

SUPPLEMENTAL ADOPTING ORDINANCE
SUBSTITUTE ORDINANCE NO. 5843

***An Ordinance Supplementing and Amending the 2021 Memphis
Municipal Code of Ordinances of the City of Memphis,
Tennessee relative to Animals and Horse Drawn Carriages;
Providing for the Repeal of Certain Ordinances Not
Included herein; and Providing when such Amendments to the
Code and this Ordinance Shall Become Effective***

WHEREAS, the Council of the City of Memphis, as the City's legislative body, has the full power and authority under the Charter of the City to codify, revise and collect in the form of a code of ordinances of a general nature, and in doing so has the full power, to amend, alter, repeal or modify any ordinance of a general nature other than contract ordinances to conform such ordinances to the legislative intent of the Council before inclusion in said code;

WHEREAS, on February 15, 2022 the Council adopted a new Code of Ordinances, consisting of Titles 1 through 15, each inclusive, and the errata thereto, as the "2021 Code of Ordinances, City of Memphis, Tennessee" (the "2021 Code").

WHEREAS, due to the volume of ordinances to be considered and codified and the need to provide clear guidance to the City and its citizens, the City Attorney and the Council's Attorney the City Attorney and the Council's Attorney have only presented for codification two (2) Titles, namely "Title 1-General Provisions" and "Title 4-Pension and Retirement System.

WHEREAS, the Council has delegated to the City Attorney and the Council's Attorney the responsibility of making a thorough review of new and amending ordinances

adopted by the Council since September 1, 1985 for the purpose of producing for adoption by the City Council a new Official Code of Ordinances that accurately reflects the state of law of the City as of the date(s) of adoption by the City Council.

WHEREAS, the City Attorney and the Council's Attorney have been authorized and directed to periodically provide for adoption by the Council of supplementary codification ordinances to supplement the codification approved in Ordinance No. 5669.

WHEREAS, the Council desires to supplement the 2021 Code by adopting and codifying Titles 6-Business Licenses and Regulations and Title 8-Animals.

Be It Ordained by the Council of the City of Memphis That

Section 1. A Supplement to the 2021 Code of Ordinances, consisting of specific chapters in Titles 6 and 8, each inclusive, and the errata thereto, is hereby adopted and enacted. The specific chapters in Titles 6 and 8 relating to Horse Drawn Carriages and Animals as proposed for adoption are attached hereto and incorporated herein by reference.

Section 2. Upon adoption of this Supplemental Ordinance the titles and chapters of the 2021 Code so approved hereby shall supersede and replace all then existing general and permanent ordinances of the City to the extent included in such codified titles and chapters or to the extent such ordinances are inconsistent with the provisions of the titles and chapters so codified.

Section 3. All provisions of the Titles and Chapters of this Supplement to the 2021 Code adopted and codified by this ordinance shall be in full force and effect from and after this ordinance becomes effective, and all conflicting codes, provisions, chapters, sections, paragraphs and sentences of ordinances of a general and permanent nature in existence or enacted on final passage on or before the effective date of this ordinance, and not included in the 2021 Code or recognized and continued in force by reference therein are hereby repealed from and after the effective date of this Ordinance.

Section 5. the codification of any ordinances pursuant to the Adopting Ordinance and this Supplemental Adopting Ordinance are required by the City's Charter to be recorded in a well-bound book kept by the City Comptroller.

Section 6. Any such codified ordinances as maintained by the City Comptroller may be relied on by the City or any person and may be read in evidence in any court of this State, unless there is a bona fide dispute as to the meaning of any such ordinance being consistent with the Council's intent. In any such case, the City Attorney shall present such ordinance(s) to the Council for a determination of the consistency of the ordinance(s) with the Council's intent as appearing in the record of its proceedings and for any further action that the Council deems appropriate in accordance with its authority under City Charter § 361.

Section 7. Three (3) copies of the 2021 Code, as supplemented hereby, shall be kept on file in the office of the comptroller preserved in loose-leaf form, or in such other form as the comptroller may consider most expedient. The comptroller is also authorized to contract with a nationally recognized legal code publication company for the official publication of the 2021 Code and supplements as approved by the Council. The comptroller is also authorized to contract with a nationally recognized legal code publication company for the unofficial republication of the 2021 Code and supplements as approved by the Council in electronic format.

Section 8. It shall be the express duty of the comptroller or someone authorized by him or her to insert in such copies and in their designated places all amendments or ordinances which the council has specifically codified and approved, from time to time, to be to made a part of the 2021 Code when the same have been printed or reprinted in page form, and to extract from such copies all provisions which may be from time to time repealed by the Council. Such copies shall be available for inspection in accordance with law by all persons desiring to examine the same.

Section 9. The provisions the 2021 Code as approved by the Council or any copy thereof which purports to be

published and maintained, in written or electronic form, by authority of the City of Memphis shall be conclusively held to be evidence of the law of the City of Memphis from and after the times of their passage, with respect to any subject or provisions contained therein, and no person shall be permitted to impeach any such code provision on the ground that it was not duly and regularly passed in accordance with the laws existing at the time of its passage. Any prior uncodified republications of ordinances of the City with respect to any subject or provisions contained in the 2021 Code shall not be read and accepted in evidence from and after the adoption of the Adopting Ordinance and any Supplemental Adopting Ordinances.

Section 10. The provisions the 2021 Code as approved by the Council, or any copy thereof which purports to be published by authority of the City of Memphis, may be read and accepted in evidence in any court in this State without further proof of its passage.

Section 11. All ordinances or parts of ordinances in conflict herewith are, to the extent of such conflict, hereby repealed.

Section 12. Severability. The provisions of this Ordinance are hereby declared to be severable. If any of the sections, amendments, provisions, sentences, clauses, phrases, or parts hereof are held

unconstitutional or void, the remainder of this Ordinance shall continue in full force and effect.

Section 13. Effective Date. The provisions of this Ordinance shall take effect from and after the date it shall have been passed by the Council, signed by the Chairman of the Council, certified and delivered to the Office of Mayor in writing by the comptroller and become effective as otherwise provided by law.

SPONSOR:
Carlisle

MARTAVIUS JONES
CHAIRMAN

THE FOREGOING ORDINANCE
5843 PASSED

1st Reading 1/24/23

2nd Reading 2/7/23

3rd Reading 7/11/23

Approved Martavius Jones
Chairman of Council

Date Signed: 07/28/23

APPROVED: [Signature]
Mayor, City of Memphis

Date Signed: 8/15/23

I hereby certify that the foregoing is a true copy, and said document was adopted by the Council of the City of Memphis as above indicated and approved by the Mayor.

Valerie C. Sypis
Comptroller

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TITLE 6 – BUSINESS LICNESES AND REGULATIONS

CHAPTER 1. HORSE-DRAWN CARRIAGES

DEFINITIONS

Sec. 6-1-1. Definitions.

The following words and phrases when used in this chapter shall have the meaning as set out herein:

Certificate means a certificate of public convenience and necessity issued by the director of police services authorizing the holder hereof to conduct a horse-drawn carriage for hire business in the city.

Carriage means a horse-drawn carriage regularly used in the business of carrying passengers for a fare whether or not on a fixed route.

Director of animal services means the director of animal services of the city, or his or her authorized designee.

Director of police services means the director of police services of the city, or his or her authorized designee.

Driver shall be held to include every person in actual charge of the operation of a horse-drawn carriage.

Driver's permit means the permission granted by the director of police services to a person to drive a horse-drawn carriage for hire upon the streets of the city.

For hire means agreement to transport a person or persons for a fare.

Holder means a person to whom a certificate of public convenience and necessity has been issued.

Horse means any animal of the genus equus.

Owner means the person who has proved to the director of police services that he or she is the legal owner of the horse-drawn carriage.

Inspector shall be a Memphis police officer and/or any person designated by the Director of Animal Services, who has been authorized and instructed to watch and observe the conduct of holders of certificate of public convenience and necessity, drivers and licensed equines operating under this chapter. Upon discovering a violation of the provisions of this chapter, the inspector(s) will order or take appropriate action.

Person includes an individual, a corporation or other legal entity, a partnership, or any unincorporated association. Person must be a resident of the State of Tennessee or member of corporation recognized in Tennessee.

Stable means any place, establishment or facility where one or more horses are housed or maintained.

Stand. A horse-drawn carriage for hire stand is a place where the city engineer in concert with director of police services has authorized a holder of a certification of public convenience and necessity to park horse-drawn carriage for hire out of service awaiting a passenger.

Sticker means identifying sticker issued by the Memphis police department on authority of director of police services, to be displayed on rear of horse-drawn carriage next to identification plate. Sticker to be issued annually with certificate of convenience and necessity.

Veterinarian means a person licensed to practice veterinary medicine.

Work. A horse is considered working when it is out of the stable and at its carriage stand or place where it regularly picks up passengers. Work ends when the horse leaves its stand to go to the stable.

(Code 1985, § 39-71; Ord. No. 4227, § 1, 11-2-1993)

POWERS OF DIRECTOR—REGULATIONS

Sec. 6-1-2. Rules and regulations of the director of police services relative to horse-drawn carriages.

The director of police services is authorized and directed to make and enforce such additional rules and regulations, not in conflict with the provisions of this chapter, as the director may deem proper to regulate the operation of horse-drawn carriages for hire under a certificate issued pursuant to this chapter, provided that no regulation shall be made or enforced in conflict with this chapter or any other city ordinance.

(Code 1985, § 39-102; Ord. No. 4227, § 1, 11-2-1993)

Sec. 6-1-3. City treasurer—Powers; appeal of decisions.

- A. The city treasurer is vested with full and complete authority to issue, alter, deny, suspend or revoke certificates of public convenience and necessity and permits for drivers, as herein provided, and is further vested with the full and complete authority, duty and responsibility to carry into effect the provisions of this chapter. The city treasurer may designate an officer to render rulings or take all other actions herein granted to the city treasurer, as indicated by the city treasurer.
- B. The city treasurer or the city treasurer's designee shall conduct hearings on those matters requiring same. Decisions of the designee may be appealed by the applicant, the certificate holder, or driver within ten days after the decision affecting the person, by filing a written appeal with the city treasurer. The city treasurer may rule after a review of the record or may set a hearing as soon as practicable. Ten days' notice of a public hearing stating the time and place of the public hearing and the express terms or an informative summary of the subject matter of the public hearing provided for herein shall be given by publication in some newspaper published in the city, the cost thereof to be paid by the applicant or certificate holder.

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- C. An applicant, driver or certificate holder aggrieved by any final order or determination of the city treasurer in regard to the issuance, denial, suspension or revocation of that person's certificate or permit under this chapter may, within ten days after such denial, file with the comptroller a petition for review of the action of the city treasurer in denying the application, and it shall then be the duty of the city council to hold a public hearing and either grant or deny the application. In all such cases any interested party or holder of a certificate of necessity and convenience shall have a right to be heard; provided, further, that, in any such appeal to the city council, the decision of the city treasurer shall be prima facie correct.

(Code 1985, § 39-103; Ord. No. 4227, § 1, 11-2-1993; Ord. No. 4352, § 11, 8-15-1995)

Sec. 6-1-4. Duty of City Directors to enforce chapter.

The director of police services and/or the director of animal services or their respective designees ("Inspectors") are authorized and are instructed to monitor the conduct of holders of certificates of a public convenience and necessity, drivers and licensed equines operating under this chapter. Upon discovering a violation of the provisions of this chapter, an Inspector shall take appropriate action. Any vehicle for hire may be inspected at the discretion of an Inspector at any time or location. Vehicles may be inspected for cosmetics, safety requirements, and are to include permits and license required to be held by the driver or any other inspection deemed necessary by an Inspector.

(Code 1985, § 39-104; Ord. No. 4227, § 1, 11-2-1993)

Sec. 6-1-5. Certificate required; exceptions.

- A. No person shall operate or permit a horse-drawn carriage owned or controlled by him or her to be operated as a passenger vehicle for hire upon the streets of the city without first having obtained a certificate of public convenience and necessity from the director of police services.

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- B. This section shall not apply to passenger vehicles for hire operated under the jurisdiction of the public service commission of the state, or otherwise exempted.
 - C. No more than 50 carriages may be permitted to operate upon the streets of Memphis and the permit office shall accept no applications for additional carriages once this maximum has been permitted. Other pending applications shall be dismissed upon the issuance of the 50th permit. Should the number of permitted carriages drop below the maximum allowed, applications will be considered in the order in which they are filed at the permit office.

(Code 1985, § 39-105; Ord. No. 4227, § 1, 11-2-1993; Ord. No. 4941, 5-7-2002)

CERTIFICATION REQUIREMENTS

Sec. 6-1-6. Application for certificate.

- A. Any person, partnership or corporation desiring to secure a certificate of public convenience and necessity shall make application and pay a \$100.00 application fee to the city treasurer. The notarized application shall be filed with and dated by the city treasurer or his or her designee.
- B. The application for a certificate shall be upon a form provided by the city treasurer, or his or her designee. An applicant for a certificate, including any partner or limited partner of the partnership applicant, and any officer or director of the corporate applicant and any stockholder holding more than five percent of the stock of a corporate applicant, or any other person who is interested directly in the ownership or operation of the business, shall furnish the following information:
 - 1. Name and address including all aliases;
 - 2. Written proof that the individual is at least 18 years of age;
 - 3. All residential addresses of the applicant for the past five years;
 - 4. The trade name under which the applicant proposes to do business;

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5. The business, occupation or employment of the applicant for five years immediately preceding the date of application;
 6. The financial status of the applicant, including the amounts of all unpaid judgments against the applicant or, if a corporation, against any officer, director or shareholder as listed above or, if a partnership, any partner or limited partner, or any other person who is interested directly in the ownership or operation of the business;
 7. All criminal statute, whether federal or state, or city ordinance violations for which conviction, forfeiture of bond or pleading of nolo contendere has occurred, except minor traffic violations;
 8. Fingerprints and two color portrait photographs at least two inches by two inches of the applicant. The city permits office will provide fingerprints and photographs of applicant;
 9. The address of the premises from which the vehicle for hire business is to be conducted and the address wherein the vehicles are to be stored and/or serviced;
 10. If the applicant is a corporation, the name of the corporation and the date and state of incorporation, the name and address of the registered agent, and the names and addresses of all shareholders, as required above, officers and directors of the corporation;
 11. The experience and/or the qualifications of the applicant to operate a horse-drawn carriage for hire service;
 12. A showing that the public convenience and necessity requires the granting of the certificate;
 13. The number of horse-drawn carriages to be put into service at the time of application, the location of private property stands, and the size and seating capacity of each carriage;
 14. Whether applicant operates any other vehicles under this chapter;
 15. A statement by the applicant that he or she is familiar with the provisions of this chapter and is in compliance with them.

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- C. Within ten days, or a reasonable time thereafter of receiving the results of the investigation conducted by the division of police services, the director of police services shall fix a time and a place for a public hearing on the application and notice shall be given as provided in section 6-1-3(B). All documents relative to the public hearing shall be available for inspection prior to the hearing. Any interested person may file a statement in support of or in opposition to the issuance of a certificate, and/or may offer testimony at the hearing.
- D. Failure or refusal of the applicant to give any information relevant to the investigation of the applicant or the applicant's refusal or failure to appear at any reasonable time and place for examination under oath regarding the application or the applicant's refusal to submit to or cooperate with any investigation required by this chapter, shall constitute an admission by the applicant that the applicant is ineligible for such certificate and shall be grounds for denial thereof by the director.

