

CODE

City of

CLINTON, MISSISSIPPI

Codified through

Ordinance of June 3, 2003.

(Codification)

Preliminaries

CODE OF

THE CITY OF

CLINTON, MISSISSIPPI

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Published by Order of the Board of Aldermen

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Published by Municipal Code Corporation

Tallahassee, Florida 2004

OFFICIALS

of the

CITY OF

CLINTON, MISSISSIPPI

AT THE TIME OF THIS CODIFICATION

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Rosemary Aultman

Mayor

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Jehu Brabham, At-Large

Tony Hisaw, Ward 1

Tony Greer, Ward 2

Clint Brantley, Ward 3

Phil Fisher, Ward 4

Herb Touchton, Ward 5

Sharbert Lott, Ward 6

Aldermen

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Ken Dreher

City Attorney

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Wayne Derrick

City Clerk

PREFACE

This Code constitutes a codification of the general and permanent ordinances of the City of Clinton, Mississippi.

Source materials used in the preparation of the Code were the ordinances adopted by the board of aldermen. The source of each section is included in the history note appearing in parentheses at the end thereof. The absence of such a note indicates that the section is new and was adopted for the first time with the adoption of the Code. By use of the comparative tables appearing in the back of this Code, the reader can locate any ordinance included herein.

The chapters of the Code have been conveniently arranged in alphabetical order, and the various sections within each chapter have been catchlined to facilitate usage. Notes which tie related sections of the Code together and which refer to relevant state law have been included. A table listing the state law citations and setting forth their location within the Code is included at the back of this Code.

Chapter and Section Numbering System

The chapter and section numbering system used in this Code is the same system used in many state and local government codes. Each section number consists of two parts separated by a dash. The figure

before the dash refers to the chapter number, and the figure after the dash refers to the position of the section within the chapter. Thus, the second section of chapter 1 is numbered 1-2, and the first section of chapter 6 is 6-1. Under this system, each section is identified with its chapter, and at the same time new sections can be inserted in their proper place by using the decimal system for amendments. For example, if new material consisting of one section that would logically come between sections 6-1 and 6-2 is desired to be added, such new section would be numbered 6-1.5. New articles and new divisions may be included in the same way or, in the case of articles, may be placed at the end of the chapter embracing the subject, and, in the case of divisions, may be placed at the end of the article embracing the subject. The next successive number shall be assigned to the new article or division. New chapters may be included by using one of the reserved chapter numbers. Care should be taken that the alphabetical arrangement of chapters is maintained when including new chapters.

### Page Numbering System

The page numbering system used in this Code is a prefix system. The letters to the left of the colon are an abbreviation which represents a certain portion of the volume. The number to the right of the colon represents the number of the page in that portion. In the case of a chapter of the Code, the number to the left of the colon indicates the number of the chapter. In the case of an appendix to the Code, the letter immediately to the left of the colon indicates the letter of the appendix. The following are typical parts of codes of ordinances, which may or may not appear in this Code at this time, and their corresponding prefixes:

TABLE INSET:

CODECD1:1CODE APPENDIXCDA:1CODE COMPARATIVE TABLESCT:1STATE LAW REFERENCE  
TABLESLT:1CODE INDEXCDi:1

### Index

The index has been prepared with the greatest of care. Each particular item has been placed under several headings, some of which are couched in lay phraseology, others in legal terminology, and still others in language generally used by local government officials and employees. There are numerous cross references within the index itself which stand as guideposts to direct the user to the particular item in which the user is interested.

### Looseleaf Supplements

A special feature of this publication is the looseleaf system of binding and supplemental servicing of the publication. With this system, the publication will be kept up-to-date. Subsequent amendatory legislation will be properly edited, and the affected page or pages will be reprinted. These new pages will be distributed to holders of copies of the publication, with instructions for the manner of inserting the new pages and deleting the obsolete pages.

Keeping this publication up-to-date at all times will depend largely upon the holder of the publication. As revised pages are received, it will then become the responsibility of the holder to have the

amendments inserted according to the attached instructions. It is strongly recommended by the publisher that all such amendments be inserted immediately upon receipt to avoid misplacing them and, in addition, that all deleted pages be saved and filed for historical reference purposes.

#### Acknowledgments

This publication was under the direct supervision of Milton E. Lefkoff, Senior Code Attorney, and William B. Eddy, Editor, of the Municipal Code Corporation, Tallahassee, Florida. Credit is gratefully given to the other members of the publisher's staff for their sincere interest and able assistance throughout the project.

The publisher is most grateful to Mr. Kenneth R. Dreher, City Attorney, Mr. Wayne Derrick, City Clerk, and Ms. Carol Warren, Deputy City Clerk, for their cooperation and assistance during the progress of the work on this publication. It is hoped that their efforts and those of the publisher have resulted in a Code of Ordinances which will make the active law of the city readily accessible to all citizens and which will be a valuable tool in the day-to-day administration of the city's affairs.

#### Copyright

All editorial enhancements of this Code are copyrighted by Municipal Code Corporation and the City of Clinton, Mississippi. Editorial enhancements include, but are not limited to: organization; table of contents; section catchlines; prechapter section analyses; editor's notes; cross references; state law references; numbering system; code comparative table; state law reference table; and index. Such material may not be used or reproduced for commercial purposes without the express written consent of Municipal Code Corporation and the City of Clinton, Mississippi.

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#### CODE OF ORDINANCES

##### Chapter 1 GENERAL PROVISIONS

Sec. 1-1. Designation and citation of Code.

Sec. 1-2. Definitions and rules of construction.

Sec. 1-3. Catchlines of sections and other headings.

Sec. 1-4. History notes.

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Sec. 1-11. Altering Code.

Sec. 1-12. Effect of repeal of ordinances.

Sec. 1-13. General penalty.

Sec. 1-1. Designation and citation of Code.

The ordinances embraced in this and the following chapters shall constitute and be designated as the "Code of the City of Clinton, Mississippi," and may be so cited. The Code may also be cited as the "Clinton City Code."

State law references: Authority of city to codify ordinances, MCA 1972, § 21-13-15.

Sec. 1-2. Definitions and rules of construction.

In the construction of this Code and all ordinances of the city, the following definitions and rules of construction shall be observed, unless such construction would be inconsistent with the manifest intent of the mayor and board of aldermen:

Board, board of aldermen. The terms "board" or "board of aldermen" shall mean the board of aldermen of the City of Clinton, Mississippi.

City. The term "the city" or "this city" shall be construed as if the words "of Clinton, Mississippi" followed such term.

Code. The term "Code" or "this Code" shall mean the Code of the City of Clinton, Mississippi.

Computation of time. The time within which an act is to be done shall be computed by excluding the first and including the last day, and if the last day is Saturday, Sunday or a legal holiday then that day shall be excluded.

State law references: Computation of time, MCA 1972, §§ 1-3-67, 1-3-69.

Corporate limits, city limits. The terms "corporate limits" or "city limits" shall mean the legal boundary of the City of Clinton, Mississippi.

County. The terms "the county" or "this county" shall mean the County of Hinds in the State of Mississippi.

Delegation of authority. Whenever a provision appears requiring or authorizing the head of a department or agency of the city to do some act or make certain inspections, it shall be construed as

authorizing the head of the department or agency to designate, delegate and authorize subordinates to perform the act or make the inspection unless the terms of the provision or section designate otherwise.

Gender. The masculine gender shall include the feminine and neuter.

State law references: Gender, masculine to embrace the feminine, MCA 1972, § 1-3-17.

Interpretation. In the interpretation and application of any provision of this Code, it shall be held to be the minimum requirements adopted for the promotion of the public health, safety, comfort, convenience and general welfare. Where any provision of this Code imposes greater restrictions upon the subject matter than the general provision imposed by this Code, the provision imposing the greater restriction or regulation shall be deemed to be controlling.

Joint authority. All words giving a joint authority to three or more persons or officers shall be construed as giving such authority to a majority of such persons or officers.

Keeper, proprietor. The terms "keeper" or "proprietor" shall mean persons, firms, associations, corporations, clubs and partnerships, whether acting by themselves or through a servant, agent or employee.

Law. The term "law" shall include any provision of the Constitution of the United States or the State of Mississippi, and any statute of the United States or the State of Mississippi, and any ordinance, resolution or order of the board of aldermen.

MCA 1972. The term "MCA 1972" shall mean the Mississippi Code Annotated of 1972, as amended.

Month. The term "month" shall mean a calendar month, unless otherwise expressed.

State law references: "Month" defined, MCA 1972, § 1-3-29.

Nontechnical and technical words. Words and phrases shall be construed according to the common and approved usage of the language, but technical words and phrases, and such others as may have acquired a peculiar and appropriate meaning in law, shall be construed and understood according to such meaning.

State law references: Similar provisions, MCA 1972, § 1-3-65.

Number. Words used in the singular number only, either as descriptive of persons or things, shall extend to and embrace the plural number; and words used in the plural number shall extend to and embrace the singular number.

State law references: Similar provisions, MCA 1972, § 1-3-33.

Oath. The term "oath" shall be construed to include an affirmation in all cases in which, by law, an affirmation may be substituted for an oath, and in such cases the words "swear" and "sworn" shall be equivalent to the words "affirm" and "affirmed."

State law references: Similar provisions, MCA 1972, § 1-3-35.

Offense. The term "offense" shall mean any violation of an ordinance liable to punishment by criminal prosecution.

State law references: "Offense" defined, MCA 1972, § 1-3-37.

Or, and. The term "or" may be read "and," and "and" may be read "or," if the sense requires it.

Owner. The term "owner," when applied to a building or land, shall include any part owner, joint owner, tenant in common, tenant in partnership, joint tenant or tenant by the entirety, of the whole or of a part of such building or land.

Person. The term "person" shall mean and be applied to any natural individual, firm, company, foundation, proprietorship, syndicate, estate, trust, partnership, copartnership, association, organization, joint stock company, society, joint venture, public or private corporation, or an employee thereof, or to a receiver, executor, trustee, conservator or other representative appointed by order of any court or in any other manner, or other public or private entity or group, or combination acting as a unit.

State law references: "Person" defined, MCA 1972, § 1-3-39.

Personal property. The term "personal property" shall include goods, chattels, effects, evidences of rights of action, and all written instruments by which any pecuniary obligation or any right, title or interest in any real or personal estate shall be created, acknowledged, transferred, incurred, defeated, discharged or diminished.

State law references: Similar provisions, MCA 1972, § 1-3-41.

Preceding, following. The terms "preceding" and "following" shall mean the next before and next after, respectively.

Premises. The term "premises" shall mean a place or places.

Property. The term "property" shall include personal property and every estate, interest and right in lands, tenements and hereditaments.

Real property. The term "real property" shall include every estate, interest or right in lands, tenements and hereditaments.

Residence. The term "residence" shall mean the place adopted by a person as his place of habitation, and to which, whenever he is absent, he has the intention of returning. When a person eats at one place and sleeps at another, the place where such person sleeps shall be deemed his residence.

Seal. The term "seal" shall mean the city or corporate seal.

Shall, may. The term "shall" is mandatory; the term "may" is permissive.

Sidewalk. The term "sidewalk" shall mean that portion of a street between the curblines, or the lateral lines of a roadway, and the adjacent property lines intended for the use of pedestrians.

Signature and subscription. The "signature" and "subscription" of a person include a mark when the person cannot write.

State. The term "the state" or "this state" shall mean the State of Mississippi.

State law references: "State" defined, MCA 1972, § 1-3-49.

Street and highway. The terms "street" and "highway" shall mean the entire width between property lines of every way or place of whatever nature when any part thereof is open to the use of the public, as a matter of right, for purposes of vehicular traffic.

State law references: "Street or highway" defined, MCA 1972, § 63-3-125(a).

Tenant, occupant. The terms "tenant" and "occupant" are applied to a building or land, they shall include any person holding a written or oral lease of, or who occupies the whole or a part of, such building or land, either alone or with others.

Tense. Words used in the past or present tense include the future as well as the past and present.

Title of officer, agency. Whenever the title of an officer, employee, department, board, commission or agency is given, it shall be construed as though the words "of the City of Clinton" followed it.

Week. The term "week" shall mean seven days.

Written and in writing. The terms "written" and "in writing" may include printing, engraving, lithographing or any other representation of words, letters or figures, except that in all cases where the signature of a person is required, it shall always be the proper handwriting of such person, or, in case he is unable to write, it shall be his proper mark.

Year. The term "year" shall mean a calendar year, unless a contrary intention is expressed.

State law references: Construction of statutes, MCA 1972, § 1-3-1 et seq.; "year" defined, MCA 1972, § 1-3-63.

Sec. 1-3. Catchlines of sections and other headings.

The catchlines of the several sections of this Code which are printed in boldface type are intended as mere catchwords to indicate the contents of the sections and shall not be deemed or taken to be titles of such sections, nor as any part of such sections, nor, unless expressly so provided, shall they be so deemed when any of such sections, including the catchlines, are amended or reenacted. No provision of this Code shall be held to be invalid by reason of deficiency in any such catchline, or in any heading or title to any chapter, article or division.

Sec. 1-4. History notes.

The history notes appearing in parentheses after sections in this Code are not intended to have any legal effect, but are merely intended to indicate the source of matter contained in the sections.

Sec. 1-5. Editor's notes and references.

The editor's notes, cross references and state law references in this Code are not intended to have any legal effect, but are merely intended to assist the user of the Code.

Sec. 1-6. Effect of Code on existing ordinances.

The provisions appearing in this Code, so far as they are the same as those of ordinances existing at the time of the effective date of this Code, shall be considered as continuations thereof and not as new enactments.

Sec. 1-7. Miscellaneous ordinances and actions not affected by Code.

Nothing in this Code or the ordinance adopting this Code shall affect:

- (1) Any offense or act committed or done, any penalty or forfeiture incurred or any contract or right established or accruing before the effective date of this Code.
- (2) Any ordinance promising or guaranteeing the payment of money for the city, authorizing the issuance of any bonds for the city, any evidence of the city's indebtedness or any contract or obligation assumed by the city.
- (3) Any ordinance fixing salaries of officers or employees of the city.
- (4) Any appropriation ordinance.
- (5) Any right or franchise granted by any ordinance or resolution to any person.
- (6) Any ordinance dedicating, naming, establishing, locating, relocating, opening, closing, paving, widening, vacating, etc., any street or public way in the city.
- (7) Any ordinance establishing and prescribing the street grades of any street in the city.
- (8) Any ordinance providing for local improvements or assessing taxes for such improvements.
- (9) Any ordinance annexing property in the city.
- (10) Any ordinance pertaining to personnel.
- (11) Any ordinance prescribing traffic regulations for specific locations and relating to matters such as through streets, parking, one-way traffic, vehicle loads or loading zones, not inconsistent with this Code.
- (12) Any ordinance pertaining to airports or airport zoning.

(13) Any ordinance pertaining to zoning or subdivisions.

(14) Any temporary or special ordinance.

All such ordinances are recognized as continuing in full force and effect to the same extent as if set out at length in this Code.

#### Sec. 1-8. Severability.

If any part, section or subsection, sentence, clause or phrase of this Code, or its application to any person or circumstance, is for any reason declared to be unconstitutional, invalid or unenforceable, such decision shall not affect the validity of the remaining portions of this Code or their application.

#### Sec. 1-9. Amendments to Code; effect of new ordinances; amendatory language.

(a) All ordinances passed subsequent to this Code which amend, repeal or in any way affect this Code, may be numbered in accordance with the numbering system of this Code and printed for inclusion in this Code. In the case of repealed chapters, sections and subsections, or any part thereof, by subsequent ordinances, such repealed portions may be excluded from the Code by omission from reprinted pages affected by such repeal. Any and all additions and amendments to this Code, when passed in such form as to indicate the intention of the mayor and board of aldermen to make them a part of this Code, shall be deemed to be incorporated in this Code so that a reference to the Code shall be understood and intended to include such additions and amendments.

(b) Amendments to any of the provisions of this Code may be made by amending such provisions by specific reference to the section number of this Code in the following language: "That section \_\_\_\_\_ of the Code of the City of Clinton, Mississippi, is amended to read as follows: . . . ." The new provisions shall then be set out in full as desired.

(c) If a new section not heretofore existing in this Code is to be added, the following language shall be used: "That the Code of the City of Clinton, Mississippi, is amended by adding a section, article or chapter to be numbered \_\_\_\_\_, which section reads as follows: . . . ." The new section shall then be set out in full as desired.

(d) All sections, articles, chapters or provisions desired to be repealed must be specifically repealed by section, article or chapter number, as the case may be.

State law references: Style of ordinances, MCA 1972, § 21-13-7.

#### Sec. 1-10. Supplementation of Code.

(a) Supplements to this Code, whether by contract or by city personnel, shall be prepared and printed whenever authorized or directed by the board of aldermen. A supplement to this Code shall include all substantive permanent and general parts of ordinances passed by the board of aldermen during the period covered by the supplement and all changes made thereby in the Code. The pages of a supplement shall be numbered so that they will fit properly into the Code, and will, where necessary,

replace pages which have become obsolete or partially obsolete. The new pages shall be prepared so that, when they have been inserted, the Code will be current through the date of the adoption of the latest ordinance included in the supplement.

(b) In the preparation of a supplement to this Code, all portions of the Code which have been repealed shall be excluded from the Code by their omission from reprinted pages.

(c) When preparing a supplement to this Code, the codifier (meaning the person, agency or organization authorized to prepare the supplement) may make formal, nonsubstantive changes in ordinances and parts of ordinances included in the supplement, insofar as it is necessary to do so to embody them into a unified code. For example, the codifier may:

(1) Organize the ordinance material into appropriate subdivisions;

(2) Provide appropriate catchlines, headings and titles for sections and other subdivisions of the Code printed in the supplement, and make changes in such catchlines, headings and titles;

(3) Assign appropriate numbers to sections and other subdivisions to be inserted in the Code and, where necessary to accommodate new material, change existing section or other subdivision numbers;

(4) Change the words "this ordinance," or words of the same meaning, to "this chapter," "this article," "this division," etc., as the case may be, or to "sections \_\_\_\_\_ to \_\_\_\_\_" (inserting section numbers to indicate the sections of the Code which embody the substantive sections of the ordinance incorporated in the Code); and

(5) Make other nonsubstantive changes necessary to preserve the original meaning of the ordinance sections inserted in the Code, but in no case shall the codifier make any change in the meaning or effect of ordinance material included in the supplement or already embodied in the Code.

State law references: Style of ordinances, MCA 1972, § 21-13-7.

#### Sec. 1-11. Altering Code.

It shall be unlawful for any person to change or alter, by additions or deletions, any part or portion of this Code, or to insert or delete pages or portions thereof, or to alter or tamper with such Code in any manner whatsoever which will cause the law of the city to be misrepresented.

#### Sec. 1-12. Effect of repeal of ordinances.

(a) The repeal of an ordinance shall not revive any ordinance in force before or at the time the ordinance repealed took effect.

(b) The repeal of an ordinance shall not affect any punishment or penalty incurred before the repeal took effect, nor any suit, prosecution or proceeding pending at the time of the repeal, for an offense committed or matter covered under the ordinance repealed.

State law references: No revival of repealed laws, MCA 1972, § 1-1-25.

Sec. 1-13. General penalty.

(a) Wherever in this Code, in any technical code or other provision adopted by reference in this Code, or in any ordinance of the city, any act is prohibited or is made or declared to be unlawful or an offense, or the doing of any act is required, or the failure to do any act is declared to be unlawful or a misdemeanor, where no specific penalty is provided therefor, the violation of any such provisions of this Code, any technical code or other provision adopted by reference in this Code, or ordinance of the city shall be punished by a fine not exceeding \$1,000.00, or by imprisonment not exceeding 90 days, or both.

(b) In addition to the penalties provided in subsection (a) of this section, any condition caused or permitted to exist in violation of any of the provisions of this Code, any technical code or other provisions adopted by reference in this Code, or any ordinance of the city shall be deemed a public nuisance and may be abated by the city, as provided by law.

(c) Each and every day the same violation shall continue shall constitute a separate and distinct offense.

State law references: Costs in cases of certiorari and appeals, MCA 1972, § 11-53-53; punishment for violation of ordinances, MCA 1972, § 21-13-1; misdemeanors under state penal laws as criminal offenses against municipalities, MCA 1972, § 21-13-19; credit allowed for labor of convicts, treatment, MCA 1972, § 47-1-47.

Chapter 2 ADMINISTRATION\*

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\*Cross references: Courts, ch. 26; elections, ch. 30; administration of national fire codes, § 38-105; administration of floodplain management, § 42-61 et seq.; law enforcement, ch. 54; personnel, ch. 66; taxation, ch. 90; zoning, ch. 106.

State law references: Municipalities, MCA 1972, title 21; code charters, MCA 1972, § 21-3-1 et seq.; municipal officers and records, MCA 1972, § 21-15-1 et seq.

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Article I. In General

Secs. 2-1--2-30. Reserved.

Article II. Board of Aldermen

Sec. 2-31. Meetings.

Secs. 2-32--2-60. Reserved.

Article III. Other Boards and Commissions

Secs. 2-61--2-90. Reserved.

Article IV. Officers and Employees

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Sec. 2-92. Appointment of certain offices.

Secs. 2-93--2-120. Reserved.

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Article VI. Public Records

Sec. 2-151. Compliance with state regulations.

Sec. 2-152. Adoption and implementation of records policy.

Sec. 2-153. Procedures.

Sec. 2-154. Policy not to restrict citizen access to records; orderly procedures; reimbursement of costs.

Sec. 2-155. Form of public record request.

Sec. 2-156. Public record request form to be completed by city staff.

ARTICLE I. IN GENERAL

Secs. 2-1--2-30. Reserved.

ARTICLE II. BOARD OF ALDERMEN

Sec. 2-31. Meetings.

(a) The mayor and board of aldermen shall hold its regular meeting on the first Tuesday of each month and shall hold a second regular meeting on the third Tuesday of each month.

(b) The regular meetings of the mayor and board of aldermen shall be held at 7:00 p.m. on the stated days and shall be held at the Municipal Courtroom of the City of Clinton, 305 Monroe Street, Clinton, Mississippi.

(Ord. of 7-21-1998)

Secs. 2-32--2-60. Reserved.

ARTICLE III. OTHER BOARDS AND COMMISSIONS\*

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\*Cross references: Historical preservation commission, § 50-31 et seq.; architectural review committee, § 50-74; planning commission, § 70-31 et seq.

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Secs. 2-61--2-90. Reserved.

#### ARTICLE IV. OFFICERS AND EMPLOYEES\*

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\*Cross references: Any ordinance fixing salaries of officers or employees of the city saved from repeal, § 1-7(3).

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Sec. 2-91. Tax assessor and tax collector.

- (a) The office of tax assessor and tax collector shall be separate from the office of city clerk.
- (b) The tax assessor and tax collector shall make all assessments and collect all taxes for the municipality in the manner prescribed by law and by the ordinances of the city.
- (c) Where duties are imposed on the city clerk by the ordinances of the city regarding the assessment and collection of taxes, the duties shall be henceforth deemed to be and shall be duties of the tax assessor and tax collector. As of the effective date of the ordinance from which this section derives, the city clerk shall be relieved of the obligations imposed thereby.

(Ord. of 11-2-1982, §§ 1--3)

Sec. 2-92. Appointment of certain offices.

- (a) Pursuant to MCA 1972, § 21-3-3, the municipal offices of city clerk, chief of police, tax collector and tax assessor are appointive by the governing authorities of the city.
- (b) Such appointive offices shall be filled by appointment of the mayor and the board of aldermen at their first or July meeting, following their election on Tuesday after the first Monday in June, unless for sufficient cause shown a majority of the board members vote to defer the appointment of any one or more of such officers to a later date.
- (c) The city clerk shall also be tax collector and tax assessor, with such office assistance as shall be deemed necessary by the governing authorities.

(Ord. of 2-3-1953; Ord. of 8-16-1960)

Secs. 2-93--2-120. Reserved.

ARTICLE V. FINANCE\*

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\*Cross references: Any ordinance promising or guaranteeing the payment of money for the city, authorizing the issuance of any bonds for the city, any evidence of the city's indebtedness or any contract or obligation assumed by the city saved from repeal, § 1-7(2); taxation, ch. 90.

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Secs. 2-121--2-150. Reserved.

ARTICLE VI. PUBLIC RECORDS

Sec. 2-151. Compliance with state regulations.

The terms, conditions, mandates, and otherwise contained in the Mississippi Public Records Act of 1983 (MCA 1972, § 25-61-1 et seq.) shall be strictly adhered to in the operation of the city and no policy or procedures in contravention of such statute shall be condoned.

Sec. 2-152. Adoption and implementation of records policy.

(a) The policy and procedure in this article is drafted and published in compliance with and implementation of the Mississippi Public Records Act of 1983, (MCA 1972, § 25-61-1 et seq.). The Mississippi Public Records Act of 1983 is incorporated herein by reference and each and every term and condition set forth therein is adopted for the use of the city. The policy and procedure in this article is authorized pursuant to a resolution adopted by the mayor and board of aldermen.

(b) The mayor or mayor's designee shall evaluate and approve or disapprove all requests for information.

Sec. 2-153. Procedures.

(a) Generally. Any person exercising the right to inspect, copy or mechanically reproduce, or obtain a reproduction of any public record held and controlled by the city shall comply with the following:

(1) A request for any public record held or controlled by the city must be submitted in writing on city Form PRR-1, public records request. Forms will be provided by the city on request.

(2) A request for any public record made in person shall be made during normal business hours (8:00 a.m. to 5:00 p.m.) at the city hall. A request may be made by mail.

(3) Each request shall be clear and concise and shall include only one subject matter. The date of the request shall be the date the request is received by the city clerk. The city clerk shall see that each request bears the date of receipt in a prominent place on its face.

(4) The city shall produce or deny all requests for production of documents or records within 14 working days of the request. During that period, the mayor or the mayor's designee shall notify the person requesting such information as to whether or not such request shall be honored. The notice shall contain an estimate of the total cost of compliance with the request.

(5) The person requesting public records must tender payment in the amount of the estimate before the requested records are produced. The notice shall be timed so as to allow the requested production of information within 14 days of the request.

(b) Records of public records request.

(1) The city clerk shall maintain records of all requests made for public records in a ledger book containing the following information:

- a. The date of the request;
- b. The subject of the request;
- c. Whether the request was honored;
- d. Response time to the request; and
- e. Charges for the reproduction of information.

(2) If a request is denied, the mayor or mayor's designee shall provide a written response to the person requesting the documents detailing the reason for failure to respond favorably to the request. Any such denial and the reasons therefor shall also be kept and maintained as a part of the record of the city.

(3) The city clerk shall make available, upon request, the ledger book detailing all requests for public records and the action taken on them.

(4) All records kept and maintained hereunder shall be preserved for a period of three years from the date the request was received by the city.

(c) Receipt of public records requests. Requests for information may be made in person or by mail, at the address below:

TABLE INSET:

City Clerk  
300 Jefferson Street  
Clinton, MS 39056

(d) Charges for public records requests.

- (1) The city shall charge the person requesting the reproduction of any record at the rate of \$0.25 per copied side. A charge for staff time shall be added for the time expended in making copies.
- (2) Staff time cost will be based on the pay grade and step, plus 25 percent fringe benefit cost, of the staff person or persons assigned to provide the information. If exact costs cannot be determined prior to providing the information, an estimate will be provided.
- (3) For information requiring less than five minutes of staff time, the charge will be limited to copying cost. Staff time will otherwise be charged at 15-minute intervals.
- (4) A charge of \$1.00 per page will apply to pages requiring certification.
- (5) Should research time be required in locating and/or determining the eligibility for release of any record requested, the cost of staff time will be charged.
- (6) Should computer records be requested, an additional charge of \$50.00 per hour, or portion thereof, will be charged.
- (7) Charges paid by a person requesting records shall not exceed the actual cost of searching, reviewing, and/or duplicating such records. Charges for postage may also be included.
- (8) All charges shall be collected by the city clerk prior to the compliance with a request for records.

Sec. 2-154. Policy not to restrict citizen access to records; orderly procedures; reimbursement of costs.

The policy and procedure in this article is not intended to restrict citizens in obtaining records from the city. The policy and procedure in this article are established to provide an orderly manner in which to obtain public records, document citizen request to inspect and/or obtain public records, and to reimburse the city for cost incurred in complying with such requests.

Sec. 2-155. Form of public record request.

City of Clinton

Public Record Request

TABLE INSET:

1. Name \_\_\_\_\_ Date \_\_\_\_\_ Address \_\_\_\_\_ Telephone \_\_\_\_\_ 2.

Information requested (Request must be clear and concise and directed to ONE subject matter):

\_\_\_\_\_

TABLE INSET:

3. Desired form of review: \_\_\_\_\_ Personally inspect (No charge) \_\_\_\_\_ Personally copy (25 cents per copied page) \_\_\_\_\_ Staff copy (25 cents per copied page plus hourly charge for staff time)

TABLE INSET:

4. Desired delivery method: \_\_\_\_\_ Mail to address above \_\_\_\_\_ To be picked up by requestor at a later time (we will notify by mail or telephone when information is ready) \_\_\_\_\_ Will wait (We will attempt to comply with all requests in a timely manner) \_\_\_\_\_

5. Payment for services shall be collected by the city clerk in advance of compliance with a request. See section 2-153(d) for details of charges.

6. My signature indicates that I have read and understand the city's request for public records policy and procedure. I further understand that the actual cost of compliance with my request, if granted, shall be borne by me, including mailing costs if applicable.

Requestor's signature \_\_\_\_\_

Date \_\_\_\_\_ Time \_\_\_\_\_

Sec. 2-156. Public record request form to be completed by city staff.

City of Clinton

Public Record Request

(This page to be completed by City staff)

1. Received by \_\_\_\_\_ Date \_\_\_\_\_ Time \_\_\_\_\_

2. Information release approved by \_\_\_\_\_ Date \_\_\_\_\_

3. Cost: No charge \_\_\_\_\_ Exact charge \_\_\_\_\_ Est. charge \_\_\_\_\_

TABLE INSET:

Cost calculations:(1) \_\_\_\_\_

Single Pages

× 25 cents= \_\_\_\_\_ (2) \_\_\_\_\_

Staff hourly rate

× \_\_\_\_\_

# hours= \_\_\_\_\_ Staff

Name \_\_\_\_\_ Pay grade/

step \_\_\_\_\_

(3) Computer records \$50.00

× \_\_\_\_\_

# hours= \_\_\_\_\_(4)Other \_\_\_\_\_ = \_\_\_\_\_ TOTAL

\_\_\_\_\_

4. Payment of \$ \_\_\_\_\_ Received by \_\_\_\_\_

Chapters 3--5 RESERVED

Chapter 6 ADVERTISING\*

\_\_\_\_\_

\*Cross references: Businesses, ch. 22.

State law references: Outdoor advertising, MCA 1972, § 49-23-1 et seq.

\_\_\_\_\_

Sec. 6-1. Posting of advertisements on light, telegraph and telephone poles prohibited.

Sec. 6-1. Posting of advertisements on light, telegraph and telephone poles prohibited.

(a) It shall be illegal to post any political or commercial advertising notice on the electric light, telegraph or telephone poles within the city.

(b) The violation of the provisions of this section shall be punished as provided in section 1-13.

(Ord. of 10-5-1955)

Chapters 7--9 RESERVED

Chapter 10 ALCOHOLIC BEVERAGES\*

\_\_\_\_\_

\*Cross references: Businesses, ch. 22.

State law references: Powers of municipal governing authorities, MCA 1972, § 21-17-5; alcoholic beverage taxes, MCA 1972, § 27-71-1 et seq.; municipal privilege tax on light wines or beer, MCA 1972, § 27-71-345; local option as to light beer, MCA 1972, § 67-3-9; local powers as to light wines and beer, MCA 1972, § 67-3-65; intoxicating beverage offenses, MCA 1972, § 97-31-5 et seq.; proceedings for intoxicating beverage offenses, MCA 1972, § 99-27-1 et seq.

\_\_\_\_\_

Article I. In General

Secs. 10-1--10-30. Reserved.

Article II. Sale of Beer and Light Wine

Sec. 10-31. Sales authorized.

Sec. 10-32. Privilege license required.

Sec. 10-33. License application.

Sec. 10-34. Location of business.

Sec. 10-35. General restrictions.

Sec. 10-36. Exceptions to age 21 rules.

Sec. 10-37. Unlawful purchases.

Sec. 10-38. Right of inspection.

Sec. 10-39. Consumption restrictions.

Sec. 10-40. Age restriction.

Sec. 10-41. Penalty for violation.

Sec. 10-42. Other penalties.

Sec. 10-43. Restaurants.

Sec. 10-44. Outdoor advertising.

Sec. 10-45. Recreation sales.

Sec. 10-46. References include subsequent revisions, amendments or enactments.

ARTICLE I. IN GENERAL

Secs. 10-1--10-30. Reserved.

ARTICLE II. SALE OF BEER AND LIGHT WINE

Sec. 10-31. Sales authorized.

Subject to the provisions of this article, the sale of beer and/or light wine of an alcohol content of not more than five percent by weight shall be allowed within the municipal limits of the city.

(Ord. of 5-7-2002, § I)

Sec. 10-32. Privilege license required.

Any person desiring to engage in the business of selling beer and/or light wine at retail shall pay the city a privilege license tax at the same rate as that imposed by MCA 1972, §§ 27-71-303 and 27-71-345, for the purpose of engaging in such business and shall file with the city clerk, an application showing that such person possesses all the requirements provided for in this article. Further, the applicant shall exhibit or present with the application, a permit as required by MCA 1972, §§ 67-3-17 and 67-3-23. All such city privilege licenses shall be applied for and renewed annually. Such licenses shall be displayed conspicuously in the licensee's place of business and the licenses shall not be transferable. It shall be unlawful for any person to engage in the business of the retail sale of beer and/or light wine of an alcoholic content of not more than five percent by weight without having first applied for and obtained from the city a privilege license to engage in such business as provided in this section.

(Ord. of 5-7-2002, § II)

Sec. 10-33. License application.

- (a) Any person desiring a license to sell beer and/or light wine at retail or desiring to renew such a license to sell beer and/or light wine shall file an application with the city clerk in the form of a sworn statement giving the name and mailing address of the business, its physical location, and the nature of business in which engaged; the name and address of the owner, and, if a partnership, or firm, the name and address of each partner or member, and, if a corporation, the names and address of two principal officers.
- (b) In case any business is conducted by the same person, partnership, firm or corporation at two or more separate places, a separate license for each place or location of business shall be required.
- (c) The applicant shall further show in his sworn application for a license that he, the partnership, firm or corporation possesses the following qualifications:
  - (1) The applicant must be over 21 years of age and a person of good moral character, a resident of the United States and the state.
  - (2) The applicant shall not have been convicted in this or any other state of a felony or of pandering, or of keeping or maintaining a house of prostitution.
  - (3) The applicant shall not have been convicted in this or any other state within five years preceding the date of his application of violating any laws of this or other states, or of the United States relating to alcoholic beverages or liquors or gambling or have had revoked any license or permit to sell alcoholic beverages or liquors of any kind.
  - (4) The applicant shall be the owner of the premises for which the permit is sought or the holder of a bona fide written lease thereupon.

(5) If the applicant is a partnership or firm, all members of the partnership or firm must be named and each shall be qualified to obtain a license.

(6) If the applicant is a corporation, all officers and directors thereof, and any stockholder owning more than five percent of the stock of such corporation, and the person or persons who shall conduct and maintain the licensed premises for the corporation shall possess all the qualifications required in this article for an individual permittee; provided, however, that the requirements as to residence shall not apply to officers, directors, and stockholders of such corporation, but such requirements shall apply to any officer, director, or stockholder who is also the manager of the licensed premises or who is engaged or employed at the licensed premises in any capacity, in the conduct or operation of the licensed premises.

(Ord. of 5-7-2002, § III)

#### Sec. 10-34. Location of business.

In addition to the information required in section 10-33, in the application the application shall give the location of the proposed site for such sale, and the mayor and board of aldermen reserve the right to determine whether or not such business shall be permitted to conduct the sale of beer and/or light wine at such location, and no permit shall be granted to any person, firm, partnership, or corporation where it is apparent that the business shall be conducted in such close proximity to any church sanctuary, school main entrance, funeral home, or kindergarten as might prove harmful to the general welfare, health, and morals of the community. Under no circumstances shall such business be located closer to any church sanctuary, school main entrance, funeral home, or kindergarten, than 500 feet measured from the front door of such business along the centerline of the street to the front door of any such church sanctuary, school main entrance, funeral home, or kindergarten. Such business may be located only in those areas zoned commercial according to the zoning map and ordinances of the city. The restriction as to the location of such business near churches, schools, funeral homes or kindergartens shall not apply when such business or premises has already been licensed under the terms of this article prior to the construction or operation of any church, school, funeral home or kindergarten.

(Ord. of 5-7-2002, § IV)

#### Sec. 10-35. General restrictions.

Except as otherwise provided in this article, it shall be unlawful for any person, partnership, firm, business, or corporation within the corporate limits of the city to:

(1) Sell beer and/or light wine in any type of business establishment other than a grocery store, drugstore or convenience store. Further, that a grocery store, drugstore or convenience store is hereby declared to be a store deriving 50 percent or more of its gross sales from the sale of groceries and/or prescription drugs/medications and if such a store or business does not derive 50 percent or more of gross sales from the sale of groceries and/or drugs/medications the business or store shall not qualify

for the sale of beer and/or light wine. In determining gross sales the sale of gasoline shall not be included.

- (2) Sell, dispense, or give beer and/or light wine to anyone before 7:00 a.m. or after 12:00 midnight.
- (3) Sell, dispense or give beer and/or light wine to anyone on election days until after 7:00 p.m. and at any time on Sunday.
- (4) Permit consumption of beer and/or light wine on the premises of the store or business establishment selling beer and/or light wine.
- (5) Sell, give, or furnish any beer and/or light wine to any person visibly or noticeably intoxicated, or to any insane person, or to any habitual drunkard, or to any person under the age of 21 years.
- (6) Permit on the premises of any place licensed to sell beer and/or light wine any lewd or obscene entertainment, or conduct or practices.
- (7) Permit loud, boisterous or disorderly conduct of any kind upon the premises of any place licensed to sell beer and/or light wine or to permit the use of loud musical instruments if either or any of these disturb the peace and quietude of the community where such business is located, or to operate pinball machines, pool tables or other coin-operated amusement machines with the exception of juke boxes. If the business or the establishment has 50 percent or more gross grocery sales and/or prescription drugs/medications receipts, pinball machines and other coin-operated amusement machines may be allowed.
- (8) Permit persons of ill repute, known criminals, prostitutes or minors to frequent such licensed premises, except minors accompanied by parents or guardians or under proper supervision.
- (9) Permit or suffer gambling or the operation of games of chance upon the licensed premises.
- (10) Throw, leave, or put any beer and/or light wine cans or bottles or other containers on the streets, avenues, or roads of the city or to throw, leave, or put a beer and/or light wine cans or bottles or other containers upon the property of anyone except the person or persons possessing such cans or bottles or other containers.
- (11) Receive, possess or sell on the licensed premises any beverage of any kind or character containing more than five percent alcohol by weight.
- (12) Sell, dispense, or give away beer and/or light wine without having paid the privilege tax to the city as provided by this article.
- (13) Sell beer and/or light wine to any person knowing that the person to whom the beer and/or light wine is sold is buying the beer and/or light wine for a person under the age of 21 years.
- (14) Serve beer and/or light wine from the place of business to a person or persons in a motor vehicle in the form of curb service.

(15) Work or employ anyone under 18 years of age in such place, business or establishment where beer and/or light wine is sold except under proper and constant supervision of the adult owner or owners or an adult employee or employees.

(Ord. of 5-7-2002, § V; Ord. of 8-20-2002)

Sec. 10-36. Exceptions to age 21 rules.

A person who is under 21 years of age shall not be deemed to unlawfully possess or furnish beer and/or light wine, if in the scope of his employment such person:

- (1) Clears or buses tables that have glasses or other containers that contain or did contain beer and/or light wine;
- (2) Waits on tables by taking orders for beer and/or light wine; or
- (3) Stocks, bags or otherwise handles purchases of beer and/or light wine at a store.

(Ord. of 5-7-2002, § VI)

Sec. 10-37. Unlawful purchases.

- (a) It shall be unlawful for any retailer to possess for the purpose of sale, to sell or offer to sell any beer and/or light wine which was not purchased from a wholesaler in this state who has a permit to sell such beer and/or light wine.
- (b) It shall be unlawful for any wholesaler to possess for the purpose of sale, or offer to sell any beer and/or light wine which was not purchased from a manufacturer or importer of a foreign manufacturer authorized to sell such beer and/or light wine in this state.

(Ord. of 5-7-2002, § VII)

Sec. 10-38. Right of inspection.

The mayor and board of aldermen shall have the power and authority to demand the inspection of all invoices, sales tax reports and other business papers or records which would reflect the true amount of sales being made by a licensed business being derived from the sale of groceries. The mayor and board of aldermen shall have the right to demand such records at least quarterly, or more often, if the mayor and board of aldermen shall have any reason to believe that the business selling is not deriving 50 percent or more of gross income from the sale of groceries or 75 percent or more of gross income from the sale of prepared food as applicable. The failure to furnish such records to the mayor and board of aldermen or to any designated employee of the city shall be a violation of this article and shall be punishable as provided in this article. Further, the mayor and board or aldermen shall immediately revoke the license of any person, partnership, firm, or corporation refusing to furnish such records to the mayor and board of aldermen or any designated employee of the city.

(Ord. of 5-7-2002, § VIII)

Sec. 10-39. Consumption restrictions.

It shall be unlawful for any person within the corporate limits of the city to consume beer and/or light wine on the licensed premises (except for restaurants and golf courses as defined in this article) or on streets, avenues, sidewalks, alleys, or publicly owned property. Further, no beer and/or light wine shall be consumed in automobiles either parked or while moving.

(Ord. of 5-7-2002, § IX)

Sec. 10-40. Age restriction.

It shall be unlawful for any person within the corporate limits of the city to possess, give, buy or receive beer and/or light wine unless 21 years of age or older.

(Ord. of 5-7-2002, § X)

Sec. 10-41. Penalty for violation.

(a) The mayor and board of aldermen shall suspend or revoke the licenses of any retailer of beer and/or light wine who has been convicted of violating any portion of this article, and such suspension or revocation of a license shall be in addition to and not in lieu of a limitation or any other penalty provided by this article.

(b) Any person violating any provisions of this article shall be punished as provided in section 1-13, and each and every violation shall be a separate offense, and separate fines and imprisonment may be assessed for each offense.

(Ord. of 5-7-2002, § XI)

Sec. 10-42. Other penalties.

(a) Except as otherwise provided by section 10-36, any person under the age of 21 years who purchases or possesses any beer and/or light wine shall be guilty of a misdemeanor, and upon conviction shall be punished as provided in section 1-13 and/or a sentence to not more than 30 days community service.

(b) Any person under the age of 21 years who falsely states he is 21 years of age or older or presents any document that indicates he is 21 years of age or older for the purpose of purchasing or possessing any beer and/or light wine shall be guilty of a misdemeanor, and upon conviction shall be punished as provided in section 1-13 and/or a sentence to not more than 30 days community service.

(c) Except as otherwise provided by section 10-36, any person who knowingly purchases beer and/or light wine for, or gives or makes available beer and/or light wine to a person under the age of 21 years shall be guilty of a misdemeanor and upon conviction shall be punished as provided in section 1-13 and/or a sentence to not more than 30 days community service.

(d) The term "community service" as used in this section shall mean work, projects or services for the benefit of the community assigned, supervised and recorded by appropriate public officials.

(Ord. of 5-7-2002, § XII)

Sec. 10-43. Restaurants.

(a) Notwithstanding any of the other provisions of this article, the sale and consumption of beer and/or light wine by the drink shall be lawful within restaurants and cafes. Restaurants and cafes are defined as those establishments which are in the business of preparing and serving food for consumption within the premises and who derive at least 75 percent of their gross receipts from the sale of such prepared food. Such sales shall be permitted between the hours of 11:00 a.m. and 12:00 midnight, Monday through Saturday. No restaurant may serve beer and/or light wine outside an enclosed structure.

(b) It shall be unlawful for any restaurant serving beer or light wine within the corporate limits of the city to:

(1) Employ any waiter, waitress, bar tender or management person unless such employee has completed a recognized responsible alcohol service training program within 14 days of hire. Such program must offer national certification and must be renewed every five years.

(2) Sell, give, or furnish any beer and/or light wine to any person visibly or noticeably intoxicated, or to any insane person, or to any habitual drunkard, or to any person under the age of 21 years.

(3) Permit on the premises of any place licensed to sell beer and/or light wine any lewd or obscene entertainment, or conduct or practices.

(4) Permit loud, boisterous or disorderly conduct of any kind upon the premises of any place licensed to sell beer and/or light wine or to permit the use of loud musical instruments if either or any of these disturb the peace and quietude of the community where such business is located, or to operate pinball machines, pool tables or other coin-operated amusement machines with the exception of juke boxes. If the business or the establishment has 75 percent or more gross prepared food sales receipts, pinball machines and other coin-operated amusement machines may be allowed.

(5) Permit persons of ill repute, known criminals, prostitutes or minors to frequent such licensed premises, except minors accompanied by parents or guardians or under proper supervision.

(6) Permit or suffer gambling or the operation of games of chance upon the licensed premises.

(7) Sell beer and/or light wine to any person knowing that the person to whom the beer and/or light wine is sold is buying the beer and/or light wine for a person under the age of 21 years.

(8) Serve beer and/or light wine from the place of business to a person or persons in a motor vehicle in the form of curb service.

(9) Work or employ anyone under 18 years of age in such place, business or establishment where beer and/or light wine is sold except under proper and constant supervision of the adult owner or owners or an adult employee or employees.

(Ord. of 5-7-2002, § XIII)

Sec. 10-44. Outdoor advertising.

It shall be unlawful for any person, firm, partnership, or corporation licensed by the city to sell beer and/or light wine, to advertise the sale of such beer and/or light wine by the use of any type of sign located outside the building or by the use of any type sign located within the building which is visible from the outside.

(Ord. of 5-7-2002, § XIV)

Sec. 10-45. Recreation sales.

