

CODE OF ORDINANCES
FOR
THE CITY OF WEST POINT, MISSISSIPPI

CHARTER
AND
GENERAL ORDINANCES OF THE CITY

ADOPTED MARCH 14, 1978

EFFECTIVE APRIL 13, 1978

PUBLISHED BY ORDER OF THE BOARD OF MAYOR AND SELECTMEN

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AN ORDINANCE ADOPTING AND ENACTING A NEW CODE OF ORDINANCES OF THE CITY OF WEST POINT, MISSISSIPPI, ESTABLISHING THE SAME; PROVIDING FOR THE REPEAL OF CERTAIN ORDINANCES NOT INCLUDED THEREIN, EXCEPT AS EXPRESSLY PROVIDED; PROVIDING FOR THE MANNER OF AMENDING SUCH CODE OF ORDINANCES; PROVIDING A PENALTY FOR THE VIOLATION OF SAID CODE OF ORDINANCES; AND PROVIDING WHEN THE CODE OF ORDINANCES SHALL BECOME EFFECTIVE

BE IT ORDAINED by the Board of Mayor and Selectmen of the City of West Point, Mississippi, that:

Section 1. The Code of Ordinances, consisting of Chapters 1 to 30 and appendices, each inclusive, is hereby adopted and enacted as the "Code of Ordinances, City of West Point, Mississippi", and shall be treated and considered as a new and original comprehensive ordinance which shall supersede all other general and permanent ordinances duly enacted by the Board of Mayor and Selectmen on or before March 14, 1978, except such as by reference thereto are expressly saved from repeal or continued in force and effect for any purpose.

Section 2. All provisions of such Code shall be in full force and effect on and after the 13th day of April, 1977, and all ordinances of a general and permanent nature of the City of West Point enacted on final passage on or before March 14, 1978, and not in such Code or recognized and continued in force by reference therein are hereby repealed from and after the effective date of this ordinance, except as hereinafter specifically provided. No resolution of the City, not mentioned herein, is hereby repealed.

Section 3. The repeal provided for in Section 2 of this ordinance shall not affect any of the following:

- (1) Any offense or act committed or done or any penalty or forfeiture incurred or any contract or right established or accruing before the effective date of this ordinance;
- (2) Any ordinance or resolution of the City promising or guaranteeing the payment of money by, for or to the City, or authorizing the issuance of any bonds of the City or any other evidence of the City's indebtedness;
- (3) Any contract or obligation assumed by the City;
- (4) Any right or franchise granted by the City to any person, firm or corporation;
- (5) Any administrative ordinances or resolutions of the City not in conflict or inconsistent with the provisions of said Code;
- (6) Any ordinance dedicating, naming, establishing, locating, relocating, opening, paving, widening, vacating, abandoning, etc., any street, alley or other public

way in the City;

- (7) Any appropriate ordinance or ordinance providing for the levy of taxes or for any annual budget;
- (8) An ordinance relating to local improvements and assessments therefor;
- (9) Any ordinance, resolution, agreement or contract with the state, regulating traffic on specific streets or the City;
- (10) Any ordinance relating to employee classifications of the City or creating, abolishing, fixing the duties for or establishing the salary or compensation for any position in the employment of the City, not inconsistent with said Code.
- (11) The zoning or subdivision ordinance of the City or any amendments thereto or variances granted therefrom;
- (12) Any ordinance enacted after March 14, 1978.

The repeal provided for in Section 2 hereof shall not be construed to revive any ordinance, resolution or part thereof that has been repealed by a subsequent ordinance or resolution which is repealed by this ordinance.

Section 4. Any and all additions or amendments to such Code, when passed in any form to indicate the intention of the City to make the same a part of the Code shall be deemed to be incorporated into such Code so that reference to the "Code of Ordinances, City of West Point, Mississippi", shall be understood and intended to include such additions and amendments.

Section 5. A copy of such code, certified to by the Mayor and City Clerk shall be on file at the time of the adopting of such code and shall be kept on file in the office of the City Clerk, preserved in looseleaf form, or in such other form as the City Clerk may consider most expedient. It shall be the express duty of the City Clerk or someone authorized to him to insert in their designated places all amendments or ordinances which indicate the intention of the City to make the same a part of such Code when the same have been printed or reprinted in page form, and to extract from such Code all provisions which may be from time to time repealed. This copy of such code shall be available to all persons desiring to examine the same and shall be considered the official Code of Ordinances of the City of West Point, Mississippi.

Section 6. In case of the amendment of any section of such Code for which a penalty is not provided, the general penalty as provided in Section 8 of this ordinance and Section 1-9 of the Code of Ordinances of the City of West Point, Mississippi, shall apply to the section as amended; or in case such amendment contains provisions for which a penalty, other than the aforementioned general penalty, is provided in another section of such Code, the penalty so provided in such other section shall be held to relate to the

section so amended, unless such penalty is specifically repealed therein.

Section 7. It shall be unlawful for any person, firm or corporation to change or alter by additions or deletions, any part or portion of such Code or to insert or delete pages or portions thereof, or to alter or tamper with such Code in any manner whatsoever which will cause the law of the City of West Point to be misrepresented thereby. Any person, firm or corporation violating this section shall be punished as provided in Section 8 of this ordinance and Section 1-9 of the Code of Ordinances.

Section 8. Whenever in this Code hereby adopted or in this ordinance or any ordinances of the City, any act is prohibited or is made or declared to be unlawful or an offense or the doing of any act is required, or the failure to do any act is declared to be unlawful or a misdemeanor, where no specific penalty is provided therefor, the violation of any such provisions of said Code or ordinances of the City shall be punished by a fine not exceeding three hundred dollars (\$300.00) or by imprisonment not exceeding ninety (90) days, or both. Every day any violation of the said Code or any such ordinance shall continue shall constitute a separate offense.