(Code 1985, § 39-106; Ord. No. 4227, § 1, 11-2-1993; Ord. No. 4352, § 12, 8-15-1995; Ord. No. 4941, 5-7-2002)

Sec. 6-1-7. Standards for issuance of certificate.

The city treasurer may issue a certificate of public convenience and necessity if an applicant meets the following standards:

- A. The applicant's financial status shall be such that the applicant shall be capable of operating the horse-drawn carriage for hire service during the time the certificate shall remain in effect.
- B. The public convenience and necessity requires the granting of a certificate in that the applicant has shown:
1. The support of potential customers of the service;
 2. The uniqueness of the services offered, if possible;
 3. That the service would not disrupt local traffic conditions.
- C. If the applicant is an individual:
1. The applicant shall be at least 18 years of age.

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2. The applicant shall not have an outstanding unpaid final judgment.
 3. The applicant shall not have been convicted of, forfeited bond or pleaded nolo contendere to a felony or any crime involving moral turpitude as defined in T.C.A. § 57-4-203(h)(2), a controlled substance, prostitution, assignation, obscenity, or any crime of a sexual nature in any jurisdiction within five years immediately preceding the date of application.
 4. The applicant shall not have been found to have violated this chapter within five years immediately preceding the date of application.

D. If the applicant is a corporation:

1. All officers and directors shall be at least 18 years of age.
2. No officer, director or stockholder required to be named under section 6-1-6 shall have outstanding unpaid final judgments.
3. No officer, director or stockholder required to be named under section 6-1-6 shall have been convicted of, forfeited bond or pleaded nolo contendere to a felony or any crime involving moral turpitude as defined in T.C.A. § 57-4-203(h)(2), a controlled substance, assignation, prostitution, obscenity, or any crime of a sexual nature in any jurisdiction within five years immediately preceding the date of application.
4. No officer, director or stockholder required to be named under section 6-1-6 shall have been found to have violated this chapter within five years immediately preceding the date of application.

E. If the applicant is a partnership, joint venture or any other type of organization where two or more persons have a financial interest:

1. All persons having a financial interest in the partnership, joint venture or other type of organization shall be at least 18 years of age.

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2. The managing experience in the operation of a horse-drawn carriage business or in related endeavors.
 3. No person having a financial interest in the partnership, joint venture or other type of organization shall have outstanding unpaid final judgments.
 4. No person having a financial interest in the partnership, joint venture or other type of organization shall have been convicted of, forfeited bond or pleaded nolo contendere to a felony or any crime of moral turpitude as defined in T.C.A. § 57-4-203(h)(2), a controlled substance, prostitution, assignation, obscenity or any crime of a sexual nature in any jurisdiction within five years immediately preceding the date of the application.
 5. No person having a financial interest in the partnership, joint venture or other type of partner or manager shall have organization shall have been found to have violated this chapter within five years immediately preceding the date of the application.

(Code 1985, § 39-107; Ord. No. 4227, § 1, 11-2-1993; Ord. No. 4352, § 11, 8-15-1995)

Sec. 6-1-8. Certificate issued to owner only.

No certificate shall be granted under this chapter to any person unless the person is the owner of the horse-drawn carriage(s). The owner of a horse-drawn carriage must prove ownership to the city treasurer or his or her designee. The owner shall have a permanent number engraved or embossed on the chassis of the horse-drawn carriage. The owner will furnish photographs of the carriage(s) and notarized statements listing the self imposed serial number(s) to the city treasurer.

(Code 1985, § 39-108; Ord. No. 4227, § 1, 11-2-1993; Ord. No. 4352, § 11, 8-15-1995)

Sec. 6-1-9. Fee.

Certificates of convenience and necessity of horse-drawn carriages shall expire at midnight every March 31st, unless a timely and complete renewal is filed prior to that date. Such a timely and complete renewal shall serve to extend the permit until final action on the renewal request is taken by the department. When a certificate is issued, and at each renewal thereof, a fee for each carriage in use shall be paid to the city treasurer to defray the cost of administration of this chapter. The fee shall be as follows:

- A. For permits good for the period of April 1, 2003 until March 31, 2004: \$55.00.
- B. For permits good for the period of April 1, 2004 until March 31, 2005: \$65.00.
- C. For permits good for the period of April 2, 2005 until March 31, 2006, and every year thereafter: \$75.00.
- D. For any certificate or permit issued or amended after October 1 of any year, the fee shall be half the annual fee charged that year for each vehicle in use.

(Code 1985, § 39-109; Ord. No. 4227, § 1, 11-2-1993; Ord. No. 4352, § 11, 8-15-1995; Ord. No. 4941, 5-7-2002)

Sec. 6-1-10. Business license.

- A. Each carriage company must have a current business license.
- B. Each carriage company must maintain an emergency telephone number where the owner or manager may be contacted in case of emergency.

(Code 1985, § 39-110; Ord. No. 4227, § 1, 11-2-1993)

Sec. 6-1-11. Insurance.

No certificate of public convenience and necessity shall be issued unless the applicant provides to the city treasurer proof of financial responsibility by a written policy of liability insurance coverage as follows:

- A. Not less than \$100,000.00 in limited liability per occurrence;
- B. Not less than \$300,000.00 in public liability per occurrence;
- C. Not less than \$50,000.00 in property damages per occurrence.

(Code 1985, § 39-111; Ord. No. 4227, § 1, 11-2-1993; Ord. No. 4352, § 11, 8-15-1995)

Sec. 6-1-12. Business to be conducted by certificate holder; agreement with drivers.

The business of every horse-drawn carriage for hire shall be carried on by the person to whom the certificate is issued under this chapter. The holder of the certificate may enter into agreements with drivers fixing percentages of receipts to be turned over to the holder of the certificate for the daily use of such carriage paying salaries to drivers, or drivers may rent the horse-drawn carriage for hire for a specific sum of money. A driver may be the conditional vendor or lessor of a carriage as long as the certificate holder is the owner as defined in section 6-1-1. Any arrangement contracted between the holder of a certificate and the driver shall not relieve the holder of the certificate from any liability and damages to third parties. A sample copy of all such agreements shall be kept on file with the city treasurer.

(Code 1985, § 39-112; Ord. No. 4227, § 1, 11-2-1993; Ord. No. 4352, § 11, 8-15-1995)

Sec. 6-1-13. Increase in number of carriages after issuance; enlargement of authority.

A certificate holder shall not increase the number of horse-drawn carriages for hire operated pursuant to the certificate without receiving

the approval of the city treasurer or the city treasurer's designee. The city treasurer or the city treasurer's designee shall approve or disapprove such request on the basis of economic need of the certificate holder, need of public for additional service, and other factors listed in section 6-1-7(B). If the request is denied, the city treasurer or the city treasurer's designee shall advise the certificate holder in writing of the reasons for such action. In no event shall the number of permitted horse-drawn carriages be more than 50. At no time shall the level exceed two-thirds ownership of one certificate holder. If the certificate holder requests a hearing within ten days of receipt of notification of denial, a public hearing shall be held as provided in section 6-1-3(B).

(Code 1985, § 39-113; Ord. No. 4227, § 1, 11-2-1993; Ord. No. 4352, § 11, 8-15-1995; Ord. No. 4941, 5-7-2002)

Sec. 6-1-14. Replacement of vehicles.

- A. In case any carriage covered by a certificate is retired by the owner because it is worn out or so damaged as not to be worth of repair, or is burned or otherwise destroyed, the certificate holder shall advise the designee of the city treasurer in writing of the circumstances of the retirement. The certificate holder shall deposit with the designee of the city treasurer proof of ownership of the replacement carriage.
- B. The certificate holder must, if vehicles are discarded, sold, returned or otherwise disposed of, give notice to the city treasurer of such action whether or not the vehicle is replaced and return identification sticker to city treasurer.

(Code 1985, § 39-114; Ord. No. 4227, § 1, 11-2-1993; Ord. No. 4352, § 11, 8-15-1995)

Sec. 6-1-15. Accident reports.

Reports of accidents in which any horse-drawn carriage for hire may be involved shall be promptly made to the police services division in accordance with the provisions of chapters 2-28 through 2-36. The certificate holder and the driver shall each have responsibility for filing

a copy of the report with the city treasurer. Upon the happening of any accident or collision, the certificate holder shall forthwith have the passenger vehicle for hire involved therein removed from service until properly repaired.

(Code 1985, § 39-115; Ord. No. 4227, § 1, 11-2-1993; Ord. No. 4352, § 11, 8-15-1995)

Sec. 6-1-16. Assignment or transfer of certificates.

No certificate of public convenience and necessity may be sold, assigned, mortgaged, transferred or alienated.

(Code 1985, § 39-116; Ord. No. 4227, § 1, 11-2-1993)

Sec. 6-1-17. Expiration and renewal of the certificate.

A certificate issued under this chapter shall expire March 31 of each year at midnight and shall be renewed at the existing level of vehicles as long as the standards for the initial issuance are met. Applications for renewals shall be made by March 10 of each year, by which time all fees for the succeeding year shall have been paid. If the request for renewal is denied, the city treasurer or the city treasurer's designee shall advise the applicant in writing of the reasons for such denial. If the applicant requests a hearing within ten days of notification of denial, a public hearing shall be held as provided in section 6-1-3(B).

(Code 1985, § 39-117; Ord. No. 4227, § 1, 11-2-1993; Ord. No. 4352, § 11, 8-15-1995)

Sec. 6-1-18. Fines, suspension and revocation of certificates.

A. A certificate issued under the provisions of this chapter may be suspended or revoked by the city treasurer or the city treasurer's designee after a public hearing, except as provided in section 6-1-3(C). Notice, public access to documents, and conduct of hearing shall conform with the provisions of section 6-1-3(B) except that written notice shall be sent by registered U.S. mail to the subject certificate holder by the date of publication.

B. A certificate issued under the provisions of this chapter may be subject to a penalty fine of no more than \$50.00, suspension or revocation by the director of police services or the director's designee, upon findings at the public hearing that the holder of the certificate has:

1. Violated any provisions of this chapter;
2. Discontinued operation for more than 30 days;
3. Would no longer be eligible for issuance of the certificate.

C. A certificate holder shall have the right to appeal the ruling of the city treasurer or the city treasurer's designee revoking or suspending the certificate in the same manner as provided for appeals of the decision under section 6-1-3(C).

(Code 1985, § 39-118; Ord. No. 4227, § 1, 11-2-1993; Ord. No. 4352, § 11, 8-15-1995; Ord. No. 4941, 5-7-2002)

Sec. 6-1-19. Horse-drawn carriage stands—Use by other vehicles prohibited.

A. Private or other vehicles for hire shall not at any time occupy the space upon the streets that have been established as horse-drawn carriage stands. Horse-drawn carriage stands shall at all times be restricted to a minimum distance of 100 feet from the threshold of any establishment or enterprise whose main business is the serving of restaurant clientele or food serving processes, unless the restaurant owner gives his or her consent that a horse-drawn carriage may be located within the 100 feet minimum distance from its threshold, and all the written consents to go to the city's department of engineering.

B. Horse-drawn carriage for hire stands shall be designated by the city engineer in concert with the city treasurer. If in the judgment of the city engineer the establishment of a horse-drawn carriage for hire stand will not interfere with nor present a hazard to the traffic on the street where such stand is sought to be established, the city engineer shall erect or cause to be erected the necessary official signs and markings to designate the stand. The city engineer shall

forward a copy of his or her approval of the stands to the city treasurer.

- C. A holder of a certificate of convenience and necessity may request additional stands through the permit office of the Memphis Police Department or the city engineer. It is unlawful for any person to remove, alter or deface any sign or other marking so installed. Additional markings on the standards shall be approved by the city engineer.
- D. All horse-drawn carriage for hire stands are to be available for the use of all horse-drawn carriages for hire operating within the city on the basis of the driver of the first carriage for hire arriving at a vacant stand having the right to occupy such stand; however, the city treasurer may designate certain stands for a particular class of vehicles for hire only, such as: taxicab, horse-drawn carriage, etc. It is expressly provided that passengers may select any horse-drawn carriage for hire at such stands regardless of the horse-drawn carriage's position in the line at such stand and that no certificate holder may monopolize any stand.
- E. While in service, the operator of a horse-drawn carriage for hire may park the carriage at any legal parking space. When a carriage is parked upon a metered space, the operator shall pay the appropriate fee. If the carriage is so large that more than one metered space is occupied, the driver shall pay the meter(s) for all spaces fully or partially occupied. This provision shall not prevent the operator of a horse-drawn carriage for hire from temporarily stopping in accordance with other stopping or parking regulations at any place for the purpose of and while actually engaged in the expeditious loading or unloading of passengers. While parking for this designated purpose upon a metered space, the driver shall pay the appropriate fee. While parked at any parking space, subsections G and H of this section and section 6-1-45 shall apply.
- F. No person other than the holder of a horse-drawn carriage for hire certificate of convenience and necessity, his or her agent, or employees, shall occupy a designated horse-drawn carriage for hire stand, except that the driver of a passenger vehicle may temporarily

stop therein for the purpose of and while actually engaged in loading or unloading passengers when such stopping does not interfere with any passenger vehicle for hire entering or about to enter the stand or stop.

G. Carriage companies shall keep horse-drawn carriage stands clean, free of manure and urine at all times. Urine shall be diluted with water or water with disinfectant as it occurs.

H. Water for the horses shall be available at all times.

(Code 1985, § 39-119; Ord. No. 4227, § 1, 11-2-1993; Ord. No. 4352, § 11, 8-15-1995; Ord. No. 4941, 5-7-2002)

DRIVERS AND CONDUCTORS

Sec. 6-1-20. Vehicle drivers.

No person shall operate a horse-drawn carriage for hire upon the streets of the city, and no certificate holder who owns or controls a horse-drawn carriage for hire shall permit it to be so driven, and no passenger vehicle licensed by the city shall be so driven at any time for hire, unless the driver of the vehicle for hire shall have first obtained and shall have a current and properly updated passenger vehicle for hire driver's permit which has been approved by the city treasurer and issued by the city treasurer, or his or her designee.

(Code 1985, § 39-120; Ord. No. 4227, § 1, 11-2-1993; Ord. No. 4352, § 11, 8-15-1995)

Sec. 6-1-21. Application for a driver's permit.

A. Permits required by this article shall be applied for, in person and in writing, on such forms as the city treasurer may prescribe, which forms shall show that:

1. The applicant has obtained a valid driver's license pursuant to the provisions of T.C.A. chapter 7, title 59;
2. The experience of the applicant in working with horses;

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3. All criminal statutes, whether federal or state, or city ordinance violations for which conviction, forfeiture of bond or pleading of nolo contendere has occurred, including motor vehicle and traffic violations;
 4. Such other information as the city treasurer may require.
- B. Such application shall be accompanied by two photographs as provided by the city permits office, one of which shall be attached to the permit, if issued, and one to be retained in the files of the city treasurer with the application for the permit.
- C. Such application shall be accompanied by:
1. A statement form, provided by a physician licensed to practice in the State of Tennessee, dated within 30 days of the application, indicating the length of time which the physician has treated the applicant, showing the applicant is not disabled by reason of defect of sight, hearing, body or limb, from safely operating a horse-drawn carriage and indicating any and all physical and mental conditions for which treatment has been rendered within the last year and for which treatment continues to be rendered;
 2. Statements of at least three reputable residents of the city who are personally acquainted with the applicant who will state their knowledge of the good reputation, honesty and general good character of the applicant, and include their name, address and home or work telephone number;
 3. A statement from a holder of a certificate of public convenience and necessity indicating that the applicant shall be affiliated with the certificate holder upon issuance of the permit.
- D. Permits shall remain the property of the city treasurer and may be canceled, revoked or suspended at any time and will be surrendered on demand.