Notwithstanding any of the other provisions of this article, the sale or consumption of beer or light wine by the drink shall be permitted at any golf course or country club where there exists 18 or more regulation golf holes, to be consumed only on the premises.

(Ord. of 5-7-2002, § XV)

Sec. 10-46. References include subsequent revisions, amendments or enactments.

Where any statute, ordinance, or regulation is referred to or incorporated into this article, that reference shall include any subsequent revisions, amendments or enactments encompassing the same subject matter.

(Ord. of 5-7-2002, § XVIII)

Chapters 11--13 RESERVED

Chapter 14 ANIMALS\*

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\*Cross references: Environment, ch. 34; health and sanitation, ch. 46.

State law references: Hog pens, slaughterhouses, stockyards, stables, MCA 1972, § 21-19-1; animals at-large, pounds, cooperative agreements, MCA 1972, § 21-19-9; purchasing dogs for use of police department, MCA 1972, § 21-21-5; dogs and rabies control, MCA 1972, § 41-53-1 et seq.; hunting and fishing, MCA 1972, § 49-7-1 et seq.; livestock, MCA 1972, § 69-11-1 et seq.; veterinarians, MCA 1972, § 73-39-1 et seq.; cruelty to animals, MCA 1972, § 97-41-1 et seq.

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Article I. In General

Secs. 14-1--14-30. Reserved.

Article II. Animal Control

Sec. 14-31. Definitions.

Sec. 14-32. Control and protection of animals in general.

Sec. 14-33. Vaccination of dogs and cats required; issuance of certificate and metal tag.

Sec. 14-34. Keeping of livestock.

Sec. 14-35. Keeping fowl regulated.

Sec. 14-36. Ferocious, vicious or dangerous animals prohibited.

Sec. 14-37. Keeping wild animals and reptiles prohibited.

Sec. 14-38. Performing animals exhibits or circuses; regulations.

Sec. 14-39. Pet shops, aviaries, kennels; investigation of complaints.

Sec. 14-40. Impoundment and recovery of animals.

Sec. 14-41. Procedure for retention, observation and disposition of animals which have bitten persons or other animals, or those suspected of having disease.

Sec. 14-42. Authorization for quarantine.

Sec. 14-43. Animal control officers--Training and certification.

Sec. 14-44. Same--Police powers and enforcement responsibility.

Sec. 14-45. Reporting vehicle accident involving animal.

Sec. 14-46. Vicious or diseased animals.

Sec. 14-47. Personnel using firearms pursuant to article.

Sec. 14-48. Humane euthanization.

Sec. 14-49. Penalties.

ARTICLE I. IN GENERAL

Secs. 14-1--14-30. Reserved.

ARTICLE II. ANIMAL CONTROL

Sec. 14-31. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Animal control officer means the person designated by the city to represent and act for the city in the impoundment of animals, controlling of animals running at large and as otherwise required in this article.

At large. Any dog, cat, fowl or other animal shall be deemed to be at large when not on a leash, behind a fence or enclosure, or under the control of a competent person.

Feral dog means a dog that has escaped from domestication and has become wild, dangerous, or untamed.

Health officer means a licensed physician or veterinarian appointed by the mayor and board of aldermen to have charge and control of the work of protecting and preserving the public health.

Inhumane treatment means any treatment to any animal which deprives the animal of necessary sustenance, including food, water and protection from weather, or any treatment of any animal, such as overloading, overworking, tormenting, beating, mutilating, teasing, or poisoning or other abnormal treatments as may be determined by:

- (1) The health officer; or
- (2) An authorized law enforcement officer.

Large canine breeds means dogs equivalent to or greater than an average size cocker spaniel -- 30 pounds.

Livestock means all domesticated animals, including but not limited to, horses, cows, mules, goats, sheep and pigs.

Owner means any person, firm or corporation owning, keeping, or harboring any animal or fowl.

Vaccination means an injection of state board of health approved rabies vaccine administered every 12 calendar months by a licensed veterinarian or other competent person granted a permit to administer vaccine by the state board of health.

Vicious animal means any animal or animals that constitute a physical threat to human beings or to other animals.

Wild animals means all undomesticated animals, including, but not limited to, lions, tigers, bears, wolves, apes, monkeys foxes, baboons, skunks, raccoons, opossums and squirrels.

(Ord. of 2-4-2003, § 1-1)

Cross references: Definitions generally, § 1-2.

State law references: Definitions, MCA 1972, §§ 49-8-3, 75-45-153; veterinarians, MCA 1972, § 73-39-1 et seq.

Sec. 14-32. Control and protection of animals in general.

(a) It shall be unlawful for any person to:

- (1) Permit any animal to run at large within the corporate limits of the city;
- (2) Carry out any inhumane treatment against any animal;
- (3) Interfere with or molest a dog used by the police department of the city in the performance of the function or duties of such department;
- (4) Keep or harbor more than four domesticated animals of the same species over the age of six months in any residential area within the corporate limits of the city or keep more than two of which are large canine breeds (guide dogs, hearing ear dogs or other animals trained to assist physically disable persons do not count in this number);
- (5) Keep or harbor any animal which by loud, frequent, or habitual barking, howling, yelping, or other noise or action disturbs any person or neighborhood within the corporate limits of the city;
- (6) Keep or maintain on their premises any pen, enclosure, etc. for keeping of animals or fowl so as to become a public nuisance to persons residing in the vicinity thereof, nor shall they be maintained or kept in any manner as to cause bodily injury to any person residing in the vicinity of the pen, enclosure, etc.;
- (7) Keep or harbor any animal or fowl in such a manner as to constitute a public nuisance by reason of odor or unsanitary conditions to persons residing in the vicinity thereof;
- (8) Fail to provide animals with sufficient good and wholesome food and water, proper shelter and protection from the weather, veterinary care when needed to prevent suffering, and with humane care and treatment;
- (9) Leave an animal unattended inside a motor vehicle when such action is harmful or reasonably potentially harmful to such animal; in the event the owner of such vehicle is not available and cannot be found or refuses to prevent such harm or reasonably potential harm from continuing, the animal control officer or the police department shall be authorized to remove such animal from such vehicle and utilize any reasonable method to effect the removal;
- (10) Expose any known poisonous substance, whether mixed with food or not in such a manner as to be ingested by any animal to purposely harm such animal;
- (11) Hobble, tether, tie, stake or otherwise confine an animal in the front yard of any residence or business. This subsection does not apply to an animal on a leash or other restraint under the control of

its owner. Maintaining an animal in a front yard through means of an electric fence shall not be a violation of this article for all electric fences in existence and operation on February 4, 2003.

(b) The duly sworn and authorized animal control officers or police officers of the city may seize or cause to have seized any animal whose owner is found to be in apparent violation of any part of subsection (a) of this section and impound or cause to have impounded such animal in a designated shelter. Such animal shall be held for period not to exceed five days, and if reasonable corrections are not made by the owner of the animal so that the owner will not be in further violation of subsection (a) of this section if such animal is returned to the owner, the animal shall be released to the Mississippi Animal Rescue League or similar organization. The animal control officer shall notify the owner of the apparent violation of subsection (a) of this section during such five-day period.

(Ord. of 2-4-2003, § 1-2)

Sec. 14-33. Vaccination of dogs and cats required; issuance of certificate and metal tag.

(a) On or before August 1 of each year every owner or keeper of a dog or cat three months or older in the city shall cause such dog or cat to be vaccinated against rabies by a veterinarian licensed to practice in the state or other competent person granted a permit to administer vaccine by the state board of health.

(b) Evidence of vaccination shall consist of a metal tag and certificate issued and signed by the person administering the vaccination and containing pertinent data for identification of the dog or cat which data must consist of the owner's name, address and telephone number. The metal tag must be worn at all times by the dog or cat.

(Ord. of 2-4-2003, § 1-3)

Sec. 14-34. Keeping of livestock.

(a) No person shall keep livestock closer than 150 feet to any property line adjoining that on which the livestock is kept; provided that each animal defined as livestock in this article shall be kept on a lot or tract of three acres or greater.

(b) At the request of the animal control officer each livestock owner shall notify the animal control officer of type, number and location of any and all livestock kept within the corporate limits. Such owner shall further furnish his name, address, and telephone number to the animal control authority and to the police department at the request of either.

(Ord. of 2-4-2003, § 1-4)

Sec. 14-35. Keeping fowl regulated.

(a) No person shall keep more than two fowl such as chickens, ducks, turkeys, geese, pigeons or guineas, except when 150 feet from any property line adjoining that on which the fowl are kept, or except by special permit issued by the city or designated agency of the city.

(b) It shall be unlawful for the owner of such fowl to allow such fowl to roam outside the property of such owner, except carrier pigeons on training or racing flights.

(Ord. of 2-4-2003, § 1-5)

Sec. 14-36. Ferocious, vicious or dangerous animals prohibited.

It shall be unlawful for any person to keep or maintain within the city any vicious, ferocious or dangerous animal or fowl. Any such animal or fowl may be impounded or destroyed.

(Ord. of 2-4-2003, § 1-6)

Sec. 14-37. Keeping wild animals and reptiles prohibited.

(a) No person shall keep any wild animal or reptile within the corporate limits of the city.

(b) No person shall keep or cause to be kept on his premises or in any roadside zoo or pet store, any wild or vicious animal for display or for exhibition purposes, whether gratuitously or for a fee.

(c) The animal control officer is hereby granted the authority to seize any wild animal or reptile kept in violation of this section, federal law, or state statutes, upon conviction of the owner for such offenses, and, if seized, shall deliver such wild animal or reptile to the state department of wildlife, fisheries and parks or equivalent state agency. In his discretion, the animal control officer may grant the owner of such animal 24 hours to remove them from the boundaries of the city to a lawful place if the public safety and welfare will not be jeopardized thereby.

(Ord. of 2-4-2003, § 1-7)

Sec. 14-38. Performing animals exhibits or circuses; regulations.

(a) No performing animal exhibit or circus shall be permitted in which animals are induced or encouraged to perform through the use of chemical, mechanical, electrical, or manual devices in a manner which is likely to cause physical suffering or injury to the animals.

(b) All equipment used on or by a performing animal shall fit properly and be in good working condition.

(c) The owners, managers, and caretakers of animals used as performing animals shall provide them with good and sufficient food and water, and shelter from extremes of weather, and shall at no time hobble, tether, tie or stake them alongside city streets, state highways, public right-of-way, or any thoroughfare within the corporate limits of the city.

(d) The animal control officer is hereby authorized to inspect the conditions and premises of such operations at any time to determine compliance with this section.

(Ord. of 2-4-2003, § 1-8)

Sec. 14-39. Pet shops, aviaries, kennels; investigation of complaints.

The animal control officer of the city is hereby authorized at any reasonable time upon written request or demand of any citizen of the city to inspect any store or business which buys, sells, gives away, or trades live animals, birds, or operates kennels.

(Ord. of 2-4-2003, § 1-9)

Sec. 14-40. Impoundment and recovery of animals.

Any dog, animal or fowl caught, picked up or impounded by the animal control officer or any police officer of the city shall be forthwith turned over to the Mississippi Animal Rescue League or similar organization. Any impounded animal may be reclaimed within five days of impoundment upon the payment of all impoundment fees and upon showing proof of current vaccination.

(Ord. of 2-4-2003, § 1-10)

Sec. 14-41. Procedure for retention, observation and disposition of animals which have bitten persons or other animals, or those suspected of having disease.

(a) The animal control officer, in the course of his duties shall investigate in cases in which animals have bitten persons or other animals and shall immediately notify the owner of such animal which has bitten any person or animal to surrender the animal to the animal control officer immediately or otherwise arrange for the animal control officer to pick up and retain such animal in a separate kennel at the designated animal shelter for a period of not less than ten days after the biting of such person or other animal, during which period it shall be determined by the city health official or other designated official whether or not such animal is suffering from any disease. If no disease is found, the city health official or the designated official shall signify to the animal control officer that such animal may be released to the owner; provided further, that the animal control officer may authorize keeping of any such animal on the owner's premises provided that the owner produces a certificate of rabies vaccination showing that the animal has been vaccinated for rabies not longer than 12 months previous thereto or other vaccination period recognized by the United States Department of Agriculture and provided further, that the animal control officer may authorize the owner of any such animal to be retained for a period of not less than ten days after biting such person or animal in quarters supervised by a veterinarian; provided further, that the city health officer, or other designated official may authorize the keeping of certain animals confined on the owner's premises because of veterinary reasons, such as small rodents, monkeys or other animals difficult to maintain or susceptible to diseases which might occur with changes of environment or female dogs with pups, provided the owner secures a written statement of such consideration from a veterinarian if required by the city health officer or other designated official.

(b) Any animal suspected of having disease shall be subject to the impoundment and observation provision set out in subsection (a) of this section.

(c) Any animal found to be infected with rabies shall be forthwith destroyed by the animal control officer, an officer of the police department, or by other designated officer.

(Ord. of 2-4-2003, § 1-11)

Sec. 14-42. Authorization for quarantine.

If a potential outbreak of rabies is suspected, and the danger of the public safety from rabid animals is reasonably imminent, the city health officer or other designated official is hereby authorized and it shall be their duty to issue a quarantine proclamation ordering persons owning, keeping or harboring any dog or cat to muzzle the dog or cat or confine it as provided in this article for such time as may be specified in quarantine proclamation. Under the publication of such proclamation by the health officer or other designated official, the person keeping or harboring any dog, cat or other animal shall follow the procedures as prescribed in this article, except that any such animal under the control of an adult person on a leash or under control by voice command may do so only if the animal is effectively muzzled. All dogs, cats or other animals found at large during the time specified by the city health officer in a quarantine proclamation, without being properly confined or muzzled if under the control of a adult person, may be destroyed by any officer of the city if such officer is unable, with reasonable effort, to apprehend the animal for impoundment.

(Ord. of 2-4-2003, § 1-12)

Sec. 14-43. Animal control officers--Training and certification.

Animal control officers shall be required to be familiar with the city ordinances pertaining to animals and fowl, and applicable federal and state statutes pertaining to animal and fowl.

(Ord. of 2-4-2003, § 1-13)

Sec. 14-44. Same--Police powers and enforcement responsibility.

(a) Any animal control officer may utilize any equipment reasonable and necessary to enforce the provisions of this article, including without limitation, humane wire box traps; and the animal control officer may lend such traps or other equipment to private persons for the purpose of preventing nuisances resulting from animals running at large.

(b) Any animal control officer appointed by the city shall be vested with police powers and shall be authorized to issue tickets, summons or other process in the same manner as other police officers of the city.

(Ord. of 2-4-2003, § 1-14)

Sec. 14-45. Reporting vehicle accident involving animal.

Any person who, as the operator of a motor vehicle, strikes a domestic animal shall at once report the accident to the police department and/or the animal control officer or to the local humane society within a reasonable time.

(Ord. of 2-4-2003, § 1-15)

Sec. 14-46. Vicious or diseased animals.

(a) Vicious animals or feral dogs. When an animal is determined by the animal control officer to be a vicious animal or a feral dog, that animal may be destroyed by the animal control officer or his designee providing each of the following requirements is met:

- (1) The animal is running at large;
- (2) There is no vaccination tag around the animal's neck;
- (3) Attempts to peacefully capture the animal have been made and proved unsuccessful.

(b) Incurably injured or diseased animals, etc. It shall be the duty of the police and duly authorized animal control officer to discharge a firearm in order to mercifully end the life of an animal suffering from an incurable injury or disease or as the sole effective means of controlling a public nuisance or health hazard, including but not limited to pigeons, rabbits, squirrels, snakes and feral dogs.

(Ord. of 2-4-2003, § 1-16)

Sec. 14-47. Personnel using firearms pursuant to article.

(a) Personnel empowered by this article to discharge firearms within the city limits shall qualify with the chief of police once every six months and may not discharge any firearms within the scope of their employment unless and until the chief of police has issued or renewed the appropriate certification. Such certification is to be used based on the following considerations:

- (1) Thorough instruction in operation of the type of firearms issued to the animal control officer;
- (2) Thorough knowledge of all appropriate safety procedures by the animal control officer;
- (3) Competent performance on the firing range by the animal control officer;
- (4) Such other test or qualification as the chief of police in his discretion; deems appropriate.

(b) In issuing the required certification, the chief of police is to take into consideration all the requirements in keeping with good police practice, and will at all times bear in mind the safety of the citizens of the city, and shall require the same degree of competence from authorized personnel as is required of police officers discharging firearms within the city limits.

(Ord. of 2-4-2003, § 1-17)

Sec. 14-48. Humane euthanization.

An injured or neglected animal may be humanely euthanized by the animal control officer or his designee immediately.

(Ord. of 2-4-2003, § 1-18)

Sec. 14-49. Penalties.

Any person who violates any of the provisions of this article shall be guilty of a misdemeanor. Any person found guilty of violating this article shall be punished as follows:

- (1) First offense, a fine not to exceed \$100.00;
- (2) Second offense, a fine not less than \$250.00 and not more than \$500.00 if the offense is committed within one year of the first offense;
- (3) For a third offense, the animal involved will be removed from the city limits or euthanized as necessary. It shall be a rebuttable defense that the animal was protecting the home, homeowner, its litter or itself;
- (4) Dogs running free:
  - a. First citation, a fine not to exceed \$50.00.
  - b. Second citation, a fine not to exceed \$75.00.
  - c. Third or more citation, a fine not to exceed \$100.00.

(Ord. of 2-4-2003, § 1-19)

Chapters 15--17 RESERVED

Chapter 18 BUILDINGS AND BUILDING REGULATIONS\*

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\*Cross references: Environment, ch. 34; fire prevention and protection, ch. 38; floods, ch. 42; health and sanitation, ch. 46; historical and other preservations, ch. 50; natural resources, ch. 58; planning, ch. 70; schools, ch. 74; streets, sidewalks and other public places, ch. 82; subdivisions, ch. 86; utilities, ch. 102; building sewers and connections, § 102-211 et seq.; zoning, ch. 106.

State law references: Appeal to circuit court from municipal authorities, MCA 1972, § 11-51-75; compensation of building inspector, MCA 1972, § 21-15-31; fire limits, dangerous buildings, etc., MCA 1972, § 21-19-21; building and other codes, MCA 1972, § 21-19-25; state board of public contractors, MCA 1972, § 31-3-1 et seq.; appeal from order or decision of state board of public contractors, MCA 1972, § 31-3-23; urban renewal and redevelopment, MCA 1972, § 43-35-1 et seq.

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## Article I. In General

Secs. 18-1--18-30. Reserved.

## Article II. Contractors

Sec. 18-31. Records.

Sec. 18-32. Certificate issuance; fees; renewals; qualifications.

Sec. 18-33. Requirements for general contractors' license.

Sec. 18-34. Requirements for journeyman and master plumber, mechanical or electrical license.

Sec. 18-35. Revocation of certificate and building permits.

Sec. 18-36. Bond and insurance required; amount.

Sec. 18-37. Exemptions from bonding and licensing.

Sec. 18-38. Penalties and fines.

Secs. 18-39--18-70. Reserved.

## Article III. Codes Adopted

Sec. 18-71. Adoption of codes; certification.

Sec. 18-72. Swimming pool code adopted; copies on file; certification.

Sec. 18-73. Penalty for violation of article.

Secs. 18-74--18-100. Reserved.

## Article IV. Dangerous Buildings

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Sec. 18-109. Process of notice.

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Sec. 18-112. Estimating annual expenses and costs.

Sec. 18-113. Construction with other laws.

#### ARTICLE I. IN GENERAL

Secs. 18-1--18-30. Reserved.

#### ARTICLE II. CONTRACTORS

Sec. 18-31. Records.

The building official shall act as the administrative official and shall maintain accurate records in regard to certification and licensing.

(Ord. of 5-4-1999(1), § I)

Sec. 18-32. Certificate issuance; fees; renewals; qualifications.

(a) All journeyman and master electricians, plumbers and mechanical installers shall be required to pass the appropriate state standard contractor examination before engaging in business in the city. If, however, the building official determines the applicant cannot take a written examination, he may allow the applicant to take an oral examination. The examination shall determine the theoretical practical knowledge of the applicant including procedures and hazards of his trade to further determine the ability of the applicant to work in conformity with approved practice and in keeping with all city and state requirements and regulations. The test will be prepared, administered and graded by a testing agency approved by the mayor and board of aldermen.

(b) Any applicant who passes such examination shall be issued a certificate to that effect.

(c) Every applicant for examination shall be responsible for paying appropriate set testing fees to the testing agency approved by the mayor and board of aldermen.

(d) The applicant is obligated to comply with all rules and regulations of the testing agency administering the test.

(e) Certificates shall be valid for the fiscal year or part thereof during which they are issued and shall be renewed each year within the first ten days of each of the new fiscal year, or in any such event,

on or before October 10 of each year. The fee for such renewal shall be \$25.00 for each renewal. However, if a certificate is not renewed within the aforesaid time period (that is, on or before October 10 of each year), then the fee for renewal shall be \$35.00; and provided further, if such certificate is not renewed within a period of 30 days from October 10 of each year, then the renewal shall be \$50.00 and re-examination may be required at the discretion of the building official.

(f) A limited certificate of competence applicable for a single job may be issued by the building official and shall automatically expire upon completion of the project for which such limited certificate of competency was issued. No such limited certificate of competency shall be issued unto the same party for new structures within the five-year period following the issuance of such initial certificate of competency. The fee for such temporary certificate shall be \$25.00. In such event, the building official shall fully document his reasons for issuing such temporary permits and his action in so doing shall be subject to review and possible revocation by the mayor and board of aldermen.

(g) A certificate of competency based upon the examination of an individual representing a partnership, firm or corporation, shall be valid only during the time that such individual is a member or supervising employee of such partnership, firm, or corporation. The building official may issue temporary licenses for periods no to exceed 60 days in cases where he determines such action to avoid undue hardships.

(Ord. of 5-4-1999(1), § II)

Sec. 18-33. Requirements for general contractors' license.

A copy of a residential builder, residential remodeler or building construction or commercial license as required by the state board of contractors shall be presented to the building official prior to issuance of a building permit subject to exceptions provided for by the state.

(Ord. of 5-4-1999(1), § III)

State law references: Permit denial to unlicensed builders, MCA 1972, § 73-59-17.

Sec. 18-34. Requirements for journeyman and master plumber, mechanical or electrical license.

(a) Examination application must be completed in accordance with the approved testing agency's regulations and procedures.

(b) An applicant must pass a written exam approved by the mayor and board of aldermen. The passing score is determined by the approved testing agency. An applicant must pay all testing fees required by the testing agency for administration of the exam.

(c) In lieu of an examination, a letter from an approved examining and licensing board within the state stating that the applicant stood before their board and successfully passed an exam and has held a current valid license for at least one year.

(Ord. of 5-4-1999(1), § IV)

Sec. 18-35. Revocation of certificate and building permits.

(a) It shall be the duty of the mayor and board of aldermen, upon recommendation from the building official, to revoke or cause to be revoked the certificate and building permits for any person or job for any one or more of the following reasons;

- (1) Willful or false misstatements in the exam application;
- (2) Permitting the use of the certificate by any person other than himself;
- (3) Persistent refusal or neglect to observe the provisions of the applicable codes; and
- (4) Any other act intended to violate the provisions of the applicable codes.

(b) The revocation of a certificate shall not serve as a bar to any further remedy or action at law which might be invoked by the city.

(Ord. of 5-4-1999(1), § V)

Sec. 18-36. Bond and insurance required; amount.

(a) Bond required. Every person before engaging in the business of contracting in those occupations covered by this article, shall execute a bond payable to the city in the amount of \$5,000.00 and show proof of general liability insurance. Such bond shall be made by an approved surety company authorized to do business in this state.

(b) Duration; renewal. Such bond shall run for a period of one year and shall be renewed every year. No permit shall be issued to any person who does not have the required bond in full force and effect at the time of application for such permit.

(c) Conditions. All such bonds shall be conditioned to protect the city against all loss or damages occasioned by any act or negligence of the principal therein, or in failing to properly execute and protect all work done by him or by his employees, or done under his direction or supervision, and from all loss or damage occasioned by or arising in any manner from any work done by such principal or his employees, or under his supervision; conditioned further, that the principal therein will keep and observe all ordinances at any time enacted by the city.

(d) Approval. All such bonds shall be approved by the building official before they become effective, and may be declared in default and sued upon by the city in any court of competent jurisdiction.

(Ord. of 5-4-1999(1), § VI)

Sec. 18-37. Exemptions from bonding and licensing.

Nothing contained in this article shall be interpreted as prohibiting an individual from installing, altering or repairing his own electrical, gas, mechanical or plumbing appliances, or installing, extending, replacing, altering or repairing in general on his own premises, or as requiring a license or a bond from

an individual doing such work on his own premises; provided, however, all such work must be done in conformity with all other provisions of this article, including those relating to permits, inspections and fees. This section shall apply only to a residence owned and occupied by the individual doing the work and not a building or structure which is readily accessible to the general public or not occupied by an individual doing the work. No one who is not licensed and bonded may assist the homeowner in the work.

(Ord. of 5-4-1999(1), § VII)

Sec. 18-38. Penalties and fines.

Any person violating any of the provisions of this article shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in an amount not less than \$50.00 and not exceeding \$1,000.00 or to be imprisoned in the city jail for a period not exceeding 90 days or both so fined and imprisoned.

(Ord. of 5-4-1999(1), § VIII)

Secs. 18-39--18-70. Reserved.

### ARTICLE III. CODES ADOPTED

Sec. 18-71. Adoption of codes; certification.

(a) Standard Codes and appendices adopted. Pursuant to the provisions of MCA 1972, § 21-19-25, the city adopts, in all respects, the following various Standard Codes:

- (1) Standard Building Code--1997 Edition.
- (2) Standard Gas Code--1997 Edition.
- (3) Standard Mechanical Code--1997 Edition.
- (4) Standard Plumbing Code--1997 Edition.
- (5) National Electrical Code--1996 Edition.
- (6) Various appendices to the Standard Building Code including:
  - a. Appendix A -- Weights of Building Materials.
  - b. Appendix B -- Recommended Schedule of Permit Fees.
  - c. Appendix C -- One- and Two-Family Dwellings.
  - d. Appendix D -- Standards for Demolition.
  - e. Appendix E -- Energy Conservation.
  - f. Appendix H -- Manufactured Homes Tiedown Standards.

(b) Certification. There shall be a copy of such codes filed with the clerk of the city, to which shall be annexed and attached a certificate bearing the signature of the mayor and city clerk, with the seal of the city affixed. The form of which certificate shall be substantially as follows:

We, the undersigned, Rosemary B. Aultman, Mayor of the City of Clinton, Mississippi, and Nelson Byrd, City Clerk of such City, do here by certify that the volume of the (applicable code) to which this certificate is attached, is a true and correct copy of the official code adopted by the City of Clinton, Mississippi, by Ordinance under the date of February 17, 1998, and appearing in Minute Book 2 at Page \_\_\_\_\_.

Given under our hand and official seal, this the 17th day of February, 1998.

TABLE INSET:

\_\_\_\_\_

Mayor of the City of Clinton \_\_\_\_\_

ATTEST: City Clerk

(Ord. of 2-17-1998, §§ 1, 2)

Sec. 18-72. Swimming pool code adopted; copies on file; certification.

(a) Adoption. There is hereby adopted as the official code of the city governing construction, installation, addition, alteration, and repair of swimming pools, the Standard Swimming Pool Code, 1999 Edition, as amended, published by the Southern Building Code Congress International Inc., 3617 Eighth Avenue, South, Birmingham, Alabama 35222.

(b) Copies on file. There shall be two copies of the code adopted in subsection (a) of this section filed with the city clerk, to which shall be annexed and attached a certificate bearing the facsimile signature of the mayor and city clerk with the seal of the city affixed. The form of which certificate shall be as follows:

CERTIFICATE

We, the undersigned, \_\_\_\_\_, Mayor of the City of Clinton, Mississippi, and \_\_\_\_\_, city clerk of such city, do hereby certify that the volume of "STANDARD SWIMMING POOL CODE" to which this certificate is attached, is a true and correct copy of the official code adopted by the City of Clinton, Mississippi by Ordinance under date of \_\_\_\_\_, appearing in Minute Book " \_\_\_\_\_ " at Pages \_\_\_\_\_, and the Official Ordinance Book \_\_\_\_\_ at Pages \_\_\_\_\_.

(Ord. of 9-6-1983, §§ 1, 2)

Sec. 18-73. Penalty for violation of article.

Any person violating any provision of any code adopted in this article shall be guilty of a misdemeanor and upon conviction, shall be punished as provided in section 1-13.

(Ord. of 9-6-1983, § 5)

Secs. 18-74--18-100. Reserved.

#### ARTICLE IV. DANGEROUS BUILDINGS\*

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\*Cross references: Environment, ch. 34.

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Sec. 18-101. Adoption of MCA 1972, §§ 43-35-101--43-35-117.

MCA 1972, §§ 43-35-101--43-35-117 are hereby adopted by the mayor and board of aldermen by enactment of this article within the city.

(Ord. of 10-7-1997(2), § 1)

Sec. 18-102. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Building means any building or structure or part thereof used and occupied by humans as a dwelling, store, factory, warehouse, requiring the presence of humans therein, or intended to be so used, and includes any yard, garden, parking or storage area, outhouses, and appurtenances belonging thereto or usually enjoyed therewith.

Owner means the holder of the title in fee, or a mortgagee or trustee, whose interest is shown of record, or who is in possession of a building, or any person in control of a building, or the agent of any such person.

Parties in interest means individuals, associations, or corporations who have an interest of record in or who are in possession of a building.

Public authority means any housing authority, or any officer who is in charge of any department or branch of the government of the municipality relating to health, fire, building regulations, or to other activities concerning buildings in the municipality.

Public officer means the officer or officers in charge of any municipal department who are authorized by this article to exercise the powers prescribed by this article and by state law.

(Ord. of 10-7-1997(2), § 2)

Cross references: Definitions generally, § 1-2.

Sec. 18-103. Public officer designated.

The mayor and board of aldermen shall designate a qualified person who shall exercise the powers prescribed by this article, and who shall be known in this article as the public officer. Upon enactment of this article, the public officer shall be the zoning administrator of the city.

(Ord. of 10-7-1997(2), § 3)

Sec. 18-104. Complaints and hearings.

Whenever a petition is filed with the public officer by a public authority or by at least five residents of the municipality, charging that any building is unfit for human habitation, use or occupancy, or whenever it appears to the public officer, on his own motion, that any building is unfit for human habitation, use or occupancy, 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 in such premises 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 days nor more than 30 days after the serving of such complaint; and that the owner and parties in interest shall be given the right to file an answer to the complaint and to appear in person, or otherwise, and give testimony at the place and time fixed in the complaint.

(Ord. of 10-7-1997(2), § 4)

Sec. 18-105. Orders to remedy or vacate.

If, after such notice and hearing, the public officer determines that the building under consideration is unfit for human habitation, use or occupancy, he shall state in writing his findings of fact in support of such determination and shall issue and cause to be served upon the owner thereof an order requiring him, to the extent and within the time specified in the order, to repair, alter or improve such building to render it fit for human habitation, use or occupancy or, at the option of the owner, to vacate and close the building as a human habitation, or for human use or occupancy.

(Ord. of 10-7-1997(2), § 5)

Sec. 18-106. Posting of premises.

(a) If the owner fails to comply with such order within the time prescribed, the public officer may cause the building to be vacated and closed; and the public officer may cause to be posted on the main entrance of any building so closed a placard with the following words:

"This building is unfit for human habitation, use or occupancy; the use or occupation of this building by humans is prohibited and unlawful."

(b) Any person who shall rent, lease or occupy, or who shall permit any person to rent, lease or occupy such building for a human habitation, use or occupancy, shall be liable for such fine as may be prescribed by the ordinances of the municipality.

(Ord. of 10-7-1997(2), § 6)

Sec. 18-107. Final notice.

If, after notice and hearing, the public officer determines that a building is in such condition, because of dilapidation, disrepair, structural defects, or otherwise, that it is dangerous or injurious to the health or safety of the public or the occupants of buildings or the occupants of neighboring buildings, the public officer shall issue and cause to be served upon the owner an order requiring him to repair, alter or improve such building to the extent and within the time specified in such order, or, at the option of the owner, to remove or demolish such building. If the owner fails to comply with such order within the time prescribed, the public officer may cause such building to be repaired, altered or improved in accordance with the order. If such repairs, alterations or improvements cannot be made at a reasonable cost in relation to the value of the building, the public officer may cause such building to be removed or demolished; this article may fix a certain percentage of such cost in relation to the value of a building as being reasonable for such purpose; and the cost of such repairs, alterations, improvements or removal, or demolition, in addition to a penalty not to exceed 20 percent of the actual costs which may be imposed by the municipality, shall be a lien against such real estate, and assessed and collected as a special tax. The governing authorities of the city ordering such assessment shall fix a day for the hearing of objections to such assessment and shall cause the municipal clerk to give to the property owner ten days' written notice, by mail, if the post office address of the owner be known, but if the post office address of the owner be unknown, notice shall be given by posting notice for at least ten days in five public places in the municipality, of the time and place for the hearing of objections to such assessment; one of such public places for posting notice as aforesaid shall be on the land which is the subject matter of such assessment. If the amount of such special tax is not paid in full within six months from and after the date the assessment becomes final, the tax collector shall proceed to advertise and sell such real estate, or a sufficient amount thereof to recover such special tax and all costs of the sale, after having given notice of the time and place of such sale as is required by law for the sale of land for delinquent ad valorem taxes. From the proceeds of such sale, the tax collector shall first pay the cost of the sale, after which he shall pay the cost of such repairs, alterations, improvement, removal or demolition and any penalty imposed by the municipality; and any amount remaining over shall be deposited by him with the clerk of the circuit court as provided in this section. If the building is removed or demolished by the public officer, he may sell the materials of such building 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 circuit court 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 persons found to be entitled thereto by the final award or judgment of such court. Nothing in this section shall be construed to impair or limit in any way the power of the municipality to define and declare nuisances and to cause their removal or abatement by summary proceedings or otherwise.

(Ord. of 10-7-1997(2), § 7)

Sec. 18-108. Conditions dangerous or injurious to health.

The public officer may determine that a building is unfit for human habitation, use or occupation, if he finds that conditions exist in such buildings which are dangerous or injurious to the health, safety or morals of the persons using such buildings for human habitation, use or occupation, or to the public. 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; and uncleanness. This article may provide additional standards to guide the public officer, or his agents, in determining the fitness of a building for human habitation, use or occupation.

(Ord. of 10-7-1997(2), § 8)

Sec. 18-109. Process of notice.

Complaints or orders issued by a public officer pursuant to this article shall be served upon persons either personally or by registered mail; but if the whereabouts of such persons is unknown, and the whereabouts 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 complaint or order once each week for two successive weeks in a newspaper printed and published in the city, or, in the absence of such a newspaper, in one printed and published in the county and circulating in the city in which the dwellings are located. A copy of such complaint or order shall be posted in a conspicuous place on premises affected by the complaint or order. A copy of such complaint or order shall also be filed in the proper office or offices for the filing of lis pendens notices in the county in which the dwelling is located, and such filing of the complaint shall have the same force and effect as other lis pendens notices provided by law. The rules and evidence prevailing in courts of law or equity shall not be controlling in hearings before the public officer.

(Ord. of 10-7-1997(2), § 9)

Sec. 18-110. Equitable relief; application and hearing.

Any person affected by an order issued by the public officer may apply to the circuit court for an injunction restraining the public officer from carrying out the provisions of the order, and the court, or any judge thereof, may, upon such application, issue an order restraining the public officer pending final disposition of the cause. Hearings shall be had by the court on such applications within 20 days, or as soon thereafter as possible, and shall be given preference over other matters on the court's calendar. The court shall hear and determine the issues raised, and shall enter such final order or decree as law and justice may require. In all such proceedings, the findings of the public officer as to facts, if supported by evidence, shall be conclusive. Costs shall be in the discretion of the court. The remedies provided in this article shall be exclusive remedies, and no person affected by an order of the public officer shall be

entitled to recover any damages for action taken by the public officer under such order or because of noncompliance therewith.

(Ord. of 10-7-1997(2), § 10)

Sec. 18-111. Powers of public officer.

The public officer may exercise such powers as may be necessary or convenient to carry out and effectuate the purposes and provisions of this article, including the following powers, in addition to others granted in this article:

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

(Ord. of 10-7-1997(2), § 11)

Sec. 18-112. Estimating annual expenses and costs.

The board of aldermen shall, as soon as possible after the adoption of the ordinance from which this article is derived, prepare an estimate of the annual expenses or costs to provide the equipment, personnel and supplies necessary for periodic examinations and investigations of the buildings in such municipality for the purpose of determining the fitness of such buildings for human habitation, use or occupancy, and for the enforcement and administration of this article; and the municipality is authorized to make such appropriations from its revenues as it may deem necessary for this purpose, and may accept and apply grants or donations to assist it in carrying out the provisions of this article.

(Ord. of 10-7-1997(2), § 12)

Sec. 18-113. Construction with other laws.

Nothing in this article shall be construed to abrogate or impair the powers of the courts or of any department of the city to enforce any provisions of its charter or its ordinances or regulations, nor to prevent or punish violations thereof; and the powers conferred by this article shall be in addition and supplemental to the powers conferred by any other law.

(Ord. of 10-7-1997(2), § 13)

Chapters 19--21 RESERVED

Chapter 22 BUSINESSES\*

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\*Cross references: Advertising, ch. 6; alcoholic beverages, ch. 10; secondhand goods, ch. 78; taxation, ch. 90; sales tax, § 90-31 et seq.; telecommunications, ch. 94.

State law references: Interlocal Cooperation Act of 1974, MCA 1972, § 17-13-1 et seq.; municipal regulation of circuses, shows, theaters and other amusements, MCA 1972, § 21-19-33; business on Sundays, MCA 1972, § 21-19-39; municipal franchises for pipes, conduits and pipelines, MCA 1972, § 21-27-5; local privilege taxes, MCA 1972, § 27-17-1 et seq.; weights and measures, MCA 1972, § 75-27-1 et seq.; transient vendors, MCA 1972, § 75-85-1 et seq.; certain minors prohibited from entering pool room or billiard hall, MCA 1972, § 97-5-11.

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Article I. In General

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Article II. Privilege Taxes

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Sec. 22-32. Collection.

Sec. 22-33. When tax due.

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#### ARTICLE I. IN GENERAL

Secs. 22-1--22-30. Reserved.

#### ARTICLE II. PRIVILEGE TAXES

Sec. 22-31. Levy and imposition.

There is hereby levied and imposed a tax upon the privilege of doing business, as specified in MCA 1972, §§ 27-17-23, 27-17-5, 27-17-9, 27-17-365, 27-17-453, 27-17-463, 27-17-465, 27-17-467, 27-17-479 and 27-17-485.

(Ord. of 8-2-1988, § 1)

Sec. 22-32. Collection.

The tax levied and imposed hereby shall be collected in the manner set forth in MCA 1972, §§ 27-17-5, 27-17-9, 27-17-365, 27-17-453, 27-17-463, 27-17-465, 27-17-467, 27-17-479 and 27-17-485.

(Ord. of 8-2-1988, § 2)

Sec. 22-33. When tax due.

The tax levied and imposed hereby shall be due and collectible annually on the date of renewal.

(Ord. of 8-2-1988, § 3)

Secs. 22-34--22-60. Reserved.

#### ARTICLE III. SLOT AMUSEMENT MACHINES

Sec. 22-61. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Clerk means the city clerk of the city.

Person means and includes any individual, firm, partnership, joint venture, association, corporation, estate, trust, or other group or combination acting as a unit.

Slot amusement machine and machine mean any mechanical device or contrivance which is operated, played, worked, manipulated, or used by inserting or depositing any coin, slug, token, or thing of value,

in which may be seen any picture or heard any music, or wherein any game may be played, or any form of diversion had.

(Ord. of 10-6-1981, § II)

Cross references: Definitions generally, § 1-2.

Sec. 22-62. Tax levied.

Pursuant to the authority granted to the city by MCA 1972, § 27-27-5, there is hereby levied and imposed upon each person engaging in the business of owning or placing on location for the purpose of operation any slot amusement machine, annual license taxes according to the following schedules:

- (1) For each machine not elsewhere specifically taxed in this section wherein or whereby any game may be played or any form of diversion had a license tax for each such machine the sum of \$45.00.
- (2) For each machine wherein may be seen any picture or heard any music, a license tax for each such machine the sum of \$27.00.
- (3) For each machine not elsewhere specifically taxed in this section wherein or by means of which children may obtain a ride upon a "hobby horse" or the figure of any animal, or upon the figure of a boat, airplane, rocket, or other such machine, a license tax of \$18.00 for each machine.

(Ord. of 10-6-1981, § III)

Sec. 22-63. License required.

- (a) Every person engaged in the business of owning or placing on location in the city for the purpose of operation any slot amusement machine shall file an application for a license with the city clerk on forms furnished by him for that purpose. The application shall contain such information as may be required by the city clerk and shall be accompanied by remittance for the amount of tax and any penalty required. Persons owning or placing on location more than one machine may apply for a license authorizing the operation of the machines at the various locations in the city, and such license when issued shall show the total number of each type machine for which the license was issued and the amount of tax paid by the applicant. The clerk shall then issue to the licensee individual stickers for the number of machines applied for, which shall be evidence of payment of the tax.
- (b) The tax levied shall be due and payable annually on January 1, and all licenses issued under the provisions of this article shall expire annually on December 31. A license may be renewed and stickers affixed to the machine without penalty during the month of January. The amount of the license tax to be paid for a period of less than 12 months shall be that proportionate amount of the annual license tax that the number of months, or fractional part thereof, remaining until January 1 next bears to 12 months.
- (c) The clerk shall issue a license or sticker on a form to be prescribed by him. Such license or stickers shall be securely affixed or attached to the machine to which it applies in such manner as to be

readily visible and shall be affixed before the machine is operated or played. The absence of a proper license or sticker affixed to a machine shall be prima facie evidence of failure to pay the tax levied for operation of the machine.

(d) The license shall entitle the owner or the person placing the machine on location for the purpose of operation to operate a machine of the type specified until December 31 next. In no case may a license be transferred from one machine to another machine.

(e) When ownership of a machine upon which a valid license or sticker is attached is transferred to another person, no additional tax shall be required.

(f) No refund shall be allowed for failure or inability to exercise the privilege granted after the license has been issued.

(Ord. of 10-6-1981, § IV)

Sec. 22-64. Penalties.

(a) Any person engaged in the business of owning or placing on location for the purpose of operation, any slot amusement machine without the payment of the tax imposed in this article, shall be liable for the amount of tax and 50 percent of the amount of the tax as penalty.

(b) Any person who has paid the tax for the operation of a machine, but who has failed to affix the license or sticker to the machine shall also be liable for 50 percent of the amount of the tax as penalty.

(c) It shall be unlawful for any person to place on location any machine without paying the tax levied in this article.

(Ord. of 10-6-1981, § V)

Sec. 22-65. License tax in addition to other taxes.

The license tax levied by this article shall be in addition to all other taxes levied by law.

(Ord. of 10-6-1981, § VI)

Sec. 22-66. Enforcement.

(a) The clerk, through any agent appointed by him, or any lawful officer directed by the clerk or his agent so to do, shall have full and complete authority, without an order from any court, to take possession of any slot amusement machine, and keep, seal or otherwise prevent the operation of such machine for failure to pay the license tax and any penalty, or for operation of such machine without a proper license or sticker affixed thereto.

(b) When such machine shall have been seized or possession taken to prevent further unlawful use thereof, the machine shall remain under the exclusive jurisdiction of such officer or agent seizing the machine until released by such officer or agent upon payment of the proper tax, penalty and costs, or

until machine is disposed of under a writ of venditioni exponas issued by the proper court for the collection of the taxes due, together with penalties and costs.

(c) Any operation of any machine after seizure of such machine by an agent of the clerk or lawful officer, or any disturbance of possession or notice of seizure posted by such agent or officer, shall be unlawful, and any person violating this provision shall be guilty of a misdemeanor and upon conviction thereof, may be punished as provided in section 1-13.

(Ord. of 10-6-1981, § VIII)

Sec. 22-67. Recordkeeping required.

It shall be the duty of every person taxable under this article to keep and preserve for a period of three years adequate records showing the location on which each machine is placed for the purpose of operation, type of machine and the size coin required to operate the machine one time.

(Ord. of 10-6-1981, § IX)

Sec. 22-68. Effective date.

This article shall take effect and be in force and effect from and on January 1, 1982.

(Ord. of 10-6-1981, § X)

Secs. 22-69--22-100. Reserved.

#### ARTICLE IV. TRANSIENT VENDORS\*

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\*Cross references: Streets, sidewalks and other public places, ch. 82.

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Sec. 22-101. Definition.

As used in this article, the terms "transient vendors," "transient business", and "person", shall have the same definition and meaning as is set forth in MCA 1972, § 75-85-1. The term "traveling photographer" shall mean any person who conducts business as a photographer and who is also a transient vendor or transient business as defined herein.

(Ord. of 9-17-1996, § 1)

Cross references: Definitions generally, § 1-2.

Sec. 22-102. Exceptions to article.

- (a) The provisions of this article shall not apply to:
- (1) Civic and nonprofit organizations or wholesale sales to retail merchants by commercial travelers;
  - (2) Wholesale trade shows or conventions;
  - (3) Sales of goods, wares, services or merchandise by sample, catalogue or brochure for future delivery;
  - (4) Fairs and convention center activities conducted primarily for amusement or entertainment;
  - (5) Any general sale, fair, circus, auction or bazaar sponsored by a church or religious organization;
  - (6) Garage sales held on premises devoted to residential use;
  - (7) Sales or repairs of crafts or sales or repairs of items made by hand by the person making the crafts or items;
  - (8) Duly licensed flea markets operating from a fixed location;
  - (9) Sales of agricultural, dairy, poultry, seafood or forest management products or services related to forest management or silvicultural activities, nursery products, foliage plants or ornamental trees, except such products or services sold at retail and not grown or produced within the state;
  - (10) Sales of agricultural services.
- (b) A transient vendor not otherwise exempted from this article is not exempted from this article because of a temporary association with a local dealer, auctioneer, trader, contractor or merchant, or by conducting the transient business in connection with or in the name of any local dealer, auctioneer, trader, contractor or merchant.

(Ord. of 9-17-1996, § 2)

Sec. 22-103. Compliance with state law.