Section 9. All ordinances or parts of ordinances in conflict herewith are, to the extent of such conflict, hereby repealed.

Section 10. This ordinance shall be in force and take effect the 13th day of April, 1978.

/s/Kenneth D. Dill, Mayor

ATTEST:

/s/John W. Campbell, City Clerk

(SEAL)

PART I
CHARTER
(RESERVED)

The Charter of the City of West Point is kept on
file in the Office of the City Clerk

PART II
CODE OF ORDINANCES

CODE OF ORDINANCES

CHAPTER 1

GENERAL PROVISIONS

Sec. 1-1. How Code designated, cited.

The ordinances embraced in the following chapters shall constitute and be designated as "Code of Ordinances, City of West Point, Mississippi", and may be so cited.

State law reference--Authority of cities to codify ordinances, Miss. Code Ann., 1978, 21-13-15.

Sec. 1-2. Definitions and interpretation.

In the construction of this Code, and of all ordinances, the following rules shall be observed, unless such construction would be inconsistent with the manifest intent of the Board of Mayor and Selectmen:

Board of Selectmen, Selectmen, City Board. The words "Board of Selectmen", "Selectmen", or "City Board" shall be construed to mean the Board of Mayor and Selectmen of the City of West Point, Mississippi.

City. The words "the City" or "this City" shall be construed as if the words "of West Point, Mississippi" followed it.

City limits, corporate limits, corporation limits. Whenever the words "City limits", "corporate limits" or "corporation limits" are used in this Code, they shall mean the legal boundary of the City of West Point.

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

County. The words "the County" or "this county" shall mean the County of Clay.

Delegation of authority. Whenever a provision requires or authorizes an officer or employee of the City to do some act or perform some duty, it shall be construed to authorize the officer or employee to designate, delegate and authorize subordinates to perform the act or duty unless the terms of the provision designate otherwise.

Gender. Words importing the masculine gender shall include the feminine and neuter.

Interpretation. In the interpretation and application of any provisions of this code, it

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

Law. The term "law", when used in any provision of this Code or any ordinance of the City, shall include any provision of the Constitution of the United States, or the State of Mississippi, and any statute of the United States or the State of Mississippi, and any ordinance, resolution or order of the Board of Mayor and Selectmen of the City of West Point, Mississippi.

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

Name of officer. Whenever the name or title of any officer or employee of the City is given, it shall be construed as though the words "of the City of West Point, Mississippi", followed it.

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

Number. Words used in the singular include the plural and the plural includes the singular number.

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

Offense. The term "offense" shall mean any violation of any provision of this Code or City ordinance, rule or regulation liable to punishment by criminal prosecution.

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

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

Person. The word "person" shall include a corporation, firm, partnership, association, organization and any other group acting as a unit, as well as an individual.

Personal property includes every species of property except real property, as herein defined.

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

Premises. Whenever the word "premises" is used in the Code, it shall mean place or places.

Property. The word "property" shall include real and personal property.

Real property shall include every estate, interest or right in lands, tenements and hereditament.

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

Seal. Whenever the word "seal" is used in this Code, it shall mean the City or corporate seal.

Sidewalk. The word "sidewalk" shall mean a portion of a street between the curb line and the adjacent property line, intended for the use of pedestrians, excluding parkways.

Signature or subscription includes a mark when the person cannot write.

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

Street. The word "street" shall mean and include any public way, road, highway, street, avenue, boulevard, parkway, alley, lane, viaduct, bridge and the approaches thereto within the City.

Tenant. The words "tenant" or "occupant" applied to a building or land, shall include any person who occupies the whole or a part of such building or land, whether alone or with others.

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

Week. Whenever the word "week" is used in this Code, it shall mean any period of seven (7) days.

Writing. The words "writing" and "written" shall include printing and any other mode of representing words and letters.

Year, month. The word "year" shall be construed to mean a calendar year, and the word "month" shall be construed to mean a calendar month.

State law reference--Definitions of terms used in statutes, Miss. Code Ann., 1972, 1-3-3 thru 1-3-73.

GENERAL PROVISIONS

Sec. 1-3. Severability.

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

Sec. 1-4. Catchlines of sections.

The catchlines of the several sections of this Code which are underlined are intended as mere catchwords to indicate the contents of the sections and shall not be deemed or taken to be titles of such sections, nor as any part of such sections, nor, unless expressly so provided, shall be so deemed when any of such sections, including the catchlines, are amended or re-enacted.

Sec. 1-5. Effect of Code on existing ordinances.

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

Sec. 1-6. Effect of repeal of ordinances.

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

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

Sec. 1-7. Amendments to Code; effect of new ordinances; amendatory language.

All ordinances passed subsequent to this Code, which amend, repeal or in any way affect this Code, may be numbered in accordance with the numbering system of this Code and printed for inclusion herein. In the case of repealed chapters, sections and subsections or any part thereof by subsequent ordinances, such repealed portions may be excluded from the Code by omission from reprinted pages affected thereby. The subsequent ordinances, as numbered and printed or omitted, in the case of repeal, shall be prima facie evidence of such subsequent ordinances until such time as this Code and subsequent ordinances numbered or omitted are readopted as a new Code of Ordinances by the Board of Selectmen.

Amendments to any of the provisions of this Code may be made by amending such provisions by specific reference to the section number of this Code in the following language: "That section __ of the Code of Ordinances, West Point, Mississippi, is hereby

amended to read as follows: ____." The new provisions shall then be set out in full as desired.

In the event a new section not heretofore existing in the Code is to be added, the following language may be used: "That the Code of Ordinances, West Point, Mississippi, is hereby amended by adding a section, which said section reads as follows: ____." The new section shall then be set out in full as desired.

State law reference--Style of ordinances, Miss. Code Ann., 1972, 21-13-7.

Sec. 1-8. Altering Code.

