials such as particleboard, gyp board, or pressboard.

- If possible, cracks in wood siding shall be repaired with appropriate material.
- Wood siding may be insulated if the addition of insulation does not result in alterations to the siding. Plugs or holes for blown-in insulation are not acceptable.
- Removal of asbestos siding shall follow hazardous material guidelines.
(as added by Ord. #17-2015, Jan. 2016)

14-1411. Design guidelines for new construction. (1) Essential principles. The construction or erection of any structure within the district, including additions to existing buildings and new construction that utilizes existing party walls is subject to review by the Historic Zoning Commission (HZC) pursuant to the historic zoning ordinance. New construction shall compliment and harmonize with other buildings in the district and shall be consistent in terms of height, scale, rhythm, texture, and other design characteristics. Pre-fabricated structures are not allowed in the historic district unless a specific design is approved by the historic committee.

(2) New commercial buildings shall:

- Be compatible in height with adjacent buildings.
- Have exterior wall construction of materials consistent with those in the area.
- Be aligned with adjacent buildings along the street and conform to existing setbacks.
- Be of similar width and scale and have similar proportions as adjacent buildings.
- Be oriented toward the primary street on which it is sited.
- Have roof forms consistent with adjacent buildings.

(3) Commercial building additions.

- Are acceptable at the rear of buildings. Rear additions shall be compatible with the original building in scale, proportion, rhythm of openings, and size.
- Such as rooftop or additional stories shall not be constructed unless the addition will not be readily visible from the street or other pedestrian viewpoints. Roof additions shall be set back from the main facade.
- Shall be of exterior materials similar to the existing building.
- Shall be built as to result in minimal removal of original walls and details from the rear of the building and shall try to connect the addition with the original building through existing door or enlarged window openings.

(4) Residential building additions shall:

- Be located at the rear of dwellings, not on the front or readily visible areas of the sides of dwellings.
- Be secondary (smaller and simpler) than the original dwelling in scale, design, and placement.
- Be of a compatible design in keeping with the original dwelling's design, roof shape, materials, color, and location of window, door, and cornice heights, etc.
- Not imitate an earlier historic style or architectural period.
- Be constructed to avoid extensive removal or loss of historic materials and to not damage or destroy significant original architectural features.
- Impact the exterior walls of the original dwelling as minimally as possible.

When building additions, existing door and window openings shall be used for connecting the addition to the dwelling.

(5) New primary residential buildings (principal structures).

- Shall maintain, not disrupt, the existing pattern of surrounding historic buildings along the street.
- Primary facades and main entrances shall be oriented toward the street in any new construction.
- Front and side yard setbacks shall match the block setbacks (see Planning and Zoning codes).
- Porches shall have roof forms of gable, hipped, or shed design and at least cover the entrance. Porches shall have columns and railings with balusters that are traditional in design and compatible with the overall character of the building.
- Window shape and proportions shall be historic in design.
- Wood construction is preferred for windows, but aesthetically complementary materials are acceptable when sized for historic window openings. Dark tinted windows, reflective glass and coatings for windows are not acceptable on front or readily visible sides of buildings.
- Height of foundations shall be similar to foundation heights in the area.

Foundation heights may increase along the sides or at the rear of a building if necessary to follow slope contours.

- New construction shall continue the appearance of stone, brick, or cast concrete. Poured concrete, concrete block, and split-faced concrete are acceptable foundation materials. Stucco or other finishes may be required to provide a textured surface.
- Porch heights and depths shall be consistent with those of adjacent dwellings.
- New brick construction shall closely match typical mortar and brick color tones found in the Town of Cumberland Gap's historic dwellings.

Artificial laminate type siding materials (e.g. artificial brick veneer, stone, etc.) are prohibited.

- The details and textures of building materials shall be applied in a manner consistent with traditional construction methods and compatible with surrounding structures.
 - Replications are new buildings that closely imitate historic dwellings typically found in the locally designated districts. Replications are acceptable if they are consistent with historic dwellings in their overall form and plan, porch design and placement, window and door treatments, roof forms, and architectural details.
- (6) New secondary residential buildings (accessory structures).
- Garages, sheds and other outbuildings shall be smaller in scale than the dwelling.
 - Outbuildings shall be simple in design but reflect the general character of the associated dwelling. For example, use gable roof forms if the dwelling has a gable roof; hipped roof forms if the dwelling has a hipped roof, etc.
 - Outbuildings shall be built at traditional locations including at rear lot lines, adjacent to side streets, and at the rear of a dwelling.
 - New secondary structures shall be compatible with the associated dwelling in design, shape, exterior materials, and roof shape. (as added by Ord. #17-2015, Jan. 2016)

14-1412. Guidelines for streetscapes. (1) Signs and graphics. Signs and graphics shall follow the provisions of the Town of Cumberland Gap's codes.

- Internally illuminated or neon signs are normally not acceptable.
- New signs shall be of traditional materials such as wood, glass, copper or bronze. Sandblasted and painted wood signs are appropriate.
- Signs shall not cover or obscure architectural features. Appropriate sign locations include upper facade walls, hanging or mounted inside windows, hanging or projecting from the face of the building with mounting brackets and hardware anchored into mortar.

(2) Driveways and parking lots. All driveways and parking lots, including landscaping shall comply with the Town of Cumberland Gap's codes. In the historic district:

- Driveways and parking lots shall not be sited in front yards. Parking lots shall be located in rear yards. If side yard or adjacent lot parking is required, the parking lot's edge landscape screening shall not extend past the front wall of adjacent buildings.
- Driveways in side yards should be of brick, gravel, concrete, textured asphalt, or concrete molded to look like period materials.

- The HZC requires that parking lots include a minimum of twenty percent (20%) green spaces and be screened with trees, shrubs, hedges, and/or fences at edges.
 - (3) Sidewalks and walkways.
- Original sidewalks and walkways shall be preserved. Imitation of original or early sidewalks materials, details, dimensions, and placement is appropriate.
- Preexisting stone retaining walls shall be maintained, repaired or reconstructed.
 - (4) Fences.
- Original cast or wrought iron fences shall be preserved. Iron fences may be added around late 19th and early 20th century structures.
- Hedges and shrubs are acceptable alternatives for fences.
- Chain link, louver, concrete block, shadowbox or stockade fences are not acceptable in front yards or visible side yards.
- Painted or stained wood picket, baluster, wrought iron, or similar historic material fences are appropriate.
- The HZC requires historical period fences, if fences are used.
 - (5) Lighting.
- Original fixtures should be preserved, if possible.
- Light fixtures may be introduced to the exterior of a building when compatible in period, scale and style and mounted on porch ceilings or adjacent to entrances.
- Security lights shall be small, simple, and mounted on the rear or sides of buildings.
- Early American freestanding fixtures, based on traditional designs early, to mid- 20th century, are appropriate.
 - (6) Utility and mechanical systems. HVAC units, dumpsters and large trash receptacles shall be located inconspicuously at the rear or sides of buildings. In new construction, wall or window air conditioning units, water, gas or electric meters, electric conduit and any other utility or mechanical systems shall not be located on front facades.
 - (7) Solar panels. Solar panels, when used, shall be located on rear sections of the roof, behind dormers or gables or other areas not visible from the street. Freestanding solar panels shall be located at rear yards or on side facades not readily visible from the street. If side yard locations are readily visible, landscaping, fencing, or lattice panels shall effectively screen freestanding panels.
 - (8) TV satellite dishes. Satellite dishes shall be located discretely and not visible from the front of the structure. (as added by Ord. #17-2015, Jan. 2016)

14-1413. Building relocation. Moving buildings into any locally designated district shall be acceptable if compatible with the district's architectural character through style, period, height, scale, materials, setting, and placement on the lot.

Moving existing buildings that contribute to the historic and architectural character of the districts shall be avoided unless demolition is the only other alternative. Moving outbuildings from one location to another on the same lot is acceptable if the relocation is approved by the HZC and meets zoning regulations. (as added by Ord. #17-2015, Jan. 2016)

14-1414. Building demolition. (1) Demolition shall be inappropriate under any of the following conditions:

- A building, object, or structure is of such architectural or historical interest and value that its removal would be detrimental to the public interest and the residents of town.
- The proposed reuse or new construction would diminish or detract from the predominant character of the district.
- A building, object, or structure is of such old, unusual, or uncommon design and materials that it could not be reproduced without great difficulty and expense.
- A proposed replacement or lack of replacement would make a less positive visual contribution to the district, would disrupt the character of the district, or would be visually incompatible.
- The demolition of a building, object, or structure would negatively impact the character, streetscape, or other buildings, objects, or structures in the district.

(2) Demolition shall be appropriate under any of the following conditions:

- The town, county, or state has ordered demolition for the public safety because of an unsafe or dangerous condition that constitutes an emergency.
- The demolition is required by a final and non-appealable order or ruling of a court, governmental body, or agency having appropriate jurisdiction, and such order or ruling does not allow for the restoration and continued use of the applicable building, object, or structure.
- A building, object, or structure that does not contribute or does not have the potential to contribute to the importance of the historic district may be removed.

(3) **Requirements for demolition.** A certificate of appropriateness as well as written permission by planning and zoning commission and board of mayor and alderman is required to demolish a structure in the historic district, whether the structure is classified as contributing or noncontributing. (as added by Ord. #17-2015, Jan. 2016)

14-1415. Amendment. Property owners within the community may recommend amendments to these guidelines to the HZC. (as added by Ord. #17-2015, Jan. 2016)

14-1416. Enforcement. Work performed without obtaining a COA, or in conflict of an approved COA is a violation of the town's zoning ordinance and is subject to a stop work order and/or a fifty dollar (\$50.00) fine. Each day's continuance of a violation is considered a separate offense. (as added by Ord. #17-2015, Jan. 2016)

CHAPTER 15

AMENDMENT

SECTION

14-1501. Amendment.

14-1501. Amendment. The regulations and the number, or boundaries of districts established by chapters 2 through 14 of this title may be amended, supplemented, changed, modified, or repealed by the Cumberland Gap Town Council; but, in accordance with the Tennessee enabling legislation, no amendment shall become effective unless it is first submitted to and approved by the Cumberland Gap Municipal Planning Commissioner, if disapproved, shall receive a majority vote of the entire membership of the Cumberland Gap Town Council. Before finally adopting any such amendment, the town council shall hold a public hearing thereon, at least fifteen (15) days notice of the time and place of hearing and which shall be given by at least one (1) publication in a newspaper of general circulation in the town; and any such amendment shall be published at least once in the official of the town or in a newspaper of general circulation in the town. (1979 Code, § 11-1401, as renumbered by Ord. #9-2005, Oct. 2005, and Ord. #10-2013, Dec. 2013)

CHAPTER 16

BILLBOARDS

SECTION

14-1601. Definitions.

14-1602. New billboards prohibited in certain areas.

14-1601. Definitions. For the purposes of the interpretation and application of this chapter, the following terms shall have the meanings indicated:

(1) "Billboard" shall mean and include every sign of any kind not located upon the premises and that displays any announcement, declaration, demonstration, display, illumination or insignia used to advertise or promote the interests of any person when the same is placed out of doors in view of the general public, or an on premises sign greater than 100 square feet in display service area.

(2) "Display service area" shall mean the net geometric area enclosed by the display surface (sign face) of the billboard and/or including the outer extremities of all letters, characters, and delineations. The display service area shall not include structural supports.

(3) "On premises sign" shall mean a sign relating in its subject matter to the premises on which it is located and/or to products, accommodations, services, or activities on the premises.

(4) "Off premises sign" shall mean a sign that is not located on the premises.

(5) "Premises" shall mean the entire, single parcel of property upon which the sign is located, including the principal building or buildings, and all other buildings and other structures of every kind and description. In the case of malls, shopping centers, and multi-tenant buildings, the premises for each of the various businesses or functions is limited to the space occupied or directly connected to and associated with that particular business or function, exclusive of the common areas.

(6) "Person" shall mean and include any person, firm, partnership, association, corporation, company or organization of every kind and description. (Ord. #___, June 1995, as renumbered by Ord. #9-2005, Oct. 2005, and Ord. #10-2013, Dec. 2013)

14-1602. New billboards prohibited in certain areas. Subsequent to the effective date of the ordinance comprising this chapter, no new billboard shall be built within the following described area: Any property on or adjacent to U.S. Highway 25E (Cumberland Gap Parkway) located in the town limits of

Change 6, January 4, 2016

14-79

the Town of Cumberland Gap, Tennessee. (Ord. #__, June 1995, as renumbered by Ord. #9-2005, Oct. 2005, and Ord. #10-2013, Dec. 2013)

CHAPTER 17

FLOOD DAMAGE PREVENTION ORDINANCE

SECTION

- 14-1701. Statutory authorization, findings of fact, purpose and objectives.
- 14-1702. Definitions.
- 14-1703. General provisions.
- 14-1704. Administration.
- 14-1705. Provisions for flood hazard reduction.
- 14-1706. Variance procedures.
- 14-1707. Legal status provisions.

14-1701. Statutory authorization, findings of fact, purpose and objectives. (1) Statutory authorization. The Legislature of the State of Tennessee has in Private Act Charter Chapter 210 of the Acts of 1907, delegated the responsibility to units of local government to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the Town Of Cumberland Gap, Tennessee, Mayor and its Legislative Body do ordain as follows:

(2) Findings of fact. (a) The Town of Cumberland Gap, Tennessee, Mayor and its Legislative Body wishes to maintain eligibility in the National Flood Insurance Program (NFIP) and in order to do so must meet the NFIP regulations found in title 44 of the Code of Federal Regulations (C.F.R.), ch. 1, section 60.3.

(b) Areas of the Town of Cumberland Gap, Tennessee are subject to periodic inundation which could result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.

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

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

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

(b) Require that uses vulnerable to floods, including community facilities, be protected against flood damage at the time of initial construction;

(c) Control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of floodwaters;

(d) Control filling, grading, dredging and other development which may increase flood damage or erosion;

(e) Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands.

(4) Objectives. The objectives of this ordinance are:

(a) To protect human life, health, safety and property;

(b) To minimize expenditure of public funds for costly flood control projects;

(c) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

(d) To minimize prolonged business interruptions;

(e) To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodprone areas;

(f) To help maintain a stable tax base by providing for the sound use and development of floodprone areas to minimize blight in flood areas;

(g) To ensure that potential homebuyers are notified that property is in a floodprone area;

(h) To maintain eligibility for participation in the NFIP. (as added by Ord. #2-2009, July 2009, and renumbered by Ord. #10-2013, Dec. 2013)

14-1702. Definitions. Unless specifically defined below, words or phrases used in this ordinance shall be interpreted as to give them the meaning they have in common usage and to give this ordinance its most reasonable application given its stated purpose and objectives.

(1) "Accessory structure" means a subordinate structure to the principal structure on the same lot and, for the purpose of this ordinance, shall conform to the following:

(a) Accessory structures shall only be used for parking of vehicles and storage.

(b) Accessory structures shall be designed to have low flood damage potential.

(c) Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters.

(d) Accessory structures shall be firmly anchored to prevent flotation, collapse, and lateral movement, which otherwise may result in damage to other structures.

(e) Utilities and service facilities such as electrical and heating equipment shall be elevated or otherwise protected from intrusion of floodwaters.

(2) "Addition (to an existing building)" means any walled and roofed expansion to the perimeter or height of a building.

(3) "Appeal" means a request for a review of the local enforcement officer's interpretation of any provision of this ordinance or a request for a variance.

(4) "Area of shallow flooding" means a designated AO or AH Zone on a community's Flood Insurance Rate Map (FIRM) with one percent (1%) or greater annual chance of flooding to an average depth of one to three feet (1' – 3') where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate; and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

(5) "Area of special flood-related erosion hazard" is the land within a community which is most likely to be subject to severe flood-related erosion losses. The area may be designated as Zone E on the Flood Hazard Boundary Map (FHBM). After the detailed evaluation of the special flood-related erosion hazard area in preparation for publication of the FIRM, Zone E may be further refined.

(6) "Area of special flood hazard" see "special flood hazard area."

(7) "Base flood" means the flood having a one percent (1%) chance of being equaled or exceeded in any given year. This term is also referred to as the 100-year flood or the one percent (1%) annual chance flood.

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

(9) "Building" see "structure."

(10) "Development" means any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavating, drilling operations, or storage of equipment or materials.

(11) "Elevated building" means a non-basement building built to have the lowest floor of the lowest enclosed area elevated above the ground level by means of solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of floodwater, pilings, columns, piers, or shear walls adequately anchored so as not to impair the structural integrity of the building during a base flood event.

(12) "Emergency flood insurance program" or "emergency program" means the program as implemented on an emergency basis in accordance with section 1336 of the Act. It is intended as a program to provide a first layer amount of insurance on all insurable structures before the effective date of the initial FIRM.

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

(14) "Exception" means a waiver from the provisions of this ordinance which relieves the applicant from the requirements of a rule, regulation, order or other determination made or issued pursuant to this ordinance.

(15) "Existing construction" means any structure for which the "start of construction" commenced before the effective date of the initial floodplain management code or ordinance adopted by the community as a basis for that community's participation in the NFIP.

(16) "Existing manufactured home park or subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, final site grading or the pouring of concrete pads) is completed before the effective date of the first floodplain management code or ordinance adopted by the community as a basis for that community's participation in the NFIP.

(17) "Existing structures" see "existing construction."

(18) "Expansion to an existing manufactured home park or subdivision" means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

(19) "Flood" or "flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from:

(a) The overflow of inland or tidal waters.

(b) The unusual and rapid accumulation or runoff of surface waters from any source.

(20) "Flood elevation determination" means a determination by the Federal Emergency Management Agency (FEMA) of the water surface elevations of the base flood, that is, the flood level that has a one percent (1%) or greater chance of occurrence in any given year.

(21) "Flood elevation study" means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e., mudflow) or flood-related erosion hazards.

(22) "Flood Hazard Boundary Map (FHBM)" means an official map of a community, issued by FEMA, where the boundaries of areas of special flood hazard have been designated as Zone A.

(23) "Flood Insurance Rate Map (FIRM)" means an official map of a community, issued by FEMA, delineating the areas of special flood hazard or the risk premium zones applicable to the community.

(24) "Flood insurance study" is the official report provided by FEMA, evaluating flood hazards and containing flood profiles and water surface elevation of the base flood.

(25) "Floodplain" or "floodprone area" means any land area susceptible to being inundated by water from any source (see definition of "flooding").

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

(27) "Flood protection system" means those physical structural works for which funds have been authorized, appropriated, and expended and which have been constructed specifically to modify flooding in order to reduce the extent of the area within a community subject to a "special flood hazard" and the extent of the depths of associated flooding. Such a system typically includes hurricane tidal barriers, dams, reservoirs, levees or dikes. These specialized flood modifying works are those constructed in conformance with sound engineering standards.

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

(29) "Flood-related erosion" means the collapse or subsidence of land along the shore of a lake or other body of water as a result of undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a flash flood, or by some similarly unusual and unforeseeable event which results in flooding.

(30) "Flood-related erosion area" or "flood-related erosion prone area" means a land area adjoining the shore of a lake or other body of water, which due to the composition of the shoreline or bank and high water levels or wind-driven currents, is likely to suffer flood-related erosion damage.

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

(32) "Floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base

flood without cumulatively increasing the water surface elevation more than a designated height.

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

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

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

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

(a) Listed individually in the National Register of Historic Places (a listing maintained by the U.S. Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

(b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

(c) Individually listed on the Tennessee inventory of historic places and determined as eligible by states with historic preservation programs which have been approved by the Secretary of the Interior; or

(d) Individually listed on the Town of Cumberland Gap, Tennessee inventory of historic places and determined as eligible by communities with historic preservation programs that have been certified either:

(i) By the approved Tennessee program as determined by the Secretary of the Interior; or

(ii) Directly by the Secretary of the Interior.

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

(38) "Levee system" means a flood protection system which consists of a levee, or levees, and associated structures, such as closure and drainage

devices, which are constructed and operated in accordance with sound engineering practices.

(39) "Lowest floor" means the lowest floor of the lowest enclosed area, including a basement. An unfinished or flood resistant enclosure used solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance.

(40) "Manufactured home" means a structure, transportable in one (1) or more sections, which is built on a permanent chassis and designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle."

(41) "Manufactured home park or subdivision" means a parcel (or contiguous parcels) of land divided into two (2) or more manufactured home lots for rent or sale.

(42) "Map" means the Flood Hazard Boundary Map (FHBM) or the Flood Insurance Rate Map (FIRM) for a community issued by FEMA.

(43) "Mean sea level" means the average height of the sea for all stages of the tide. It is used as a reference for establishing various elevations within the floodplain. For the purposes of this ordinance, the term is synonymous with the National Geodetic Vertical Datum (NGVD) of 1929, the North American Vertical Datum (NAVD) of 1988, or other datum, to which base flood elevations shown on a community's flood insurance rate map are referenced.

(44) "National Geodetic Vertical Datum (NGVD)" means, as corrected in 1929, a vertical control used as a reference for establishing varying elevations within the floodplain.

(45) "New construction" means any structure for which the "start of construction" commenced on or after the effective date of the initial floodplain management ordinance and includes any subsequent improvements to such structure.

(46) "New manufactured home park or subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of this ordinance or the effective date of the initial floodplain management ordinance and includes any subsequent improvements to such structure.

(47) "North American Vertical Datum (NAVD)" means, as corrected in 1988, a vertical control used as a reference for establishing varying elevations within the floodplain.

(48) "100-year flood" see "base flood."

(49) "Person" includes any individual or group of individuals, corporation, partnership, association, or any other entity, including state and local governments and agencies.

(50) "Reasonably safe from flooding" means base flood waters will not inundate the land or damage structures to be removed from the special flood hazard area and that any subsurface waters related to the base flood will not damage existing or proposed structures.

(51) "Recreational vehicle" means a vehicle which is:

(a) Built on a single chassis;

(b) Four hundred (400) square feet or less when measured at the largest horizontal projection;

(c) Designed to be self-propelled or permanently towable by a light duty truck;

(d) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

(52) "Regulatory floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

(53) "Riverine" means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

(54) "Special flood hazard area" is the land in the floodplain within a community subject to a one percent (1%) or greater chance of flooding in any given year. The area may be designated as Zone A on the FHBM. After detailed ratemaking has been completed in preparation for publication of the FIRM, Zone A usually is refined into Zones A, AO, AH, A1-30, AE or A99.

(55) "Special hazard area" means an area having special flood, mudslide (i.e., mudflow) and/or flood-related erosion hazards, and shown on an FHBM or FIRM as Zone A, AO, A1-30, AE, A99, or AH.

(56) "Start of construction" includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within one hundred eighty (180) days of the permit date. The actual start means either the first placement of permanent construction of a structure (including a manufactured home) on a site, such as the pouring of slabs or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; and includes the placement of a manufactured home on a foundation. Permanent construction does not include initial land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as

garages or sheds, not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

(57) "State coordinating agency." The Tennessee Department of Economic and Community Development's Local Planning Assistance Office, as designated by the Governor of the State of Tennessee at the request of FEMA to assist in the implementation of the NFIP for the state.

(58) "Structure," for purposes of this ordinance, means a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

(59) "Substantial damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed fifty percent (50%) of the market value of the structure before the damage occurred.

(60) "Substantial improvement" means any reconstruction, rehabilitation, addition, alteration or other improvement of a structure in which the cost equals or exceeds fifty percent (50%) of the market value of the structure before the "start of construction" of the initial improvement. This term includes structures which have incurred "substantial damage," regardless of the actual repair work performed. The market value of the structure should be:

(a) The appraised value of the structure prior to the start of the initial improvement; or

(b) In the case of substantial damage, the value of the structure prior to the damage occurring.

The term does not, however, include either:

(a) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been pre-identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions and not solely triggered by an improvement or repair project; or

(b) Any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure."

(61) "Substantially improved existing manufactured home parks or subdivisions" is where the repair, reconstruction, rehabilitation or improvement of the streets, utilities and pads equals or exceeds fifty percent (50%) of the value of the streets, utilities and pads before the repair, reconstruction or improvement commenced.

(62) "Variance" is a grant of relief from the requirements of this ordinance.

(63) "Violation" means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certification, or other evidence of compliance required in this ordinance is presumed to be in violation until such time as that documentation is provided.

(64) "Water surface elevation" means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, the North American Vertical Datum (NAVD) of 1988, or other datum, where specified, of floods of various magnitudes and frequencies in the floodplains of riverine areas. (as added by Ord. #2-2009, July 2009, and renumbered by Ord. #10-2013, Dec. 2013)

14-1703. General provisions. (1) Application. This ordinance shall apply to all areas within the incorporated area of the Town of Cumberland Gap, Tennessee.

(2) Basis for establishing the areas of special flood hazard. The areas of special flood hazard identified on the Town of Cumberland Gap, Tennessee, as identified by FEMA, and in its Flood Insurance Study (FIS) and Flood Insurance Rate Map (FIRM), Community Panel Number 47025C0100D, dated September 25, 2009, along with all supporting technical data, are adopted by reference and declared to be a part of this ordinance.

(3) Requirement for development permit. A development permit shall be required in conformity with this ordinance prior to the commencement of any development activities.

(4) Compliance. No land, structure or use shall hereafter be located, extended, converted or structurally altered without full compliance with the terms of this ordinance and other applicable regulations.

(5) Abrogation and greater restrictions. This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants or deed restrictions. However, where this ordinance conflicts or overlaps with another regulatory instrument, whichever imposes the more stringent restrictions shall prevail.

(6) Interpretation. In the interpretation and application of this ordinance, all provisions shall be:

- (a) Considered as minimum requirements;
- (b) Liberally construed in favor of the governing body; and
- (c) Deemed neither to limit nor repeal any other powers granted under Tennessee statutes.

(7) Warning and disclaimer of liability. The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or

natural causes. This ordinance does not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of the Town of Cumberland Gap, Tennessee or by any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder.

(8) Penalties for violation. Violation of the provisions of this ordinance or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance shall constitute a misdemeanor punishable as other misdemeanors as provided by law. Any person who violates this ordinance or fails to comply with any of its requirements shall, upon adjudication therefore, be fined as prescribed by Tennessee statutes, and in addition, shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the Town of Cumberland Gap, Tennessee from taking such other lawful actions to prevent or remedy any violation. (as added by Ord. #2-2009, July 2009, and renumbered by Ord. #10-2013, Dec. 2013)

14-1704. Administration. (1) Designation of ordinance administrator. The building inspector is hereby appointed as the administrator to implement the provisions of this ordinance.

(2) Permit procedures. Application for a development permit shall be made to the administrator on forms furnished by the community prior to any development activities. The development permit may include, but is not limited to the following: plans in duplicate drawn to scale and showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, earthen fill placement, storage of materials or equipment, and drainage facilities. Specifically, the following information is required:

(a) Application stage. (i) Elevation in relation to mean sea level of the proposed lowest floor, including basement, of all buildings where base flood elevations are available, or to certain height above the highest adjacent grade when applicable under this ordinance.