A transient vendor, transient business and traveling photographer may not transact business in the city unless there has been compliance with all applicable provisions of MCA 1972, §§ 75-85-5, 75-85-7, 75-85-11, 75-85-13 and 75-85-15, as provided for in this article.

(Ord. of 9-17-1996, § 3)

Sec. 22-104. License requirement.

(a) Any transient vendor, transient business and traveling photographer who desires to transact business within the city shall apply for and obtain a license issued by the municipal tax collector. In making application for such license, the applicant shall provide:

- (1) The name and permanent address of the vendor making the application;

- (2) A statement describing the kind of business to be conducted, the length of time for which the applicant desires to transact the business, and the proposed location of the business;
  - (3) The name and permanent address of the applicant's registered agent or office; and
  - (4) Proof that the applicant has acquired all other required city, county and state permits and licenses. Such proof shall include a state sales tax number and, if the transient vendor desires to transact business in a municipality, such number shall include such city's sales tax diversion code.
- (b) If the applicant is an association or corporation, the applicant must also include the names and addresses of the members of the association or the officers of the corporation. If the applicant is a corporation, the application must state the date of incorporation and the state in which it was incorporated. If the applicant is a corporation organized under the laws of another state, the applicant must state the date on which the corporation qualified to transact business as a foreign corporation in this state.

(Ord. of 9-17-1996, § 4)

Sec. 22-105. Record of transient vendors and businesses.

The municipal tax collector shall maintain an alphabetical list of all transient vendors, transient businesses and traveling photographers in the city and the names and addresses of their registered agents.

(Ord. of 9-17-1996, § 5)

Sec. 22-106. Registered agent.

(a) Each applicant for a license under the provisions of this article shall designate a registered agent on the license application. The registered agent must be a resident of the city and shall be the agent on whom any process, notice or demand required or permitted by law to be served on the licensee may be served. The registered agent must agree in writing to act as the agent. The license applicant shall file a copy of the agreement with the license application.

(b) If a transient vendor, transient business or traveling photographer who does business in the city fails to have or to maintain a registered agent in the city or if the designated registered agent cannot be found at the stated permanent address, the municipal tax collector is the agent of the transient vendor, transient business or traveling photographer for service of process, notices or demands. Service on the municipal tax collector is made by delivering to his office duplicate copies of the process, notice or demand. If such a process, notice or demand is served on the tax collector, he shall immediately forward one copy by registered or certified mail to the permanent address of the transient vendor, transient business or traveling photographer.

(Ord. of 9-17-1996, § 6)

Sec. 22-107. License fee.

(a) Each applicant for a license under the provisions of this article shall include a license fee of \$250.00 with the application. Such fees shall be deposited in the general fund of the municipality. The applicant shall also execute a cash bond or a surety bond issued by a corporate surety authorized to do business in this state in an amount that is the lesser of either \$2,000.00 or five percent of the wholesale value of any merchandise or service to be offered for sale by the applicant. The surety bond shall be issued in favor of the state and shall be conditioned upon payment of:

- (1) All taxes due from the applicant to the state or to any political subdivision of the state;
- (2) Any fines assessed against the applicant or the applicant's agents or employees for a violation of this article; and
- (3) Any judgment rendered against the applicant or the applicant's agents or employees in a cause of action commenced by a purchaser of merchandise or services not later than one year after the date the merchandise or services were sold by the applicant.

(b) The transient vendor, transient business or traveling photographer shall maintain the bond during the period that business is conducted in the city and for a period of one year after the termination of the business. After the transient vendor, transient business or traveling photographer furnishes satisfactory proof to the tax collector that the vendor has satisfied all claims of purchasers of merchandise from or services offered by the vendor and that all sales taxes and other applicable taxes have been paid, the bond shall be released.

(Ord. of 9-17-1996, § 7)

Sec. 22-108. Issuance of license; transferability and expiration.

(a) The municipal tax collector shall issue a license under this article only if all requirements of this article have been met. The license is not transferrable and expires 90 days after the date of issuance.

(b) A license may be renewed on payment of a \$25.00 renewal fee and filing for a renewal with the municipal tax collector before the expiration of the current license. A license may be renewed only one time after which a licensee must again purchase a new license pursuant to section 22-107.

(Ord. of 9-17-1996, § 8)

Sec. 22-109. Posting of license; account of sales.

While transacting business, a transient vendor, transient business or traveling photographer shall post in a prominent place, so that they may clearly be seen by purchasers of the merchandise or services which he is offering, his state sales tax number, his vendor license number and a statement that he is required to give purchasers, at the time of payment, receipts for purchases that include sales tax. The postings required in this section shall be written in bold, legible letters and numbers not less than one inch in height. The transient vendor shall keep a running total of his sales.

(Ord. of 9-17-1996, § 9)

Sec. 22-110. Operation of business without valid license.

Any person who knowingly or intentionally operates a transient business without a valid license as provided by this article or who knowingly or intentionally advertises, offers for sale, or sells any merchandise or services in violation of this article shall, upon conviction, be guilty of a misdemeanor and, upon conviction thereof, shall be punished as provided in section 1-13. Such person may also be proceeded against by suit, and the tax collector may seize and sell any property of the person liable for the tax and penalty in the same manner as the property of taxpayers delinquent for the payment of ad valorem taxes due on personal property may be distrained and sold.

(Ord. of 9-17-1996, § 10)

Sec. 22-111. Form of application for house-to-house soliciting permit.

APPLICATION FOR PERMIT -- HOUSE-TO-HOUSE SOLICITING

TABLE INSET:

\_\_\_\_\_ 20 \_\_\_\_\_

TO THE CITY CLERK

CITY OF CLINTON, MISSISSIPPI

TABLE INSET:

I, \_\_\_\_\_, \_\_\_\_\_

(home address)

Social Security No. \_\_\_\_\_, do hereby make application for a PERMIT (Circle One) Person to Person, Telephone, or Mailing as a (Circle One) Solicitor, Peddler, Canvasser, Salesman, Hawker, Itinerant Merchant or Vendor, to conduct the business of house-to-house soliciting in the City of Clinton, Mississippi, for:

TABLE INSET:

\_\_\_\_\_

(Business Name) \_\_\_\_\_

(Address)

Is Firm Incorporated? \_\_\_\_\_ When? \_\_\_\_\_ Where? \_\_\_\_\_

State Sales Tax Number \_\_\_\_\_ State License Number \_\_\_\_\_

Last two locations in which you worked (1) \_\_\_\_\_

(2) \_\_\_\_\_ PRODUCT OR MERCHANDISE INVOLVED \_\_\_\_\_

\_\_\_\_\_ General Description of product, service and/or operation (if covered by printed matter, please attach) \_\_\_\_\_

How long have you been employed in the service of this product? \_\_\_\_\_

Have you or your employer ever been bankrupt or insolvent? \_\_\_\_\_

(Ord. of 9-17-1986)

Secs. 22-112--22-140. Reserved.

#### ARTICLE V. VEHICLE WRECKER AND TOWING SERVICES\*

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\*Cross references: Traffic and vehicles, ch. 98.

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Sec. 22-141. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Wrecker means a person engaged in the business, or offering the services, of a vehicle wrecker or towing service, whereby disabled motor vehicles are towed or otherwise removed from the place where they are disabled by use of a wrecker so designed for the purpose or by a truck, automobile or other vehicle so adapted to that purpose.

(Ord. of 1-18-1994, § 2)

Cross references: Definitions generally, § 1-2.

Sec. 22-142. License required.

No wrecker shall engage in business within the city or offer such service within the city without first obtaining a license as provided in this article from the city clerk.

(Ord. of 1-18-1994, § 3)

Sec. 22-143. Application for license.

Applications for licenses issued under this article shall be made upon blank forms prepared and made available by the city clerk. Applicants shall furnish the following information:

- (1) The name, home address, and proposed business address of the applicant.
- (2) The location, description and hourly availability of the tow trucks owned or operated by the applicant.
- (3) That the applicant has available space for properly accommodating and protecting all disabled motor vehicles to be towed or otherwise removed from the place where they are disabled.
- (4) Such other information as the chief of police shall find reasonably necessary to effectuate the purpose of this article and to arrive at a fair determination of whether the terms of this article have been complied with.

(Ord. of 1-18-1994, § 4)

Sec. 22-144. Application fee.

An application for a license under this article shall be accompanied by an application fee of \$25.00.

(Ord. of 1-18-1994, § 5)

Sec. 22-145. Insurance policies.

(a) Policies required. No license shall be issued to an applicant under this article until he shall have deposited with the city clerk the following insurance policies:

(1) Garage keeper's policy. A garage keeper's legal liability policy covering fire, theft, and explosion in the minimum amounts of \$100,000.00, and collision coverage subject to any amount up to a maximum of \$250.00 deduction with each accident deemed a separate claim.

(2) Garage liability policy. A garage liability policy, covering the operation of applicant's business, equipment, or vehicles, for any bodily injury or property damage. This policy will be in the amounts of \$100,000.00 for any one person killed or injured and \$500,000.00 for more than one person injured or killed in any one accident. This policy shall also provide \$50,000.00 coverage for all damage arising out of injury to or destruction of property.

(b) Notice of change or cancellation. Each policy required in this section must contain an endorsement providing for ten days' notice to the city in the event of any material change or cancellation.

(Ord. of 1-18-1994, § 6)

Sec. 22-146. Investigation by chief of police.

Within ten days after receipt of an application for a license as provided for in this article the chief of police shall cause an investigation to be made of the applicant and of his proposed operation.

(Ord. of 1-18-1994, § 7)

Sec. 22-147. Standards for issuance.

The chief of police shall issue a license under this article when he finds:

- (1) The public convenience and necessity require the proposed wrecker service for which application has been submitted;
- (2) Insurance policies as required by this article have been procured;
- (3) The applicant and all employees are fit and proper persons to conduct or work in the proposed business;
- (4) The requirements of this article and all other governing laws and ordinances have been met.

(Ord. of 1-18-1994, § 8)

Sec. 22-148. License fee.

A license shall be issued to a successful applicant under this article after payment to the city clerk of a license fee of \$25.00. The license issued under this article shall be valid for one year from date of issue at which time a licensee may reapply as set out in this article.

(Ord. of 1-18-1994, § 9)

Sec. 22-149. Promulgation of regulations by chief of police.

The chief of police shall adopt and enforce reasonable rules and regulations for wreckers.

(Ord. of 1-18-1994, § 10)

Sec. 22-150. Duties of licensees; conditions of license.

A wrecker license under this article shall be issued subject to the following conditions:

- (1) Possession of certificate. The chief of police shall issue to a licensed wrecker a certificate which the wrecker shall at all times carry in each wrecker or other vehicle used for towing purposes.
- (2) Maintenance of equipment. Wreckers shall keep and maintain tow vehicles and towing equipment which is adequate to perform such towing service in a safe and reasonably workmanlike manner.
- (3) Compliance with rate schedule. Wreckers shall charge for their services such rates not to exceed as follows:
  - a. For daytime tow within the city, \$50.00;
  - b. For a nighttime or weekend tow within the city, \$60.00;
  - c. Use of dolly wheels or winch, \$25.00;

- d. For time in excess of 20 minutes at the scene of tow for work necessary to accomplish tow, \$34.00 per hour or portion thereof;
  - e. For tow outside the city, \$1.00 per mile one way; provided, however, no mileage charge shall be made for towing to a holding area of the wrecker service;
  - f. For storage of vehicles at the holding area of a wrecker service, \$10.00 per 24-hour period after the first 24 hours.
- (4) Rotation of city towing. Wreckers shall perform towing service for the city on a rotation basis.
  - (5) Interception of police calls. No wrecker shall intercept police calls by short wave radio.
  - (6) Place of business. All licensees must maintain their physical business premises within the territorial limits of the city, and must also maintain a secure place for storage for properly accommodating and protecting all disabled motor vehicles within the city. Such impound areas must consist of an area surrounded by a chainlink fence and secured by a locked gate, or a building which is locked to prevent casual access.
  - (7) Access to vehicles. Wreckers shall be available during normal business hours (8:00 a.m. to 5:00 p.m., Monday through Friday) for vehicles to be picked up the next business day after they are towed.

(Ord. of 1-18-1994, § 11)

#### Sec. 22-151. Revocation of license.

The chief of police shall revoke a license issued under this article when he finds any of the following grounds:

- (1) The license was procured by fraudulent conduct or false statement of a material fact, or that a fact concerning the applicant was not disclosed at the time of his making application, and such fact would have constituted just cause for refusal to issue such license.
- (2) The licensee illegally employed a shortwave radio to obtain information as to the location of the scene of an accident or disabled vehicle.
- (3) The licensee paid in the form of a gratuity any third person not involved in the accident for information as to the location of the accident.
- (4) The licensee has violated the fee schedule by overcharge.
- (5) The licensee has violated any of the requirements of this article or any of the rules and regulations as established by the chief of police or the city governing authority.

(Ord. of 1-18-1994, § 12)

#### Sec. 22-152. Penalties.

The penalty for violating this article shall be disqualification from police calls for a period of one year or a fine of \$250.00, or both.

(Ord. of 1-18-1994, § 13)

Chapters 23--25 RESERVED

Chapter 26 COURTS\*

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\*Cross references: Administration, ch. 2; law enforcement, ch. 54; offenses and miscellaneous provisions, ch. 62; traffic and vehicles, ch. 98.

State law references: Municipal courts, MCA 1972, § 21-23-1 et seq.

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Sec. 26-1. Office of deputy clerk created; duties.

Sec. 26-2. Surcharge for "Crime Stoppers" fund.

Sec. 26-1. Office of deputy clerk created; duties.

(a) Proceeding under MCA 1972, § 21-23-11, there is created the office of a deputy clerk of the municipal court of the city, who will be authorized to receive appearance bonds or bail or bail bonds from persons charged with offenses before the municipal court of the city.

(b) The deputy clerk shall daily report to the city clerk or the municipal court any and all appearance bonds or bail or bail bonds received, and turn over and deliver all such appearance bonds or bail, together with the names of the parties giving the bond, and giving the offense for which such bond was received.

(Ord. of 6-5-1962, §§ I, II)

Sec. 26-2. Surcharge for "Crime Stoppers" fund.

There is imposed upon the fine and cost of all moving violations for which cash bonds may be posted at the office of municipal court services a surcharge of \$2.00 per offense and that the monies collected thereby shall be paid into a "Crime Stoppers" fund for the purpose of paying the city's cost to participate in the "Crime Stoppers" program.

(Ord. of 7-6-1993)

Chapters 27--29 RESERVED

Chapter 30 ELECTIONS\*

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\*Cross references: Administration, ch. 2.

State constitution references: Elector qualifications in municipal elections, Miss. Const. art. 12, § 245.

State law references: Mississippi Election Code, MCA 1972, § 23-15-1 et seq.; law applicable to municipal elections, MCA 1972, § 23-15-559; determination of municipal elections, MCA 1972, § 23-15-611.

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Sec. 30-1. Polling place for municipal elections.

Sec. 30-2. Ward lines.

Sec. 30-1. Polling place for municipal elections.

The polling places for all municipal elections shall be as follows:

TABLE INSET:

Ward One Federation Towers 301 Federation Drive  
Ward Two Wildwood Baptist Church 101 Auburn Drive  
Ward Three Miss. National Guard Armory 1500 East Northside Drive  
Ward Four Holy Savior Catholic Church Old Vicksburg at Lyndale  
Ward Five Clinton Public Library  
Ward Six Fellowship Hall First United Methodist Church Highway 80

(Ord. of 2-16-1988, § 1)

Sec. 30-2. Ward lines.

The ward lines of the city shall be as set forth in this section and the location of the polling places shall remain unchanged.

(1) Ward 1: Begin at the common corner of Sections 10, 11, 14, and 15 of Township 6 North, Range 2 West, which is also the Northwest corner of the corporate limits of the City of Clinton, Mississippi, go east to the intersection of the centerline of Pinehaven Road: thence, go south along the centerline of Pinehaven Road to the intersection of the Section line 17, Township 6 North, Range 1 West; thence, follow the sectionline westerly to its intersection with the centerline of Federation Drive; thence, follow the centerline of Federation Drive South, southwesterly along the centerline of Federation Drive to its intersection with the centerline of West Northside Drive; thence, go southeasterly along the centerline of West Northside Drive to its intersection with the centerline of Monroe Street; thence, go in a southerly direction along the centerline of Monroe Street to its intersection with the centerline of the Illinois Central Gulf Railroad right-of-way; thence, go in a generally northwesterly direction along the

centerline of the ICG Railroad right-of-way to its intersection with the channel of Lindsey Creek; thence, go in a southwesterly direction along the center channel of Lindsey Creek to its intersection with the centerline of U.S. Highway 80; thence, go in a southeasterly direction along the centerline of U.S. Highway 80 to its intersection with the centerline of Clinton Raymond Road; thence, proceed generally southerly direction, thence southwesterly on the centerline of Clinton-Raymond Road to its intersection with the Westerly boundary of the Corporate Limits of the City of Clinton; thence, proceed in a northerly direction along the Corporate Limits to the corner of Section 25, 26, 35 and 36 of Township 6 North, Range 2 West; thence, proceed due West along the Corporate Limit lines; thence, northerly then again due West then northerly along the Corporate Limit lines to the corner of Section 10, 11, 14 and 15, Township 6 North, Range 2 West, which is the point of beginning.

(2) Ward 2: Begin at the intersection of the centerline of Clinton Raymond Road and the centerline of Midway Road; thence, proceed in a southerly direction along the centerline of Midway Road which is also the corporate limit line; thence, follow the corporate boundaries easterly thence southerly thence easterly then again southerly to the intersection of the centerline of McRaven Road; thence, easterly along the corporate limit line, thence southerly then again easterly thence southerly along the corporate limit lines to the southwest corner of the City of Clinton; thence, follow the corporate limit lines easterly, thence northerly to its intersection of Sections 5, 6, 7, and 8 of Township 5 North, Range 1 West thence proceed easterly to the right-of-way of Springridge Road; thence, go northerly along the Western right-of-way of Springridge Road which is also the Corporate Boundaries in a northerly direction to the intersection of the centerline of Trailwood Drive; thence westerly, southerly, westerly and northerly along the centerline of Trailwood Drive to its intersection with the centerline of Clinton Raymond Road; thence, generally southwesterly along the centerline of Clinton Raymond to its intersection with the centerline of Midway Road which is also the point of beginning.

(3) Ward 3: Begin at the northeasterly corner of the city limits of the City of Clinton and proceed westerly along the corporate limit boundary to its intersection with the centerline of Pinehaven Road; thence, proceed in a southerly direction along the centerline of Pinehaven Road to southern boundary of Section 17, Township 6 North, Range 1 West; thence, proceed westerly along sectionline of the southern boundary of Section 17, Township 6 North, Range 1 West, to its intersection with the centerline of Federation Drive; thence, southerly along the centerline of Federation Drive to its intersection with the centerline of West Northside Drive; thence in a generally southeasterly direction along the centerline of Northside Drive to its intersection with the centerline of Berkshire Street; thence, generally in a southerly direction along the centerline of Berkshire Street to its intersection with the centerline of Post Road; thence, easterly along the centerline of Post Road to its intersection with the centerline of Arlington Street; thence, generally southeasterly and easterly along the centerline of Arlington Street to its intersection with the centerline of Tanglewood Drive; thence northerly along the centerline of Tanglewood Drive to the intersection of the centerline of Northside Drive; thence in a generally northeasterly direction along the centerline of Northside Drive, thence easterly along Northside Drive to the corner of Section 15 and 16, Township 6 North, Range 1 North and Section 21 and 22 of Township 6 North, Range 1 West; thence, go southerly along the section line to the intersection of the corners of Section 21 and 22, 26 and 27 of Township 6 North, Range 1 West; thence, easterly along

the section line which is also the corporate limits run thence north along the east section lines of Section 22, Township 6 North, Range 1 West, to the northeast corner of the southwest quarter of said Section 22, Township 6 North, Range 1 West; run thence east along the south line of the west one-half of the northwest quarter of Section 23, Township 6 North, Range 1 West to the southeast corner of the west one-half of the northwest quarter of such Section 23, Township 6 North, Range 1 West; run thence north along the east line of the west one-half of the northwest quarter of Section 23, Township 6 North, Range 1 West to the north line of the west one-half of the northwest quarter of Section 23, Township 6 North, Range 1 West; run thence west along the north line of the west one-half of the northwest quarter of Section 23, Township 6 North, Range 1 West to the northwest corner of Section 23, Township 6 North, Range 1 West, thence run along the east line of Section 15, Township 6 North, Range 1 West to the northeast corner of Section 15, Township 6 North, Range 1 West the northeast corner of the City of Clinton which is the point of beginning.

(4) Ward 4: Begin at the corner of Section 15, 16 Township 6 North, Range 1 West and Section 21 and 22 of Township 6 North, Range 1 West; thence, follow the centerline of Northside Drive in a generally westerly and southwesterly direction to the intersection of the centerline of Tanglewood Drive; thence generally southeasterly, thence southerly direction along the centerline of Tanglewood Drive to its intersection with the centerline of Arlington Street; thence, in a generally westerly direction along Arlington Street to the intersection of the centerline of Post Road; thence, in a generally westerly direction along the centerline of Post Road to its intersection of West Lakeview Drive; thence, in a generally southerly direction along the centerline of West Lakeview Drive to the intersection of the centerline of U.S. Highway 80; thence proceed in an easterly direction along the centerline of U.S. Highway 80 to its intersection with the center line of the MP&L private drive; thence, northerly along the centerline of MP&L private drive to its intersection with the centerline of Clinton Blvd.; thence, in a generally easterly along the centerline of Clinton Blvd. to its intersection with the Clinton Corporate Limits; thence, northerly along the Corporate Limit Line to its intersection with the centerline of Northside Drive, which is also Section 15, 16, 21, 22 of Township 6 North Range 1 West, the point of beginning.

(5) Ward 5: Begin at the intersection of the centerline of Northside Drive and the centerline of Monroe Street; thence, proceed in a southerly direction along the centerline of Monroe Street to the intersection of the center right-of-way of the Illinois Central Gulf Railroad right-of-way; thence, in a generally northwesterly direction along the Illinois Central Gulf Railroad to the center channel of Lindsey Creek; thence, in a generally southwesterly direction along the center channel of Lindsey Creek to its intersection with the centerline of U.S. Highway 80; thence, in a generally southeasterly direction along the centerline of U.S. Highway 80 to the intersection of the centerline of Clinton Raymond Road; thence, in a generally southerly direction along Clinton Raymond Road to its intersection with the centerline of Trailwood Drive; thence, in a generally easterly, thence southerly, thence easterly, thence northerly, thence easterly direction along the centerline of Trailwood Drive to its intersection with the centerline of Springridge Road; thence, northerly along the centerline of Springridge Road to its intersection with the centerline of U.S. Highway 80 West; thence, in a generally easterly direction along U.S. Highway 80 West to its intersection with the centerline of West Lakeview Drive; thence, in a generally northerly

direction along the centerline of West Lakeview Drive to its intersection with the centerline of Post Road; thence in a generally westerly direction along the centerline of Post Road to the intersection of the centerline of Berkshire Street; thence, in a generally northerly direction along the centerline of Berkshire Street to its intersection with the centerline of West Northside Drive; thence in a generally westerly direction along the centerline of West Northside Drive to its intersection with the centerline of Monroe Street which is also the point of beginning.

(6) Ward 6: Begin at the intersection of the centerline of U.S. Highway 80 and the centerline of Springridge Road; thence, proceed in a easterly direction along the centerline of U.S. Highway 80 to its intersection with the centerline of the MP&L private drive; thence, northerly along the centerline of the MP&L private drive to its intersection with the centerline of Clinton Blvd.; thence, easterly along the centerline of Clinton Blvd. to its intersection with the centerline of Shaw Road which is also the corporate limits; thence, in a generally southerly direction along the centerline of Shaw Road which is also the corporate limit line to its intersection with the southern right-of-way of U.S. Highway 80; thence northwesterly, thence southerly, thence westerly, thence southerly along the common corporate boundaries between the City of Jackson City Limits and the City Limits of Clinton thence westerly, thence southerly and thence westerly, thence southerly to the intersection of the northern right-of-way of the McRaven Road; thence, generally northwesterly along the northern right-of-way of McRaven Road to its intersection with the centerline of Springridge Road; thence, in a generally northerly direction along the centerline of Springridge Road to its intersection of U.S. Highway 80 which is the point of beginning.

(Ord. of 3-5-1996, § 1)

Chapters 31--33 RESERVED

Chapter 34 ENVIRONMENT\*

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\*Cross references: Animals, ch. 14; buildings and building regulations, ch. 18; dangerous buildings, § 18-101 et seq.; limit in which storage of explosives and blasting agents, storage of flammable liquids in outside aboveground tanks, and bulk storage of liquefied petroleum gases restricted, § 38-56; motor vehicle routes for transportation of explosives and blasting agents, § 38-57; motor vehicle routes for transportation of hazardous chemicals or other dangerous articles, § 38-58; floods, ch. 42; health and sanitation, ch. 46; historical and other preservation, ch. 50; natural resources, ch. 58; planning, ch. 70; streets, sidewalks and other public places, ch. 82; subdivisions, ch. 86; utilities, ch. 102; zoning, ch. 106.

State law references: Abatement of nuisances, MCA 1972, §§ 21-19-1, 41-23-13; power of city to preserve good order and peace, MCA 1972, § 21-19-15; nuisances relating to prostitution, controlled substances, etc., MCA 1972, § 95-3-1 et seq.; disturbance in public place, MCA 1972, § 97-35-13.

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Article I. In General

Secs. 34-1--34-30. Reserved.

Article II. Noise

Sec. 34-31. Findings and intent.

Sec. 34-32. General noise prohibition.

Sec. 34-33. Specific unlawful noises.

Sec. 34-34. Exemptions.

Sec. 34-35. Permits; designation of quiet zone.

Sec. 34-36. Penalty.

Secs. 34-37--34-70. Reserved.

Article III. Erosion Control

Sec. 34-71. Responsibility for erosion prevention on development sites.

Sec. 34-72. Actions to prevent erosion and the accumulation of sediment.

Sec. 34-73. Corrective actions.

Sec. 34-74. Payment of expenses; restoration of property.

Sec. 34-75. Penalty.

ARTICLE I. IN GENERAL

Secs. 34-1--34-30. Reserved.

ARTICLE II. NOISE

Sec. 34-31. Findings and intent.

- (a) Unreasonable noise degrades the environment of the city to a degree which:
- (1) Harms and degrades the health, welfare and safety of its citizens;
  - (2) Interferes with the comfortable enjoyment of life, property and recreation, and with the conduct and operation of commerce and industry; and
  - (3) Constitutes a nuisance.
- (b) No one has a right to create unreasonable noise.

(c) Effective control and elimination of unreasonable noise is essential to the furtherance of the health and welfare of the citizens of the city, and to the normal pursuits of life, recreation, commercial and industrial activity.

(d) A busy city creates sufficient noise by its own activity, which cannot be eliminated, thus the public interest is best served by elimination of additional unreasonable noise within the corporate limits.

(e) It is the legislative intent of the board of aldermen that the increased use of portable or mobile sound generating equipment (such as "boom-boxes," radios, stereos, tape or compact-disk players) outside of dwellings, upon the public rights-of-way, and in parks or on the porches and steps of dwellings or buildings be discouraged; and the use of such devices in these places at loud levels should be encouraged only with headphones or other devices which will limit the noise from such devices to be heard by those who wish to enjoy it and not to create a nuisance for those who do not wish to hear the noise.

(f) It is also the legislative intent of the board of aldermen that commercial establishments which provide entertainment, such as amplified live or recorded sounds, be discouraged from having such entertainment audible outside of the premises.

(Ord. of 4-21-1992, § 1)

#### Sec. 34-32. General noise prohibition.

It shall be unlawful for any person within the city to make, continue or cause to be made or continued, any loud, disturbing, unreasonable or unusual noise which either disturbs or endangers the comfort, repose, health, peace or safety of others within the city limits.

(Ord. of 4-21-1992, § 2)

#### Sec. 34-33. Specific unlawful noises.

The following acts, among others, are declared to be loud, disturbing, unreasonable and/or unusual noises in violation of this article, but such enumeration shall not be deemed to be exclusive, namely:

(1) Motor noises. Any noise made by the motor of any automobile, truck, tractor, motorcycle, not reasonably required in the operation thereof under the circumstances and shall include but not be limited to motor racing and backfiring.

(2) Horns and signaling devices. The sounding of any horn or signaling device on any automobile, motorcycle, bus, or other vehicle on any public right-of-way of the city, except as a danger warning; the creation of any loud or harsh noise by any horn or signaling device, or the sounding of any horn or signaling device for an unreasonable or unnecessary period or time or number of times; the use of any signaling device except one operated by hand or electricity; the use of any horn, whistle or any other device operated by engine exhaust; and the use of any such signaling device when traffic is for any reason delayed or detained.

- (3) Yelling or shouting. Yelling, shouting, hooting, whistling, singing or blowing of horns on the public rights-of-way, or at any time or in any place in a manner to annoy or disturb the quiet, comfort, or repose of persons in any office, or in any dwelling, hotel, motel, apartment or other type of residence, or of any persons in the vicinity.
- (4) Pile drivers, hammers, etc. The operation between the hours of 10:00 p.m. and 7:00 a.m. of any pile driver, steam shovel, pneumatic hammer, derrick, steam or electric hoist or other appliance, the use of which is attended by loud or unusual noise.
- (5) Tools. The use of or operation between the hours of 10:00 p.m. and 7:00 a.m. of any power saw, power planer, or other powered tool or appliance or saw or hammer, or other tool, so as to disturb the quiet, comfort, or repose of persons in any dwelling, hotel, motel, apartment, or other type of residence, or of any person in the vicinity.
- (6) Blowers. The operating of any noise-creating blower or power fan or any internal combustion engine the operation of which causes noise due to the explosion of operating gases or fluids, unless the noise from such blower or fan is muffled and such engine is equipped with a muffler device sufficient to deaden such noise.
- (7) Exhausts. The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine, motor boat, motorcycle or motor vehicle except through a muffler or other device which will effectively prevent loud or explosive noises therefrom. No person while on a public or private highway, street or road shall operate a motor vehicle with the muffler cut out or removed.
- (8) Loading, unloading; opening boxes. The creation of a loud and excessive noise in connection with loading or unloading any vehicle or the opening and destruction of bales, boxes, crates, and containers.
- (9) Hawkers, peddlers and vendors. The shouting and crying of peddlers, hawkers and vendors which disturbs the peace and quiet of persons in the neighborhood.
- (10) Drums. The use of any drum or other instrument or device for the purpose of attracting attention by creation of noise to any performance, show or sale.
- (11) Transportation of metal rails, pillars and columns. The transportation of rails, pillars or columns of iron, steel or other material, over and along streets and other public places upon carts, drays, cars, trucks in any manner so as to cause loud noises or to disturb the peace and quiet of persons in the vicinity thereof.
- (12) Animals, birds, fowls. The keeping of any animal, bird or fowl which by causing frequent or long continued noise shall disturb the comfort or repose of persons in the vicinity.
- (13) Radios, tape players, etc. Any noise emitted from a radio, tape player, tape recorder, record player, compact-disk player or television outdoors on or in any publicly owned property or place,

including but not limited to public parks when such noise is audible to a person of normal hearing sensitivity 100 feet from such radio, tape player, tape recorder, record player, or television.

(14) Music. The playing of music by a live band or other instruments or devices utilizing sound amplification equipment and/or the amplification of voices in any manner so as to disturb the peace and quiet of persons in the vicinity thereof.

(Ord. of 4-21-1992, § 3)

Sec. 34-34. Exemptions.

The following uses and activities shall be exempt from the noise prohibitions described in other sections of this article:

(1) Nonamplified crowd noises resulting from legal activities, between the hours of 7:00 a.m. and 9:00 p.m.

(2) Construction operations for which building permits have been issued, or construction operations not requiring permits due to ownership of the project by an agency of government, provided such equipment is operated with the manufacturing mufflers and noise reducing equipment in use and in proper operating condition.

(3) Noises of safety signals, warning devices, and emergency pressure relief valves.

(4) Noises resulting from any authorized emergency, fire or police vehicle when responding to an emergency call, acting in time of emergency or in connection with official police or fire department business.

(5) Noises from emergency work, being work made necessary to restore property to a safe condition following a public calamity or work required to protect persons or property from an imminent exposure to danger or work by private or public utilities when restoring utility service.

(6) Noises made by places of worship using bells, chimes or carillons as part of their religious observance and by persons having obtained a permit to use the streets.

(7) Any aircraft operated in conformity with, or pursuant to, a federal law, federal air regulations, and air traffic control instructions and pursuant to and within the duly adopted federal air regulations. Any aircraft operating under technical difficulties in any kind of distress, under emergency orders of air traffic control or being operated pursuant to and subsequent to the declaration of an emergency under federal air regulations are also exempt.

(8) Use of public address systems in any ball park or stadium while an athletic contest is in progress therein.

(9) Cries for emergency assistance and warning calls.

(10) Any other noise resulting from activities of a temporary duration and for which a permit has been granted by the chief of police.

(Ord. of 4-21-1992, § 4)

Sec. 34-35. Permits; designation of quiet zone.

(a) Temporary permit for loudspeakers or other electrical devices. The chief of police may grant a temporary permit to persons desiring to use loudspeakers or other electrical devices for parades or for religious, social or political gatherings to be held in any park or other suitable place of assembly.

(1) Application. Any permit issued under this section should be issued only on written application which shall set forth the following:

- a. A description of the premises for which the permit shall issue.
- b. The dates and times for which the permit is to be issued.
- c. The name and address of the person applying for the permit.
- d. Any facts which would show that the activity for which the permit is sought would not disturb the peace of any family or person within the area into which the sound shall carry.
- e. The application for a permit under this section shall designate a responsible person to be present during the activity. Such person shall be responsible for conducting the activity in compliance with the provisions of the permit and must be present at all times.
- f. The application shall become a part of any permit issued.

(2) Issuance. The chief of police shall issue a permit only upon a showing that the activity will not disturb the peace of any family or person within the area within which the noise will carry. A permit shall be issued or denied within 15 days of receipt of a completed, signed application. The chief of police shall consider the following factors in considering whether to grant such a permit.

- a. The anticipated noise.
- b. The time of day the activity is to take place.
- c. The proximity of the activity to residential areas, schools, churches or other meetings places.
- d. Prior complaints from residents as a result of other similar activities.

If a permit is denied, the applicant may appeal the decision to the mayor and city council. Any such appeal shall be taken not more than ten days from denial of a permit by giving notice of the appeal to the city clerk.

(3) Revocation. The chief of police shall have the authority to revoke any permit issued on the finding of any of the following:

- a. The activity is being conducted in a manner inconsistent with the permit, including the description of the activity as set out in the application.
  - b. The activity is causing a disturbance of the peace of families or persons within the area into which the sound carries.
  - c. There is any misrepresentation of the activity on the application for the permit.
  - d. Other good cause.
- (b) Quiet zone. The chief of police may designate a quiet zone upon application by placing a sign at the beginning and end of such zone on a public street and that any person found guilty of violating this article in a quiet zone shall be subject to the penalty provided in this article.

(Ord. of 4-21-1992, § 5)

Sec. 34-36. Penalty.

Any person, firm or corporation violating any provision of the this article may be punished by the imposition of a fine in any amount not to exceed \$500.00, or be imprisoned for any term not to exceed 90 days, or punished by both such fine and imprisonment as determined in the discretion of the court.

(Ord. of 3-17-1998)

Secs. 34-37--34-70. Reserved.

### ARTICLE III. EROSION CONTROL

Sec. 34-71. Responsibility for erosion prevention on development sites.

The owner, or his designated agent, of any property upon which residential, commercial, or other types of development of any nature are proposed or are in progress after June 6, 2002, shall be responsible for taking necessary action to prevent erosion of the construction site and any resultant accumulation of sediment, debris or other materials upon property owned by the city or any other person.

(Ord. of 5-7-2002, § 2)

Sec. 34-72. Actions to prevent erosion and the accumulation of sediment.

Actions to prevent erosion and the accumulation of sediment shall be carried out to the satisfaction of the building official (for all development other than subdivisions) or superintendent of public works or city engineer (for subdivisions). Such necessary action may consist of the distribution of hay upon the construction site after grading, the placement of sedimentation cloth or geotextile material on the construction site, the placement of hay bales and silt fencing at selected locations, the construction of sedimentation pools, and/or other action considered satisfactory by the building official, superintendent of public works and/or city engineer.

(Ord. of 5-7-2002, § 3)

Sec. 34-73. Corrective actions.

If soil erosion occurs on any construction site resulting in accumulation of sediment and other materials on any other property, the responsible city official shall advise by certified or registered mail (return receipt requested) the owner or his designated agent that there is a violation of this article and shall advise him to take corrective action. The responsible city official may also hand deliver the notice of violation to the owner or his designated agent. If corrective action is not taken within three days following the owner's receipt of notice of violation, each day following such period shall constitute a separate violation and be subject to the penalties imposed by this article.

(Ord. of 5-7-2002, § 4)

Sec. 34-74. Payment of expenses; restoration of property.

Sediment or other materials accumulated as a result of any construction shall be cleaned up and removed at the expense of the owner or his designated agent. This section shall apply to construction underway on June 6, 2002, as well as construction initiated on or after June 6, 2002. The property impacted by such construction shall be restored to its condition at the time prior to the damage at the expense of owner of the property being developed.

(Ord. of 5-7-2002, § 5)

Sec. 34-75. Penalty.

Any person who knowingly and willfully violate the terms, conditions or provisions of this article shall be guilty of a misdemeanor and upon conviction therefor shall be punished as provided in section 1-13.

(Ord. of 5-7-2002, § 6)

Chapters 35--37 RESERVED

Chapter 38 FIRE PREVENTION AND PROTECTION\*

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\*Cross references: Buildings and building regulations, ch. 18.

State law references: Municipal regulation of fireworks, MCA 1972, § 21-19-15; municipal fire regulations, MCA 1972, § 21-19-21; mutual assistance pacts, MCA 1972, § 21-19-23; adoption of codes, MCA 1972, § 21-19-25; fire departments and fire districts, MCA 1972, § 21-25-1 et seq.; fire protection and safety, MCA 1972, § 45-11-1 et seq.; fireworks and explosives, MCA 1972, § 45-13-1 et seq.; false fire reports, MCA 1972, § 97-35-45.

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Article I. In General

Secs. 38-1--38-30. Reserved.

Article II. Codes Adopted

Division 1. Generally

Secs. 38-31--38-50. Reserved.

Division 2. Fire Prevention Code

Sec. 38-51. Fire code adopted.

Sec. 38-52. Fees.

Sec. 38-53. Permits.

Sec. 38-54. Enforcement.

Sec. 38-55. Definitions.

Sec. 38-56. Limits in which storage of explosives and blasting agents, storage of flammable liquids in outside aboveground tanks, and bulk storage of liquefied petroleum gases restricted.

Sec. 38-57. Motor vehicle routes for transportation of explosives and blasting agents.

Sec. 38-58. Motor vehicle routes for transportation of hazardous chemicals or other dangerous articles.

Sec. 38-59. Fire lanes.

Sec. 38-60. Modifications.

Sec. 38-61. Appeals.

Sec. 38-62. Penalties.

Secs. 38-63--38-80. Reserved.

Division 3. Life Safety Code

Sec. 38-81. Adopted.

Sec. 38-82. Copy on file; certification.

Sec. 38-83. Smoke detectors.

Secs. 38-84--38-100. Reserved.

#### Division 4. National Fire Codes

Sec. 38-101. Compliance with division.

Sec. 38-102. Application of division.

Sec. 38-103. Compliance with other laws.

Sec. 38-104. Exercise of police powers.

Sec. 38-105. Administration.

Sec. 38-106. Application and incorporation of National Fire Codes.

Sec. 38-107. Liability.

Sec. 38-108. Penalty.

Secs. 38-109--38-140. Reserved.

#### Article III. Automatic Sprinkler Systems

Sec. 38-141. Approved equipment and layout.

Sec. 38-142. Construction requirements.

Sec. 38-143. Hose threads.

Sec. 38-144. Requirements by occupancy.

Sec. 38-145. Other structures that shall be equipped with automatic sprinkler systems.

Sec. 38-146. Remodeling and/or additions.

Sec. 38-147. Article to control.

Secs. 38-148--38-180. Reserved.

#### Article IV. Fireworks

Sec. 38-181. Sale and use of fireworks prohibited; exception.

Sec. 38-182. Organized fireworks displays; certification of plans.

Sec. 38-183. Penalty.

#### ARTICLE I. IN GENERAL

Secs. 38-1--38-30. Reserved.

ARTICLE II. CODES ADOPTED

DIVISION 1. GENERALLY

Secs. 38-31--38-50. Reserved.

DIVISION 2. FIRE PREVENTION CODE

Sec. 38-51. Fire code adopted.

(a) Pursuant to the provisions of MCA 1972, § 21-19-25, the city adopts, in all respects, the following Standard Code:

Standard Fire Prevention Code--1997 Edition

(b) There shall be a copy of the code adopted in subsection (a) of this section filed with the city clerk, to which shall be annexed and attached a certificate bearing the signature of the mayor and city clerk, with the seal of the city affixed. The form of which certificate shall be substantially as follows:

We, the undersigned, Rosemary B. Aultman, Mayor of the City of Clinton, Mississippi, and Nelson Byrd, City Clerk of said city, do here by certify that the volume of the (applicable code) to which this certificate is attached, is a true and correct copy of the official code adopted by the City of Clinton, Mississippi, by ordinance under the date of February 17, 1998, and appearing in Minute Book 2 at Page \_\_\_\_\_.

GIVEN under our hand and official seal, this the 17th day February, 1998.

TABLE INSET:

\_\_\_\_\_

Mayor of the City of Clinton \_\_\_\_\_

ATTEST: City Clerk

(Ord. of 3-6-1973, § 1; Ord. of 5-6-1980, § 2; Ord. of 2-17-1998, §§ 1, 2)

Sec. 38-52. Fees.

The total fee for inspection of storage of explosives and blasting agents, storage of flammable liquids in outside aboveground tanks, and bulk storage of liquefied petroleum gases shall be as set by the board of aldermen. All fees shall be deposited in the general fund of the city.

(Ord. of 3-6-1973, § 2)

Sec. 38-53. Permits.

Permits for the storage of explosives and blasting agents, storage of flammable liquids in outside aboveground tanks, and bulk storage of liquefied petroleum gases shall be for one year from date of issue.

(Ord. of 3-6-1973, § 3)

Sec. 38-54. Enforcement.

The code adopted in section 38-51(a) shall be enforced by the chief of the fire department.

(Ord. of 3-6-1973, § 4)

Sec. 38-55. Definitions.

Wherever the word "municipality" is used in the fire prevention code, it shall be held to mean the city.

(Ord. of 3-6-1973, § 5)

Cross references: Definitions generally, § 1-2.

Sec. 38-56. Limits in which storage of explosives and blasting agents, storage of flammable liquids in outside aboveground tanks, and bulk storage of liquefied petroleum gases restricted.

The limits in which storage of explosives and blasting agents is prohibited, the limits in which storage of Class I liquids in outside aboveground tanks is prohibited, and the limits in which bulk storage of liquefied petroleum gas is restricted are hereby adopted as the municipal limits.

(Ord. of 3-6-1973, § 6)

Cross references: Environment, ch. 34.

Sec. 38-57. Motor vehicle routes for transportation of explosives and blasting agents.

The routes for vehicles transporting explosives and blasting agents are hereby established as follows: I-20, Highway 80, and Northside Drive.

(Ord. of 3-6-1973, § 7)

Cross references: Environment, ch. 34; traffic and vehicles, ch. 98.

Sec. 38-58. Motor vehicle routes for transportation of hazardous chemicals or other dangerous articles.

The routes for vehicles transporting hazardous chemicals and other dangerous articles are hereby established as follows: I-20, Highway 80, Northside Drive, and Monroe Street.

(Ord. of 3-6-1973, § 8)

Cross references: Environment, ch. 34; traffic and vehicles, ch. 98.

Sec. 38-59. Fire lanes.

Fire lanes are hereby established as follows: The lanes shall be marked with yellow paint and designated "Fire lane." Such lanes shall be 18 feet wide and proceed from the dedicated street to the building or buildings located thereon by the most direct route and thence to run laterally along the front of such building or buildings from one side to the other. A lane of like design shall permit access to the rear of such building or buildings where a like lateral lane along the rear of the building or buildings shall be maintained.

(Ord. of 3-6-1973, § 9)

Cross references: Traffic and vehicles, ch. 98.

Sec. 38-60. Modifications.

The chief of the fire department shall have power to modify any of the provisions of fire prevention code upon application in writing by the owner or lessee, or his duly authorized agent, 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 modification when granted or allowed and the decision of the chief of the fire department thereon shall be entered upon the records of the department and a signed copy shall be furnished the applicant.

(Ord. of 3-6-1973, § 10)

Sec. 38-61. Appeals.

Whenever the chief of the fire department shall disapprove an application or refuse to grant a permit applied for, or when it is claimed that the provisions of the fire prevention code do not apply or that the true intent and meaning of the code have been misconstrued or wrongly interpreted, the applicant may appeal from the decision of the chief of the fire department to the mayor and board of aldermen within 30 days from the date of the decision appealed.

(Ord. of 3-6-1973, § 11)

Sec. 38-62. Penalties.

(a) Any person who shall violate any of the provisions of the code hereby adopted or fail to comply therewith or who shall violate or fail to comply with any order made thereunder, or who shall 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 who shall fail to comply with such an order as affirmed or modified by the mayor and board of aldermen or by a court of competent jurisdiction, within the time fixed in this article, shall severally for each and every such violation and noncompliance respectively, be guilty of a misdemeanor, punishable as provided in section 1-13. The imposition of one penalty for any violation shall not excuse the violation or permit it to continue; and all such persons shall be required to correct or remedy such violations or defects within a

reasonable time; and when not otherwise specified, each ten days that prohibited conditions are maintained shall constitute a separate offense.

(b) The application of the penalty in subsection (a) of this section shall not be held to prevent the enforced removal of prohibited conditions.

(Ord. of 3-6-1973, § 12)

Secs. 38-63--38-80. Reserved.

### DIVISION 3. LIFE SAFETY CODE

Sec. 38-81. Adopted.