It shall be unlawful for any person in the City to change or amend, by additions or deletions, any part or portion of this Code or to insert or delete pages, or portions thereof, or to alter or tamper with such Code in any manner whatsoever except pursuant to ordinance or resolution or other official act of the Board of Selectmen, which will cause the law of the City to be misrepresented thereby.

Sec. 1-9. General penalty.

Wherever in this Code or in any ordinance of the City, any act is prohibited or is made or declared to be unlawful or an offense or the doing of any act is required, or the failure to do any act is declared to be unlawful or a misdemeanor, where no specific penalty is provided therefor, the violation of any such provisions of this Code or ordinance of the City shall be punished by a fine of not less than five dollars (\$5.00) nor exceeding three hundred dollars (\$300.00) or by imprisonment not exceeding ninety (90) days or both such fine and imprisonment. Every day any violation of this Code or any such ordinance shall continue shall constitute a separate offense.

In addition to the penalties herein above provided, any condition caused or permitted to exist in violation of any of the provisions of this Code or any ordinance shall be deemed a public nuisance and may be abated by the City, as provided by law, and each day that such condition continues shall be regarded as a new and separate offense.

State law reference--Authority to impose penalties, Miss. Code Ann., 1972, 21-13-1.

CHAPTER 2

ADMINISTRATION

Art. I.	In General, Sec. 2-1 thru 2-10
Art. II.	Officers and Employees, Sec. 2-11 thru 2-30
Art. III.	Committees, Sec. 2-31 thru 2-42
Art. IV.	Personnel Benefits, Sec. 2-43 thru 2-47
Art. V.	Planning Commission, Sec. 2-48 thru 2-75
Art. VI.	Board of Examiners, Sec. 2-76 thru 2-97
Art. VII.	Board of Adjustments & Appeals, Sec. 2-98 thru 2-106

ARTICLE I. IN GENERAL

Secs. 2-1 thru 2-10. Reserved.

ARTICLE II. OFFICERS AND EMPLOYEES

Sec. 2-11. City attorney - Legal authority.

The City attorney shall be the legal adviser for the City Board and other officers and shall give his opinion, in writing, to the Board of Mayor and Selectmen, upon any question of law relating to the interests of the City, and to the chief officials of the several departments of the City government upon any question of law relating to their respective offices and duties when the same is requested. He shall give legal advice orally to the municipal Board from time to time upon request.

Sec. 2-12. Same - Prosecution and defense of suits.

The City attorney shall prosecute and defend all suits in which the City is interested, except in the police court, and shall prosecute and defend suits in that court upon request by the Mayor or Chief of Police. He shall, from time to time, make such reports in relation to suits or other legal proceedings in which the City is interested as may be required of him by the Mayor and Board of Selectmen.

Sec. 2-13. Same - Title opinions, contracts, ordinances.

The City attorney shall investigate all titles to property in behalf of the City and furnish reports thereof, reduce to writing any contract to which the City is a party, and any ordinance, when requested so to do by the Board of Mayor and Selectmen.

Sec. 2-14. Assistant counsel.

Assistant counsel may be employed in any case in which the City attorney and the

Mayor and Board of Selectmen may deem it advisable.

Sec. 2-15. City Clerk - Clerk of the Board.

The City Clerk shall be Clerk of the Board of Mayor and Selectmen, shall attend all meetings, regular and called, of the Board, and shall keep in well-bound record books, to be supplied by the City, a true and correct record or minutes of the entire proceedings, all orders, motions, resolutions, ordinances, judgments and decrees of the Board.

Sec. 2-16. Same - City registrar.

The City Clerk shall also be the City registrar, and his duties as registrar shall be those prescribed by the general laws of the State of Mississippi.

Sec. 2-17. Same - Tax Collector.

The City Clerk shall also be the tax collector of the City, both for ad valorem taxes and privilege taxes.

Sec. 2-18. Same - Appointment; qualifications; bond.

The City Clerk shall be elected by the Board of Mayor and Selectmen and shall hold his office at its pleasure. He shall be a resident citizen and qualified elector of the City. Before entering upon his duties as clerk, he shall subscribe to the oath prescribed by the Constitution and enter into bond in the sum of fifteen thousand dollars (\$15,000.00) with a surety company qualified to do business in the State of Mississippi as surety, which bond shall be conditioned for the faithful performance of his duties as City Clerk and as City tax collector, and for the proper accounting for all monies coming into his hands as such.

Sec. 2-19. Same - Deposit of money.

The City Clerk shall promptly deposit all monies coming into his hands as clerk, tax collector or as an employee or officer of the City, in the depository for the funds of the City to the credit of the proper fund.

Sec. 2-20. Warrants.

(a) The City tax collector is hereby directed and required to stamp on the back of all warrants issued by the City on its various funds a statement to the effect that no taxes are due by the payee; however, if the payee in said warrant shall be indebted to the City for any taxes due, the tax collector shall not stamp said warrant until the payee shall have paid to the City all taxes legally due and owing by him.

(b) If the tax collector violates the provisions of this section, he shall be liable to the City on his official bond for the amount of the warrant wrongfully stamped by him or such amount thereof as the payee may be due for taxes.

Sec. 2-21. Deputy clerk; bond; duties.

The Board of Mayor and Selectmen shall elect an assistant or deputy City Clerk who shall work under the direction of the City Clerk and who shall possess the same qualifications as the City Clerk. The assistant City Clerk shall, before entering upon the duties of his office, enter into bond payable to the City and the City Clerk in the sum of six thousand dollars (\$6,000) with a surety company qualified to do business in the State of Mississippi as surety thereon, conditioned for the faithful performance of his duties. The assistant City Clerk shall act in the absence of the City Clerk and perform such special duties as may be assigned to him by the Board of Mayor and Selectmen.

Sec. 2-22. Tenure of employees.