(Code 1985, § 39-121; Ord. No. 4227, § 1, 11-2-1993; Ord. No. 4352, § 11, 8-15-1995; Ord. No. 4941, 5-7-2002)

Sec. 6-1-22. Application for a carriage driver's training permit.

A training permit will be issued for new and potential carriage drivers good for 14 days. During this period, the driver is required at all times to drive or ride with a designated trainer and permitted carriage driver. The fee for the trainer's permit shall be half that of regular carriage drivers and will go towards the cost of a full carriage driver's permit. If the trainee does not make full application after 14 days, the permit shall be null and void and the applicant must begin the process again.

(Code 1985, § 39-121.1; Ord. No. 4941, 5-7-2002)

Sec. 6-1-23. Applicant to fill out identification questionnaire and be fingerprinted.

Each applicant applying for a permit shall appear before the city treasurer or his or her designee to complete an identification questionnaire on a form to be provided, and be fingerprinted.

(Code 1985, § 39-122; Ord. No. 4227, § 1, 11-2-1993; Ord. No. 4352, § 11, 8-15-1995)

Sec. 6-1-24. Investigation; issuance; not to issue to certain persons.

- A. Before issuing a permit under this article, the city treasurer or the city treasurer's designee shall investigate the facts set out in the application and shall not grant such permit to any person who, in the opinion of the city treasurer, after investigation, is not physically or morally fit to drive or operate a horse-drawn carriage for hire in the city.
- B. No driver's permit shall be issued to any applicant who has been convicted of, forfeited bail or pleaded nolo contendere to a felony or any crime, involving moral turpitude as defined in T.C.A. § 57-4-203(h)(2), a controlled substance, prostitution, assignation, obscenity or any crime of a sexual nature in any jurisdiction, or been an inmate of reform school or penitentiary as a result of a conviction

for a felony, within five years prior to his or her application for such permit.

- C. The city treasurer may refuse to issue a permit to any applicant whose police record shows numerous convictions for public drunkenness, driving under the influence of intoxicants/drugs, repeated moving traffic violations, or any other good and just cause which, in the opinion of the city treasurer, would be inimical to the public health or safety.
- D. No permit shall be issued unless the applicant is at least 18 years of age.
- E. It shall be the duty of the city treasurer to issue a permit to any person applying therefor, showing compliance with the provisions of this chapter.

(Code 1985, § 39-123; Ord. No. 4227, § 1, 11-2-1993; Ord. No. 4352, § 11, 8-15-1995)

Sec. 6-1-25. Notification of arrest or indictment.

The holder of a driver's permit shall advise the city treasurer immediately of all charges, arrests and indictments, including those for public drunkenness and driving under the influence of intoxicants. The city treasurer may suspend a driver's permit for five days prior to a hearing pursuant to section 6-1-31, if the driver is arrested, charged or indicted for any violation of city, state or federal laws. It shall also be the responsibility of the certificate holder with which the driver is affiliated to notify the city treasurer of the charges, arrests or indictments. Failure to do so may result in suspension or revocation of the permit and/or of the certificate.

(Code 1985, § 39-124; Ord. No. 4227, § 1, 11-2-1993; Ord. No. 4352, § 11, 8-15-1995)

Sec. 6-1-26. Notification of company change of driver.

At the time a permit is issued, the driver must register with the division of police services the name of the horse-drawn carriage for hire certificate holder with which the driver intends to be affiliated and the

division of police services will have stamped on the permit the name of the horse-drawn carriage for hire certificate holder specified by the driver. If at any time a driver wishes to change affiliations, the driver must register the change with the division of police services, and a fee of \$10.00 will be charged to defray administrative cost. Failure to advise the director of any such changes may result in suspension or revocation of the permit. It shall be the responsibility of the holder of the certificate of public convenience and necessity to notify the city treasurer when affiliation with a driver is discontinued and any holder which allows a driver to operate a vehicle for hire without a proper and complete permit may have its certificate suspended or revoked. The holder of the certificate of public convenience and necessity must supply in writing to the permits office, the correct address of each driver currently affiliated with the certificate holder.

(Code 1985, § 39-125; Ord. No. 4227, § 1, 11-2-1993; Ord. No. 4352, § 11, 8-15-1995; Ord. No. 4941, 5-7-2002)

Sec. 6-1-27. Permit fee.

Each applicant for a permit under the provisions of this article shall pay to the city treasurer a fee of \$30.00 at the time of the filing of the application to cover the cost of drug screening, physical and driver's safety classes. For the renewal of such permit, the applicant shall pay a fee of \$25.00. To replace a lost, destroyed or stolen permit that is current, the fee shall be \$20.00.

(Code 1985, § 39-126; Ord. No. 4227, § 1, 11-2-1993; Ord. No. 4352, § 11, 8-15-1995; Ord. No. 4941, 5-7-2002)

Sec. 6-1-28. Form, size, design and contents.

A permit issued under this chapter shall be in card form, of such size and design as may be prescribed by the city treasurer which shall bear on its face a photograph of the driver, the number of the permit, the expiration date thereof the company with which the driver is affiliated, and such other information as the city treasurer may require.

(Code 1985, § 39-127; Ord. No. 4227, § 1, 11-2-1993; Ord. No. 4352, § 11, 8-15-1995)

Sec. 6-1-29. Possession of permit.

The original permit issued under this chapter, containing a photograph and other data on the driver shall at all times be in the possession of the driver of the horse-drawn carriage for hire operated by such driver, to be shown to the passenger or a police officer on demand, while such horse-drawn carriage for hire is under the direction or control of such driver.

(Code 1985, § 39-128; Ord. No. 4227, § 1, 11-2-1993)

Sec. 6-1-30. Expiration and renewal.

- A. A permit issued under this chapter shall expire at midnight on the anniversary of the birth date of the permit holder each calendar year.
- B. If the driver wishes that his or her permit be renewed, he or she shall furnish the city treasurer, or his or her designee, in person, the following information at least one month prior to his or her permit expiration:
 - 1. An affidavit signed by the driver indicating no medical or physical disabilities were suffered during the previous year;
 - 2. A statement from a holder of a certificate of public convenience and necessity indicating that the driver is a current driver for the certificate holder.
- C. Every three years, a driver shall submit, at the time of renewal, a certificate completed by a physician licensed in the State of Tennessee and including that physician's license number, indicating the length of time which the physician has treated the driver, showing the driver is not disabled by reason of defect of sight, hearing, body or limb from safely operating a horse-drawn carriage and indicating any and all physical and mental conditions for which treatment has been rendered within the previous three years and those for which the driver continues to receive treatment.

(Code 1985, § 39-129; Ord. No. 4227, § 1, 11-2-1993; Ord. No. 4352, § 11, 8-15-1995; Ord. No. 4941, 5-7-2002)

Sec. 6-1-31. Fines, suspension and revocation of permit.

- A. The city treasurer is given the authority to fine a penalty fee of no more than \$50.00 to suspend or revoke any driver's permit issued under this chapter for a driver's failure to comply with the provisions of this chapter or the rules and regulations specified by the city treasurer.
- B. The city treasurer shall notify a driver of the violations with which he or she is charged and his or her right to a hearing before the city treasurer or the city treasurer's designee, at which time the driver shall have an opportunity to present evidence; provided, however, that the city treasurer or the city treasurer's designee may suspend a permit for five working days prior to a hearing, with a hearing to be held within that period of time, if, in the judgment of the city treasurer or the city treasurer's designee, the public health and safety requires. At such hearing, the city treasurer or the city treasurer's designee is authorized to further suspend or revoke a driver's permit.

(Code 1985, § 39-130; Ord. No. 4227, § 1, 11-2-1993; Ord. No. 4352, § 11, 8-15-1995; Ord. No. 4941, 5-7-2002)

Sec. 6-1-1. Unauthorized use of permit; defacing or removing permit.

- A. The city treasurer or the city treasurer's designee may suspend or revoke the permit of any driver for allowing any other person to use the permit granted to the driver, for the purpose of operating a passenger vehicle for hire or for any other reason.
- B. The city treasurer or the city treasurer's designee may suspend or revoke the permit of any driver who defaces, removes, or obliterates any official entry made upon the permit.

(Code 1985, § 34-131; Ord. No. 4227, § 1, 11-2-1993; Ord. No. 4352, § 11, 8-15-1995)

Sec. 6-1-33. Standards of appearance and conduct of drivers.

- A. No driver shall engage in selling alcoholic beverages, any controlled substance, or solicit business from any house of ill repute or any person known to be of ill repute use his or her vehicle for any purpose other than the transporting of passengers except as provided for driver trainees. Passengers may possess alcoholic beverages.
- B. Drivers shall not engage in abusive language, including, but not limited to, cursing, verbal insults or derogatory comments in the presence of passengers, potential or engaged, or staff members of regulating authorities.
- C. While on duty, drivers shall not be under the influence nor engage in the consumption of intoxicants, including, but not limited to, beer and other alcoholic beverages or controlled substances. Any driver charged with driving while intoxicated may have his or her permit immediately suspended as provided in section 6-1-31.
- D. Drivers must present an acceptable appearance, including clean, neat wearing apparel not in need of repair. Hats may be worn. No shirt may be worn displaying an offensive logo. No halter-tops or tank shirts may be worn. Shorts may be worn but must be knee length or no more than three inches above the knee. Shoes, excluding sandal type shoes, must be worn at all times while serving the public. General appearance must be one of neatness and cleanliness.

(Code 1985, § 39-11; Ord. No. 4227, § 1, 11-2-1993; Ord. No. 4941, 5-7-2002)

Sec. 6-1-34. Total passengers in vehicle; carrying passengers on driver's seat prohibited.

No driver shall permit more persons to be carried in a horse-drawn carriage for hire as passengers than the seating capacity. A child in arms shall not be counted as a passenger.

(Code 1985, § 39-133; Ord. No. 4227, § 1, 11-2-1993)

Sec. 6-1-35. Consent required for horse-drawn carriage driver to pick up additional passengers.

No driver of a horse-drawn carriage shall carry any person other than the original passenger(s) by whom he or she has been engaged, without the consent of the original passenger(s), unless it is a driver trainee or other company employee.

(Code 1985, § 39-134; Ord. No. 4227, § 1, 11-2-1993)

Sec. 6-1-36. Drivers not to work more than 12 hours out of 24.

- A. No driver shall work more than a maximum of 12 hours in the aggregate of any 24-hour period, and such driver shall not begin to drive until he or she has had at least eight consecutive hours of rest.
- B. It is the duty of the certificate holder in conjunction with the driver to meet these requirements.

(Code 1985, § 39-135; Ord. No. 4227, § 1, 11-2-1993)

Sec. 6-1-37. Solicitation of passengers by drivers; drivers to remain in or near carriage.

- A. No horse-drawn carriage for hire driver shall solicit passengers for a horse-drawn carriage for hire, except when sitting in the driver's seat of such carriage for hire or while standing immediately adjacent to the carriage. The driver of any horse-drawn carriage for hire shall remain in the driver's seat or immediately adjacent to the carriage at all times when such carriage is upon public streets, provided further, that nothing herein contained shall be held to prohibit any driver from alighting to the street or sidewalk for the purpose of assisting passengers into or out of the carriage.
- B. No horse-drawn carriage for hire driver shall solicit patronage in a loud or annoying tone of voice, or by sign, or in any manner annoying any person, or to obstruct the movement of any person or follow any person for the purpose of soliciting patronage.

(Code 1985, § 39-136; Ord. No. 4227, § 1, 11-2-1993)

Sec. 6-1-38. Drivers of horse-drawn carriages.

- A. A driver of a horse-drawn carriage must properly guide the animal and carriage and must properly control the animal and carriage at all times, and:
- B. Must have valid driver's license.
- C. Must obey all traffic laws/rules.
- D. Drivers must be permitted.

(Code 1985, § 39-137; Ord. No. 4227, § 1, 11-2-1993)

VEHICLES

Sec. 6-1-39. Carriage safety equipment.

- A. Prior to the use and operation of any horse-drawn carriage for hire under the provisions of this chapter, the carriage shall be thoroughly examined and inspected by an Inspector and found to comply with this section's requirements. If, at any time, the horse-drawn carriage for hire is found by an Inspector not to comply with the following requirements, the horse-drawn carriage for hire shall not be allowed to be operated on the streets, alleys and public ways of the city until and unless the inspector finds the carriage meets these requirements.
- B. Every carriage operating on the streets, alleys and public ways of the city shall at all times be equipped with all safety equipment and any other requirements in respect to safety as is required by the laws of the state or this Code and all such regulations as may be issued by the city treasurer.
- C. Every horse-drawn carriage for hire operating on the streets, alleys and public ways of the city shall at all times be in a safe and suitable condition for such use and shall have the following:
 - 1. Every horse-drawn carriage shall be equipped with lights clearly visible from the front and rear. One light housing shall be attached to the left side of the carriage and one light housing

shall be attached to the right side of the carriage. The light housings may be of the type that illuminate from the front and rear simultaneously. Viewed from the rear, the lens must be red. Viewed from the front, the lens may be clear or amber. The light(s) must be capable of displaying a light visible 500 feet to the rear and 500 feet to the rear of such vehicle under ordinary atmospheric conditions and such light shall be displayed during the period from one-half hour after sunset to one-half hour before sunrise and at all other times when there is not sufficient light to render clearly discernible any person on the road or highway at a distance of 200 feet ahead of such vehicle.

2. Each carriage shall be equipped with electric turn signals.
3. No company shall use a carriage not equipped with brakes.
4. Each carriage shall be equipped with a slow-moving vehicle emblem to be attached to the rear of the vehicle.
5. Each company is encouraged to use reflective material where ever appropriate on carriages, harness and horse forelimbs.
6. Carriages must be properly lubricated and wheels must spin freely.
7. Each carriage should be equipped with a device to catch horse manure and prevent it from falling on the pavement; all missed droppings should be cleaned up at the end of each trip.
8. Each carriage shall be maintained in a safe and sanitary condition.
9. No horse-drawn carriage may carry more passengers than it was originally intended.
10. Each company shall conduct regular safety inspections of their vehicles. No vehicle shall be allowed into service that has lights, brakes or other safety features that are inoperable. Radio equipped or cellular phone equipped carriages are encouraged.
11. Four-wheel carriages should be equipped with fifth wheel or cut under turning mechanisms on the front axle.

12. Any other requirements in respect to safety as is required by the laws of the state or this Code and all regulations as may be issued by the city treasurer.

13. Obey all traffic laws of city and state.

14. Identifying stickers.

15. Name of company.

(Code 1985, § 39-138; Ord. No. 4227, § 1, 11-2-1993; Ord. No. 4352, § 11, 8-15-1995)

Sec. 6-1-40. Television equipment.

No television set shall be installed or portable model television operated in any horse-drawn carriage.