(ii) Elevation in relation to mean sea level to which any non-residential building will be floodproofed where base flood elevations are available, or to certain height above the highest adjacent grade when applicable under this ordinance.

(iii) A FEMA floodproofing certificate from a Tennessee registered professional engineer or architect that the proposed non-residential floodproofed building will meet the floodproofing criteria in § 14-1705(1) and (2).

(iv) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

(b) Construction stage. Within AE Zones, where base flood elevation data is available, any lowest floor certification made relative to mean sea level shall be prepared by or under the direct supervision of a Tennessee registered land surveyor and certified by same. The administrator shall record the elevation of the lowest floor on the development permit. When floodproofing is utilized for a non-residential building, said certification shall be prepared by, or under the direct supervision of, a Tennessee registered professional engineer or architect and certified by same.

Within approximate A Zones, where base flood elevation data is not available, the elevation of the lowest floor shall be determined as the measurement of the lowest floor of the building relative to the highest adjacent grade. The administrator shall record the elevation of the lowest floor on the development permit. When floodproofing is utilized for a non-residential building, said certification shall be prepared by, or under the direct supervision of, a Tennessee registered professional engineer or architect and certified by same.

For all new construction and substantial improvements, the permit holder shall provide to the administrator an as-built certification of the lowest floor elevation or floodproofing level upon the completion of the lowest floor or floodproofing.

Any work undertaken prior to submission of the certification shall be at the permit holder's risk. The administrator shall review the above-referenced certification data. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further work being allowed to proceed. Failure to submit the certification or failure to make said corrections required hereby, shall be cause to issue a stop-work order for the project.

(3) Duties and responsibilities of the administrator. Duties of the administrator shall include, but not be limited to, the following:

(a) Review all development permits to assure that the permit requirements of this ordinance have been satisfied, and that proposed building sites will be reasonably safe from flooding.

(b) Review proposed development to assure that all necessary permits have been received from those governmental agencies from which approval is required by federal or state law, including section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.

(c) Notify adjacent communities and the Tennessee Department of Economic and Community Development Local Planning Assistance

Office, prior to any alteration or relocation of a watercourse and submit evidence of such notification to FEMA.

(d) For any altered or relocated watercourse, submit engineering data/analysis within six (6) months to FEMA to ensure accuracy of community FIRMs through the letter of map revision process.

(e) Assure that the flood carrying capacity within an altered or relocated portion of any watercourse is maintained.

(f) Record the elevation, in relation to mean sea level or the highest adjacent grade, where applicable, of the lowest floor (including basement) of all new and substantially improved buildings, in accordance with § 14-1704(2).

(g) Record the actual elevation, in relation to mean sea level or the highest adjacent grade, where applicable to which the new and substantially improved buildings have been floodproofed, in accordance with § 14-1704(2).

(h) When floodproofing is utilized for a nonresidential structure, obtain certification of design criteria from a Tennessee registered professional engineer or architect, in accordance with § 14-1704(2).

(i) Where interpretation is needed as to the exact location of boundaries of the areas of special flood hazard (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), make the necessary interpretation. Any person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this ordinance.

(j) When base flood elevation data and floodway data have not been provided by FEMA, obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal, state, or other sources, including data developed as a result of these regulations, as criteria for requiring that new construction, substantial improvements, or other development in Zone A on the Town of Cumberland Gap, Tennessee FIRM meet the requirements of this ordinance.

(k) Maintain all records pertaining to the provisions of this ordinance in the office of the administrator and shall be open for public inspection. Permits issued under the provisions of this ordinance shall be maintained in a separate file or marked for expedited retrieval within combined files. (as added by Ord. #2-2009, July 2009, and renumbered by Ord. #10-2013, Dec. 2013)

14-1705. Provisions for flood hazard reduction. (1) General standards. In all areas of special flood hazard, the following provisions are required:

(a) New construction and substantial improvements shall be anchored to prevent flotation, collapse and lateral movement of the structure;

(b) Manufactured homes shall be installed using methods and practices that minimize flood damage. They must be elevated and anchored to prevent flotation, collapse and lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State of Tennessee and local anchoring requirements for resisting wind forces;

(c) New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage;

(d) New construction and substantial improvements shall be constructed by methods and practices that minimize flood damage;

(e) All electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;

(f) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;

(g) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters;

(h) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding;

(i) Any alteration, repair, reconstruction or improvements to a building that is in compliance with the provisions of this ordinance, shall meet the requirements of "new construction" as contained in this ordinance;

(j) Any alteration, repair, reconstruction or improvements to a building that is not in compliance with the provision of this ordinance, shall be undertaken only if said non-conformity is not further extended or replaced;

(k) All new construction and substantial improvement proposals shall provide copies of all necessary federal and state permits, including section 404 of the Federal Water Pollution Control Act amendments of 1972, 33 U.S.C. 1334;

(l) All subdivision proposals and other proposed new development proposals shall meet the standards of § 14-1705(2);

(m) When proposed new construction and substantial improvements are partially located in an area of special flood hazard, the entire structure shall meet the standards for new construction;

(n) When proposed new construction and substantial improvements are located in multiple flood hazard risk zones or in a flood hazard risk zone with multiple base flood elevations, the entire structure shall meet the standards for the most hazardous flood hazard risk zone and the highest base flood elevation.

(2) Specific standards. In all areas of special flood hazard, the following provisions, in addition to those set forth in § 14-1705(1), are required:

(a) Residential structures. In AE Zones where base flood elevation data is available, new construction and substantial improvement of any residential building (or manufactured home) shall have the lowest floor, including basement, elevated to no lower than one foot (1') above the base flood elevation. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate equalization of flood hydrostatic forces on both sides of exterior walls shall be provided in accordance with the standards of this section: "Enclosures."

Within approximate A Zones where base flood elevations have not been established and where alternative data is not available, the administrator shall require the lowest floor of a building to be elevated to a level of at least three feet (3') above the highest adjacent grade (as defined in § 14-1702). Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate equalization of flood hydrostatic forces on both sides of exterior walls shall be provided in accordance with the standards of this section: "Enclosures."

(b) Non-residential structures. In AE Zones, where base flood elevation data is available, new construction and substantial improvement of any commercial, industrial, or non-residential building, shall have the lowest floor, including basement, elevated or floodproofed to no lower than one foot (1') above the level of the base flood elevation. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate equalization of flood hydrostatic forces on both sides of exterior walls shall be provided in accordance with the standards of this section: "Enclosures."

In approximate A Zones, where base flood elevations have not been established and where alternative data is not available, new construction and substantial improvement of any commercial, industrial, or non-residential building, shall have the lowest floor, including basement, elevated or floodproofed to no lower than three feet (3') above the highest adjacent grade (as defined in § 14-1702). Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to

facilitate equalization of flood hydrostatic forces on both sides of exterior walls shall be provided in accordance with the standards of this section: "Enclosures."

Non-residential buildings located in all A Zones may be floodproofed, in lieu of being elevated, provided that all areas of the building below the required elevation are watertight, with walls substantially impermeable to the passage of water, and are built with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. A Tennessee registered professional engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions above, and shall provide such certification to the administrator as set forth in § 14-1704(2).

(c) Enclosures. All new construction and substantial improvements that include fully enclosed areas formed by foundation and other exterior walls below the lowest floor that are subject to flooding, shall be designed to preclude finished living space and designed to allow for the entry and exit of flood waters to automatically equalize hydrostatic flood forces on exterior walls.

(i) Designs for complying with this requirement must either be certified by a Tennessee professional engineer or architect or meet or exceed the following minimum criteria.

(A) Provide a minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding;

(B) The bottom of all openings shall be no higher than one foot (1') above the finished grade;

(C) Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwaters in both directions.

(ii) The enclosed area shall be the minimum necessary to allow for parking of vehicles, storage or building access.

(iii) The interior portion of such enclosed area shall not be finished or partitioned into separate rooms in such a way as to impede the movement of floodwaters and all such partitions shall comply with the provisions of § 14-1705(2).

(d) Standards for manufactured homes and recreational vehicles.

(i) All manufactured homes placed, or substantially improved, on:

(A) Individual lots or parcels;

(B) In expansions to existing manufactured home parks or subdivisions; or

(C) In new or substantially improved manufactured home parks or subdivisions, must meet all the requirements of new construction.

(ii) All manufactured homes placed or substantially improved in an existing manufactured home park or subdivision must be elevated so that either:

(A) In AE Zones, with base flood elevations, the lowest floor of the manufactured home is elevated on a permanent foundation to no lower than one foot (1') above the level of the base flood elevation; or

(B) In approximate A Zones, without base flood elevations, the manufactured home chassis is elevated and supported by reinforced piers (or other foundation elements of at least equivalent strength) that are at least three feet (3') in height above the highest adjacent grade (as defined in § 14-1702).

(iii) Any manufactured home, which has incurred "substantial damage" as the result of a flood, must meet the standards of § 14-1705(1) and (2).

(iv) All manufactured homes must be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.

(v) All recreational vehicles placed in an identified special flood hazard area must either:

(A) Be on the site for fewer than one hundred eighty (180) consecutive days;

(B) Be fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is licensed, on its wheels or jacking system, attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached structures or additions); or

(C) The recreational vehicle must meet all the requirements for new construction.

(e) Standards for subdivisions and other proposed new development proposals. Subdivisions and other proposed new developments, including manufactured home parks, shall be reviewed to determine whether such proposals will be reasonably safe from flooding.

(i) All subdivision and other proposed new development proposals shall be consistent with the need to minimize flood damage.

(ii) All subdivision and other proposed new development proposals shall have public utilities and facilities such as sewer,

gas, electrical and water systems located and constructed to minimize or eliminate flood damage.

(iii) All subdivision and other proposed new development proposals shall have adequate drainage provided to reduce exposure to flood hazards.

(iv) In all approximate A Zones require that all new subdivision proposals and other proposed developments (including proposals for manufactured home parks and subdivisions) greater than fifty (50) lots or five (5) acres, whichever is the lesser, include within such proposals base flood elevation data (see § 14-1705(5)).

(3) Standards for special flood hazard areas with established base flood elevations and with floodways designated. Located within the special flood hazard areas established in § 14-1703(2), are areas designated as floodways. A floodway may be an extremely hazardous area due to the velocity of floodwaters, debris or erosion potential. In addition, the area must remain free of encroachment in order to allow for the discharge of the base flood without increased flood heights and velocities. Therefore, the following provisions shall apply:

(a) Encroachments are prohibited, including earthen fill material, new construction, substantial improvements or other development within the regulatory floodway. Development may be permitted however, provided it is demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practices that the cumulative effect of the proposed encroachments or new development shall not result in any increase in the water surface elevation of the base flood elevation, velocities, or floodway widths during the occurrence of a base flood discharge at any point within the community. A Tennessee registered professional engineer must provide supporting technical data, using the same methodologies as in the effective flood insurance study for Town of Cumberland Gap, Tennessee and certification, thereof.

(b) New construction and substantial improvements of buildings, where permitted, shall comply with all applicable flood hazard reduction provisions of § 14-1705(1) and (2).

(4) Standards for areas of special flood hazard Zones AE with established base flood elevations but without floodways designated. Located within the special flood hazard areas established in § 14-1703(2), where streams exist with base flood data provided but where no floodways have been designated (Zones AE), the following provisions apply:

(a) No encroachments, including fill material, new construction and substantial improvements shall be located within areas of special flood hazard, unless certification by a Tennessee registered professional engineer is provided demonstrating that the cumulative effect of the

proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot (1') at any point within the community. The engineering certification should be supported by technical data that conforms to standard hydraulic engineering principles.

(b) New construction and substantial improvements of buildings, where permitted, shall comply with all applicable flood hazard reduction provisions of § 14-1705(1) and (2).

(5) Standards for streams without established base flood elevations and floodways (A Zones). Located within the special flood hazard areas established in § 14-1703(2), where streams exist, but no base flood data has been provided and where a floodway has not been delineated, the following provisions shall apply:

(a) The administrator shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from any federal, state, or other sources, including data developed as a result of these regulations (see (b) below), as criteria for requiring that new construction, substantial improvements, or other development in approximate A Zones meet the requirements of § 14-1705(1) and (2).

(b) Require that all new subdivision proposals and other proposed developments (including proposals for manufactured home parks and subdivisions) greater than fifty (50) lots or five (5) acres, whichever is the lesser, include within such proposals base flood elevation data.

(c) Within approximate A Zones, where base flood elevations have not been established and where such data is not available from other sources, require the lowest floor of a building to be elevated or floodproofed to a level of at least three feet (3') above the highest adjacent grade (as defined in § 14-1702). All applicable data including elevations or floodproofing certifications shall be recorded as set forth in § 14-1704(2). Openings sufficient to facilitate automatic equalization of hydrostatic flood forces on exterior walls shall be provided in accordance with the standards of § 14-1705(2).

(d) Within approximate A Zones, where base flood elevations have not been established and where such data is not available from other sources, no encroachments, including structures or fill material, shall be located within an area equal to the width of the stream or twenty feet (20'), whichever is greater, measured from the top of the stream bank, unless certification by a Tennessee registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot (1') at any point within the Town of Cumberland

Gap, Tennessee. The engineering certification should be supported by technical data that conforms to standard hydraulic engineering principles.

(e) New construction and substantial improvements of buildings, where permitted, shall comply with all applicable flood hazard reduction provisions of § 14-1705(1) and (2). Within approximate A Zones, require that those subsections of § 14-1705(2) dealing with the alteration or relocation of a watercourse, assuring watercourse carrying capacities are maintained and manufactured homes provisions are complied with as required.

(6) Standards for areas of shallow flooding (AO and AH Zones). Located within the special flood hazard areas established in § 14-1703(2) are areas designated as shallow flooding areas. These areas have special flood hazards associated with base flood depths of one to three feet (1 – 3') where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate; therefore, the following provisions, in addition to those set forth in § 14-1705(1) and (2), apply:

(a) All new construction and substantial improvements of residential and non-residential buildings shall have the lowest floor, including basement, elevated to at least one foot (1') above as many feet as the depth number specified on the FIRMs, in feet, above the highest adjacent grade. If no flood depth number is specified on the FIRM, the lowest floor, including basement, shall be elevated to at least three feet (3') above the highest adjacent grade. Openings sufficient to facilitate automatic equalization of hydrostatic flood forces on exterior walls shall be provided in accordance with standards of § 14-1705(2).

(b) All new construction and substantial improvements of non-residential buildings may be floodproofed in lieu of elevation. The structure together with attendant utility and sanitary facilities must be floodproofed and designed watertight to be completely floodproofed to at least one foot (1') above the flood depth number specified on the FIRM, with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. If no depth number is specified on the FIRM, the structure shall be floodproofed to at least three feet (3') above the highest adjacent grade. A Tennessee registered professional engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this ordinance and shall provide such certification to the administrator as set forth above and as required in accordance with § 14-1704(2).

(c) Adequate drainage paths shall be provided around slopes to guide floodwaters around and away from proposed structures.

(7) Standards for areas protected by flood protection system (A-99 Zones). Located within the areas of special flood hazard established in § 14-1703(2) are areas of the 100-year floodplain protected by a flood protection system but where base flood elevations have not been determined. Within these areas (A-99 Zones) all provisions of §§ 14-1704 and 14-1705 shall apply.

(8) Standards for unmapped streams. Located within the Town of Cumberland Gap, Tennessee, are unmapped streams where areas of special flood hazard are neither indicated nor identified. Adjacent to such streams, the following provisions shall apply:

(a) No encroachments including fill material or other development including structures shall be located within an area of at least equal to twice the width of the stream, measured from the top of each stream bank, unless certification by a Tennessee registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot (1') at any point within the locality.

(b) When a new flood hazard risk zone, and base flood elevation and floodway data is available, new construction and substantial improvements shall meet the standards established in accordance with §§ 14-1704 and 14-1705. (as added by Ord. #2-2009, July 2009, and renumbered by Ord. #10-2013, Dec. 2013)

14-1706. Variance procedures. (1) Board of floodplain review.

(a) Creation and appointment. A board of floodplain review is hereby established which shall consist of three (3) members appointed by the chief executive officer. The term of membership shall be four (4) years except that the initial individual appointments to the board of floodplain review shall be terms of one (1), two (2), and three (3) years, respectively. Vacancies shall be filled for any unexpired term by the chief executive officer.

(b) Procedure. Meetings of the board of floodplain review shall be held at such times, as the board shall determine. All meetings of the board of floodplain review shall be open to the public. The board of floodplain review shall adopt rules of procedure and shall keep records of applications and actions thereof, which shall be a public record. Compensation of the members of the board of floodplain review shall be set by the legislative body.

(c) Appeals: how taken. An appeal to the board of floodplain review may be taken by any person, firm or corporation aggrieved or by any governmental officer, department, or bureau affected by any decision of the administrator based in whole or in part upon the provisions of this

ordinance. Such appeal shall be taken by filing with the board of floodplain review a notice of appeal, specifying the grounds thereof. In all cases where an appeal is made by a property owner or other interested party, a fee of _____ dollars for the cost of publishing a notice of such hearings shall be paid by the appellant. The administrator shall transmit to the board of floodplain review all papers constituting the record upon which the appeal action was taken. The board of floodplain review shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to parties in interest and decide the same within a reasonable time which shall not be more than forty-five (45) days from the date of the hearing. At the hearing, any person or party may appear and be heard in person or by agent or by attorney.

(d) Powers. The board of floodplain review shall have the following powers:

(i) Administrative review. To hear and decide appeals where it is alleged by the applicant that there is error in any order, requirement, permit, decision, determination, or refusal made by the administrator or other administrative official in carrying out or enforcement of any provisions of this ordinance.

(ii) Variance procedures. In the case of a request for a variance the following shall apply:

(A) The Town of Cumberland Gap, Tennessee Board of Floodplain Review shall hear and decide appeals and requests for variances from the requirements of this ordinance.

(B) Variances may be issued for the repair or rehabilitation of historic structures as defined, herein, upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary deviation from the requirements of this ordinance to preserve the historic character and design of the structure.

(C) In passing upon such applications, the board of floodplain review shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this ordinance, and:

(1) The danger that materials may be swept onto other property to the injury of others;

(2) The danger to life and property due to flooding or erosion;

(3) The susceptibility of the proposed facility and its contents to flood damage;

(4) The importance of the services provided by the proposed facility to the community;

(5) The necessity of the facility to a waterfront location, in the case of a functionally dependent use;

(6) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;

(7) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;

(8) The safety of access to the property in times of flood for ordinary and emergency vehicles;

(9) The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site;

(10) The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, water systems, and streets and bridges.

(D) Upon consideration of the factors listed above, and the purposes of this ordinance, the board of floodplain review may attach such conditions to the granting of variances, as it deems necessary to effectuate the purposes of this ordinance.

(E) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

(2) Conditions for variances. (a) Variances shall be issued upon a determination that the variance is the minimum relief necessary, considering the flood hazard and the factors listed in § 14-1706(1).

(b) Variances shall only be issued upon: a showing of good and sufficient cause, a determination that failure to grant the variance would result in exceptional hardship; or a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

(c) Any applicant to whom a variance is granted shall be given written notice that the issuance of a variance to construct a structure below the base flood elevation will result in increased premium rates for

flood insurance (as high as twenty-five dollars (\$25.00) for one hundred dollars (\$100.00) coverage, and that such construction below the base flood elevation increases risks to life and property.

(d) The administrator shall maintain the records of all appeal actions and report any variances to FEMA upon request. (as added by Ord. #2-2009, July 2009, and renumbered by Ord. #10-2013, Dec. 2013)

14-1707. Legal status provisions. (1) Conflict with other ordinances. In case of conflict between this ordinance or any part thereof, and the whole or part of any existing or future ordinance of the Town of Cumberland Gap, Tennessee, the most restrictive shall in all cases apply.

(2) Severability. If any section, clause, provision, or portion of this ordinance shall be held to be invalid or unconstitutional by any court of competent jurisdiction, such holding shall not affect any other section, clause, provision, or portion of this ordinance which is not of itself invalid or unconstitutional.

(3) Effective date. The ordinance comprising this chapter shall become effective immediately after its passage, in accordance with the Charter of the Town of Cumberland Gap, Tennessee, and the public welfare demanding it. (as added by Ord. #2-2009, July 2009, and renumbered by Ord. #10-2013, Dec. 2013)

TITLE 15

MOTOR VEHICLES, TRAFFIC AND PARKING¹

CHAPTER

1. MISCELLANEOUS.
2. EMERGENCY VEHICLES.
3. SPEED LIMITS.
4. TURNING MOVEMENTS.
5. STOPPING AND YIELDING.
6. PARKING.
7. ENFORCEMENT.

CHAPTER 1

MISCELLANEOUS²

SECTION

- 15-101. Motor vehicle requirements.
- 15-102. Driving on streets closed for repairs, etc.
- 15-103. Reckless driving.
- 15-104. One-way streets.
- 15-105. Unlaned streets.
- 15-106. Laned streets.
- 15-107. Yellow lines.
- 15-108. Miscellaneous traffic-control signs, etc.
- 15-109. General requirements for traffic-control signs, etc.
- 15-110. Unauthorized traffic-control signs, etc.
- 15-111. Presumption with respect to traffic-control signs, etc.
- 15-112. School safety patrols.

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, § 55-50-504; and drag racing, as prohibited by Tennessee Code Annotated, § 55-10-501.

- 15-113. Driving through funerals or other processions.
- 15-114. Clinging to vehicles in motion.
- 15-115. Riding on outside of vehicles.
- 15-116. Backing vehicles.
- 15-117. Projections from the rear of vehicles.
- 15-118. Causing unnecessary noise.
- 15-119. Vehicles and operators to be licensed.
- 15-120. Passing.
- 15-121. Damaging pavements.
- 15-122. Motorcycles, motor driven cycles, motorized bicycles, bicycles, etc.
- 15-123. Delivery of vehicle to unlicensed driver, etc.
- 15-124. Compliance with financial responsibility law required.
- 15-125. Adoption of state traffic statutes.

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. (1979 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. (1979 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. (1979 Code, § 9-107)

15-104. One-way streets. On any street for one-way traffic with posted signs indicating the authorized direction of travel at all intersections offering access thereto, no person shall operate any vehicle except in the indicated direction. (as added by Ord. #13-2015, Oct. 2015)

15-105. Unlaned streets. (1) Upon all unlaned streets of sufficient width, a vehicle shall be driven upon the right half of the street except:

- (a) When lawfully overtaking and passing another vehicle proceeding in the same direction.
- (b) When the right half of a roadway is closed to traffic while under construction or repair.
- (c) Upon a roadway designated and signposted by the town for one-way traffic.

(2) All vehicles proceeding at less than the normal speed of traffic at the time and place and under the conditions then existing shall be driven as close as practicable to the right hand curb or edge of the roadway, except when overtaking and passing another vehicle proceeding in the same direction or when preparing for a left turn. (1979 Code, § 9-109, as renumbered by Ord. #13-2015, Oct. 2015)

15-106. Laned streets. On streets marked with traffic lanes, it shall be unlawful for the operator of any vehicle to fail or refuse to keep his vehicle within the boundaries of the proper lane for his direction of travel except when lawfully passing another vehicle or preparatory to making a lawful turning movement.

On two (2) lane and three (3) lane streets, the proper lane for travel shall be the right hand lane unless otherwise clearly marked. On streets with four (4) or more lanes, either of the right hand lanes shall be available for use except that traffic moving at less than the normal rate of speed shall use the extreme right hand lane. On one-way street either lanes may be lawfully used in the absence of markings to the contrary. (1979 Code, § 9-110, as renumbered and amended by Ord. #13-2015, Oct. 2015)

15-107. 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. (1979 Code, § 9-111, as renumbered by Ord. #13-2015, Oct. 2015)

15-108. 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 town unless otherwise directed by a police officer.

It shall be unlawful for any pedestrian or the operator of any vehicle to willfully violate or fail to comply with the reasonable directions of any police officer. (1979 Code, § 9-112, as renumbered by Ord. #13-2015, Oct. 2015)

15-109. General requirements for traffic control signs, etc. Pursuant to Tennessee Code Annotated, § 54-5-108, all traffic control signs, signals, markings, and devices shall conform to the latest revision of the Tennessee Manual on Uniform Traffic Control Devices for Streets and

¹Municipal code references

Stop signs, yield signs, flashing signals, pedestrian control signs, traffic control signals generally: §§ 15-505--15-509.

Highways,¹ and shall be uniform as to type and location throughout the city. (1979 Code, § 9-113, modified, as renumbered by Ord. #13-2015, Oct. 2015)

15-110. Unauthorized traffic-control signs, etc. No person shall place, maintain, or display upon or in view of any street, any unauthorized sign, signal, marking, or device which purports to be or is an imitation of or resembles an official traffic-control sign, signal, marking, or device or railroad sign or signal, or which attempts to control the movement of traffic or parking of vehicles, or which hides from view or interferes with the effectiveness of any official traffic-control sign, signal, marking, or device or any railroad sign or signal. (1979 Code, § 9-114, as renumbered by Ord. #13-2015, Oct. 2015)

15-111. Presumption with respect to traffic-control signs, etc. When a traffic-control sign, signal, marking, or device has been placed, the presumption shall be that it is official and that it has been lawfully placed by the proper authority. All presently installed traffic-control signs, signals, markings and devices are hereby expressly authorized, ratified, approved and made official. (1979 Code, § 9-115, as renumbered by Ord. #13-2015, Oct. 2015)

15-112. 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. (1979 Code, § 9-116, as renumbered by Ord. #13-2015, Oct. 2015)

15-113. Driving through funerals or other processions. Except when otherwise directed by a police officer, no driver of a vehicle shall drive between the vehicles comprising a funeral or other authorized procession while they are in motion and when such vehicles are conspicuously designated. (1979 Code, § 9-117, as renumbered by Ord. #13-2015, Oct. 2015)

15-114. Clinging to vehicles in motion. It shall be unlawful for any person traveling upon any bicycle, motorcycle, coaster, sled, roller skates, or any other vehicle to cling to, or attach himself or his vehicle to any other moving vehicle upon any street, alley, or other public way or place. (1979 Code, § 9-119, as renumbered by Ord. #13-2015, Oct. 2015)

¹For the latest revision of the Tennessee Manual on Uniform Traffic Control Devices for Streets and Highways, see the Official Compilation of the Rules and Regulations of the State of Tennessee, § 1680-3-1, et seq.