All employees of the City employed by the Board of Mayor and Selectmen shall hold their appointments at the pleasure and will of the Board. All employees shall be subject to dismissal, removal or discharge without notice at any time by the said Board.

Sec. 2-23. Appointment of additional officers.

The Board of Mayor and Selectmen shall create and elect such other officers and employees of the City as it may from time to time deem necessary and proper to carry on the functions and government of the City, and shall prescribe the salaries of such employees and their duties.

Sec. 2-24. Salaries.

The salaries of all officers and employees shall be fixed by resolution of the Board of Mayor and Selectmen, and the Board shall have the right to change the salaries of any employee or officer at any time by resolution.

Sec. 2-25. Chief Administrative Officer.

Under the provisions of Mississippi Code of 1972, Section 21-3-25, there shall be a Chief Administrative Officer of the City, who shall be a full time employee of said City, who shall be appointed by the Mayor and Board of said City, and who shall serve at the discretion of the Mayor and Board of Selectmen. (Ord. of 6/11/85)

Sec. 2-26. Duties of Chief Administrative Officer

The Chief Administrative Officer shall have those duties and functions as shall be delegated to him by the Mayor and Board of Selectmen of the City by ordinance, and members of the Board shall have no administrative powers or duties which are so delegated by ordinance to the Chief Administrative Officer. The Mayor, as Chief Executive Officer of the City, will coordinate the day to day operations through the Chief Administrative Officer of the City. Subject to law, the Chief Administrative Officer shall:

- (a) direct and coordinate the activities of all City departments and provide intercommunications between departments necessary to efficiently achieve overall City objectives, goals, and Board policies, and shall provide intercommunication between all City departments and the governing authorities of the City;
- (b) direct the public personnel administration of the City, including the establishment and administration of City personnel policies and procedures;
- (c) direct and coordinate the financial affairs of the City, including budgeting, purchasing, accounting, auditing, investment of funds, issuance of bonds, tax rolls and collection and disbursement of funds;
- (d) coordinate the implementation of federal and state programs, grants, and loans;
- (e) coordinate the City planning and zoning functions of the City.
- (f) attend all Board meetings;
- (g) perform such other functions and duties as directed by the Mayor and Board of Selectmen. (Ord. of 7/11/85)

Sec. 2-27. Eligibility of CAO.

The Chief Administrative Officer may hold one (1) or more other appointive positions in the municipality; however, no person elected to the Board of Selectmen shall be eligible for the office of Chief Administrative Officer during the term for which such person was elected. The Chief Administrative Officer shall be chosen solely on the basis of experience and qualifications. (Ord. of 6/11/85)

Sec. 2-28. Compensation of CAO.

The Chief Administrative Officer shall receive such compensation as the Mayor and Board of Selectmen may determine. (Ord. of 6/11/85)

Secs. 2-29, 2-30. Reserved.

ARTICLE III. COMMITTEES

Sec. 2-31. Designated.

The Mayor, as soon as practical after taking the oath and entering upon a term of office, shall appoint the following standing committees from the members of the Board of Selectmen, each committee to consist of two members of the Board of Selectmen and the Mayor, and the Mayor shall be Chairman of each committee:

Finance Committee
Street Committee
Public Safety Committee
Utilities Committee
Public Grounds & Building Committee

The Mayor shall appoint such other committees as in the judgment of the Board of Mayor and Selectmen may from time to time be necessary.

Sec. 2-32. Finance committee.

It shall be the duty of the finance committee to prepare annually a budget to be submitted to the Board and to make periodical recommendations to the Board about the financial and fiscal affairs of the City.

Sec. 2-33. Street committee.

It shall be the duty of the committee on streets to give special attention and supervision to the streets, alleys, sidewalks, stables, culverts, streams, bridges, footways and drains, to inspect the same and the work being done thereon, and to require that all work be done according to the instructions of the Board of Mayor and Selectmen. Said committee shall see that all streets, sidewalks and bridges are kept in safe condition, and that all work is carried on and executed in a manner not to endanger any person or animal and to ensure the use of all diligence and precautionary measures necessary under the circumstances.

Sec. 2-34. Public safety committee.

It shall be the duty of the public safety committee to give attention to the fire department and police department and periodically make such recommendations as the committee may deem proper to the Board of Mayor and Selectmen with reference to the said departments.

Sec. 2-35. Utilities committee.

It shall be the duty of the utilities committee to give general supervision to the water department and electric department and sewer department to recommend to the Board of

Mayor and Selectmen the employment of a suitable superintendent, engineers and other employees of said departments and to see that they are faithful in the discharge of their duties. Said committee shall recommend from time to time the purchase of any new or additional machinery or equipment or the making of any repairs or extensions to the electric and water distribution systems and to the sewer system.

Sec. 2-36. Public buildings and grounds committee.

It shall be the duty of the public building and grounds committee to have general supervision over the public buildings owned by the City, and the public parks and playgrounds, and to make periodical recommendations to the Board of Mayor and Selectmen with reference thereto.

Sec. 2-37 thru 2-42. Reserved.

ARTICLE IV. PERSONNEL BENEFITS

Sec. 2-43. Social security and state retirement - Adopted.

It is the policy and purpose of the City to extend the provisions of Articles I and II, Senate Bill 273, Regular Session Mississippi Legislature of 1952, providing Social Security and State Retirement to eligible employees and officers of the City. The officers of the City shall take such action as may be required by applicable state or federal laws or regulations.

Sec. 2-44. Same - Execution of agreement.

The Mayor and City Clerk are authorized and directed to execute an agreement with the Public Employee's Retirement System of Mississippi to secure coverage of eligible employees.

Sec. 2-45. Same - Withholdings.