There is adopted as the official life safety code of the city, the Life Safety Code, NFPA No. 101, 2000 Edition, together with Appendixes A and B, and all publication referenced therein as comprising standards for the requirements of such code, and promulgated by the National Fire Protection Association.

(Ord. of 5-6-1980, § 2)

Sec. 38-82. Copy on file; certification.

There shall be a copy of the Life Safety Code filed with the city clerk to which shall be annexed and attached a certificate bearing the signatures of the mayor and city clerk, with the seal of the city affixed. The form of which certificate shall be substantially as follows:

We the undersigned \_\_\_\_\_, Mayor of the City of Clinton, Mississippi, and \_\_\_\_\_, City Clerk of said city, do hereby certify that the volume of the "Life Safety Code" together with Appendixes "A" and "B" thereto and all publications referenced therein as comprising standards for the requirements of said code, to which this certificate is attached, is a true and correct copy of the official code adopted by the City of Clinton, Mississippi, by Ordinance under the date of \_\_\_\_\_, and appearing in Minute Book " \_\_\_\_\_, at page \_\_\_\_\_, and in the Official Ordinance Book at page \_\_\_\_\_.

GIVEN under our hand and official seal this the \_\_\_\_\_ day of \_\_\_\_\_.

TABLE INSET:

\_\_\_\_\_

Mayor of the City of Clinton, Mississippi ATTEST: \_\_\_\_\_

City Clerk

(Ord. of 8-6-1974, § 2)

Sec. 38-83. Smoke detectors.

(a) Amendment to Life Safety Code. Section 30.3.4.5.1 of the 2000 Edition of the Life Safety Code as such section is applicable to the city shall be amended to read as follows: An approved single-station smoke detector, shall be installed in an approved manner in every living unit within the apartment building. It is the intent of this provision to permit the use of either battery-powered smoke detector devices or those powered by the house electrical service.

(b) Amendment of other ordinances. All other ordinances which would require that approved single-station smoke detectors be powered by the house electrical service in apartment buildings are hereby amended to provide for and permit the use of approved single-station smoke detectors powered by batteries.

(c) Rules for inspection and maintenance. The fire department shall have the duty and authority under this section to promulgate reasonable rules for the inspection and maintenance of any battery-powered single station smoke detector installed under this section. The rules and regulations adopted by the fire department shall specifically require inspections at such intervals to ensure a proper power source to all such battery-operated smoke detectors.

(Ord. of 8-23-1983, §§ 1--3)

Secs. 38-84--38-100. Reserved.

#### DIVISION 4. NATIONAL FIRE CODES

Sec. 38-101. Compliance with division.

It shall be unlawful for any person to violate this division, to permit or maintain such violation, to refuse to obey any provision thereof, or to fail or refuse to comply with any such provision or regulation except as variation may be allowed by action of the chief of the fire department in writing. Proof of such unlawful act or failure to act shall be deemed prima facie evidence that such act is that of the owner. Prosecution or lack thereof of either the owner or the occupant shall not be deemed to relieve the other.

(Ord. of 3-6-1973, § 2)

Sec. 38-102. Application of division.

This division shall apply equally to both public and private property. This division shall apply to all new structures and their occupancies including buildings, structures, equipment, etc. and, except as otherwise specified, to existing structures and their occupancies including buildings, structures, equipment, etc., which constitute a clear and present hazard to life or to property.

(Ord. of 3-6-1973, § 3)

Sec. 38-103. Compliance with other laws.

This division shall be in accordance with the laws and regulations covering fire prevention of the city, state, and the United States of America.

(Ord. of 3-6-1973, § 4)

Sec. 38-104. Exercise of police powers.

This division shall be deemed an exercise of the police powers of the city for the preservation and protection of the public health, peace, safety and welfare, and all the provisions of this division shall be liberally construed for that purpose.

(Ord. of 3-6-1973, § 5)

Sec. 38-105. Administration.

The provisions of this division shall be administered by the mayor and board of aldermen and their designated agent.

(Ord. of 3-6-1973, § 6)

Cross references: Administration, ch. 2.

Sec. 38-106. Application and incorporation of National Fire Codes.

Unless specifically provided for in other codes or ordinances of the city, the National Fire Codes, Volumes 1 through 13, current edition, as published by the National Fire Protection Association, shall apply. Such standard is incorporated in this section by reference with copies of such standard being on file with the city clerk.

(Ord. of 5-6-1980, § 2)

Sec. 38-107. Liability.

This division shall not be construed as imposing upon the city any liability or responsibility for damages to any person injured by any defect in any building, structure, appurtenances and appliances located within the city and subject to this division.

(Ord. of 3-6-1973, § 8)

Sec. 38-108. Penalty.

Any person that shall fail to comply with or violate any of the provisions of this division shall be guilty of a misdemeanor, and upon conviction thereof shall be punished as provided in section 1-13. Continued violation for any three-day period shall constitute a separate violation.

(Ord. of 3-6-1973, § 9)

Secs. 38-109--38-140. Reserved.

### ARTICLE III. AUTOMATIC SPRINKLER SYSTEMS

#### Sec. 38-141. Approved equipment and layout.

Only approved sprinklers and devices shall be used in automatic sprinkler systems. Plans for all sprinkler systems shall be submitted to the building official for review. Information as outlined in National Fire Protection Association Pamphlet 13, Section 1-9 must be provided, plus:

- (1) A note indicating that proper marking will be provided for all controlling values.
- (2) Names, address and telephone number of sprinkler contractors.
- (3) A reminder noted on the drawings and specifications stating: "Contact the Clinton Fire Department not less than 24 hours in advance to witness any required test."
- (4) Date of preparation of shop drawings.

(Ord. of 1-6-1998, § 1)

#### Sec. 38-142. Construction requirements.

Every automatic sprinkler system shall conform to National Fire Protection Association Pamphlet 12, as modified by other pamphlets of the National Fire Protection Association that pertain to specific hazards or processes. All material used in construction of every automatic sprinkler system installed in any structure within the city, including piping, shall be new and as specified in NFPA 13.

(Ord. of 1-6-1998, § 2)

#### Sec. 38-143. Hose threads.

All hose threads shall be as specified by the city fire department.

(Ord. of 1-6-1998, § 3)

#### Sec. 38-144. Requirements by occupancy.

The following structures shall be equipped with automatic sprinkler systems:

- (1) Assembly: All buildings with an occupant capacity of 300 persons or more, with no exceptions.
- (2) Business: All business exceeding 10,000 square feet gross floor area.
- (3) Education: All buildings.
- (4) Hazardous: All buildings.
- (5) Factory/industrial: All buildings exceeding 10,000 square feet gross floor area.
- (6) Institutional: All buildings.

- (7) Mercantile: All buildings exceeding 10,000 square feet gross floor area.
- (8) Residential: All apartments, hotels, motels, roominghouses, lodging houses, dormitories, convents and monasteries regardless of size.
- (9) Storage: All buildings exceeding 10,000 square feet gross floor area.
- (10) Mixed occupancies: All buildings exceeding 10,000 square feet gross floor area.

(Ord. of 1-6-1998, § 4)

Sec. 38-145. Other structures that shall be equipped with automatic sprinkler systems.

In addition to the structures stated in section 38-144, the following structures shall be equipped with automatic sprinkler systems:

- (1) All basements in other than single-family dwellings shall be equipped with automatic sprinklers regardless of size.
- (2) All buildings that are windowless or do not have suitable access shall be equipped with automatic sprinklers regardless of size.
- (3) Enclosed parking garages in other than single-family dwellings, that exceed 1,000 square feet gross floor area.
- (4) Enclosed repair garages that exceed 1,000 square feet gross floor area.

(Ord. of 1-6-1998, § 5)

Sec. 38-146. Remodeling and/or additions.

This article will apply to all buildings whenever one or more of the following occurs:

- (1) Change in occupancy classification as defined by the Standard Building Code.
- (2) When additions are made to any existing building that would result in the total gross floor area to exceed any of the thresholds established by this article.
- (3) When remodeling is done that has a value of 25 percent of the current cost of construction.

(Ord. of 1-6-1998, § 6)

Sec. 38-147. Article to control.

Regardless of language in other ordinances of the city, this article shall establish the requirement for the installation of automatic sprinkler systems within the city and shall supersede all other ordinances, including the ordinance adopting the Standard Building Code.

(Ord. of 1-6-1998, § 8)

Secs. 38-148--38-180. Reserved.

ARTICLE IV. FIREWORKS\*

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\*State law references: Fireworks, MCA 1972, § 45-13-1 et seq.

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Sec. 38-181. Sale and use of fireworks prohibited; exception.

It shall be unlawful for any person to sell, barter, exchange or give away or distribute, or use or explode within the city, any sky rockets, firecrackers, torpedoes, roman candles, or other explosives commonly known as fireworks, but nothing in this article shall prohibit the sale of such commodities by regular wholesalers to dealers outside the city.

(Ord. of 6-19-1990, § 1)

Sec. 38-182. Organized fireworks displays; certification of plans.

Provided, however, the prohibition of section 38-181 shall not apply to an organized fireworks display of not more than one hour held in conjunction with the celebration of a national holiday if five days prior to such fireworks display the sponsor of display has obtained from the fire chief of the city and filed with the city clerk a certificate of the fire chief in which the fire chief certifies that he has examined the plans for the fireworks demonstration and has determined that the fireworks display, if conducted according to the plan, will provide no significant threat to the health and safety of any person or property.

(Ord. of 6-19-1990, § 2)

Sec. 38-183. Penalty.

Any person who violates the terms and provisions of this article shall, upon conviction, be guilty of a misdemeanor and punished as provided in section 1-13, and each separate sale shall be and constitute a separate offense.

(Ord. of 6-19-1990, § 4)

Chapters 39--41 RESERVED

Chapter 42 FLOODS\*

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\*Cross references: Buildings and building regulations, ch. 18; environment, ch. 34; health and sanitation, ch. 46; natural resources, ch. 58; planning, ch. 70; streets, sidewalks and other public places, ch. 82; subdivisions, ch. 86; utilities, ch. 102; zoning, ch. 106.

State law references: Local planning, MCA 1972, § 17-1-1 et seq.; flood control, MCA 1972, § 51-35-1 et seq.; flood control districts, MCA 1972, § 51-35-101 et seq.; urban flood control, MCA 1972, § 51-35-301 et seq.

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## Article I. In General

Secs. 42-1--42-30. Reserved.

## Article II. Floodplain Management

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### Division 3. Flood Hazard Reduction

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## ARTICLE I. IN GENERAL

Secs. 42-1--42-30. Reserved.

## ARTICLE II. FLOODPLAIN MANAGEMENT

### DIVISION 1. GENERALLY

Sec. 42-31. Statutory authorization.

The legislature of the state has in title 17, chapter 1, of the Mississippi Code of 1972 (MCA 1972, § 17-1-1 et seq.) delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the provisions of this article are ordained by the mayor and board of aldermen.

(Ord. of 4-21-1987, art. 1, § A)

Sec. 42-32. Findings of fact.

(a) The flood hazard areas of the city are subject to periodic inundation which results in loss of life, 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.

(b) These flood losses are caused by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities, and by the occupancy in flood hazard areas by uses vulnerable to floods or hazardous to other lands which are inadequately elevated, floodproofed, or otherwise protected from flood damages.

(Ord. of 4-21-1987, art. 1, § B)

Sec. 42-33. Statement of purpose.

It is the purpose of this article to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- (1) Restrict or prohibit uses which are dangerous to health, safety and property due to water or erosion or in flood heights or velocities.
- (2) Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction.
- (3) Control the alteration of natural floodplains, stream channels, and natural protection barriers, which are involved in the accommodation of flood waters.
- (4) Control filling, grading, dredging and other development which may increase erosion or flood damage.
- (5) Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands.

(Ord. of 4-21-1987, art. 1, § C)

Sec. 42-34. Objectives.

The objectives of this article are to:

- (1) Protect human life and health;
- (2) Minimize expenditure of public money for costly flood control projects;
- (3) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (4) Minimize prolonged business interruptions;
- (5) Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodplains;
- (6) Help maintain a stable tax base by providing for the sound use and development of flood prone areas in such a manner as to minimize future flood blight areas; and
- (7) Ensure that potential home buyers are notified that property is in a flood area.

(Ord. of 4-21-1987, art. 1, § D)

Sec. 42-35. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. Unless specifically defined below, words or phrases used in this article shall be interpreted so as to give them the meaning they have in common usage and to give this article its most reasonable application.

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

Appeal means a request for a review of the local administrator's interpretation of any provision of this article or a request for a variance.

Area of shallow flooding means a designated AO or VO Zone on a community's flood insurance rate map with base flood depths from one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident.

Area of special flood hazard means the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year.

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

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

Building means any structure built for support, shelter, or enclosure for any occupancy or storage.

Development means any manmade change to improved or unimproved real estate, including but not limited to structures, roads, bridges, mining, dredging, filling, grading, paving, excavation or drilling operations.

Elevated building means a nonbasement building built to have the lowest floor elevated above the ground level by means of fill, solid foundation perimeter walls, pilings, columns (posts and piers), shear walls, or breakaway walls.

Flood or flooding means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) The overflow of inland waters; and
- (2) The unusual and rapid accumulation or runoff of surface waters from any source.

Flood insurance rate map (FIRM) means an official map of a community, on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

Flood insurance study means the official report provided by the Federal Insurance Administration. The flood insurance study contains flood profiles, as well as the flood hazard boundary-floodway map and the water surface elevation of the base flood.

Floodway means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

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

Functionally dependent facility means a facility which cannot be used for its intended purpose unless it is located or carried out in close proximity to water, such as a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, ship repair, or seafood processing facilities. The term does not include long-term storage, manufacture, sales, or service facilities.

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

Lowest floor means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area, is not considered a building lowest floor provided that such enclosure is not built so as to render the structure in violation of this article.

Manufactured home means structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term "manufactured home" also includes recreational vehicles or travel trailers, placed on a site for greater than 180 consecutive days.

Manufactured home park or subdivision means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

Mean sea level means the average height of the sea for all stages of the tide.

New construction means structures for which the "start of construction" commenced on or after the effective date of the ordinance from which this article is derived.

Start of construction (for other than new construction or substantial improvements under the Coastal Barrier Resource Act P.L. 97-348) includes substantial improvements and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction or improvement was within 180 days of the permit date, the actual start means the first placement of permanent construction of a structure (including a manufactured home) on a site, such as the pouring of slabs or footings, installation of piles, construction of columns, or any work beyond the stage of excavation, a manufactured home on a foundation or the placement of permanent construction does not include land

preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not as part of the main structure.

Structure means a walled and roofed building that is principally above ground, as well as a manufactured home, or other manmade facilities or infrastructures.

Substantial improvement means any repair, reconstruction, alteration or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either, (i) before the improvement or repair is started, or (ii) if the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition the term "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either (i) any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions, or (ii) any alteration of a structure listed on the National Register of Historic Places or a state inventory of historic places.

Variance means a grant of relief to a person from the requirements of this article which permits construction in a manner otherwise prohibited by this article where specific enforcement would result in unnecessary hardship.

(Ord. of 4-21-1987, art. 2)

Cross references: Definitions generally, § 1-2.

Sec. 42-36. Lands to which this article applies.

This article shall apply to all areas within the jurisdiction of the city.

(Ord. of 4-21-1987, art. 3, § A)

Sec. 42-37. Basis of establishing the areas of special flood hazard.

The areas of special flood hazard identified by the Federal Insurance Administration through a scientific and engineering report entitled "The Flood Insurance Study for the City of Clinton," dated February 17, 1981, with accompanying Flood insurance rate maps and flood boundary and floodway maps and any revision thereto are hereby adopted by reference and declared to be a part of this article.

(Ord. of 4-21-1987, art. 3, § B)

Sec. 42-38. Establishment of development permit.

A development permit shall be required prior to any manmade change to improved or unimproved real estate, including structures and other development.

(Ord. of 4-21-1987, art. 3, § C)

Sec. 42-39. Compliance.

No structure or land shall be located, extended, converted, or structurally altered without full compliance with the terms of this article and other applicable regulations.

(Ord. of 4-21-1987, art. 3, § D)

Sec. 42-40. Abrogation and greater restrictions.

This article is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this article and another ordinance conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

(Ord. of 4-21-1987, art. 3, § E)

Sec. 42-41. Interpretation.

In the interpretation and application of this article, all provisions shall be:

- (1) Considered as minimum requirements;
- (2) Liberally construed in favor of the governing body; and
- (3) Deemed neither to limit nor repeal any other powers granted under state statutes.

(Ord. of 4-21-1987, art. 3, § F)

Sec. 42-42. Warning and disclaimer of liability.

The degree of flood protection required by this article 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 manmade or natural causes. This article does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This article shall not create liability on the part of the city or by any officer or employee thereof for any flood damages that result from reliance on this article or any administrative decision lawfully made under this article.

(Ord. of 4-21-1987, art. 3, § G)

Secs. 42-43--42-60. Reserved.

DIVISION 2. ADMINISTRATION\*

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\*Cross references: Administration, ch. 2.

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Sec. 42-61. Designation of local administrator.

The building official is hereby appointed to administer and implement the provisions of this article.

(Ord. of 4-21-1987, art. 4, § A)

Sec. 42-62. Duties and powers of local administrator.

Duties and powers of the local administrator shall include, but not be limited to:

- (1) Review all development permits to assure that the permit requirements of this article have been satisfied.
- (2) Review permits for proposed development to assure that all necessary permits have been obtained from those federal, state or local governmental agencies from which prior approval is required.
- (3) Notify adjacent political subdivisions which could be affected and the Mississippi Research and Development Center prior to any alteration or relocation of a watercourse, and shall submit evidence of such notification to the Federal Insurance Administration.
- (4) Assure that maintenance is provided within the altered or relocated portion of such watercourse so that the flood carrying capacity is not diminished.
- (5) Verify and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures.
- (6) Verify and record the actual elevation (in relation to mean sea level) to which the new or substantially improved structures have been floodproofed.
- (7) When floodproofing is utilized for a nonresidential structure, the local administrator shall obtain certification from a registered professional engineer or architect and a record of such certification which includes the special elevation (in relation to mean sea level) to which such structures are floodproofed shall be maintained by the local administrator.
- (8) Where interpretation is needed as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), the local administrator shall make the necessary interpretation. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this article.
- (9) All records pertaining to the provisions of this article shall be maintained in the office of the local administrator and shall be open for public inspection.

(10) The building official shall enforce the provisions of this article and he, or his duly authorized representative, may enter any building, structure, or premises to perform any duty imposed upon him by this article.

(11) Upon notice from the building official, work on any building or structure that is being done contrary to the provisions of this article or in a dangerous or unsafe manner, shall be immediately stopped. Such notice shall be in writing and shall be given to the owner of the property, or to his agent, or to the person doing the work, and shall state the conditions under which work may be resumed. Where an emergency exists, no written notice shall be required to be given by the building official.

(12) When base flood elevation data and floodway data have not been provided (in unnumbered A Zones on the flood insurance rate map), then the local administrator shall obtain, review, and reasonably utilize any base flood elevation data and floodway data available from a federal, state or other source in order to administer the provisions of section 42-82.

(Ord. of 4-21-1987, art. 4, § B)

Sec. 42-63. Permit procedures.

(a) Application for a development permit shall be made to the local administrator on forms furnished by him and the administrator may require, but not be limited to, the following plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill and storage of materials; drainage facilities, and a description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

(b) If the development includes a structure, the following information shall be required:

(1) For actual (as built) elevation in relation to mean sea level, of the lowest floor (including basement) of all structures, certification by a registered professional engineer, architect or licensed land surveyor is required;

(2) For actual (as built) elevation in relation to mean sea level to which any nonresidential structure has been floodproofed, certification by a registered professional engineer or architect is required;

(3) A certificate from a registered professional engineer or architect that the nonresidential floodproofed structure meets the floodproofing criteria in section 42-82(2) shall be provided; and

(4) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

(Ord. of 4-21-1987, art. 4, § C)

Sec. 42-64. Variances procedures.

- (a) The mayor and board of aldermen as established by the city shall hear and decide appeals and requests for variances from the requirements of this article.
- (b) The mayor and board of aldermen shall hear and decide appeals when it is alleged there is an error in any requirement, decision or determination made by the local administrator in the enforcement or administration of this article.
- (c) Any person aggrieved by the decision of the mayor and board of aldermen, or any taxpayer may appeal such decision to the circuit court of the first judicial district of the county.
- (d) Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the state inventory of historic places, without regard to the procedures set forth in the remainder of this section.
- (e) In passing upon such applications, the mayor and board of aldermen shall consider all technical evaluations, all relevant factors, standards specified in other sections of this article, and:
  - (1) The danger that materials may be swept onto other lands to the injury of others;
  - (2) The danger to life and property due to flooding or erosion damage;
  - (3) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
  - (4) The importance of the services provided by the proposed facility to the community;
  - (5) The necessity to the facility of a waterfront location, in the case of a functionally dependent facility;
  - (6) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
  - (7) The compatibility of the proposed use with existing and anticipated development;
  - (8) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
  - (9) The safety of access to the property in times of flood for ordinary and emergency vehicles;
  - (10) 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;
  - (11) The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges; and

(12) Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structure constructed below the base flood level, providing subsections (e)(1) through (e)(11) of this section have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.

(f) Upon consideration of the factors in subsection (e) of this section and the purposes of this article, the mayor and board of aldermen may attach such conditions to the granting of variances as it deems necessary to further the purposes of this article.

(g) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

(h) Conditions for variances shall be as follows:

(1) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

(2) Variances shall only be issued upon (i) a showing of good and sufficient cause, (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

(3) Any applicant to whom a variance is granted shall be given written notice that the lowest floor of the structure will be permitted to be built below the base flood elevation and the number of feet below the base flood elevation shall be indicated in the written notice, and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

(4) The local administrator shall maintain the records of all appeal actions and report any variances to the Federal Insurance Administration upon request.

(Ord. of 4-21-1987, art. 4, § D)

Secs. 42-65--42-80. Reserved.

### DIVISION 3. FLOOD HAZARD REDUCTION

Sec. 42-81. General standards.

In all areas of special flood hazards, the following provisions are required:

(1) All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure.

- (2) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- (3) All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage.
- (4) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.
- (5) 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.
- (6) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.
- (7) All subdivision proposals shall be consistent with the need to minimize flood damage.
- (8) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.
- (9) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards.
- (10) Base flood elevation data shall be provided for subdivision proposals and other proposed development (including manufactured home parks and subdivisions) which are greater than the lesser of 50 lots or five acres.
- (11) 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.

(Ord. of 4-21-1987, art. 5, § A)

Sec. 42-82. Specific standards.

In all areas of special flood hazards where base flood elevation data has been provided as set forth in section 42-37, the following provisions are required:

- (1) Residential construction. New construction or substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to or above base flood elevation. A registered land surveyor shall certify that the standards of the subsection are satisfied. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of flood waters shall be provided in accordance with standards for elevated building.
- (2) Nonresidential construction. New construction or substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement,

elevated to the level of the base flood elevation or, together with attendant utility and sanitary facilities, be floodproofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall develop and/or review structural design, specifications, and plans for the construction and shall certify that the design and methods of construction are in accordance with accepted standards of practices.

(3) Elevated buildings. New construction or substantial improvements of elevated buildings that include fully enclosed areas formed by foundation and other exterior walls below the base flood elevation shall be designed to preclude finished living space and designed to allow for the entry and exit of floodwater to automatically equalize hydrostatic flood forces on exterior walls.

a. Designs for complying with this requirement must either be certified by a professional engineer or architect or meet the following minimum criteria:

1. Provide a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;

2. The bottom of all openings shall be no higher than one foot above grade; and

3. Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwater in both directions;

b. Electrical, plumbing and other utility connections are prohibited below the base flood elevation unless they are designed so as to prevent water from entering;

c. Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment used in connection with the premises (standard exterior door) or entry to the living area (stairway or elevator); and

d. The interior portion of such enclosed area shall not be partitioned or finished into separate rooms.

(4) Manufactured homes.

a. All manufactured homes to be placed or substantially improved within zones A-1 through A-30, and AH shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is at or above the base flood elevation and shall be securely anchored to an adequately anchored foundation.

b. All manufactured homes shall be anchored to resist flotation, collapse, or lateral movement by providing over-the-top and frame ties to ground anchors as specified under the state insurance department's "Rules and Regulations of Mobile Home Division of State Fire Marshal's Office" as revised,

section IX entitled Minimum Standards for Blocking, Anchors and Tie-Downs. Specific minimum requirements shall be that:

1. Over-the-top ties be provided at each of the four corners of the manufactured home, with two additional ties per side at intermediate locations and manufactured homes less than 50 feet long requiring one additional tie per side;
2. Frame ties be provided at each corner of the home with five additional ties per side at intermediate points and manufactured homes less than 50 feet long requiring four additional ties per side;
3. All components of the anchoring system be capable of carrying a force of 4,800 pounds; and
4. Any additions to the manufactured home be similarly anchored.

c. For new manufactured home parks and subdivisions; for expansions to existing manufactured home parks and subdivisions; for existing manufactured home parks and subdivisions and for mobile homes not placed in mobile home park or subdivision require:

1. Stands or lots are elevated on compacted fill or on pilings so that the lowest floor of the manufactured home will be at or above the base flood level;
2. Adequate surface drainage and access for a hauler are provided; and
3. In the instance of elevation on pilings:
  - i. Lots are large enough to permit steps;
  - ii. Piling foundations are placed in stable soil no more than ten feet apart; and
  - iii. Reinforcement is provided for pilings more than six feet above the ground level.

(5) Floodways. Located within areas of special flood hazard established in section 42-37 are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles and erosion potential, the following provisions shall apply:

- a. Prohibits encroachment of roads and bridges, new construction, substantial improvements and other developments unless certification by a professional registered engineer or architect is provided demonstrating that encroachments shall not result in any increase in flood levels during occurrence of the base flood discharge.
- b. If the certification required in this subsection is approved by the local administrator, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of this division.

(Ord. of 4-21-1987, art. 5, § B)

Sec. 42-83. Standards for areas of shallow flooding (AO and unnumbered A zones).

Located within the areas of special flood hazard established in section 42-37 are areas designated as shallow flooding. These areas have special flood hazards associated with base flood depths of one to three feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate; therefore, the following provisions apply:

(1) All new construction and substantial improvements of residential structures have the lowest floor, including basement, elevated to the depth number specified on the community's flood insurance rate map, in feet, above the highest adjacent grade. If no depth number is specified, the lowest floor, including basement, shall be elevated at least two feet above the highest adjacent grade.

(2) All new construction and substantial improvements of nonresidential structures shall:

a. Have the lowest floor, including basement, elevated above the crown of the nearest street to or above the depth number specified on the FIRM, in feet, above the highest adjacent grade. If no depth number is specified, the lowest floor, including basement shall be elevated at least two feet above the highest adjacent grade; or

b. Together with attendant utility and sanitary facilities be completely floodproofed to or above that level so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.

(Ord. of 4-21-1987, art. 5, § C)

Sec. 42-84. Amendment procedure.

(a) Whenever justified or required by the public necessity, convenience, general welfare, or good floodplain management practice, and after a public hearing, the governing authority may, by ordinance, amend the regulations set forth in this article.

(b) Any amendment to this article shall be submitted to the Mississippi Research and Development Center and the Federal Flood Insurance Administrator.

(Ord. of 4-21-1987, art. 5, § D)

Sec. 42-85. Penalties for violation.

Violation of the provisions of this article 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. Any person who violates this article or fails to comply with any of its requirements shall, upon conviction thereof, be fined no more than \$1,000.00.

(Ord. of 4-21-1987, art. 5, § E)

Chapters 43--45 RESERVED

## Chapter 46 HEALTH AND SANITATION\*

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\*Cross references: Animals, ch. 14; buildings and building regulations, ch. 18; environment, ch. 34; floods, ch. 42; natural resources, ch. 58; utilities, ch. 102.

State law references: Regulation and inspection of food, MCA 1972, § 75-29-101 et seq.

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### Article I. In General

Secs. 46-1--46-30. Reserved.

### Article II. Tobacco

#### Division 1. Generally

Secs. 46-31--46-50. Reserved.

#### Division 2. Minors; Students

Sec. 46-51. Use or possession of tobacco products by minors prohibited.

Sec. 46-52. Use by students prohibited.

Sec. 46-53. Definitions.

Sec. 46-54. Penalty.

Secs. 46-55--46-80. Reserved.

### Article III. Unsanitary Lots and Parcels Generally

Sec. 46-81. Prohibited conditions.

Sec. 46-82. Penalty.

Sec. 46-83. Notice to property owner.

Sec. 46-84. Delivery of notice.

Sec. 46-85. Determination prior to sending notice.

Secs. 46-86--46-110. Reserved.

### Article IV. Mosquito Control

Sec. 46-111. Definition of collection of water.

Sec. 46-112. Prohibited acts.

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Sec. 46-114. Corrective action.

Sec. 46-115. Evidence of violation.

Sec. 46-116. Inspection of premises.

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#### Article V. Specific Unsanitary Conditions

Sec. 46-151. Definitions.

Sec. 46-152. Open storage of garbage, rubbish, trash, etc.

Sec. 46-153. Container specifications.

Sec. 46-154. Apartment complex collection.

Sec. 46-155. Commercial collections.

Sec. 46-156. Incinerators.

Sec. 46-157. Condition of containers; replacement.

Sec. 46-158. Placement of trash for collection.

Sec. 46-159. Care of premises; open storage of abandoned items and vehicles.

Sec. 46-160. Schedule and placement for collection.

Sec. 46-161. Penalty.

Secs. 46-162--46-190. Reserved.

#### Article VI. Collection of Garbage and Rubbish

Sec. 46-191. Imposition of fee.

Sec. 46-192. Definitions.

Sec. 46-193. Classification.

Sec. 46-194. Appeal.

Sec. 46-195. Rates.

Sec. 46-196. Option of private removal or disposal on private property.

Sec. 46-197. Collection.

Sec. 46-198. Penalties.

Sec. 46-199. Revocation of license.

Secs. 46-200--46-230. Reserved.

#### Article VII. Litter

Sec. 46-231. Definitions.

Sec. 46-232. Littering prohibited; generally.

Sec. 46-233. Handbills.

Sec. 46-234. Litter on private property.

Sec. 46-235. Violation; penalty.

#### ARTICLE I. IN GENERAL

Secs. 46-1--46-30. Reserved.

#### ARTICLE II. TOBACCO

##### DIVISION 1. GENERALLY

Secs. 46-31--46-50. Reserved.

##### DIVISION 2. MINORS; STUDENTS\*

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\*State law references: The Mississippi Juvenile Tobacco Access Prevention Act of 1997, MCA 1972, § 97-32-1 et seq.

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Sec. 46-51. Use or possession of tobacco products by minors prohibited.

No person under the age of 18 years of age shall have in his possession or use any tobacco product within the corporate limits of the city.

(Ord. of 1-19-1999, § 1)

Sec. 46-52. Use by students prohibited.

No student of any high school, or junior high school or elementary school shall use or possess any tobacco products on any educational property or at any educational activity, within the corporate limits of the city.

(Ord. of 1-19-1999, § 2)

Sec. 46-53. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Educational activity means a school sponsored event within the city for athletic, social or entertainment purposes, attended by students including school transportation to and from, regardless of whether such activity is held on educational property.

Educational property means any public or private elementary or secondary school building or bus, public or private school campus, grounds, recreational area, athletic field or other property owned, used or operated by a school board or board of trustees, or board of directors for the administration of any public or private educational institution within the city limits.

Tobacco products means any tobacco cigarette, cigar, pipe tobacco, smokeless tobacco or any other form of tobacco or tobacco product which may be used for smoking, chewing, inhaling or ingesting by any other means.

Use or possession means the smoking of tobacco products, the chewing, oral consumption, spitting, inhaling or other by ingestion of any tobacco product, or the possession of a cigarette, cigar or other tobacco product, or of any container of tobacco spittle.

(Ord. of 1-19-1999, § 3)

Cross references: Definitions generally, § 1-2.

Sec. 46-54. Penalty.

Violation of this article is punishable by a fine not to exceed \$100.00 and/or public service as ordered by any municipal, justice, county youth court or other judge of competent jurisdiction.

(Ord. of 1-19-1999, § 4)

Secs. 46-55--46-80. Reserved.

### ARTICLE III. UNSANITARY LOTS AND PARCELS GENERALLY

#### Sec. 46-81. Prohibited conditions.

It shall be unlawful for any person owning property within the city to permit such land to be in a condition or state of uncleanness so as to be a menace to the public health and safety of the community.

(Ord. of 6-3-1986, § 1)

#### Sec. 46-82. Penalty.

Violation of this article shall be a misdemeanor punishable as provided in section 1-13.

(Ord. of 6-3-1986, § 2)

#### Sec. 46-83. Notice to property owner.

No person shall be convicted under this article unless notice as set out in this article shall have first been given by the director of public works or his designee. Such notice shall set out the following:

- (1) Name and address of the owner;
- (2) A description of the parcel;
- (3) A statement of the conditions which constitute a state of uncleanness;
- (4) That the property owner shall have ten days from the date of such notice to eliminate the state of uncleanness.

(Ord. of 6-3-1986, § 3)

#### Sec. 46-84. Delivery of notice.

The notice referred to in section 46-83 shall be deemed as delivered when the notice is deposited in the United States mail, certified return receipt requested, properly addressed to the owner of such parcel.

(Ord. of 6-3-1986, § 4)

#### Sec. 46-85. Determination prior to sending notice.

The notice described in section 46-83 shall not be sent unless the director of public works or his designee has first determined that such property is in a state of uncleanness so as to be a menace to public health and safety of the community.

(Ord. of 6-3-1986, § 5)

Secs. 46-86--46-110. Reserved.

#### ARTICLE IV. MOSQUITO CONTROL

##### Sec. 46-111. Definition of collection of water.

Any collection of water considered in this article shall be held to be that contained in ditches, pools, ponds, streams, excavations, holes, depressions, open cesspools, privy vaults, fountains, cisterns, tanks, shallow wells, barrels, troughs, urns, cans, boxes, bottles, tubs, buckets, roof gutters, tanks of flush closets, reservoirs, vessels, tires, receptacles of any kind, or other containers or devices which may hold water.

(Ord. of 4-6-1976, § 2)

Cross references: Definitions generally, § 1-2.

##### Sec. 46-112. Prohibited acts.

It shall be unlawful to knowingly have, keep, maintain, cause or permit, within the incorporated limits of the city, any collection of standing or flowing water in which mosquitoes breed or are likely to breed, unless such collection of water is treated so as effectually to prevent such breeding.

(Ord. of 4-6-1976, § 3)

##### Sec. 46-113. Prevention; issuance of regulations.

The corrective action methods used or treatment directed toward the prevention of breeding of mosquitoes in collections of water shall be of a type approved by the health officer. The health officer shall, from time to time, issue mosquito control regulations.

(Ord. of 4-6-1976, § 4)

##### Sec. 46-114. Corrective action.

Should the person upon whose premises or responsible for such conditions giving rise to the breeding of mosquitoes are found, fail or refuse to take necessary corrective action or measures to prevent the such conditions, within three days after due notice has been given to them, the health officer or his representative, or the representative of the city is authorized to do so, and all necessary costs incurred by them for this purpose shall be a charge against the property owner or other person offending, as the case may be.

(Ord. of 4-6-1976, § 5)

##### Sec. 46-115. Evidence of violation.

The presence of mosquito larvae in any collection of water shall be prima facie evidence that mosquitoes are therein breeding, and shall be the authority for immediate notice of the necessity of corrective action. Failure on the part of any person or persons to whom notice of corrective action necessary is given as aforesaid, to take such corrective action, or take such similar action satisfactory to

the health officer or the city in lieu thereof, shall be prima facie evidence of a violation of this article and subject such person to the penalties of this article.

(Ord. of 4-6-1976, § 6)

Sec. 46-116. Inspection of premises.

For the purpose of making inspection for conditions or places in which the breeding of mosquitoes is probable and the enforcing of the provisions of this article, the health officer or his representative, or a representative of the city, acting under their respective authorities, may at all reasonable times enter in and upon any premises within their jurisdiction.

(Ord. of 4-6-1976, § 7)

Sec. 46-117. Penalties.

Any person who shall violate any provision of this article shall on each conviction be guilty of a misdemeanor subject to punishment under section 1-13. Each day of violation of this ordinance, beyond the three days set forth in section 86-114, shall constitute and be conclusive of a separate offense.

(Ord. of 4-6-1976, § 8)

Secs. 46-118--46-150. Reserved.

#### ARTICLE V. SPECIFIC UNSANITARY CONDITIONS

Sec. 46-151. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Container means:

- (1) A watertight metal can fitted with handles and tightfitting cover of not less than ten gallons nor more than 30 gallons capacity.
- (2) A commercially available container of material impervious in nature of the same specifications as the metal can described in subsection (1) of this definition.
- (3) Plastic or chemically treated paper sacking of like capacity firmly tied at the opening.

All stores, markets, wholesale and retail establishments of a commercial nature which have refuse for disposal, except trash as defined in this section, shall obtain, keep and maintain a suitable container of fireproof or fire-resisting material and of such size as will accommodate the normal use and occupancy of the commercial premises aforesaid. Such containers shall be so constructed as to keep out flies and other insects.

Garbage means waste foodstuffs of vegetable or animal origin together with other incidental admixtures.

Junked appliances means all refrigerators, stoves, washing machines, hot water tanks, and/or similar items.

Junked vehicle means a junked or abandoned motor vehicle is defined as one that is in a state of disrepair and incapable of being moved under its own power; but this definition shall not include antique vehicles as provided in this article.

Rubbish means the waste materials from normal household or living conditions and business operations other than garbage, but not to include garden, lawn or tree trimmings, leaves or waste materials from building construction or repair. The term "rubbish" shall not include factory waste or refuse from industrial plants of any character. In general, the kinds of materials classified as rubbish are such as paper, rags, bottles, tin cans, card board, wornout clothing, etc.

Trash means garden, lawn and tree trimmings, leaves, glass, waste material from building construction or repair and dead trees.

(Ord. of 6-2-1970, § 1)

Cross references: Definitions generally, § 1-2.

Sec. 46-152. Open storage of garbage, rubbish, trash, etc.

It shall be unlawful to either keep, maintain or use premises within the city for the open storage of any materials specified in section 46-151, except as provided in this article.

(Ord. of 6-2-1970, § 2)

Sec. 46-153. Container specifications.

All householders or persons renting dwelling houses within the city shall furnish and use containers sufficient and adequate for the premises owned and/or occupied for the collection, storage and disposal of garbage and rubbish. No container shall exceed 60 pounds gross weight of container and contents. Wooden and cardboard boxes may be utilized in the disposal of rubbish and/or trash but shall not be used for the disposal of garbage nor shall they be reused.

(Ord. of 6-2-1970, § 3)

Sec. 46-154. Apartment complex collection.

(a) The owner, or his authorized representative, of any apartment or apartment complex consisting of ten or more living units shall provide adequate storage containers or facilities approved by the city for the proper storage of all refuse from tenants of such apartments and shall be responsible for the cleanliness of the premises. Access drives or driveways shall be made available for use by the city's refuse collection vehicles in the collection of such refuse.

(b) The owner, or his authorized representative, of apartments less than ten living units, shall be responsible for tenants complying with the provisions hereof and with the maintenance of a clean condition in and about the premises.

(c) The requirements of size, capacity and nature of containers and the collection, storage and disposition of refuse as outlined in the provisions appertaining to occupancy of residential dwellings shall apply for each apartment unit.

(Ord. of 6-2-1970, § 4)

Sec. 46-155. Commercial collections.

All commercial establishments, stores, markets, and other businesses whether wholesale or retail shall keep and maintain the premises owned and/or occupied by such business in a clean and sanitary manner and the refuse therefrom shall be collected, stored and maintained for disposal in the manner outlined in the definition of "container" in section 46-151.

(Ord. of 6-2-1970, § 5)

Sec. 46-156. Incinerators.

In the event of use of incinerators in the burning of garbage and rubbish, the residue thereof shall be placed in covered containers as elsewhere specified in this article immediately after burning.

(Ord. of 6-2-1970, § 6)

Sec. 46-157. Condition of containers; replacement.

All containers shall be maintained in good and sound condition and kept sanitary by the owners and users thereof and properly replaced when no longer fit for use. Upon written notice from the city that the containers utilized by any given premises are no longer fit for use, the owners and/or occupiers thereof shall within five days replace the containers with containers of the specifications described in this article.

(Ord. of 6-2-1970, § 7)

Sec. 46-158. Placement of trash for collection.

(a) Trash shall be placed in separate neat and orderly piles on the premises and adjacent to the street in such location as shall make the trash easily available to refuse collectors. Leaves, grass and like material shall be placed in garbage cans, bag, or throw-away boxes. All limbs must be no more than five feet in length and piled neatly in piles of no more than 60 pounds each. Waste materials from building construction and/or renovation shall be transported from the scene thereof by the owner, occupant or contractor.

(b) Upon notice published by the city in a newspaper authorized for the publication of legal notices, the provisions of this section pertaining to the disposal of leaves may be waived for a period of time specified therein.

(Ord. of 7-2-1974, § 1)

Sec. 46-159. Care of premises; open storage of abandoned items and vehicles.

It shall be unlawful for the owner or occupant of any building, structure or property to utilize the building, structure or property for the open storage of any abandoned motor vehicle, refrigerator, stove, glass, building materials, building rubbish or similar items. It shall be the duty and responsibility of every such owner or occupant to keep the premises clean and to remove from the premises all such abandoned items as listed in this section. Antique automobiles, upon which the owner or occupant of the premises is regularly engaged in the restoration thereof as a hobby, and not as a vocation, may be kept upon the premises for such purposes during restoration so long as the restoration shall be done in a clean, neat and sanitary manner. Commercial establishments engaged in the retrieving of wrecked and/or inoperative motor vehicles may keep and maintain such vehicle upon their premises for the time and in the matter as otherwise provided by law.

(1) Any police officer may require the owner or any other person in control of a vehicle or the property upon which such vehicle is located to provide evidence that the vehicle in question is not a junked and/or abandoned vehicle when such officer has cause to believe otherwise. Such person's failure or refusal to comply is deemed a misdemeanor.

(2) Any police officer may issue a removal notice to the owner or any other person in control of a vehicle or the property upon which such vehicle is located if the officer determines such to be a junked and/or an abandoned vehicle. If the vehicle in question is not removed within ten days of the date of the notice, then any police officer may cause the removal of such vehicle at the owner's expense and the officer may issue such person a municipal offense ticket charging such person with a violation of this section.

(3) When any police officer is unable to locate or contact any such person as provided in this section; then such officer may place a notice on the vehicle in question which advises any such person as aforementioned that the vehicle is in violation of this section. If the vehicle in question is not removed within the time period specified in the notice, then any police officer may cause the removal of such vehicle at the owner's expense and the officer may attach a municipal offense ticket to the vehicle as is done on uniform tickets to improperly parked vehicles as provided in MCA 1972, § 21-23-19.

(4) Any police officer may issue a removal notice to the owner or any other person in control of any other item listed in this section or the property upon which such item is situated. If the item is not removed within the time period specified, then such officer may cause the item's removal at the owner's expense, and may issue such aforementioned person a municipal offense ticket charging such person with a violation of this section.

(5) Any wrecker service or other person removing a junked and/or an abandoned vehicle may proceed in accordance with MCA 1972, § 63-23-5.

(6) The issuance of a municipal offense ticket shall govern police officers in making arrest without warrant; however, such ticket is not exclusive and any other method prescribed by law for the arrest and prosecution of a person for a violation of law may be utilized in the discretion of the arresting officer.

(Ord. of 6-2-1970, § 9; Ord. of 12-7-1999)

Sec. 46-160. Schedule and placement for collection.

A schedule of collection of garbage and rubbish shall be published from time to time in a newspaper having general circulation in the county. Garbage collection shall begin on the scheduled day of collection at 7:00 a.m. All containers required in this article for refuse shall be placed on the edge of the premises occupied adjacent to the street. Until placed upon the collection vehicle, waste material is the responsibility of the owner and/or occupant. Garbage shall not be placed next to the street until the day of collection and shall not be left on the edge of the premises except for the day scheduled for collection.

(Ord. of 6-2-1970, § 10)

Sec. 46-161. Penalty.

Any person, firm or corporation violating any provision of this article may be punished by the imposition of a fine in any amount not to exceed \$1,000.00, or be imprisoned for any term not to exceed 90 days, or punished by both such fine and imprisonment as determined in the discretion of the court.

(Ord. of 12-7-1999)

Secs. 46-162--46-190. Reserved.

## ARTICLE VI. COLLECTION OF GARBAGE AND RUBBISH

Sec. 46-191. Imposition of fee.

A fee shall be imposed for the collection of garbage and rubbish, as such terms are defined in this article. Such charge shall be according to the rates provided in section 46-195.

(Ord. of 4-19-1988, § 1)

Sec. 46-192. Definitions.

(a) Generally. The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Apartment complex means any apartment house or apartment complex consisting of 11 or more individual living units.

Commercial establishment means all stores, markets, offices or other business, whether wholesale or retail. For the purposes of this article, all stores, markets, offices or other businesses whether wholesale or retail situated in the same building or same parcel utilizing a single water meter and single garbage collection point shall be treated as one commercial establishment for billing purposes.

Composting or compost plant means an officially controlled method or operation whereby putrescible solid wastes are broken down through microbic action to a material offering no hazard or nuisance factors to public health or well-being.

Disposal means the discharge, deposit, injection, dumping, spilling, leaking, or placing of any garbage or rubbish into or on any land or water so that such garbage or rubbish or any constituent thereof may enter the environment or be emitted into the air or discharged into any water, including groundwaters.

Educational institution means any school or college, public or private.

Garbage means putrescible animal and vegetable wastes resulting from the handling, preparation, cooking, and consumption of food, including waste from markets, storage facilities, handling and sale of produce and other food products, except such materials that may be serviced by garbage grinders and handled as household sewage.

Industrial establishment means any factory, shop or other manufacturing plant of any description.

Putrescible wastes means solid wastes which are capable of being decomposed by micro-organisms with sufficient rapidity to cause nuisances from odors or gases.