(Code 1985, § 39-139; Ord. No. 4227, § 1, 11-2-1993)

Sec. 6-1-41. Horse-drawn carriage maintenance.

A. Every horse-drawn carriage for hire operated in the city shall be kept in a clean and sanitary condition and in such condition of repair as may be reasonably necessary to provide for the safety of the public and for continuation in satisfactory operation.

B. It is the joint responsibility of the certificate holder and of the driver to maintain the appearance and safety of the horse-drawn carriage for hire and equipment and failure to comply may result in the suspension or revocation of the certificate for public convenience and necessity and/or of the driver's permit.

C. All carriages are subject to an annual inspection by the permits/license inspector for safe mechanical conditions, with all safety equipment remaining intact and operative.

D. Any carriage involved in an accident is required to be inspected by the permits/license inspector before going back into service.

(Code 1985, § 39-140; Ord. No. 4227, § 1, 11-2-1993; Ord. No. 4941, 5-7-2002).

Driver shall be held to include every person in actual charge of the operation of a horse-drawn carriage.

LICENSING AND CARE OF ANIMALS

Sec. 6-1-42. Licensing of Equines-Powers of Director of Animal Services

A. General

1. As set forth in this chapter every person or business operating a horse-drawn carriage for hire business in the City is required to obtain and maintain a valid certificate of public convenience and necessity ("Certificate") and every driver of a horse-drawn carriage for hire is required to obtain and maintain a valid Driver's Permit.
2. Every Certificate Holder is also required to obtain and maintain a valid license for every equine to be used in the horse-drawn carriage for hire business as provided in this section ("Equine License").
3. The director of animal services shall have authority over the licensing of equines and the enforcement of the provisions of this chapter regarding the care of animals used in the horse-drawn carriage for hire business to promote the health, safety, and well-being of the licensed equines. Compliance with all provisions of this chapter is a continuing condition of every Certificate, Driver's Permit and Equine License.
4. A driver shall allow the inspection of their horse and/or carriage by an Inspector at any time while they are on public streets. This includes during a trip in which they have been hired if a safety issue is suspected.
5. Holders and Drivers shall be responsible for any violation under this article where it is shown such person had knowledge of the violation, or should have had knowledge of the violation, and made no attempt to prevent it from occurring.

6. Nothing in the chapter shall preclude the director of animal services or their designees from enforcing all local, state, and/or federal animal cruelty laws.

B. Before any animal is brought into service by the certificate holder, the certificate holder shall obtain an Equine License from the director of animal services, which may be issued only after the equine has been examined by a Tennessee licensed veterinarian who provides service in Shelby County, Tennessee and a listed telephone number. The veterinarian shall certify to the director of animal services in writing that the animal meets all qualification criteria set forth herein after in this section, and that certification shall be presented to the director of animal services for approval prior to issuance of an Equine License for the equine by the City of Memphis. The veterinarian shall provide the following as proof of certification:

1. A veterinary record of a microchip placed in the neck along the nuchal ligament just under the mane.
2. A copy of the animal's veterinary records with the most recent exam being dated no more than 30 days prior to the animal being brought into service.
3. A copy of a negative Coggin's Test.

C. No licensed equine shall be permitted to pull any carriage unless the animal is in good health and meets at least the following requirements:

1. Must be a gelding or mare
2. Must be at least three (3) years old and no greater than twenty (20) years old
3. Must weigh at least one thousand two hundred (1,200) pounds to pull up to eight people, including the driver, as a single puller, and must weigh at least 1,500 pounds to pull a carriage capable of holding up to 30 people and shall only pull such a carriage in a team of two such animals.

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4. Must be of such stamina and in such physical condition, as determined by a veterinarian, to perform the required equine-drawn carriage tasks without any undue stress and effort.

D. The following shall deem a licensed equine unfit for use:

1. Lameness of any kind;
2. Open sores or wounds caused or likely to be irritated by the bearing surfaces of harness, bridle or girths;
3. Signs of emaciation, dehydration or exhaustion;
4. Loose shoes or no shoes; or
5. Uncontrollable behavior.

E. An equine required to be licensed pursuant to this section which fails to meet any of the above criteria may be declared unfit for service and may be ordered removed from work by the director of animal services or his or her designee if the director of animal services or his or her designee determines that removal of the equine is necessary for health and safety reasons or as an immediate protection to the equine or the public. An equine for which such an order has been issued shall not be returned to work until such time as the equine is re-examined and a veterinarian licensed by the State of Tennessee certifies in writing that the equine is fit to return to work using the criteria set forth in this chapter.

F. Should a carriage horse be permanently removed from service, it shall be sold or disposed of in a humane manner.

(Code 1985, § 39-141; Ord. No. 4227, § 1, 11-2-1993; Ord. No. 4352, § 11, 8-15-1995; Ord. No. 4941, 5-7-2002)

Sec. 6-1-43 Proper Care of Licensed Equines

A. An equine required to be licensed pursuant to this article must receive the following routine veterinary care to remain compliant with this chapter:

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1. A full soundness exam every six (6) months by a veterinarian licensed by the state of Tennessee
 2. Treatment for internal parasites or fecal floatation egg counts every four (4) months under the direction of a veterinarian licensed by the State of Tennessee, and treatment for external parasites whenever they are found to be present.
 3. Hoof trimming and shoes reset every six (6) to eight (8) weeks using caulks or borium to prevent slippage and rubber shoes or pads to prevent concussion injuries; shoes shall be shod in a manner approved by the director of animal services and shall have non-skid base surfaces.
- B. A preventative vaccination/ veterinary record affirming these standards are met shall be maintained by certificate holder and must be available for inspection on demand by the director of animal services or their designee, to include:
1. Current license of the equine being used;
 2. Current picture of the equine;
 3. Current health certificate of the equine;
 4. The equine's body condition score, certified every six (6) months by a veterinarian licensed by the State of Tennessee; and
 5. Description and location of any other identifying characteristics, marks and brands of the equine.
- C. The animal must be kept clean, especially those areas in contact with the harness or other tack, as well as groomed daily when in service and must not have fungus, dandruff or a poor or dirty coat.
- D. Each animal must be fed at least twice daily and shall have access to forage and feed in the amount to keep appropriate body condition score. The forage and feed shall be kept clean, fresh and must be of good quality.
- E. Each animal must have accessible potable drinking water provided in the stable at all times.

F. An animal shall be properly exercised when not working.

G. Holders and drivers shall ensure that each equine is offered potable drinking water in an appropriate container after every fare.

Sec. 6-1-44. Conditions of Use of Licensed Equines.

A. A Licensed Equine shall not be worked under any of the following conditions:

1. Pulling a carriage at a speed faster than a slow trot;
2. Pulling a carriage at top speed for more than thirty (30) minutes;
3. With equipment causing an impairment of vision other than normal blinders;
4. Any condition which will impair the good health and physical condition of the animal or that subjects the animal to cruel or harassing treatment.
5. Pulling a carriage that has music or other amplified sound played above 85 dB, or at any level below that which causes the animal distress.
6. Pulling a carriage on a public highway, path or street during conditions which are determined by the director of animal services or their designee to pose a threat to the health, safety or well-being of the equine, passengers, or general public.
7. If conditions develop while an equine is being worked, said equine shall be returned without delay to the stable by the most direct route and, if the threat posed is an immediate one, then the return of the equine to the stable shall be by equine trailer.

B. Shifts

1. Holders and drivers shall ensure that any licensed equine does not work more than eight (8) hours in a 24-hour period as reflected by pulling fares in the logbook. Carriages may be in service for up to ten (10) hours so long as no more than eight (8) of the ten (10)

hours are active pulling fares. An equine must have least a fourteen (14) continuous hour rest period within each twenty-four (24) hour period. Equines shall be considered as working if the equine is pulling a carriage that is being presented to the public as a carriage for hire.

2. Certificate Holders and Drivers shall provide equines a minimum ten (10) minute rest period between fares in excess of one (1) hour. Certificate Holders and Drivers shall provide equines a reasonable rest period between fares less than one (1) hour.
3. Certificate Holders shall keep a current log in each stable showing each equine's use. A Certificate Holder shall keep on the premises of the stable where the Licensed Equines are kept a consecutive daily record of the movements of each Licensed Equine, including driver's name and identification number, equine's identification number, vehicle identification tag number, and a daily manifest on each equine. Such records shall be made available, at any reasonable time, for inspection by the director of animal services or his or her designee.
4. If a Licensed Equine must return to the stables due to inclement weather or equipment replacement, it may return to operation to complete the same shift but may not extend that shift beyond ten (10) hours from the start of the shift.

C. Weather.

1. Certificate Holders shall check the temperature for the City of Memphis every thirty (30) minutes while they have carriages in service and document in the daily record for horses in service that day. This verification shall be done by using a reputable weather website. If the temperature is at or above 95° Fahrenheit or at or below 32° Fahrenheit, animals may not be put into service and shall not be outside of the barns or stables.
2. All Certificate Holders and Drivers shall work their horses only when safe weather conditions exist. Special attention and discretion should be used during periods of snow, ice, heavy

rain, high humidity, or extreme wind chill. Proper shoes should be used during icy conditions.

3. Should the director of animal services determine that special circumstances exist which would jeopardize the safety of the a Licensed Equine, such as a significant weather event or other environmental problems, the director may order the temporary suspension of the operation of all horse-drawn carriages for hire until such time as the special circumstances no longer exist.

(Code 1985, § 39-142; Ord. No. 4227, § 1, 11-2-1993)

Sec. 6-1-45. Equipment

- A. Certificate Holders and Drivers shall ensure that pads and other pieces of tack are kept clean and in a safe and serviceable condition. No Licensed Equine will be worked with a harness or bit that is not approved by a qualified and approved veterinarian.
 1. The harness must be oiled and cleaned to be soft at all times.
 2. The harness shall be properly fitted and maintained. Wire, sisal, rope, rusty chains or other substandard additions to the harness are prohibited.
 3. The harness shall be examined every 6 months by a veterinarian licensed by the state of Tennessee.
- B. The use of whips is prohibited except in situations presenting imminent danger to human or equine safety. Certificate Holders and Drivers are restricted to the use of a “buggy” style whip at times of imminent danger. All other whip styles are prohibited in all situations.
- C. Equines licensed under this chapter will be fitted with a diaper or proper collection bag for animal droppings.
 1. A Driver shall empty the horse’s diaper prior to the beginning of each trip for hire.

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2. A Driver shall not allow excrement to drop from the equine's diaper and will ensure that the diaper bag is properly fastened to the equine as outlined by the manufacturer's instructions.
 3. It shall be the responsibility of the Certificate Holder to take the necessary steps to keep all streets, alleys, sidewalks, and other public ways of the city cleared of animal droppings.
- D. Each Driver shall dilute horse urine with a deodorizing, non-toxic liquid right away. The driver shall not impede traffic while doing so and if necessary, shall clean up any missed urine at the end of each trip.

(Code 1985, § 39-143; Ord. No. 4227, § 1, 11-2-1993); (Code 1985, § 39-144; Ord. No. 4227, § 1, 11-2-1993; Ord. No. 4941, 5-7-2002)

Sec. 6-1-46. Stalls and stables.

- A. Stables for housing of equines and carriages shall comply with all zoning laws and ordinances of the city of Memphis and Shelby County and shall be no less than one hundred (100) feet from any dwelling.
- B. Such facilities shall conform to all health and sanitation regulations and shall be open for inspection by the director of animal services and their designees at all reasonable times, with or without prior notice.
- C. All stables used for housing horses shall be well lighted and ventilated.
- D. Foot hazards and sharp surfaces will not be permitted in any area or building where the Licensed Equines may be injured by such hazards and surfaces.
- E. All stables shall have standing stalls of sufficient dimensions to allow each equine to enter, stand, turn around, and lie down in a natural manner, and protect from adverse weather. The stalls shall be enclosed on all four (4) sides and shall have a solid exterior wall and a solid roof free of leaks.

F. Tie stalls shall be a minimum of 46 feet by ten feet. Horses that are not turned out daily should not be kept in tie stalls.

G. Stables and stalls shall be clean and dry. Sufficient bedding of straw, shavings, or other suitable material shall be furnished and changed as often as necessary to maintain the stables and stalls in a clean and dry condition. Bedding for concrete floors shall consist of at least six (6) inches of materials. Bedding for clay, dirt or rubber base floor shall consist of at least three (3) inches of materials.

H. A pest control program shall be used to control flies and other insects.

I. All interior and exterior areas of the stable shall be kept clean, properly drained and free of nuisances including, but not limited to, odors and accumulation of refuse and excrement.

J. There shall be no smoking at any time in stables.

(Code 1985, § 39-146; Ord. No. 4227, § 1, 11-2-1993)

(Code 1985, § 39-147; Ord. No. 4227, § 1, 11-2-1993)

(Ord. No. 5421, § 1, 11-1-2011)

Title 8 - ANIMALS¹

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CHAPTER 8-1. SCOPE OF CHAPTER AND DEFINITIONS

Section 8-1-1 Scope of Chapter

Conduct which is in violation of this Chapter shall constitute an ordinance offense for which a summons may be issued.

This title does not bar, suspend, or otherwise affect any right or liability for damages, penalty, forfeiture, or other remedy authorized by law to be recovered or enforced for a criminal offense as set forth in Title 39 of Tennessee Code Annotated, or in a civil suit for conduct that the state criminal code defines as an offense, and the civil injury is not merged into the offense.

Sec. 8-1-2. – Definitions.

As used in this chapter, the following terms shall have the meanings ascribed to them herein, except when the context requires otherwise:

Abandonment means an animal that has not been provided adequate conditions as defined in this chapter, and whose owner failed to respond within 24 hours to an official notice left by animal services officers at the location where the dog is kept.

Adequate care shall include but not be limited to current vaccinations and/or medical treatment for illness, injury, disease, excessive parasitism, or any malformations; regular grooming to prevent matting which could lead to disease or injury; and nail clipping so no toenail grows long enough to penetrate the paw or affect the normal position of the paw.

Adequate conditions shall include but not be limited to adequate care, food, shelter, general maintenance, and water as defined in this section.

Adequate food means food that is not spoiled or contaminated and is of sufficient quantity and quality to meet the normal daily dietary requirements for the condition and size of the animal. Adequate food may be impacted by the environment in which the animal is kept and must be taken into account by the owner/custodian. An animal shall be fed or have food available at least once each day, unless a licensed veterinarian instructs otherwise, or withholding is in accordance with accepted agricultural or veterinarian practices. Food stored outside must be kept in sealed containers to prevent vermin from accessing it.

Adequate shelter means a four-sided ventilated structure in good repair with an entrance on one side, a roof, and a solid floor and allows the dog to remain reasonably dry and maintain normal body temperature. The dimensions of the entrance and structure shall allow each dog present to enter, stand, turn around, and lie down in a natural manner, whether in the same structure or by providing multiple structures, and protect the dog from adverse weather and direct sunlight. During cold weather, the structure must contain bedding material that is sufficient to promote the retention of body heat and during summer months a separate natural or artificial shaded area must be available outside the structure and accessible by the dog. “Adequate shelter” does not include the space under buildings, decks, steps, or open crates and carriers designed for temporary housing unless modified to meet the requirements of this section. The shelter shall be cleaned regularly enough so as not to force the animal to stand, sit or lie in bodily waste. The enclosure in which the structure is located must be of a square footage sufficient to allow the dog to defecate at one end and lie at least twice its length away at the other end of the enclosure.