Withholdings from salaries or wages of employees for the purposes of Section 2-43 are authorized to be made in the amounts and at such times as may be required by applicable state and federal laws and regulations and shall be paid over to the state agency in such amounts and at such times as are designated by state laws and regulations.

Sec. 2-46. Same - Employer contributions.

Employer contributions and administrative expense shall be paid to the state agency in accordance with applicable state laws and regulations from amounts appropriated for such purposes.

Sec. 2-47. Same - Records and reports.

The City Clerk shall maintain such records and submit such reports as may be required by applicable state and federal laws or regulations.

Secs. 2-48 thru 2-57. Reserved.

ARTICLE V. PLANNING COMMISSION

Sec. 2-58. Appointment; duties.

The West Point Planning Commission is hereby established, whose duty shall be (1) to prepare and propose a master plan for physical development of the City of West Point, Mississippi, or part thereof; (2) to administer and carry out the functions and responsibilities assigned to and placed upon said Planning Commission by ordinance entitled ~~A~~The Development Code of the City of West Point, Mississippi~~@~~ as the same now or as may be amended.

Sec. 2-59. Organization.

The Commission shall elect from its own membership a Chairman, a secretary, and such other officers as it deems appropriate pursuant to Chapter 3 of The Development Code of the City of West Point, Mississippi. (Ord. of 12/14/99)

Sec. 2-60. Procedures.

The Planning Commission shall adopt rules necessary for the conduct of its affairs, and in keeping with the provisions of this article. Meetings shall be held at the call of the Chairman, and at such other times as the Commission may determine. The Chairman, or in his absence, the Vice Chairman, shall conduct the meetings, which shall be open to the public. The Commission shall keep minutes of its proceedings, showing the vote of each member on each question, or, if absent or failing to vote, indicating such fact, and it shall keep records of its examinations and other official acts, all of which shall be public record and be filed in the office of the commission. (Ord. of 7/13/82, Sec. III)

Sec. 2-61. Administrative review of plans.

The Commission shall review all applications for the subdivision and/or development of land in the manner provided for in the Development Code. (Development Code, Chapter 3)

Editor's note--Subdivision Regulations are not included in this Code of Ordinances.

Sec. 2-62. Master Plan.

The Commission shall prepare and propose a master plan, and provide for its modification, amendment and updating, for the physical development of the City of West Point, or part thereof. (Development Code, Chapter 3)

Sec. 2-63. Variances.

The Commission shall hear and recommend, in specific cases, such variance from

the terms of the Development Code as will not be contrary to the public's interest, where owing to special conditions, a literal enforcement to the provisions of the Ordinance would result in unnecessary hardship. The Commission shall hear only such variances, modifications and waivers as it is specifically authorized to pass on by the terms of the Development Code. (Development Code, Chapter 3)

Sec. 2-64. Decision of the Commission.

In exercising the above mentioned powers, the concurring vote of four members of the Commission shall be necessary to decide on any matter upon which it is required to pass under this article, except that to affect any variation in the application of the term of the Subdivision Regulations, the concurring vote of five members of the Commission shall be necessary for the approval of any variance, modification, or waiver. (Development Code, Chapter 3)

Secs. 2-65 thru 2-75. Reserved.

ARTICLE VI. BOARD OF EXAMINERS

Sec. 2-76. Appointment.

There is hereby created a board to be known as the Board of Examiners, which shall consist of the Building Official, who shall serve as Chairman, two (2) employees of the Water and Light Department, who shall serve two (2) year terms and may serve consecutive terms, and one (1) master electrician and one (1) master plumber or mechanical contractor, who shall each serve one-year terms and shall not succeed themselves. The member of the Board of Examiners shall be appointed by the Board of Mayor and Selectmen. (Ord. of 7-13-82, Sec. I)

Sec. 2-77. Organization.

The Board shall elect from its own membership a vice chairman, a secretary, and such other officers as it deems appropriate. Officers shall serve annual terms and may succeed themselves. For the conduct of any meeting and the taking of any action, a quorum shall be present and shall consist of not less than a majority of all members of the Board. (Ord. of 7-13-82, Sec. II)

Sec. 2-78. Procedures.

The Board of Examiners shall adopt rules necessary for the conduct of its affairs, and in keeping with the provisions of this article. Meetings shall be held at the call of the Chairman, and at such other times as the Board may determine. The chairman, or in his absence, the vice chairman, shall conduct the meetings, which shall be open to the public. The Board shall keep minutes of its proceedings, showing the vote of each member on each question, or, if absent or failing to vote, indicating such , and it shall keep records of its examinations and other official acts, all of which shall be public record and be filed in the office of the Board. (Ord. of 7-13-82, Sec. III)

Sec. 2-79. Duties and Authorization of Board.

It shall be the duty of the Board of Examiners of the City to examine and pass upon the qualifications of all persons who desire to do electrical wiring, repairing, electrical construction, plumbing, or mechanical construction within the area served with water by the City.

There shall be three (3) categories in which the Board of Examiners will issue certification for. These being Master, Journeyman, and Apprenticeship in the Electrical, Plumbing and Mechanical construction.

MASTER LICENSE: License issued to persons who are in business for themselves, or who are employed by a company.

JOURNEYMAN: Issued to persons who are employed by a company who is

licensed by the City. Must be licensed for at least one (1) year before taking the Master certification examination.

APPRENTICE LICENSE: Issued to persons who must be on the payroll of a licensed company. The term of apprenticeship will be for one (1) year. Upon completion of the one (1) year period, the apprentice may apply for the Journeyman certification examination.

The license of each Master, Journeyman, and Apprentice will be renewed each year. This will be done with the Board of Examiners of the City. A renewal fee shall be paid to the City in the amount of five dollars (\$5.00) before any license can be renewed. (Ord. of 7-13-82, Sec. IV; Ord. of 3-12-85, Sec. I)

Sec. 2-79A. Examinations.