Residence means and includes single-family dwellings, individual condominium units and individual apartment units in apartment complexes of not more than ten living units and any other type dwelling unit not otherwise defined.

Rubbish means nonputrescible solid waste (excluding ashes) consisting of both combustible and noncombustible wastes. Combustible rubbish includes paper, rags, cartons, wood, furniture, rubber, plastics, yard trimmings, leaves and similar materials. Noncombustible rubbish includes glass, crockery, metal furniture and like materials which will not burn at ordinary incinerator temperatures (not less than 1,600 degrees Fahrenheit).

Solid waste means any garbage, refuse, or sludge from a waste treatment plant, water supply treatment plant or air pollution control facility and other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from industrial, commercial, mining and agricultural operations, and from community activities, but does not include solid or dissolved material in domestic sewage, solid or dissolved material in irrigation return flows, or industrial discharges which are point sources, subject to a permit under Section 402 of the Federal Water Pollution Control Act, as amended, or source special nuclear or byproduct material defined by the Atomic Energy Act of 1954.

(b) Words not specifically defined. The definition of any word or phrase not specifically defined in this article shall have the definition given in the language of or used in the administration of the "Solid Wastes Disposal Law of 1974" set forth in MCA 1972, § 17-17-1 et seq.

(Ord. of 4-19-1988, § 2)

Cross references: Definitions generally, § 1-2.

Sec. 46-193. Classification.

Every occupied parcel of land within the city shall be classified by the director of public works as one of the following:

- (1) Residence;
- (2) Apartment complex;
- (3) Commercial establishment;
- (4) Industrial establishment; or
- (5) Educational institution.

(Ord. of 4-19-1988, § 3)

Sec. 46-194. Appeal.

Any interested person aggrieved by the classification of any premises under this article or the granting or refusal to grant any permit under this article shall have the right to appeal to the mayor and board of aldermen.

(Ord. of 4-19-1988, § 4)

Sec. 46-195. Rates.

(a) The director of public works is hereby authorized and directed to prepare and submit a schedule of rates of charges for garbage and rubbish collection which is provided by the city based upon the classifications contained in this article. Such schedule of rates of charges shall be submitted to the mayor and board of aldermen for approval subject to such changes as they may make.

(b) Upon approval, with or without changes, by the mayor and board of aldermen of the schedule of rates of charges, notice of such charges shall be published one time in any newspaper as in the case of other legal advertisements. Such notice shall specifically detail the rates to be charged, the date such charges shall be payable and shall set forth the date on which such charges shall be effective.

(c) Such rates of charge shall become effective after approval and publication on the date set forth in such notice.

(d) Any other provision of this article notwithstanding, unless and until the rate of charge heretofore adopted have been changed as provided heretofore in this section, the rates in effect at the time of passage of the ordinance from which this article is derived shall remain in effect.

(Ord. of 4-19-1988, § 5)

Sec. 46-196. Option of private removal or disposal on private property.

Every apartment complex, commercial establishment, industrial establishment, educational institution or occupant of a residence, by and through the owner, manager or head of household (hereinafter referred to as "occupant"), shall elect one of the following: (i) to have the city collect garbage and rubbish, (ii) to contract for the private removal of garbage or rubbish at the occupants' own expense, (iii) to dispose of garbage and rubbish at occupants' own expense on land owned by the apartment complex, commercial establishment, industrial establishment, educational institution or occupant of a residence, or (iv) to dispose of garbage and rubbish on property other than that owned by the occupant by methods that comply with the requirements of the Solid Wastes Disposal Law of 1974 (MCA 1972, § 17-17-1 et seq.). Occupants choosing to remove garbage or rubbish by an authorized method other than collection by the city will not be charged for this service by the city provided the following terms and conditions are met:

(1) An occupant privately removing and disposing of garbage or rubbish on property other than that owned by the occupant, or any person, firm, corporation or other entity contracting to provide such services by contract for others is duly licensed and qualified to do business in the city and the method of disposal complies with the requirements of the Solid Wastes Disposal Law of 1974 set forth in MCA 1972, § 17-17-1 et seq. Provided, however, an occupant who obtains a permit under subsection (2)a of this section and who contracts with a person, corporation or other entity who is duly licensed as required by this article shall be required to obtain a permit but not a license.

(2) That the city clerk is notified in writing of such election; and

a. Any person, firm, corporation, occupant or other entity electing to privately remove garbage or rubbish for themselves or others and dispose of garbage or rubbish on property other than that owned by the occupant shall do so by the disposal of garbage or rubbish into a sanitary landfill, approved incineration, composting, or by other means now available or which may later become available, any of which shall be approved by the state department of natural resources or other agency as shall hereafter administer and enforce the Solid Wastes Disposal Law of 1974 and which shall not constitute a public nuisance or threat to public health within the city. Removal shall be at least weekly or as less frequently as is necessary to avoid becoming a public nuisance or a threat to public health and safety. Any party electing to privately remove garbage or rubbish for themselves or others and dispose of garbage or rubbish on property other than that owned by the occupant shall file an application, in writing, with the city clerk in such form as shall be provided. A license or permit shall be granted upon completion of such application, approval by the director of public works and the payment of a fee of \$50.00; provided, however, any occupant who contracts with a person, corporation or other entity duly licensed in the city to collect and dispose of garbage and rubbish shall obtain a permit but shall not be charged a permit fee.

In order to qualify for fee exemption, the occupant so applying shall file written evidence of the terms and conditions of the agreement with the person, corporation or other entity so licensed. Any person, firm, corporation or occupant who contracts to remove and dispose of garbage or rubbish for others shall also be required to post bond with the city clerk in the amount of \$500.00. Disposal in the manner set out in the Solid Wastes Disposal Law of 1974 shall be a condition of the continued validity of the permit. Each permit shall expire one year from issuance.

b. Any person, firm, corporation or other entity identified in section 46-193 electing to dispose of garbage or rubbish from its own household or business upon land owned by the occupant disposing of garbage or rubbish shall do so by methods and under conditions that meet the requirements of and comply with the Solid Wastes Disposal Law of 1974 and which shall not constitute a public nuisance or threat to public health within the city. Any party electing to dispose of garbage or rubbish upon land owned by the occupant shall file an application in writing with the city clerk in such form as shall be provided. A permit shall be granted upon the completion of such application and approval by the director of public works. Disposal in the manner set out in the Solid Wastes Disposal Law of 1974 and which shall not constitute a public nuisance or threat to public health within the city shall be a condition of the continued validity of the permit. Each permit shall expire one year from issuance.

c. Any apartment complex, commercial establishment, industrial establishment, educational institution or occupant of a residence who has used and paid for city collection of garbage or rubbish in one of the three months preceding the adoption of the ordinance from which this article is derived shall be deemed to have elected to have the city remove occupants' garbage or rubbish as provided in this section.

(Ord. of 4-19-1988, § 6)

#### Sec. 46-197. Collection.

The charges for collection imposed hereby shall be billed on a monthly basis. Such charges may appear on the water bill separately itemized. Such charges shall be due and payable at the same time as the water bill or as otherwise stated. Failure to pay the charges as and when due shall be cause for the discontinuance of further collection services.

(Ord. of 4-19-1988, § 7)

#### Sec. 46-198. Penalties.

If the city collection service is not selected and used and payment made for collection services, or, once selected and used by any party identified in section 46-196 but is discontinued for nonpayment, the responsible party shall within seven days of notice given by the city clerk by certified mail, arrange for removal or private disposal as provided by the provision of section 46-196. Failure to do so within such time shall be a misdemeanor punishable by a fine of not more than \$100.00.

(Ord. of 4-19-1988, § 8)

Sec. 46-199. Revocation of license.

Any license granted under this article shall be based on performance and may be revoked of cause, including, but not limited to the failure to perform under the provisions of the Solid Wastes Disposal Law of 1974 (MCA 1972, § 17-17-1 et seq.), the regulations adopted under authority of the Solid Wastes Disposal Law of 1974 and the ordinances of the city.

(Ord. of 4-19-1988, § 9)

Secs. 46-200--46-230. Reserved.

## ARTICLE VII. LITTER

Sec. 46-231. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Commercial handbill means any printed or written matter, any sample or device, dodger, circular, leaflet, pamphlet, paper, booklet, or any other printed or otherwise reproduced original or copies of any matter of literature:

- (1) Which advertises for sale any merchandise product, commodity, or thing;
- (2) Which directs attention to any business or mercantile or commercial establishment, or other activity, for the purpose of either directly or indirectly promoting the interest thereof by sales;
- (3) Which directs attention to or advertises any meeting, theatrical performance, exhibition, or event of any kind for which an admission fee is charged for the purpose of private gain or profit; but the terms of this subsection shall not apply where an admission fee is charged or a collection is taken up for the purpose of defraying the expenses incident to such meeting, theatrical performance, exhibition, or event of any kind, when the meeting, theatrical performance, exhibition or event is held, given or takes place in connection with the dissemination of information which is not restricted under the ordinary rules of decency, good morals, public peace, safety and good order. Provided, that nothing contained in this subsection shall be deemed to authorize the holding, giving or taking place of any meeting, theatrical performance, exhibition, or event of any kind, without a license, where such license is or may be required by any law of this state, or under any ordinance of this city; or
- (4) Which, while containing reading matter other than advertising matter, is predominantly and essentially an advertisement, and is distributed or circulated for advertising purposes, or for the private benefit and gain of any persons or engaged as advertiser or distributor.

Garbage means putrescible animal and vegetable wastes resulting from the handling, preparation, cooking and consumption of food.

Litter means "garbage," "refuse," and "rubbish" as defined in this section and all other waste material which, if thrown or deposited as prohibited in this article, tends to create a danger to public health, safety and welfare.

Newspaper means any newspaper of general circulation as defined by general law, any newspaper duly entered with the United States Postal Service, in accordance with federal statute or regulation, and any newspaper filed and recorded with any recording officer as provided by general law; and, in addition thereto, shall mean and include any periodical or current magazine regularly published with not less than four issues per year, and sold to the public.

Noncommercial handbill means any printed or written matter, any sample, or device, dodger, circular, leaflet, pamphlet, newspaper, magazine, paper, booklet, or any other printed or otherwise reproduced original or copies of any matter of literature not included in the aforesaid definitions of a commercial handbill or newspaper.

Owner means the person holding title to private property, including but not limited to the actual title owner, as well as any person leasing, renting or otherwise possessing such property with permission of the owner.

Park means a park, reservation, playground, beach, recreation center or any other public area in the city, owned or used by the city and devoted to active or passive recreation.

Private premises means any dwelling, house, building, or other structure, designed or used either wholly or in part for private residential purposes, whether inhabited or temporarily or continuously uninhabited or vacant, and shall include any yard, grounds, walk, driveway, porch, steps, vestibule or mailbox belonging or appurtenant to such dwelling, house, building, or other structure.

Public place means any and all streets, rights-of-way, sidewalks, boulevards, alleys or other public ways and any and all public parks, squares, spaces, grounds, and buildings.

Refuse means all putrescible and nonputrescible solid wastes (except body wastes), including garbage, rubbish, ashes, street cleanings, dead animals, abandoned automobiles, and solid market and industrial wastes.

Rubbish means nonputrescible solid wastes consisting of both combustible and noncombustible wastes, such as paper, wrapping, cigarettes, cardboard, tin cans, yard clippings, leaves, wood, glass, bedding, crockery and similar materials.

Vehicle means every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, including devices used exclusively upon stationary rails or tracks.

(Ord. of 6-21-1994, § 2)

Cross references: Definitions generally, § 1-2.

Sec. 46-232. Littering prohibited; generally.

(a) Litter in public places. No person shall throw or deposit litter in or upon any street, sidewalk or other public place within the city except in public receptacles, in authorized private receptacles for collection, or in official city landfills.

(b) Sweeping litter into gutters prohibited. No person shall sweep into or deposit in any gutter, street or other public place within the city the accumulation of litter from any building or lot or from any public or private sidewalk or driveway. Persons owning or occupying property shall keep the sidewalk in front of their premises free of litter.

(c) Litter thrown by persons in vehicles. No person, while a driver or passenger in a vehicle, shall throw or deposit litter upon any street or other public place within the city or upon private property.

(d) Truck loads causing litter. No person shall drive or move any truck or other vehicle within the city unless such vehicle is so constructed, loaded or covered as to prevent any load, contents or litter from being blown or deposited upon any street, alley or other public place.

(e) Litter in parks. No person shall throw or deposit litter in any park within the city except in public receptacles and in such a manner that the litter will be prevented from being carried or deposited by the elements upon any part of the park or upon any street or other public place. Where public receptacles are not provided, all such litter shall be carried away from the park by the person responsible for its presence and properly disposed of elsewhere as provided in this article. It shall also be a violation of this article to carry or possess glass containers within the boundaries of any city park.

(f) Litter in bodies of water and fountains. No person shall throw or deposit litter in any fountain, pond, stream, bayou or any other body of water in a park or elsewhere within the city.

(Ord. of 6-21-1994, § 3)

Sec. 46-233. Handbills.

(a) Throwing or distributing handbills in public places. No person shall throw or deposit any commercial or noncommercial handbill in or upon any sidewalk, street or other public place within the city. Nor shall any person hand out or distribute or sell any commercial handbill in any public place. Provided, however, that it shall not be unlawful on any sidewalk, street, or other public place within the city for any person to hand out or distribute, without charge to the receiver thereof, any noncommercial handbill to any person willing to accept it.

(b) Placing commercial and noncommercial handbills on vehicles. No person shall throw or deposit any commercial or noncommercial handbill in or upon any vehicle. Provided, however, that it shall not be unlawful in any public place for a person to hand out or distribute without charge to the receiver thereof, a noncommercial handbill to any occupant of a vehicle who is willing to accept it.

(c) Depositing of commercial and noncommercial handbills on uninhabited or vacant premises. No person shall throw or deposit any commercial or noncommercial handbill in or upon any private premises which are temporarily or continuously uninhabited or vacant.

(d) Prohibiting distribution of handbills where property posted. No person shall throw, deposit or distribute any commercial or noncommercial handbill upon any private premises, if requested by anyone thereon not to do so, or if there is placed on such premises in a conspicuous position near the entrance thereof, a sign bearing the words: "No Trespassing," "No Peddlers or Agents," "No Advertisement," or any similar notice, indicating in any matter that the occupants of such premises do not desire to be molested or have their right of such privacy disturbed, or to have any such handbills left upon such premises.

(e) Distributing commercial and noncommercial handbills at inhabited private premises. No person shall throw, deposit or distribute any commercial or noncommercial handbill in or upon private premises which are inhabited, except by handing or transmitting any such handbill directly to the owner, occupant, or other person then present in or upon such private premises. Provided, however, that in case of inhabited private premises which are not posted, as provided in this article, such person, unless requested by anyone upon such premises not to do so, may place or deposit any such handbill in or upon such inhabited private premises, if such handbill is so placed or deposited as to secure or prevent such handbill from being blown or drifted about such premises or sidewalks, streets, or other public places, and except that mailboxes may not be so used when so prohibited by the federal postal law or regulations. Inhabited premises as used in this subsection shall include any residence, business, farm or other premises customarily inhabited by persons.

(f) Exemption for mail and newspapers. The provisions of this section shall not apply to the distribution of mail by the United States, nor to newspapers, except that newspapers shall be placed on private property in such a manner as to prevent their being carried or deposited by the elements upon any street, sidewalk or other public place or upon private property.

(g) Dropping litter from aircraft. No person in an aircraft shall throw out, drop or deposit within the city any litter, handbill or any other object.

(h) Posting signs or notices prohibited. No person shall post or affix any notice, poster, including political signs, or other paper or device calculated to attract the attention of the public, to any telephone or utility pole, tree, post, pole or any other structure in or on any street, sidewalk, public right-of-way, or any other public place, or upon any public structure or building, except as may be authorized or required by law.

(Ord. of 6-21-1994, § 4)

Sec. 46-234. Litter on private property.

(a) Litter on occupied private property. No person shall throw or deposit litter on any occupied private property within the city, whether owned by such person or not, except that the owner or person in control of private property may maintain authorized private receptacles for collection in such a manner that litter will be prevented from being carried or deposited by the elements upon any street, sidewalk or other public place or upon any private property.

(b) Owner to maintain premises free of litter. The owner or person in control of any private property shall at all times maintain the premises free of litter. Provided, however, that this section shall not prohibit the storage of litter in authorized private receptacles for collection.

(c) Litter on vacant lots. No person shall throw or deposit litter on any open or vacant private property within the city whether owned by such person or not.

(d) Clearing of litter from open private property by city.

(1) Notice to remove. The public works department is hereby authorized and empowered to notify the owner of any open or vacant private property within the city or the agent of such owner to properly dispose of litter located on such owner's property which is dangerous to public health, safety or welfare. Such notice shall be made by delivering a copy of the notice to the owner or if such notice cannot be made with reasonable diligence on the owner, by leaving a copy of the notice at the owner's usual place of abode with the owner's spouse or some other person of the owner's family above the age of 16 years who is willing to receive service, and by thereafter mailing a copy of the notice by first class mail to the person to be served at the place where a copy of the notice was left. In addition to service by any other method provided in this section, notice may be served on a person outside the city by sending a copy of the notice to the person to be served by certified mail, return receipt requested. Where the owner is a natural person, the envelope containing the notice shall be marked "Restricted Delivery." Service by this method shall be deemed complete as of the date of delivery as evidenced by the return receipt or by the returned envelope marked "Refused."

(2) Action upon noncompliance. Upon the failure, neglect or refusal of any owner or agent so notified, to properly dispose of litter dangerous to the public health, safety or welfare within ten days after receipt of written notice provided for in subsection (d)(1) above, or within ten days after the date of such notice in the event the notice is returned to the city post office department because of its inability to make delivery thereof, provided the notice was properly addressed to the last known address of such owner, or agent, the public works department is hereby authorized and empowered to pay for the disposing of such litter or to order its disposal by the city.

(3) Charge included in tax bill. When the city has effected the removal of such dangerous litter or has paid for its removal, the actual cost thereof shall be assessed to the owner of such property on the owner's next regular ad valorem tax statement and such charge shall be due and payable by such owner at the time of payment of such bill.

(4) Recorded statement constitutes lien. Where the full amount due the city is not paid by such owner within 30 days after the disposal of such litter, as provided for in subsections (i) and (ii) above, then, and in that case, the litter control officer shall cause to be recorded in the office of the city clerk a sworn statement showing the cost and expense incurred for the work, the date the work was done and the location of the property on which such work was done. A copy of such sworn statement shall be mailed to the owner by certified mail in the same manner as set forth in subsection (d)(1) of this section. The recordation of such sworn statement shall constitute a lien and privilege on the property, and shall remain in full force and effect for the amount due until full payment has been made. Such costs and

expenses shall be collected in the manner fixed by law for the collection of ad valorem taxes and further shall be subject to a delinquent penalty of ten percent plus legal interest thereon in the event such charges are not paid in full on or before the date the tax bill upon which such charge appears becomes delinquent. Sworn statements recorded in accordance with the provisions of this subsection shall be prima facie evidence that all legal formalities have been complied with and that the work has been done properly and satisfactorily, and shall be full notice to every person concerned that the amount of the statement, plus penalty and interest, constitutes a charge against the property designated or described in the statement and that the charge is due and collectible as provided by law.

(Ord. of 6-21-1994, § 5)

Sec. 46-235. Violation; penalty.

Any person who is found guilty of the violation of any provision of this article shall be fined in an amount not less than \$50.00 and not exceeding \$1,000.00 or be imprisoned in the city jail for a period not exceeding 90 days or both so fined and imprisoned. The civil and criminal provisions of this article shall be enforced by the city police department, to include auxiliary police officers.

(Ord. of 6-21-1994, § 6)

Chapters 47--49 RESERVED

Chapter 50 HISTORICAL AND OTHER PRESERVATION\*

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\*Cross references: Buildings and building regulations, ch. 18; environment, ch. 34; planning, ch. 70; utilities, ch. 102; zoning, ch. 106.

State law references: Historic preservation districts and landmarks, MCA 1972, § 39-13-1 et seq.

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Article I. In General

Secs. 50-1--50-30. Reserved.

Article II. Historical Preservation Commission

Sec. 50-31. Definitions.

Sec. 50-32. Establishment of Clinton Historical Preservation Commission.

Sec. 50-33. Rules of conduct of the commission.

Sec. 50-34. Site plan required for any proposed "action" in the OTC district.

Sec. 50-35. Certificate of appropriateness required.

Sec. 50-36. Action within the OTC district.

Sec. 50-37. Commission to be advisory.

Secs. 50-38--50-70. Reserved.

### Article III. Architectural Review

Sec. 50-71. Definitions.

Sec. 50-72. Purposes of article.

Sec. 50-73. Designations of architectural control districts.

Sec. 50-74. Architectural review committee.

Sec. 50-75. Meetings; schedule; special meetings.

Sec. 50-76. Meetings to be recorded; exception.

Sec. 50-77. Quorum.

Sec. 50-78. Conduct.

Sec. 50-79. Approval of erections, reconstructions and alterations in architectural control districts required; waiver of requirements.

Sec. 50-80. Application.

Sec. 50-81. Hearing.

Sec. 50-82. Decisions; certificate of approval.

Sec. 50-83. Appeals; hearing.

Sec. 50-84. Hearing before board of aldermen.

Sec. 50-85. Appeals to circuit court.

Sec. 50-86. Design criteria.

Sec. 50-87. No specific architectural style required.

Sec. 50-88. Deviations from approved plans prohibited.

Sec. 50-89. Failure to enforce article.

### ARTICLE I. IN GENERAL

Secs. 50-1--50-30. Reserved.

ARTICLE II. HISTORICAL PRESERVATION COMMISSION\*

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\*Cross references: Other boards and commissions, § 2-61 et seq.

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Sec. 50-31. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Action means any construction, restoration or rehabilitation, relocation, addition to, repair of or demolition of a building or structure, or construction and location of parking facilities or the cutting of live trees (i.e., those measuring 12 inches in diameter five feet above ground level).

Appropriateness means conformity to the standards established in the zoning ordinance or other land development regulations as they now exist or may be amended in the future.

Certificate of appropriateness means a certificate expressing the recommendation of the Clinton Historical Preservation Commission with regard to any proposed "action" in the OTC district.

Commission means the Clinton Historical Preservation Commission.

Historic landmark means those properties nominated by the state department of archives and history for listing on the National Register of Historic Places as they now exist or may be designated in the future.

(Ord. of 10-7-1997(1), §§ 1--4, 5)

Cross references: Definitions generally, § 1-2.

Sec. 50-32. Establishment of Clinton Historical Preservation Commission.

A "Clinton Historical Preservation Commission" is hereby established whose primary function shall be as set out in section 1400 of the city zoning ordinance to include making its recommendation to the planning commission. The commission shall also review all site plans for development anywhere within the OTC district and forward their recommendations to the planning commission in accordance with the procedures specified under section 1403 of the city zoning ordinance. The commission shall consist of five members who shall be appointed by the mayor and board of aldermen. Three of the members shall be property owners in the OTC district or owners of businesses in the OTC district; the other two members shall be residents of the city who do not own property or businesses within the OTC district.

All future appointments shall be for a four-year staggered terms (or so much of a four-year term as may be remaining at the time a member is actually appointed and serving). It is the intent of this article that the established terms for three members of the commission should expire at the midpoint of the terms of the mayor and board of aldermen; the terms of the other two members should be concurrent with the term of the mayor and board of aldermen.

(Ord. of 10-7-1997(1), § 1)

Sec. 50-33. Rules of conduct of the commission.

- (a) All meetings of the commission shall be open to the public at all times unless an executive session is declared in the manner provided by state law.
- (b) Voting by the commission on all matters coming before that body shall be held in public except for voting during executive session as permitted by law.
- (c) The decision of a majority of the commission members present and voting shall represent the decision of the commission.
- (d) The commission shall elect from among their number a chairperson who shall preside at all meetings; in the absence of the chairperson, a vice-chairperson, elected by the members of the commission shall preside.
- (e) The commission shall keep minutes and records of all meetings and proceedings, which records shall be a matter of public record.
- (f) The commission may develop and adopt such additional procedures as may be beneficial to the conduct of the commission's business, to the extent that such procedures do not conflict with applicable law or previously enacted municipal ordinances.

(Ord. of 10-7-1997(1), § 2)

Sec. 50-34. Site plan required for any proposed "action" in the OTC district.

When any "action", as defined in this article is proposed anywhere within the OTC district, the planning commission and the historical preservation commission may both review site plans for such actions. Site plans shall be prepared in accordance with the city zoning ordinance and persons responsible for initiating such "actions" shall comply with the procedures specified in that ordinance. The recommendations of the commission shall be forwarded to the planning commission.

(Ord. of 10-7-1997(1), § 3)

Sec. 50-35. Certificate of appropriateness required.

- (a) A certificate of appropriateness shall be required before any "action" as defined under this article, can be taken within the OTC district or with respect to any designated historic landmark. For the

purposes of this article, any requirements or guidelines pertaining to the OTC district shall also be deemed to include actions pertaining to a designated historic landmark.

(b) It is not the intent of this article to establish new or different standards of review, but to establish a new, consolidated method or review in lieu of review by various entities within the city pursuant to existing procedures.

(1) Procedures for consideration of applications for certificates of appropriateness. Anyone desiring to take an "action" as defined in this article must submit an application (in a form provided by the office of the building official) for a certificate of appropriateness to the building permit department of the city who shall forward this application to the chairperson of the commission. The commission shall review the application and either approve, reject or make recommendations for changes and modifications as it deems necessary in order for the applicant to meet the standards and guidelines for the action to be performed. If the applicant's plans meet the approval of the commission, the chairperson of the commission shall sign the certificate and it shall be forwarded to the planning commission for review and then forwarded to the mayor and board of aldermen for review and final action. Following approval by the mayor and board of aldermen. The certificate shall be forwarded back to the building official for issuance of a building permit. If the commission should reject the application or recommend changes and modifications not acceptable to the applicant, the applicant may appeal the commission's decision directly to the planning commission.

(2) Time for filing of applications for certificate of appropriateness. Applications for certificates of appropriateness must be submitted to the building and permit department by or before 12:00 noon on the Thursday immediately preceding the regular monthly meeting of the commission on the fourth Monday of each month. Applications submitted by that deadline shall be considered at the next regular meeting of the commission on the fourth Monday of each month at 7:00 p.m. in the municipal room in the police building, 205 Monroe Street, Clinton, Mississippi, or at such other time and place as the commission may determine. The applicant or his representative must be present at the meeting. If no matters has been placed on the agenda for consideration in a timely manner, the commission shall not meet until there is a matter to be placed on the agenda.

(3) Expiration of certificates of appropriateness. Certificates of appropriateness shall expire one year after final approval of the certificate by the mayor and board of aldermen if construction has not been initiated within such time.

(4) Applications for new construction, additions, restorations, and rehabilitation. In addition to site plan requirements of section 1403 of the zoning ordinance, applications for new construction, additions, restorations, and rehabilitation shall include.

a. A set of scaled floor plans, elevations and exterior elevations showing the type of work proposed and indicating:

1. Overall dimensions, including height;

2. Type of material to be used on walls, roofs, windows, trim, siding, etc.; and
  3. Color samples.
  - b. Photographs of the existing structure, or if for new construction, a photograph of the lot and the adjoining structures.
- (5) Applications for cutting live trees. Applications for cutting live trees measuring 12 inches in diameter five feet above ground level shall include:
- a. A photograph of the tree showing the relationship to the structure on the lot.
  - b. A measurement of the diameter of the tree at the five-foot level.
  - c. An explanation of why the tree is proposed to be removed.
- (6) Applications for the construction of a parking lot or facility. Applications for the construction of a parking lot or parking facility shall include:
- a. Type of paving to be used.
  - b. Style of proposed curbing and stripping.
  - c. Type of illumination, if any.
  - d. Any proposed fencing, screening, landscaping and signs.
  - e. Photographs showing adjoining structures.
  - f. Written identification of any neighboring structures.
- (7) Applications for moving a structure out of the OTC district. Applications for moving a structure out of the OTC district shall include:
- a. A photograph of the structure to be moved.
  - b. Description of the proposed method for moving the structure.
- (8) Application for moving a structure into or within the OTC district. Applications for moving a structure into or within the OTC district shall include:
- a. Photograph of the structure to be moved.
  - b. Description of the proposed method for moving the structure.
  - c. Statement of the need for the proposed move with reference to the future use of the site.
  - d. Photograph and address of the proposed location of the structure.

(9) Application for demolition. Applications for demolition of a structure in the OTC district shall include:

- a. A photograph of the structure to be demolished.
- b. Description of the method of demolition to be used.

(10) Application for minor repairs. Applications for a certificate of appropriateness for minor repairs shall include:

- a. Drawings or photograph showing the front elevation of the building;
- b. Drawings or photograph of the area of the building to be repaired if not the front elevation. (If the rear or side elevations are to be repaired, a photograph showing the building's relationship to the neighboring structures is necessary); or
- c. Either a written description or drawing of the work to be done including materials to be used and paint samples.

(11) Minor repairs or routine maintenance without review by the commission. The building official may issue a certificate of appropriateness for minor repairs or routine maintenance without review by the commission if that repair or maintenance:

- a. Does not involve a change in design, material or other appearance thereof;
- b. Is undertaken with identical materials and in such a manner as to substantially duplicate the existing construction;
- c. Involves only removal of inappropriate or outdated signage or removal of inappropriate awning or canopy not original to the structure.

(Ord. of 10-7-1997(1), § 4)

Sec. 50-36. Action within the OTC district.

When any "action," as defined in this article, is proposed anywhere in the OTC district, such actions shall be subject to the provisions of this article.

(Ord. of 10-7-1997(1), § 5)

Sec. 50-37. Commission to be advisory.

Notwithstanding any provisions of this article, the actions of the commission shall be advisory only to the planning commission and the mayor and board of aldermen.

(Ord. of 10-7-1997(1), § 6)

Secs. 50-38--50-70. Reserved.

### ARTICLE III. ARCHITECTURAL REVIEW

#### Sec. 50-71. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Committee means the architectural review committee.

Cross references: Definitions generally, § 1-2.

#### Sec. 50-72. Purposes of article.

(a) The board of aldermen find that bizarre, garish or otherwise inappropriate exterior design and appearance of buildings, structures and improvements erected in multifamily residential, commercial and industrial areas adversely affects the desirability of immediately adjacent and neighboring properties; impairs the benefits of occupancy as to existing properties in such areas; jeopardizes the economic stability and taxable value of businesses, land and buildings in such areas, and in the city as a whole; prevents the optimum use of real estate in the city; induces physical degeneration of property with attendant deterioration of conditions bearing directly on the public health, safety, morals and general welfare of the citizens; deprives the city of tax revenue and destroys a proper balance between the taxable value of real property and the cost of municipal services.

(b) Therefore, in order to encourage the construction of attractive buildings, to protect and promote the general welfare and to prevent deterioration of the appearance of the city which would tend to create hazards to public health, safety and morals, destroy opportunity for the development of business and industry, and thereby deteriorate taxable land values and commerce below levels necessary to finance acceptable levels of municipal services, it is the purpose of this article to provide for the designation of architectural control districts within land areas zoned for residential, (other than R-1, R-2 and Olde Towne Clinton districts which are handled under ordinances), commercial, industrial, public building use and other districts set out in the zoning ordinance in the city, to establish a committee to regulate the exterior appearance of buildings, structures and improvements proposed for alteration or erection in such districts and to set standards and procedures to be followed by such committee and, on appeal from its decision, by the board of aldermen.

(Ord. of 5-4-1999(2), § 1)

#### Sec. 50-73. Designations of architectural control districts.

All land areas in the city which are zoned other than those zoned R-1, R-2 or Olde Towne Clinton districts are hereby designated as an architectural control district, and any lot, parcel or area of land within any area zoned for single-family detached residences, which is used for other than single-family detached residences, or which is the subject of an application for a use permit or building involving any other such use, is designated an architectural control district.

(Ord. of 5-4-1999(2), § 2)

Sec. 50-74. Architectural review committee.

It is the intent of the board of aldermen to establish an architectural review committee composed of five members. The five members of the architectural review committee will include the zoning administrator, and four additional members nominated by the mayor and approved by the board of aldermen. The mayor will serve as an ex officio, nonvoting member of the architectural review committee. The architectural review committee will be charged with the review of all proposed construction in compliance with the zoning regulations, sign ordinances, this article, landscaping requirements and other matters within the overall zoning requirements.

(Ord. of 5-4-1999(2), § 3)

Cross references: Other boards and commissions, § 2-61 et seq.

Sec. 50-75. Meetings; schedule; special meetings.

(a) The committee shall hold regular meetings the second Tuesday of each month. Special meetings may be held at other times; provided, that all members of the committee are notified at least 24 hours in advance of the time and place of the special meeting.

(b) If no business is to be considered, the committee will not meet.

(Ord. of 5-4-1999(2), § 4)

Sec. 50-76. Meetings to be recorded; exception.

All meetings of the architectural review committee shall be recorded by the taking of minutes to be maintained by the secretary of the committee.

(Ord. of 5-4-1999(2), § 5)

Sec. 50-77. Quorum.

A quorum shall consist of a majority of the members of the committee. If a quorum is not obtained at any regular meeting, a special meeting shall thereupon be scheduled within ten days thereafter.

(Ord. of 5-4-1999(2), § 6)

Sec. 50-78. Conduct.

(a) All meetings of the committee shall be conducted by the chairperson, or in his absence, by the vice-chairperson.

(b) All members of the committee other than the chairperson shall be entitled to vote except in the case of a tie when the chairperson shall vote to break the tie and the decisions of the committee shall be by majority vote of those members present.

(c) All meetings of the committee shall be open to the public, and all decisions shall be by record vote of the ayes and nays spread upon the proceedings. The committee shall comply with all provisions of the state statutes on open meetings, MCA 1972, §§ 25-41-1--25-41-17.

(d) In matters covering procedures for the committee not specified in this article, Robert's Rules of Order shall govern.

(Ord. of 5-4-1999(2), § 7)

Sec. 50-79. Approval of erections, reconstructions and alterations in architectural control districts required; waiver of requirements.

(a) No structure, building, or other improvement or other major landscape features surrounding such building, structure, or improvement located on any land within any architectural control district shall be erected, reconstructed, altered or restored until the plans for such building, structure, or improvement shall have been approved by the committee, provided, that the provisions of this article shall not apply to the regular maintenance of the building, structure or improvement as opposed to the reconstruction, alteration or restoration. For the purposes of this section the repainting of a structure or building which results in the complete change of color of the structure or building or a substantial portion thereof shall be deemed an alteration and not regular maintenance. Erection, reconstruction, alteration or restoration of signs shall be controlled by the sign ordinance of the city.

(b) The committee may, after hearing the evidence in any case properly before it involving reconstruction or alteration only, waive the requirements of this article upon a written finding that the application involves reconstruction or alteration only and will not materially affect the exterior appearance of the structure involved. Such decision of waiver shall constitute a final decision of the committee within the meaning of the related sections of this article and shall be appealable.

(Ord. of 5-4-1999(2), § 8)

Sec. 50-80. Application.

(a) Application for approval by the committee for the construction, reconstruction, alteration or restoration of any building wherein the total cost of construction will exceed \$10,000.00 within an architectural control district shall be submitted to the zoning administrator of the city accompanied by: (Exception: Businesses that do not alter exterior elevations.)

(1) An architectural rendering (perspective and/or elevation) and plans of all buildings and structures showing style of architecture prepared in accord with the requirements of the Standard Building Code as adopted by the city. All colors, materials and finishes shall be shown by notation or by use of accepted architectural symbols;

(2) The proposed site plan which complies with all other ordinances of the city for site plans including a landscaping plan; and

(3) A vicinity map and renderings or photographs of all development on immediately adjacent properties.

The applicant may submit such additional material in writing, and graphically, as he desires. For the purposes of this article, no site plan shall be required where no change is proposed in any external dimension or the location of any existing structure. The committee may from time to time waive such other requirements of this subsection as it may deem proper in the determination of any particular application.

(b) Upon the filing of an application, the zoning administrator, after determining that the requirements of subsection (a) of this section have been satisfied, shall within five days thereafter, forward the application, together with his recommendations on the application to the chairperson of the committee.

(c) Upon receipt of any such application, the chairperson of the committee shall thereupon place the application on the agenda for consideration at the next regular meeting of the committee.

(Ord. of 5-4-1999(2), § 9)

#### Sec. 50-81. Hearing.

During the consideration of an application filed under this article, the committee shall hear the testimony of any person desiring to be heard in support of or in opposition to the application. Such testimony shall be strictly confined to the question of whether the proposed construction, reconstruction, alteration or restoration satisfies or does not satisfy the criteria for the construction, reconstruction, alteration or restoration set out in this article. The committee shall hear any oral testimony that the zoning administrator desires to present.

(Ord. of 5-4-1999(2), § 10)

#### Sec. 50-82. Decisions; certificate of approval.

(a) The committee shall vote and publish its decision in writing on any matter properly before it no later than the next regular meeting after the conclusion of hearing evidence on the matter, unless time is extended by mutual agreement between the committee and the applicant.

(b) In all final decisions rendered pursuant to this article, the committee shall briefly state its findings in writing, and, in the case of disapproval, it may make recommendations to the applicant with respect to the design, texture, material, color, line, mass, dimension or lighting of the building involved. In case of disapproval, accompanied by such recommendations thereon, the applicant may again be heard before the committee if, within 90 days, he can comply with all such recommendations of the committee.

(c) Approval by the committee of any application filed under this article shall be evidenced by issuance of a certificate, signed by the chairperson and attested by the secretary, designating the name

of applicant, date of approval, identification of property involved and a brief description of the construction approved.

(Ord. of 5-4-1999(2), § 11)

Sec. 50-83. Appeals; hearing.

Whenever the committee shall, in a final decision, approve or disapprove or waive jurisdiction over any application filed pursuant to this article, the applicant or any other person with justifiable cause shall be entitled to appeal such decision and be heard thereon before the board of aldermen; provided, that there is filed with the city clerk, on or before seven days after the vote of the committee, by the appellant, a notice in writing of such appeal and a fee of \$250.00 to cover the cost of advertising and other administrative expenses for the board of aldermen hearing. Upon the filing of notice of appeal as provided in this article, the city clerk shall thereupon schedule a public hearing before the board of aldermen, not more than 30 days after the filing of such notice; provided, that no such hearing shall be held unless and until the city clerk has caused to be published at least once in a newspaper of general circulation within the county, at least seven days before such proposed hearing, an advertisement stating the time, date and place of the hearing before the board of aldermen, the location of the property involved, the name of the applicant and the nature of the building for which approval is sought.

(Ord. of 5-4-1999(2), § 12)

Sec. 50-84. Hearing before board of aldermen.

On any appeal to the board of aldermen, the final decision of the review committee shall be stayed pending the decision of the board of aldermen. The board of aldermen shall conduct a full and impartial public hearing on the matter before rendering any decision. The same procedure and standards shall be applied by the board of aldermen as are established for the review committee. The board of aldermen may affirm, reverse or modify the decision of the committee, in whole or in part. The decision of the board of aldermen shall be final subject to the provisions of section 50-85.

(Ord. of 5-4-1999(2), § 13)

Sec. 50-85. Appeals to circuit court.

Parties aggrieved by the decision of the board of aldermen, rendered pursuant to section 50-84, shall have the right to appeal to the circuit court of the county in the same manner and form as is required for any other appeal of actions of the board of aldermen.

(Ord. of 5-4-1999(2), § 14)

Sec. 50-86. Design criteria.

(a) The intention of the board of aldermen is that no proposed structure or alteration shall be deemed to be in violation of this article based upon personal preference to taste or choice of

architectural design of any person or persons involved in the administration and enforcement of this article. Only the criteria listed in subsection (b) of this section will be considered while evaluating proposed construction.

(b) The committee and, on appeal, the board of aldermen shall use the following standards and criteria in considering applications filed under this article:

(1) Whether or not the proposed architectural design is suitable for a good suburban community in terms of external architectural features, general design and arrangement, texture, color, line, mass, dimension, material and lighting.

(2) Whether or not the proposed structure, building or improvement is compatible with existing well-designed structures, acceptable to the committee, in the vicinity and in the city as a whole.

(3) Whether or not, and to what extent, the proposed structure, building or improvement would promote the general welfare and protect the public health, safety and morals by tending to maintain or augment the city's tax base as a whole, generating business activity, maintaining and creating employment opportunity, preserving historical sites and structures and making the city a more attractive and desirable place in which to live.

(4) Whether or not proposed freestanding buildings use the same or architecturally harmonious materials, color, texture and treatment for all exterior walls; and in the case of partially freestanding buildings, whether or not the same or architecturally harmonious materials, color, texture and treatment are used on all portions of all exterior walls.

(5) Whether or not the combination of architectural elements proposed for a structure, building or improvement, in terms of design, line, mass, dimension, color, material, texture, lighting, landscaping and roofline and height conform to accepted architectural principles for permanent buildings as contrasted with engineering standards designed to satisfy safety requirements only; and exhibit external characteristics of demonstrated architecture and aesthetic durability.

(6) Whether or not, in terms of design, material, texture, color, lighting, landscaping, dimension, line, mass or roofline and height, the proposed structure, building or improvement is designed to serve primarily as an advertisement or commercial display, exhibits exterior characteristics likely to deteriorate rapidly, would be of temporary or short-term architectural or aesthetic acceptability, would be plainly offensive to human sensibilities or would otherwise constitute a reasonable foreseeable detriment to the community.

(Ord. of 5-4-1999(2), § 15)

Sec. 50-87. No specific architectural style required.

The committee and the board of aldermen on appeal shall not adopt or impose any specific architectural style in the administration of this article.

(Ord. of 5-4-1999(2), § 16)

Sec. 50-88. Deviations from approved plans prohibited.

(a) Any person who once having obtained the approval required by section 50-79 deviates substantially from the approved plan shall be guilty of a misdemeanor.

(b) The city building official, upon his determination of substantial deviation, shall issue a stop work notice on the building permit. Work shall not be permitted to continue, unless it is continued under substantial compliance with the certificate issued pursuant to section 50-82 or the changes have been resubmitted and approved by the committee pursuant to this article.

(Ord. of 5-4-1999(2), § 17)

Sec. 50-89. Failure to enforce article.

Failure to enforce any provision of this article shall not constitute a waiver nor imply that the action is legal.

(Ord. of 5-4-1999(2), § 20)

Chapters 51--53 RESERVED

Chapter 54 LAW ENFORCEMENT\*

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\*Cross references: Administration, ch. 2; courts, ch. 26; offenses and miscellaneous provisions, ch. 62; personnel, ch. 66; traffic and vehicles, ch. 98.

State law references: Health, safety and public welfare, MCA 1972, § 19-5-1 et seq.; municipal police and police departments, MCA 1972, § 21-21-1 et seq.; public welfare, MCA 1972, § 43-1-1 et seq.; public safety and good order, MCA 1972, § 45-1-2 et seq.; law enforcement officers training academy, MCA 1972, § 45-5-1 et seq.; law enforcement officers training program, MCA 1972, § 45-6-1 et seq.

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Article I. In General

Secs. 54-1--54-30. Reserved.

Article II. Municipal Offense Ticket

Sec. 54-31. Authorized; issuance.

Sec. 54-32. Issuance to govern field release of violator; remedy not exclusive.

Sec. 54-33. Use as charging affidavit for person placed under physical arrest.

Sec. 54-34. Form.

Sec. 54-35. Issuance procedure; failure to appear.

Secs. 54-36--54-60. Reserved.

#### Article III. Police Reserve Unit

Sec. 54-61. Volunteer auxiliary police officers.

Sec. 54-62. Powers, duties, privileges and immunities.

Sec. 54-63. Compensation.

Sec. 54-64. Qualifications; discipline.

Sec. 54-65. Uniform and equipment specifications.

Secs. 54-66--54-100. Reserved.

#### Article IV. Obedience to Police

##### Division 1. Generally

Sec. 54-101. Prohibited conduct.

Secs. 54-102--54-120. Reserved.

##### Division 2. Eluding, Fleeing or Disobeying

Sec. 54-121. General restrictions.

Sec. 54-122. Encouraging another to elude, flee or disobey.

Sec. 54-123. Penalty.

#### ARTICLE I. IN GENERAL

Secs. 54-1--54-30. Reserved.

#### ARTICLE II. MUNICIPAL OFFENSE TICKET

Sec. 54-31. Authorized; issuance.

A municipal offense ticket is authorized and may be issued to a law violator when, in the opinion of the issuing officer, it is unnecessary to effect an actual physical arrest.

(Ord. of 5-18-1999, § 1)

Sec. 54-32. Issuance to govern field release of violator; remedy not exclusive.

The issuance of a municipal offense ticket shall govern police officers in making arrest in which the violator is field released similar to that in which a violator of state and local traffic law is ticketed and released; however, such ticket is not exclusive and any other method prescribed by law for the arrest and prosecution of a person for violation of law may be utilized in the discretion of the arresting officer.

(Ord. of 5-18-1999, § 2)

Sec. 54-33. Use as charging affidavit for person placed under physical arrest.

A municipal offense ticket may also be issued when a person is placed under actual physical arrest and such ticket may be used as the charging affidavit the same as in a noncustodial arrest.

(Ord. of 5-18-1999, § 3)

Sec. 54-34. Form.

Municipal offense tickets shall be such as prescribed by the municipal court.

(Ord. of 5-18-1999, § 4)

Sec. 54-35. Issuance procedure; failure to appear.

Any city police officer may issue a municipal offense ticket to any person who violates a state statute and/or a municipal ordinance. Such issuing officer shall set a court appearance date on the ticket. Any person who is issued a municipal offense ticket and fails to appear in the municipal court on the date so set or shall fail to dispose of such ticket in a manner satisfactory to the court prior to such date shall be guilty of contempt of court and may be arrested for such upon issuance of a warrant by the judge of the municipal court.

(Ord. of 5-18-1999, § 5)

Secs. 54-36--54-60. Reserved.

### ARTICLE III. POLICE RESERVE UNIT

Sec. 54-61. Volunteer auxiliary police officers.

(a) Volunteer auxiliary police officers shall be known as police reserve officers and as an organized group shall be known as the police reserve unit.

(b) The chief of police is hereby authorized to recruit, appoint, train, equip, organize and utilize the services of police reserve officers who shall be subject to the same supervision and control by the chief of police and his subordinate commanding officers as regularly employed police officers, while undergoing official training and while performing official duties on behalf of the city.