Adequate water means potable water provided continuously and changed out no less than once daily. The animal must have uninhibited access to the water. Adequate water may be impacted by environment

in which the animal is kept and must be taken into account by the owner/custodian.

Animal means a domesticated living creature or species of life different from man or plants or a wild creature previously captured and domesticated.

Animal services officer means any person assisting the animal services director authorized to impound animals and issue ordinance summons.

Animal services director means a person in charge of the city's animal services division, as designated by the Mayor, and hereafter referred to as "director."

Bite Scale means a standardized measurement tool used for determining the severity of a bite inflicted on a human or animal based on the physical damage the bite causes to the victim.

Cat means any animal of the domestic feline family.

Community cat means a cat that lives outdoors, is unowned/semi-owned, and free-roaming typically in a colony. Behavior is not an indicator of community cats as they can be friendly or "feral"(unsocialized). An ear-tip is an indicator that the cat is a community cat and has been sterilized.

Companion animal means domesticated animals kept in or near the household for the primary purpose of companionship for members of the household and/or companionship for other such animals. This includes dogs, cats, rabbits, guinea pigs, hamsters, domesticated rats, domesticated mice, ferrets, birds, reptiles, amphibians, invertebrates, and any other species that a reasonable person would consider to be a pet.

Competent person means any person 18 years old or older, who is able to comprehend and understand the nature of their responsibility, and has sufficient ability, mentally and physically, to handle any particular animal he or she may take charge of or have in their control.

Cruelty shall be defined in accordance with Tenn. Code Ann. § 39-14-202.

Dangerous dog for the purposes of this ordinance means any dog which:

- a. attacks and bites a person, animal or community cat without provocation, causing serious illness, injury or death including but not limited to a major fracture, muscle tears, or lacerations requiring multiple sutures or corrective or cosmetic surgery;
- b. any dog previously declared dangerous in a court of law;
- c. any dog owned or harbored for the purpose of dog fighting, to include animals bred for this purpose;
- d. any dog that has committed a bite that scores at least a level 3 or higher on a nationally recognized bite scale as defined herein and been found at-large twice;
- e. any dog that has bitten twice with at least one of the bites scoring a level 3 or higher on a nationally recognized bite scale as defined herein.

Dog means any animal of the canine family.

Ear tip means a procedure to remove the distal one-quarter of a cat's left ear for identification purposes and done under anesthesia during a sterilization surgery.

Employee means any person employed by the city under the management of the city's animal services division.

Fee schedule means fees charged for any services requiring payment at animal services, which shall be approved by the animal services director and authorized by passage of a resolution by the council. A current copy of the fee schedule shall be posted on the city of Memphis' website and in a conspicuous place in the Memphis Animal Services facility.

Fertile/unaltered animal means an animal which can produce offspring.

Fowl means any domesticated or undomesticated chickens, ducks, geese, turkeys, or other such birds as may be so designated by the director of the city's animal services division.

General Maintenance means adequate care, conditions, food, shelter and water as defined by this chapter and encompasses all reasonable measures to promote the health and safety of the animal.

Gross Neglect means a conscious and voluntary disregard for adequate conditions as defined herein, which is likely to cause foreseeable grave injury or harm to a companion animal. Gross neglect is conduct that a reasonable person would consider extreme when compared with ordinary neglect or mere failure to provide adequate conditions.

Guard dog means any dog trained or used to protect persons or property by attacking or threatening to attack any person found within the area patrolled by the dog. Subject to the regulations set forth herein, nothing shall prohibit or limit a person's right to possess a dog for protection to their person or property. No person shall use a dog as a weapon or to threaten or harass other persons or animals.

Humane trap means a cage equipped with a trap door which, when tripped, locks an animal or fowl within the structure unharmed.

Inclement weather conditions shall mean rain, hail, sleet, snow, high winds, extreme low temperatures, or extreme high temperatures, or any

environmental condition sufficient to threaten the health and/or safety of a companion animal.

Livestock means animals such as cattle, cows, swine, sheep, horses, mules, goats, or any animal designated as such by the director of the city's animal services division.

Ordinance summons means a written order to appear in court for alleged violations of any part of this chapter, issued by an animal services officer.

Owner means any person, partnership or corporation owning an animal; or any person who feeds, shelters, or harbors an animal or permits it to remain on the person's property. If any dog is found on the premises of any person for a period of ten days or more, it shall be prima facie evidence that such dog belongs to the occupant of such residence. Any person keeping or harboring a dog for (10) consecutive days shall, for the purpose of this chapter, be declared to be the owner thereof, and liable for violations of this title. If the animal is owned by a person under the age of 18 that person's parent or guardian shall be liable.

Properly Fitted Collar or Harness means a band of material specifically designed to be placed around the neck of a dog or a set of straps constructed of nylon, leather, or similar material, specifically designed to restrain or control a dog that is:

- a. appropriately sized for the dog based on the dog's measurements and body weight;
 - b. does not choke the dog or impede the dog's normal breathing or swallowing; and
- not cause pain or injury to the dog.

Provocation, regarding a dangerous dog means and includes trespass on property, teasing and release of the dog from its restraint, an attempt to

injure the dog or the dog's owner or the individual in possession thereof or other such actions. Entry on property by persons with actual or implied permission of the owner or occupant, including a postal service employee or other authorized government or service employee, shall not in and of itself be characterized as provocation. Provocation can also include actions by another animal which justifiably incited the attack. The burden of proof as to provocation shall be with the owner of the dog.

Restraint means a chain, rope, tether, leash, cable, or other device that attaches a dog to a stationary object or trolley system.

Severe injury means any physical injury that results in broken bones, multiple punctures, or disfiguring lacerations, requiring sutures or cosmetic surgery.

Shelter-Neuter-Release (SNR)/Trap-Neuter-Release (TNR) means stray, owned or unowned, cats who are brought into the custody of the shelter, spayed/neutered, ear-tipped, vaccinated, and returned to location of pick-up.

Steel trap means a contraption which, when engaged, locks an animal or fowl in place by applying pressure against any part of its body.

Sterile/altered animal means an animal which has been surgically rendered incapable of producing offspring.

Unprovoked attack means an attack in which an animal without provocation as defined herein attacks or bites a human being or another animal.

Chapter 8-2.- ANIMALS GENERALLY

Sec. 8-2-1. - Trapping Animals

It is unlawful for any person to set or bait any steel leg-trap or other contrivance which would maim, mutilate or seriously injure any animal, excluding animals commonly referred to as vermin.

Sec. 8-2-2. - Striking or hitting an animal with a moving vehicle

It is unlawful for any person driving a vehicle to strike or hit any animal upon a public right-of-way or any public property without stopping and assisting the animal, or in the alternative notifying Memphis Animal Services or the Memphis Police Department immediately, excluding animals commonly referred to as vermin as contemplated in Code of Ordinances Title 9 Health & Safety.

Sec. 8-2-3. - Disposal of Animals

No person shall leave or throw into any stream or river, nor leave exposed or bury the body, or any part thereof, of any animal, nor shall the same be kept where it may be dangerous to the life or detrimental to the health of any person. The sanitation services division of the city shall be promptly notified by the owner/discoverer of any deceased animal and where it is located. The animal will be scanned for a microchip, animal services notified if a microchip or other identifying information is found, the deceased animal will then be removed and disposed of in a sanitary manner.

Sec. 8-2-4. - Roadside sale of animals prohibited

A. It shall be unlawful for any person, firm or corporation to attempt to sell, exchange, trade, barter, lease, rent, donate or display for a commercial purpose any animal on any roadside, public right-of-way, parkway, median, park, playground, swimming pool, other recreation area, or commercial or retail parking lot that is generally accessible by the public, regardless of whether such access is authorized.

B. This section shall not apply to any city animal shelter or nonprofit organization founded for the purpose of providing humane

sanctuary or shelter for abandoned or unwanted animals pursuant to TENN. CODE ANN. § 39-14-210 or any dealer licensed to sell at a flea market pursuant to TENN. CODE ANN. § 44-17-101 et seq.

C. This section shall not be construed to prohibit the sale of certain animals by those engaged in the business of selling the same for consumption and who have obtained the appropriate licenses or permits to conduct such activity.

D. This section shall not be construed to prohibit a properly licensed for-profit store from selling or donating any animals on the walkway or parking lot immediately adjacent to such store's physical address.

E. The sale, exchange, trade, barter, lease, rent, donation or display for a commercial purpose in violation of this section shall constitute for each animal a separate violation and be punishable by a fine in accordance with an amount allowed under state law for city ordinance violations.

F. Upon issuance of an ordinance summons for a violation of this section, the violator must immediately discontinue the activity.

Sec. 8-2-5. – Kennel Licenses

A. Persons desiring to operate a commercial kennel where dogs and/or cats are owned, bred and/or held for sale must have an active kennel license issued by Memphis Animal Services to operate.

B. Prior to moving any animals into the facility, the person must submit a request to Memphis Animal Services for a kennel inspection via the online inspection request form available on the city's website.

C. Within 30 days of receipt of the request the requester will be notified when their inspection will occur.

- D. At the time of inspection, an Animal Services officer will inspect the facility for adequate care and conditions and determine the maximum capacity of the facility.
- E. Once the inspection is complete, the owner must show proof of inspection in-person at Memphis Animal Services to purchase a kennel license in accordance with the current fee schedule as defined in this chapter.
- F. Persons holding an active kennel license shall not be required to pay the license fee prescribed in § 8-3-2, provided they can produce evidence that all dogs and cats on the property 12 weeks and older have been vaccinated for rabies and such vaccinations are current.
- G. A kennel license is valid for one year, beginning during the month of purchase and expiring during the same month of the following year, and thereafter purchased annually on the same basis. Renewals require a reinspection to verify capacity/ conditions at the facility and must be requested at least 30 days prior to the expiration of the existing license. No license is transferable.

Chapter 8-3.- DOGS & CATS

Sec. 8-3-1. - Animal Neglect and Animal Cruelty

- A. Pursuant to this chapter, animal services may impound any animal suffering from gross neglect as detailed herein or animal cruelty.
- B. Any person who shall, voluntarily or by necessity, take custody of any animal, on any property, shelter, or other place, shall supply to that animal adequate care, conditions, food, shelter, and water as defined in § 8-1-2 of this chapter.
- C. Owners/custodians shall not allow any companion animal that is pregnant, nursing, or less than six months old to remain outdoors

during inclement weather conditions unless such animal is accompanied by a custodian, keeper, or handler. In the event of extreme weather, as determined by the director of animal services, the owner/custodian must make alternate housing arrangements to ensure the health and safety of the pet if the provided shelter does not offer adequate protection from heat or cold exposure.

D. Inhumane transport of animals. No person shall carry or cause to be carried in or upon any vehicle or other conveyance, any creature in a cruel, inhumane, or unsafe manner. Whenever any person in violation of this section is taken into custody by an officer, the officer may take charge of such vehicle or other conveyance and its contents and deposit the same in some safe place of custody. Any necessary expense incurred for taking charge of and keeping and sustaining the vehicle or other conveyance and its contents shall be paid before the vehicle or other conveyance can be recovered.

E. Abandonment of dogs. No person may intentionally, knowingly, recklessly or with criminal negligence leave a dog at a location without providing adequate care as defined in this section, release a dog they have taken into their custody to run at-large, or tether the pet to a structure they do not own with the intent of abandonment. This includes dogs abandoned on the property of an animal shelter, veterinary clinic or any commercial or residential property.

F. If the Animal Services Director or an Animal Services Officer determines that evidence exists that any person has committed acts of animal neglect or cruelty knowingly, willfully or with gross neglect for the welfare of the animal, then misdemeanor or felony cruelty charges will be issued by the Memphis Police Department, in addition to any summons for an ordinance violation of this Chapter.

Sec. 8-3-2. - Dog license tags required / Cat Vaccination required

- A. Dogs—Licensing and vaccination. It is unlawful for any person to own, have, harbor, keep or to cause or permit to be harbored, or kept in the city, any dog three months old or over, unless a current city license tag has been issued for such dog, subject to the exceptions provided in § 8-2-5(F). Prior to the issuance of a city dog license tag, the animal must receive a vaccination for rabies, or the owner of the animal must provide evidence that such animal has been so vaccinated and such vaccination is still current. In addition to the cost of the rabies vaccination, a city dog license tag shall be required for a 12-month period, beginning during the month of purchase, and expiring during the same month of the following year, and a license must thereafter be purchased annually on the same basis, in advance of such expiration date. Fees vary based on whether the animal is fertile or sterile, in accordance with the city's current fee schedule as defined in this chapter.
1. No license is transferrable.
 2. A city dog license tag may be purchased from the veterinarian at the time of vaccination or can be purchased at Memphis Animal Services.
 3. If the license is purchased from a veterinary clinic, the veterinarian issuing the license may collect an agent's fee of \$1.00 for this service.
 4. If the license is purchased from a non-veterinarian source, such as Memphis Animal Services, the purchaser shall exhibit records from a licensed veterinarian, describing and identifying the animal and certifying its sterility, to pay the proper license fee. No license is transferable.
 5. In the event a dog tag or license is lost, stolen or unavoidably mutilated, or damaged, the owner may apply for a duplicate

license and tag. After investigation and upon payment of a fee in accordance with the city's current fee schedule as defined in this chapter, the director may, at their discretion, issue a duplicate license and tag.

- B. Cats—Vaccination. It is unlawful for any person to own, have, harbor, keep or to cause or permit to be harbored, or kept in the city, any cat three months old or over, unless such person holds a current certificate of rabies vaccination for each such animal, subject to the exceptions provided in § 8-2-5(F).
- C. The provisions of this section regarding licensing shall not apply to nonresidents traveling through the city or if the animal is staying temporarily for a period of less than 30 days.

Sec. 8-3-3. - Mandatory Spaying & Neutering of Cats & Dogs

No person shall own, harbor, or keep within the city a dog or cat which has not been spayed or neutered. It is a defense to prosecution under this section that:

1. The animal is under six (6) months old;
2. A licensed veterinarian has certified within the past year that the dog or cat should not be spayed or neutered for health reasons or is permanently infertile;
3. The animal is being held for adoption by animal services or an animal welfare organization with an active 501(c)3;
4. The dog is documented as having been appropriately trained and actually being used by public safety agencies for law enforcement or search & rescue activities, or such dogs designated as breeding stock for law enforcement or search & rescue by an appropriate agency or organization and approved by the director of animal services;

5. The dog is designated by an appropriate agency or organization as breeding stock for service dogs such as guide dogs, hearing dogs, assistance dogs, seizure alert dogs, or social/therapy dogs, and approved by the director of animal services;
6. The dog is appropriately trained and actually being used for herding of other animals, or as a livestock guardian dog, hunting dog, or such dogs designated as breeding stock for these functions by an appropriate agency or organization and approved by the director of animal services;
7. The dog or cat is registered with a purebred dog or cat club, approved by the director of animal services, that maintains and enforces a code of ethics for breeding that includes restrictions on breeding dogs and cats with genetic defects and life-threatening health problems common to the breed.
8. The owner produces to the court proof of sterilization from a licensed veterinarian showing the dog or cat was sterilized at the time the summons was issued, or not later than 30 days after the summons was issued; or
9. The owner holds a valid fertile permit under § 8-3-4.