Examinations to be held on a day in January and in July of each calendar year between the hours of 8:00 a.m. and 4:00 p.m. or at such other time and hour as may be fixed by the Board. Notice of such examination shall be published in a local newspaper of West Point, Mississippi, not more than thirty (30) days nor less than twenty (20) days prior to the date of such examination, setting the time, place and date of such examination.

Any applicant desiring to do installation, repair, or maintenance of electrical wiring, plumbing or mechanical construction within the area served water by the City, shall file in writing his intention to take such examination with the Building Official and before being permitted to take the examination shall pay to the Board of Examiners the sum of forty dollars (\$40.00). Said payment shall be collected by the Building Official. The examination shall be administered by the Board of Examiners. The examination shall be such as to satisfy the Board of Examiners of an applicant's qualifications for a certificate. The minimum passing grade for said examination shall be 70. Whenever any applicant shall pass the required examination, the Board shall issue to the applicant a certificate authorizing him to perform installation, repair, or maintenance of electrical wiring, plumbing, or mechanical construction with the exception of the apprentice, who must be under the direct supervision of the Master licensee.

Sec. 2-80. Revocation of certificate; validity of license.

Said certificate may be recalled or revoked by the Board should it, at any time, become satisfied that the holder of a certificate is lacking in proper or adequate knowledge of electrical, plumbing or mechanical work or construction or fails to comply with the rules and regulations as provided by the Code of the City. If the applicant shall pass the examination successfully, he shall be declared competent to perform the duties which he will be called upon to perform and said Board shall issue to the applicant a certificate designating him as a duly qualified Master, Journeyman, and Apprentice in the three (3) following fields: Electrical, Plumbing or Mechanical. (Ord. of 7-13-82, Sec. V; Ord. of 3-12-85, Sec. I)

(Cross reference--Suspension, revocation, Sec. 2-86.)

Sec. 2-81. Appeal.

Whenever the Board shall, after examining an applicant, find that such applicant has failed to pass the examination, or is otherwise unqualified, the Board shall refuse to issue a certificate to such applicant and shall notify such applicant of this result by written notice to such applicant's last known address. Such applicant, within ten (10) days from the date such notice was placed in the mail, shall have a right to appeal to the Board of Mayor and Selectmen. Such appeal shall be in writing and shall be delivered to said Board of Mayor and Selectmen. The written appeal shall state the applicant's position with regard to the Board of Examiners' refusal to issue said certificate and shall state the specific relief sought by the applicant. The Board of Mayor and Selectmen shall schedule a hearing to be held at the next regularly scheduled meeting of said Board and shall notify applicant of the date, time and place of the hearing. Applicant shall have the right to appear before said Board or to be represented by any other person. The Board of Mayor and Selectmen shall hear the evidence and decide either in favor of the applicant or against the applicant. In the event such appeal is taken, the proceedings shall be tried as a de novo proceeding. (Ord. of 12/14/99)

Sec. 2-82. Issuance of license.

Upon receipt of his certificate, any person passing the examination for a license required by this article, shall present such certificate to the City Clerk. Upon presentation of such certificate, his bond, and payment of the required fee, the City Clerk shall issue to such person the license applied for. (Ord. of 7-13-82, Sec. VIII)

Sec. 2-83. Privilege taxes.

Any person obtaining a license under the provisions of this article shall pay to the City such privilege taxes as are required by State law. (Ord. of 7-13-82, Sec. VIII).

(Cross reference--Taxation, generally, Chap. 20)

Sec. 2-84. Bond.

All persons, before doing any electrical wiring, plumbing or mechanical work within the area served with water by the City, shall furnish the City a surety bond (in form and with surety or sureties acceptable to the Building Official) in the penal sum of one thousand dollars (\$1,000) for electricians, and five thousand dollars (\$5,000) for plumbers and mechanical contractors, conditioned upon the installation of electrical wiring in accordance with the requirements of this article, and further conditioned that such person shall, without further cost to the person for whom the work was done, remedy any defective or faulty work, and to replace any inferior or non-standard material installed by him or by his employees, and such bond as is furnished shall be liable for the correction of the faulty work or the replacement of the inferior or non-standard material, and any additional cost,

arising from above mentioned causes. (Ord. of 7-13-82, Sec. IX)

Sec. 2-85. Failure to correct violations.

Any licensee under this article who fails to comply with, or who violates any of the provisions of this article, shall be notified by writing by the Building Official of such failure or violation and said licensee shall, within five (5) days thereafter, or within such other time, either more or less, as may be required by the Building Official in such notice, but not exceeding thirty (30) days after notice, correct and remedy any such failure or violations. (Ord. of 7/13/82, Sec. X)

Sec. 2-86. Suspension, revocation.

The Board may suspend or revoke any license issued under the provisions of this article for the violation by the licensee, or any employee of the licensee, of any applicable provision of this Code. (Ord. of 7/13/82, Sec. XI)

Cross Reference--Revocation of certificate, Sec. 2-80

Secs. 2-87 thru 2-97. Reserved.

ARTICLE VII. BOARD OF ADJUSTMENTS AND APPEALS

This Article is hereby repealed. (Ord. of 12/14/99)

CHAPTER 3

ALCOHOLIC BEVERAGES

State Law Reference--Regulation and enforcement by municipalities, general, Miss. Code Ann., 1972, Sec. 67-3-65.

Sec. 3-1. Business days.

All places of business licensed to sell intoxicating liquor by the bottle or package may be open seven days a week except on days on which general, special or primary elections are held in the City.

Sec. 3-2. Hours of sale - Package stores.

All places of business licensed to sell intoxicating liquor by the bottle or package shall remain closed between the hours of 10:00 o'clock p.m. and 10:00 o'clock a.m. the following day.

Sec. 3-3. Same - Sale by the drink.