15-115. Riding on outside of vehicles. It shall be unlawful for any person to ride, or for the owner or operator of any motor vehicle being operated on a street, alley, or other public way or place, to permit any person to ride on any portion of such vehicle not designed or intended for the use of passengers. This section shall not apply to persons engaged in the necessary discharge of lawful duties nor to persons riding in the load-carrying space of trucks. (1979 Code, § 9-120, as renumbered by Ord. #13-2015, Oct. 2015)

15-116. Backing vehicles. The driver of a vehicle shall not back the same unless such movement can be made with reasonable safety and without interfering with other traffic. (1979 Code, § 9-121, as renumbered by Ord. #13-2015, Oct. 2015)

15-117. Projections from the rear of vehicles. Whenever the load or any projecting portion of any vehicle shall extend beyond the rear of the bed or body thereof, the operator shall display at the end of such load or projection, in such position as to be clearly visible from the rear of such vehicle, a red flag being not less than twelve (12) inches square. Between one-half (½) hour after sunset and one-half (½) hour before sunrise, there shall be displayed in place of the flag a red light plainly visible under normal atmospheric conditions at least two hundred (200) feet from the rear of such vehicle. (1979 Code, § 9-122, as renumbered by Ord. #13-2015, Oct. 2015)

15-118. Causing unnecessary noise. It shall be unlawful for any person to cause unnecessary noise by unnecessarily sounding the horn, "racing" the motor, or causing the "screeching" or "squealing" of the tires on any motor vehicle. (1979 Code, § 9-123, as renumbered by Ord. #13-2015, Oct. 2015)

15-119. Vehicles and operators to be licensed. It shall be unlawful for any person to operate a motor vehicle in violation of the "Tennessee Motor Vehicle Title and Registration Law" or the "Uniform Motor Vehicle Operators' and Chauffeurs' License Law." (1979 Code, § 9-124, as renumbered by Ord. #13-2015, Oct. 2015)

15-120. Passing. Except when overtaking and passing on the right is permitted, the driver of a vehicle passing another vehicle proceeding in the same direction shall pass to the left thereof at a safe distance and shall not again drive to the right side of the street until safely clear of the overtaken vehicle. The driver of the overtaken vehicle shall give way to the right in favor of the overtaking vehicle on audible signal and shall not increase the speed of his vehicle until completely passed by the overtaking vehicle.

When the street is wide enough, the driver of a vehicle may overtake and pass upon the right of another vehicle which is making or about to make a left turn.

The driver of a vehicle may overtake and pass another vehicle proceeding in the same direction either upon the left or upon the right on a street of sufficient width for four (4) or more lanes of moving traffic when such movement can be made in safety.

No person shall drive off the pavement or upon the shoulder of the street in overtaking or passing on the right.

When any vehicle has stopped at a marked crosswalk or at an intersection to permit a pedestrian to cross the street, no operator of any other vehicle approaching from the rear shall overtake and pass such stopped vehicle.

No vehicle operator shall attempt to pass another vehicle proceeding in the same direction unless he can see that the way ahead is sufficiently clear and unobstructed to enable him to make the movement in safety. (1979 Code, § 9-125, as renumbered by Ord. #13-2015, Oct. 2015)

15-121. Damaging pavements. No person shall operate or cause to be operated upon any street of the municipality any vehicle, motor propelled or otherwise, which by reason of its weight or the character of its wheels, tires, or track is likely to damage the surface or foundation of the street. (1979 Code, § 9-118, as renumbered by Ord. #13-2015, Oct. 2015)

15-122. Motor driven cycles, motorcycles, motorized bicycles.

(1) Definitions. For the purpose of the application of this section, the following words shall have the definitions indicated:

(a) "Motor driven cycle." Every motorcycle, including every motor scooter, with a motor which produces not to exceed five (5) brake horsepower, or with a motor with a cylinder capacity not exceeding one hundred and twenty-five (125) cubic centimeters;

(b) "Motorcycle." Every motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three (3) wheels in contact with the ground, including a vehicle that is fully enclosed, has three (3) wheels in contact with the ground, weighs less than one thousand five hundred pounds (1,500 lbs.), and has the capacity to maintain posted highway speed limits, but excluding a tractor or motorized bicycle.

(c) "Motorized bicycle." A vehicle with two (2) or three (3) wheels, an automatic transmission, and a motor with a cylinder capacity not exceeding fifty (50) cubic centimeters which produces no more than two (2) brake horsepower and is capable of propelling the vehicle at a maximum design speed of no more than thirty (30) miles per hour on level ground.

Every person riding or operating a bicycle, motorcycle, or motor driven cycle shall be subject to the provisions of all traffic ordinances, rules, and regulations of the town applicable to the driver or operator of other vehicles

except as to those provisions which by their nature can have no application to bicycles, motorcycles, or motor driven cycles.

No person operating or riding a bicycle, motorcycle, or motor driven cycle shall ride other than upon or astride the permanent and regular seat attached thereto, nor shall the operator carry any other person upon such vehicle other than upon a firmly attached and regular seat thereon.

No bicycle, motorcycle, or motor driven cycle shall be used to carry more persons at one time than the number for which it is designed and equipped.

No person operating a bicycle, motorcycle, or motor driven cycle shall carry any package, bundle, or article which prevents the rider from keeping both hands upon the handlebars.

No person under the age of sixteen (16) years shall operate any motorcycle, motorbike, or motor driven cycle while any other person is a passenger upon said motor vehicle.

All motorcycles and motor driven cycles operated on public ways within the corporate limits shall be equipped with crash bars approved by the state's commissioner of safety.

(2) Each driver of a motorcycle, motor driven cycle, or motorized vehicle and any passenger thereon shall be required to wear on his head a crash helmet meeting federal standards contained in 49 CFR 571.218, or, if such driver or passenger is twenty-one (21) years of age or older, a helmet meeting the following requirements:

(a) (i) Except as provided in subdivisions (a)(i)-(iv), the helmet shall meet federal motor vehicle safety standards specified in 49 CFR 571.218;

(ii) Notwithstanding any provision in 49 CFR 571.218 relative to helmet penetration standards, ventilation airways may penetrate through the entire shell of the helmet; provided, that no ventilation airway shall exceed one and one-half inches (1 1/2") in diameter;

(iii) Notwithstanding any provision in 49 CFR 571.218, the protective surface shall not be required to be a continuous contour; and

(iv) Notwithstanding any provision in 49 CFR 571.218 to the contrary, a label on the helmet shall be affixed signifying that such helmet complies with the requirements of the American Society for Testing Materials (ASTM), the Consumer Product Safety Commission (CSPM), or the Snell Foundation.

(b) This section does not apply to persons riding:

(i) Within an enclosed cab;

(ii) Motorcycles that are fully enclosed, have three (3) wheels in contact with the ground, weigh less than one thousand five hundred pounds (1,500 lbs.) and have the capacity to maintain posted highway speed limits;

(iii) Golf carts; or

(iv) In a parade, at a speed not to exceed thirty (30) miles per hour, if the person is eighteen (18) years or older.

Every motorcycle, motor driven cycle, or motorized bicycle operated upon any public way within the corporate limits shall be equipped with a windshield, or, in the alternative, the operator and any passenger on any such motorcycle or motor driven cycle shall be required to wear safety goggles, face shield or glasses containing impact resistant lens 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, motor driven cycle, or motorized bicycle in violation of this section. (1979 Code, § 9-126, as renumbered and replaced by Ord. #13-2015, Oct. 2015)

15-123. Delivery of vehicle to unlicensed driver, etc.

(1) Definitions. (a) "Adult" shall mean any person eighteen (18) years of age or older.

(b) "Automobile" shall mean any motor driven automobile, car, truck, tractor, motorcycle, motor driven cycle, motorized bicycle, or vehicle driven by mechanical power.

(c) "Custody" means the control of the actual, physical care of the juvenile, and includes the right and responsibility to provide for the physical, mental, moral and emotional well being of the juvenile. "Custody" as herein defined, relates to those rights and responsibilities as exercised either by the juvenile's parent or parents or a person granted custody by a court of competent jurisdiction.

(d) "Drivers license" shall mean a motor vehicle operators license or chauffeurs license issued by the State of Tennessee.

(e) "Juvenile" as used in this chapter shall mean a person less than eighteen (18) years of age, and no exception shall be made for a juvenile who has been emancipated by marriage or otherwise.

(2) It shall be unlawful for any adult to deliver the possession of or the control of any automobile or other motor vehicle to any person, whether an adult or a juvenile, who does not have in his possession a valid motor vehicle operators or chauffeurs license issued by the Department of Safety of the State of Tennessee, or for any adult to permit any person, whether an adult or a juvenile, to drive any motor vehicle upon the streets, highways, roads, avenues, parkways, alleys or public thoroughfares in the Town of Cumberland Gap unless such person has a valid motor vehicle operators or chauffeurs license as issued by the Department of Safety of the State of Tennessee.

(3) It shall be unlawful for any parent or person having custody of a juvenile to permit any such juvenile to drive a motor vehicle upon the streets, highways, roads, parkways, avenues or public ways in the town in a reckless,

careless, or unlawful manner, or in such a manner as to violate the ordinances of the town. (as added by Ord. #13-2015, Oct. 2015)

15-124. Compliance with financial responsibility law required.

(1) This section shall apply to every vehicle subject to the state registration and certificate of title provisions.

(2) At the time the driver of a motor vehicle is charged with any moving violation under Tennessee Code Annotated, 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. 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.

(3) It is a civil offense to fail to provide evidence of financial responsibility pursuant to this section. Any violation is punishable by a civil penalty of up to fifty dollars (\$50.00).

(4) The penalty imposed by this section shall be in addition to any other penalty imposed by the laws of this state or this municipal code.

(5) On or before the court date, the person so charged may submit evidence of financial responsibility at the time of the violation. If it is the person's first violation of this section and the court is satisfied that such financial responsibility was in effect at the time of the violation, the charge of failure to provide evidence of financial responsibility shall be dismissed. Upon the person's second or subsequent violation of this section, if the court is

satisfied that such financial responsibility was in effect at the time of the violation, the charge of failure to provide evidence of financial responsibility may be dismissed. Any charge which is dismissed pursuant to this subsection shall be dismissed without costs to the defendant and no litigation tax shall be due or collected. (as added by Ord. #13-2015, Oct. 2015)

15-125. Adoption of state traffic statutes. By the authority granted under Tennessee Code Annotated, § 16-18-302, and Tennessee Code Annotated, § 55-10-307, the Town of Cumberland Gap adopts by reference as if fully set forth in this section, the "Rules of the Road," as codified in Tennessee Code Annotated, §§ 55-8-101 to 55-8-131, §§ 55-8-133 to 55-8-150, and §§ 55-8-152 to 55-8-180. Additionally, the Town of Cumberland Gap adopts Tennessee Code Annotated, §§ 55-8-181 to 55-8-193, §§ 55-9-601 to 55-9-606, § 55-12-139, and § 55-21-108 by reference as if fully set forth in this section. (as added by Ord. #13-2015, Oct. 2015)

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. (1979 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 such vehicle is making use of audible and visual signals meeting the requirements of the applicable laws of this state, except that an authorized emergency vehicle operated as a police vehicle may be equipped with or display a red light only in combination with a blue 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. (1979 Code, § 9-103, as amended by Ord. #13-2015, Oct. 2015)

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 other than on official business shall follow any authorized emergency vehicle apparently traveling in response to an emergency call closer than five hundred (500) feet or drive or park such vehicle within the block where fire apparatus has stopped in answer to a fire alarm. (1979 Code, § 9-104, as amended by Ord. #13-2015, Oct. 2015)

15-204. Running over fire hoses, etc. It shall be unlawful for any person to drive over any hose lines or other equipment of the fire department except in obedience to the direction of a fireman or policeman. (1979 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 twenty-five (25) miles per hour except where official signs have been posted indicating other speed limits, in which cases the posted speed limit shall apply. (1979 Code, § 9-201, as amended by Ord. #9-2010, Sept. 2010)

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. (1979 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.

When the town 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 ninety (90) minutes before the opening hour of a school or a period of ninety (90) minutes after the closing hour of a school, while children are actually going to or leaving school, shall be prima facie guilty of reckless driving. (1979 Code, § 9-203, modified)

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 town. (1979 Code, § 9-204)

CHAPTER 4

TURNING MOVEMENTS

SECTION

15-401. Generally.

15-402. Right turns.

15-403. Left turns on two-way roadways.

15-404. Left turns on other than two-way roadways.

15-405. U-turns.

15-401. Generally. No person operating a motor vehicle shall make any turning movement which might affect any pedestrian or the operation of any other vehicle without first ascertaining that such movement can be made in safety and signaling his intention in accordance with the requirements of the state law.¹ (1979 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. (1979 Code, § 9-302)

15-403. Left turns on two-way roadways. At any intersection where traffic is permitted to move in both directions on each roadway entering the intersection, an approach for a left turn shall be made in that portion of the right half of the roadway nearest the center line thereof and by passing to the right of the intersection of the center line where it enters the intersection, and after entering the intersection of the left turn shall be made as to leave the intersection to the right center line of the roadway being entered. Whenever practicable, the left turn shall be made in that portion of the intersection to the left of the center of the intersection. (1979 Code, § 9-303, as replaced by Ord. #13-2015, Oct. 2015)

15-404. Left turns on other than two-way roadways. At any intersection where traffic is restricted to one direction on one or more of the roadways, the driver of a vehicle intending to turn left at any such intersection shall approach the intersection in the extreme left hand lane lawfully available to traffic moving in the direction of travel of such vehicle and after entering the intersection the left turn shall be made so as to leave the intersection, as nearly as practicable, in the left hand lane lawfully available to traffic moving in such direction upon the roadway being entered. (1979 Code, § 9-304)

¹State law reference

Tennessee Code Annotated, § 55-8-143.

15-405. U-turns. U-turns are prohibited. (1979 Code, § 9-305)

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 police officer. (1979 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. (1979 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. (1979 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. (1979 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. (1979 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. (1979 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 none, 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 town, provided that the prospective turning car comes to a full and complete stop before turning and that the turning car yields the right of way to pedestrians and cross traffic traveling in accordance with their traffic signal. However, said turn 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 town at intersections which the town decides require no right turns on red in the interest of traffic safety.

(b) Pedestrians facing such signal shall not enter the roadway.

(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. (1979 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 town it shall require obedience by vehicular traffic as follows:

(a) Flashing red (stop signal). When a red lens is illuminated with intermittent flashes, drivers of vehicles shall stop before entering the nearest crosswalk at an intersection or at a limit line when marked, or if none, then before entering the intersection, and the right to proceed shall be subject to the rules applicable after making a stop at a stop sign.

(b) Flashing yellow (caution signal). When a yellow lens is illuminated with intermittent flashes, drivers of vehicles may proceed through the intersection or past such signal only with caution.

(2) This section shall not apply at railroad grade crossings. Conduct of drivers of vehicles approaching railroad grade crossings shall be governed by the rules set forth in § 15-504 of this code. (1979 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. (1979 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 Town of Cumberland Gap shall be so parked that its right wheels are approximately parallel to and within eighteen inches (18") of the right edge or curb of the street. On one-way streets where the town has not placed signs prohibiting the same, vehicles may be permitted to park on the left side of the street, and in such cases the left wheels shall be required to be within eighteen inches (18") of the left edge or curb of the street.

Notwithstanding anything else in this code to the contrary, no person shall park or leave a vehicle parked on any public street or alley within the fire limits between the hours of 1:00 A.M. and 5:00 A.M. or on any other public street or alley for more than seventy-two (72) consecutive hours without the prior approval of the chief of police.

Furthermore, no person shall wash, grease, or work on any vehicle, except to make repairs necessitated by an emergency, while such vehicle is parked on a public street. (1979 Code, § 9-501, as amended by Ord. #13-2015, Oct. 2015)

15-602. Angle parking. On those streets which have been signed or marked by the town for angle parking, no person shall park or stand a vehicle other than at the angle indicated by such signs or markings. No person shall angle park any vehicle which has a trailer attached thereto or which has a length in excess of twenty-four feet (24'). (1979 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. (1979 Code, § 9-503)

15-604. Where prohibited. No person shall park a vehicle in violation of any sign placed or erected by the state or town, nor:

(1) On a sidewalk; provided, the however, a bicycle may be parked on a sidewalk if it does not impede the normal and reasonable movement of pedestrian or other traffic.

(2) In front of a public or private driveway.

(3) Within an intersection or within fifteen feet (15') thereof.

(4) Within seven and one-half feet (7 1/2') to fifteen feet (15') of a fire hydrant (as marked).

(5) Within a pedestrian crosswalk.

(6) Within fifty feet (50') of a railroad crossing.

(7) Within twenty feet (20') of the driveway entrance to any fire station, and on the side of the street opposite the entrance to any fire station within seventy-five feet (75') of the entrance.

(8) Alongside or opposite any street excavation or obstruction when other traffic would be obstructed.

(9) On the roadway side of any vehicle stopped or parked at the edge or curb of a street.

(10) Upon any bridge.

(11) Alongside any curb painted yellow or red by the town. (1979 Code, § 9-504, as amended by Ord. #13-2015, Oct. 2015)

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 town as a loading and unloading zone. (1979 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. (1979 Code, § 9-506)

CHAPTER 7

ENFORCEMENT

SECTION

- 15-701. Issuance of traffic citations.
- 15-702. Failure to obey citation.
- 15-703. Illegal parking.
- 15-704. Impoundment of vehicles.
- 15-705. Disposal of abandoned motor vehicles.
- 15-706. Violation and penalty.

15-701. Issuance of traffic citations.¹ When a police officer halts a traffic violator other than for the purpose of giving a warning, and does not take such person into custody under arrest, he shall take the name, address, and operator's license number of said person, the license number of the motor vehicle involved, and such other pertinent information as may be necessary, and shall issue to him a written traffic citation containing a notice to answer to the charge against him in the town 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. (1979 Code, § 9-601, modified)

15-702. Failure to obey citation. It shall be unlawful for any person to violate his written promise to appear in court after giving said promise to an officer upon the issuance of a traffic citation, regardless of the disposition of the charge for which the citation was originally issued. (1979 Code, § 9-602)

15-703. Illegal parking. Whenever any motor vehicle without a driver is found parked or stopped in violation of any of the restrictions imposed by this code, the officer finding such vehicle shall take its license number and may take any other information displayed on the vehicle which may identify its user, and shall conspicuously affix to such vehicle a citation for the driver and/or owner to answer for the violation within ten (10) days during the hours and at a place specified in the citation.

For parking violations the offender may waive his right to a judicial hearing and have the charges disposed of out of court, but the fine shall be fifteen dollars (\$15.00). (1979 Code, § 9-603)

¹State law reference

Tennessee Code Annotated, § 7-63-101, et seq.

15-704. Impoundment of vehicles. Members of the police department are hereby authorized, when reasonably necessary for the security of the vehicle or to prevent obstruction of traffic, to remove from the streets and impound any vehicle whose operator is arrested or any unattended vehicle which is illegally parked, abandoned, or otherwise 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 otherwise lawfully disposed of. The fee for impounding a vehicle shall be the prevailing rate in the Town of Cumberland Gap for private companies. (1979 Code, § 9-604)

15-705. Disposal of abandoned motor vehicles. "Abandoned motor vehicles," as defined in Tennessee Code Annotated, § 55-16-103, shall be impounded and disposed of by the police department in accordance with the provisions of Tennessee Code Annotated, §§ 55-16-103 through 55-16-109. (1979 Code, § 9-605)

15-706. Violation and penalty. Any violation of this title shall be punishable by a civil penalty up to fifty dollars (\$50.00) for each separate offense. (as added by Ord. #13-2015, Oct. 2015)

TITLE 16

STREETS AND SIDEWALKS, ETC¹

CHAPTER

1. MISCELLANEOUS.
2. EXCAVATIONS AND CUTS.
3. DELETED.

CHAPTER 1

MISCELLANEOUS

SECTION

- 16-101. Obstructing streets, alleys, or sidewalks prohibited.
- 16-102. Trees projecting over streets, etc., regulated.
- 16-103. Trees, etc., obstructing view at intersections prohibited.
- 16-104. Projecting signs and awnings, etc., restricted.
- 16-105. Banners and signs across streets and alleys restricted.
- 16-106. Gates or doors opening over streets, alleys, or sidewalks prohibited.
- 16-107. Littering streets, alleys, or sidewalks prohibited.
- 16-108. Obstruction of drainage ditches.
- 16-109. Abutting occupants to keep sidewalks clean, etc.
- 16-110. Parades, etc., regulated.
- 16-111. Operation of trains at crossings regulated.
- 16-112. Animals and vehicles on sidewalks.
- 16-113. Fires in streets, etc.
- 16-114. Violation and penalty.

16-101. Obstructing streets, alleys, or sidewalks prohibited. It shall be unlawful for any person to unreasonably interfere with or inconvenience pedestrians, or to obstruct any public street, alley, sidewalk, or right of way for the purpose of storing, selling, or exhibiting any goods, wares, merchandise, or materials. (1979 Code, § 12-101, as replaced by Ord. #15-2015, Dec. 2015)

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, alley at a height of less than fourteen (14) feet or over any sidewalk at a height of less than eight (8) feet. (1979 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, shrub, sign, or other obstruction which prevents persons driving vehicles on public streets or alleys from obtaining a clear view of traffic when approaching an intersection. (1979 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 (1979 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 board of mayor and alderman after a finding that no hazard will be created by such banner or sign. (1979 Code, § 12-105, as amended by Ord. #15-2015, Dec. 2015)

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. (1979 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. (1979 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. (1979 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. (1979 Code, § 12-109)

¹Municipal code reference
Building code: title 12, chapter 1.

16-110. Parades, etc., regulated. It shall be unlawful for any club, organization, or similar group to hold any meeting, parade, demonstration, or exhibition on the public streets without some responsible representative first securing a permit from the recorder and treasurer. No permit shall be issued by the recorder and treasurer 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. (1979 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 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. (1979 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 to unreasonably interfere with or inconvenience pedestrians using the sidewalk. It shall also be unlawful for any person knowingly to allow any minor under his control to violate this section. (1979 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. (1979 Code, § 12-113)

16-114. Violation and penalty. Violations of any section of this chapter shall subject the offender to a penalty under the general provision of this code. (as added by Ord. #15-2015, Dec. 2015)

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.
- 16-211. Violation and penalty.

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 and treasurer is open for business, and said permit shall be retroactive to the date when the work was begun. (1979 Code, § 12-201)

16-202. Applications. Applications for such permits shall be made to the recorder and treasurer, 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

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).

contain an agreement that the applicant will comply with all ordinances and laws relating to the work to be done. Such application shall be rejected or approved by the recorder and treasurer within twenty-four (24) hours of its filing. (1979 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. (1979 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 and treasurer a cash deposit. The deposit shall be in the sum of five hundred dollars (\$500.00) if no pavement is involved or one thousand dollars (\$1,000.00) 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 recorder and treasurer 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 town of relaying the surface of the ground or pavement, and of making the refill if this is done by the town 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 and treasurer a surety bond in such form and amount as the recorder and treasurer shall deem adequate to cover the costs to the town if the applicant fails to make proper restoration. (1979 Code, § 12-204, as amended by Ord. #15-2015, Dec. 2015)

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. (1979 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 the Town of Cumberland Gap shall restore said street, alley, or public place to its original condition except for the surfacing, which

shall be done by the town, but shall be paid for by such person, firm, corporation, association, or others promptly upon the completion of the work for which the excavation or tunnel was made. In case of unreasonable delay in restoring the street, alley, or public place, the recorder and treasurer 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 town 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 town, 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. (1979 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 town recorder in accordance with the nature of the risk involved; provided, however, that the liability insurance for bodily injury shall not be less than three hundred thousand dollars (\$300,000.00) for each person and seven hundred thousand dollars (\$700,000.00) for each accident, and for property damages not less than one hundred thousand dollars (\$100,000.00) for each accident. (1979 Code, § 12-207, as replaced by Ord. #15-2015, Dec. 2015)

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 town if the town restores such surface pavement. It shall be unlawful to fail to comply with this time limitation unless permission for an extension of time is granted by the recorder and treasurer. (1979 Code, § 12-208)

16-209. Supervision. The person designated by the board of mayor and alderman 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 town 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. (1979 Code, § 12-209, as amended by Ord. #15-2015, Dec. 2015)

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 recorder and treasurer. 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 feet (35') 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 feet (10') in width at its outer or street edge shall be provided. Driveway aprons shall not extend out into the street. (1979 Code, § 12-210)

16-211. Violation and penalty. Any violation of this chapter shall constitute a civil offense and shall be punishable by a civil penalty under the general provision of this code, by revocation of permit, or by both penalty and revocation. Each day a violation shall be allowed to continue shall constitute a separate offense. (as added by Ord. #15-2015, Dec. 2015)

CHAPTER 3

DELETED

This chapter was deleted by Ord. #15-2015, Dec. 2015.

TITLE 17

REFUSE AND TRASH DISPOSAL¹

CHAPTER

1. REFUSE.

CHAPTER 1

REFUSE

SECTION

- 17-101. Refuse defined.
- 17-102. Premises to be kept clean.
- 17-103. Storage.
- 17-104. Location of containers.
- 17-105. Disturbing containers.
- 17-106. Collection.
- 17-107. Collection vehicles.
- 17-108. Disposal.
- 17-109. Refuse collection and/or disposal service charges.
- 17-110. Violation and penalty.

17-101. Refuse defined. Refuse shall mean and include garbage, and rubbish, leaves, brush, and refuse as those terms are generally defined except that dead animals and fowls, body wastes, hot ashes, rocks, concrete, bricks, and similar materials are expressly excluded therefrom and shall not be stored therewith. (1979 Code, § 8-201)

17-102. Premises to be kept clean. All persons within the town are required to keep their premises in a clean and sanitary condition, free from accumulations of refuse except when stored as provided in this chapter. (1979 Code, § 8-202)

17-103. Storage. Each owner, occupant, or other responsible person using or occupying any building or other premises within the Town of Cumberland Gap where refuse accumulates or is likely to accumulate, shall provide and keep covered an adequate number of refuse containers. The refuse containers shall be strong, durable, and rodent and insect proof. They shall each have a capacity of not less than twenty (20) nor more than thirty-two (32) gallons. Containers shall be lined with a suitable garbage bag. Furthermore,

¹Municipal code reference

Property maintenance regulations: title 13.

the combined weight of any refuse container and its contents shall not exceed seventy-five (75) pounds. No refuse shall be placed in a refuse container until such refuse has been drained of all free liquids. (1979 Code, § 8-203, as replaced by Ord. #16-2015, Dec. 2015)

17-104. Location of containers. Where alleys are used by the municipal refuse collectors, containers shall be placed on or within six (6) feet of the alley line in such a position as not to intrude upon the traveled portion of the alley. Where streets are used by the town refuse collectors, containers shall be placed adjacent to and back of the curb, or adjacent to and back of the ditch or street line if there is no curb, at such times as shall be scheduled by the town for the collection of refuse therefrom. As soon as practicable after such containers have been emptied they shall be removed by the owner to within, or to the rear of, his premises and away from the street line until the next scheduled time for collection. (1979 Code, § 8-204)

17-105. Disturbing containers. No unauthorized person shall uncover, rifle, pilfer, dig into, turn over, or in any other manner disturb or use any refuse container belonging to another. This section shall not be construed to prohibit the use of public refuse containers for their intended purpose. (1979 Code, § 8-205)

17-106. Collection. All refuse accumulated within the corporate limits shall be collected, conveyed, and disposed of under the supervision of such officer as the governing body shall designate. Collections shall be made regularly in accordance with an announced schedule. (1979 Code, § 8-206)

17-107. Collection vehicles. The collection of refuse shall be by means of vehicles with beds constructed of impervious materials which are easily cleanable and so constructed that there will be no leakage of liquids draining from the refuse onto the streets and alleys. Furthermore, all refuse collection vehicles shall utilize closed beds or such coverings as will effectively prevent the scattering of refuse over the streets or alleys. (1979 Code, § 8-207)

17-108. Disposal. The disposal of refuse in any quantity by any person in any place, public or private, other than at the site or sites designated for refuse disposal by the board of mayor and alderman is expressly prohibited. (1979 Code, § 8-208, as amended by Ord. #16-2015, Dec. 2015))

17-109. Refuse collection and/or disposal service charges.