Sec. 8-3-4. – Fertile Permit

- A. Owners of fertile pets and not qualifying for any of the exemptions listed in § 8-3-3 must purchase a fertile permit in person during regular business hours from the division of animal services in accordance with the current fee schedule as defined in this chapter.
- B. A separate permit is required for each unsterilized dog or cat. Each permit authorizes the whelping of no more than one litter per female in any 12-month period and no more than one litter per domestic household in any 12-month period.
- C. The dog or cat must follow the vaccination requirements as defined in the Sec. 8-3-2 of this chapter to be eligible for a fertile permit.

- D. The dog or cat must be microchipped to be eligible for a fertile permit.
- E. Animals impounded for violation of this chapter are not eligible for a fertile permit purchase at the time the animal is reclaimed at Animal Services and must be spayed/neutered before leaving the facility unless another exemption defined in this chapter is met.
- F. The director shall revoke a fertile permit if animal services determines that the permittee:
 - 1. Failed to comply with any provision of this chapter;
 - 2. Allows the offspring of a permitted dog or cat to be sold, adopted, or otherwise transferred, regardless of compensation, before the offspring have reached at least eight weeks old and have been vaccinated against common diseases;
 - 3. Intentionally made a false statement as to a material matter to obtain a fertile permit.

Sec. 8-3-5. -Mandatory Microchipping

- A. The owner or custodian of any dog or cat must have the animal implanted with a registered microchip before the animal is six (6) months old or within thirty (30) after acquired if over six (6) months.
- B. A dog or cat is exempt from this requirement if the dog or cat is determined in writing to be medically unsuitable for microchipping by a licensed veterinarian.
- C. The owner or custodian of a dog or cat shall maintain current registration with a microchip registration company.
 - 1. The owner or custodian shall update contact information, including new address or telephone number with the microchip registration company within thirty (30) days of the change in contact information.

2. After any change in ownership of a registered dog or cat, the initial owner or custodian shall be responsible for notifying the microchip registration company of a change in ownership within thirty (30) days of transfer to the new owner. The new owner or custodian shall be responsible for re-registering the microchip to have the registration information transferred to the new owner's or custodian's name within thirty (30) days after the change in ownership and for maintaining current contact information as described herein.

D. It is a violation of this ordinance for any owner or custodian to fail to microchip or maintain current registration as described herein.

E. It is a defense to prosecution under this section that:

1. The animal owner is a non-resident of this city or has been a resident of this city for fewer than thirty (30) days;
2. The animal is abandoned or lost and the temporary custodian possessed the dog or cat for fewer than thirty (30) days; or
3. The owner produces to the court proof of microchipping from a licensed veterinarian showing the dog or cat was microchipped at the time the summons was issued, or not later than 30 days after the summons was issued.

F. Memphis Animal Services shall be authorized to provide funds, if available, to defray the cost of microchipping any dog or cat for any owner that cannot afford the cost thereof.

Sec. 8-3-6. - Dogs Running at-large

A. Generally. Dog owners or custodians shall always keep animals on a leash or other suitable restraint (as defined in subpart C) or confined by a fence on their property or, with permission, the private property of another. Dogs shall be restrained to prevent the animal from being at-large; biting; harassing any person engaged in a lawful act; interfering with the use of public or private property; or violation of

any other section of this code. Unless confined by a fence or other suitable restraint, no animal shall be permitted to run at-large on the property of the owner or custodian of such animal.

B. Walking Dog on a Leash. Any person walking a dog on public property including sidewalks, or on the private property of others, must always keep the dog on a leash and under physical control. Physical control means the ability to restrain the movement of the dog. The leash must be kept in good condition, of sufficient strength to prevent breaking under pressure; and of material generally resistant to chewing or gnawing by an animal. The length of a leash must be sufficient to always control the dog from harassing pedestrians or other animals.

C. Methods of Restraint.

1. *Dog restrained by traditional fencing*. To prevent the dogs from escaping fencing must be in good condition and maintained, of recognized construction methods, and of adequate size for the number and size of dogs. Entry or exit gates must be properly secured by a latching or locking mechanism. Fences should be at least 2½ times the height of the animal it is intended to restrain. The height of the dog is measured at the dog's shoulder when the dog is standing on four legs. If should a dog escapes from a fence, either by climbing or digging, additional fencing height, kennels, or other restraint methods may be required. Fencing must be sufficient to make an in-heat female dog inaccessible to any male dog and prevent the female dog from running at-large. Existing fencing, regardless of height, will be considered acceptable means of restraint unless and until a written and verified complaint is filed with Memphis Animal Services.
2. *Dogs restrained by invisible fencing*. As an alternative to traditional fencing, tie-outs or overhead cable runs, a dog may be

restrained with invisible fencing properly set up and maintained. The following conditions must be met:

- a. The system must be rated for use by dogs, installed according to manufacturer's instructions, and properly maintained.
 - b. The dog must receive training regarding the boundaries of the fencing.
 - c. The fencing must be sufficient to make an in-heat female dog inaccessible to any male dog and prevent the female dog from running at-large.
 - d. Two warning signs of a minimum six inches by eight inches (6"x8") visible from the public sidewalks and public streets or driveways must be placed on the fenced yard. The signs must include the following: "Dog is contained by electronic device" or similar wording, the name, logo/trademark, address and telephone number of either the company that installed the system or the company that maintains the system.
3. *Dog restrained by tethering.* As an alternative to fencing, dogs may be restrained by tether. No person shall allow any dog restrained by tether to remain outside and unattended unless ALL of the following conditions are satisfied:
- a. The tether is not unreasonably heavy in proportion to the weight of the animal.
 - b. A swivel is located at both ends of the tether and the tether is free of tangles.
 - c. The collar or harness on the animal to which the swivel is attached is a properly fitted collar or harness as defined in this chapter. The collar must be made of a material which poses no risk of lacerations. Choke and pinch collars are not permitted on tethered dogs.
 - d. The tether is not less than 10 feet in length.

- e. At all times, the animal has access to water, shelter, dry ground free of standing water and animal waste, and access to adequate food.
- f. The animal is at least 3 months old and has a current rabies vaccination with its tag visibly displayed.
- g. The animal is not sick or injured.
- h. If used, pulley, running line, or trolley systems are installed according to manufacturer's instructions and do not pose a safety risk to the dog.
- i. If there are multiple animals, each animal must be tethered separately.
- j. The tethering device shall allow the tethered dog to lie down comfortably in all positions of tether.
- k. Dogs restrained by tie-outs or overhead cable runs must be spayed or neutered, even if otherwise subject to any exemption in this chapter.

D. Exemptions

- 1. Dogs employed as police, service, therapy and search and/or rescue dogs are exempt from the requirements of this section while used in their working capacity or while engaged in a training program with a recognized organization or government agency that regularly trains dogs for such use.
- 2. Dogs off-leash in areas designated for such use by departments of city government, or on grounds under their jurisdiction, and dogs engaged in conformation, competition, or performance related events on public or private property.

E. Prima Facie Evidence. If a dog is found running at-large by animal services employees, the incident shall constitute prima facie evidence that current restraint methods are inadequate. The owner shall be required to correct any conditions that permitted the dog to run-at-large or provide such additional restraints as necessary to secure and maintain the restraint of the dog.

Sec. 8-3-7. - Defecation by Dogs or Cats

- A. It is unlawful for any owner/custodian of any dog or cat to fail to promptly remove and dispose in a sanitary manner of feces left by a dog or cat on property, public or private, other than the premises of the owner or custodian of such dog or cat.
- B. Persons owning pet dogs or service dogs, such as seeing eye dogs, who are legally blind or confined to a wheelchair and thereby physically incapable of disposing of feces left by their animal, are exempt from this law.

Sec. 8-3-8. - Guard Dogs

It is unlawful for any person to place or maintain guard dogs in any area of the city for the protection of persons or property unless the following provisions are met:

1. The guard dog shall be confined, or the guard dog shall always be under the absolute control of a custodian when not confined by way of lead or leash.
2. The owner or other persons in control of the premises upon which the guard dog is maintained shall post warning signs stating that such a dog is on the premises. At least one such sign shall be posted at each driveway or entranceway to said premises. Such signs shall be in lettering clearly visible from either the curb line or 50 feet, whichever is less, and shall contain a telephone number where some person responsible for controlling such guard dog can be reached 24 hours a day.
3. The above provisions shall not be applicable to dogs used in law enforcement by federal, state, or local law enforcement agencies.

Sec. 8-3-9. - Examination for Rabies

A. If any dog or cat has bitten any person and breaks the skin or is suspected of being infected with rabies, it shall be the duty of the owner or custodian to notify Memphis Animal Services within twenty-four (24) hours of the bite, and to quarantine the pet for a ten (10) day period. The animal shall be restricted to a building, pen, or other escape-proof enclosure and monitored for signs of rabies. Signs and symptoms of rabies can be found in the National Rabies Compendium on the Centers for Disease Control and Prevention website available at www.cdc.gov.

B. *Quarantine*

1. Within twenty-four (24) hours of the bite incident or first indication of rabies, the owner/custodian must contact Memphis Animal Services to provide proof of current rabies vaccination and to begin quarantine process at home or at a licensed veterinary clinic.
2. The owner/custodian must provide secure containment for the animal during the quarantine. If on day eleven (11) the pet is exhibiting symptoms consistent with rabies, the owner must present the pet to a licensed veterinarian for examination. Written certification from the examining veterinarian of negative rabies status shall be provided to Memphis Animal Services within twenty-four (24) hours of receipt from veterinarian.
3. The owner/custodian must complete all documents provided by Memphis Animal Services to fulfill compliance requirements for this section.
4. At the end of the quarantine period and no later than thirty (30) days of the bite incident, the animal must provide proof of or, if not previously, be fitted with a microchip implant and

spayed/neutered even if otherwise subject to any exemption in this chapter.

C. Special Circumstances

1. The director of Memphis Animal Services may order the quarantine completed at the MAS facility if the attack resulted in a severe bite, mauling, and/or human death, the animal has a history of running at-large, or the animal is not properly confined by the owner during the quarantine period.
2. Any stray, unowned, or apparently abandoned animal that bites a human being will be held for ten days. At the end of the ten-day holding period, the animal may be euthanized in an expeditious and humane manner. Any animal determined to have been involved in a bite incident and held for less than ten days shall be tested at the state laboratory for rabies.

Sec. 8-3-10. - Dangerous Dogs; Determination of Dangerous Dog

- A. If an animal services officer initially determines that a dog should be classified as dangerous as defined in this chapter or under Tennessee Code Annotated § 44-17-120 (a), notification will be sent to the owner or other responsible party. A mandatory ordinance summons shall be issued to the owner/custodian by the animal services officer citing the code section violated and setting a date to appear in a court of competent jurisdiction for a determination. Any decision of the court shall be final, subject to appeal to a higher court of competent jurisdiction.
1. In the alternative a petition may be filed by Memphis Animal Services with the general sessions court, pursuant to TENN. CODE ANN. § 44-17-120 (b), for a disposition order for the dangerous dogs or dogs causing death or serious bodily injury to humans or other animals.

2. If the owner does not appear before the court within five (5) days of the receipt of notice and show cause why the dog should not be destroyed, then the order shall issue and the dog shall be destroyed.
- B. Upon receipt of summons, the owner/custodian shall place their pet into a secure boarding facility until a final decision is issued by a judge. The owner/custodian has following options for secure boarding:
1. Upon payment of security bond to Memphis Animal Services according to the current fee schedule as defined in this chapter, the owner/custodian may board the dog at a licensed veterinary clinic at the owner/custodian's sole expense. The veterinary clinic must confirm in writing to the animal shelter director that the animal will be boarded in a private, licensed veterinary clinic. The purpose of the security bond is to insure compliance pending all court appearances.
 2. Alternately, without a security bond and at the owner/custodian's request and sole expense, the dog may be kept at Memphis Animal Services. The owner shall pay the daily boarding rate for each day or fraction thereof the dog remains at the shelter in accordance with the current fee schedule as defined in this chapter. The owner must pay for thirty (30) days of care in advance. After the initial payment and until the court authorizes the release of the animal, the owner/custodian must pay the charge in advance, keeping the account ahead thirty (30) days.
 3. Alternately, the owner/custodian may elect to surrender the dog to Animal Services with a signed document requesting the dog be euthanized.

4. All payments to Memphis Animal Services must be made within ten (10) days of issuance of the summons or within twenty-four (24) hours of the defendant's initial court appearance whichever comes later. If the bond or boarding fees are not paid as required in this section, the animal shall be deemed forfeited.
 5. After the satisfaction of fees, fines, and/or court-ordered payments, overpayments shall be returned to the owner/custodian within a reasonable time after of the final disposition of the case.
- C. Failure of an owner to respond to the ordinance summons shall result in the animal being declared a dangerous dog by operation of law. The owner/custodian is deemed to have waived all rights to a hearing on the dog's classification. The animal shall be surrendered to Memphis Animal Services immediately or it shall be impounded. A show cause notice shall be issued requiring the owner/custodian to appear before the court within five (5) days to show cause why the dog should not be euthanized. The show cause hearing is solely for determination of the issue of euthanasia. Failure to appear or show cause will result in entry of a final surrender and disposition order permitting the dog to be euthanized.

Sec. 8-3-11. - Dangerous Dogs; Duty of Owner of Dangerous Dog

Upon conviction, a court of competent jurisdiction may order the defendant to:

- A. Enroll, attend, and complete an approved animal behavior modification at the owner/custodian's expense.
- B. *Registration and Tag.*
 1. Within thirty (30) days after an animal is classified as dangerous, the owner of the animal must obtain a dangerous

dog tag for the animal from Memphis Animal Services. The tag shall be worn by the dog at all times and renewed annually. The animal services director, or their designee, is only authorized to issue such tags and renewals to persons who are at least eighteen (18) years old and who present to the animal services director, or their designee, sufficient evidence of:

- a. A current certificate of rabies vaccination for the animal;
- b. A proper enclosure to confine a dangerous animal and the posting at all entry points of the premises a clearly visible warning sign of a dangerous animal on the property or premises which reads:

**Warning
Dangerous Dog on Premises**

- c. Proof that the dog has been spayed/neutered and microchipped;
- d. Proof of a current public liability insurance policy or a bond of not less than fifty thousand dollars (\$50,000.00) insuring the owner of the animal for any damages, whether arising from personal injury or otherwise, which may be caused by the dangerous animal. Such policy must provide for thirty (30) days' notice to the City of Memphis Animal Services prior to cancellation or expiration of the policy. In the event such liability insurance or bond is canceled, lapses, or for any other reason becomes unenforceable, the owner shall be in violation of the provisions of this chapter and title;
- e. Payment in accordance with the current fee schedule as defined in this chapter for the issuance of a dangerous dog tag.

2. If the owner/custodian does not obtain a dangerous dog tag within thirty (30) days or fails to comply with any of the conditions listed herein, the classified dog shall be forfeited and must be immediately surrendered to Memphis Animal Services or shall be impounded by an animal services officer.
3. The owner/custodian shall immediately notify the appropriate animal control authority when an animal that has been classified as dangerous:
 - a. Is running at-large or unconfined;
 - b. Has bitten a human being;
 - c. Is sold, given away, or dies; prior to a dangerous animal being sold or given away, the owner shall provide the name, address, and telephone number of the new owner to the animal control authority; any new owner residing in the city must comply with all the requirements of this chapter and title without further order of the court.
 - d. Is moved to another address.