All places of business which are licensed to sell intoxicating liquor by the drink, or a mixture, which includes intoxicating liquor, by the drink, shall not sell such between the hours of 12:00 midnight and 10:00 o'clock a.m. the following day, and shall not sell such on any Sunday or any day in which any election is held, provided that beer sales shall be governed by Section 3-4.

Sec. 3-4. Same - Beer.

All places of business licensed to sell beer shall not sell beer prior to 7:00 o'clock a.m. or after 12:00 o'clock p.m. on any day, and shall not sell beer on any day in which an election is held.

In places of business where beer is sold to be consumed on the premises, all bottles, glasses and containers in which it is served shall be removed from the tables, counters, shelves and public view not later than 12:30 o'clock p.m. of each day.

Sec. 3-5. Consumption at fire stations.

No intoxicating liquor or beer shall be kept, held, consumed or stored at any fire station in the City or on the public grounds adjacent thereto.

Sec. 3-6. Open Containers.

It shall be unlawful within the City Limits of the City of West Point, Mississippi, for any person to drink or have in his possession in opened containers any beer, whiskey, and

other alcoholic beverages except inside a building or on the premises of private dwelling houses and except as permitted under State law. (Ord. of 4/10/94)

CHAPTER 4

ANIMALS AND FOWL

Article I. In General

- Sec. 4-1.** Definitions
- Sec. 4-2.** Police department, animal control officer to enforce chapter provisions; interfering with such officers.
- Sec. 4-3.** Penalty for violation of chapter.
- Sec. 4-4.** Cropping dogs= ears or performing other surgical procedure.
- Sec. 4-5.** Leaving animals unattended inside motor vehicle; authority of animal control division to remove from vehicle.
- Sec. 4-6.** Operator of vehicle striking animal to report accident.
- Sec. 4-7.** Keeping of livestock.
- Sec. 4-8.** Keeping of wild animals.
- Sec. 4-9.** Keeping of vicious animals.
- Sec. 4-10.** Keeping for breeding purposes.
- Sec. 4-11.** Responsibility of owner generally.
- Sec. 4-12.** Nuisance Animals.
- Sec. 4-13.** Running at large.
- Sec. 4-14.** Removal of wastes.
- Sec. 4-15.** Burial.
- Sec. 4-16.** Abandonment.
- Sec. 4-17.** Giving away as prizes or inducements to trade.
- Sec. 4-18.** Selling chickens or ducklings less than eight weeks of age.
- Sec. 4-19.** Pet stores.
- Sec. 4-20.** Performing animal exhibitions or circuses.
- Sec. 4-21.** Elimination of animals-Authorized in certain cases.
- Sec. 4-22.** Same-Certification of personnel authorized to discharge firearms.

Article II. Impoundment

- Sec. 4-23.** Generally.
- Sec. 4-24.** Livestock; redemption; fees.
- Sec. 4-25.** Impoundment of animals attacking, injuring persons; destruction of rabid animals.

Article III. Rabies Control

- Sec. 4-26.** Penalty for violation of article.
- Sec. 4-27.** Vaccination of dogs and cats against rabies required.
- Sec. 4-28.** Metal and paper certificates thereof.

Article IV. Registration

- Sec. 4-29** Registration procedures and requirements.
- Sec. 4-30.** Application for registration.
- Sec. 4-31.** Validity of tags.
- Sec. 4-32.** Effective Date.

***Cross reference**-Health and sanitation, Ch. 66; Jackson Zoological Park 90-36 et seq.

State law references-Municipal authority to control running of animals at large, establish city pounds, MCA 1972, 21-19-9; livestock generally, MCA 69-13-1 et seq.; cruelty to animals MCA 1972, 97-41-1 et seq.

Animals

ARTICLE I. IN GENERAL

Sec. 4-1. Definitions.

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

Animal means any live, vertebrate creature, domestic or wild.

Animal control, division of means the review and enforcement authority under the supervision of the director of sanitation, and empowered to administer this chapter.

Animal Control Officer means any person designated by the city as a law enforcement or animal control officer who is qualified to perform such duties under the laws of this state.

Animal shelter means any facility operated by the City of West Point, or its authorized agents, for the purpose of impounding or caring for animals held under the authority of this chapter or state law.

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

Kennel means any premises wherein any person engages in the business of boarding, breeding, buying, letting for hire, training for a fee, or selling dogs or cats, or where there are regularly kept four or more adult dogs or cats, or any combination thereof.

Owner means any person, partnership, or corporation owning, keeping, or harboring one or more animals. An animal shall be deemed to be harbored if it is fed or sheltered.

Performing animal exhibition means any spectacle, display, act, or event, other than a circus, in which performing animals are used.

Pet means any animal kept for pleasure rather than utility.

Public nuisance means any animal which:

- (1) Molests passersby or passing vehicles;
- (2) Attacks other animals;
- (3) Trespasses on school grounds, in city parks;
- (4) Is repeatedly at large;
- (5) Damages private or public property;
- (6) Barks, whines, or howls in an excessive, continuous, or untimely fashion; or
- (7) Is allowed by its owner to become a nuisance to people or other animal.
- (8) Pilfers or strews garbage placed for collection.

Restraint means any animal=s being secured by a leash or lead of less than six feet, within the fenced real property limits of its owner, or tethered in such a way that the animal is within the real property limits of its owner.

Running at large means any animal=s being not under restraint.

Veterinary hospital means any establishment maintained and operated by a licensed veterinarian for

surgery, diagnosis and treatment of diseases and injuries of animals.

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

Wild animal means any live monkey (non-human primate), raccoon, bear, skunk, fox, poisonous snake, leopard, panther, tiger, lion, lynx, or any other warm-blooded animal which can normally be found in the wild state and is not ordinarily domesticated by man, whether raised in captivity or in the wild.