(1) Residential garbage service user fees. (a) Fees established, definition, collection rules and regulations.

(i) There is hereby established a residential or small business garbage service user fee to be charged to and collected

from each household in the Town of Cumberland Gap, Tennessee on a monthly basis.

(ii) Household is defined, for the purpose of this section, as all residential living units within the Town of Cumberland Gap, whether occupied or not, to which garbage and refuse pick up service is furnished by the Town of Cumberland Gap, and available for use, whether utilized or not, and for which pick up service is not otherwise required to be provided as a commercial unit (or apartment development in excess of six (6) units.)

(iii) "Small commercial" is a small business having no larger volume of waste than can be picked up weekly with maximum containers waste as follows: three (3) thirty-two (32) gallons cans, or five (5) household sized plastic sanitary bags (commonly thirty (30) gallon bags) each pickup.

"Large commercial" is a commercial business or establishment whose refuse weekly exceeds three (3) thirty-two (32) gallons cans, or five (5) household sized plastic sanitary bags (commonly thirty (30) gallon bags). Each "large commercial" producer shall have its solid wastes collected at least one (1) time per week by the vendor of their choosing and make arrangements for additional collections as needed.

(iv) All residential and small commercial garbage service user fee shall be established according to a schedule approved by the board of mayor and alderman.

(v) The town recorder is authorized and directed to institute collection mechanisms, rules, and regulations and means as shall be deemed by the town recorder to be efficient, appropriate and expedient to effect collections.

(b) Penalty for non-payment. (i) It is unlawful to refuse or neglect to pay the monthly residential garbage service user fee when billed. Bill is due the 20th of each month.

(ii) Each thirty (30) day period that the service fee remains unpaid shall subject the owner or the tenant, whichever is the user, to a separate five dollar (\$5.00) civil fine for non payment.

(2) Furniture, large appliances and other household items.

(a) Furniture and large appliances will be collected and removed from resident's property by the town on an on-call basis. The resident shall call the town hall to request that such items be picked up. However, the town shall not accept any refrigerator or freezer unless the door has been removed from such appliance. Furniture and large appliances shall be placed on the resident's property adjacent to an alley or at the curbside. These items should only be put out after the town has been contacted and payment has been made. Construction debris and

contractor waste will not be picked up by the town. This section applies only to residences. Nonresidential producers shall be responsible for disposing of such items at their own expense.

(b) The board of mayor and aldermen hereby establish a fee of ten dollars (\$10.00) for the collection of the various items authorized by this section. (as added by Ord. #10-2003, Oct. 2003, and amended by Ord. #3-2005, June 2005, Ord. #4-2006, Oct. 2006, Ord. #3-2010, May 2010, and Ord. #16-2015, Dec. 2015)

17-110. Violation and penalty. Violations of any section of this chapter shall subject the offender to a penalty under the general provision of this code. Each day a violation is allowed to continue shall constitute a separate offense. (as added by Ord. #16-2015, Dec. 2015)

TITLE 18**WATER AND SEWERS¹****CHAPTER**

1. SEWAGE AND HUMAN EXCRETA DISPOSAL.
2. WASTEWATER REGULATIONS.
3. SEWERS.
4. WATER.
5. CROSS CONNECTIONS, AUXILIARY INTAKES, ETC.
6. WATER AND SEWER BILLING STANDARDS AND RATES.
7. POLICIES FOR MULTIPLE CONNECTIONS TO A SINGLE METER.

CHAPTER 1**SEWAGE AND HUMAN EXCRETA DISPOSAL²****SECTION**

- 18-101. Definitions.
- 18-102. Places required to have sanitary disposal methods.
- 18-103. When a connection to the public sewer is required.
- 18-104. When a septic tank shall be used.
- 18-105. Registration and records of septic tank cleaners, etc.
- 18-106. Use of pit privy or other method of disposal.
- 18-107. Approval and permit required for septic tanks, privies, etc.
- 18-108. Owner to provide disposal facilities.
- 18-109. Occupant to maintain disposal facilities.
- 18-110. Only specified methods of disposal to be used.
- 18-111. Discharge into watercourses restricted.
- 18-112. Pollution of ground water prohibited.
- 18-113. Enforcement of chapter.
- 18-114. Carnivals, circuses, etc.
- 18-115. Sewage bill delinquencies.
- 18-116. Re-establishment of sewer service after delinquency.
- 18-117. Violations.

¹Municipal code references

Building, utility and housing codes: title 12.
Refuse disposal: title 17.

²Municipal code reference

Plumbing code: title 12, chapter 2.

18-101. Definitions. The following definitions shall apply in the interpretation of this chapter:

1. "Accessible sewer." A public sanitary sewer located in a street or alley abutting on the property in question or otherwise within two hundred (200) feet of any boundary of said property measured along the shortest available right-of-way;

2. "Health officer." The person duly appointed to such position having jurisdiction, or any person or persons authorized to act as his agent;

3. "Human excreta." The bowel and kidney discharges of human beings;

4. "Sewage." All water-carried human and household wastes from residences, buildings, or industrial establishments;

5. "Approved septic tank system." A watertight covered receptacle of monolithic concrete, either precast or cast in place, constructed according to plans approved by the health officer. Such tanks shall have a capacity of not less than 750 gallons and in the case of homes with more than two (2) bedrooms the capacity of the tank shall be in accordance with the recommendations of the Tennessee Department of Environment and Conservation as provided for in its 1967 bulletin entitled "Recommended Guide for Location, Design, and Construction of Septic Tanks and Disposal Fields." A minimum liquid depth of four (4) feet should be provided with a minimum depth of air space above the liquid of one (1) foot. The septic tank dimensions should be such that the length from inlet to outlet is at least twice but not more than three (3) times the width. The liquid depth should not exceed five (5) feet. The discharge from the septic tank shall be disposed of in such a manner that it may not create a nuisance on the surface of the ground or pollute the underground water supply, and such disposal shall be in accordance with recommendations of the health officer as determined by acceptable soil percolation data;

6. "Sanitary pit privy." A privy having a fly-tight floor and seat over an excavation in earth, located and constructed in such a manner that flies and animals will be excluded, surface water may not enter the pit, and danger of pollution of the surface of the ground or the underground water supply will be prevented;

7. "Other approved method of sewage disposal." Any privy, chemical toilet, or other toilet device (other than a sanitary sewer, septic tank, or sanitary pit privy as described above) the type, location, and construction of which have been approved by the health officer;

8. "Watercourse." Any natural or artificial drain which conveys water either continuously or intermittently. (1979 Code, § 8-301)

18-102. Places required to have sanitary disposal methods. Every residence, building, or place where human beings reside, assemble, or are employed within the corporate limits shall be required to have a sanitary method for disposal of sewage and human excreta. (1979 Code, § 8-302)

18-103. When a connection to the public sewer is required.

Wherever an accessible sewer exists and water under pressure is available, approved plumbing facilities shall be provided and the wastes from such facilities shall be discharged through a connection to said sewer made in compliance with the requirements of the official responsible for the public sewerage system. On any lot or premise accessible to the sewer no other method of sewage disposal shall be employed. (1979 Code, § 8-303)

18-104. When a septic tank shall be used. Wherever water carried sewage facilities are installed and their use is permitted by the health officer, and an accessible sewer does not exist, the wastes from such facilities shall be discharged into an approved septic tank system.

No septic tank or other water-carried sewage disposal system except a connection to a public sewer shall be installed without the approval of the health officer or his duly appointed representative. The design, layout, and construction of such systems shall be in accordance with specifications approved by the health officer and the installation shall be under the general supervision of the department of environment and conservation. (1979 Code, § 8-304)

18-105. Registration and records of septic tank cleaners, etc.

Every person, firm, or corporation who operates equipment for the purpose of removing digested sludge from septic tanks, cesspools, privies, and other sewage disposal installations on private or public property must register with the health officer and furnish such records of work done within the corporate limits as may be deemed necessary by the health officer. (1979 Code, § 8-305)

18-106. Use of pit privy or other method of disposal. Wherever a sanitary method of human excreta disposal is required under § 18-102 and water-carried sewage facilities are not used, a sanitary pit privy or other approved method of disposal shall be provided. (1979 Code, § 8-306)

18-107. Approval and permit required for septic tanks, privies, etc. Any person, firm, or corporation proposing to construct a septic tank system, privy, or other sewage disposal facility, requiring the approval of the health officer under this chapter, shall before the initiation of construction obtain the approval of the health officer for the design and location of the system and secure a permit from the health officer for such system. (1979 Code, § 8-307)

18-108. Owner to provide disposal facilities. It shall be the duty of the owner of any property upon which facilities for sanitary sewage or human excreta disposal are required by § 18-102, or the agent of the owner to provide such facilities. (1979 Code, § 8-308)

18-109. Occupant to maintain disposal facilities. It shall be the duty of the occupant, tenant, lessee, or other person in charge to maintain the facilities for sewage disposal in a clean and sanitary condition at all times and no refuse or other material which may unduly fill up, clog, or otherwise interfere with the operation of such facilities shall be deposited therein. (1979 Code, § 8-309)

18-110. Only specified methods of disposal to be used. No sewage or human excreta shall be thrown out, deposited, buried, or otherwise disposed of, except by a sanitary method of disposal as specified in this chapter. (1979 Code, § 8-310)

18-111. Discharge into watercourses restricted. No sewage or excreta shall be discharged or deposited into any lake or watercourse except under conditions specified by the health officer and specifically authorized by the Tennessee Stream Pollution Control Board. (1979 Code, § 8-311)

18-112. Pollution of ground water prohibited. No sewage, effluent from a septic tank, sewage treatment plant, or discharges from any plumbing facility shall empty into any well, either abandoned or constructed for this purpose, cistern, sinkhole, crevice, ditch, or other opening either natural or artificial in any formation which may permit the pollution of ground water. (1979 Code, § 8-312)

18-113. Enforcement of chapter. It shall be the duty of the health officer to make an inspection of the methods of disposal of sewage and human excreta as often as is considered necessary to insure full compliance with the terms of this chapter. Written notification of any violation shall be given by the health officer to the person or persons responsible for the correction of the condition, and correction shall be made within forty-five (45) days after notification. If the health officer shall advise any person that the method by which human excreta and sewage is being disposed of constitutes an immediate and serious menace to health such person shall at once take steps to remove the menace. Failure to remove such menace immediately shall be punishable under the general penalty clause for this code. However, such person shall be allowed the number of days herein provided within which to make permanent correction. (1979 Code, § 8-313)

18-114. Carnivals, circuses, etc. Whenever carnivals, circuses, or other transient groups of persons come within the corporate limits such groups of transients shall provide a sanitary method for disposal of sewage and human excreta. Failure of a carnival, circus, or other transient group to provide such sanitary method of disposal and to make all reasonable changes and corrections proposed by the health officer shall constitute a violation of this section. In

these cases the violator shall not be entitled to the notice of forty-five (45) days provided for in the preceding section. (1979 Code, § 8-314)

18-115. Sewage bill delinquencies. Any person, persons, firm, association, or corporation who is a customer of the sewer system, fails or neglects to make full payment of their sewer bill for service shall be subject to service disconnection after forty five (45) days from the date of the delinquent bill. (Ord. #4-2000, Oct. 2000)

18-116. Re-establishment of sewer service after delinquency. Any party who wishes to re-establish sewer service after disconnection from the system has occurred due to a delinquent account will be required to pay for all accumulated bill total and pay a service connection fee. The fee will be equal to the present rate a new customer desiring sewer service is charged. (Ord. #4-2000, Oct. 2000)

18-117. Violations. Any person, persons, firm, association, or corporation or agent thereof, who shall fail, neglect, or refuse to comply with the provisions of this chapter shall be deemed guilty of a misdemeanor and shall be punishable under the general penalty clause for this code. (1979 Code, § 8-315)

CHAPTER 2

WASTEWATER REGULATIONS

SECTION

- 18-201. Purpose and policy.
- 18-202. Definitions.
- 18-203. Connection to public sewers.
- 18-204. Septic tank effluent pump or grinder pump wastewater systems.
- 18-205. Private domestic wastewater disposal.
- 18-206. Regulation of holding tank waste disposal.
- 18-207. Discharge regulations.
- 18-208. Application for domestic wastewater connection.
- 18-209. Fees and billing.
- 18-210. Validity.

18-201. Purpose and policy. This chapter sets forth uniform requirements for the disposal of wastewater in the service area of the Town of Cumberland Gap, Tennessee, wastewater treatment system. The objectives of this chapter are:

1. To protect the public health;
2. To provide problem free wastewater collection and treatment service;
3. To prevent the introduction of pollutants into the municipal wastewater treatment system, which will interfere with the system operation, which will cause the system discharge to violate its National Pollutant Discharge Elimination System (NPDES) permit or other applicable state requirements, or which will cause physical damage to the wastewater treatment system facilities;
4. To provide for full and equitable distribution of the cost of the wastewater treatment system;
5. To enable the town to comply with the provisions of the Federal Water Pollution Control Act, the General Pretreatment Regulations (40 CFR Part 403), and the Tennessee Water Quality Control Act, Tennessee Code Annotated, § 69-3-123, et seq.;
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 town must have adequate wastewater treatment either in the form of a connection to the municipal wastewater treatment system or, where the system is not available, an appropriate private disposal system. The chapter also provides for the issuance of permits to system users, for the regulations of wastewater discharge volume and characteristics, for monitoring and enforcement activities; and for the setting of fees for the full and equitable

distribution of costs resulting from the operation, maintenance, and capital recovery of the wastewater treatment system and from other activities required by the enforcement and administrative program established herein.

This chapter shall apply to the town and to persons outside the town who are, by contract or agreement with the town users of the municipal wastewater treatment system. Except as otherwise provided herein, the local administrative officer of the town shall administer, implement, and enforce the provisions of this chapter. (Ord. #5-2000, Dec. 2000)

18-202. Definitions. Unless the context specifically indicates otherwise, the following terms and phrases, as used in this chapter, shall have the meanings hereinafter designated:

1. "Act or the Act." The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended 33 U.S.C. 1251, et seq.
2. "Approval authority." The Tennessee Department of Environment and Conservation, Division of Water Pollution Control.
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 for five (5) days at 20 centigrade expressed in terms of weight and concentration (milligrams per liter (mg/l)).
5. "Building sewer." A sewer conveying wastewater from the premises of a user to the publicly owned sewer collection system.
6. "Categorical standards." The National Categorical Pretreatment Standards or Pretreatment Standard.
7. "Commissioner." The commissioner of environment and conservation or the commissioner's duly authorized representative and, in the event of the commissioner's absence or a vacancy in the office of commissioner, the deputy commissioner.
8. "Compatible pollutant." Shall mean BOD, suspended solids, pH, fecal coliform bacteria, and such additional pollutants as are now or may in the future be specified and controlled in the town's NPDES permit for its wastewater treatment works where sewer works have been designed and used to reduce or remove such pollutants.

9. "Cooling water." The water discharge from any use such as air conditioning, cooling, or refrigeration, or to which the only pollutant added is heat.

10. "Control authority." The term "control authority" shall refer to the "Approval authority," defined hereinabove; or the local hearing authority if the town 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 town under either an express or implied contract requiring payment to the town for such service.

12. "Direct discharge." The discharge of treated or untreated wastewater directly to the waters of the State of Tennessee.

13. "Domestic wastewater." Wastewater that is generated by a single family, apartment or other dwelling unit or dwelling unit equivalent or commercial establishment containing sanitary facilities for the disposal of wastewater and used for residential or commercial purposes only.

14. "Environmental Protection Agency, or EPA." The U. S. Environmental Protection Agency, or where appropriate, the term may also be used as a designation for the administrator or other duly authorized official of the said agency.

15. "Garbage." Solid wastes generated from any domestic, commercial or industrial source.

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. "Grease interceptor." An interceptor whose rated flow is 50 g.p.m. or less and is located inside the building.

18. "Grease trap." An interceptor whose rated flow is 50 g.p.m. or more and is located outside the building.

19. "Holding tank waste." Any waste from holding tanks such as vessels, chemical toilets, campers, trailers, septic tanks, and vacuum-pump tank trucks.

20. "Incompatible pollutant." Any pollutant which is not a "compatible pollutant" as defined in this section.

21. "Indirect discharge." The discharge or the introduction of non-domestic pollutants from any source regulated under Section 307(b) or (c) of the Act, (33 U.S.C. 1317), into the POTW (including holding tank waste discharged into the system).

22. "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).

23. "Industrial wastes." Any liquid, solid, or gaseous substance, or combination thereof, or form of energy including heat, resulting from any

process of industry, manufacture, trade, food processing or preparation, or business or from the development of any natural resource.

24. "Interceptor." A device designed and installed to separate and retain for removal, by automatic or manual means, deleterious, hazardous or undesirable matter from normal wastes, while permitting normal sewage or waste to discharge into the drainage system by gravity.

25. "Interference." The inhibition or disruption of the municipal wastewater processes or operations which contributes to a violation of any requirement of the town'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 including 40 CFR 503, guidelines, or regulations developed pursuant to the Solid Waste Disposal Act (SWDA), Rules and Regulations of the State of Tennessee, chapter 1200-1-7 (Solid Waste Processing and Disposal), 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.

26. "Local administrative officer." The chief administrative officer of the local hearing authority.

27. "Local hearing authority." The town council or such person or persons appointed by the board to administer and enforce the provisions of this chapter and conduct hearings pursuant to § 18-210.

28. "National categorical pretreatment standard or pretreatment standard." Any regulation containing pollutant discharge limits promulgated by the EPA in accordance with Section 307(b) and (c) of the Act (33 U.S.C. 1347) which applies to a specific category of industrial users.

29. "NPDES (National Pollution Discharge Elimination System)." The program for issuing, conditioning, and denying permits for the discharge of pollutants from point sources into navigable waters, the contiguous zone, and the oceans pursuant to Section 402 of the Federal Water Pollution Control Act as amended.

30. "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 if 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.

31. "Person." Any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or any other legal entity, or their legal representatives, agents, or assigns. The masculine gender shall include the feminine and the singular shall include the plural where indicated by the context.

32. "pH." The logarithm (base 10) of the reciprocal of the concentration of hydrogen ions expressed in grams per liter of solution.

33. "Pollution." The man-made or man-induced alteration of the chemical, physical, biological, and radiological integrity of water.

34. "Pollutant." Any dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt, and industrial, municipal, and agricultural waste discharge into water.

35. "Pretreatment or treatment." The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into a POTW. The reduction or alteration can be obtained by physical, chemical, biological processes, or process changes or other means, except through dilution as prohibited by 40 CFR Section 403.6(d).

36. "Pretreatment coordinator." The person designated by the local administrative officer or his authorized representative to supervise the operation of the pretreatment program.

37. "Pretreatment requirements." Any substantive or procedural requirement related to pretreatment other than a national pretreatment standard imposed on an industrial user.

38. "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 town. This definition includes any sewers that convey wastewater to the POTW treatment plant, but does not include pipes, sewers or other conveyances not connected to a facility providing treatment. For the purposes of this chapter, "POTW" shall also include any sewers that convey wastewaters to the POTW from persons outside the town, who are, by contract or agreement with the town users of the town's POTW.

39. "POTW treatment plant." That portion of the POTW designed to provide treatment to wastewater.

40. "Shall" is mandatory; "May" is permissive.

41. "Significant industrial user." The term significant industrial user means:

a. All industrial users subject to categorical pretreatment standards under 40 CFR 403.6 and 40 CFR chapter I, subchapter N; and

b. Any other industrial user that: discharges an average of 25,000 gallons per day or more of process wastewater to the POTW (excluding sanitary, non-contact cooling and boiler blowdown wastewater); contributes a process wastestream which makes up 5 percent or more of the average dry weather hydraulic or organic capatown of the POTW treatment plant; or is designated as such by the control authority as defined in 40 CFR 403.12(a) on the basis that the industrial

user has a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement (in accordance with 40 CFR 403.8(f)(6)).

42. "Significant noncompliance." A chronic violation of discharge limits, a Technical Review criteria violation, any violation that causes interference or pass through at the treatment plant, a discharge which caused imminent endangerment to human health, failure to meet within 90 days a compliance schedule, failure within 30 days to submit required reports, failure to accurately report noncompliance. See 40 CFR 403.8(f)(2)vii.

43. "Slug." Any discharge of water, sewage, or industrial waste which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than fifteen (15) minutes more than five (5) times the average twenty-four (24) hour concentrations of flows during normal operation or any discharge of whatever duration that causes the sewer to overflow or back up in an objectionable way or any discharge of whatever duration that interferes with the proper operation of the wastewater treatment facilities or pumping stations.

44. "State." The State of Tennessee.

45. "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.

46. "Storm water." Any flow occurring during or following any form of natural precipitation and resulting therefrom.

47. "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 .

48. "Suspended solids." The total suspended matter that floats on the surface of, or is suspended in, water, wastewater, or other liquids and that is removable by laboratory filtering.

49. "Superintendent." The local administrative officer or person designated by him 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.

50. "Town." The Town of Cumberland Gap or the Town council, Town of Cumberland Gap, Tennessee.

51. "Toxic pollutant." Any pollutant or combination of pollutants listed as toxic in regulations published by the Administrator of the Environmental Protection Agency under the provision of CWA 307(a) or other Acts.

52. "Twenty-four (24) hour flow proportional composite sample." A sample consisting of several sample portions collected during a 24-hour period in which the portions of a sample are proportioned to the flow and combined to form a representative sample.

53. "User." Any person who contributes, causes or permits the contribution of wastewater into the town's POTW.

54. "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.

55. "Wastewater treatment systems." Defined the same as POTW.

56. "Waters of the state." All streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems, and other bodies of accumulation of water, surface or underground, natural or artificial, public or private, that are contained within, flow through, or border upon the state or any portion thereof. (Ord. #5-2000, Dec. 2000)

18-203. Connection to public sewers. 1. Requirements for proper wastewater disposal.

a. It shall be unlawful for any person to place, deposit, or permit to be deposited in any unsanitary manner on public or private property within the service area of the town, any human or animal excrement, garbage, or other objectionable waste.

b. It shall be unlawful to discharge to any waters of the state within the service area of the town any sewage or other polluted waters, except where suitable treatment has been provided in accordance with provisions of this chapter.

c. Except as herein provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of sewage.

d. Except as provided in § 18-203(1)(e) below, the owner of all houses, buildings, or properties used for human occupancy, employment, recreation, or other purposes situated within the service area in which there is now located or may in the future be located a public sanitary sewer, is hereby required at his expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper public sewer in accordance with the provisions of the chapter, within sixty (60) days after date of official notice to do so, provided that said public sewer is within five hundred (500) feet of the property line over public access.

e. The owner of a manufacturing facility may discharge wastewater to the waters of the state provided that he obtains an NPDES permit and meets all requirements of the Federal Clean Water Act, the NPDES permit, and any other applicable local, state, or federal statutes and regulations.

f. Where a public sanitary sewer is not available under the provisions of § 18-203(1)(d) above, the building sewer shall be connected to a private sewage disposal system complying with the provisions of § 18-205 of this chapter.

2. Physical connection to public sewer. a. No person shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenance thereof. The town shall make all connections to the public sewer upon the property owner first submitting a connection application from the superintendent as required by § 18-208 of this chapter.

The connection application shall be supplemented by any plans, specifications or other information considered pertinent in the judgment of the superintendent. A connection fee shall be paid to the town at the time the application is filed.

b. All costs and expenses incident to the installation, connection, and inspection of the building sewer shall be borne by the owner. The owner shall indemnify the town from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

c. A separate and independent building sewer shall be provided for every building; except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard, or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer.

d. Old building sewers may be used in connection with new buildings only when they are found, on examination and tested by the superintendent to meet all requirements of this chapter. All others may be sealed to the specifications of the superintendent.

e. Building sewers shall conform to the following requirements:

i. The minimum size of a building sewer shall be as follows:

Conventional sewer system - Four inches (4").

Small diameter gravity sewer - Two inches (2").

Septic Tank Effluent Pump - One and one quarter inches (1-1/4").

Where the septic tanks become an integral part of the collection and treatment system, the minimum size influent line shall be four inches (4") and the minimum size of septic tank shall be 1,000 gallons. Septic tanks shall be constructed of water tight material and protected from flotation. The town shall have the right, privilege, and authority to locate, inspect, operate, and maintain septic tanks which are an integral part of the collection and treatment system.

ii. The minimum depth of a building sewer shall be eighteen inches (18").

iii. Building sewers shall be laid on the following grades:

Four inch (4") sewers - 1/8 inch per foot.

Two inch (2") sewers - 3/8 inch per foot.