B. Confinement outdoors.

1. All dangerous dogs shall be confined in a securely enclosed and locked pen or kennel, except when leashed and muzzled as provided in this section.
2. Such pen, kennel or structure shall be at least 20 feet from any street or sidewalk, ten feet from any property line and must have secure sides and a secure top to the structure.
3. Such structures must be locked with a key or combination lock when any animal is within the structure.
4. Such structure must have a secure concrete bottom or floor attached to the sides of the pen or the sides of the pen must be embedded in the ground no less than two feet.

5. All structures erected to house dangerous animals must be a minimum of six feet by ten feet (6'x10') enclosure and comply with all zoning and building regulations of the City.
 6. All such structures must meet the definition of adequate shelter as defined in this chapter and must be inspected and approved by Memphis Animal Services.
- D. *Confinement indoors.* No dangerous animal may be kept on a porch, patio or in any part of a house or structure that would allow the animal to exit such building of its own volition. In addition, no such animal may be kept in a house or structure when any unbarred window is open or when any screened window or screen door is the only obstacle preventing the animal from exiting the structure.
- E. *Leash and muzzle.*
1. No person shall permit a dangerous animal to go outside its kennel or pen unless such animal is securely leashed with a substantial restraint no longer than four feet in length.
 2. No person shall permit a dangerous animal to be kept on rope or other type of leash outside of its kennel or pen unless a competent person at least 18 years old is in physical control of the restraint.
 3. Such animal may not be leashed to inanimate objects.
 4. All dangerous animals on a leash outside the animal's kennel must be muzzled to prevent such animal from biting persons or other animals. The muzzle should not cause injury to the animal or interfere with its vision or breathing but shall prevent it from biting any person.

- F. Any dog charged as dangerous, notwithstanding a later finding of not guilty, must be fitted with a microchip implant and spayed/neutered within thirty (30) days of the biting incident with no exceptions.

Chapter 8-4 - LIVESTOCK & FOWL

Sec. 8-4-1. – Neglect of Livestock and Fowl

No livestock or fowl shall be kept or confined where the water, shelter, ventilation, and food are not sufficient and wholesome for the preservation of its health and safe condition. No animal or fowl shall be kept in such place or condition as to become a nuisance either because of odor or contagious disease.

Sec. 8-4-2. - Running at-large of Livestock and Fowl

It is unlawful for any person in charge of any animal defined in this chapter as livestock to permit it to run at-large upon any street, alley or unenclosed lot within the city.

Sec. 8-4-3. - Keeping of Livestock Within 1,000 feet of Residence or Business

No person shall keep livestock within one thousand feet (1,000') of any residence or place of business in the city without a permit to do so from the health officer. The health officer shall issue permits only when the keeping of such animals in the yard or buildings, and under the circumstances set forth in the application for the permit, shall not injuriously affect the public's health. Domesticated pigs or other livestock that meet the definition of companion animal in this chapter are exempt from this provision.

Sec. 8-4-4. - Killing Birds

- A. The killing or attempting to kill any bird, other than domestic fowl, within the limits of the city, is prohibited, except as hereafter provided.
- B. For control purposes and to alleviate public distress, and to promote public health, owners of private residential property and public commercial property are authorized to destroy or otherwise remove pigeons and/or birds located within the boundaries of their property, and to dispose of them in accordance with sanitation services procedures. In addition, such property owners may contract with pest control companies properly licensed and bonded by the state for the removal and disposition of pigeons or birds from their property. Such pest control companies shall dispose of such pigeons and/or birds in accordance with sanitation services procedures.
- C. Whenever a homing pigeon bearing a ring or seamless leg-band with its registered number stamped thereon, or any protected wild bird, is found among pigeons trapped under this section, the same shall immediately be released from custody.
- D. This section shall not be construed to permit the use of firearms to destroy pigeons and birds, and such use is expressly prohibited.

Sec. 8-4-5. - Unlawful to Sell Fowl as Pets or Novelties

- A. It is unlawful for any person, firm, or corporation to display, sell, offer for sale, barter, or give away chicks or ducklings as pets or novelties. It shall further be unlawful for any person, firm or corporation to dye, color or otherwise artificially treat any animal or fowl.
- B. This section shall not be construed to prohibit the display or sale of natural chicks, ducklings, or other fowl by those engaged in the business of selling the same to be raised for food purposes.

Chapter 8-5. - MEMPHIS ANIMAL SERVICES

Sec. 8-5-1. - Establishment and Supervision

Memphis Animal Services is established under the Executive Division of the city of Memphis. The operation and management of such service center shall be under the supervision of the director of Animal Services.

Sec. 8-5-2. - Business Hours

Memphis Animal Services shall post in a conspicuous and prominent location at the shelter and on the shelter's website the business hours as designated by the animal services director, subject to concurrence by the Chief Operating Officer of the city of Memphis.

Sec. 8-5-3. - Badges, Uniforms and Police Power of Animal Services Officers

- A. Animal Services officers shall wear badges and uniforms identifying them as such and shall have the necessary police powers for the enforcement of this chapter. Animal Services officers shall have the authority to issue ordinance summonses related to violations of this chapter or state law summons for such violations.
- B. Pursuant to Tennessee Code Annotated § 39-14-207(a), an animal services officer, who has a reasonable belief that an animal inside a home, fenced in yard, behind a locked gate, or in a vehicle has been without necessary food and water for more than twelve (12) successive hours, may, as often as necessary, enter any place in which any animal is so confined, and to supply it with necessary food and water for as long as it remains so confined. That person shall not be liable for such entry to any person in any legal action, and the reasonable cost of the food and water may be collected from the owner or keeper of the animal. The animal shall not be exempt from levy and sale upon execution issued upon a judgment therefor.

- C. If an animal services officer who has a reasonable belief that an animal inside a home, fenced in yard, behind a locked gate, or in a vehicle needs emergency care, or that there is an imminent threat to the life or welfare of an animal behind one of these barriers, the officer may make entry to any place in which any animal is so confined for the purpose of taking temporary custody of the animal but only after obtaining a warrant, except that a warrant shall not be required if the animal services officer has a good faith belief that the animal has a medical condition or injury of such a nature that the failure to render immediate care would reasonably likely result in the animal's imminent death and otherwise complies with Tennessee Code Annotated § 39-14-215.
- D. Any animal that is found to be injured, diseased, suffering from the elements or malnourished and abandoned as defined in this chapter may be taken into temporary custody by an animal services officer.
- E. Upon taking temporary custody of any animal under this section, the animal services officer shall attempt to contact the owner of the animal and shall seek emergency veterinary care for the animal, if necessary, as soon as available. The officer shall leave notification of temporary custody at the location the animal was found or at the registered address of the owner if the owner cannot be reached. The owner of the animal is responsible for any costs of providing care to the animal.

Sec. 8-5-4. - Resisting or Interfering with Animal Shelter Employee

It is unlawful for any person to resist or interfere with an animal services employee in the performance of their duties.

Sec. 8-5-5. - Aid and Assistance by Police

It shall be the duty of all police officers to render any assistance necessary.

Sec. 8-5-6. – Enforcement; Issuance of Ordinance Summons

Any ordinance summons issued pursuant to this chapter shall be left with the offender and shall provide information related to the offense charged and the time and place when such offender is to appear in court. Failure of the offender to appear in court shall result in a default judgment against the offender in an amount allowed under state law for city ordinance violations, and/or a warrant issued in accordance with Tenn. Code Ann. § 7-63-204.

Sec. 8-5-7. – Enforcement; Limitation on Action for Violations

A. No action shall be commenced by the city in any court for the purpose of enforcing any violation of animal violation sections of the Code of the city after one year from the commission of the offense. For this section a court action shall be deemed to be commenced:

1. Upon the issuance of an ordinance summons to the offender;
2. Upon the arrest of the offender; or
3. Upon the issuance of an arrest or bench warrant for the offender.

B. A summons may be served by:

1. Personal service on the offender; or
2. Registered or certified mail, addressee only, return receipt requested.

Sec. 8-5-8. – Enforcement; Dismissal or Entering Nolle Prosequi Not Prohibited

Nothing herein shall prevent the city through the city attorney's office from dismissing or entering a nolle prosequi of any ordinance summons in open court. Such ordinance summons shall be dismissed if it shall be determined that the summons was issued to a nonresident and is deemed uncollectible; there is a lack of proof; or for such other valid reason as stated to the court.

Sec. 8-5-9. – Enforcement; Violation-Penalty

A person in violation of any part of this chapter is guilty of a city ordinance violation. Upon conviction, a court of competent jurisdiction may order the defendant to:

1. Pay fines in accordance with an amount allowed under state law for city ordinance violations. Each day that any violation of this chapter continues may constitute a separate offense.
2. Be precluded from owning, harboring, or having custody or control of companion animals permanently, or for a period that the court deems reasonable.
3. Participate in available animal cruelty prevention programs and educational programs or both.
4. Undergo a behavioral health evaluation and comply with any recommendations resulting from the evaluation.
5. Forfeit to Memphis Animal Services animals that are the basis of conviction.
6. Sterilize the companion animals. Sterilization is mandatory upon a second violation.
7. Payment of all costs and expenses of enforcement of this ordinance, including veterinary treatment and care, and feeding and housing of animals surrendered or forfeited under this ordinance.
 - a. Failure to pay any portion of fees and costs shall result in a lien upon the property of the owner subject to the City ordinance and State law.

- b. Liens shall be enforced by attachment proceedings in any court of competent jurisdiction and payment made directly to Memphis Animal Services.

Sec. 8-5-10. – Impoundment and Redemption of Cats

A. Impoundment

1. *First Impoundment.* Any non-community cat found running at large, abandoned or subject to neglect, cruelty or any of the conditions described Section 8-5-3 or is not in compliance with any other provision of this Chapter may be apprehended and impounded in the city animal shelter, and the owner notified, if known. If such cat has any ownership identification (tag, microchip, etc.), it shall be held for at least seventy-two (72) hours during which time the owner may redeem or repossess the same upon payment of reclaim fees for impound and boarding in accordance with the current fee schedule as defined in this chapter. If not reclaimed or redeemed by the owner within such time, the animal will become the property of the shelter and the animal may be designated for disposition by the animal shelter director or their designee. If no ownership identification exists, the cat can be deemed a community cat and the seventy-two (72) hour stray hold does not apply. If the cat is deemed a community cat and is not in need of medical attention, it shall be sterilized, ear-tipped, and returned to the location it was found. If the cat is less than twelve (12) weeks old and no ownership identification exists, the kitten can be immediately placed for adoption, and a seventy-two (72) hour stray hold does not apply.
2. *Second Impoundment.* Should a cat belonging to the same owner be picked up for a second time within two years of the date of the first offense, the owner may redeem and repossess the cat upon payment of reclaim fees for 2nd impound and boarding in accordance with the current fee schedule as defined in this

chapter. Seventy-two (72) hour stray hold provisions as described in subpart 1 still apply.

3. *Third Impoundment.* Should a cat belonging to the same owner be picked up for a third time within three years of the date of the first offense, the owner may redeem and repossess the cat upon payment of reclaim fees for 3rd impound and boarding in accordance with the current fee schedule as defined in this chapter. The owner also must receive a summons for animal neglect as defined in this chapter. Seventy-two (72) hour stray hold provisions as described in subpart 1 still apply.

B. *Fees and Costs.* Impoundment fees for any cat confiscated and held pending a court ruling for violations of § 8-3-1 of this section or any violation of State animal cruelty codes (Tenn. Code Ann. § 39-14-201, et seq.) must be paid within seventy-two (72) hours of impoundment for the owner to maintain claim to ownership rights for the animal. If the court determine there is probable cause to proceed with the charges at the owner's first appearance in court, a security bond order will be issued by the presiding judge to cover boarding and additional fees in accordance with the current fee schedule as defined in this chapter. The security bond order shall be in an amount sufficient to cover all expenses from the date of impoundment through the date of the trial and shall be paid within ten (10) days of the issuance of said order or ownership of the pet is forfeited to Memphis Animal Services. Should the trial date be reset for a later date, the owner of the animal will be presented with an updated security bond order at the next scheduled court appearance, which will also require payment within ten (10) days of the issuance of said order or ownership of the pet is forfeited to Memphis Animal Services.

- C. *Sterilization.* Any unaltered cat that is not eligible for an exemption to the mandatory spay/neuter ordinance as defined in this chapter will be altered before discharge from Memphis Animal Services. Exemption 1 (under six (6) months old) of the mandatory spay/neuter ordinance does not apply for cats brought into the shelter, if a licensed veterinarian determines the cat is of sufficient age and weight to proceed with sterilization. A fertile permit cannot be purchased after a lawful impound occurs.
- D. *Microchip Implant.* Before release into the owner's custody, the director of animal services is authorized to have a veterinarian humanely implant any animal lawfully impounded with an electronic microchip that will allow the animal to be positively identified.

Sec. 8-5-11. – Impoundment and Redemption of Dogs

A. Impoundment

1. *First Impoundment.* If any dog is found running at large, abandoned or subject to neglect, cruelty or any of the conditions described Section 8-5-3 or is not in compliance with any other provision of this Chapter shall be apprehended and impounded in the city animal shelter, and the owner notified, if known, except in cases where an owner can be located within a reasonable amount of time or when exigent circumstances exist preventing the animal services officer from impounding the dog. Such dog shall be held for at least seventy-two (72) hours during which time the owner may redeem or repossess the same upon payment for, or presentation of, a current license therefor, and payment of reclaim fees for impound and boarding in accordance with the current fee schedule as defined in this chapter. If not reclaimed or redeemed by the owner within such time, the animal will become the property of the shelter and the animal may be designated for disposition by the animal shelter director or their designee. If the dog is less than 12 weeks old and no ownership identification exists, the puppy can be immediately placed for adoption, and a seventy-two (72) hour stray hold does not apply.

2. *Second Impoundment.* Should a dog belonging to the same owner be picked up for a second time within two years of the date of the first offense, the owner may redeem and repossess the dog upon presentation of a current license thereof and payment of reclaim fees for 2nd impound and boarding in accordance with the current fee schedule as defined in this chapter. Seventy-two (72) hour stray hold provisions as described in subpart 1 still apply.
3. *Third Impoundment.* Should a dog belonging to the same owner be picked up for a third time within three years of the date of the first offense, the owner may redeem and repossess the dog upon payment of reclaim fees for 3rd impound and boarding in accordance with the current fee schedule as defined in this chapter. The owner also must receive a summons for dog running at-large as defined in this chapter. Seventy-two (72) hour stray hold provisions as described in subpart 1 still apply.

B. *Fees and Costs.* Impoundment fees for any dog confiscated and held pending a court ruling for violations of § 8-3-1 of this section or any violation of State animal cruelty codes (Tenn. Code Ann. § 39-14-201, *et seq.*) must be paid within seventy-two (72) hours of impoundment for the owner to maintain claim to ownership rights for the animal. If the court determine there is probable cause to proceed with the charges at the owner's first appearance in court, a security bond order will be issued by the presiding judge to cover boarding and additional fees in accordance with the current fee schedule as defined in this chapter. The security bond order shall be in an amount sufficient to cover all expenses from the date of impoundment through the date of the trial and shall be paid within ten (10) days of the issuance of said order or ownership of the pet is forfeited to Memphis Animal Services. Should the trial date be reset

for a later date, the owner of the animal will be presented with an updated security bond order at the next scheduled court appearance, which will also require payment within ten (10) days of the issuance of said order or ownership of the pet is forfeited to Memphis Animal Services.