(Ord. of 4-1-1980, § 1)

Sec. 54-62. Powers, duties, privileges and immunities.

Police reserve officers who have been duly appointed and sworn shall, while undergoing official training and while performing official duties on behalf of the city pursuant to orders or instructions of the chief of police or his subordinate commanding officers, be entitled to all powers, privileges and immunities afforded by law to regularly employed police officers, including the benefits under the Workers' Compensation Law (MCA 1972, § 71-3-1 et seq.), to the same extent that regular employees of the city are entitled to the benefits of such law. For the purposes of determining the basis for Workers' Compensation payments to police reserves (auxiliary police), such payments shall be based upon the entrance salary of a regular police patrol officer of the city at the time of injury to a police reserve officer. Police reserve officers shall not be entitled to any of the benefits provided for regular employees of the city, except Workers' Compensation, provided, that this article shall not in any manner affect the rights of any person to benefits provided by the state or by any act of Congress, for civilian defense workers or auxiliary police officers.

(Ord. of 4-1-1980, § 2)

Sec. 54-63. Compensation.

Police reserve officers serving or appointed pursuant to this article shall not be entitled to compensation from the city for their services unless called into active duty by the mayor or board of aldermen because of an emergency, in which event they shall receive compensation for their services at the rates paid officers employed regularly as patrolmen by the city.

(Ord. of 4-1-1980, § 3)

Sec. 54-64. Qualifications; discipline.

The chief of police is authorized to determine and establish uniform qualifications and regulations for the appointment, removal and discipline of police reserve officers.

(Ord. of 4-1-1980, § 4)

Sec. 54-65. Uniform and equipment specifications.

The chief of police is empowered with the authority to set up the uniform specifications, the equipment specifications and any other rules or regulations that the chief of police sees fit to undertake in setting up specifications for the operation of the police reserve unit consistent with the regulations governing the operation of the city police department.

(Ord. of 4-1-1980, § 5)

Secs. 54-66--54-100. Reserved.

ARTICLE IV. OBEDIENCE TO POLICE

DIVISION 1. GENERALLY

Sec. 54-101. Prohibited conduct.

(a) It shall be unlawful for any person to:

(1) Make, attempt to make, or procure another to make or attempt to make a police report of any type or nature knowing the police report to contain or will contain any false, fictitious or fraudulent statement or entry.

(2) Refuse to reveal to a police officer, such persons identity, or make a false statement, to a police officer, as to such persons identity, including, but not limited to, true name, date of birth, social security number and current residence when such police officer is investigating an actual or alleged criminal act in which such person has been implicated. It shall be prima facie evidence of intent to deceive a police officer as to such persons identity when the information given is unverifiable and when such person fails to produce an apparently valid identification card or name a reputable citizen who can confirm such persons identity.

(3) Make a false statement, to a police officer, as to a material fact concerning an actual or alleged criminal act.

(4) Interfere or cause or procure another to interfere with a police officer in any manner by any word, act or deed while such police officer is acting within the course and scope of his employment.

(5) Disobey the lawful order of a police officer while such officer is acting within the course and scope of his employment.

(b) Any person convicted of a violation of this section is guilty of a misdemeanor and may be punished as provided in section 1-13.

(Ord. of 9-7-1993, § 1)

Secs. 54-102--54-120. Reserved.

## DIVISION 2. ELUDING, FLEEING OR DISOBEYING

Sec. 54-121. General restrictions.

It shall be unlawful for any person to avoid, run or walk away from, or ride or drive away from, or in any other manner elude, flee from or disobey any law enforcement officer, acting within the course and scope of his office and duty, when ordered or requested by such law enforcement officer to stop and identify himself or herself or act or do or refrain from acting or doing as ordered or requested whether such order or request be verbal or by hand signal or gesture, or by activation of a law enforcement vehicle's flashing lights or siren or in any other manner in which a person can reasonably infer, construe or believe that such law enforcement officer is ordering or requesting such person to stop or act or do or refrain from acting or doing and any such person so ordered or requested shall promptly comply and immediately provide their true identity to a law enforcement officer and shall remain so stopped or

continue to act or do or refrain from acting or doing as ordered or requested until otherwise directed by a law enforcement officer.

(Ord. of 2-1-2000, § 1)

Sec. 54-122. Encouraging another to elude, flee or disobey.

It shall be unlawful for any person to in any manner cause or procure or encourage another person to so elude, flee from or disobey the order or request of any law enforcement officer as provided in section 54-121.

(Ord. of 2-1-2000, § 2)

Sec. 54-123. Penalty.

Any person convicted of violating any provision of this division may be punished as provided in section 1-13.

(Ord. of 2-1-2000, § 3)

Chapters 55--57 RESERVED

Chapter 58 NATURAL RESOURCES\*

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\*Cross references: Buildings and building regulations, ch. 18; environment, ch. 34; floods, ch. 42; health and sanitation, ch. 46; planning, ch. 70; streets, sidewalks and other public places, ch. 82; subdivisions, ch. 86; utilities, ch. 102; zoning, ch. 106.

State law references: Subsurface waters, well drillers, MCA 1972, § 51-5-1 et seq.

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Article I. In General

Secs. 58-1--58-30. Reserved.

Article II. Water Wells

Sec. 58-31. Scope of article; administrative procedures.

Sec. 58-32. Registration.

Sec. 58-33. Conditions on use.

Sec. 58-34. Inspections.

Sec. 58-35. Enforcement of the article; penalty for violation.

Sec. 58-36. Disconnection from city water service.

Sec. 58-37. Judicial proceedings.

Secs. 58-38--58-70. Reserved.

### Article III. Storm Drainage System

#### Division 1. Generally

Secs. 58-71--58-90. Reserved.

#### Division 2. Discharge of Nonstormwater

Sec. 58-91. Purpose and intent of article.

Sec. 58-92. Definitions.

Sec. 58-93. Applicability of article.

Sec. 58-94. Responsibility for administration.

Sec. 58-95. Ultimate responsibility.

Sec. 58-96. Discharge prohibitions.

Sec. 58-97. Suspension of MS4 access.

Sec. 58-98. Industrial or construction activity discharges.

Sec. 58-99. Monitoring of discharges.

Sec. 58-100. Requirement to prevent, control, and reduce stormwater pollutants by use of best management practices.

Sec. 58-101. Watercourse protection.

Sec. 58-102. Notification of spills.

Sec. 58-103. Enforcement; notice of violation.

Sec. 58-104. Appeal of notice of violation.

Sec. 58-105. Enforcement measures after appeal.

Sec. 58-106. Cost of abatement of violation.

Sec. 58-107. Injunctive relief.

Sec. 58-108. Compensatory action.

Sec. 58-109. Violations deemed a public nuisance.

Sec. 58-110. Criminal prosecution; recovery of costs and fees.

Sec. 58-111. Remedies not exclusive.

#### ARTICLE I. IN GENERAL

Secs. 58-1--58-30. Reserved.

#### ARTICLE II. WATER WELLS

Sec. 58-31. Scope of article; administrative procedures.

(a) The sections of this article shall apply to all private wells drilled and maintained within the city or any area serviced by the city's water system. A private well is one not drilled and/or operated by the city or other governmental agency or branch.

(b) In order to protect the integrity of city's public water system and pursuant to the city's police powers to protect the health, safety and welfare of the users of the public water supply, the city will establish procedures to implement the requirements of this article.

(Ord. of 1-3-1995, § 2)

Sec. 58-32. Registration.

(a) Any person, firm, partnership, association, corporation, company or organization of any kind (the "owner") desiring to drill or have drilled or installed within the city a well producing a water supply shall, ten days prior to the first day of operation of the well, register the well with the city.

(b) All wells in existence at the time of the effective date of the ordinance from which this article is derived which have not previously been permitted by the city shall be registered.

(c) The registration will, at a minimum, identify the location of the well, the owner of the well, all persons or business involved in the construction of the well, all planned users of the well, and the planned uses of the well.

(d) All registrations will be accompanied by a \$25.00 registration fee in order to defray the administrative cost of registration and to cover the initial and any subsequent inspections of the wells in existence prior to the adoption of this article, as long as the preexisting well is registered. Proof that the well previously existed must be provided at the time of registration.

(Ord. of 1-3-1995, § 3)

Sec. 58-33. Conditions on use.

(a) Any well drilled or operated within the city for private use shall not be connected in any manner with the city water and sewer system.

(b) Any private well within the city will conform to the requirements of MCA 1972, §§ 51-3-1--51-3-55 and 51-5-1--51-5-19.

(c) Each private well within the city will be subject to initial and subsequent inspections to ensure that the well is not attached to or connected with the city water and sewer system.

(d) The owner of any private well in the city shall be responsible for complying with any and all applicable health codes and regulations and with all applicable statutes of the state and with all applicable ordinances of the city.

(Ord. of 1-3-1995, § 4)

#### Sec. 58-34. Inspections.

(a) After the first date of operations or registration of a private well in the city, a representative of an appropriate department of the city shall inspect the site to ensure that the well is not attached or connected to the city water and sewer system.

(b) Each private well in the city will be subject to unannounced inspections by any appropriate department of the city to ensure that the private well is not connected to the city water and sewer system.

(c) The inspectors of the city shall have access to the property on which a well is located in order to perform all inspections, tests or other procedures to verify that the well is in compliance with the provisions of this article.

(Ord. of 1-3-1995, § 5)

#### Sec. 58-35. Enforcement of the article; penalty for violation.

(a) Violation; penalty. Any person who is found guilty of the violation of any provision of this article shall be punished as provided in section 1-13.

(b) Liability for damage. Any person found in violation of any provision of this article shall become liable to the city for any expense, loss or damage occasioned the city by reason of such violation.

(c) Authority to disconnect water service. If, during inspection or otherwise, it is discovered that a well water supply is connected in any fashion to the city's water system, the city water service may be immediately disconnected until the well system is disconnected and appropriate remedial steps are taken to ensure that no contamination of the city water system will occur. All costs of disconnection, inspection and remedial steps shall be borne by the owner.

(Ord. of 1-3-1995, § 6)

Sec. 58-36. Disconnection from city water service.

The city, at its option, may determine that any owner operating its own well within the service area of the city does not require city water and may, upon approval by the mayor and board of aldermen, disconnect city water service to such entity.

(Ord. of 1-3-1995, § 7)

Sec. 58-37. Judicial proceedings.

In addition to the actions provided for in section 58-35, in the event of any violation of this article or threatened or impending violation thereof, especially if any private well is in any manner connected to the city water and sewer system, the city shall be further authorized to institute such injunctive or other legal proceedings as may be necessary in order to preserve the public interest involved and to prevent any violation or continued violation of this article.

(Ord. of 1-3-1995, § 8)

Secs. 58-38--58-70. Reserved.

### ARTICLE III. STORM DRAINAGE SYSTEM

#### DIVISION 1. GENERALLY

Secs. 58-71--58-90. Reserved.

#### DIVISION 2. DISCHARGE OF NONSTORMWATER

Sec. 58-91. Purpose and intent of article.

The purpose of this article is to provide for the health, safety, and general welfare of the citizens of the city through the regulation of nonstormwater discharges to the storm drainage system to the maximum extent practicable as required by federal and state law. This article establishes methods for controlling the introduction of pollutants into the municipal separate storm sewer system (MS4) in order to comply with requirements of the National Pollutant Discharge Elimination System (NPDES) permit process. The objectives of this article are:

- (1) To regulate the contribution of pollutants to the municipal separate storm sewer system (MS4) by stormwater discharges by any user.
- (2) To prohibit illicit connections and discharges to the municipal separate storm sewer system.
- (3) To establish legal authority to carry out all inspection, surveillance and monitoring procedures necessary to ensure compliance with this article.

(Ord. of 6-3-2003, § 1)

Sec. 58-92. Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Authorized enforcement agency means employees or designees of the stormwater management administrator (hereafter sometimes referred to as "administrator") designated to enforce this article.

Best management practices (BMPs) means schedules of activities, prohibitions of practices, general good house keeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to stormwater, receiving waters, or stormwater conveyance systems. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.

Clean Water Act means the federal Water Pollution Control Act, 33 USC 1251 et seq., and any subsequent amendments thereto.

Construction activity means activities subject to NPDES construction permits. The term "construction activity" includes construction projects resulting in land disturbance of five acres or more. Such activities include but are not limited to clearing and grubbing, grading, excavating, and demolition.

Hazardous materials means any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

Illegal discharge means any direct or indirect nonstormwater discharge to the storm drain system, except as exempted in section 58-96.

Illicit connections means an illicit connection is defined as the following:

(1) Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the storm drain system including but not limited to any conveyances which allow any nonstormwater discharge including sewage, process wastewater, and wash water to enter the storm drain system and any connections to the storm drain system from indoor drains and sinks, regardless of whether such drain or connection had been previously allowed, permitted, or approved by an authorized enforcement agency; or

(2) Any drain or conveyance connected from a commercial or industrial land use to the storm drain system which has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.

Industrial activity means activities subject to NPDES industrial permits as defined in 40 CFR 122.26(b)(14).

National Pollutant Discharge Elimination System (NPDES) stormwater discharge permit means a permit issued by EPA (or by a state under authority delegated pursuant to 33 USC 1342(b)) that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable to an individual, group, or general area-wide basis.

Nonstormwater discharge means any discharge to the storm drain system that is not composed entirely of stormwater.

Person means any individual, association, organization, partnership, firm, corporation or other entity recognized by law and acting as either the owner or as the owner's agent.

Pollutant means anything which causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; nonhazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordinances, and accumulations, so that material may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind.

Premises means any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.

Storm drainage system means publicly-owned facilities by which stormwater is collected and/or conveyed, including but not limited to any roads with drainage systems, municipal streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and humanmade or altered drainage channels, reservoirs, and other drainage structures.

Stormwater means any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.

Stormwater pollution prevention plan means a document which describes the best management practices and activities to be implemented by a person or business to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to stormwater, stormwater conveyance systems, and/or receiving waters to the maximum extent practicable.

Wastewater means any water or other liquid, other than uncontaminated stormwater, discharged from a facility.

(Ord. of 6-3-2003, § 2)

Cross references: Definitions generally, § 1-2.

Sec. 58-93. Applicability of article.

This article shall apply to all water entering the storm drain system generated on any developed and undeveloped lands unless explicitly exempted by an authorized enforcement agency.

(Ord. of 6-3-2003, § 3)

Sec. 58-94. Responsibility for administration.

The stormwater management plan administrator shall administer, implement, and enforce the provisions of this article. Any powers granted or duties imposed upon the administrator may be delegated in writing by the administrator to persons or entities acting in the beneficial interest of or in the employ of the city. Unless otherwise designated by the mayor and board of aldermen, the city engineer shall be considered the stormwater management plan administrator.

(Ord. of 6-3-2003, § 4)

Sec. 58-95. Ultimate responsibility.

The standards set forth in this article and promulgated pursuant to this article are minimum standards; therefore this article does not intend nor imply that compliance by any person will ensure that there will be no contamination, pollution, nor unauthorized discharge of pollutants.

(Ord. of 6-3-2003, § 6)

Sec. 58-96. Discharge prohibitions.

(a) Prohibition of illegal discharges. No person shall discharge or cause to be discharged into the municipal storm drain system or watercourses any materials, including but not limited to pollutants or waters containing any pollutants that cause or contribute to a violation of applicable water quality standards, other than stormwater. The commencement, conduct or continuance of any illegal discharge to the storm drain system is prohibited except as described as follows:

(1) The following discharges are exempt from discharge prohibitions established by this article: water line flushing or other potable water sources, landscape irrigation or lawn watering, diverted stream flows, rising ground water, ground water infiltration to storm drains, uncontaminated pumped ground water, foundation or footing drains (not including active groundwater dewatering systems), crawl space pumps, air conditioning condensation, springs, noncommercial washing of vehicles, natural riparian habitat or wetland flows, swimming pools (if dechlorinated, typically less than one PPM chlorine), firefighting activities, and any other water source not containing pollutants.

(2) Discharges specified in writing by the authorized enforcement agency as being necessary to protect public health and safety.

(3) Dye testing is an allowable discharge, but requires a verbal notification to the authorized enforcement agency prior to the time of the test.

(4) The prohibition shall not apply to any nonstormwater discharge permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the federal Environmental Protection Agency, provided that the discharger is in full compliance with

all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the storm drain system.

(b) Prohibition of illicit connections.

(1) The construction, use, maintenance or continued existence of illicit connections to the storm drain system is prohibited.

(2) This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

(3) A person is considered to be in violation of this article if the person connects a line conveying sewage to the MS4, or allows such a connection to continue.

(Ord. of 6-3-2003, § 7)

Sec. 58-97. Suspension of MS4 access.

(a) Suspension due to illicit discharges in emergency situations. The stormwater management plan administrator may, without prior notice, suspend MS4 discharge access to a person when such suspension is necessary to stop an actual or threatened discharge which presents or may present imminent and substantial danger to the environment, or to the health or welfare of persons, or to the MS4 or waters of the United States. If the violator fails to comply with a suspension order issued in an emergency, the authorized enforcement agency may take such steps as deemed necessary to prevent or minimize damage to the MS4 or waters of the United States, or to minimize danger to persons.

(b) Suspension due to the detection of illicit discharge. Any person discharging to the MS4 in violation of this article may have their MS4 access terminated if such termination would abate or reduce an illicit discharge. The authorized enforcement agency will notify a violator of the proposed termination of its MS4 access. The violator may petition the authorized enforcement agency for a reconsideration and hearing. A person commits an offense if the person reinstates MS4 access to premises terminated pursuant to this section, without the prior approval of the authorized enforcement agency.

(Ord. of 6-3-2003, § 8)

Sec. 58-98. Industrial or construction activity discharges.

Any person subject to an industrial or construction activity NPDES stormwater discharge permit shall comply with all provisions of such permit. Proof of compliance with such permit may be required in a form acceptable to the stormwater management plan administrator prior to the allowing of discharges to the MS4.

(Ord. of 6-3-2003, § 9)

Sec. 58-99. Monitoring of discharges.

(a) Applicability. This section applies to all facilities that have stormwater discharges associated with industrial activity, including construction activity.

(b) Access to facilities.

(1) The stormwater management plan administrator shall be permitted to enter and inspect facilities subject to regulation under this article as often as may be necessary to determine compliance with this article. If a discharger has security measures in force which require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access to representatives of the administrator.

(2) Facility operators shall allow the stormwater management plan administrator ready access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records that must be kept under the conditions of an NPDES permit to discharge stormwater, and the performance of any additional duties as defined by state and federal law.

(3) The stormwater management plan administrator shall have the right to set up on any permitted facility such devices as are necessary in the opinion of the authorized enforcement agency to conduct monitoring and/or sampling of the facility's stormwater discharge.

(4) The stormwater management plan administrator has the right to require the discharger to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at its own expense. All devices used to measure stormwater flow and quality shall be calibrated to ensure their accuracy.

(5) Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the operator at the written or oral request of the stormwater management plan administrator and shall not be replaced. The costs of clearing such access shall be borne by the operator.

(6) Unreasonable delays in allowing the stormwater management plan administrator access to a permitted facility is a violation of a stormwater discharge permit and of this article. A person who is the operator of a facility with a NPDES permit to discharge stormwater associated with industrial activity commits an offense if the person denies the authorized enforcement agency reasonable access to the permitted facility for the purpose of conducting any activity authorized or required by this article.

(7) If the stormwater management plan administrator has been refused access to any part of the premises from which stormwater is discharged, and he is able to demonstrate probable cause to believe that there may be a violation of this article, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this article or any order issued hereunder, or to protect the overall public health, safety, and welfare of the community, then the authorized enforcement agency may seek issuance of a search warrant from any court of competent jurisdiction.

(Ord. of 6-3-2003, § 10)

Sec. 58-100. Requirement to prevent, control, and reduce stormwater pollutants by use of best management practices.

Stormwater management plan administrator will adopt requirements identifying best management practices for any activity, operation, or facility which may cause or contribute to pollution or contamination of stormwater, the storm drain system, or waters of the United States. The owner or operator of a commercial or industrial establishment shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the municipal storm drain system or watercourses through the use of these structural and nonstructural best management practices. Further, any person responsible for a property or premises, which is, or may be, the source of an illicit discharge, may be required to implement, at such person's expense, additional structural and nonstructural best management practices to prevent the further discharge of pollutants to the municipal separate storm sewer system. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of stormwater associated with industrial activity, to the extent practicable, shall be deemed compliance with the provisions of this section. These best management practices shall be part of a stormwater pollution prevention plan (SWPP) as necessary for compliance with requirements of the NPDES permit.

(Ord. of 6-3-2003, § 11)

Sec. 58-101. Watercourse protection.

Every person owning property through which a watercourse passes, or such person's lessee, shall keep and maintain that part of the watercourse within the property free of trash, debris, excessive vegetation, and other obstacles that would pollute, contaminate, or significantly retard the flow of water through the watercourse. In addition, the owner or lessee shall maintain existing privately owned structures within or adjacent to a watercourse, so that such structures will not become a hazard to the use, function, or physical integrity of the watercourse.

(Ord. of 6-3-2003, § 12)

Sec. 58-102. Notification of spills.

(a) Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting or may result in illegal discharges or pollutants discharging into stormwater, the storm drain system, or water of the United States. Such person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials such person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of nonhazardous materials, such person shall notify the authorized enforcement agency in person or by phone or facsimile no later than the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the stormwater management plan administrator within three business days of the phone notice. If the discharge of prohibited materials emanates from a

commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years.

(b) During normal business hours, notification may be given at Clinton City Hall, Office of the City Engineer, 300 Jefferson Street, Clinton, Mississippi 39056. Telephone: (601)924-5462. At all other times, notice shall be given at the Clinton Police Department, 305 Monroe Street, Clinton, Mississippi 39056. Telephone: (601)924-5252.

(Ord. of 6-3-2003, § 13)

Sec. 58-103. Enforcement; notice of violation.

(a) Whenever the stormwater management plan administrator finds that a person has violated a prohibition or failed to meet a requirement of this article, the administrator may order compliance by written notice of violation to the responsible person. Such notice may require without limitation:

- (1) The performance of monitoring, analyses, and reporting;
- (2) The elimination of illicit connections or discharges;
- (3) That violating discharges, practices, or operations shall cease and desist;
- (4) The abatement or remediation of stormwater pollution or contamination hazards and the restoration of any affected property;
- (5) Payment of a fine to cover administrative and remediation costs; and
- (6) The implementation of source control or treatment best management practices.

(b) If abatement of a violation and/or restoration of affected property is required, the notice shall set forth a deadline within which such remediation or restoration must be completed. Such notice shall further advise that, should the violator fail to remediate or restore within the established deadline, the work will be done by a designated governmental agency or a contractor and the expense thereof shall be charged to the violator.

(Ord. of 6-3-2003, § 14)

Sec. 58-104. Appeal of notice of violation.

(a) Any person receiving a notice of violation may appeal the determination of the administrator. Such appeals may be made directly to the mayor and board of aldermen. The party aggrieved shall submit a written request to the city clerk by 12:00 noon on Wednesday preceding any regularly-scheduled meeting of the mayor and board of aldermen at which the aggrieved party desires to be heard.

(b) All appeals shall be in writing and shall include a copy of the original notice of violation together with a statement of the reason for the appeal and the basis for appeal. Written notice of an appeal must be delivered to the city clerk within ten days of the notice of violation.

(Ord. of 6-3-2003, § 15)

Sec. 58-105. Enforcement measures after appeal.

If the violation of this article has not been corrected pursuant to the requirements set forth in the notice of violation, or, in the event of an appeal, within ten days of the decision of the municipal authority upholding the decision of the administrator, then representatives of the authorized enforcement agency shall enter upon the subject private property and are authorized to take any and all measures necessary to abate the violation and/or restore the property. It shall be unlawful for any person, owner, agent or person in possession of any premises to refuse to allow the government agency or designated contractor to enter upon the premises for the purposes set forth in this section.

(Ord. of 6-3-2003, § 16)

Sec. 58-106. Cost of abatement of violation.

(a) Within 30 days after abatement of the violation, the owner of the property will be notified of the cost of abatement, including administrative costs. The property owner may file a written protest objecting to the amount of the assessment within 30 days. If the amount due is not paid within a timely manner as determined by the decision of the municipal authority or by the expiration of the time in which to file an appeal, the charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment.

(b) Any person violating any of the provisions of this article shall become liable to the city by reason of such violation. The liability shall be paid in not more than 12 equal payments. Interest at the rate of six percent per annum shall be assessed on the balance beginning on the 30th day following discovery of the violation.

(Ord. of 6-3-2003, § 17)

Sec. 58-107. Injunctive relief.

It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this article. If a person has violated or continues to violate the provisions of this article, the administrator may petition for a preliminary or permanent injunction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.

(Ord. of 6-3-2003, § 18)

Sec. 58-108. Compensatory action.

In lieu of enforcement proceedings, penalties, and remedies authorized by this article, the administrator may impose upon a violator alternative compensatory actions, such as storm drain stenciling, attendance at compliance workshops, creek cleanup, etc.

(Ord. of 6-3-2003, § 19)

Sec. 58-109. Violations deemed a public nuisance.

In addition to the enforcement processes and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of this article is a threat to public health, safety, and welfare, and is declared and deemed a nuisance, and may be summarily abated or restored at the violator's expense, and/or a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken.

(Ord. of 6-3-2003, § 20)

Sec. 58-110. Criminal prosecution; recovery of costs and fees.

(a) Any person that has violated or continues to violate this article shall be liable to criminal prosecution to the fullest extent of the law, and shall be subject to a criminal penalty as provided in section 1-13.

(b) The administrator may recover all attorney's fees, court costs and other expenses associated with enforcement of this article, including sampling and monitoring expenses.

(Ord. of 6-3-2003, § 21)

Sec. 58-111. Remedies not exclusive.

The remedies listed in this article are not exclusive of any other remedies available under any applicable federal, state or local law and it is within the discretion of the authorized enforcement agency to seek cumulative remedies.

(Ord. of 6-3-2003, § 22)

Chapters 59--61 RESERVED

Chapter 62 OFFENSES AND MISCELLANEOUS PROVISIONS\*

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\*Cross references: Courts, ch. 26; law enforcement, ch. 54; traffic and vehicles, ch. 98.

State law references: State misdemeanors as municipal offenses, MCA 1972, § 21-13-19; abatement of nuisances, MCA 1972, §§ 21-19-1, 41-23-13; municipal police regulations, MCA 1972, § 21-19-15; crimes, MCA 1972, § 97-1-1 et seq.; general penalty for crimes, MCA 1972, § 99-19-31.

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Sec. 62-1. Firearms--Possession on city park or recreational property prohibited; exception.

Sec. 62-2. Same--Discharge restricted.

Sec. 62-3. Same--Permitted discharge or operation.

Sec. 62-4. Same--Liability.

Sec. 62-5. Same--Penalty.

Sec. 62-6. Solicitations from streets.

Sec. 62-7. Climbing elevated steel storage tank and trespassing on water plant grounds prohibited; exception.

Sec. 62-8. Urination or defecation in public; exposure of genitalia or bare buttocks.

Sec. 62-1. Firearms--Possession on city park or recreational property prohibited; exception.

(a) It shall be unlawful for any person within the city limits to possess a firearm upon property owned or leased by the city of Clinton for a park or for recreational activities.

(b) Provided, however, this section shall not prohibit the possession of firearms by duly appointed law enforcement officers.

(c) Any person found to be in violation of this section shall, upon conviction, be guilty of a misdemeanor and punished as provided in section 1-13.

(Ord. of 9-4-1990, §§ 1, 2, 4)

Sec. 62-2. Same--Discharge restricted.

It shall be unlawful, except as otherwise provided, for any person to cause or allow or to procure another to cause or allow any firearm of any description to be shot, discharged or operated in any manner and/or cause or allow or procure another to cause or allow any air, gas, tension or otherwise operated weapon or device capable of propelling a projectile of any description capable of causing bodily injury and/or property damage to be shot, discharged or operated in any manner anywhere within the city limits whether such takes place indoors or outdoors on or in any private or public place of whatever nature or to so do outside the city limits when such results in any projectile being introduced into the city limits.

(Ord. of 12-2-1997, § 1)

Sec. 62-3. Same--Permitted discharge or operation.

(a) The discharge or operation of any firearm or any of the devices set out in section 62-2 of any type or nature shall not be unlawful when:

(1) Authorized in writing by the chief of police for any legitimate purpose that does not pose a threat to public safety or is in conflict with any state or federal laws. Any such permit issued shall expire as determined by the chief of police. The chief of police shall have sole discretion as to whether or not a permit shall be issued and the location, time and circumstances under which such devices as aforementioned may be shot, discharged or operated.

(2) Authorized in writing by the chief of police for the operation of any indoor shooting range provided such range complies with any and all standards for safety and noise restriction. The chief of police shall not deny a permit to any person, business, corporation or otherwise for the operation of such an indoor shooting range when such is in compliance as provided in this subsection. The standards for such safety and noise restriction shall be determined by the chief of police who shall perform annual inspections of any such range for compliance. The chief of police is authorized to close any such range at any time such range is not in compliance as provided in this subsection.

(3) Done by any law enforcement officer in the proper execution of his duty.

(b) Decisions under subsections (a)(1) and (a)(2) of this section shall be pursuant to uniform city standards.

(Ord. of 12-2-1997, § 2)

Sec. 62-4. Same--Liability.

The authorization as provided in section 62-3(a)(1) and (a)(2) shall not be construed to relieve or protect any person from civil or criminal liability for property damages or injury to any person arising from any act connected with the discharge or operation of the aforementioned devices. The chief of police shall not be held criminally or civilly liable for the issuance of a permit to any person who causes damages or injury as provided in this section.

(Ord. of 12-2-1997, § 3)

Sec. 62-5. Same--Penalty.

Any person convicted of violating any of the provisions of sections 62-2 through 62-5 shall be punished as provided in section 1-13.

(Ord. of 12-2-1997, § 5)

State law references: Sport-shooting ranges, MCA 1972, § 95-13-1.

Sec. 62-6. Solicitations from streets.

(a) No person shall stand in a street or any portion thereof for the purpose of soliciting a ride, employment, business or contributions of any kind for any purpose from the occupant of any vehicle.

(b) Any person convicted of a violation of this section shall be guilty of a misdemeanor punishable as provided in section 1-13.

(Ord. of 5-6-1975, §§ 1, 2)

Sec. 62-7. Climbing elevated steel storage tank and trespassing on water plant grounds prohibited; exception.

(a) It shall be a misdemeanor for any person to climb the ladder to the elevated steel storage tank at the city water plant, or otherwise trespass on the grounds and premises of such water plant, provided that this section shall not apply to the officials or others who may be in the employ of the city in the discharge of their duties.

(b) Any person found guilty of the violation of this section shall be punished as provided in section 1-13.

(Ord. of 6-4-1935)

Sec. 62-8. Urination or defecation in public; exposure of genitalia or bare buttocks.

(a) It shall be unlawful for any person to urinate and/or defecate or expose their genitalia or bare buttocks in or on any public place of whatever nature where any other person may view such act unless such person so doing is in a place specifically designated for such function.

(b) It shall be unlawful for any person to urinate and/or defecate or expose their genitalia or bare buttocks in or on any private place of whatever nature where any person, who is in or on any public place of whatever nature or in or on any private place of whatever nature other than the aforementioned private place, may view such act unless such person so doing is in a place specifically designated for such function.

(c) A place specifically designated for such function shall mean what is commonly known as a "Restroom" or "Bathroom" which is in an enclosed area.

(d) Any person convicted of violating any provision of this section shall be punished as provided in section 1-13.

(Ord. of 12-2-1997)

Chapters 63--65 RESERVED

Chapter 66 PERSONNEL\*

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\*Cross references: Any ordinance pertaining to personnel saved from repeal, § 1-7(10); administration, ch. 2; law enforcement, ch. 54.

State law references: Social security benefits, MCA 1972, § 25-11-1 et seq.

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Article I. In General

Secs. 66-1--66-30. Reserved.

Article II. Social Security

Sec. 66-31. Policy and purpose.

Sec. 66-32. Agreement with state retirement system.

Sec. 66-33. Withholdings from salaries or wages.

Sec. 66-34. Employer contributions and administrative expenses.

Sec. 66-35. Records and reports.

ARTICLE I. IN GENERAL

Secs. 66-1--66-30. Reserved.

ARTICLE II. SOCIAL SECURITY

Sec. 66-31. Policy and purpose.

It is hereby declared to be the policy and purpose of the city to extend the provisions of Articles I and III of title 25, chapter 11 of the Mississippi Code of 1972 (MCA 1972, §§ 25-11-1--25-11-145), Senate Bill No. 273, Regular Session, Mississippi Legislature of 1952, providing Social Security and state retirement to eligible employees and officers of the city. In pursuance of such policy and for that purpose, the officers of the city shall take such action as may be required by applicable state or federal laws or regulations.

(Ord. of 6-30-1953, § I)

Sec. 66-32. Agreement with state retirement system.

The mayor and the city clerk are hereby authorized and directed to execute an agreement with the Public Employees' Retirement System of Mississippi to secure coverage of eligible employees as provided in section 66-31.

(Ord. of 6-30-1953, § II)

Sec. 66-33. Withholdings from salaries or wages.

Withholdings from salaries or wages of employees for the purposes provided in section 66-31 are hereby authorized to be made in the amounts and at such times as may be required by applicable state and federal laws and regulations, and shall be paid over to the state agency in such amounts and at such times as are designated by state laws and regulations.

(Ord. of 6-30-1953, § III)

Sec. 66-34. Employer contributions and administrative expenses.

Employer contributions and administrative expenses shall be paid to the state agency in accordance with applicable state laws and regulations from amounts appropriated for such purposes.

(Ord. of 6-30-1953, § IV)

Sec. 66-35. Records and reports.

The city clerk shall maintain such records and submit such reports as may be required by applicable state and federal laws or regulations.

(Ord. of 6-30-1953, § V)

Chapters 67--69 RESERVED

Chapter 70 PLANNING\*

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\*Cross references: Buildings and building regulations, ch. 18; environment, ch. 34; floods, ch. 42; historical and other preservation, ch. 50; natural resources, ch. 58; schools, ch. 74; streets, sidewalks and other public places, ch. 82; subdivisions, ch. 86; utilities, ch. 102; zoning, ch. 106.

State law references: Zoning, planning and subdivision regulation, MCA 1972, § 17-1-1 et seq.; urban renewal and redevelopment, MCA 1972, § 43-35-1 et seq.

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Article I. In General

Secs. 70-1--70-30. Reserved.

Article II. Planning Commission

Sec. 70-31. Created; composition.

Sec. 70-32. Meetings.

Sec. 70-33. Duties and responsibilities.

ARTICLE I. IN GENERAL

Secs. 70-1--70-30. Reserved.

ARTICLE II. PLANNING COMMISSION\*

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\*Cross references: Other boards and commissions, § 2-61 et seq.

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Sec. 70-31. Created; composition.

There is hereby created and established an advisory planning commission to be known as the planning commission of the city. The planning commission shall consist of five members, who shall be nominated by the mayor and confirmed and approved by the board of aldermen, which planning commission and its members shall serve in such capacity without compensation. The duties of the planning commission shall be to act in an advisory capacity dealing with the matters and things set forth in this article. The members of the planning commission shall be appointed for staggered terms of five years. The members of the planning commission shall be eligible to succeed themselves at the pleasure of the mayor and board of aldermen, and after the initial appointment, each shall be named to serve for a term of five years. A member of the board of aldermen selected by the aldermen in meeting assembled shall be and serve as an ex officio member of the advisory planning commission.

(Ord. of 5-7-1968, § 1)

Sec. 70-32. Meetings.

The advisory planning commission established in this article shall meet at such times and at such places and as often as the planning commission may deem necessary for the accomplishment of the purposes for which the planning commission is created. The advisory planning commission shall establish its own rules of procedure, subdividing itself into such committees as it may deem meet and proper, select such officers and establish within its members any such other committees as will best promote the work of the planning commission, and accomplish the purpose for which it is created.

(Ord. of 5-7-1968, § 2)

Sec. 70-33. Duties and responsibilities.

For the purpose of bringing about a coordinated development in accordance with present and future needs of the city the planning commission shall provide for the preparation and extension of an official plan which from time to time shall be presented to the mayor and board of aldermen for adoption, amendment, extension and implementation through the coordinated efforts of both the planning commission and the mayor and board of aldermen, in order to create an increasingly better, more

healthful, convenient, efficient and attractive city environment; to promote orderly flow of traffic on its streets and to secure safety from fire, panic and other dangers; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; and to facilitate adequate provisions for water, sewerage, parks and other public improvements in accordance with a carefully thought out and comprehensive plan to serve both present and future needs of the city, looking towards its residential, commercial and industrial developments in an orderly fashion. The members of the planning commission shall prepare and recommend from time to time plan or plans for such development of the city, including the development of (i) its street system, (ii) its housing development; (iii) the development of parks and recreation facilities; (iv) long-range water supply and water storage plans; (v) sewerage system and sewerage disposal; (vi) extension of corporate boundaries of the city; (vii) zoning problems; (viii) the problems of finance and fiscal management of the city; (ix) and any and all other matters which may be submitted from time to time to the planning commission by the mayor and board of aldermen; and (x) any other matters which in the judgment of the planning commission will bring about a more orderly development of the city, working in close co-operation with state, county and the city government, collaborating with the mayor and board of aldermen, and with all civic and commercial organizations of the city, and do and undertake such other activities as will facilitate the accomplishment of the purposes for which the planning commission is created.

(Ord. of 5-7-1968, § 3)

Chapters 71--73 RESERVED

Chapter 74 SCHOOLS\*

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\*Cross references: Buildings and building regulations, ch. 18; planning, ch. 70.

State law references: Education, MCA 1972, title 37.

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Article I. In General

Secs. 74-1--74-30. Reserved.

Article II. Municipal Separate School District

Sec. 74-31. Creation.

Sec. 74-32. Appointment of trustees.

Sec. 74-33. Attendance zone.

Sec. 74-34. Liability for outstanding bonded indebtedness.

Sec. 74-35. Assessment and levy of tax.

#### ARTICLE I. IN GENERAL

Secs. 74-1--74-30. Reserved.

#### ARTICLE II. MUNICIPAL SEPARATE SCHOOL DISTRICT

Sec. 74-31. Creation.

It is to the advantage of the educable children within the corporate limits of the city in the promotion of their physical, mental, moral, social and educational welfare; in effecting the efficient operation of the schools in the city and to the economic and social welfare of the city that a municipal separate school district in and for the city be created, operated and maintained under the provisions of title 37, chapter 7 of the Mississippi Code of 1972 (MCA 1972, § 37-7-103 et seq.) and such other statutes of the state as applicable thereto.

(Ord. of 3-19-1970, § 1)

Sec. 74-32. Appointment of trustees.

To effect the purposes of this article there shall be appointed trustees of the municipal separate school district and empowered, authorized and directed to do all things, as trustees, required and permitted by the statutes referenced in section 74-31. The trustees of the municipal separate school district shall be selected for such office in the manner and form and at the time prescribed by law.

(Ord. of 3-19-1970, § 2)

Sec. 74-33. Attendance zone.

The trustees of the municipal separate school district are further empowered and authorized to consent to the inclusion within the municipal separate school district of that certain area of Hinds County, Mississippi School District now existing and designated in the office of the superintendent of education of the county school district as the Clinton Attendance Zone and being the exact same geographical area presently served by the schools physically located in the city, a legal description of which shall be transmitted with and be a part of the petition for approval thereof to the state education finance commission; and thereafter such other areas adjacent to the city as may be appropriate.

(Ord. of 3-19-1970, § 3)

Sec. 74-34. Liability for outstanding bonded indebtedness.

The municipal separate school district shall become and be liable for and assume such portion of the existing outstanding bonded indebtedness of the county school district to the amount and extent that the assessed valuation of the area encompassed within the municipal separate school district, as the valuation shall be approved by the state education finance commission, bears to the total assessed

valuation of the area of the county school district as shown by the last assessment roll of the county prior to the enactment of the ordinance from which this article is derived.

(Ord. of 3-19-1970, § 4)

Sec. 74-35. Assessment and levy of tax.

The governing authorities in and for the city shall, under the provisions of the statutes of the state relative thereto, assess and levy such tax in the manner and to the extent permitted thereunder, as in their discretion and judgment shall be necessary, to effect the creation, operation, administration and maintenance of the municipal separate school district and its facilities and to retire such bonded indebtedness assumed or hereafter incurred.

(Ord. of 3-19-1970, § 5)

Chapters 75--77 RESERVED

Chapter 78 SECONDHAND GOODS\*

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\*Cross references: Businesses, ch. 22.

State law references: Junkyards, MCA 1972, § 49-25-1 et seq.; auctioneers of jewelry, MCA 1972, § 75-61-1 et seq.; Mississippi Pawnshop Act, MCA 1972, § 75-67-301 et seq.; junk and secondhand property dealers to keep records of certain materials, MCA 1972, § 97-17-71.

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Article I. In General

Secs. 78-1--78-30. Reserved.

Article II. Dealers in Antiques, Used or Scrapped Jewelry

Sec. 78-31. Permit required.

Sec. 78-32. Application for permit.

Sec. 78-33. Changing the form of purchased items.

Sec. 78-34. Separation of items.

Sec. 78-35. Record of transactions.

Sec. 78-36. Separate offenses.

Sec. 78-37. Penalty.

Sec. 78-38. Possession of items.

Sec. 78-39. Revocation of permit.

Sec. 78-40. Exception for pawnshops.

Secs. 78-41--78-70. Reserved.

### Article III. Garage, Carport and Rummage Sales

Sec. 78-71. Permit required.

Sec. 78-72. Permit application; duration; fee.

Sec. 78-73. Limitation on number of sales; petition for exception.

Sec. 78-74. Posting of signs.

Sec. 78-75. Penalty.

Sec. 78-76. Form of application to hold a garage, carport or rummage sale.

### ARTICLE I. IN GENERAL

Secs. 78-1--78-30. Reserved.

### ARTICLE II. DEALERS IN ANTIQUES, USED OR SCRAPPED JEWELRY

Sec. 78-31. Permit required.

Any person acquiring, purchasing or otherwise dealing in antique, used or scrapped jewelry, flatware, silverware, silver, gold or other precious metals, in whatever form, where such purchase is for resale in its original form or is changed by remounting, melting, reforming, remodeling or recasting for resale as scrap or in bulk, shall be required to obtain a permit from the city clerk prior to engaging in such business, which permit shall be valid for not more than one year.

(Ord. of 5-7-1991, § 1)

Sec. 78-32. Application for permit.

To obtain a permit, an applicant shall supply to the city clerk the following information: name and date of birth of applicant, and if a corporation, the names and dates of birth of all officers and directors who shall be designated as to their office, address of applicant and, in addition, if a corporation, the address of all officers and directors; names of employees, dates of birth and their addresses, criminal convictions other than traffic offenses of applicant, officers, directors, and employees, street address of place from which business is to be conducted, and the location where items obtained for resale shall be kept during

the time period such items are required to be kept under the terms of this article; a recent photograph of applicant, officers, directors, and employees, and the days of the week and hours of the day during which the business will be conducted. A willful providing of false information shall constitute a violation of this article.

(Ord. of 5-7-1991, § 2)

Sec. 78-33. Changing the form of purchased items.

It shall be unlawful for any person, firm or corporation engaging in the activity described in sections 78-31 and 78-32, for a period of five days from the date of such purchase or other acquisition to sell, exchange, barter or remove from the place in which such business is conducted or in case the place of business is located in a motel or hotel, the room or rooms in which the business is conducted, or at such other place as may be approved by the chief of police, or to change the form of any of such items by remounting, melting, cutting up, or otherwise to change the form of such items.

(Ord. of 5-7-1991, § 3)

Sec. 78-34. Separation of items.

During the five-day period set forth and provided for in section 78-33, all items described in this article shall be kept physically separated, according to the date of purchase or other acquisition, and shall not be commingled with any other personalty.

(Ord. of 5-7-1991, § 4)

Sec. 78-35. Record of transactions.

Every person dealing in the items described in this article shall maintain a log in duplicate and shall enter on such log a clear and accurate description of any items which are purchased or otherwise acquired, for resale or for any other purpose and the date and amount of money or other thing of value paid for such items and the name, race, sex, driver's license (state and number), residence and address of the seller. The seller and the purchaser shall each sign the log acknowledging the accuracy of the description of such item sold and the consideration paid for such items. For each day the person subject to this article shall designate in his application as a day on which he shall be open for business of the type described in this article, each person shall deliver to the chief of police in a manner designated by the chief of police a copy of the log concerning the day's business (whether transactions are consummated or not), the copy of such log to be delivered by noon of the day following. The original log shall be carefully preserved without alteration and shall, at all times, be open and available for inspection by the chief of police or his designee. Failure to log each purchase or other acquisition of any items shall constitute a separate violation of this article.

(Ord. of 5-7-1991, § 5)

Sec. 78-36. Separate offenses.

Each day a person engaging in the activities covered by this article shall fail to obtain from the clerk of the city a permit or maintain a log as required or shall fail to deliver to the chief of police a copy of the log for which provision is therein made or other violation of this article continues, shall constitute a separate offense.

(Ord. of 5-7-1991, § 6)

Sec. 78-37. Penalty.

Every person, firm or corporation, their agents or employees, who shall violate any of the provisions of this article shall, on conviction thereof, be deemed guilty of a misdemeanor and shall be punished as provided in section 1-13.

(Ord. of 5-7-1991, § 7)

Sec. 78-38. Possession of items.

In any criminal proceeding under this article, the holder of a permit issued pursuant to the terms of this article, shall be presumed to have acquired, purchased or otherwise come into the possession of the items described in this article for purposes of resale.

(Ord. of 5-7-1991, § 8)

Sec. 78-39. Revocation of permit.

Upon conviction of a violation of any provision of this article, or upon the failure to comply with its terms, the clerk shall, upon petition of the chief of police and upon approval of the governing authority of the city, revoke any permit issued pursuant to the provisions of this article.

(Ord. of 5-7-1991, § 9)

Sec. 78-40. Exception for pawnshops.

This article shall not apply to pawnshops.

Secs. 78-41--78-70. Reserved.

ARTICLE III. GARAGE, CARPORT AND RUMMAGE SALES\*

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\*Editor's note: The sign ordinance referred to in this article is part of the zoning ordinance.