Larger building sewers shall be laid on a grade that will produce a velocity when flowing full of at least 2.0 feet per second.

iv. Slope and alignment of all building sewers shall be neat and regular.

v. Building sewers shall be constructed only of ductile iron pipe class 50 or above or polyvinyl chloride pipe SDR-35 for gravity sewers and SDR-21 for pressure sewers. Joints shall be rubber or neoprene "o" ring compression joints. No other joints shall be acceptable.

vi. A cleanout shall be located five (5) feet outside of the building, one as it crosses the property line and one at each change of direction of the building sewer which is greater than 45 degrees. Additional cleanouts shall be placed not more than seventy-five (75) feet apart in horizontal building sewers of six (6) inch nominal diameter and not more than one hundred (100) feet apart for larger pipes. Cleanouts shall be extended to or above the finished grade level directly above the place where the cleanout is installed. A "Y" (wye) and 1/8 bend shall be used for the cleanout base. Cleanouts shall not be smaller than four (4) inches.

vii. Connections of building sewers to the public sewer system shall be made only by the town and shall be made at the appropriate existing wyes or tee branch using compression type couplings or collar type rubber joint with stainless steel bands. Where existing wye or tee branches are not available, connections of building services shall be made by either removing a length of pipe and replacing it with a wye or tee fitting using flexible neoprene adapters with stainless steel bands of a type approved by the superintendent. All such connections shall be made gastight and watertight.

viii. The building sewer may be brought into the building below the basement floor when gravity flow from the building to the sanitary sewer is at a grade of 1/8-inch per foot or more if possible. In cases where basement or floor levels are lower than the ground elevation at the point of connection to the sewer, adequate precautions by installation of check valves or other backflow prevention devices to protect against flooding shall be provided by the owner. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by a step or grinder pump and discharged to the building sewer at the expense of the owner, pursuant to § 18-204.

ix. The methods to be used in excavating, placing of pipe, jointing, testing, backfilling the trench, or other activities in the

construction of a building sewer which have not been described above shall conform to the requirements of the building and plumbing code or other applicable rules and regulations of the town or to the procedures set forth in appropriate specifications of the ASTM and Water Environment Federation Manual of Practice FD-5. Any deviation from the prescribed procedures and materials must be approved by the superintendent before installation.

x. An installed building sewer shall be gastight and watertight.

f. All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the town.

g. No person shall make connection of roof downspouts, exterior foundation drains, areaway drains, basement drains, sump pumps, or other sources of surface runoff or groundwater to a building directly or indirectly to a public sanitary sewer.

h. Inspection of connections. i. The sewer connection and all building sewers from the building to the public sewer main line shall be inspected before the underground portion is covered, by the superintendent or his authorized representative.

ii. The applicant for discharge shall notify the superintendent when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the superintendent or his representative.

3. Maintenance of building sewers. Each individual property owner or user of the POTW shall be entirely responsible for the maintenance which will include repair or replacement of the building sewer as deemed necessary by the superintendent to meet specifications of the town.

4. Sewer extensions. All expansion or extension of the public sewer constructed by property owners or developers must follow policies and procedures developed by the town. In the absence of policies and procedures the expansion or extension of the public sewer must be approved in writing by the superintendent or manager of the wastewater collection system. All plans and construction must follow the latest edition of Tennessee Design Criteria for Sewerage Works. Contractors must provide the superintendent or manager with documentation that all mandrel, pressure and vacuum tests as specified in design criteria were acceptable prior to use of the lines. Contractor's one year warranty period begins with occupancy or first permanent use of the lines. Contractors are responsible for all maintenance and repairs during the warranty period and final inspections as specified by the superintendent or manager. The superintendent or manager must give written approval to the contractor to acknowledge transfer of ownership to the town. Failure to construct or repair

lines to acceptable standards could result in denial or discontinuation of sewer service. (Ord. #5-2000, Dec. 2000)

18-204. Septic tank effluent pump or grinder pump wastewater systems. When connection of building sewers to the public sewer by gravity flow lines is impossible due to elevation differences or other encumbrances, Septic Tank Effluent Pump (STEP) or grinder pump (GP) systems may be installed subject to the regulations of the Town of Cumberland Gap.

1. Equipment requirements. a. Septic tanks shall be of water tight construction and must be approved by the town.
b. Pumps must be approved by the town and shall be maintained by the town.
2. Installation requirements. Location of tanks, pumps, and effluent lines shall be subject to the approval of the town. Installation shall follow design criteria for STEP and GP systems as provided by the superintendent.
3. Costs. STEP and GP equipment for new construction shall be purchased and installed at the developer's, homeowner's, or business owner's expense according to the specification of the town and connection will be made to the town sewer only after inspection and approval of the town.
4. Ownership and easements. Homeowners or developers shall provide the town with ownership and an easement. Access by the town to the STEP and GP system must be guaranteed to operate, maintain, repair, restore service, and remove sludge. Access manholes, ports, and electrical disconnects must not be locked, obstructed or blocked by landscaping or construction.
5. Use of STEP and GP systems. a. Home or business owners shall follow the STEP and GP users guide provided by the superintendent.
b. Home or business owners shall provide an electrical connection that meets specifications and shall provide electrical power.
c. Home or business owners shall be responsible for maintenance drain lines from the building to the STEP and GP tank.
d. Prohibited uses of the STEP and GP system.
 - i. Connection of roof guttering, sump pumps or surface drains.
 - ii. Disposal of toxic household substances.
 - iii. Use of garbage grinders or disposers.
 - iv. Discharge of pet hair, lint, or home vacuum water.
 - v. Discharge of fats, grease, and oil.
6. Tank cleaning. Solids removal from the septic tank shall be the responsibility of the town. However, pumping required more frequently than once every five years shall be billed to the homeowner.
7. Additional charges. The town shall be responsible for maintenance of the STEP and GP equipment. Repeat service calls for identical problems shall be billed to the homeowner or business at a rate of no more than the actual cost of the service call. (Ord. #5-2000, Dec. 2000)

18-205. Private domestic wastewater disposal. 1. Availability.

a. Where a public sanitary sewer is not available under the provisions of § 18-203(1)(d), the building sewer shall be connected to a private wastewater disposal system complying with the provisions of this section.

b. Any residence, office, recreational facility, or other establishment used for human occupancy where the building drain is below the elevation to obtain a grade equivalent to 1/8-inch per foot in the building sewer but is otherwise accessible to a public sewer as provided in § 18-203, the owner shall provide a private sewage pumping station as provided in § 18-203(2)(e)(viii).

c. Where a public sewer becomes available, the building sewer shall be connected to said sewer within sixty (60) days after date of official notice from the town to do so.

2. Requirements. a. A private domestic wastewater disposal system may not be constructed within the service area unless and until a certificate is obtained from the superintendent stating that a public sewer is not accessible to the property and no such sewer is proposed for construction in the immediate future. No certificate shall be issued for any private domestic wastewater disposal system employing subsurface soil absorption facilities where the area of the lot is less than that specified by the county health department.

b. Before commencement of construction of a private sewage disposal system the owner shall first obtain written permission from the town and the county health department. The owner shall supply any plans, specifications, and other information as are deemed necessary by the town and the county health department.

c. A private sewage disposal system shall not be placed in operation until the installation is completed to the satisfaction of the town and the county health department. They shall be allowed to inspect the work at any stage of construction and the owner shall notify the town and the county health department when the work is ready for final inspection, before any underground portions are covered. The inspection shall be made within a reasonable period of time after the receipt of notice by the town and the county health department.

d. The type, capatown, location, and layout of a private sewage disposal system shall comply with all recommendations of the Tennessee Department of Environment and Conservation, the town and the county health department. No septic tank or cesspool shall be permitted to discharge to waters of Tennessee.

e. The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times, at no expense to the town. When the public sewer becomes available, the building sewer, or the septic tank effluent line shall be connected to the public sewer within

sixty (60) days of the date of availability and the private sewage disposal system should be cleaned of sludge and if no longer used as a part of the town's treatment system, filled with suitable material.

f. No statement contained in this chapter shall be construed to interfere with any additional or future requirements that may be imposed by the town and the county health department. (Ord. #5-2000, Dec. 2000)

18-206. Regulation of holding tank waste disposal. 1. Permit. No person, firm, association or corporation shall clean out, drain, or flush any septic tank or any other type of wastewater or excreta disposal system, unless such person, firm, association, or corporation obtains a permit from the town to perform such acts or services.

Any person, firm, association, or corporation desiring a permit to perform such services shall file an application on the prescribed form. Upon any such application, said permit shall be issued by the superintendent when the conditions of this chapter have been met and providing the superintendent is satisfied the applicant has adequate and proper equipment to perform the services contemplated in a safe and competent manner. Such permits shall be limited to the discharge of domestic sewage waste containing no industrial waste.

2. Fees. For each permit issued under the provisions of this chapter the applicant shall agree in writing by the provisions of this section and pay an annual service charge to the town to be set as specified in § 18-211. Any such permit granted shall be for one 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 3-inch permanent letters on each side of each motor vehicle used in the conduct of the business permitted hereunder.

3. Designated disposal locations. The superintendent shall designate approved locations for the emptying and cleansing of all equipment used in the performance of the services rendered under the permit herein provided for, and it shall be a violation hereof for any person, firm, association or corporation to empty or clean such equipment at any place other than a place so designated. The superintendent may refuse to accept any truckload of waste at his absolute discretion where it appears that the waste could interfere with the operation of the POTW.

4. Revocation of permit. Failure to comply with all the provisions of this chapter shall be sufficient cause for the revocation of such permit by the superintendent. The possession within the service area by any person of any motor vehicle equipped with a body type and accessories of a nature and design capable of serving a septic tank of wastewater or excreta disposal system cleaning unit shall be prima facie evidence that such person is engaged in the

business of cleaning, draining, or flushing septic tanks or other wastewater or excreta disposal systems within the service area of the Town of Cumberland Gap. (Ord. #5-2000, Dec. 2000)

18-207. Discharge regulations. 1. General discharge prohibitions. No user shall contribute or cause to be contributed, directly or indirectly, any pollutant or wastewater which will pass through or interfere with the operation and performance of the POTW. These general prohibitions apply to all such users of a POTW whether or not the user is subject to national categorical pretreatment standards or any other national, state, or local pretreatment standards or requirements. A user may not contribute the following substances to any POTW:

a. Any liquids, solids, or gases which by reason of their nature or quantity are, or may be, sufficient either alone or by interaction with other substances to cause fire or explosion or be injurious in any other way to the POTW or to the operation of the POTW. At no time, shall two successive readings on an explosion hazard meter, at the point of discharge into the system (or at any point in the system) be more than five percent (5%) nor any single reading over twenty percent (20%) of the lower explosive limit (LEL) of the meter. Prohibited flammable materials including, but not limited to, wastestreams with a closed cap flash point of less than 140⁰ F or 60⁰ C using the test methods specified in 40 CFR 261.21. Prohibited materials include, but are not limited to, gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromate, carbides, hydrides and sulfides and any other substances which the town, the state or EPA has notified the user is a fire hazard or a hazard to the system.

b. Any wastewater having a pH less than 5.5 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.

c. Solid or viscous substances which may cause obstruction to the flow in a sewer or other interference with the operation of the wastewater treatment facilities including, but not limited to: grease, garbage with particles greater than one-half inch (½") 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, mud, or glass grinding or polishing wastes.

d. Any pollutants, including oxygen demanding pollutants (BOD, etc.) released at a flow rate and/or pollutant concentration which will cause interference to the POTW.

e. Any noxious or malodorous liquids, gases, or solids which either singly or by interaction with other wastes are sufficient to create

a public nuisance, hazard to life, and are sufficient to prevent entry into the sewers for maintenance and repair.

f. Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin in amounts that will cause interference or pass through.

g. 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, including wastewater plant and collection system operators, 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.

h. Any trucked or hauled pollutants except at discharge points designated by the POTW.

i. Any substance which may cause the POTW's effluent or any other product of the POTW such as residues, sludges, or scums, to be unsuitable for reclamation and reuse or to interfere with the reclamation process. In no case, shall a substance discharged to the POTW cause the POTW to be in non-compliance with sludge use or disposal criteria, 40 CFR 503, guidelines, or regulations developed under Section 405 of the Act; any criteria, guidelines, or regulations affecting sludge use or disposal developed pursuant to the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act, or state criteria applicable to the sludge management method being used.

j. Any substances which will cause the POTW to violate its NPDES Permit or the receiving water quality standards.

k. 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.

l. Any wastewater having a temperature which will inhibit biological activity in the POTW treatment plant resulting in interference, but in no case wastewater with a temperature at the introduction into the POTW which exceeds 40°C (104° F).

m. Any waters or wastes causing an unusual volume of flow or concentration of waste constituting "slug" as defined herein.

n. Any waters containing any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the superintendent in compliance with applicable state or federal regulations.

o. Any wastewater which causes a hazard to human life or creates a public nuisance.

p. Any waters or wastes containing fats, wax, grease, or oil, whether emulsified or not, which cause accumulations of solidified fat in pipes, lift stations and pumping equipment, or interfere at the treatment plant.

q. Any stormwater, surface water, groundwater, roof runoff, subsurface drainage, uncontaminated cooling water, or unpolluted industrial process waters to any sanitary sewer. Stormwater and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as storm sewers, or to a natural outlet approved by the superintendent and the Tennessee Department of Environment and Conservation. Industrial cooling water or unpolluted process waters may be discharged on approval of the superintendent and the Tennessee Department of Environment and Conservation, to a storm sewer or natural outlet.

2. Restrictions on wastewater strength. No person or user shall discharge wastewater which exceeds the set of standards provided in Table B - Plant Protection Criteria, unless specifically allowed by their discharge permit local limits (Table A -- User Discharge Restrictions). Dilution of any wastewater discharge for the purpose of satisfying these requirements shall be considered in violation of this chapter.

3. Fats, oils and grease traps and interceptors.

a. Fat, Oil, and Grease (FOG), waste food, and sand interceptors. FOG, waste food and sand interceptors shall be provided when, in the opinion of the superintendent, they are necessary for the proper handling of liquid wastes containing fats, oils, and grease, any flammable wastes, ground food waste, sand, soil, and solids, or other harmful ingredients in excessive amount which impact the wastewater collection system. Such interceptors shall not be required for single family residences, but may be required on multiple family residences. All interceptors shall be of a type and capatown approved by the superintendent, and shall be located as to be readily and easily accessible for cleaning and inspection.

b. Fat, oil, grease, and food waste. i. New construction and renovation. Upon construction or renovation, all restaurants, cafeterias, hotels, motels, hospitals, nursing homes, schools, grocery stores, prisons, jails, churches, camps, caterers, manufacturing plants and any other sewer users who discharge applicable waste shall submit a FOG and food waste control plan that will effectively control the discharge of FOG and food waste.

ii. Existing structures. All existing restaurants, cafeterias, hotels, motels, hospitals, nursing homes, schools, grocery stores, prisons, jails, churches, camps, caterers, manufacturing plants and any other sewer users who discharge applicable waste shall be required to submit a plan for control of

FOG and food waste, if and when the superintendent determines that FOG and food waste are causing excessive loading, plugging, damage or potential problems to structures or equipment in the public sewer system.

iii. Implementation of plan. After approval of the FOG plan by the superintendent the sewer user must:

(1) Implement the plan within a reasonable amount of time;

(2) Service and maintain the equipment in order to prevent adverse impact upon the sewer collection system and treatment facility. If in the opinion of the superintendent the user continues to impact the collection system and treatment plan, additional pretreatment may be required, including a requirement to meet numeric limits and have surcharges applied.

c. Sand, soil, and oil interceptors. All car washes, truck washes, garages, service stations and other sources of sand, soil, and oil shall install effective sand, soil, and oil interceptors. These interceptors shall be sized to effectively remove sand, soil, and oil at the expected flow rates. The interceptors shall be cleaned on a regular basis to prevent impact upon the wastewater collection and treatment system. Owners whose interceptors are deemed to be ineffective by the superintendent may be asked to change the cleaning frequency or to increase the size of the interceptors. Owners or operators of washing facilities will prevent the inflow of rainwater into the sanitary sewers.

d. Laundries. Commercial laundries shall be equipped with an interceptor with a wire basket or similar device, removable for cleaning, that prevents passage into the sewer system of solids ½ inch or larger in size such as strings, rags, buttons, or other solids detrimental to the system.

e. Control equipment. The equipment of facilities installed to control FOG, food waste, sand and soil, must be designed in accordance with the Standard Plumbing Code and Tennessee Department of Environment and Conservation engineering standards. Underground equipment shall be tightly sealed to prevent inflow of rainwater and easily accessible to allow regular maintenance. Control equipment shall be maintained by the owner or operator of the facility so as to prevent a stoppage of the public sewer, and the accumulation of FOG in the lines, pump stations and treatment plant. If the town is required to clean out the public sewer lines as a result of a stoppage resulting from poorly maintained control equipment, the property owner shall be required to refund the labor, equipment, materials and overhead costs to the town. Nothing in this subsection shall be construed to prohibit or restrict any other remedy the town has under this chapter, or state or federal law.

The town retains the right to inspect and approve installation of control equipment.

f. The superintendent may use industrial wastewater discharge permits under § 18-206 to regulate the discharge of fat, oil and grease. (Ord. #5-2000, Dec. 2000)

18-208. Application for domestic wastewater connection.

1. Application for discharge of domestic wastewater. All users or prospective users which generate domestic wastewater shall make application to the superintendent for connection to the municipal wastewater treatment system. Applications shall be required from all new dischargers as well as for any existing discharger desiring additional service. Connection to the town sewer shall not be made until the application is received and approved by the superintendent, the building sewer is installed in accordance with § 18-201 of this chapter and an inspection has been performed by the superintendent or his representative.

The receipt by the town of a prospective customer's application for connection shall not obligate the town to render the connection. If the service applied for cannot be supplied in accordance with this chapter and the town's rules and regulations and general practice, the connection charge will be refunded in full, and there shall be no liability of the town to the applicant for such service. (Ord. #5-2000, Dec. 2000)

18-209. Fees and billing. 1. Purpose. It is the purpose of this chapter to provide for the equitable recovery of costs from user's of the town'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.

2. Types of charges and fees. The charges and fees as established in the town's schedule of charges and fees may include but are not limited to:

- a. Inspection fee and tapping fee;
- b. Fees for applications for discharge;
- c. Sewer use charges;
- d. Surcharge fees (see Table C);
- e. Industrial wastewater discharge permit fees;
- f. Fees for industrial discharge monitoring; and
- g. Other fees as the town may deem necessary.

3. Fees for application for discharge. A fee may be charged when a user or prospective user makes application for discharge as required by § 18-208 of this chapter.

4. Inspection fee and tapping fee. An inspection fee and tapping fee for a building sewer installation shall be paid to the town's Sewer Department at the time the application is filed.

5. Sewer user charges.¹ The town council shall establish monthly rates and charges for the use of the wastewater system and for the services supplied by the wastewater system.

6. Industrial wastewater discharge permit fees. A fee may be charged for the issuance of an industrial wastewater discharge fee in accordance with § 18-208 of this chapter.

7. Fees for industrial discharge monitoring. Fees may be collected from industrial user's having pretreatment or other discharge requirements to compensate the town for the necessary compliance monitoring and other administrative duties of the pretreatment program. (Ord. #5-2000, Dec. 2000)

18-210. Validity. This chapter and its provisions shall be valid for all service areas, regions, and sewage works under the jurisdiction of the town. (Ord. #5-2000, Dec. 2000)

¹Such rates are reflected in administrative ordinances or resolutions, which are of record in the office of the town recorder and treasurer.

CHAPTER 3

SEWERS

SECTION

- 18-301. Use of system regulated.
- 18-302. Permit and supervision required for connecting to system.
- 18-303. Connection fee.
- 18-304. Installation of lateral lines, etc.
- 18-305. Sewer service charges.
- 18-306. Extension policies.
- 18-307. Sewage bill delinquencies.
- 18-308. Re-establishment of sewer service after delinquency.

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 town council. (1979 Code, § 13-201)

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 recorder and treasurer. 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. (1979 Code, § 13-202)

18-303. Connection fee. No permit to connect to the public sanitary sewer system shall be granted unless the applicant first pays to the recorder and treasurer a sewer connection fee in an amount to be set by the town council. (1979 Code, § 13-203)

18-304. Installation of lateral lines, etc. When connections to the public sanitary sewer system are required and/or permitted, the town 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 town and the property owner to the contrary. All necessary installations within the property lines shall be made by the owner. (1979 Code, § 13-204)

18-305. Sewer service charges. Sewer service charges shall be collected from the person billed for water service to any premises with an accessible sanitary sewer. The sewer service charge shall be an amount set by the town council and shall be added to and combined with the water service charge. Both charges shall be collected as a unit; no municipal employee shall accept payment of water service charges from any customer without receiving

at the same time payment of all sewer service charges owed by such customer. Water service may be discontinued for non-payment of the combined bill. (1979 Code, § 13-205)

18-306. Extension policies. Insofar as practicable, the various policies set forth in the preceding chapter with respect to extending water service facilities shall also apply to extending sewer service facilities except that for sewer main extensions an eight-inch pipe of salt glazed vitrified clay or other construction approved by the town council shall be used for sewer purposes. (1979 Code, § 13-206)

18-307. Sewage bill delinquencies. Any person, persons, firm, association, or corporation who is a customer of the sewer system, fails or neglects to make full payment of their sewer bill for service shall be subject to service disconnection after 45 days from the date of the delinquent bill. (Ord. #4-2000, Oct. 2000)

18-308. Re-establishment of sewer service after delinquency. Any party who wishes to re-establish sewer service after disconnection from the system has occurred due to a delinquent account will be required to pay for all accumulated bill total and pay a service connection fee. The fee will be equal to the present rate a new customer desiring sewer service is charged. (Ord. #4-2000, Oct. 2000)

CHAPTER 4**WATER****SECTION**

- 18-401. Definitions.
- 18-402. Standard service.
- 18-403. Fire protection service.
- 18-404. Limited use of unmetered private fire lines.
- 18-405. Obtaining service.
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- 18-429. Billing and delinquent accounts.
- 18-430. Discontinuance of service; refusal to connect service.
- 18-431. Reconnection charge.
- 18-432. Termination of service by customer.
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- 18-434. Relocation of facilities.
- 18-435. Scope.
- 18-436. Schedule of rates.
- 18-437. Annual review of rates.
- 18-438. Extension policies.

18-401. Definitions. 1. "The Town of Cumberland Gap" and/or "town" means the town council and/or any authorized official or employee acting for the town.

2. "Water department" or "department" means the Town of Cumberland Gap Water Department and its duly authorized employees, agents, and representatives.

3. "Person" includes firms and corporations, as well as individuals.

4. "Customer" means any person who applies for water services or who receives water services from the Cumberland Gap Water Department under either an expressed or implied contract requiring such person to pay the Cumberland Gap Water Department for such service; and shall include any person upon whose property there is located a customer-owned water service line even though such service line is not in active use.

5. "Household" means any one or more persons living together as a family group.

6. "Dwelling" means any single structure, with auxiliary buildings, occupied by one or more persons or households for residential purposes.

7. "Premises" means any structure or group of structures operated as a single business or enterprise, provided, however, the term "premises" shall not include more than one dwelling.

8. "Service connection" shall mean tap of the main and that portion of the line extending from the tap of the main to and including the meter and meter installation in those installations where the meter is set at or near the property line of the street, highway, or right-of-way on which the main is located. For meters located elsewhere on private property, the "service connection" is considered to extend only from the tap of the main to the property line, plus the meter and meter installation.

9. "Service pipe" shall be synonymous with the term "service connection."

10. "Customer's service line" or "service line" shall designate the water line extending from the "service connection" to and within the improvements on such property.

11. "Tapping fee" or "tap fee" shall designate any charges made by the town to users or prospective users for the tap of the main and the installation of the service connection, including the meter, meter installation, and the meter box. Any tapping fee so collected is a contribution in aid of construction and the customer acquires no legal title to nor equity in the facilities installed by reason of payment therefor.

12. "Regular billing period" or the "billing period" for any designated calendar month means the billing period from which the revenues are included in monthly financial and operating statements of the Cumberland Gap Water Department for the calendar month in question.

13. "Rules and regulations," as used herein, shall include amendments adopted from time to time by the town council. (1979 Code, § 13-101)

18-402. Standard service. Water service is normally limited to quantities as determined by the physical limitations of the water system's water distribution and storage systems and on specific quantities or rates of flow can be guaranteed. The quality of water will be determined by the Cumberland Gap Water Department's source of supply and treatment facilities and chemical characteristics of such water shall be those resulting from the treatment of the water obtained from the source of supply as used by the Cumberland Gap Water Department for its water system. Customer requirements for chemical characteristics other than those furnished by the Cumberland Gap Water Department shall be the responsibility of the customer and not of the Cumberland Gap Water Department. Water pressure shall be such as determined by the physical properties of the water department's distribution and storage facilities and no maximum and minimum pressures can be guaranteed. (1979 Code, § 13-102)

18-403. Fire protection service. 1. Public. At such time as the need may arise, the town may install fire hydrants.

2. Private. Private fire hydrants and fire lines will be installed at the expense of the customer and the construction will be made in accordance with specifications of the town. Such facilities shall be owned and maintained by the customer and the charges for service shall be subject to rates set by the town council.

3. Charges for sprinkler systems. Facilities installed for providing water for automatic sprinkler systems for fire protection shall be owned and maintained by customer and charges for water service to such installation shall be in keeping with the charges outlined in the schedule of rates adopted by the town council. (1979 Code, § 13-103)

18-404. Limited use of unmetered private fire lines. Where private fire lines are not metered, no water will be used from such lines or from any fire hydrant thereon except to fight fire or while being inspected in the presence of an authorized agent of the town, except by prior approval of the town and such charge as they may fix for the use.

All private fire hydrants shall be sealed by the town and shall be inspected at regular intervals to see that they are in proper condition and no water shall be used therefrom in violation of these rules and regulations. When a seal is broken on account of fire or any other reason, the customer taking such service shall give the town written notice of such occurrence as soon as possible.

No customer furnished service by an unmetered service connection shall use any device requiring or allowing the continuous flow of water unless such use has been approved in writing by the town. (1979 Code, § 13-104)

18-405. Obtaining service. A written application for either initial or additional water service must be made at the office of the recorder and treasurer

and must be duly approved by the town before service connection or meter installation job orders will be issued and construction or installation work performed. (1979 Code, § 13-105)

18-406. Application and contract for service. Each prospective customer desiring water service will be required to sign a standard form of contract 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 town 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 town to render the service applied for. If the service applied for cannot be supplied in accordance with the provisions of this chapter and general practice, the liability of the town to the applicant shall be limited to the return of any deposit made by such applicant.

After a contract is made, the customer shall agree to pay not less than the minimum water bill for a minimum period of 36 months after notification by the Cumberland Gap Water Department that service is available. (1979 Code, § 13-106)

18-407. 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. This rule applies to circuses, carnivals, fairs, folk festivals, trailers, temporary construction, and other applications requiring temporary service.

The town may, in exceptional cases, issue permits for the use of unmetered water for building, construction, or other temporary purposes provided all other regulations and requirements of the town are met. In such exceptional cases of unmetered water service, the water so used must be discharged from a hose or pipe directly into the mortar beds or barrels and under no circumstances shall it be discharged upon the ground or into or through a ditch, or trench, or into the gutter. In case of such temporary connections, the hose connection through which the water is taken must be properly protected and in no case shall the town's properties be used for controlling the flow of water. Charge will be made by reasonable estimation. (1979 Code, § 13-107)

18-408. Connection charges. Service lines will be laid by the town from its mains to the property line at the expense of the applicant for service. The location of such lines will be determined by the town.

Before a new water or service line will be laid by the town, the applicant shall make a deposit as reflected in the application or contract.

When a service line is completed, the town 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 town. The remaining portion of the service line beyond the meter box shall belong to and be the responsibility of the customer. (1979 Code, § 13-108)

18-409. Meters. All meters used for billing purposes by the water department shall be the property of the town as shall the meter installations and meter boxes where the town's meters are located, even though the customer may have made a capital contribution as a condition of obtaining service.