C. *Sterilization.* Any unaltered dog that is not eligible for an exemption to the mandatory spay/neuter ordinance as defined in this chapter will be altered before discharge from Memphis Animal Services, and a fertile permit cannot be purchased after a lawful impound occurs. Additionally, exemption 1 of the mandatory spay/neuter ordinance does not apply for dogs brought into the shelter, if a licensed veterinarian determines the dog is of sufficient age and weight to proceed with sterilization.

D. *Microchip Implant.* Before release into the owner's custody, the director of animal services is authorized to have a veterinarian humanely implant any animal lawfully impounded with an electronic microchip that will allow the animal to be positively identified.

Sec. 8-5-12. – Impoundment, Redemption and Disposition of Livestock

A. Livestock found running at-large in violation of this chapter may be apprehended and placed into the animal shelter. Such livestock shall be held for at least seventy-two (72) hours during which time the owner may redeem or repossess the same upon payment of reclaim fees for impound, trailering fees, and boarding in accordance with the current fee schedule as defined in this chapter. If not reclaimed or redeemed by the owner within such time, the animal will become the property of the shelter and may be designated for disposition by the animal shelter director or their designee.

B. Impoundment fees for any livestock confiscated and held pending a court ruling for violations of § 8-4-1 of this section or any violation of State animal cruelty codes (Tenn. Code Ann. § 39-14-201, et seq.)

must be paid within seventy-two (72) hours of impoundment for the owner to maintain claim to ownership rights for the animal. If the court determine there is probable cause to proceed with the charges at the owner's first appearance in court, a security bond order will be issued by the presiding judge to cover boarding and additional fees in accordance with the current fee schedule as defined in this chapter. The security bond order shall be in an amount sufficient to cover all expenses from the date of impoundment through the date of the trial and shall be paid within ten (10) days of the issuance of said order or ownership of the pet is forfeited to Memphis Animal Services. Should the trial date be reset for a later date, the owner of the animal will be presented with an updated security bond order at the next scheduled court appearance, which will also require payment within ten (10) days of the issuance of said order or ownership of the pet is forfeited to Memphis Animal Services.

Sec. 8-5-13. – Impoundment, Redemption and Disposition of Fowl

- A. Fowl found running at-large in violation of this chapter may be apprehended and placed into the animal shelter. Such fowl shall be held for at least seventy-two (72) hours during which time the owner may redeem or repossess the same upon payment of reclaim fees for impound and boarding in accordance with the current fee schedule as defined in this chapter. If not reclaimed or redeemed by the owner within such time, the animal will become the property of the shelter and may be designated for disposition by the animal shelter director or their designee.
- B. Impoundment fees for any animal confiscated and held pending a court ruling for violations of 8-4-1 of this section or any violation of State animal cruelty codes (Tenn. Code Ann. § 39-14-201, et seq.) must be paid within seventy-two (72) hours of impoundment for the owner to maintain claim to ownership rights for the animal. If the

court determine there is probable cause to proceed with the charges at the owner's first appearance in court, a security bond order will be issued by the presiding judge to cover boarding and additional fees in accordance with the current fee schedule as defined in this chapter. The security bond order shall be in an amount sufficient to cover all expenses from the date of impoundment through the date of the trial and shall be paid within ten (10) days of the issuance of said order or ownership of the pet is forfeited to Memphis Animal Services. Should the trial date be reset for a later date, the owner of the animal will be presented with an updated security bond order at the next scheduled court appearance, which will also require payment within ten (10) days of the issuance of said order or ownership of the pet is forfeited to Memphis Animal Services.

- C. The director of animal services, or designated staff member, is authorized to waive fees related to reclamation on a case-by-case basis.

Sec. 8-5-14. – Adoption of Animals

Once an animal becomes the property of Memphis Animal Services by any method described in this chapter, the animal may be adopted in accordance with current adoption policies as enacted by the director of animal services, and upon payment of an adoption fee, licensing fee and fees for any other service supplied by Memphis Animal Services in connection with such animal. Each unaltered dog and/or cat will be sterilized by the shelter veterinarian prior to leaving the shelter, unless it is determined by the director of animal services that the pet should not be altered. Any individual taking an unaltered dog or cat from the shelter must comply with applicable ordinances and policies relating to unsterilized animals. If it is determined that a former owner of an animal is applying for adoption, such former owner may only regain

ownership or possession by payment of redemption fees set forth in the current fee schedule as defined in this chapter.

Sec. 8-5-15. – Euthanasia of abandoned or neglected animals

The director of animal services, or their designee, may lawfully euthanize immediately, or cause to be euthanized immediately, any animal that is legally the property of the City of Memphis, or that is suffering, and euthanasia will end that suffering.

Sec. 8-5-16. – Animal Services Advisory Committee

There is hereby created the animal services advisory committee, consisting of seven citizens of the city, who shall be appointed by the mayor, subject to approval of the city council, for a term of two years or until their successors are appointed and qualified, and who shall serve without compensation, or oath. The director of animal services shall be an ex officio member of such committee.

- A. Chairperson & Secretary. The chairperson and the secretary of the animal services advisory committee shall be designated by the mayor when making appointments to the committee.
- B. Rules and Regulations. The animal services advisory committee shall have the power to make rules and regulations for the conduct of its business. Such committee shall meet as prescribed by its rules, and upon call of its chairperson.
- C. Powers & Duties. The animal services advisory committee shall:
 1. Provide guidance and support to the director of animal services based on each individual committee member's area of expertise.
 2. Serve as community liaisons for animal services, helping spread messaging regarding quality pet ownership and how to access resources through MAS.

3. Support and advocate for progressive animal control and sheltering programming to keep Memphis in alignment with national best practices.

Sponsored by
Administration

Chairman
Martavius Jones

Ordinance No. 2487

[SPEEDY ARRAIGNMENT]

Adopted _____ August 31, 1976

Referendum election _____ November 2, 1976

AN ORDINANCE TO AMEND THE CHARTER OF THE CITY OF MEMPHIS, SAME BEING CHAPTER 11 OF THE ACTS OF 1879, AS AMENDED, PURSUANT TO THE PROVISIONS OF ARTICLE 11, SECTION 9, OF THE CONSTITUTION OF THE STATE OF TENNESSEE, (HOME RULE AMENDMENT), SO AS TO AMEND CITY CHARTER SECTION 270 BY CLARIFYING LEGAL PROCESS IN THE MATTER OF ARREST AND COURT APPEARANCE, AND TO SUBMIT THE PROPOSED ORDINANCE TO THE QUALIFIED VOTERS OF THE CITY OF MEMPHIS, TENNESSEE, AT THE FIRST GENERAL ELECTION TO BE HELD NOVEMBER 2, 1976.

Section 1.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MEMPHIS, That pursuant to Section 9, Article 11 of the Constitution of the State of Tennessee, as amended, the following proposal shall be published and submitted by the City of Memphis, Tennessee, to its qualified voters at the first general state election, and which shall be held in the City of Memphis on November 2, 1976, and which shall be held at least sixty (60) days after such publication:

QUESTION:

Shall the Home Rule Charter of the City of Memphis Tennessee, be amended, so as to amend City Charter Section 270, to read as follows:

"Sec. 270. Arraignment within twenty-four hours after arrest; exceptions. Every person arrested on the charge of violating an ordinance, or on process issuing from said

court, shall be presented to the court for arraignment within twenty-four hours after his arrest, unless Saturday, Sunday or legal holiday shall intervene. At such arraignment the defendant may plead guilty or request a trial date."

Section 2. Publication of home rule amendment.

BE IT FURTHER ORDAINED, That the Comptroller be and he is hereby directed to cause this proposal (Ordinance) to be published pursuant to the provisions of Article 11, Section 9, of the Constitution of the State of Tennessee.

Section 3. Delivery to election commission.

BE IT FURTHER ORDAINED, That the Comptroller of the City of Memphis, shall certify the adoption of this ordinance to the Shelby County Election Commission in charge of holding the first general state election on November 2, 1976, and request that this proposed amendment to the Home Rule Charter of the City of Memphis be placed on the ballot.

Section 4. Proposal and preference.

BE IT FURTHER ORDAINED, That the Comptroller be and he is hereby directed to deliver a copy of this ordinance to the Shelby County Election Commission, together with a suggested proposal and the following form of preference to be placed on the ballot in an election to be held on the 2nd day of November, 1976:

REFERENDUM ON HOME RULE AMENDMENT TO THE CHARTER OF THE CITY OF MEMPHIS, SO AS TO CLARIFY LEGAL PROCESS IN THE MATTER OF ARREST AND COURT APPEARANCE.

An Ordinance of the City of Memphis adopted on the _____ day of _____, 1976, providing for a referendum on a Home Rule Amendment to the Charter of the City of Memphis, so as to amend Charter Section 270, to read as follows:

"Sec. 270. Arraignment within twenty-four hours after arrest; exceptions. Every person arrested on the charge of violating an ordinance, or on process issuing from said
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court, shall be presented to the court for arraignment within twenty-four hours after his arrest, unless Saturday, Sunday or legal holiday shall intervene. At such arraignment the defendant may plead guilty or request a trial date."

FOR (YES) _____

AGAINST (NO) _____

Section 5. Effective date of amendment.

BE IT FURTHER ORDAINED, That this ordinance shall take effect for the purposes set forth herein sixty (60) days after approval by a majority of the qualified voters voting thereon in an election to be held on the 2nd day of November, 1976, the public welfare requiring it.

Section 6. Certification of results.

BE IT FURTHER ORDAINED, That the Shelby County Election Commission certify to the Comptroller of the City of Memphis, the result of said election who shall see that said results are made a part of the minutes of the Council of the City of Memphis.

Section 7. Nonconflicting-conflicting laws.

BE IT FURTHER ORDAINED, That all laws constituting the present Charter of the City of Memphis, not in conflict with this amendatory Home Rule Ordinance, be and the same are continued in full force and effect, and all laws in conflict therewith are hereby repealed.

Section 8. Severability.

BE IT FURTHER ORDAINED, That if any clause, section, paragraph, sentence or part of this ordinance shall be held or declared to be unconstitutional and void, it shall not affect the remaining parts of this ordinance, it being hereby declared to be the legislative intent to have passed the remainder of this ordinance notwithstanding the parts so held to be invalid, if any.

Section 9. Enactment of city ordinance.

BE IT FURTHER ORDAINED, That this ordinance shall take effect from and after the date it shall have been passed by the Council, signed by the Chairman of the Council, certified and delivered to the Office of the Mayor in writing by the Comptroller, and become effective as otherwise provided by law.

OSCAR H. EDMONDS
Chairman of Council

Attest:
PAUL ARNETT, Comptroller.

ORDINANCE NO. 2490

[COUNCIL MEETING DATES]

Adopted September 7, 1976

Referendum election November 2, 1976

AN ORDINANCE TO AMEND THE CHARTER OF THE CITY OF MEMPHIS, SAME BEING CHAPTER 11 OF THE ACTS OF 1879, AS AMENDED, PURSUANT TO THE PROVISIONS OF ARTICLE 11, SECTION 9 OF THE CONSTITUTION OF THE STATE OF TENNESSEE (HOME RULE AMENDMENT), SO AS TO CHANGE MEETING DATE OF PUBLIC SESSIONS OF CITY COUNCIL, AND TO SUBMIT THE PROPOSED ORDINANCE TO THE QUALIFIED VOTERS OF THE CITY OF MEMPHIS AT THE FIRST GENERAL STATE ELECTION TO BE HELD 11-2-76.

WHEREAS, the City of Memphis through its City Council under Charter Section 43, holds a regular meeting every Tuesday at 2:30 o'clock in the afternoon and may hold such special meetings as may be called by said Council; and

WHEREAS, it is now desired to change said hours to better benefit segments of the population and citizens of Memphis.

Section 1. Proposed Amendment.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MEMPHIS, That pursuant to Section 9, Article 11 of the Constitution of the State of Tennessee, as amended, the following proposal shall be published and submitted to the qualified voters at the first election which shall be held in the City of Memphis, Tennessee, on November 2, 1976, and which shall be held at least sixty (60) days after such publication, by amending City Charter Section 43 to read as follows:

"Sec. 43. Meetings. The City Council shall hold a regular meeting every Tuesday at 2:30 o'clock in the after-

noon, or at such other time each Tuesday as it so designates by resolution; provided, however, that no meeting shall be held at other than 2:30 o'clock p.m. except upon fourteen (14) days public notice. If the business of any regular or special meeting be not concluded on the day when the same convenes, the Council may adjourn such meeting to any subsequent day of that week.

All such regular meetings or special called meetings, as hereinabove described, of the City Council shall be public, and shall be held at the place provided for such meetings, and said place cannot be changed, except by ordinance."

Section 2. Nonconflicting-conflicting laws.

BE IT FURTHER ORDAINED, That all laws constituting the present Charter of the City of Memphis, not in conflict with this amendatory Home Rule Ordinance, be and the same are continued in full force and effect, and all laws in conflict therewith are hereby repealed.

Section 3. Severability.

BE IT FURTHER ORDAINED, That if any clause, sentence, paragraph, section or part of this ordinance shall be held or declared to be unconstitutional or void, it shall not affect the remaining parts of this ordinance, it being hereby declared to be the legislative intent to have passed the remainder of this ordinance notwithstanding the parts so held to be invalid if any.

Section 4. Publication of home rule amendment.

BE IT FURTHER ORDAINED, That the Comptroller be and he is hereby directed to cause this proposal (Ordinance) to be published pursuant to the provisions of Article XI, Section 9, of the Constitution of the State of Tennessee.

BE IT FURTHER ORDAINED, That the Comptroller be and he is hereby directed to deliver a copy of this ordinance to the Shelby County Election Commission, together with a

suggested proposal and the following form of preference to be placed on the ballot in an election to be held on the 2nd day of November, 1976:

REFERENDUM ON HOME RULE AMENDMENT TO CHARTER OF THE CITY OF MEMPHIS SO AS TO PROVIDE FOR CHANGE OF TIME ON PUBLIC MEETING DATE.

An Ordinance of the City of Memphis was adopted on the _____ day of _____, 19 _____, providing for a referendum on a Home Rule Amendment to the Charter of the City of Memphis so as to authorize change of regular City Council meetings to each Tuesday at 7:00 o'clock p.m., and, further, to provide for any special called meetings of the City Council.

FOR (YES) _____

AGAINST (NO) _____

Section 6. Effective date.

BE IT FURTHER ORDAINED, That this ordinance shall take effect for the purposes set forth herein sixty (60) days after approval by a majority of the qualified voters voting thereon, in an election to be held on the 2nd day of November, 1976, the public welfare requiring it.

Section 7. Enactment of city ordinance.

BE IT FURTHER ORDAINED, That this ordinance shall take effect from and after the date it shall have been passed by the Council, signed by the Chairman of the Council, certified and delivered to the Office of the Mayor in writing by the Comptroller, and become effective as otherwise provided by law.

OSCAR H. EDMONDS, JR.
Chairman of Council

Attest:

PAUL ARNETT, City Comptroller.

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