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Sec. 78-71. Permit required.

No person shall hold a garage, carport or rummage sale within the city limits without first obtaining a permit therefor from the city clerk. For the purpose of this article, garage, carport and rummage sale shall mean the display of, sale or offering for sale of any type goods, wares, merchandise, food or drink, at any location within the city and such terms shall be accorded their common meaning, but shall not include limited home occupations as may be authorized under the ordinance of the city nor any other business activity for which a privilege license is required by any law.

(Ord. of 9-5-1978, § 1)

Sec. 78-72. Permit application; duration; fee.

Any person desiring to carry on a garage, carport or rummage sale shall first make application for a permit to the city clerk for such privilege, but no permit shall be valid for a period of more than one week. There shall be no fee for such permit.

(Ord. of 9-5-1978, § 2)

Sec. 78-73. Limitation on number of sales; petition for exception.

No permit for a garage, carport or rummage sale shall be issued for any one location in the city nor to any one person, regardless of the location, for more than one such sale during any six-month period, except by petition to the mayor and board of aldermen for a special permit. Such petition shall be filed with the city clerk and shall be accompanied by a filing fee of \$20.00. The mayor and board of aldermen shall consider such petition at a regular meeting as soon after filing as is reasonably practicable.

(Ord. of 9-5-1978, § 3)

Sec. 78-74. Posting of signs.

The display or posting of signs relative to the garage or carport sale so authorized is limited to the premises upon which the sale is to be conducted. All signs shall be removed no later than the day following the conclusion of the sale. The posting of signs of advertisement or direction of the sale off the authorized premises is prohibited. All signs shall be of a size, description and design which shall conform to the sign ordinance of the city.

(Ord. of 9-5-1978, § 4)

Sec. 78-75. Penalty.

Any person violating the provisions of this article shall be guilty of a misdemeanor and upon conviction shall be punished as provided in section 1-13.

(Ord. of 9-5-1978, § 5)

Sec. 78-76. Form of application to hold a garage, carport or rummage sale.

APPLICATION TO HOLD A GARAGE, CARPORT OR RUMMAGE SALE

Application is hereby made to hold a garage, carport or rummage sale during the week to commence on \_\_\_\_\_

and ending on \_\_\_\_\_

at the following address \_\_\_\_\_

All persons who will beholding this sale are as follows:

TABLE INSET:

NAMESADDRESSES \_\_\_\_\_  
\_\_\_\_\_

If you have held a garage, carport or rummage sale within the past six months, state the date and location of such sale(s).

TABLE INSET:

DATELOCATION \_\_\_\_\_

I do solemnly swear (or affirm) that the information given above is true and correct.

TABLE INSET:

\_\_\_\_\_

Sworn to and subscribed before me, this the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_

TABLE INSET:

\_\_\_\_\_

CITY CLERK

\$20.00 Fee for SPECIAL Permit

Paid. \_\_\_\_\_ (date)

Clerk's Receipt No. \_\_\_\_\_

(Ord. of 9-5-1978)

Chapters 79--81 RESERVED

Chapter 82 STREETS, SIDEWALKS AND OTHER PUBLIC PLACES\*

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\*Cross references: Any ordinance dedicating, naming, establishing, locating, relocating, opening, closing, paving, widening, vacating, etc., any street or public way in the city saved from repeal, § 1-7(6); any ordinance establishing and prescribing the street grades of any street in the city saved from repeal, § 1-7(7); any ordinance providing for local improvements or assessing taxes for such improvements saved from repeal, § 1-7(8); buildings and building regulations, ch. 18; transient vendors, § 22-101 et seq.; environment, ch. 34; floods, ch. 42; natural resources, ch. 58; planning, ch. 70; subdivisions, ch. 86; telecommunications, ch. 94; traffic and vehicles, ch. 98; utilities, ch. 102; zoning, ch. 106.

State law references: Accumulation of offensive matter in alleys, etc., MCA 1972, § 21-19-1; regulation of public places, MCA 1972, § 21-19-31; municipal franchises for pipes, conduits and pipelines, MCA 1972, § 21-27-5; streets and sidewalks, MCA 1972, § 21-37-3 et seq.; special improvements, MCA 1972, § 21-41-1 et seq.; leaving litter or injurious material on highway, MCA 1972, §§ 63-3-1211, 97-15-29 et seq.; public roads and streets, MCA 1972, § 65-7-1 et seq.; identification and designation of streets, roads, highways and dwelling places, MCA 1972, § 65-7-141 et seq.

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## Article I. In General

Sec. 82-1. Drainage tile for driveways required.

Secs. 82-2--82-30. Reserved.

## Article II. Work In Or Under Streets

Sec. 82-31. Submission of plans.

Sec. 82-32. Observance of rules and regulations in performance of work.

Sec. 82-33. Inspection fee.

Sec. 82-34. Promulgation of rules and regulations.

Sec. 82-35. Mapping and marking of pipelines systems.

Sec. 82-36. Penalty.

Sec. 82-37. Use of heavy trucks or unusual equipment on streets; permit required; responsibility for damage.

## ARTICLE I. IN GENERAL

Sec. 82-1. Drainage tile for driveways required.

All driveways which enter a public street of the city and which driveways require the installation of drainage tile for the purpose of draining surface water shall be required to have drainage tile installed by the abutting property owner not less than 12 inches in diameter.

(Ord. of 8-8-1950)

Secs. 82-2--82-30. Reserved.

## ARTICLE II. WORK IN OR UNDER STREETS

Sec. 82-31. Submission of plans.

It shall be unlawful for any person, except the city, through its employees, to perform any work on or under the surface of the right-of-way of any dedicated street as now laid out within the city or any street which may be dedicated to the city in the future without first having submitted a plan for the proposed work to the city engineer and having received his approval thereon within two working days thereafter. The word "street" as used in this article shall mean and include any street, alley, road or other public way within the city.

(Ord. of 10-3-1978, § 1)

Sec. 82-32. Observance of rules and regulations in performance of work.

All ordinances of the city and rules and regulations of the engineering department promulgated under the engineering department, shall be observed in the performance of such work. In cases of emergency where such work must be performed at a time when the engineering department is not open to the general public, the work shall proceed and the application for permission for the performance thereof shall be made to the city engineer within 48 hours after the commencement of such work.

(Ord. of 10-3-1978, § 2)

Sec. 82-33. Inspection fee.

The city shall charge a fee, as set by the board of aldermen, for the inspection by and approval of the city engineer required in section 82-32 and the payment of the fee is a prerequisite to the obtaining of permission to do any work covered by the provisions of this article.

(Ord. of 10-3-1978, § 3)

Sec. 82-34. Promulgation of rules and regulations.

The city engineer is authorized to promulgate with the approval of the mayor and board of aldermen rules and regulations for the implementation of this article, which rules and regulations after approval shall have the effect of law.

(Ord. of 10-3-1978, § 4)

Sec. 82-35. Mapping and marking of pipelines systems.

Any person who owns, operates, or maintains any pipeline for the transportation or distribution of natural gas, petroleum, petroleum products or other hazardous gases or liquids (hereinafter called "utility operator") located under the surface of the right-of-way of any dedicated street as now laid out within the city or any street which may be dedicated to the city in the future shall maintain in the office of the city engineer a complete map of its pipeline system in or adjacent to the city. Each such person, corporation firm or partnership making application for approval to work on or under the surface of any right-of-way as above set out shall check such map and notify any utility operator with pipelines in the area of his work. The utility, upon receiving such advance notification, shall, within the two days allowed for approval by the city engineer, make investigation to determine the location of its pipelines in the area of the proposed work and mark by some reasonable and customary means the location of pipelines in or near the area of work so as to enable the person engaged in the work to locate the pipeline in advance of and during the work, or shall advise that marking is not necessary.

(Ord. of 10-3-1978, § 5)

Sec. 82-36. Penalty.

Any person in charge of the performance of any work covered by this article or the rules and regulations promulgated under this article, who fails to comply with the terms of this article shall, upon conviction, be guilty of a misdemeanor and may be punished as provided in section 1-13.

(Ord. of 10-3-1978, § 6)

Sec. 82-37. Use of heavy trucks or unusual equipment on streets; permit required; responsibility for damage.

(a) The property owner engaged in excavating a site for a building, grading a lot, moving dirt, digging ditches by the use of bulldozers, earth-moving equipment, ditch digging equipment, trucks, or other mechanical devices, and trucks or mechanical devices engaged in moving substantial buildings from one site to another, is primarily responsible for any damage done to public property. In case the property owner chooses to have the work done by an independent contractor, he may be relieved of this primary responsibility by requiring the contractor to register and to obtain a permit as provided in subsection (b) of this section. In all cases, the cash bond required in subsection (c) of this section shall be posted by either the property owner or by the independent contractor.

(b) In order to control operations of the kind described in subsection (a) of this section, it will be necessary for the property owner or the independent contractor to make an application for a permit. This application shall be on forms furnished by the city and shall disclose the owner of the property involved, the nature of the work to be done, and this application shall be witnessed by two persons.

(c) At the time of the issuance of a permit by the city clerk, the applicant shall pay a fee, as set by the board of aldermen, and, in addition, shall post on prescribed legal form with the city clerk a cash bond (cash, cashier's check, or exchange) of not less than \$300.00. This cash bond shall be returned to

the applicant when it is established that all damages, if any, have been satisfied. In case of public damage, the amount shall be determined by the alderman in charge of water or by the superintendent of streets, water and sewerage, or both, and the person holding permit. If the applicant causes damages which he has not settled, after proper notice by the city clerk, the cash bond or such part thereof as may be necessary may be applied toward the liquidation of damages.

(d) Violation of any of the provisions of this section shall constitute a misdemeanor and shall be punishable as provided in section 1-13.

(Ord. of 10-20-1959, §§ I--IV)

Chapters 83--85 RESERVED

Chapter 86 SUBDIVISIONS\*

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\*Cross references: Buildings and building regulations, ch. 18; environment, ch. 34; floods, ch. 42; natural resources, ch. 58; planning, ch. 70; streets, sidewalks and other public places, ch. 82; utilities, ch. 102; zoning, ch. 106.

State law references: Subdivision regulation, MCA 1972, § 17-1-23 et seq.; maps and plats, MCA 1972, § 19-27-21 et seq.; requiring maps of subdivisions to be furnished and approved, MCA 1972, § 21-19-63; assessment of subdivisions, MCA 1972, § 21-33-15; construction liens on subdivisions, MCA 1972, § 85-7-131.

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Sec. 86-1. Subdivision regulations adopted; document of file.

Sec. 86-2. Incorporation of subdivision regulations.

Sec. 86-1. Subdivision regulations adopted; document of file.

(a) The document entitled Subdivision Regulations for the City of Clinton, Mississippi, prepared by the Central Mississippi Planning and Development District (CMPDD) and Anderson, Deas and Eldridge, P.A., Consulting Engineers, with the attached amendments and final revisions recommended by the planning board is hereby adopted.

(b) At least one copy of the document referred to in subsection (a) of this section, with all of the attached amendments and final revisions incorporated therein, shall be kept permanently on file with the city clerk for public inspection during regular business hours.

(c) The document referred to in subsection (a) of this section shall be on file with the city clerk shall have attached thereto a certificate bearing the signatures of the mayor and city clerk, with the seal of the city affixed, in substantially the following form:

"We, the undersigned Walter G. Howell, Mayor of the City of Clinton, Mississippi, and Julia M. Harrison, City Clerk of said city, do hereby certify that the document to which this certificate is attached is a true and correct copy of the Subdivision Regulations of the City of Clinton, Mississippi adopted by Ordinance on June 18, 1985, appearing in Minute Book 0 at Pages 763-766 and in the official Ordinance Book 2 at pages 201-204.

(Ord. of 6-26-1985, §§ 1--3)

Sec. 86-2. Incorporation of subdivision regulations.

The city's subdivision regulations, as now or hereafter amended, are incorporated in this chapter as if set out at length in this chapter.

Chapters 87--89 RESERVED

Chapter 90 TAXATION\*

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\*Cross references: Administration, ch. 2; finance, § 2-121 et seq.; businesses, ch. 22.

State law references: Municipal taxation, MCA 1972, § 21-33-1 et seq.; taxation and finance generally, MCA 1972, § 27-1-1 et seq.; new factories and enterprises, exemptions, MCA 1972, § 27-31-101 et seq.; local ad valorem tax levies, MCA 1972, § 27-39-301 et seq.

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Article I. In General

Secs. 90-1--90-30. Reserved.

Article II. Sales Tax

Division 1. Generally

Secs. 90-31--90-50. Reserved.

Division 2. 1955 Tax

Sec. 90-51. Tax levied.

Secs. 90-52--90-70. Reserved.

Division 3. 1961 Tax

Sec. 90-71. Findings.

Sec. 90-72. Tax levied.

Secs. 90-73--90-100. Reserved.

Article III. Utility Tax

Sec. 90-101. Tax levied.

Secs. 90-102--90-130. Reserved.

Article IV. Tourism and Economic Development Tax

Sec. 90-131. Definitions.

Sec. 90-132. Tax levied; purpose.

Sec. 90-133. Expenditure of tax proceeds; budget.

Sec. 90-134. Accounting.

Secs. 90-135--90-160. Reserved.

Article V. Tax Sales

Division 1. Generally

Secs. 90-161--90-180. Reserved.

Division 2. Distraigned Personal Property

Sec. 90-181. Sale of property for payment of unpaid taxes.

Sec. 90-182. Division not to effect duties of tax collector.

ARTICLE I. IN GENERAL

Secs. 90-1--90-30. Reserved.

ARTICLE II. SALES TAX\*

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\*Cross references: Businesses, ch. 22.

State law references: Sales tax, MCA 1972, § 27-65-1 et seq.

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DIVISION 1. GENERALLY

Secs. 90-31--90-50. Reserved.

DIVISION 2. 1955 TAX

Sec. 90-51. Tax levied.

The mayor and board of aldermen hereby impose for the benefit of the city upon all persons engaged in any of the businesses taxed by Sections 2-c, 2-d, and 2-f of Chapter 119 of the Mississippi Laws of 1934, as amended, or as hereafter may be amended, an additional tax of one-half of one percent on retail sales or gross income, except in the case of sales of industrial gas and electricity the rate shall be one-fourth of one percent, but not to include that derived from sales classified as wholesale under such sales tax law or exempt thereby.

(Ord. of 5-31-1955, § I)

Editor's note: The section references in the text of the above section have been left as adopted, because West's Annotated Mississippi Code does not identify such sections.

Secs. 90-52--90-70. Reserved.

DIVISION 3. 1961 TAX

Sec. 90-71. Findings.

All of the findings of fact set forth in the preamble of the ordinance from which this division is derived are true and correct as set forth.

(Ord. of 9-5-1961, § 1)

Sec. 90-72. Tax levied.

Pursuant to the provisions of Chapter 431, Laws of the 1960 Regular Session of the Legislature of the State of Mississippi, there be and there is hereby levied, effective October 1, 1961, in addition to the one-half of one percent sales tax levy heretofore made and now in full force and effect in this city, a one-half of one percent sales tax on all sales provided for in such Act, and other levies provided for under Chapter 431, Laws of 1960, at the rate or rates set forth therein.

(Ord. of 9-5-1961, § 2)

Secs. 90-73--90-100. Reserved.

ARTICLE III. UTILITY TAX\*

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\*Cross references: Utilities, ch. 102.

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Sec. 90-101. Tax levied.

The city hereby qualifies for the collection of the city utility tax as is provided in the City Utility Tax Law (MCA 1972, § 21-33-201 et seq.), and such tax is hereby levied as is provided therein.

(Ord. of 11-3-1981, § 1)

Secs. 90-102--90-130. Reserved.

#### ARTICLE IV. TOURISM AND ECONOMIC DEVELOPMENT TAX

Sec. 90-131. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Hotel and motel mean any establishment engaged in the business of furnishing or providing rooms intended or designed for lodging or sleeping purposes for transient guests, which establishment consists of five or more guest rooms and does not encompass any hospital, convalescent or nursing home, or sanitarium, or any hotel-like facility operated by or in connection with a hospital or medical clinic providing rooms exclusively for patients and their families.

(Ord. of 11-21-1995, § 1)

Cross references: Definitions generally, § 1-2.

Sec. 90-132. Tax levied; purpose.

(a) For the purpose of providing funds for the purpose of promoting and advertising the attributes of the city as they relate to tourism and economic development, and for promoting tourism and economic development events and activities in the city, the governing authorities of the city do hereby levy, assess and collect from every person operating a hotel or motel in the city, a tax (hereinafter the "tax") which tax shall be in addition to all other taxes and assessments imposed by the city, as provided in this article.

(b) The tax shall be two percent of the gross income from hotels and motels in the city, excluding charges for telephone, laundry and similar services. The tax shall not be levied upon or collected from gross proceeds of nontaxable rooms, room rentals for day meetings that do not serve as overnight sleeping accommodations or room rentals to residential guests of a hotel or motel.

(c) Persons liable for the tax imposed pursuant to this article shall add the amount of tax to the gross proceeds from room rentals and shall collect, insofar as practicable, the amount of the tax due by him from the person receiving the services at the time of payment for the services.

(d) The tax shall be collected by and paid to the state tax commission on a form prescribed by the state tax commission, in the same manner that state sales taxes are computed, collected and paid; and the full enforcement provisions and all other provisions of chapter 65, title 27, Mississippi Code of 1972 (MCA 1972, § 27-65-1 et seq.), shall apply as necessary to the implementation and administration of this article.

(e) The proceeds of the tax, less three percent to be retained by the state tax commission to defray the costs of collection, shall be paid to the governing authorities of the city on or before the 15th day of the month following the month in which they were collected.

(f) The proceeds of the tax shall not be considered by the city as general fund revenues but shall be dedicated solely for the purposes set forth in subsection (a) of this section, as determined by the governing authorities of the city, which are designed to promote tourism and economic development in the city.

(Ord. of 11-21-1995, § 2)

Sec. 90-133. Expenditure of tax proceeds; budget.

Before the expenditure of the proceeds of the tax, a budget reflecting the anticipated receipts and expenditures shall be approved by the governing authorities of the city. The first budget of receipts and expenditures shall cover the period beginning with the effective date of the tax and ending with the end of the city's fiscal year, and thereafter, the budget shall be on the same fiscal basis as the budget of the city.

(Ord. of 11-21-1995, § 3)

Sec. 90-134. Accounting.

Accounting for receipts and expenditures of the funds derived from the proceeds of the tax shall be made separately from the accounting of receipts and expenditures of the general fund and any other funds of the city. The records reflecting the receipts and expenditures of these funds shall be audited annually by an independent certified public accountant and the accountant shall make a written report of his audit to the governing authorities of the city. The audit shall be made and completed as soon as practicable after the close of the city's fiscal year, and copies of the report of the audit shall be filed with the city clerk. The expenses of this audit may be paid from the funds derived pursuant to section 90-132.

(Ord. of 11-21-1995, § 4)

Secs. 90-135--90-160. Reserved.

ARTICLE V. TAX SALES

## DIVISION 1. GENERALLY

Secs. 90-161--90-180. Reserved.

## DIVISION 2. DISTRAINED PERSONAL PROPERTY

Sec. 90-181. Sale of property for payment of unpaid taxes.

Upon default of the payment of any taxes upon the due dates prescribed by the ordinances of the city and/or the state, the tax collector shall proceed immediately to collect all installments of taxes then remaining in default and unpaid, by distress and sale of any personal property liable therefor. Such sale shall take place at the front door of city hall, unless the property distrained is too cumbersome to be removed; and five days' notice of the time and place of sale shall be given by advertisements put up in three public places in the city, one of which shall be city hall.

(Ord. of 9-6-1983, § 1)

Sec. 90-182. Division not to effect duties of tax collector.

This division shall not otherwise effect the duties of the tax collector as previously set out by ordinance or the statutes of the state.

(Ord. of 9-6-1983, § 2)

Chapters 91--93 RESERVED

Chapter 94 TELECOMMUNICATIONS\*

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\*Cross references: Businesses, ch. 22; streets, sidewalks and other public places, ch. 82; utilities, ch. 102.

State law references: Expiration of municipality's franchise, operation of public utility, MCA 1972, § 77-3-17; municipal franchise required for issuance of certificate, MCA 1972, § 77-3-19; unsolicited residential telephonic sales calls, MCA 1972, § 77-3-601 et seq.; telegraph and telephone companies, MCA 1972, § 77-9-701 et seq.

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Sec. 94-1. Definition.

Sec. 94-2. Damage or interference with cable television service and facilities.

Sec. 94-3. Diversion of signals.

Sec. 94-4. Penalty.

Sec. 94-1. Definition.

For the purpose of this chapter, the term "cable television service" means any and all services provided by or through the facilities of any cable television system or closed circuit coaxial cable communication system, or any microwave or similar transmission service used in connection with any cable television system or other similar closed circuit coaxial cable communication system.

(Ord. of 1-5-1982, § 1)

Cross references: Definitions generally, § 1-2.

Sec. 94-2. Damage or interference with cable television service and facilities.

It shall be unlawful for any person without authority of the television company to intentionally in any way obstruct, injure, break, tamper with or destroy or in any manner interfere with or interrupt any cable television service, line or cable or the transmission signals in connection with such line or cable, or in any manner use and receive any television, radio, audio or video signal from any unauthorized connection with such line or cable, or to take, carry away, injure or destroy any of the posts, cables, wires, insulators, fixtures, equipment, installations or other things belonging to any cable television service or used in connection with the furnishing of cablevision services.

(Ord. of 1-5-1982, § 2)

Sec. 94-3. Diversion of signals.

The presence at any time on or about such wires, cables, or cablevision equipment of any device or wire resulting in the diversion of television, radio, audio or video signals shall constitute prima facie evidence of knowledge and intent to divert on the part of the person, firm or corporation having custody or control of the room or place where such signals are diverted and received, and shall constitute prima facie evidence of the intention on the part of such person to defraud and shall bring such person prima facie within the scope, meaning and penalties of this chapter.

(Ord. of 1-5-1982, § 3)

Sec. 94-4. Penalty.

Any person violating this chapter shall be guilty of a misdemeanor and on such convictions shall be punished as provided in section 1-13.

(Ord. of 1-5-1982, § 4)

Chapters 95--97 RESERVED

Chapter 98 TRAFFIC AND VEHICLES\*

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\*Cross references: Any ordinance prescribing traffic regulations for specific locations and relating to matters such as through streets, parking, one-way traffic, vehicle loads or loading zones, not inconsistent with this Code saved from repeal, § 1-7(11); vehicle wreckers and towing services, § 22-141 et seq.; courts, ch. 26; motor vehicle routes for transportation of explosives and blasting agents, § 38-57; motor vehicle routes for transportation of hazardous chemicals or other dangerous articles, § 38-5; fire lanes, § 38-59; law enforcement, ch. 54; offenses and miscellaneous provisions, ch. 62; streets, sidewalks and other public places, ch. 82.

State law references: Traffic regulations and rules of the road, MCA 1972, § 63-3-1 et seq.; obedience to and effect of traffic laws, MCA 1972, § 63-3-201 et seq.; local traffic regulations, MCA 1972, §§ 63-3-209, 63-3-211; traffic violations procedure, MCA 1972, § 63-9-1 et seq.

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## Article I. In General

Sec. 98-1. Stopping, standing or parking.

Sec. 98-2. Obedience to stop signs.

Sec. 98-3. U-turns restricted.

Sec. 98-4. Crossing yellow line.

Sec. 98-5. Backing vehicle into intersection.

Sec. 98-6. Speed restrictions.

Sec. 98-7. Penalty.

Secs. 98-8--98-30. Reserved.

## Article II. Operation of Vehicles

### Division 1. Generally

Secs. 98-31--98-50. Reserved.

### Division 2. Certain Vehicles Prohibited

Sec. 98-51. Definitions.

Sec. 98-52. Prohibited acts.

Sec. 98-53. Exceptions.

Sec. 98-54. Seizure of evidence.

Sec. 98-55. Penalties.

Secs. 98-56--98-90. Reserved.

### Article III. Parking

#### Division 1. Generally

Secs. 98-91--98-110. Reserved.

#### Division 2. Commercial Vehicles

Sec. 98-111. Definitions.

Sec. 98-112. Parking restrictions.

Sec. 98-113. Penalty.

Secs. 98-114--98-140. Reserved.

### Article IV. Privately Owned Streets

Sec. 98-141. Traffic rules and regulations.

Sec. 98-142. Request for rules by owner or manager of property.

Sec. 98-143. Payment of notification and signage costs.

## ARTICLE I. IN GENERAL

Sec. 98-1. Stopping, standing or parking.

It shall be unlawful for any person to stop, stand or park any vehicle of any kind or character, except when necessary to avoid conflict with other traffic or in compliance with the direction of an officer or a traffic control device, in any of the following places:

- (1) On a sidewalk;
- (2) Within an intersection;
- (3) In front of a public or a private driveway;
- (4) Within ten feet of a fire hydrant;
- (5) On a crosswalk;
- (6) Alongside or opposite any street excavation or obstruction, when such stopping, standing or parking would obstruct traffic;
- (7) At any place where official signs prohibit parking;

- (8) More than 12 inches from a curb;
- (9) On the shoulder alongside U.S. Highway 80 within the city limits of the city;
- (10) On the driver's lefthand side of the street;
- (11) In violation of specific parking areas where such are provided.

(Ord. of 8-5-1958, § 1)

Sec. 98-2. Obedience to stop signs.

The driver of any vehicle of any kind or character shall stop in obedience to a stop sign at an intersection where a stop sign is erected at one or more entrances thereto and shall proceed cautiously, yielding to vehicles not so obligated to stop, which are in the intersection or approaching so close thereto as to constitute an immediate hazard, but may then proceed.

(Ord. of 8-5-1958, § 2)

Sec. 98-3. U-turns restricted.

It shall be unlawful for the driver of any vehicle of any kind or character to make a turn of more than 90 degrees (U-turn or more) at the intersection of Leake and Jefferson Streets and at the intersection of Leake and Monroe Streets.

(Ord. of 8-5-1958, § 3)

Sec. 98-4. Crossing yellow line.

It shall be unlawful for the driver of any vehicle of any kind to drive such vehicle across any yellow line placed in or near the center of any of the streets of the city.

(Ord. of 8-5-1958, § 3a)

Sec. 98-5. Backing vehicle into intersection.

It shall be unlawful for the driver of any vehicle of any kind to back such vehicle into any street intersection in the city.

(Ord. of 8-5-1958, § 3b)

Sec. 98-6. Speed restrictions.

(a) No person shall drive a vehicle on a street at a speed greater than is reasonable and prudent under the conditions then existing.

(b) Where no special hazard exists, the following speeds shall be lawful, but any speed in excess of such limits shall be prima facie evidence that the speed is not reasonable or prudent and is unlawful:

(1) Twenty miles per hour in any business district;

(2) Thirty miles per hour in any residence district.

(c) The fact that the speed of a vehicle is lower than the foregoing prima facie limits shall not relieve the driver from the duty to decrease speed when approaching and crossing an intersection, when approaching and going around a curve, when approaching a hill crest, when traveling upon any narrow or winding roadway, or when special hazard exists with respect to pedestrians or other traffic or by reason of weather or street conditions, and speed shall be decreased as may be necessary to avoid colliding with any person, vehicle, or other conveyance on or entering the highway in compliance with legal requirements and the duty of all persons to use due care.

(d) In every charge of violation of this section, the complaint, also the summons or notice to appear, shall specify the speed at which the defendant is alleged to have driven, also the prima facie speed applicable within the district or at the locations.

(e) The provisions of this section shall not be construed to relieve the plaintiff in any civil action from the burden of proving negligence upon the part of the defendant as the proximate cause of an accident.

(Ord. of 8-5-1958, § 4)

Sec. 98-7. Penalty.

The penalties for violation of the provisions of this article shall be as follows:

(1) For nonmoving violations, a fine of not less than \$1.00 nor more than \$25.00.

(2) For moving violations, a fine of not less than \$5.00 nor more than \$100.00, or imprisonment not to exceed six months, or both.

(Ord. of 8-5-1958, § 5)

Secs. 98-8--98-30. Reserved.

## ARTICLE II. OPERATION OF VEHICLES

### DIVISION 1. GENERALLY

Secs. 98-31--98-50. Reserved.

### DIVISION 2. CERTAIN VEHICLES PROHIBITED

Sec. 98-51. Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Farm tractor means every motor vehicle designed and used primarily as a farm implement for drawing plows, mowing machines, and other implements of husbandry.

Motor vehicle of the armed forces means any vehicle of any kind or description owned or operated by the armed forces of the United States or the National Guard.

Motorcycles designed for on road use means every motor vehicle having a saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground but excluding a tractor and which is equipped for use on the highways of this state as provided for by title 63 chapter 7 of the Mississippi Code of 1972 Annotated (MCA 1972, § 63-7-1 et seq.).

Off the road vehicle means every device, in, upon, or by which any person or property is or may be transported or drawn which is designed primarily for use off the streets and highways. The term shall include all vehicles commonly known and referred to as "go-carts," "three-wheelers," "trail-bikes," "all terrain vehicles," "riding lawn mowers," "lawn tractors," any other vehicles, regardless of name which are designed for off the road use except as provided in this division. Excepted from the definition of off the road vehicles are the following: farm tractors, road tractors, motorcycles designed for on road use, any motor vehicle of the armed forces of the United States, and any vehicle propelled by muscular power. It is not the intention of this division to restrict the use of any vehicle which is properly equipped for on road use as provided by title 63 chapter 7 of the Mississippi Code of 1972 Annotated (MCA 1972, § 63-7-1 et seq.).

Operator means any person in actual physical control of an off the road vehicle.

Owner means a person who holds the legal title of a vehicle; in the event a vehicle is the subject of an agreement for the conditional sale or lease thereof with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee, or in the event a mortgagor of a vehicle is entitled to possession, then such conditional vendee or lessee or mortgagor shall be deemed the owner for the purpose of this division.

Road tractor means every motor vehicle designed and used for drawing other vehicles and not so constructed as to carry any load thereon either independently or any part of the weight of a vehicle or load so drawn.

(Ord. of 11-2-1982, § 1)

Cross references: Definitions generally, § 1-2.

Sec. 98-52. Prohibited acts.

It shall be a misdemeanor for any person to drive or move or for the owner to cause or knowingly permit to be driven or moved on any street, property of the city or property of the municipal separate school district any "off the road vehicle" as defined in this division, except as permitted in this division.

(Ord. of 11-2-1982, § 2)

Sec. 98-53. Exceptions.

It shall not be a violation of this division to operate any such off the road vehicle in any area specifically designated for such use by any duly adopted rule or regulation of the city parks and recreation commission or the board of trustees of the municipal separate school district. Provided however, that no such regulation shall in any manner be deemed to authorize the operation of any such off the road vehicle on any street of the city. Likewise no person operating an off the road vehicle on property of the city or the municipal separate school district for the purpose of maintenance such property shall be in violation of this division. This division shall not apply to such off the road vehicles owned or operated by or for the city or the municipal separate school district.

(Ord. of 11-2-1982, § 3)

Sec. 98-54. Seizure of evidence.

Any police officer of the city is hereby authorized and directed to seize as evidence any off the road vehicle found to be operating in violation of this division. Any such off the road vehicle so seized shall be treated and handled as in the same manner as other physical evidence.

(Ord. of 11-2-1982, § 4)

Sec. 98-55. Penalties.

Any person convicted of the violation of this division shall be punished as provided in section 1-13.

(Ord. of 11-2-1982, § 5)

Secs. 98-56--98-90. Reserved.

ARTICLE III. PARKING

DIVISION 1. GENERALLY

Secs. 98-91--98-110. Reserved.

DIVISION 2. COMMERCIAL VEHICLES

Sec. 98-111. Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Commercial dump truck means any dump truck with a weight limit greater than a three-quarter ton pickup truck.

Commercial truck means any commercially licensed vehicle owned or operated for the purpose of commercial activity with the weight limit greater than a three-quarter ton pickup truck and having more than six wheels, including either the separate tractor or trailer of an 18-wheel vehicle.

(Ord. of 10-5-1993, § 1)

Cross references: Definitions generally, § 1-2.

Sec. 98-112. Parking restrictions.

Parking of a dump truck on residential premises or on a street in a residential area overnight or for a period in excess of the time the truck is required in the conduct of work on the premises is prohibited.

(Ord. of 10-5-1993, § 2)

Sec. 98-113. Penalty.

Any person found guilty of violating this article shall be guilty of a misdemeanor and may be punished as provided in section 1-13.

(Ord. of 10-5-1993)

Secs. 98-114--98-140. Reserved.

#### ARTICLE IV. PRIVATELY OWNED STREETS

Sec. 98-141. Traffic rules and regulations.

The chief of police is authorized to promulgate such traffic rules and regulations within and on such privately owned streets as are required for the public safety. Such traffic rules and regulations shall be approved by the board of aldermen. Notice of adoption of such rules and regulations shall be given in the same manner as provided in such rules and regulations.

(Ord. of 5-19-1987, § 1)

Sec. 98-142. Request for rules by owner or manager of property.

No such rules or regulations shall be adopted unless requested by the owner of such property or the person having responsibility for the management of such private property.

(Ord. of 5-19-1987, § 2)

Sec. 98-143. Payment of notification and signage costs.

No such rules or regulations shall be effective until the owner or the person having responsibility for the management shall have paid all costs incurred related to giving notice of such rules and regulations including, but not limited to, the cost of publication or of signs required to give notice.

(Ord. of 5-19-1987, § 3)

Chapters 99--101 RESERVED

Chapter 102 UTILITIES\*

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\*Cross references: Buildings and building regulations, ch. 18; environment, ch. 34; floods, ch. 42; health and sanitation, ch. 46; historical and other preservation, ch. 50; natural resources, ch. 58; planning, ch. 70; streets, sidewalks and other public places, ch. 82; subdivisions, ch. 86; utility tax, § 90-101 et seq.; telecommunications, ch. 94.

State law references: Power of city to purchase and hold real estate for waterworks and sewers, MCA 1972, § 21-17-1; public utilities and transportation in municipalities, MCA 1972, § 21-27-1 et seq.; municipal waterworks, MCA 1972, § 21-27-7; testing of water, electric and gas meters, MCA 1972, § 21-27-9; bonds, MCA 1972, § 21-33-301 et seq.; municipal powers as to sewers, MCA 1972, § 21-37-3; exercise of eminent domain by municipalities, MCA 1972, § 21-37-47; joint municipal electric power, MCA 1972, § 77-5-701 et seq.

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## Article I. In General

Sec. 102-1. Rules and regulations generally.

Secs. 102-2--102-30. Reserved.

## Article II. Water Service

### Division 1. Generally

Sec. 102-31. Application for water service.

Sec. 102-32. Record of usage.

Sec. 102-33. Service pipe installation.

Sec. 102-34. Approval of private service pipes.

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Sec. 102-36. Meters.

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Sec. 102-38. Addition of fixtures; extension of yard line.

Sec. 102-39. Payment of bill prior to transferring service.

Sec. 102-40. Access to premises for inspection.

Sec. 102-41. Delinquent customers.

Sec. 102-42. Water meter for building purposes.

Sec. 102-43. Unauthorized use of water supply.

Sec. 102-44. Use of water restricted.

Sec. 102-45. Tampering with water supply facilities; use of curbstops.

Sec. 102-46. Notice of discontinuance.

Sec. 102-47. Right to cut off water service.

Sec. 102-48. Connection fees.

Sec. 102-49. Payment of water bills; late fee.

Sec. 102-50. Water service cut-off.

Sec. 102-51. Reconnect fee.

Sec. 102-52. Authorized agent to make reconnections; additional fees.

Sec. 102-53. Discontinuance of water service.

Sec. 102-54. Service charge for returned checks.

Sec. 102-55. Service charge for late payment.

Sec. 102-56. Estimated water usage when meter fails.

Sec. 102-57. Penalty.

Sec. 102-58. Trailer connections.

Sec. 102-59. Right to administrative hearing information.

Secs. 102-60--102-80. Reserved.

## Division 2. Cross Connections

Sec. 102-81. Purpose.

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Sec. 102-83. Backflow prevention assembly requirement.

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Sec. 102-85. Testing of backflow assemblies.

Sec. 102-86. Violations and penalties.

Secs. 102-87--102-120. Reserved.

### Article III. Sewer Service

#### Division 1. Generally

Secs. 102-121--102-140. Reserved.

#### Division 2. Sewer Use

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Sec. 102-141. Definitions.

Secs. 102-142--102-160. Reserved.

##### Subdivision II. Use of Public Sewers Required

Sec. 102-161. Unsanitary disposal of waste prohibited.

Sec. 102-162. Discharge to natural outlet.

Sec. 102-163. Privy, privy vault, septic tank, etc.

Sec. 102-164. Toilet facilities; connection to public sewer.

Sec. 102-165. Compliance with standards.

Secs. 102-166--102-180. Reserved.

##### Subdivision III. Private Sewage Disposal

Sec. 102-181. Use of private disposal system.

Sec. 102-182. Permit; application.

Sec. 102-183. Inspection.

Sec. 102-184. Compliance with state recommendations; restrictions on discharges.

Sec. 102-185. Connection to available public sewer.

Sec. 102-186. Operation and maintenance.

Sec. 102-187. Additional requirements.

Sec. 102-188. Cleaning and filling of abandoned private disposal system.

Secs. 102-189--102-210. Reserved.

#### Subdivision IV. Building Sewers and Connections

Sec. 102-211. Unauthorized connections prohibited; permit required.

Sec. 102-212. Inspection; permit application; characteristics of waste.

Sec. 102-213. Costs and expenses; indemnification.

Sec. 102-214. Separate building sewers.

Sec. 102-215. Old building sewers.

Sec. 102-216. Size, slope, alignment and materials.

Sec. 102-217. Elevation of building sewer.

Sec. 102-218. Connection of roof downspouts and drains.

Sec. 102-219. Connection standards.

Sec. 102-220. Supervision of connection.

Sec. 102-221. Guarding of excavations.

Secs. 102-222--102-240. Reserved.

#### Subdivision V. Use of the Public Sewers

Sec. 102-241. Discharge of stormwater, surface water and drainage prohibited; exception.

Sec. 102-242. Discharges to storm sewers and natural outlets.

Sec. 102-243. Prohibited discharges.

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Sec. 102-245. Pretreatment requirements for industrial and commercial process wastewater.

Sec. 102-246. Authority to reject or control deleterious discharges; payment of additional costs.

Sec. 102-247. Grease, oil, and sand interceptors.

Sec. 102-248. Maintenance of preliminary treatment and flow-equalizing facilities.

Sec. 102-249. Control manhole.

Sec. 102-250. Measurements, tests and analyses.

Sec. 102-251. Acceptance of unusual strength waste.

Secs. 102-252--102-270. Reserved.

#### Subdivision VI. Protection from Damage

Sec. 102-271. Damage to sewage works.

Secs. 102-272--102-290. Reserved.

#### Subdivision VII. Powers and Authority of Inspectors

Sec. 102-291. Inspection and sampling.

Sec. 102-292. Observance of safety rules.

Sec. 102-293. Credentials and identification.

Secs. 102-294--102-310. Reserved.

#### Subdivision VIII. Penalties

Sec. 102-311. Notice of violation.

Sec. 102-312. Penalty.

Sec. 102-313. Liability for damage.

Secs. 102-314--102-330. Reserved.

#### Division 3. Discharges from Individual Sewage Treatment Plants or Septic Tanks

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Sec. 102-332. Adoption of regulations.

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#### Division 4. Impact Fee

Sec. 102-351. Deposit of funds.

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#### Article IV. Rates and Charges

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Sec. 102-393. Schedule of deposits for waste system.

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Sec. 102-395. Charges for water taps.

Sec. 102-396. Charges for water tie-on.

Sec. 102-397. Charges for sewer tap or tie-on.

Sec. 102-398. Determination of charges.

Sec. 102-399. Exceptions and modifications.

Secs. 102-400--102-430. Reserved.

#### Article V. Extension of Utility Lines

Sec. 102-431. Connection to city water and sewer system.

Sec. 102-432. Installation of oversized pipes and fittings; payment of costs.

#### ARTICLE I. IN GENERAL

Sec. 102-1. Rules and regulations generally.

The director of public works and city clerk shall prepare and submit to the mayor and board of aldermen a comprehensive set of rules and regulations for day-to-day provisions and collections of water and sanitary sewer services within and by the city. Such rules and regulations shall be reduced to writing and shall be submitted to the mayor and board of aldermen for approval subject to such changes as they shall make. Upon approval, with or without changes, such rules and regulations shall be published in the same manner as ordinances and shall become effective immediately. A true and correct copy of all such rules and regulations shall be available for public inspection at the office of the director of public works and in the office of the city clerk.

(Ord. of 12-1-1981, § 1)

Secs. 102-2--102-30. Reserved.

## ARTICLE II. WATER SERVICE

### DIVISION 1. GENERALLY

#### Sec. 102-31. Application for water service.

Application for water service into any premises shall be made in writing at the city water department. The application must state the purpose for which the water is to be used, and all other facts in connection therewith, that may be necessary for the proper information and protection of the waterworks system and the city.

(Ord. of 11-5-1985, § 1(A))

#### Sec. 102-32. Record of usage.

All water consumed shall be properly recorded and no free water shall be furnished to anyone unless authorized by the mayor and board of aldermen.

(Ord. of 11-5-1985, § 1(B))

#### Sec. 102-33. Service pipe installation.

No service pipes for water shall be laid in the streets of the city except by the director of public works or under his direct supervision.

(Ord. of 11-5-1985, § 1(C))

#### Sec. 102-34. Approval of private service pipes.

All private service pipes in the streets shall be approved by the director of public works.

(Ord. of 11-5-1985, § 1(D))

#### Sec. 102-35. Approval of materials; opening and closing valves or curbstops.

All material necessary for making water taps and tie-ons shall be approved by the director of public works. No person except an employee of the city authorized so to do shall open or close any water valves or curbstops.

(Ord. of 11-5-1985, § 1(E))

#### Sec. 102-36. Meters.

Where two or more residents occupy the same residence or house, separate varied lines shall be laid and the city shall place separate meters for the service. The consumer shall be required to pay all costs for making any water taps or tie-ons required and shall pay all deposits which are required to obtain service. However, in cases where houses, or other premises, are already so constructed and piped that it will work a hardship on property owners to repipe, they may be permitted to continue to receive

services through a single meter; provided, however, that a minimum rate for water and sewer services shall be charged for each consumer at the premises for all water used in excess of the minimum water and sewer charges; shall be equally divided among the separate families or consumers and charged as if they were receiving service through a separate meter. The term "consumer" as used in this section, means one family, person or nonrelated group occupying a single living unit. No additional charge shall be made for any nonresidential usage wherein a single meter serves multiple users.

(Ord. of 3-17-1987)

Sec. 102-37. Extension of pipe beyond original service or premises.

No pipe shall be executed beyond the original service or premises, whether owned by the same person or not. In case such installation has been made prior to the adoption of the ordinance from which this division is derived the owners shall correct the irregularity by constructing separate service lines for each of the premises supplied.

(Ord. of 11-5-1985, § 1(G))

Sec. 102-38. Addition of fixtures; extension of yard line.

No addition to the number of fixtures, or extension of the yard line, unless on a service through meter, shall be made by any consumer, except by permission of the director of public works. This section does not apply to mere repairs.

(Ord. of 11-5-1985, § 1(H))

Sec. 102-39. Payment of bill prior to transferring service.

Persons transferring from one house or location to another shall pay the current bill for the premises vacated or to be vacated and make application for service at new location before service is turned on at the new location under direction of the director of public works.

(Ord. of 11-5-1985, § 1(I))

Sec. 102-40. Access to premises for inspection.

The director of public works or other authorized agent of the city shall have reasonable and free access to the premises supplied with water by the city for the purpose of examining uses for which water is applied, the condition of fixtures and such other purposes as may be proper or appear necessary to protect the interest of the city. Refusal to permit inspection shall immediately result in the turning off of the water service until inspection is permitted and a fee is paid. Should it be found that water is being used contrary to rules, rates and regulations, the director of public works shall again turn off the water supply and shall not restore the water supply until a proper accounting is made and a fee is paid to the city.

(Ord. of 11-5-1985, § 1(J))

Sec. 102-41. Delinquent customers.

Water shall not be applied to any premises, directly or indirectly when the occupant is in arrears at the place then occupied. This section is intended to prevent the use of another's name in order to obtain a water supply by a delinquent customer.

(Ord. of 11-5-1985, § 1(K))

Sec. 102-42. Water meter for building purposes.

All contractors or other persons who use water for building purposes, shall make application for a water meter to use water, and failure to do so before using the water shall be penalized by having water disconnected and penalties applied to have water cut back on.

(Ord. of 11-5-1985, § 1(L))

Sec. 102-43. Unauthorized use of water supply.

Should any person move into any building or premises and find the water supply on and use the water without having made proper application as required for service, water service will be disconnected and not turned back on without proper application and a reconnect penalty applied.

(Ord. of 11-5-1985, § 1(M))

Sec. 102-44. Use of water restricted.

No consumer shall use the water or permit same to be used except for the purposes stated in his application for water service, nor shall he supply water to any nonconsumer, except in case of fire, without a written statement from the director of public works. The statement shall state for what purpose and for how long a time the water shall be used.

(Ord. of 11-5-1985, § 1(N))

Sec. 102-45. Tampering with water supply facilities; use of curbstops.

No person except the duly authorized agent of the city shall open or otherwise tamper with any fire hydrant, open or close any curbstop or any person shall not deposit any dirt or trash or other substance in any meter box, tamper with any meter, or open or close any waterworks valve in the waterworks system of the city. The city reserves the exclusive right to the use of the service curbstops to turn on and cut off the water service from house or other premises, the consumer shall not make use of curbstop to turn off water to prevent freezing or for any other purpose.

(Ord. of 11-5-1985, § 1(O))

Sec. 102-46. Notice of discontinuance.

Consumers desiring to discontinue the use of water shall give notice of such discontinuance to the city water department before vacating the premises. Until notification is received by the city water department, the consumer shall be responsible for all water consumed.

(Ord. of 11-5-1985, § 1(P))

Sec. 102-47. Right to cut off water service.

The city reserves the right at any time to cut off the water from the mains in any case of necessity or emergency, even without notice to the consumer, however, every effort will be made to notify consumers if time allows.