No one shall do anything which will in any way interfere with or prevent the proper registration of a meter. No one shall perform work on a water meter without the written permission of the town. No one shall install any pipe or other device which will cause water to pass through a meter or line without such being fully registered by the meter.

Each customer will be supplied through a separate meter. In those cases where a building under one ownership has a number of apartments, businesses, and/or offices under one roof, each shall maintain a separate meter and be charged individually.

Meters and meter installations must be accessible at all times and must not be covered with rubbish and/or other material of any kind. No one other than an authorized agent of the water department shall be permitted to repair, adjust, remove, or replace any meter or any part thereof.

The customer shall be responsible for damage to the meter and meter installation through which he is served if such damage is caused by any carelessness or negligence of the customer, or his agent or employee, or any members of his family. Such customer shall be billed for actual cost of repairs or replacements, and such bills shall be paid within ten (10) days from date of mailing thereof. Failure to pay for damage to a meter or of meter installation as outlined above within a reasonable time may be taken as grounds for discontinuing water service by the town.

The town may discontinue furnishing water to any customer who refuses permission for the water system to remove a meter from the premises. (1979 Code, § 13-109)

18-410. Meter location. For new installations, the town's approval of meter locations shall be obtained before any piping is installed. Meters shall be placed on or adjacent to the property line of the premises to be served at the street in which the main line from which service is to be given. Insofar as is practicable, such locations shall be chosen for the joint convenience of the customer and the Cumberland Gap Water Department, but the town reserves the right to specify the location of the meters.

Where more than one meter is to be installed at one premise, separate meters shall be grouped in one common place accessible at all times. (1979 Code, § 13-110)

18-411. Meter tests. The town 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 town 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" - 2"	\$ 5.00
3"	\$ 8.00
4"	\$12.00
6" and over	\$20.00

If such test shows a meter not to be accurate within such limits, the cost of such meter test shall be borne by the town. (1979 Code, § 13-111)

18-412. Additional load. Meters and equipment supplied by the Cumberland Gap Water Department for each customer have definite capacity and no major addition to the equipment of load connected thereto shall be made except with written consent of the town. Failure to give notice of additions or changes in the load or to obtain the town's consent for same shall render the customer liable for any damage to any installation of the water system. (1979 Code, § 13-112)

18-413. Tapping main and making service connections. Service connections will be laid by the Cumberland Gap Water Department from the water main to the property line in keeping with provisions of § 18-438. Such service connections, including the meter installation, will be fitted with all

necessary hardware and so installed as to be readily accessible at all times. The location for such service connections will be in accordance with § 18-410.

When such service connections are completed, the Town of Cumberland Gap shall have ownership of and shall be responsible for the maintenance and upkeep of such service connections from the main to and including the meter and meter installation. The remaining portion, designated as the "service line" or "customer's service line" beyond the meter installation (even though such remaining portion is not located within the customer's property line) shall belong to and be the responsibility of the customer.

In all cases the "service line" shall be installed by the customer at the customer's expense and shall be and remain the exclusive property of the customer. The "service line" shall be of material approved by the Cumberland Gap Water Department and shall be provided with a stop and waste cock. Water service to any customer may be discontinued and water service to any applicant may be refused or declined by the Cumberland Gap Water Department if the service line is not supplied with a stop and waste cock. Notwithstanding anything else herein provided, the Town of Cumberland Gap shall not be responsible for the maintenance or upkeep of any customer's service line located within the property line of the customer, even though the town's meter and meter installation are located within said property line (1979 Code, § 13-113).

18-414. Point of delivery. Except as may be otherwise provided by written agreement between the Cumberland Gap Water Department and the customer, the point of delivery shall be at the property line on the customer's side of the meter. All piping and equipment between this point and the point or points where water is used shall be the property of and be maintained by the customer. The Town of Cumberland Gap shall not be liable for injury to person or property on account of any defect or negligence in the installation, maintenance, or use of any piping or equipment beyond the point of delivery. (1979 Code, § 13-114)

18-415. Multiple services through a single meter. This section has been moved to § 18-707.

18-416. Main extensions. Extensions of the town's water distribution system shall be made in accordance with the applicable provisions of § 18-438. (1979 Code, § 13-116).

18-417. Customer's piping and fixtures--standards. All water piping beyond the meter shall be installed and maintained at the expense of the customer. In case of new installations, all such piping fixtures shall be installed in accordance with the applicable requirements and specifications as specified by the town.

By furnishing service to a customer, the Town of Cumberland Gap assumes no responsibility for seeing that the customer's piping and/or plumbing fixtures comply with the requirements set forth herein. (1979 Code, § 13-117)

18-418. Right of access. The Cumberland Gap Water Department's properly identified employees and agents shall have access to customers' premises at all reasonable times for the purpose of reading meters, testing, repairing, removing, or changing any or all equipment belonging to the Town of Cumberland Gap Water Department. (1979 Code, § 13-118)

18-419. Inspections. The Cumberland Gap Water Department shall have the right, but shall not be obligated, to inspect any installation before water is introduced at the later time. The Town of Cumberland Gap Water Department reserves the right to refuse service or discontinue service to any piping or plumbing installations not in accordance with its standards or specifications, or which are not in accordance with its standards with special contracts, or with these rules and regulations, or other requirements of the town; but any failure to exercise this right shall not render the Town of Cumberland Gap Water Department liable or responsible for any loss or damage resulting from defects in installations or piping or plumbing fixtures, or the provisions of any contract or from accidents which may occur on the customer's premises.

The Cumberland Gap Water Department shall not be obligated to connect to or render water service to new buildings or to buildings or premises not now approved for water service until such time as a certificate of approval has been rendered by the inspector charged with the duty of issuing such a certificate. (1979 Code, § 13-119)

18-420. Notice of trouble. Customers shall notify the Cumberland Gap Water Department immediately should the water service be unsatisfactory for

any reason, or should there be any defects, trouble, or accidents affecting the supply of water. Such notices, if verbal, should be confirmed in writing. (1979 Code, § 13-120)

18-421. Customer's responsibility for town's property. All meters, service connections, and other equipment furnished and maintained by the department shall be, and remain, the property of the town. Customers shall exercise proper care to protect the property of the town on the customer's premises and in the event of loss or damage to the department's property, arising from the failure of customer to take proper care of the same, the cost of necessary repairs or replacements shall be paid by the customer. (1979 Code, § 13-121)

18-422. Customer's responsibility for violation of rules and regulations. Where the town furnishes water service to a customer, such customer shall be responsible to the town for all violations of the rules and regulations and rate schedules of the town, which occur on the premises served or in connection with such services. Personal participation by the customer in any such violation shall not be necessary to impose such personal responsibilities on the customer. (1979 Code, § 13-122)

18-423. Supply and resale of water. All purchased water used on the premises of the customer shall be supplied by the department and the customer shall not directly or indirectly sell, sublet, assign, or otherwise dispose of the water so purchased. Customers shall not supply water, nor allow water to be carried or run through a hose or pipe or otherwise, to any premises other than that described in the application, agreement, or contract, without first having received written consent or permission from the town. (1979 Code, § 13-123)

18-424. Damage to property due to water pressure. The town or department 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 town's water mains. (1979 Code, § 13-124)

18-425. Unauthorized use of or interference with water supply. No person shall turn on or off any of the town's stop cocks, valves, hydrants, spigots, or fire plugs without permission or authority from the water department. (1979 Code, § 13-125)

18-426. Interruption of service. The department will use reasonable diligence in attempting to provide a regular and uninterrupted supply of water, but, in case the supply of water should be interrupted, for any cause, the town shall not be liable for damages resulting therefrom.

In connection with the operation, maintenance, repair, and extension of the 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 town shall not be liable for any damages from the resumption of service without notice after any such interruption. (1979 Code, § 13-126)

18-427. Restricted use of water. In times of emergencies or in times of water shortage, the town reserves the right to restrict the purpose for which water may be used by a customer and the amount of water which a customer uses. Failure of customers to comply with conservation measures during periods of water shortages will result in discontinuance of water service. (1979 Code, § 13-127)

18-428. Liability for cutoff failures. The town's liability shall be limited to the forfeiture of the right to charge the customer for water that is not used but is received from a service connection under any of the following circumstances:

1. After receipt of at least ten (10) days written notice to discontinue the water service, the department has failed to discontinue such service.
2. The department has completely cut off service, but subsequently the cutoff develops a leak or is turned on again by representatives of the department so that water enters the customer's pipes from the town's main.

Except to the extent stated above, the town 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 town's cutoffs. Also, the customer (and not the town) shall be responsible for seeing that his plumbing is properly drained, after his water service has been cut off. (1979 Code, § 13-128)

18-429. Billing and delinquent accounts. Bills for water service must be paid on or before the discount date shown thereon to obtain the net rate, otherwise, the gross rate (10% higher than the net rate) shall apply. Failure to receive a bill will not relieve the customer from payment obligation, nor extend the discount date.

Should the date for the final payment of a bill at the net rate fall on a Sunday or a holiday, the business day next following the final date will be held as 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 town if the envelope is date stamped on or before the final date for payment of the net amount.

In the event a bill is not paid on or before (5) days after the discount date, a written notice shall be mailed to the customer. The notice shall advise the customer that his service may be discontinued without further notice if the bill is not paid on or before ten (10) days after the discount date. The town 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 the service is actually discontinued.

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 town reserves the right to render an estimated bill based on the best information available.

The town may at its option make adjustments in water bills where excessive billing is directly traceable to hidden leaks, with the adjustment being made on the basis of the department absorbing, or writing off, no more than one-half of the average directly traceable to such hidden leaks, with the customer paying the normal billing plus at least one-half of the average directly traceable to such hidden leaks. Hidden leaks are herein defined as those leaks which the customer could not have been reasonably expected to find until a bill for the excess consumption indicated the presence of such leaks. Leaks in interior plumbing, leaking or dripping faucets, leaking or dripping yard hydrants, leaks in commodes, or other loss through failure of customer to provide a cutoff, water lost due to frozen pipes, and water used to keep pipes from freezing are specifically cited as examples of leaks which will not be termed as "hidden leaks" for the purpose of this section.

No adjustment in billing shall be made where premises are vacated without a notice to discontinue service having been given to the department.

All accounts and payment for service shall be made to the Town of Cumberland Gap Water Department, office of the recorder and treasurer, City Hall, Cumberland Gap, Tennessee. (1979 Code, § 13-129)

18-430. Discontinuance of service; refusal to connect service. The town shall have the right to discontinue service or to refuse to connect service for a violation of or failure to comply with any provisions of these rules and regulations and/or the applicable schedule of rates and charges. Such right to discontinue service shall apply to all service rendered through a single meter, even though more than one consumer or tenant is furnished therefrom, and even though a delinquency or violation is limited to only one such consumer or tenant.

Discontinuance of service by the town for any cause stated in these rules and regulations shall not release the customer from liability for payment for service already received or from liability from payments that thereafter become due under the minimum bill provisions or other provisions of the customer's contract.

The town shall have the right to refuse to render services to any applicant whenever the applicant or any member of the household, company, or firm to which such service is to be furnished is in default in the payment of any obligations to the department or has previously had his service discontinued because of a violation of these rules and regulations.

If the department should for any reason, begin to render service to any applicant to whom the town has good and valid reason for refusing to render such service, the town shall have the right to discontinue such service as begun, even though such customer does nothing to justify the discontinuance of service during the time such service is being rendered. (1979 Code, § 13-130)

18-431. Reconnection charge. Whenever service has been discontinued as provided for in § 18-430, a reconnection charge of five dollars (\$5.00) shall be collected by the town before service is restored. (1979 Code, § 13-131)

18-432. 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 town 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 town shall have the right to continue such service for a period 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 town should continue service after such ten (10) day period subsequent to 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 such 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 town 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. (1979 Code, § 13-132)

18-433. Water turned on by customer. If the department discontinues service for nonpayment of a bill, or for any other purpose, and the water is turned on without authority of the department, the town shall have the right to discontinue service, remove the meter, and charge a fee of one hundred dollars (\$100.00) for reinstalling or reconnecting the meter. The department will not be required to furnish service again until all charges against the customer or owner, as the case may be, have been fully paid. (1979 Code, § 13-133, modified)

18-434. Relocation of facilities. The town will bear the expense of relocating meters, service connections, mains, and any or all other distribution facilities owned by the town where the relocation work is performed for the sole convenience of the town.

The cost of relocating meters and service connections is covered in § 18-438. Where other distribution of water facilities owned by the town, other than service connections and meters, are located for the sole convenience of the customer, the cost of such relocation work performed by the department will be paid to the department by the customer requesting the facilities to be relocated.

The allocation of costs involved in relocating meters, service connections, mains, and any and all other water distribution facilities of the department for mutual convenience of the town and customer will be determined by negotiations between the two parties. (1979 Code, § 13-134)

18-435. Scope. These rules and regulations are a part of all contracts for receiving water service from the town, and apply to all service rendered by the department whether the service is based upon contract, agreement, signed application, or otherwise. (1979 Code, § 13-135)

18-436. Schedule of rates. All water service shall be furnished under such rate schedules as the town may from time to time adopt by appropriate ordinance or resolution.¹ (1979 Code, § 13-136)

18-437. Annual review of rates. The town council shall review the rate structure annually to insure that the rate structure is adequate to cover the costs of operation and maintenance, debt service, cash reserves, and replacement. (1979 Code, § 13-137)

18-438. Extension policies. 1. Tapping and meter deposit fees. Before a service connection for normal residential applications will be made by the town, a service connection charge or "tapping fee" will be paid the town in the amount of two hundred dollars (\$200.00) after construction of the waterworks. Meter deposit fees for use classified as residential, new or existing, will be ten dollars (\$10.00).

Before a service connection for commercial applications will be made by the town, a service connection charge or "tapping fee" will be paid the town in the amount of four hundred dollars (\$400.00) after construction of the waterworks. Meter deposit fees for use classified as commercial, new or existing, will be twenty-five dollars (\$25.00).

¹Administrative ordinances and resolutions are of record in the recorder and treasurer's office.

Where more than one meter is to be installed for service to apartment houses, office buildings, etc., so as to give each consumer a separate meter, the service connection charges or "tapping fees" to be paid to the town, by the applicant for services, shall be two hundred dollars (\$200.00) per connection.

2. Replacing and/or relocating service connections and/or meter installations with similar facilities or with facilities of larger or smaller size. The cost of relocating existing service connections and/or installations of meters or replacing existing service connections and/or meter installations with similar facilities of larger or smaller size shall be the cost of the actual tap less the net value of salvable material returned to stock from existing installations. The cost of removal will be deducted from the total valuation of items actually returned to stock at appraised valuation. No credit will be allowed in such cases for the appraised value of the meters and meter boxes returned to stock.

3. Extension of system at discretion of the town in certain instances. The town may in its reasonable and sound discretion contract with prospective customers to extend the service of the waterworks to such customers provided such customers shall bear all cost of extension and make payment for water used in accordance with the applicable schedule of rates and charges and otherwise abide by the rules herein set out. (1979 Code, § 13-138)

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 Cumberland Gap for general use and which supply is recognized as the public water supply by the Tennessee Department of Environment and Conservation.
2. "Cross connection." Any physical arrangement whereby a public water system is connected, directly or indirectly, with any other water system, whether sewer, drain, conduit, pool, storage reservoir, plumbing fixture, or other device which contains, or may contain, contaminated water, sewage, or other waste or liquid of unknown or unsafe quality which may be capable of imparting contamination to the public water system as a result of backflow. Bypass arrangements, jumper connections, removable sections, swivel or change-over devices through which, or because of which, backflow could occur are considered to be cross connections.
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 system is connected directly with a sewer, drain, conduit, pool, storage reservoir, or other device which does or may contain

¹Municipal code references

Plumbing code: title 12.

Water and sewer system administration: title 18.

Wastewater treatment: title 18.

sewage or other waste or liquid which would be capable of imparting contamination to the public water system.

6. "Person." Any individual, corporation, company, association, partnership, state, municipality, utility district, water cooperative, or federal agency. (Ord. #10198, Jan. 1989)

18-502. Standards. The Town of Cumberland Gap Public Water System 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. (Ord. #10198, Jan. 1989)

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 Environment and Conservation and the operation of such cross connection, auxiliary intake, bypass or interconnection is at all times under the direct supervision of the Water Operator of the Cumberland Gap Public Water System. (Ord. #10198, Jan. 1989)

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 operator 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. (Ord. #10198, Jan. 1989)

18-505. Inspections required. It shall be the duty of the water operator of the public water system 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 reinspection, based on potential health hazards involved, shall be established by the Water Operator of the Cumberland Gap Public Water System and as approved by the Tennessee Department of Environment and Conservation. (Ord. #10198, Jan. 1989)

18-506. Right of entry for inspections. The water operator or his authorized representative shall have the right to enter, at any reasonable time, any property served by a connection to the Cumberland Gap Public Water

System 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. (Ord. #10198, Jan. 1989)

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 Operator of the Cumberland Gap Public Water System.

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 Cumberland Gap Public Water System 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 system 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 system from the on-site piping system unless the imminent hazard(s) is (are) corrected immediately. (Ord. #10198, Jan. 1989)

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 system, or his designated representative, that the water use and protective features of the plumbing are such as to propose no threat to the safety or potability of the water system.
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 Operator of the Cumberland Gap Public Water System 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 Environment and Conservation as to manufacture, model, and size. The method of installation of backflow protective devices shall be approved by the water operator of the public water system prior to installation and shall comply with the criteria set forth by the Tennessee Department of Environment and Conservation. The installation shall be at the expense of the owner or occupant of the premises.

Personnel of the Cumberland Gap Public Water System shall have the right to inspect and test the device or devices on an annual basis or whenever deemed necessary by the water operator 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 operator shall notify, in writing, the occupant of the premises of plans to discontinue water service and arrange for a mutually acceptable time to test and/or repair the device. The water system 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 Operator of the Cumberland Gap Public Water System.

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 Cumberland Gap Public Water System. (Ord. #10198, Jan. 1989)

18-509. Unpotable water to be labeled. In order that the potable water supply made available to premises served by the public water system 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. (Ord. #10198, Jan. 1989)

18-510. Violations. The requirements contained herein shall apply to all premises served by the Cumberland Gap Public 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 town 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 Cumberland Gap 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 shall constitute a separate offense. (Ord. #10198, Jan. 1989)

CHAPTER 6**WATER AND SEWER BILLING STANDARDS AND RATES****SECTION**

- 18-601. Application and agreement for utility services.
- 18-602. Application service fee.
- 18-603. Water and sewer charges due date.
- 18-604. Water and sewer late charges.
- 18-605. Owner responsible for tenants' unpaid water or sewer service.
- 18-606. Termination of service for failure to pay charges.
- 18-607. Reconnect fee.
- 18-608. Failure to pay sewer bill; penalty, etc.
- 18-609. Minimum water and sewer charges.
- 18-610. Turn-off/on fees.
- 18-611. Fees to be set by town council.
- 18-612. Leak adjustments.
- 18-613. Swimming pool wastewater usage credit.

18-601. Application and agreement for utility services. All present and future residents shall complete an application and agreement for utility services. Present residents must complete the application/agreement within thirty-days (30-days) of reception. Future residents will complete the application/agreement at the time of request for utility services. (Ord. #4-1999, July 1999)

18-602. Application service fee. All applicants for water/sewer services will pay a service fee, as set by roll call vote by the town council. (Ord. #4-1999, July 1999)

18-603. Water and sewer charges due date. All water and sewer charges are due by the twentieth (20th) of each month. (Ord. #4-1999, July 1999)

18-604. Water and sewer late charges. All water and sewer charges paid after the twentieth (20th) of each month will incur a uniform late charge as set by a roll call vote by town council. (Ord. #4-1999, July 1999)

18-605. Owner responsible for tenants' unpaid water or sewer service. Owners of any property receiving water or sewer service shall be responsible for any fees charged to any tenants of said property that are not satisfied by that tenant. (Ord. #9-1999, Aug. 1999)

18-606. Termination of service for failure to pay charges. 1. All water and sewer charges not paid within ten (10) days after the late charge date

will result in services being terminated without further written notice, as this notice appears in the application and agreement for utility services and on the monthly billing card.

2. Whenever water or wastewater service has been disconnected for non payment of any bill rendered, or because of violation of any bill rendered, or because of violation of any other of the utility rules or policies, rates, and charges or any other town policy, a charge shall be made to cover the cost of this service. Any unpaid bills must be settled or paid, and the service connect fee renewed before the service is restored. (Ord. #4-1999, July 1999, as amended by Ord. #4-2003, July 2003)

18-607. Reconnect fee. All residents who have utility service terminated because of failure to pay charges as stated above will incur a reconnect fee as determined by roll call vote by the town council. (Ord. #4-1999, July 1999)

18-608. Failure to pay sewer bill; penalty, etc. 1. It shall be unlawful, and a civil offense, for any person, firm, or corporation, association, or any other person or organization, who receives city sewer service to fail or refuse to pay for such service.

2. The city shall have the following remedies in the event of the failure or refusal on the part of any person, firm, corporation or any other person or organization who receives city sewer service to pay for such service:

- a. Collect the amount owed by such customer as a civil debt.
- b. Cite such customer into the municipal court, and upon conviction, impose a civil penalty on such customer in an amount not to exceed five hundred dollars (\$500.00). Each day a violation is allowed to continue shall constitute a separate offense.
- c. Termination of sewer service, as follows:
 - i. Written termination (cut-off) shall be given to the customer at least five (5) days prior to the scheduled date of the termination. The cut-off notice shall specify:
 - (1) The reason for the cut-off;
 - (2) The amount due, including late charges and any other charges;
 - (3) The last date to avoid service termination charges;
 - (4) Notification that the customer has a right to a hearing prior to service termination, and the availability for special counseling for emergency and hardship cases.
- d. The employee carrying out the termination procedure will attempt before disconnecting service to contact the customer at the premises in a final effort to collect payment and avoid termination.

e. Hearings on service terminations as provided for in (i)(D) above will be held by appointment at the city's sewer service office between the hours of 8:00 A.M. and 4:30 P.M., on any business day, or at other hours by special request of the customer.

f. Termination will not be made on any day preceding the day when the sewer department is scheduled to be closed.

g. If the customer does make payment of the bill, or does not request a termination hearing, the sewer department shall proceed on schedule with the termination of sewer service, as provided for in this section.

h. Sewer service will be reconnected only after the payment of all sewer charges, including late charges and any other charges, or only after satisfactory arrangements for payment of the same shall have been made, plus the payment of a reconnection charge of one hundred dollars (\$100.00).

3. The city shall have the right to use the above remedies prescribed for the failure or refusal to pay sewer bills collectively or selectively, and in any and all combinations. In addition, the use of any or all of the above remedies by the city shall not foreclose its right to use any other remedy that might now or in the future be authorized under state law. (Ord. #2-2001, Nov. 2001)

18-609. Minimum water and sewer charges. All residents for services will be charged the minimum charges for water/sewer services even if zero (0) gallons are used, or a request for meter removal is not submitted. (Ord. #4-1999, July 1999)

18-610. Turn-off/on fees. 1. All residents requesting a turn-off and turn-on of services except for repairs, will be charged turn-off/on fees as set by a roll call vote of the town council.

a. Temporary water or wastewater cut off or cut on at customer request, per trip for service inside the town limits is twenty-five dollars (\$25.00).

b. For reconnecting water or wastewater service after service is discontinued for non payment of a water or wastewater bill, twenty-five dollars (\$25.00) inside the town and fifty dollars (\$50.00) outside the town.

c. When the work is performed in other than normal business hours the fee shall be fifty dollars (\$50.00).

2. The customer shall pay for the additional costs incurred for disconnecting wastewater when the service is physically removed.

3. Customers who have had water or wastewater cut off for non-payment more than once in a twelve month period will be required to pay a seventy five dollar (\$75.00) reconnect fee.

4. A separate fee shall be charged for the connection and for the disconnect. A separate fee shall be charged for water and for wastewater.

5. The board may establish a higher utility deposit for those customers who are chronic non-payers. (Ord. #4-1999, July 1999, as amended by Ord. #4-2003, July 2003)

18-611. Fees to be set by town council. All fees and/or charges stated above as being passed by roll call vote by town council will be posted for public review in town hall. (Ord. #4-1999, July 1999)

18-612. Leak adjustments. 1. The city billing clerk is authorized to make adjustments for water and wastewater service affected by water leaks.

2. The adjustment shall be made as follows: Add the gallons used for the previous six (6) months and divide by six (6) to obtain the monthly average. Add this average to the current bill amount (bill to be adjusted) and divide by two (2). The calculated amount is the amount of gallons to adjust for.

3. The billing clerk will report all monthly adjustments made for leaks on a monthly basis to the board of mayor and aldermen.

4. Once the city suspects that there is a leak and notifies the customer, or if the city can determine when the customer discovered the leak, the city shall notify the customer of the suspected leak, and no adjustment shall be made for any period of time after a fifteen (15) day period for minor repairs or thirty (30) days for service line repairs. The customer shall repair leaks in a timely manner.

5. The customer shall not be entitled to more than one adjustment per year. (Ord. #6-2003, Aug. 2003)

18-613. Swimming pool wastewater usage credit. 1. Wastewater customers shall pay the appropriate water rates for filling of swimming pools. One adjustment per year shall be made by the town billing clerk on the sewer bill for water used to fill a swimming pool. The pool must be a minimum size of one-thousand (1,000) gallons and must not drain into the public wastewater system. The adjustment shall reduce the sewer service charge for the number of gallons required to fill the pool. Adding water to an already filled pool does not qualify for an adjustment. The clerk may estimate the gallons by using seven and one-half (7 ½) gallons per cubic foot of pool volume where metering is not practicable.

2. The customer must notify the town before filling the pool. (Ord. #7-2003, Aug. 2003)

CHAPTER 7

POLICIES FOR MULTIPLE CONNECTIONS TO A SINGLE METER

SECTION

- 18-701. Connections to water and wastewater service; responsible for administering policy.
- 18-702. Background and purpose.
- 18-703. Limitations.
- 18-704. Record keeping duration.
- 18-705. Omissions.
- 18-706. Policy statement.
- 18-707. Multiple services through a single meter.