(Ord. of 11-5-1985, § 1(Q))

Sec. 102-48. Connection fees.

The mayor and board of aldermen may from time to time establish fees for water and sewer connection fees, etc, by providing a 30-day notice.

(Ord. of 11-5-1985, § 1(R))

Sec. 102-49. Payment of water bills; late fee.

If water bills are not paid by 5:00 p.m. on the 19th day of each month, or if the 19th falls on a weekend or holiday, then by 5:00 p.m. on the last business day prior to the 19th, a late fee of \$15.00 will also be assessed. Such late fee will be assessed for each month that payment is not received by the date set out.

(Ord. of 8-7-2001, § 1)

Sec. 102-50. Water service cut-off.

Water service cut-off will be on the 20th day of the second month of nonpayment. If the 20th day of the month falls on a Saturday, Sunday or legal holiday, cut-off will be the next business day.

(Ord. of 8-7-2001, § 1)

Sec. 102-51. Reconnect fee.

There will be a reconnect fee of \$20.00 during regular business hours and \$40.00 after regular business hours for all accounts that have been turned off for nonpayment. Regular business hours for the city are 8:00 a.m. to 5:00 p.m. except on weekends and holidays.

(Ord. of 8-7-2001, § 1)

Sec. 102-52. Authorized agent to make reconnections; additional fees.

All reconnections must be made by an authorized agent of the city. Any other reconnection will result in an additional fee of \$30.00 chargeable to the consumer in whose name the meter is registered.

(Ord. of 8-7-2001, § 1)

Sec. 102-53. Discontinuance of water service.

If after two months an account is not paid in full, water service will be discontinued until the account is paid in full to include water sewer charges and all late, reconnect fees and any other applicable fees.

(Ord. of 8-7-2001, § 1)

Sec. 102-54. Service charge for returned checks.

There will be a service charge of \$25.00 for all returned checks for insufficient funds.

(Ord. of 8-7-2001, § 1)

Sec. 102-55. Service charge for late payment.

There will be an additional service charge of \$20.00 on all service accounts that are paid on the 20th day of the month before the water is actually cut-off by the public works department.

(Ord. of 8-7-2001, § 1)

Sec. 102-56. Estimated water usage when meter fails.

If the meter fails to register during any month, then the bill shall be estimated according to the average quantity of water correctly registered for the three preceding months.

(Ord. of 11-5-1985, § 1(AA))

Sec. 102-57. Penalty.

Any person who shall violate any rule or regulation of this division or who shall tamper with any water meter, meter box, curbstop, reconnect their water after having filed proper application, or have tampered to any pipe or main, or water tank, of the city without proper authority shall be guilty of a misdemeanor, and on conviction shall be punished as provided in section 1-13. Failure or refusal of any person to permit inspection of plumbing work in case of any installation or extension of water service pipes or fixtures shall involve him in the same crime and the like penalty as provided in this section.

(Ord. of 11-5-1985, § 1(BB))

Sec. 102-58. Trailer connections.

(a) All house trailers and other temporary structures for human habitation located within the city limits shall be required to connect with the sanitary sewer lines of the city and with existing water lines.

(b) All such connections of water and sanitary sewer lines shall be approved by the public works department.

(c) Any property owner permitting any such temporary dwelling or house trailers to remain on his property in violation of this section shall be guilty of a misdemeanor.

(Ord. of 11-5-1985)

Sec. 102-59. Right to administrative hearing information.

Accuracy of the water/sewer bills may be contested in an administrative hearing. A hearing must be requested no later than three days prior to the payment deadline. You may contact the city clerk by writing, City Clerk -- City of Clinton, P.O. Box 156, Clinton, MS 39056 or calling the mayor's office or the city clerk's office.

(Ord. of 11-5-1985)

Secs. 102-60--102-80. Reserved.

#### DIVISION 2. CROSS CONNECTIONS\*

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\*State law references: Cross connection control program, MCA 1972, § 41-26-14.

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Sec. 102-81. Purpose.

The mayor and board of aldermen find true on arrest the facts stated in the preamble to the ordinance from which this division is derived and to protect the drinking water supply from possible contamination have officially adopted the cross connection provisions in this division.

(Ord. of 11-16-1999, § 1)

Sec. 102-82. Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Back pressure backflow means backflow caused by a lower pressure in the potable supply than at the point of delivery.

Backflow means the reversal of normal flow direction where water flows from the intended point of delivery towards the supply.

Backsiphonage backflow means backflow caused by a negative pressure in the potable supply lines.

Cross connection means any direct interconnection between a public water system and a nonpublic water system or other source which may result in the contamination of the drinking water provided by the public water system.

Health hazard, (high risk) means contamination with the potential to endanger the health and well being of the consumer.

Nonhealth hazard, (low hazard) means contamination that will not endanger the health of the consumer, but does not meet established water quality standards for public water systems.

Nonpotable water means water that is not acceptable for human consumption or of unknown quality.

Potable water means water that is acceptable for human consumption.

Water system means the city drinking water supply.

(Ord. of 11-16-1999, § II)

Cross references: Definitions generally, § 1-2.

State law references: Similar provisions, MCA 1972, § 41-26-3.

Sec. 102-83. Backflow prevention assembly requirement.

(a) Elimination and protection of cross connections. Cross connections occurring within the water system shall be eliminated or protected with the appropriate backflow preventer. Establishing an air gap between the potable and nonpotable sources eliminates cross connections. Installing the appropriate backflow preventer protects cross connections. It shall be the responsibility of the owner of the cross connection to eliminate the cross connection or protect the cross connection with a backflow preventer approved by the water system.

(b) Connections to sewer. Direct connections, permanent or temporary, between the city water system and a sanitary or storm sewer are prohibited.

(c) Home wells. Any well drilled or operated within the city for private use shall not be connected in any manner with the city water and sewer system.

(d) Approved backflow prevention assemblies. Only backflow prevention assemblies approved by the state department of health shall be installed.

(e) Installation requirements. Reduced pressure principle assemblies, double check valve assemblies, and pressure vacuum breakers shall be installed in a manner and location that provides proper operation of assembly (as intended) along with adequate access for testing and repair of the assembly. Reduced pressure principle assemblies and double check valves assemblies shall not be installed in a pit or enclosure below (grade) ground level. All assemblies shall be properly insulated against freezing.

(Ord. of 11-16-1999, § III)

Sec. 102-84. Responsibility for water system.

- (a) **Surveys.** An authorized agent of the city, utilizing written guidelines published by the state department of health, shall conduct an initial survey and on site visits as necessary to locate existing cross connections. Single-family dwellings and multifamily dwellings designed to house no more than eight families shall not be included in this survey unless the water system officials have reason to believe a cross connection exists. An individual approved by the city shall complete the survey of the water system. Upon completion of this survey, the responsible official of the city shall certify to the state department of health, on forms provided by such department, that the required survey has been properly performed and completed in accordance with the written guidelines published by the state department of health.
- (b) **Right of entry.** The city, acting through its authorized agent, shall have the right to enter any nonresidential building, during reasonable hours, to inspect the plumbing system installed in any such building or premises provided prior notification of the inspection is given. The authorized agent shall first obtain consent from the owner to enter any single-family dwelling.
- (c) **Classification of hazard.** The authorized agent of the water system will classify each cross connection found as high hazard or low hazard. If a connection is found to be a high hazard cross connection, the owner of the connection shall be notified within ten days, that the cross connection must be eliminated or protected by the installation of a backflow preventer approved by the water system within 90 days of notification. If the connection is found to be low hazard cross connection, the owner shall be notified in writing within ten days, that the cross connection shall be eliminated or protected by backflow preventer approved by the water system before June 30, 2004.
- (d) **Selecting the appropriate backflow preventer.** It shall be the responsibility of the city, acting through its agent, to determine the type of backflow preventer required at each cross connection. Installation must follow the approved guidelines published by the state department of health.
- (e) **Existing backflow preventers.** Any backflow prevention device or assembly installed on this water system to protect the city against the possibility of backflow from a customer's water service prior to the adoption of this division shall be governed by this division. Existing backflow preventers shall be inspected and tested within 90 days of identification. If existing backflow preventer fails to pass the test it must be repaired or replaced within 90 days of notification and meet all requirements of this division.
- (f) **Review of meter applications.** The water system, acting through its authorized agent, shall review all applications for new meters to determine if a cross connection will be created. The water system shall require the installation of an approved backflow preventer at all new connections where a cross connection will be created.

(g) Inspections. The city, acting through its authorized agent, will periodically inspect any connection to the water system to ensure cross connections have not been created. These inspections may be conducted without prior notice to the customer.

(h) Recordkeeping. The city shall maintain records of the type, size, and location of each backflow preventer installed in the water system, when each backflow preventer is due to be tested, and the results of each test. Records shall be maintained for five years from date of test and inspection. It is the owner of the assembly's responsibility to provide a copy of the initial annual test results as assurance of a properly operating backflow preventer.

(Ord. of 11-16-1999, § IV)

Sec. 102-85. Testing of backflow assemblies.

(a) Test required. Each reduced pressure principle backflow prevention assembly, double check valve assembly, and pressure vacuum breaker shall be tested immediately after installation, after repairs of any kind, and annually.

(b) Certified testers. Only certified backflow preventer testers certified by the state department of health shall test backflow preventers in the city.

(c) Notification. The city shall notify the owner of each backflow preventer 60 days prior to the date that the backflow preventer is scheduled to be tested.

(Ord. of 11-16-1999, § V)

Sec. 102-86. Violations and penalties.

(a) Refusal of inspection. If the owner/manager refuses to allow the authorized agent to perform the necessary inspections to determine if a cross connection exists, the city shall require that a reduced pressure principle backflow prevention assembly be installed at that service connection.

(b) Maintaining a cross connection. If an owner, that after having been informed that a cross connection exists at his property, refuses to eliminate or protect the cross connection through the use of the appropriate backflow preventer, water service to the connection shall be terminated until such time as the owner complies with state department of health regulations.

(Ord. of 11-16-1999, § VI)

Secs. 102-87--102-120. Reserved.

### ARTICLE III. SEWER SERVICE

#### DIVISION 1. GENERALLY

Secs. 102-121--102-140. Reserved.

## DIVISION 2. SEWER USE

### Subdivision I. In General

#### Sec. 102-141. Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

BOD (denoting biochemical oxygen demand) means the quantity of oxygen utilized in the biochemical oxidation of the sample under standard laboratory procedure in five days at 20 degrees Celsius, expressed in milligrams per liter.

Building drain means that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five feet (1.5 meters) outside the outer face of the building wall.

Building sewer means the extension from the building drain to the public sewer or other place of disposal.

City means the City of Clinton, Mississippi, or, when appropriate to the context, its duly authorized representative.

Combined sewer means a sewer receiving both surface runoff and sewage. Combined sewers shall not be allowed.

Garbage means solid wastes from the domestic and commercial preparation, cooking, and dispensing of food, and from the handling, storage, and sale of produce.

Industrial wastes means the liquid wastes from industrial manufacturing processes, trade, or business as distinct from sanitary sewage as defined in 40 CFR 35.905.

Natural outlet means any outlet into a watercourse, pond ditch, lake or other body of surface or groundwater.

pH means the logarithm of the reciprocal of the concentration of hydrogen ions in moles per liter of solution.

Properly shredded garbage means the wastes from the preparation, cooking, and dispensing of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half inch (1.27 centimeters) in any dimension.

Public sewer means a sewer in which all owners of abutting properties have equal rights, and is controlled by public authority.

Sanitary sewer means a sewer which carries sewage and to which storm, surface, and groundwaters are not intentionally admitted.

Sewage means a combination of the water-carried wastes from residences, business buildings, institutions, and industrial establishments, together with such ground, surface, and stormwaters as may be present.

Sewage treatment plant means any arrangement of devices and structures used for treating sewage.

Sewage works means all facilities for collecting, transporting, pumping, treating, and disposing of sewage.

Sewer means a pipe or conduit for carrying sewage.

Slug means 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 15 minutes more than five times the average 24-hour concentration of flows during normal operation.

Storm drain (sometimes termed "storm sewer") means a sewer which carries storm and surface waters and drainage, but excludes sewage and industrial wastes, other than unpolluted cooling water.

Superintendent means the director of public works of the city or his authorized deputy, agent, or representative.

Suspended solids means solids that either float on the surface of, or are in suspension in water, sewage, or other liquids and which are removable by laboratory filtering.

Watercourse means a channel in which a flow of water occurs, either continuously or intermittently.

(Ord. of 7-17-1990, art. I)

Cross references: Definitions generally, § 1-2.

Secs. 102-142--102-160. Reserved.

Subdivision II. Use of Public Sewers Required

Sec. 102-161. Unsanitary disposal of waste prohibited.

It shall be unlawful for any person to place, deposit, or permit to be deposited in any unsanitary manner on public or private property within the city, or in any area under the jurisdiction of the city, any human or animal excrement, garbage or other objectionable waste.

(Ord. of 7-17-1990, art. II, § 1)

Sec. 102-162. Discharge to natural outlet.

It shall be unlawful to discharge to any natural outlet within the city, or in any area under the jurisdiction of the city, any sewage or polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this division.

(Ord. of 7-17-1990, art. II, § 2)

Sec. 102-163. Privy, privy vault, septic tank, etc.

Except as provided in this division, 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.

(Ord. of 7-17-1990, art. II, § 3)

Sec. 102-164. Toilet facilities; connection to public sewer.

The owner of all houses, buildings, or properties used for human occupancy, employment, recreation, or other purposes, situated within the city and abutting on any street, alley, or right-of-way in which there is now located or may in the future be located a public sanitary or combined sewer of the city, is hereby required at his expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper public sewer in accordance with the provisions of this division, within 90 days after official notice to do so, provided that such public sewer is within 100 feet (30.5 meters) of the property line. If an on-site pressure system is required for a service connection, the operation and maintenance costs for the facility shall be the responsibility of the owner or user.

(Ord. of 7-17-1990, art. II, § 4)

Sec. 102-165. Compliance with standards.

It shall be unlawful for any person, establishment or corporation to discharge to the sewer system any pollutant except in compliance with federal standards promulgated pursuant to the Clean Water Act, and any more stringent state and local standards.

(Ord. of 7-17-1990, art. II, § 5)

Secs. 102-166--102-180. Reserved.

Subdivision III. Private Sewage Disposal

Sec. 102-181. Use of private disposal system.

Where a public sanitary or combined sewer is not available under the provisions of section 102-64, the building sewer shall be connected to a private sewage disposal system complying with the provisions of this article.

(Ord. of 7-17-1990, art. III, § 1)

Sec. 102-182. Permit; application.

Before commencement of construction of a private sewage disposal system the owner shall first obtain a written permit signed by the superintendent. The application for such permit shall be made on a form furnished by the city, which the applicant shall supplement by any plans, specifications, and other information as are deemed necessary by the superintendent. A permit and inspection fee, as set by the board of aldermen, shall be paid to the city at the time the application is filed.

(Ord. of 7-17-1990, art. III, § 2)

Sec. 102-183. Inspection.

A permit for a private sewage disposal system shall not become effective until the installation is completed to the satisfaction of the superintendent. The superintendent shall be allowed to inspect the work at any stage of completion and, in any event, the applicant for the permit shall notify the superintendent when the work is ready for final inspection, and before any underground portions are covered. The inspection shall be made within 24 hours of the receipt of notice by the superintendent.

(Ord. of 7-17-1990, art. III, § 3)

Sec. 102-184. Compliance with state recommendations; restrictions on discharges.

The type, capacities, location, and layout of a private sewage disposal system shall comply with all recommendations of the state department of public health. No permit shall be issued for any private sewage disposal system employing subsurface soil absorption facilities where the area of the lot is less than three acres. No septic tank or cesspool shall be permitted to discharge to any natural outlet.

(Ord. of 7-17-1990, art. III, § 4)

Sec. 102-185. Connection to available public sewer.

At such time as a public sewer becomes available to a property served by a private sewage disposal system, as provided in section 102-184, a direct connection shall be made to the public sewer in compliance with this division, and any septic tanks, cesspools, and similar private sewage disposal facilities shall be abandoned and filled with suitable material.

(Ord. of 7-17-1990, art. III, § 5)

Sec. 102-186. Operation and maintenance.

The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times, at no expense to the city. If an on-site pressure system is required for use of the public sewer facility, the operation and maintenance costs of the pressure system shall be the responsibility of the owner or user.

(Ord. of 7-17-1990, art. III, § 6)

Sec. 102-187. Additional requirements.

No statement contained in this subdivision shall be construed to interfere with any additional requirements that may be imposed by the health officer.

(Ord. of 7-17-1990, art. III, § 7)

Sec. 102-188. Cleaning and filling of abandoned private disposal system.

When a public sewer becomes available, the building sewer shall be connected to such sewer within 60 days and the private sewage disposal system shall be cleaned of sludge and shall either be removed or shall be filled with clean bank-run gravel, sand, or dirt.

(Ord. of 7-17-1990, art. III, § 8)

Secs. 102-189--102-210. Reserved.

Subdivision IV. Building Sewers and Connections\*

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\*Cross references: Buildings and building regulations, ch. 18.

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Sec. 102-211. Unauthorized connections prohibited; permit required.

No unauthorized person shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the superintendent.

(Ord. of 7-17-1990, art. IV, § 1)

Sec. 102-212. Inspection; permit application; characteristics of waste.

(a) All residential and commercial sewers shall be inspected and approved by the superintendent before connection is made to the sanitary sewer system. The inspection will be covered in the building permit which is obtained from the city. The owner or his agent shall make application on a special form furnished by the city. The permit application shall be supplemented by any plans, specifications or other information considered pertinent in the judgement of the superintendent. The fees which are charged for the building permit are established in the building codes of the city.

(b) As a condition for authorization to dispose of industrial wastes through the municipal system, the industrial applicant for a sewer permit shall provide the city with information describing wastewater constituents and characteristics, and the type of activity and quantity of production.

(Ord. of 7-17-1990, art. IV, § 2)

Sec. 102-213. Costs and expenses; indemnification.

All costs and expense incident to the installation and connection of the building sewer shall be borne by the owner. The owner shall indemnify the city from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

(Ord. of 7-17-1990, art. IV, § 3)

Sec. 102-214. Separate building sewers.

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.

(Ord. of 7-17-1990, art. IV, § 4)

Sec. 102-215. Old building sewers.

Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the superintendent to meet all requirements of this division.

(Ord. of 7-17-1990, art. IV, § 5)

Sec. 102-216. Size, slope, alignment and materials.

The size, slope, alignment, materials of construction of a building sewer, and the methods to be used in excavating, placing of the pipe, jointing, testing, and backfilling the trench, shall conform to the requirements of the building and plumbing code or other applicable rules and regulations of the city. In the absence of code provisions or in amplification thereof, the materials and procedures set forth in appropriate specifications of the American Society for Testing and Materials (ASTM) and the Water Environment Federation (WEF) Manual of Practice No. 9 shall apply.

(Ord. of 7-17-1990, art. IV, § 6)

Sec. 102-217. Elevation of building sewer.

Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer.

(Ord. of 7-17-1990, art. IV, § 7)

Sec. 102-218. Connection of roof downspouts and drains.

No person shall make connection of roof downspouts, exterior foundation drains, areaway drains, or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer.

(Ord. of 7-17-1990, art. IV, § 8)

Sec. 102-219. Connection standards.

The connection of the building sewer into the public sewer shall conform to the requirements of the building and plumbing code or other applicable rules and regulations of the city, or the procedures set forth in appropriate specifications of the ASTM and the WEF Manual of Practice No. 9. All such connections shall be made gastight and watertight. Any deviation from the prescribed procedures and materials shall be approved by the superintendent before installation.

(Ord. of 7-17-1990, art. IV, § 9)

Sec. 102-220. Supervision of connection.

The applicant for the building sewer permit shall notify the superintendent when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the superintendent or his representative.

(Ord. of 7-17-1990, art. IV, § 10)

Sec. 102-221. Guarding of excavations.

All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to prevent the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the city.

(Ord. of 7-17-1990, art. IV, § 11)

Secs. 102-222--102-240. Reserved.

Subdivision V. Use of the Public Sewers

Sec. 102-241. Discharge of stormwater, surface water and drainage prohibited; exception.

No person shall discharge or cause to be discharged any stormwater, surface water, groundwater, roof runoff, subsurface drainage, uncontaminated cooling water, or unpolluted industrial process waters to any sanitary sewer. Provided, however, industrial cooling waters or unpolluted process waters may be discharged to a sewer upon the recommendation of the superintendent, provided, the quantities do not impair the capacity of the sewage treatment plant, and on approval of the mayor and board of aldermen.

(Ord. of 7-17-1990, art. V, § 1; Ord. of 7-7-1992)

Sec. 102-242. Discharges to storm sewers and natural outlets.

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. Industrial cooling water or unpolluted process waters may be discharged, on approval of the superintendent, to a storm sewer or natural outlet.

(Ord. of 7-17-1990, art. V, § 2)

Sec. 102-243. Prohibited discharges.

No person shall discharge or cause to be discharged any of the following described waters or wastes to any public sewers:

- (1) Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid, or gas.
- (2) Any waters or wastes containing toxic or poisonous solids, liquids, or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving waters of the sewage treatment plant, including but not limited to cyanides in excess of 0.05 mg/l as CN in the wastes as discharged to the public sewer.
- (3) Any waters or wastes having a pH lower than 6.0, or having any other corrosive property capable of causing damage or hazard to structures, equipment, and personnel of the sewage works.
- (4) Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the sewage works such as, but not limited to ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails and paper dishes, cups, milk containers, etc. either whole or ground by garbage grinders.

(Ord. of 7-17-1990, art. V, § 3)

Sec. 102-244. Discharge of prohibited substances.

No person shall discharge or cause to be discharged the following described substances, materials, waters, or wastes if it appears likely in the opinion of the superintendent that such wastes can harm either the sewers, sewage treatment process, or equipment, have an adverse effect on the receiving stream, or can otherwise endanger life, limb, public property, or constitute a nuisance. In forming his opinion as to the acceptability of these wastes, the superintendent will give consideration to such factors as the quantities of subject wastes in relation to flows and velocities in the sewers, materials of construction of the sewers, nature of the sewage treatment process, capacity of the sewage treatment plant, degree of treatability of wastes in the sewage treatment plant, and other pertinent factors. The substances prohibited are:

- (1) Any liquid or vapor having a temperature higher than 120 degrees Fahrenheit, (49 degrees Celsius).
- (2) Any water or waste containing fats, wax, grease, or oils, whether emulsified or not, in excess of 150 mg/l or containing substances which may solidify or become viscous at temperatures between 32 degrees and 150 degrees Fahrenheit (0 and 65 degrees Celsius).
- (3) Any garbage that has not been properly shredded. The installation and operation of any garbage grinder equipped with a motor of three-quarter horsepower (0.76 hp metric) or greater shall be subject to the review and approval of the superintendent.
- (4) Any waters or wastes containing strong acid iron pickling wastes, or concentrated plating solutions whether neutralized or not.
- (5) Any waters or wastes containing iron, chromium, copper, zinc, and similar objectionable or toxic substances; or wastes exerting an excessive chlorine requirement, to such degree that any such material received in the composite sewage at the sewage treatment works exceeds the limits established by the superintendent for such materials. (For industrial processes wastes, see section 102-245.)
- (6) Any waters or wastes containing phenols or other taste or odor-producing substances, in such concentrations exceeding limits which may be established by the superintendent as necessary, after treatment of the composite sewage, to meet the requirements of the state, federal, or other public agencies of jurisdiction for such discharge to the receiving waters.
- (7) 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.
- (8) Any waters or wastes having a pH in excess of 8.5 or below 6.0.
- (9) Materials which exert or cause:
  - a. Unusual concentrations of inert suspended solids (such as, but not limited to, Fullers earth, lime slurries, and lime residues) or of dissolved solids (such as, but not limited to, sodium chloride and sodium sulfate.)
  - b. Excessive discoloration (such as, but not limited to, dye wastes and vegetable tanning solutions).
  - c. Unusual BOD, chemical oxygen demand, or chlorine requirements in such quantities as to constitute a significant load on the sewage treatment works.
  - d. Unusual volume of flow or concentration of wastes constituting "slugs" as defined in this division.
- (10) Waters or wastes containing substances which are not amenable to treatment or reduction by the sewage treatment processes employed, or are amenable to treatment only to such degree that the

sewage treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.

(11) Any waste prohibited by Environmental Protection Agency standards 40 CFR 403.

(Ord. of 7-17-1990, art. V, § 4)

Sec. 102-245. Pretreatment requirements for industrial and commercial process wastewater.

(a) All industrial and commercial process wastewater shall be pretreated prior to discharge to the public sewers, if necessary, in accordance with the provisions of the United States Environmental Protection Agency, the Bureau of Pollution Control, and/or the city, whichever is more stringent. The minimum pretreatment requirements are as follows:

TABLE INSET:

Parameter Maximum

Concentration (mg/l) BOD<sub>5</sub> 300.0\* Suspended solids (SS) 300.0\* TKN 30.0\* Oil or grease 15.0 Arsenic A Barium A Boron A Cadmium A Chromium A Copper A Cyanide A Lead A Manganese A Mercury A Nickel A Selenium A Silver A Zinc A

\* Any nonconventional parameter that is specific to an industrial process that results in a discharge BOD<sub>5</sub>, SS and TKN may be increased by written approval of superintendent for limited periods of time.

(A) The determination of limits for these parameters shall be based on any applicable EPA categorical industrial guidelines, receiving stream water quality standards/criteria, biological process threshold inhibition levels and sludge quality criteria.

(b) As a condition for authorization to dispose of industrial wastes through the municipal system, the industrial applicant for a sewer permit shall provide the city with information describing wastewater constituents and characteristics, and the type of activity and quantity of production.

(Ord. of 7-17-1990, art. V, § 5)

Sec. 102-246. Authority to reject or control deleterious discharges; payment of additional costs.

(a) If any waters or wastes are discharged, or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated in sections 102-244 and 102-245, and which in the judgment of the superintendent may have a deleterious effect upon the sewage works, processes, equipment, or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the superintendent may:

(1) Reject the wastes;

(2) Require pretreatment to an acceptable condition for discharge to the public sewers;

- (3) Require control over the quantities and rates of discharge; and/or
- (4) Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges under the provisions of section 102-250.
- (b) If the superintendent permits the pretreatment or equalization of wastes flows, the design and installation of the plants and equipment shall be subject to the review and approval of the superintendent, and subject to the requirements of all applicable codes, ordinances, and laws.

(Ord. of 7-17-1990, art. V, § 6)

Sec. 102-247. Grease, oil, and sand interceptors.

Grease, oil, and sand interceptors shall be provided when, in the opinion of the superintendent, they are necessary for the proper handling of liquid wastes containing grease in excessive amounts, or any flammable wastes, sand, or other harmful ingredients; except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the superintendent, and shall be located as to be readily and easily accessible for cleaning and inspection.

(Ord. of 7-17-1990, art. V, § 7)

Sec. 102-248. Maintenance of preliminary treatment and flow-equalizing facilities.

Where preliminary treatment or flow-equalizing facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at his expense.

(Ord. of 7-17-1990, art. V, § 8)

Sec. 102-249. Control manhole.

When required by the superintendent, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable control manhole together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling, and measurement of the wastes. Such manhole, when required, shall be accessibly and safely located, and shall be constructed in accordance with plans approved by the superintendent. The control manhole shall be installed by the owner at his expense, and shall be maintained by him so as to be safe and accessible at all times.

(Ord. of 7-17-1990, art. V, § 9)

Sec. 102-250. Measurements, tests and analyses.

All measurements, tests and analyses of the characteristics of waters and wastes to which reference is made in this division shall be determined in accordance with the latest edition of Standard Methods for the Examination of Water and Wastewater published by the American Public Health Association, Methods for Chemical Analysis of Water and Wastes published by EPA, and 40 CFR 136 and shall be determined at the control manhole provided, or upon suitable samples taken at the control manhole. If

no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected. Sampling shall be carried out by customarily accepted methods to reflect the effluent of constituents upon the sewage works and to determine the existence of hazards to life, limb, and property. The particular analyses involved will determine whether a 24-hour composite of all outfalls of a premises is appropriate or whether a grab sample or samples should be taken. Normally, but not always, BOD and suspended solids analyses are obtained from 24-hour composites of all outfalls whereas pH's are determined from periodic grab samples.

(Ord. of 7-17-1990, art. V, § 10)

Sec. 102-251. Acceptance of unusual strength waste.

No statement contained in this article shall be construed as preventing any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the city for treatment, subject to payment therefor, by the industrial concern.

(Ord. of 7-17-1990, art. V, § 11)

Secs. 102-252--102-270. Reserved.

Subdivision VI. Protection from Damage

Sec. 102-271. Damage to sewage works.

No unauthorized person shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance, or equipment which is a part of the sewage works.

(Ord. of 7-17-1990, art. VI, § 1)

Secs. 102-272--102-290. Reserved.

Subdivision VII. Powers and Authority of Inspectors

Sec. 102-291. Inspection and sampling.

The superintendent and other duly authorized employees of the city bearing proper credentials and identification shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling, and testing in accordance with the provisions of this ordinance. The superintendent or his representatives shall have no authority to inquire into any processes including metallurgical, chemical, oil, refining, ceramic, paper, or other industries beyond that point having a direct bearing on the kind and source of discharge to the sewers or waterways or facilities for waste treatment.

(Ord. of 7-17-1990, art. VII, § 1)

Sec. 102-292. Observance of safety rules.

While performing the necessary work on private properties referred to in section 102-291, the superintendent or duly authorized employees of the city shall observe all safety rules applicable to the premises established by the company. The company is responsible for providing access as required in section 102-249.

(Ord. of 7-17-1990, art. VII, § 2)

Sec. 102-293. Credentials and identification.

The superintendent and other duly authorized employees of the city bearing proper credentials and identification shall be permitted to enter all private properties through which the city holds a duly negotiated easement for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair, and maintenance of any portion of the sewage works lying within such easement. All entry and subsequent work, if any, on such easement, shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.

(Ord. of 7-17-1990, art. VII, § 3)

Secs. 102-294--102-310. Reserved.

Subdivision VIII. Penalties

Sec. 102-311. Notice of violation.

Any person found to be violating any provision of this division except section 102-271 shall be served by the city with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations.

(Ord. of 7-17-1990, art. VIII, § 1)

Sec. 102-312. Penalty.

Any person who shall continue any violation beyond the time limit provided for in section 102-311, shall be guilty of a misdemeanor, and no conviction thereof shall be punished as provided in section 1-13. Additionally, chronic violation of the terms of this division may result in termination of the sewer disposal permit.

(Ord. of 7-17-1990, art. VIII, § 2)

Sec. 102-313. Liability for damage.

Any person violating any of the provisions of this division shall become liable to the city for any expense, loss, or damage occasioned the city by reason of such violation.

(Ord. of 7-17-1990, art. VIII, § 3)

Secs. 102-314--102-330. Reserved.

### DIVISION 3. DISCHARGES FROM INDIVIDUAL SEWAGE TREATMENT PLANTS OR SEPTIC TANKS

Sec. 102-331. Applicability.

The provisions of this division shall apply to any septic tank, individual sewer treatment plant or any other method of private sewer disposal existing or permitted within the city.

(Ord. of 10-20-1987, § 1)

Sec. 102-332. Adoption of regulations.

The director of public works is hereby directed and authorized to promulgate rules and regulations for the safe and sanitary disposal of sewerage by private systems. Notice of the promulgation of such rules shall be published one time in the Clinton News. Additionally, such regulations shall be posted in City Hall for a period of 20 days after the publication of notice. During such time, any interested party shall have the right to comment thereon and if aggrieved, request a hearing before the mayor and board of aldermen. The mayor and board of aldermen may direct that such rules and regulations be modified to such extent as they deem appropriate. If no request for review by the mayor and board of aldermen is made within such time, the rules and regulations promulgated by the director of public works shall become effective. Any request for review before the mayor and board shall be made in writing and filed with the city clerk.

(Ord. of 10-20-1987, § 2)

Secs. 102-333--102-350. Reserved.

### DIVISION 4. IMPACT FEE

Sec. 102-351. Deposit of funds.

Funds collected under the city sewer impact fee ordinance will be deposited in a separate trust account styled "City of Clinton Sewer Impact Fee Account for Capital Improvements."

(Ord. of 12-7-1999, § 2)

Sec. 102-352. Use of funds.

Funds collected and deposited in the special trust account referred to in section 102-351 shall be used for sewer projects as determined by the mayor and board of aldermen.

(Ord. of 12-7-1999, § 3)

Sec. 102-353. Assessment.

The impact fee shall be assessed as set out in section 102-356.

(Ord. of 12-7-1999, § 4)

Sec. 102-354. Authority.

The city's authority for adopting this division are MCA 1972, §§ 21-17-1 and 21-17-5, and the city's inherent police powers to protect and provide for the health, safety and welfare of the current and future residents of the city by comprehensive future planning.

(Ord. of 12-7-1999, § 5)

Sec. 102-355. Collection.

The sewer impact fee shall be collected at the time a building permit is issued for a project.

(Ord. of 12-7-1999, § 6)

Sec. 102-356. Sewer assessment charge.

(a) The charge for connection to the sewer system shall be \$400.00 for each residential-structure user or the equivalent thereof. Residential user shall include mobile homes, townhouses, apartment units and other housing or residential-structure users.

(b) The charge for connection to the sewer system for commercial and industrial-structure users shall be \$400.00 for each 1,500 square feet, or portion thereof, which shall be considered as a separate user. This section shall apply to all commercial and industrial structure users up to 10,000 square feet. This section shall apply to all other users except residential structures and structures over 10,000 square feet.

(c) Structures over 10,000 square feet shall be reviewed by the public works department and the impact fee will be based on the number of plumbing connections and will be based on a similar ratio to the average number of units. The public works department will prepare and submit to the mayor and board of aldermen for approval a schedule of fees for structures in excess of 10,000 square feet.

(d) The owner/developer of any project in excess of 10,000 square feet who is aggrieved by the impact fee levied by the public works department may appeal such fee by submitting in detail why such fee is excessive and suggesting an alternate fee. Such appeal shall be submitted to the city clerk within ten days of the assessment of the fee by the public works department and the city clerk shall place the matter on the agenda for the next regularly scheduled meeting of the mayor and board of aldermen.

(Ord. of 12-7-1999, app. A)

Secs. 102-357--102-390. Reserved.

#### ARTICLE IV. RATES AND CHARGES

Sec. 102-391. Water meter charges.

The following shall be the schedule of monthly charges where service is through a meter:

TABLE INSET:

Consumption in Cubic Feet (CF)	Base Amount	Plus Additional Charge Per Cubic Feet
0--300	\$6.48	none
301--2,000	\$6.48	0.013 per CF of the excess of 300 cubic feet
2,001--10,000	\$28.92	0.012 per CF of the excess of 2,000 cubic feet
10,001--750,000	\$124.92	0.011 per CF of the excess of 10,000 cubic feet
750,001--up	\$8,264.92	0.0015 per CF of the excess of 750,000 cubic feet

WATER SERVICE - OUTSIDE USERS - 1 1/2

TABLE INSET:

Consumption in Cubic Feet (CF)	Base Amount	Plus Additional Charge Per Cubic Feet
0--300	\$9.72	none
301--2,000	\$9.72	0.0198 per CF of the excess of 300 cubic feet
2,001--10,000	\$43.38	0.018 per CF of the excess of 2,000 cubic feet
10,001--up	\$187.38	0.0162 per CF of the excess of 10,000 cubic feet

SEWER SERVICE 0--300\$ 6.48none301--2,0006.480.012 per CF of the excess of 300 cubic feet2,001--10,00026.880.0132 per CF of the excess of 2,000 cubic feet10,001--up132.480.0144 per CF of the excess of 10,000 cubic feet

SEWER SERVICE - OUTSIDE USERS - 1 1/20--300\$ 9.72none301--2,0009.720.018 per CF of the excess of 300 cubic feet2,001--10,00040.320.0198 per CF of the excess of 2,000 cubic feet10,001--up198.720.0216 per CF of the excess of 10,000 cubic feet

(Ord. of 11-18-1997)

Sec. 102-392. Water rates for swimming pools of nonprofit organizations and homeowners' associations; sewer charges.

Rates for furnishing water to any swimming pool operated by a nonprofit organization for use of the general public in the city shall be \$364.00 for the first 140,000 cubic feet or part thereof used within any one calendar year payable at the rate of \$30.33 per month provided, however, that water used by such swimming pool in excess of 140,000 cubic feet in any one calendar year shall be sold at the rate of \$0.26 per 100 cubic feet and such excess shall be paid for on the first of the month following consumption. Minimum monthly sewer charges shall be charged with respect to any nonprofit civic organization operating a swimming pool for use by the general public. Also, included is pools operated by homeowner associations that does not impact the city sewer system.

(Ord. of 11-5-1985; Ord. of 11-4-1986)

Sec. 102-393. Schedule of deposits for waste system.

The schedule of deposits for the waste system shall be as follows:

Schedule of Deposits

The following sums shall be due and payable as a deposit at the time application is made for water service:

TABLE INSET:

5/8" and 3/4" -- residences \$100.00 5/8" and 3/4" -- other than residences 100.001" (any consumer)  
125.001 1/2" (any consumer) 200.002" (any consumer) 300.00

(Ord. of 8-7-2001)

Sec. 102-394. Adjustment and refund of deposit.

(a) In instances such as mobile home subdivisions, condominiums, town houses, apartment complexes, and other housing developments, where a single meter serves multiple users or units, the initial deposit required shall be an amount which is equivalent to the estimated utility billing for one month. The city clerk is directed to review such actual billing amounts for any three-month period, and if the amount of the initial deposit is less than the average of such actual billings for such period, then the amount of the deposit shall be increased accordingly, and the city clerk shall so notify the customer, and the customer shall increase water service deposit. Likewise, on the same basis, the customer may be entitled to a reduction in the amount of the deposit required, in which event, the excess of the deposit may be refunded to the customer.

(b) The sum paid as a deposit shall be refunded to the customer credited with the deposit at such time as water service to such customer is terminated, and provided, such customer shall have paid all charges due to the city in connection with such service. If all such charges have not been paid, the deposit shall be applied against such charges.

(c) The schedule of deposit fees set forth in this section are applicable to initial applications for water service; however, should a customer fail to pay the monthly charges when due, for any two consecutive months, the amount of the deposit shall be increased by the sum shown in the schedule, and such additional deposit shall be due and payable as a requirement for continued water service.

(Ord. of 12-1-1981; Ord. of 10-8-1985)

Sec. 102-395. Charges for water taps.

(a) The following sums shall be due and payable at such time application is made for water service when it is necessary to tap a water line in order to provide the service applied for, such sum assessed and charged on the basis of the size service line for which the tap is required:

- (1) 3/4" service ( 5/8" or 3/4" meter) . . . \$300.00
- (2) 1" service . . . 350.00
- (3) 1 1/2" service . . . 500.00
- (4) 2" service . . . 650.00

(b) A water "tap" is any incident when it becomes necessary, for whatever reason, to provide access into a distribution line of the city in order to provide the sources of water for a customer's service line.

(c) The sums assessed above as charges for water taps include direct costs and expenses to be incurred in providing such taps. However, should such charges as set forth in subsection (a) of this section be insufficient in the judgment of the director of public works to fully reimburse the city for direct costs and expenses to be incurred by the city, the director of public works shall so notify the city clerk of such fact, and such additional sum as may be set by the director of public works shall be assessed and collected by the city clerk prior to such tap being made or as a condition for the rendition of continued water service.

(Ord. of 10-8-1985, § 4)

Sec. 102-396. Charges for water tie-on.

(a) The following sums shall be due and payable at such time application is made for water service when it is necessary to tie onto a water line in order to provide the service applied for, such sum assessed and charged on the basis of the size service line required:

- (1) 3/4" service ( 5/8"" or 3/4" meter) . . . \$250.00
- (2) 1" service . . . 300.00
- (3) 1 1/2" service . . . 350.00
- (4) 2" service . . . 450.00

(b) One hundred dollars of each of these fees shall be deposited directly into the city waterworks and sanitary sewer system construction fund with the remaining portion of such fees shall be deposited directly into the city waterworks and sanitary sewer operation and maintenance fund.

(c) A water "tie-on" is any incident when it is necessary only to connect the customer's service line to a stub-out in order to provide a source of water, and it is not necessary to otherwise obtain access to the distribution line.

(d) The sums assessed as charges for water tie-ons in this section include direct costs and expenses to be incurred in providing such tie-ons. However, should such charges as set forth above be insufficient in the judgment of the director of public works to fully reimburse the city for direct costs and expenses and to be incurred by the city, then the director of public works shall so notify the city clerk of such fact, and such additional sum as may be set by the director of public works shall be assessed and collected by the city clerk prior to such tie-on being made or as a condition for the rendition of continued water service.

(Ord. of 4-5-1988, § 5)

Sec. 102-397. Charges for sewer tap or tie-on.

(a) The following sums shall be due and payable at such time application is made for water service when it is necessary to tap, or tie-on, as the case may be, a sewer line in order to provide sewer service incidental to the water service applied for:

(1) Sewer tap . . . \$250.00

(2) Sewer tie-on . . . 250.00

(b) A sewer "tap" is any incident when it becomes necessary, for whatever reason to provide access into a collector line of the city in order to provide sewer service to a customer.

(c) A sewer "tie-on" is any incident when it is necessary only to connect the customer's service line to a stub-out in order to provide access to the city's sewer collector line, and it is not necessary to otherwise obtain access to the sewer collector line. The fees of \$250.00 for such services shall be divided and deposited into the following city funds:

(1) Waterworks and sanitary sewer system construction fund . . . \$175.00

(2) Waterworks and sanitary sewer system operation and maintenance fund . . . 75.00

(d) The sums assessed in subsection (b) of this section include direct costs and expenses to be incurred in providing such services. However, should such charges as set forth above be insufficient in the judgment of the director of public works to fully reimburse the city for direct costs and expenses to be incurred by the city then the director of public works shall so notify the city clerk of such fact, and such additional sum as may be set by the director of public works shall be assessed and collected by the city clerk prior to such tap or tie-on being made or as a condition for the rendition of continued water service.

(Ord. of 4-5-1988, § 6)

Sec. 102-398. Determination of charges.

It shall be the duty and responsibility of the director of public works to determine the amount to be assessed and collected for water and sewer tap and tie-on charges, in accordance with the schedules set forth in this article.

(Ord. of 12-1-1981, § 7)

Sec. 102-399. Exceptions and modifications.

Any person subject to the provisions of this ordinance may apply to the city for an exception, variance or modification to the terms and conditions of payment in instances where strict adherence to the payment provisions set forth in this article would impose an undue and unnecessary hardship and would result in making the subdivision or development of property not economically feasible.

(Ord. of 12-1-1981, § 8)

Secs. 102-400--102-430. Reserved.

#### ARTICLE V. EXTENSION OF UTILITY LINES

Sec. 102-431. Connection to city water and sewer system.

Upon the application of a developer or developers of real property for the inclusion of water and/or sewer systems within, or attachment to, the water and/or sewer system of the city, the developer or developers shall be required to install all connecting lines from such development to the water and/or sewer lines within the water and/or sewer system of the city in size and of a material according to the ordinances of the city and the determination of the city engineer of the adequacy of the proposed water and/or sewer system and connecting lines.

(Ord. of 5-6-1975)

Sec. 102-432. Installation of oversized pipes and fittings; payment of costs.

If in the determination of the city engineer, with the concurrence of the mayor and board of aldermen of the city, the orderly future growth and development of the city shall require the installation of connecting lines from such development to the water and/or sewer system of the city of a size larger than that adequate to serve only the development for which application is made; then and in that event the city may require the installation of pipes and fittings thereof of a size determined by the city engineer as provided in this section. In such event, the city shall participate with the developer in the payment of the cost of labor and material to install the connecting water and/or sewer lines for the development for which application is made to the extent that the city shall pay the difference in the cost between the oversize pipe and fittings so designated and the labor additionally required thereby and the cost of the pipes, fittings and labor otherwise deemed adequate and approved by the city engineer for such development by the applicant. The applying developer shall provide for the city's inspection and approval, concurrently with the application provided for in this section, copies of contract prices for both the smaller and oversize pipes, fittings, material and labor.

(Ord. of 5-6-1975)

Chapters 103--105 RESERVED

Chapter 106 ZONING\*

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\*Cross references: Any ordinance pertaining to airports or airport zoning saved from repeal, § 1-7(12); administration, ch. 2; buildings and building regulations, ch. 18; environment, ch. 34; floods, ch. 42; historical and other preservation, ch. 50; natural resources, ch. 58; planning, ch. 70; streets, sidewalks and other public places, ch. 82; subdivisions, ch. 86.

State law references: Zoning, planning and subdivision regulation, MCA 1972, § 17-1-1 et seq.; local planning commission, MCA 1972, § 17-1-11 et seq.

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Sec. 106-1. Incorporation of zoning ordinance.

Sec. 106-1. Incorporation of zoning ordinance.

The zoning ordinance of the city, as now or hereafter amended, is incorporated in this chapter as if set out at length in this chapter.

#### CODE COMPARATIVE TABLE ORDINANCES

This is a chronological listing of the ordinances of the city used in this Code. Repealed or superseded laws at the time of the codification and any omitted materials are not reflected in this table.

#### TABLE INSET:

DateSection Section

this Code 6- 4-1935(Ord.)62-7 8- 8-1950(Ord.)82-1 2- 3-1953(Ord.)2-92 6-30-1953(Ord.)I--V66-31--66-35  
5-31-1955(Ord.)I90-5110- 5-1955(Ord.)6-1 8- 5-1958(Ord.)1--398-1--98-33a98-43b98-54, 598-6, 98-710-  
20-1959(Ord.)I--IV82-37 8-16-1960(Ord.)2-92 9- 5-1961(Ord.)1, 290-71, 90-72 6- 5-1962(Ord.)I, II26-1 5-  
7-1968(Ord.)1--370-31--70-33 3-19-1970(Ord.)1--574-31--74-35 6- 2-1970(Ord.)1--746-151--46-1579,  
1046-159, 46-160 3- 6-1973(Ord.)138-51238-52

38-101338-5338-102438-5438-103538-5538-104638-5638-105738-57838-58

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