18-701. Connections to water and wastewater service; responsible for administering public policy. Billing manager, public works director, governing board. (as added by Ord. #6-2004, Sept. 2004)

18-702. Background and purpose. It is accepted utility practice in the United States that only one dwelling be allowed to hook on to a single utility service line. The costs of utility service are to be shared as equitably as possible among utility customers. Minimum bills reflect, among other things, the overhead required to keep utility service in place, regardless of whether a particular customer uses the service during a billing period. The fact that service is ready upon demand 24 hours every day to meet a customer's potential needs places financial demands on the system that are generally reflected in the minimum bill. If utilities were to allow more than one customer to hook up to a single service line, several users would be paying only one minimum bill. The legitimate overhead costs of the system would be disproportionately passed on to other customers. In addition, the following circumstances require the city to limit service to one dwelling unit per water or sewer connection when possible. (as added by Ord. #6-2004, Sept. 2004)

18-703. Limitations. The city's water and wastewater system is subject to various state and federal regulations and has no discretion to offer service in a manner which would violate these regulations. (as added by Ord. #6-2004, Sept. 2004)

18-704. Record keeping duration. All multiple service connection records shall be kept for a minimum of ten years after termination of service. (as added by Ord. #6-2004, Sept. 2004)

18-705. Omissions. In the absence of specific rules or policies, the disposition of multiple connections to one meter shall be made by the governing

board in accordance with its usual and customary practices. (as added by Ord. #6-2004, Sept. 2004)

18-706. Policy statement. 1. The water and wastewater service connection to single family residences shall be limited to serving one residence only. No other dwelling, whether located on the same parcel or on an adjoining parcel, shall be served through the same service connection. Customers may have lines extended to barns and other uninhabited buildings as part of their service, provided that the installation meets the utility's specifications.

2. A residential tapping privilege shall not entitle a customer to connect a commercial or industrial business such as a beauty parlor or repair shop to the city's sewer lines without express approval of the city.

3. Authorized employees, representatives and contractors of the city shall have access to all properties served by the city at reasonable times for the purpose of servicing, maintaining and inspecting lines and connections to the water and wastewater system (or those believed to be connected to the system), observation, measurement, sampling and testing as provided by the policies of the city and by state and federal law.

4. The failure of a customer to comply with the provisions of this and other policies of the water and wastewater system shall constitute a breach of contract by the customer. Any customer found to be violating any provision of this policy shall be served by the city with written notice stating the nature of the violation and providing a time limit for the satisfactory correction thereof. The offending customer shall, within the period of time stated in such notice, permanently cease all violations.

5. Any customer who shall continue any violation beyond the time limit stated in the notice shall be disconnected from the system at the convenience of the city.

6. The following residential dwellings shall have a utility connection for each living unit:

- a. Single family dwellings;
- b. Commercial and industrial buildings;

7. The following commercial residential dwellings shall be allowed to maintain multiple living units on one meter as expressly approved by the city:

- a. Mobile home parks.
- b. Apartment buildings.
- c. Hotels, motels and campgrounds.
- d. Commercial and industrial buildings.

8. All customers who are allowed an exception by the board to receive water or sewer service to multiple users through a single water meter shall be charged commercial rates. In addition, the following method of bill computation shall apply:

The total usage shall be divided by the number of units, then applying the appropriate commercial rate for the amount prorated for each unit, including the minimum bill, and multiplying the result by the number of units. The total bill shall be the responsibility of the customer who contracted for the metered service.

Example:

One meter serving five (5) units-assuming 3,000 gallons per each minimum bill; the actual usage through the single meter for the month is 20,000 gallons; a minimum bill of \$15.00 per month; and \$3.00 per thousand over the minimum.

Compute the bill as follows:

1. (3,000 gallons minimum times 5 units equals 15,000 gallons of usage provided by the minimum bill.)
2. The bill would include a minimum for each unit or 5 times \$15.00.
3. In addition, the single meter would be billed for the additional 5,000 gallons of usage at in this examples \$3.00 per thousand gallons.
4. The bill would be (5x\$15.00 or \$75.00 plus the charge for the additional 5,000 gallons of usage (5,000/1000x\$3.00 or \$15.00).
5. The total bill to the single meter would be \$90.00 (\$75.00 + \$15.00).

Procedure for billing

- Multiply the minimum gallons times the number of units to obtain the number of gallons provided by the minimum bill.
- Multiply the number of units times minimum monthly charge.
- Multiply the additional usage per meter, above minimum usage, by the cost per thousand gallons.
- Add the minimum charges and the additional charge for usage over the minimum. This equates to the new bill.

In effect, the utility charge for each such dwelling unit or business unit thus served will have been computed as if each such unit had received service by separate meters. (as added by Ord. #6-2004, Sept. 2004)

18-707. Multiple services through a single meter.

1. a. An individual unit shall be defined as a dwelling served with separate bath facilities for the family unit or person or persons living as a family unit; a commercial business and an industrial facility shall be

defined as a business or industrial facility that maintains a separate bookkeeping ledger system from others located in the facility or location. Residents who have in home occupations shall be considered as one residential unit. Residences that include a mother or mother-in-law, aunt or uncle shall be considered as one residential unit. When apartments or separate buildings are located at the residence, each shall be considered as a separate unit.

b. All residential, commercial, and industrial customers shall be served by a separate water meter as determined by the Cumberland Gap Water Department. Where it is determined by the city to be impractical to meter each residential, commercial, or industrial customers with a single meter, the city water department shall bill each occupied separate residence, commercial business, or industrial customers a minimum monthly bill for each individual unit as follows:

c. Apartments, duplexes, triplexes, condominiums, and similar residential multi-unit dwellings shall be billed on the basis of monthly minimum bill for each individual dwelling unit. Each unit shall be credited with the minimum water usage included in the minimum bill and additional volumes shall be billed to the individual meter holder.

d. Commercial businesses shall be billed on the basis of a monthly minimum for each business served by a single meter. Where residential units are included within a commercial zone or business, the residential unit shall be billed as a separate unit on a per minimum basis. Each unit shall be credited with the minimum water usage included in the minimum bill and additional volumes shall be billed to the individual meter holder. If the city's zoning ordinance permits business owners to live inside their business, the bill shall be for one unit. If the unit is rented to others, it shall be considered as a separate unit and billed accordingly.

e. Industrial facilities shall be billed on the basis of a monthly minimum for each industrial facility served by a single meter. Each unit shall be credited with the minimum water usage included in the minimum bill and additional volumes shall be billed to the individual meter holder.

f. This customer, landowner or tenant shall receive credit for periods of time that the premises is vacant and no water is used for a particular unit, provided, however, the tenant must notify the city within five (5) days after a unit is vacant. The tenant or owner must notify the city of the status of the water usage and occupancy every thirty (30) days thereafter. Failure to so notify the city as above outlined will result in no credit being issued.

No adjustments or credits will be issued for periods preceding the passage of this subsection.¹

2. No customer shall supply water to more than one dwelling or premise from a single service line and meter without first obtaining the written permission of the town.

The schedule of rates for each class of service is based on the supply of water to the entire premises being taken from a single service line and meter location and a separate supply for the same customer at other points or consumption shall be separately metered and billed. In case of separate metering points and metering installations, use of water through each of the separate meters shall be billed in accordance with rate schedules applicable thereto. (1979 Code, § 13-115, as amended by Ord. #R3-2002, June 2002, and Ord. #8-2004, Aug. 2004)

¹This subsection was passed by Ord. #8-2004, Aug. 2004.

TITLE 19

ELECTRICITY AND GAS

[RESERVED FOR FUTURE USE]

TITLE 20

MISCELLANEOUS

CHAPTER

1. SPECIAL EVENTS.

CHAPTER 1

SPECIAL EVENTS

SECTION

- 20-101. Event permit required.
- 20-102. "Event" defined.
- 20-103. Exemptions.
- 20-104. Application contents and fee.
- 20-105. Approval of application.
- 20-106. Issuance of event permit.
- 20-107. Additional Services
- 20-108. Concession booths and vendors.
- 20-109. Revocation.
- 20-110. Routes for 5K events.

20-101. Event permit required. Whenever any person, group, association, club, business, firm, or corporation desires to sponsor any "event," as hereinafter defined, such person, group, association, club, business, firm or corporation shall first obtain an "event permit" from the Town of Cumberland Gap. (as added by Ord. #6-2015, Aug. 2015)

20-102. "Event" defined. An "event" is any festival, parade, race, dance, celebration or other gathering involving the use of public facilities in the Town of Cumberland Gap, including, but not limited to parks, streets, alleys, sidewalks, or other city owned facilities which necessitates additional services as described in § 20-107 of this chapter, and which includes a general invitation to all members of the public to either participate in and/or view such event, or part thereof. (as added by Ord. #6-2015, Aug. 2015)

20-103. Exemptions. Any/all government or not for profit organizations shall be exempt from paying any cost under § 20-107 of this chapter but shall not be exempt from obtaining an "event permit" from the Town of Cumberland Gap. Such governmental or not for profit sponsors are not exempt from obtaining the required insurance coverage. (as added by Ord. #6-2015, Aug. 2015)

20-104. Application contents and fee. Event permits shall be issued only upon the submission of an application therefore which will be filed with the town recorder a minimum of forty-five (45) days prior to the anticipated date of the event. Such application must contain the following information:

(1) A detailed description of the event, including all associated events and/or uses; and the date or dates, and hours of the event. Event permits shall not be issued for more than three (3) days, unless otherwise approved by the board of mayor and alderman. A site plan shall be submitted upon request.

(2) A detailed description of the specific area where the event shall be held, and, if street closure is requested, a complete listing of such streets or portions thereof, together with the dates and hours of closures.

(3) A description of any town services and/or utilities that shall be needed.

(4) The approximate number of citizens expected to either participate in and/or view the event.

(5) The exact name of the person, group, association, club, business, firm, or corporation sponsoring said event, together with the complete name, address, and telephone number of the person to contact for all communications from the town.

(6) Certificate of insurance naming the Town of Cumberland Gap as an additional insured, with same/equal limit of one million dollars (\$1,000,000.00) general liability and one million dollars (\$1,000,000.00) per occurrence.

(7) The payment of five dollars (\$5.00) for processing fee of the application. Additional fees/deposits may apply. The town reserves the right to waive the five dollars (\$5.00) processing fee for any government and/or non-profit organization. (as added by Ord. #6-2015, Aug. 2015)

20-105. Approval of application. The board of mayor and alderman will review, approve or reject all such applications. (as added by Ord. #6-2015, Aug. 2015)

20-106. Issuance of event permit. After the approval of the application, the event permit shall be issued by the board of mayor and alderman only after the sponsor has presented the town with a certificate of insurance, with same/equal limit one million dollars (\$1,000,000.00) general liability and one million dollars (\$1,000,000.00) per occurrence, with the Town of Cumberland Gap named as additional insured; protecting the town from any and all claims and liabilities arising out of the event. (as added by Ord. #6-2015, Aug. 2015)

20-107. Additional services. All town services and utilities which are required by the event over and above the normal level of service provided to the general public shall be charged to the sponsor at the rates established by this

chapter. The Town of Cumberland Gap shall be compensated for the use of vehicles and equipment operated by town employees for the benefit of sponsor(s) and the event at the rate of ten dollars (\$10.00) per hour, per vehicle. No vehicles or equipment owned by the town may be operated by employees of the sponsor(s) or any other individual not employed by the town and approved as an operator of such equipment. The wages of any town employee required to provide services for the event shall likewise be paid by the sponsor(s). Where possible, such additional services shall be paid within forty-five (45) days upon the receipt of a statement from the Town of Cumberland Gap.

Additional services/charges; other: Any expenses incurred above the normal level of service to accommodate the permit holder i.e., port-o-johns, additional electrical services, seating, etc. shall be at the event permit holder's expense. (as added by Ord. #6-2015, Aug. 2015)

20-108. Concession booths and vendors. The event sponsor shall be in charge of all concession booths and vendors. The sponsor shall determine what booths and vendors shall be allowed, and see that they comply with all ordinances, statutes, rules and regulations, including, but not limited to: public health, safety requirements, and anti-discrimination laws. (as added by Ord. #6-2015, Aug. 2015)

20-109. Revocation. The mayor or his/her designee shall have the authority to immediately review the permit for a violation of any section of this chapter or if there is any direct threat to the health or safety of the general public. (as added by Ord. #6-2015, Aug. 2015)

20-110. Routes for 5K events. The event sponsor must provide a map of the proposed route for the 5K event. This map must be provided in a time and manner that will allow the board of mayor and alderman ample time to make a thorough consideration of the proposed route. The event sponsor must provide an appropriate number of volunteers to provide safety to not only the event participants, but also the general public. The map must show the proposed location of all volunteers and will be reviewed by the board of mayor and alderman for approval or sent back to the event sponsor with necessary changes. If the approved number of volunteers are not present on the day of the event, the Town of Cumberland Gap reserves the right to cancel the event without notice. (as added by Ord. #6-2015, Aug. 2015)

Change 6, January 4, 2016

APPENDIX

A. REQUEST FOR CITY RECORDS INSPECTION APP-A-1
B. DENIAL OF REQUEST FOR INSPECTION OF RECORDS APP-B-1
C. COPYING COSTS FOR PUBLIC RECORDS APP-C-1
D. PLAN OF OPERATION FOR THE OCCUPATIONAL SAFETY
AND HEALTH PROGRAM PLAN APP-D-1

APPENDIX A

**CITY OF CUMBERLAND GAP, TENNESSEE
REQUEST FOR CITY RECORDS INSPECTION**

PERSON MAKING REQUEST _____

MAILING ADDRESS _____

CITY _____ STATE _____ ZIP CODE _____

PHONE NUMBER (HOME): _____ (WORK): _____

RECORDS REQUESTED (BE AS SPECIFIC AS POSSIBLE, INCLUDING DATES)

SIGNATURE OF REQUESTOR _____

PERSON RECEIVING REQUEST _____

ACTIONS TAKEN ON REQUEST

RECEIVED (DATE/TIME) ____/____ (SIGN) _____

DELAY (EST. DELIV. D/T) ____/____ (SIGN) _____

DELIVERED (DATE/TIME) ____/____ (SIGN) _____

OTHER: (DATE/TIME) ____/____ (SIGN) _____

COPIES

MADE BY _____ DATE _____ TIME _____

NUMBER OF PAGES: _____ CHARGE PER PAGE: _____

TOTAL PAGES: _____ AMOUNT RECEIVED: _____

RECEIPT NUMBER: _____

APPENDIX B

**CITY OF CUMBERLAND GAP, TENNESSEE
DENIAL OF REQUEST FOR INSPECTION OF RECORDS**

ON THE _____ DAY OF _____, 20___, THE CITY OF _____, TENNESSEE RECEIVED FROM YOU A REQUEST FOR PUBLIC RECORDS AS FOLLOWS (IDENTIFY RECORDS REQUESTED)

THE CITY RESPECTFULLY REFUSES TO ALLOW THE INSPECTION OR COPYING OF THOSE RECORDS, OR PARTS OF THOSE RECORDS INDICATED BELOW, FOR THE FOLLOWING REASON/S (CITE THE SPECIFIC STATUTORY AUTHORITY FOR THE CONFIDENTIALITY OF THE RECORDS, IF POSSIBLE):

CERTIFICATION

I CERTIFY THAT I HAND-DELIVERED/MAILED BY UNITED STATES MAIL BY REGISTERED/CERTIFIED MAIL, RETURN RECEIPT REQUESTED TO (NAME OF REQUESTOR) _____, AT (ADDRESS) _____, THIS DENIAL OF REQUEST FOR INSPECTION OR COPYING THE ABOVE RECORDS.

SIGNED: _____

TITLE: _____

DATE: _____

APPENDIX C**CITY OF CUMBERLAND GAP, TENNESSEE
COPYING COSTS FOR PUBLIC RECORDS**

THE FOLLOWING SCHEDULE OF COSTS SHALL APPLY TO THE PROVISION OF COPIES OF PUBLIC RECORDS TO THE GENERAL PUBLIC AND TO PUBLIC OFFICIALS WHO REQUEST COPIES OF THE CITY'S PUBLIC RECORDS:

TYPE OF RECORD (EACH COPY)	1ST COPY	ADDITIONAL COPIES
8-1/2 x 11 or 8-1/2 x 14		
ORDINANCES AND RESOLUTIONS	.50	.25
DEEDS	.50	.25
MINUTES (PAPER COPIES)	.50	.25
MINUTES (TAPE RECORDINGS)	3.00	3.00
CONTRACTS	.50	.25
CHECKS AND INVOICES	.50	.25
PERMITS AND LICENSES	.50	.25
ACCIDENT REPORTS	3.00	1.00
Maps Larger than 8-1/2 x 11 and 8-1/2 x 14		
PLAT MAP	5.00	5.00
ZONING MAP	5.00	5.00
CITY MAPS	5.00	5.00
MIS. MAPS	5.00	5.00

Before requesting commercially-copied records, the requestor should read in detail the city's policy on the inspection and copying of public records.

APPENDIX D**PLAN OF OPERATION FOR THE OCCUPATIONAL SAFETY AND
HEALTH PROGRAM PLAN FOR THE EMPLOYEES OF
THE TOWN OF CUMBERLAND GAP**

SECTION	PAGE
I. PURPOSE AND COVERAGE	APP-D-2
II. DEFINITIONS	APP-D-3
III. EMPLOYER'S RIGHTS AND DUTIES	APP-D-4
IV. EMPLOYEE'S RIGHTS AND DUTIES	APP-D-5
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I. PURPOSE AND COVERAGE

The purpose of this plan is to provide guidelines and procedures for implementing the Occupational Safety and Health Program Plan for the employees of Town of Cumberland Gap.

This plan is applicable to all employees, part-time or full-time, seasonal or permanent.

The Town of Cumberland Gap in electing to update and maintain an effective Occupational Safety and Health Program Plan for its employees,

- a. Provide a safe and healthful place and condition of employment.
- b. Require the use of safety equipment, personal protective equipment, and other devices where reasonably necessary to protect employees.
- c. Make, keep, preserve, and make available to the Commissioner of Labor and Workforce Development, his designated representatives, or persons within the Department of Labor and Workforce Development to whom such responsibilities have been delegated, including the Safety Director of the Division of Occupational Safety and Health, adequate records of all occupational accidents and illnesses and personal injuries for proper evaluation and necessary corrective action as required.
- d. Consult with the Commissioner of Labor and Workforce Development or his designated representative with regard to the adequacy of the form and content of such records.
- e. Consult with the Commissioner of Labor and Workforce Development regarding safety and health problems which are considered to be unusual or peculiar and are such that they cannot be resolved under an occupational safety and health standard promulgated by the State.
- f. Assist the Commissioner of Labor and Workforce Development or his monitoring activities to determine Program Plan effectiveness and compliance with the occupational safety and health standards.
- g. Make a report to the Commissioner of Labor and Workforce Development annually, or as may otherwise be required, including information on occupational accidents, injuries, and illnesses and accomplishments and progress made toward achieving the goals of the Occupational Safety and Health Program Plan.
- h. Provide reasonable opportunity for and encourage the participation of employees in the effectuation of the objectives of this Program Plan, including the opportunity to make anonymous complaints concerning conditions or practices which may be injurious to employees' safety and health.

II. DEFINITIONS

For the purposes of this Program Plan, the following definitions apply:

- a. COMMISSIONER OF LABOR and Workforce Development means the chief executive officer of the Tennessee Department of Labor and Workforce Development. This includes any person appointed, designated, or deputized to perform the duties or to exercise the powers assigned to the Commissioner of Labor and Workforce Development.
- b. EMPLOYER means the Town of Cumberland Gap and includes each administrative department, board, commission, division, or other agency of the Town of Cumberland Gap.
- c. SAFETY DIRECTOR OF OCCUPATIONAL SAFETY AND HEALTH or SAFETY SAFETY DIRECTOR means the person designated by the establishing ordinance, or executive order to perform duties or to exercise powers assigned so as to plan, develop, and administer the Occupational Safety and Health Program Plan for the employees of Town of Cumberland Gap.
- d. INSPECTOR(S) means the individual(s) appointed or designated by the Safety Director of Occupational Safety and Health to conduct inspections provided for herein. If no such compliance inspector(s) is appointed, inspections shall be conducted by the Safety Director of Occupational Safety and Health.
- e. APPOINTING AUTHORITY means any official or group of officials of the employer having legally designated powers of appointment, employment, or removal there from for a specific department, board, commission, division, or other agency of this employer.
- f. EMPLOYEE means any person performing services for this employer and listed on the payroll of this employer, either as part-time, full-time, seasonal, or permanent. It also includes any persons normally classified as "volunteers" provided such persons received remuneration of any kind for their services. This definition shall not include independent contractors, their agents, servants, and employees.
- g. PERSON means one or more individuals, partnerships, associations, corporations, business trusts, or legal representatives of any organized group of persons.
- h. STANDARD means an occupational safety and health standard promulgated by the Commissioner of Labor and Workforce Development in accordance with Section VI (6) of the Tennessee Occupational Safety and Health Act of 1972 which requires conditions or the adoption or the use of one or more practices, means, methods, operations, or processes or the use of equipment or personal protective equipment necessary or appropriate to provide safe and healthful conditions and places of employment.

- i. **IMMINENT DANGER** means any conditions or practices in any place of employment which are such that a hazard exists which could reasonably be expected to cause death or serious physical harm immediately or before the imminence of such hazard can be eliminated through normal compliance enforcement procedures.
- j. **ESTABLISHMENT** or **WORKSITE** means a single physical location under the control of this employer where business is conducted, services are rendered, or industrial type operations are performed.
- k. **SERIOUS INJURY** or **HARM** means that type of harm that would cause permanent or prolonged impairment of the body in that:
 - 1. A part of the body would be permanently removed (e.g., amputation of an arm, leg, finger(s); loss of an eye) or rendered functionally useless or substantially reduced in efficiency on or off the job (e.g., leg shattered so severely that mobility would be permanently reduced), or
 - 2. A part of an internal body system would be inhibited in its normal performance or function to such a degree as to shorten life or cause reduction in physical or mental efficiency (e.g., lung impairment causing shortness of breath).

On the other hand, simple fractures, cuts, bruises, concussions, or similar injuries would not fit either of these categories and would not constitute serious physical harm.
- l. **ACT** or **TOSH Act** shall mean the Tennessee Occupational Safety and Health Act of 1972.
- m. **GOVERNING BODY** means the County Quarterly Court, Board of Aldermen, Board of Commissioners, City or Town Council, Board of Governors, etc., whichever may be applicable to the local government, government agency, or utility to which this plan applies.
- n. **CHIEF EXECUTIVE OFFICER** means the chief administrative official, County Judge, County Chairman, County Mayor, Mayor, City Manager, General Manager, etc., as may be applicable.

III. EMPLOYER'S RIGHTS AND DUTIES

Rights and duties of the employer shall include, but are not limited to, the following provisions:

- a. Employer shall furnish to each employee conditions of employment and a place of employment free from recognized hazards that are causing or are likely to cause death or serious injury or harm to employees.

- b. Employer shall comply with occupational safety and health standards and regulations promulgated pursuant to Section VI (6) of the Tennessee Occupational Safety and Health Act of 1972.
- c. Employer shall refrain from and unreasonable restraint on the right of the Commissioner of Labor and Workforce Development to inspect the employers place(s) of business. Employer shall assist the Commissioner of Labor and Workforce Development in the performance of their monitoring duties by supplying or by making available information, personnel, or aids reasonably necessary to the effective conduct of the monitoring activity.
- d. Employer is entitled to participate in the development of standards by submission of comments on proposed standards, participation in hearing on proposed standards, or by requesting the development of standards on a given issue under Section 6 of the Tennessee Occupational Safety and Health Act of 1972.
- e. Employer is entitled to request an order granting a variance from an occupational safety and health standard.
- f. Employer is entitled to protection of its legally privileged communication.
- g. Employer shall inspect all worksites to insure the provisions of this Program Plan are complied with and carried out.
- h. Employer shall notify and inform any employee who has been or is being exposed in a biologically significant manner to harmful agents or material in excess of the applicable standard and of corrective action being taken.
- i. Employer shall notify all employees of their rights and duties under this Program Plan.

IV. EMPLOYEE'S RIGHTS AND DUTIES

Rights and duties of employees shall include, but are not limited to, the following provisions:

- a. Each employee shall comply with occupational safety and health act standards and all rules, regulations, and orders issued pursuant to this Program Plan and the Tennessee Occupational Safety and Health Act of 1972 which are applicable to his or her own actions and conduct.
- b. Each employee shall be notified by the placing of a notice upon bulletin boards, or other places of common passage, of any application for a permanent or temporary order granting the employer a variance from any provision of the TOSH Act or any standard or regulation promulgated under the Act.
- c. Each employee shall be given the opportunity to participate in any hearing which concerns an application by the employer for a variance from a standard or regulation promulgated under the Act.

- d. Any employee who may be adversely affected by a standard or variance issued pursuant to the Act or this Program Plan may file a petition with the Commissioner of Labor and Workforce Development or whoever is responsible for the promulgation of the standard or the granting of the variance.
- e. Any employee who has been exposed or is being exposed to toxic materials or harmful physical agents in concentrations or at levels in excess of that provided for by any applicable standard shall be provided by the employer with information on any significant hazards to which they are or have been exposed, relevant symptoms, and proper conditions for safe use or exposure. Employees shall also be informed of corrective action being taken.
- f. Subject to regulations issued pursuant to this Program Plan, any employee or authorized representative of employees shall be given the right to request an inspection and to consult with the Safety Director or Inspector at the time of the physical inspection of the worksite.
- g. Any employee may bring to the attention of the Safety Director any violation or suspected violations of the standards or any other health or safety hazards.
- h. No employee shall be discharged or discriminated against because such employee has filed any complaint or instituted or caused to be instituted any proceeding or inspection under or relating to this Program Plan.
- i. Any employee who believes that he or she has been discriminated against or discharged in violation of subsection (h) of this section may file a complaint alleging such discrimination with the Safety Director. Such employee may also, within thirty (30) days after such violation occurs, file a complaint with the Commissioner of Labor and Workforce Development alleging such discrimination.
- j. Nothing in this or any other provisions of this Program Plan shall be deemed to authorize or require any employee to undergo medical examination, immunization, or treatment for those who object thereto on religious grounds, except where such is necessary for the protection of the health or safety or others or when a medical examination may be reasonably required for performance of a specific job.
- k. Employees shall report any accident, injury, or illness resulting from their job, however minor it may seem to be, to their supervisor or the Safety Director within twenty-four (24) hours after the occurrence.

V. ADMINISTRATION

- a. The Safety Director of Occupational Safety and Health is designated to perform duties or to exercise powers assigned so as to administer this Occupational Safety and Health Program Plan.
 1. The Safety Director may designate person or persons as he deems necessary to carry out his powers, duties, and responsibilities under this Program Plan.
 2. The Safety Director may delegate the power to make inspections, provided procedures employed are as effective as those employed by the Safety Director.
 3. The Safety Director shall employ measures to coordinate, to the extent possible, activities of all departments to promote efficiency and to minimize any inconveniences under this Program Plan.
 4. The Safety Director may request qualified technical personnel from any department or section of government to assist him in making compliance inspections, accident investigations, or as he may otherwise deem necessary and appropriate in order to carry out his duties under this Program Plan.
 5. The Safety Director shall prepare the report to the Commissioner of Labor and Workforce Development required by subsection (g) of Section 1 of this plan.
 6. The Safety Director shall make or cause to be made periodic and follow-up inspections of all facilities and worksites where employees of this employer are employed. He shall make recommendations to correct any hazards or exposures observed. He shall make or cause to be made any inspections required by complaints submitted by employees or inspections requested by employees.
 7. The Safety Director shall assist any officials of the employer in the investigation of occupational accidents or illnesses.
 8. The Safety Director shall maintain or cause to be maintained records required under Section VIII of this plan.
 9. The Safety Director shall, in the eventuality that there is a fatality or an accident resulting in the hospitalization of three or more employees insure that the Commissioner of Labor and Workforce Development receives notification of the occurrence within eight (8) hours.
- b. The administrative or operational head of each department, division, board, or other agency of this employer shall be responsible for the implementation of this Occupational Safety and Health Program Plan within their respective areas.

1. The administrative or operational head shall follow the directions of the Safety Director on all issues involving occupational safety and health of employees as set forth in this plan.
2. The administrative or operational head shall comply with all abatement orders issued in accordance with the provisions of this plan or request a review of the order with the Safety Director within the abatement period.
3. The administrative or operational head should make periodic safety surveys of the establishment under his jurisdiction to become aware of hazards or standards violations that may exist and make an attempt to immediately correct such hazards or violations.
4. The administrative or operational head shall investigate all occupational accidents, injuries, or illnesses reported to him. He shall report such accidents, injuries, or illnesses to the Safety Director along with his findings and/or recommendations in accordance with APPENDIX IV of this plan.

VI. STANDARDS AUTHORIZED

The standards adopted under this Program Plan are the applicable standards developed and promulgated under Section VI (6) of the Tennessee Occupational Safety and Health Act of 1972. Additional standards may be promulgated by the governing body of this employer as that body may deem necessary for the safety and health of employees. Note: 29 CFR 1910 General Industry Regulations; 29 CFR 1926 Construction Industry Regulations; and the Rules of Tennessee Department of Labor and Workforce Development Occupational Safety and Health, CHAPTER 0800-01-1 through CHAPTER 0800-01-11 are the standards and rules invoked.

VII. VARIANCE PROCEDURE

The Safety Director may apply for a variance as a result of a complaint from an employee or of his knowledge of certain hazards or exposures. The Safety Director should definitely believe that a variance is needed before the application for a variance is submitted to the Commissioner of Labor and Workforce Development.

The procedure for applying for a variance to the adopted safety and health standards is as follows:

- a. The application for a variance shall be prepared in writing and shall contain:

1. A specification of the standard or portion thereof from which the variance is sought.
 2. A detailed statement of the reason(s) why the employer is unable to comply with the standard supported by representations by qualified personnel having first-hand knowledge of the facts represented.
 3. A statement of the steps employer has taken and will take (with specific date) to protect employees against the hazard covered by the standard.
 4. A statement of when the employer expects to comply and what steps have or will be taken (with dates specified) to come into compliance with the standard.
 5. A certification that the employer has informed employees, their authorized representative(s), and/or interested parties by giving them a copy of the request, posting a statement summarizing the application (to include the location of a copy available for examination) at the places where employee notices are normally posted and by other appropriate means. The certification shall contain a description of the means actually used to inform employees and that employees have been informed of their right to petition the Commissioner of Labor and Workforce Development for a hearing.
- b. The application for a variance should be sent to the Commissioner of Labor and Workforce Development by registered or certified mail.
- c. The Commissioner of Labor and Workforce Development will review the application for a variance and may deny the request or issue an order granting the variance. An order granting a variance shall be issued only if it has been established that:
1. The employer
 - i. Is unable to comply with the standard by the effective date because of unavailability of professional or technical personnel or materials and equipment required or necessary construction or alteration of facilities or technology.
 - ii. Has taken all available steps to safeguard employees against the hazard(s) covered by the standard.
 - iii. Has as effective Program Plan for coming into compliance with the standard as quickly as possible.
 2. The employee is engaged in an experimental Program Plan as described in subsection (b), section 13 of the Act.
- d. A variance may be granted for a period of no longer than is required to achieve compliance or one (1) year, whichever is shorter.

- e. Upon receipt of an application for an order granting a variance, the Commissioner to whom such application is addressed may issue an interim order granting such a variance for the purpose of permitting time for an orderly consideration of such application. No such interim order may be effective for longer than one hundred eighty (180) days.
- f. The order or interim order granting a variance shall be posted at the worksite and employees notified of such order by the same means used to inform them of the application for said variance (see subsection (a)(5) of this section).

VIII. RECORDKEEPING AND REPORTING

Recording and reporting of all occupational accident, injuries, and illnesses shall be in accordance with instructions and on forms prescribed in the booklet. You can get a copy of the Forms for Recordkeeping from the internet. Go to www.osha.gov and click on Recordkeeping Forms located on the home page.

The position responsible for recordkeeping is shown on the SAFETY AND HEALTH ORGANIZATIONAL CHART, Appendix IV to this plan.

Details of how reports of occupational accidents, injuries, and illnesses will reach the recordkeeper are specified by ACCIDENT REPORTING PROCEDURES, Appendix IV to this plan. The Rule of Tennessee Department of Labor and Workforce Development Occupational Safety and Health, OCCUPATIONAL SAFETY AND HEALTH RECORD-KEEPING AND REPORTING, CHAPTER 0800-01-03, as authorized by T.C.A., Title 50.

IX. EMPLOYEE COMPLAINT PROCEDURE

If any employee feels that he is assigned to work in conditions which might affect his health, safety, or general welfare at the present time or at any time in the future, he should report the condition to the Safety Director of Occupational Safety and Health.

- a. The complaint should be in the form of a letter and give details on the condition(s) and how the employee believes it affects or will affect his health, safety, or general welfare. The employee should sign the letter but need not do so if he wishes to remain anonymous (see subsection (h) of Section 1 of this plan).
- b. Upon receipt of the complaint letter, the Safety Director will evaluate the condition(s) and institute any corrective action, if warranted. Within ten (10) working days following the receipt of the complaint, the Safety Director will answer the complaint in writing stating whether or not the complaint is deemed to be valid and if no, why not, what action has been or will be taken to correct

or abate the condition(s), and giving a designated time period for correction or abatement. Answers to anonymous complaints will be posted upon bulletin boards or other places of common passage where the anonymous complaint may be reasonably expected to be seen by the complainant for a period of three (3) working days.

- c. If the complainant finds the reply not satisfactory because it was held to be invalid, the corrective action is felt to be insufficient, or the time period for correction is felt to be too long, he may forward a letter to the Chief Executive Officer or to the governing body explaining the condition(s) cited in his original complaint and why he believes the answer to be inappropriate or insufficient.
- d. The Chief Executive Officer or a representative of the governing body will evaluate the complaint and will begin to take action to correct or abate the condition(s) through arbitration or administrative sanctions or may find the complaint to be invalid. An answer will be sent to the complainant within ten (10) working days following receipt of the complaint or the next regularly scheduled meeting of the governing body following receipt of the complaint explaining decisions made and action taken or to be taken.
- e. After the above steps have been followed and the complainant is still not satisfied with the results, he may then file a complaint with the Commissioner of Labor and Workforce Development. Any complaint filed with the Commissioner of Labor and Workforce Development in such cases shall include copies of all related correspondence with the Safety Director and the Chief Executive Officer or the representative of the governing body.
- f. Copies of all complaint and answers thereto will be filed by the Safety Director who shall make them available to the Commissioner of Labor and Workforce Development or his designated representative upon request.

X. EDUCATION AND TRAINING

- a. Safety Director and/or Compliance Inspector(s):
 1. Arrangements will be made for the Safety Director and/or Compliance Inspector(s) to attend training seminars, workshops, etc., conducted by the State of Tennessee or other agencies. A list of Seminars can be obtained.
 2. Access will be made to reference materials such as 29 CFR 1910 General Industry Regulations; 29 CFR 1926 Construction Industry Regulations; The Rules of Tennessee Department of Labor and Workforce Development Occupational Safety and Health, and other equipment/supplies, deemed necessary for use in conducting

compliance inspections, conducting local training, wiring technical reports, and informing officials, supervisors, and employees of the existence of safety and health hazards will be furnished.

b. All Employees (including supervisory personnel):

A suitable safety and health training program for employees will be established. This program will, as a minimum:

1. Instruct each employee in the recognition and avoidance of hazards or unsafe conditions and of standards and regulations applicable to the employees work environment to control or eliminate any hazards, unsafe conditions, or other exposures to occupational illness or injury.
2. Instruct employees who are required to handle or use poisons, acids, caustics, toxicants, flammable liquids, or gases including explosives, and other harmful substances in the proper handling procedures and use of such items and make them aware of the personal protective measures, person hygiene, etc., which may be required.
3. Instruct employees who may be exposed to environments where harmful plants or animals are present, of the hazards of the environment, how to best avoid injury or exposure, and the first aid procedures to be followed in the event of injury or exposure.
4. Instruct all employees of the common deadly hazards and how to avoid them, such as Falls; Equipment Turnover; Electrocutation; Struck by/Caught In; Trench Cave In; Heat Stress and Drowning.
5. Instruct employees on hazards and dangers of confined or enclosed spaces.
 - i. Confined or enclosed space means space having a limited means of egress and which is subject to the accumulation of toxic or flammable contaminants or has an oxygen deficient atmosphere. Confined or enclosed spaces include, but are not limited to, storage tanks, boilers, ventilation or exhaust ducts, sewers, underground utility accesses, tunnels, pipelines, and open top spaces more than four feet (4) in depth such as pits, tubs, vaults, and vessels.
 - ii. Employees will be given general instruction on hazards involved, precautions to be taken, and on use of personal protective and emergency equipment required. They shall also be instructed on all specific standards or regulations that apply to work in dangerous or potentially dangerous areas.

- iii. The immediate supervisor of any employee who must perform work in a confined or enclosed space shall be responsible for instructing employees on danger of hazards which may be present, precautions to be taken, and use of personal protective and emergency equipment, immediately prior to their entry into such an area and shall require use of appropriate personal protective equipment.

XI. GENERAL INSPECTION PROCEDURES

It is the intention of the governing body and responsible officials to have an Occupational Safety and Health Program Plan that will insure the welfare of employees. In order to be aware of hazards, periodic inspections must be performed. These inspections will enable the finding of hazards or unsafe conditions or operations that will need correction in order to maintain safe and healthful worksites. Inspections made on a pre-designated basis may not yield the desired results. Inspections will be conducted, therefore, on a random basis at intervals not to exceed thirty (30) calendar days.

- a. In order to carry out the purposes of this Ordinance, the Safety Director and/or Compliance Inspector(s), if appointed, is authorized:
 1. To enter at any reasonable time, any establishment, facility, or worksite where work is being performed by an employee when such establishment, facility, or worksite is under the jurisdiction of the employer and;
 2. To inspect and investigate during regular working hours and at other reasonable times, within reasonable limits, and in a reasonable manner, any such place of employment and all pertinent conditions, processes, structures, machines, apparatus, devices, equipment, and materials therein, and to question privately any supervisor, operator, agent, or employee working therein.
- b. If an imminent danger situation is found, alleged, or otherwise brought to the attention of the Safety Director or Inspector during a routine inspection, he shall immediately inspect the imminent danger situation in accordance with Section XII of this plan before inspecting the remaining portions of the establishment, facility, or worksite.
- c. An administrative representative of the employer and a representative authorized by the employees shall be given an opportunity to consult with and/or to accompany the Safety Director or Inspector during the physical inspection of any worksite for the purpose of aiding such inspection.

- d. The right of accompaniment may be denied any person whose conduct interferes with a full and orderly inspection.
- e. The conduct of the inspection shall be such as to preclude unreasonable disruptions of the operation(s) of the workplace.
- f. Interviews of employees during the course of the inspection may be made when such interviews are considered essential to investigative techniques.
- g. Advance Notice of Inspections.
 - 1. Generally, advance notice of inspections will not be given as this precludes the opportunity to make minor or temporary adjustments in an attempt to create misleading impression of conditions in an establishment.
 - 2. There may be occasions when advance notice of inspections will be necessary in order to conduct an effective inspection or investigation. When advance notice of inspection is given, employees or their authorized representative(s) will also be given notice of the inspection.
- h. The Safety Director need not personally make an inspection of each and every worksite once every thirty (30) days. He may delegate the responsibility for such inspections to supervisors or other personnel provided:
 - 1. Inspections conducted by supervisors or other personnel are at least as effective as those made by the Safety Director.
 - 2. Records are made of the inspections, any discrepancies found and corrective actions taken. This information is forwarded to the Safety Director.
- i. The Safety Director shall maintain records of inspections to include identification of worksite inspected, date of inspection, description of violations of standards or other unsafe conditions or practices found, and corrective action taken toward abatement. Those inspection records shall be subject to review by the Commissioner of Labor and Workforce Development or his authorized representative.

XII. IMMINENT DANGER PROCEDURES

- a. Any discovery, any allegation, or any report of imminent danger shall be handled in accordance with the following procedures:
 - 1. The Safety Director shall immediately be informed of the alleged imminent danger situation and he shall immediately ascertain whether there is a reasonable basis for the allegation.
 - 2. If the alleged imminent danger situation is determined to have merit by the Safety Director, he shall make or cause to

- be made an immediate inspection of the alleged imminent danger location.
3. As soon as it is concluded from such inspection that conditions or practices exist which constitutes an imminent danger, the Safety Director or Compliance Inspector shall attempt to have the danger corrected. All employees at the location shall be informed of the danger and the supervisor or person in charge of the worksite shall be requested to remove employees from the area, if deemed necessary.
 4. The administrative or operational head of the workplace in which the imminent danger exists, or his authorized representative, shall be responsible for determining the manner in which the imminent danger situation will be abated. This shall be done in cooperation with the Safety Director or Compliance Inspector and to the mutual satisfaction of all parties involved.
 5. The imminent danger shall be deemed abated if:
 - i. The imminence of the danger has been eliminated by removal of employees from the area of danger.
 - ii. Conditions or practices which resulted in the imminent danger have been eliminated or corrected to the point where an unsafe condition or practice no longer exists.
 6. A written report shall be made by or to the Safety Director describing in detail the imminent danger and its abatement. This report will be maintained by the Safety Director in accordance with subsection (i) of Section XI of this plan.
- b. Refusal to Abate.
1. Any refusal to abate an imminent danger situation shall be reported to the Safety Director and Chief Executive Officer immediately.
 2. The Safety Director and/or Chief Executive Officer shall take whatever action may be necessary to achieve abatement.

XIII. ABATEMENT ORDERS AND HEARINGS

- a. Whenever, as a result of an inspection or investigation, the Safety Director or Compliance Inspector(s) finds that a worksite is not in compliance with the standards, rules or regulations pursuant to this plan and is unable to negotiate abatement with the administrative or operational head of the worksite within a reasonable period of time, the Safety Director shall:
 1. Issue an abatement order to the head of the worksite.

2. Post or cause to be posted, a copy of the abatement order at or near each location referred to in the abatement order.
- b. Abatement orders shall contain the following information:
 1. The standard, rule, or regulation which was found to violated.
 2. A description of the nature and location of the violation.
 3. A description of what is required to abate or correct the violation.
 4. A reasonable period of time during which the violation must be abated or corrected.
- c. At any time within ten (10) days after receipt of an abatement order, anyone affected by the order may advise the Safety Director in writing of any objections to the terms and conditions of the order. Upon receipt of such objections, the Safety Director shall act promptly to hold a hearing with all interested and/or responsible parties in an effort to resolve any objections. Following such hearing, the Safety Director shall, within three (3) working days, issue an abatement order and such subsequent order shall be binding on all parties and shall be final.

XIV. PENALTIES

- a. No civil or criminal penalties shall be issued against any official, employee, or any other person for failure to comply with safety and health standards or any rules or regulations issued pursuant to this Program Plan.
- b. Any employee, regardless of status, who willfully and/or repeatedly violates, or causes to be violated, any safety and health standard, rule, or regulation or any abatement order shall be subject to disciplinary action by the appointing authority. It shall be the duty of the appointing authority to administer discipline by taking action in one of the following ways as appropriate and warranted:
 1. Oral reprimand.
 2. Written reprimand.
 3. Suspension for three (3) or more working days.
 4. Termination of employment.

XV. CONFIDENTIALITY OF PRIVILEGED INFORMATION

All information obtained by or reported to the Safety Director pursuant to this plan of operation or the legislation (ordinance, or executive order) enabling this Occupational Safety and Health Program Plan which contains or might reveal information which is otherwise privileged shall be considered confidential. Such information may be disclosed to other officials or employees concerned with carrying out this Program Plan or when relevant in any proceeding under this

Program Plan. Such information may also be disclosed to the Commissioner of Labor and Workforce Development or their authorized representatives in carrying out their duties under the Tennessee Occupational Safety and Health Act of 1972.

XVI. DISCRIMINATION INVESTIGATIONS AND SANCTIONS

The Rule of Tennessee Department of Labor and Workforce Development Occupational Safety and Health, DISCRIMINATION AGAINST EMPLOYEES EXERCISING RIGHTS UNDER THE OCCUPATIONAL SAFETY AND HEALTH ACT OF 1972 0800-01-08, as authorized by T.C.A., Title 50. The agency agrees that any employee who believes they have been discriminated against or discharged in violation of Tenn. Code Ann § 50-3-409 can file a complaint with their agency/safety Safety Director within 30 days, after the alleged discrimination occurred. Also, the agency agrees the employee has a right to file their complaint with the Commissioner of Labor and Workforce Development within the same 30 day period. The Commissioner of Labor and Workforce Development may investigate such complaints, make recommendations, and/or issue a written notification of a violation.

XVII. COMPLIANCE WITH OTHER LAWS NOT EXCUSED

- a. Compliance with any other law, statute, ordinance, or executive order, which regulates safety and health in employment and places of employment, shall not excuse the employer, the employee, or any other person from compliance with the provisions of this Program Plan.
- b. Compliance with any provisions of this Program Plan or any standard, rule, regulation, or order issued pursuant to this Program Plan shall not excuse the employer, the employee, or any other person from compliance with the law, statute, ordinance, or executive order, as applicable, regulating and promoting safety and health unless such law, statute, ordinance, or executive order, as applicable, is specifically repealed.

Signature: Safety Director, Occupational Safety and Health and Date

APPENDIX - I WORK LOCATIONS
(ORGANIZATIONAL CHART)

{For this section make a list of each work location wherein (City/County/etc) your employees work, such as Street Department, Fire Hall, City Hall, Courthouse, Jail, Sheriff Department, Each School, etc. covered under this Program Plan. Include, the address for the workplace, phone number at that workplace, and number of employees who work there.}

{Once each work location has been listed, record the total number of employees that the county employees.}

Town Hall - 330 Colwyn Street Cumberland Gap TN 37724 423-869-3860	<u>1 employee</u>
Maintenance Department - 805 North Cumberland Drive Cumberland Gap TN 37724 423-869-3860	<u>1 employee</u>
Volunteer Fire Department - 805 North Cumberland Drive Cumberland Gap TN 37724 423-869-0309	<u>10 employees</u>
Board of Mayor and Alderman - 330 Colwyn Street Cumberland Gap TN 37724	<u>7 employees</u>
Police Department - 330 Colwyn Street Cumberland Gap TN 37724	<u>0 employees</u>
Building Inspector - 330 Colwyn Street Cumberland Gap TN 37724	<u>1 employee</u>

TOTAL NUMBER OF EMPLOYEES: 20

APPENDIX - II NOTICE TO ALL EMPLOYEES

NOTICE TO ALL EMPLOYEES OF TOWN OF CUMBERLAND GAP

The Tennessee Occupational Safety and Health Act of 1972 provide job safety and health protection for Tennessee workers through the promotion of safe and healthful working conditions. Under a plan reviewed by the Tennessee Department of Labor and Workforce Development, this government, as an employer, is responsible for administering the Act to its employees. Safety and health standards are the same as State standards and jobsite inspections will be conducted to insure compliance with the Act.

Employees shall be furnished conditions of employment and a place of employment free from recognized hazards that are causing or are likely to cause death or serious injury or harm to employees.

Each employee shall comply with occupational safety and health standards and all rules, regulations, and orders issued pursuant to this Program Plan which are applicable to his or her own actions and conduct.

Each employee shall be notified by the placing upon bulletin boards or other places of common passage of any application for a temporary variance from any standard or regulation.

Each employee shall be given the opportunity to participate in any hearing which concerns an application for a variance from a standard.

Any employee who may be adversely affected by a standard or variance issued pursuant to this Program Plan may file a petition with the Safety Director or the Town of Cumberland Gap.

Any employee who has been exposed or is being exposed to toxic materials or harmful physical agents in concentrations or at levels in excess of that provided for by an applicable standard shall be notified by the employer and informed of such exposure and corrective action being taken.

Subject to regulations issued pursuant to this Program Plan, any employee or authorized representative(s) of employees shall be given the right to request an inspection.

No employee shall be discharged or discriminated against because such employee has filed any complaint or instituted or caused to be instituted any proceedings or inspection under, or relating to, this Program Plan.

Any employee who believes he or she has been discriminated against or discharged in violation of these sections may, within thirty (30) days after such violation occurs, have an opportunity to appear in a hearing before the Safety Director for the Town of Cumberland Gap for assistance in obtaining relief or to file a complaint with the Commissioner of Labor and Workforce Development alleging such discrimination.

A copy of the Occupational Safety and Health Program Plan for the Employees of Town of Cumberland Gap is available for inspection by any employee at Cumberland Gap Town Hall during regular office hours.

Signature: (City/County) MAYOR AND DATE

APPENDIX - III PROGRAM PLAN BUDGET

(Either answer questions 1-11 or fill in the statement below)

1. Prorated portion of wages, salaries, etc., for program administration and support.
2. Office space and office supplies.
3. Safety and health educational materials and support for education and training.
4. Safety devices for personnel safety and health.
5. Equipment modifications.
6. Equipment additions (facilities)
7. Protective clothing and equipment (personnel)
8. Safety and health instruments
9. Funding for projects to correct hazardous conditions.
10. Reserve fund for the Program Plan.
11. Contingencies and miscellaneous,

TOTAL ESTIMATED PROGRAM PLAN FUNDING,
ESTIMATE OF TOTAL BUDGET FOR:

OR Use This Statement:

STATEMENT OF FINANCIAL RESOURCE AVAILABILITY

Be assured that (Name of local government) Town of Cumberland Gap has sufficient financial resources available or will make sufficient financial resources available as may be required in order to administer and staff its Occupational Safety and Health Program Plan and to comply with standards.

APPENDIX - IV ACCIDENT REPORTING PROCEDURES

- (1-15) Employees shall report all accidents, injuries, or illnesses directly to the Safety Director as soon as possible, but not later than twenty-four (24) hours after the occurrence. Such reports may be verbal or in writing. All fatalities or accidents involving the hospitalization of three (3) or more employees shall be reported to the Safety Director and/or record keeper immediately, either by telephone or verbally, and will be followed by a written report within four (4) hours after their occurrence. The Safety Director will insure completion of required reports and records in accordance with Section VIII of the basic plan.
- (16-50) Employees shall report all accidents, injuries, or illnesses to their supervisor as soon as possible, but not later than two (2) hours after the occurrence. All fatalities or accidents involving the hospitalization of three (3) or more employees shall be reported to the Safety Director and/or record keeper immediately, either by telephone or verbally, and will be followed by a written report within four (4) hours after their occurrence. The supervisor will investigate the accident or illness, complete an accident report, and forward the accident report to the Safety Director and/or record keeper within twenty-four (24) hours of the time the accident or injury occurred or the time of the first report of the illness.
- (51-250) Employees shall report all accidents, injuries, or illnesses to their supervisors as soon as possible, but not later than two (2) hours after the occurrence. The supervisor will provide the Safety Director and/or record keeper with the name of the injured or ill employee and a brief description of the accident or illness by telephone as soon as possible, but not later than four (4) hours, after the accident or injury occurred or the time of the first report of the illness. All fatalities or accidents involving the hospitalization of three (3) or more employees shall be reported to the Safety Director and/or record keeper immediately, either by telephone or verbally, and will be followed by a written report within four (4) hours after their occurrence. The supervisor will then make a thorough investigation of the accident or illness (with the assistance of the Safety Director or Compliance Inspector, if necessary) and will complete a written report on the accident or illness and forward it to the Safety Director within seventy-two (72) hours after the accident, injury, or first report of illness and will provide one (1) copy of the written report to the recordkeeper.

(251-Plus) Employees shall report all accidents, injuries, or illnesses to their supervisors as soon as possible, but not later than two (2) hours after their occurrence. The supervisor will provide the administrative head of the department with a verbal or telephone report of the accident as soon as possible, but not later than four (4) hours, after the accident. If the accident involves loss of consciousness, a fatality, broken bones, severed body member, or third degree burns, the Safety Director will be notified by telephone immediately and will be given the name of the injured, a description of the injury, and a brief description of how the accident occurred. The supervisor or the administrative head of the accident within seventy-two (72) hours after the accident occurred (four (4) hours in the event of accidents involving a fatality or the hospitalization of three (3) or more employees).

Since Workers Compensation Form 6A or OSHA NO. 301 Form must be completed; all reports submitted in writing to the person responsible for recordkeeping shall include the following information as a minimum:

1. Accident location, if different from employer's mailing address and state whether accident occurred on premises owned or operated by employer.
2. Name, social security number, home address, age, sex, and occupation (regular job title) of injured or ill employee.
3. Title of the department or division in which the injured or ill employee is normally employed.
4. Specific description of what the employee was doing when injured.
5. Specific description of how the accident occurred.
6. A description of the injury or illness in detail and the part of the body affected.
7. Name of the object or substance which directly injured the employee.
8. Date and time of injury or diagnosis of illness.
9. Name and address of physician, if applicable.
10. If employee was hospitalized, name and address of hospital.
11. Date of report.

NOTE: A procedure such as one of those listed above or similar information is necessary to satisfy Item Number 4 listed under PROGRAM PLAN in Section V. ADMINISTRATION, Part b of the Tennessee Occupational Safety and Health Plan. This information may be submitted in flow chart form instead of in narrative form if desired. These procedures may be modified in any way to fit local situations as they have been prepared as a guide only.

The four (4) procedures listed above are based upon the size of the work force and relative complexity of the organization. The approximate size of the organization for which each procedure is suggested is indicated in parenthesis in the left hand margin at the beginning, i.e., (1-15), (16-50), (51-250), and (251 Plus), and the figures relate to the total number of employees including the Chief Executive Officer but excluding the governing body (County Court, City Council, Board of Directors, etc.).

Generally, the more simple an accident reporting procedure is, the more effective it is. Please select the one procedure listed above, or prepare a similar procedure or flow chart, which most nearly fits what will be the most effective for your local situation. Note also that the specific information listed for written reports applies to all three of the procedures listed for those organizations with sixteen (16) or more employees.