Zoological park means any facility, other than a pet show, roadside zoo, or kennel, displaying or exhibiting one or more species of non-domesticated animal and operated by a person, partnership, corporation, or government agency.

Sec. 4-2. Animal control officer to enforce chapter provisions; interfering with such officers.

- (a) The civil and criminal provisions of this chapter shall be enforced by the superintendent of animal control and the city police department.
- (b) It shall be a violation of this chapter to interfere with an animal control officer in the performance of his duties.

Sec. 4-3. Penalty for violation of chapter.

Any person violating any provision of this chapter, except as provided for in sections 4-13 (C) and 4-26, shall be deemed guilty of a misdemeanor and shall be punished by a fine of not less than \$25.00 nor more than \$500.00 or imprisonment in the city jail not to exceed 30 days, or by both fine and imprisonment. If any violation is continuing, each day's violation shall be deemed a separate violation.

Sec. 4-4. Cropping dogs' ears or performing other surgical procedure.

No person shall crop a dog's ear or perform any other major surgical procedures except a licensed veterinarian.

Sec. 4-5. Leaving animals unattended inside motor vehicle; authority of animal control division to remove from vehicle.

It shall be unlawful to leave an animal unattended inside a motor vehicle when such action is reasonably potentially harmful to the animal. The division of animal control shall have the authority to remove an animal from such a vehicle.

Sec. 4-6. Operator of vehicle striking animal to report accident.

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

Sec. 4-7. Keeping of livestock.

(a) *Horses, cows, mules or cattle.* It shall be unlawful for any person to keep within the corporate limits of the city a cow, mule, horse, or any cattle in any barn, stable or on a lot, unless the owner of such animals shall have at least one acre of land per cow, mule or horse.

(b) *Swine.* The keeping of swine within any area of the city limits that is not zoned for industrial purposes is hereby prohibited.

Section 4-8. Keeping of wild animals.

(a) *Display or exhibition.* No person shall keep or permit to be kept on his premises, or in any roadside zoo or pet store, any wild animal for display or for exhibition purposes, whether gratuitously or for a fee. This subsection shall not be construed to apply to zoological parks, performing animal exhibitions, or circuses.

(b) *Pets.* No person shall keep or permit to be kept any wild animal as a pet.

(c) *Enforcement of section.* The superintendent of animal control shall have the power to release, order the release, or seize any wild animal being kept in violation of this chapter, federal law, or state statute.

Sec. 4-9. Keeping of vicious animals.

The following breeds of dogs have been declared vicious animals: (1) Rottweilers, (2) pit bulls, (3) any mixed cross-breed german shephards, and (4) chows.

(a) *Confining and muzzling required.* Every vicious animal, as determined by the superintendent of animal control, shall be confined by the owner within a building or secure enclosure and shall be securely muzzled or caged whenever off the premises of its owner.

(b) *Displaying or exhibiting.* No person shall keep or permit to be kept on his premises, or in any roadside zoo or pet store, any vicious animal for display or for exhibition purposes, whether gratuitously or for a fee. This subsection shall not

be construed to apply to zoological parks, performing animal exhibitions, or circuses.

Sec. 4-10. Reserved.

Sec. 4-11. Responsibility of owner generally.

No owner shall fail to provide his animals with sufficient good and wholesome food and water, proper shelter and protection from the weather, veterinary care when needed to prevent suffering, and with humane care and treatment.

Sec. 4-12. Nuisances Animals.

Prohibited. It shall be unlawful for any person to keep within the corporate limits of the City of West Point any animal that is determined to be a public nuisance as defined by Section 4.1 hereof.

Determination. Any animal may be declared to be a public nuisance by the Superintendent of Animal Control:
if said Superintendent personally witnesses the animal engaged in an activity classified as a public nuisance activity by Section 4.1 hereof; or
upon written affidavit by any person that the animal engages in or has engaged in an activity classified as a public nuisance activity by Section 4.1 hereof.

Impoundment. Nuisance animals may be impounded as provided in sections 4-23 and 4-24, provided however, any impounded nuisance animal that is redeemed by the owner shall be permanently removed forthwith to a location outside the corporate limits of the City of West Point.

Subsequent Seizures. Any nuisance animal that has been declared a Public Nuisance, and is seized and impounded by the City a second or subsequent time shall not be returned to the owner but shall be placed for adoption outside the corporate limits or otherwise disposed of in accordance of Section 4.23(c.) hereof.

Sec. 4-13. Running at large.

Prohibited. It shall be unlawful for the owner of any animal to permit it to run at large within the corporate limits of the city.

Impoundment of animals at large. Animals running at large may be impounded as provided in sections 4-23 and 4-24.

Violation notice; penalty; failure to pay; warrant; penalty for violation of section. In

addition to, or in lieu of, impounding an animal found at large, the animal control officer or police officer may issue to the known owner of such animal a notice of ordinance violation. Such notice shall impose upon the owner a penalty of \$50.00 which may, at the discretion of the animal owner, be paid to the division of animal control within 72 hours in full satisfaction of the assessed penalty. If such penalty is not paid within the time period prescribed, a criminal warrant shall be initiated before a magistrate, and, upon conviction of a violation of this section, the owner shall be punished as provided in Section 4-3.

Sec. 4-14. Removal of wastes.

The owner of every animal shall be responsible for the removal of any excreta deposited by his animal on public walks, recreation areas, or private property. It shall be unlawful for the owner of any property to allow unsanitary, unsightly, or malodorous conditions to develop on his property due to the keeping, maintaining, owning, or harboring of animals.

Sec. 4-15. Burial.

Upon obtaining the written consent of the superintendent of animal control, a citizen may bury within his real property limits a deceased pet if such burial is to be a minimum depth of two feet.

Sec. 4-16. Abandonment.

No owner of an animal shall abandon such animal.

Sec. 4-17. Giving away as prizes or inducements to trade.

No person shall give away any live animal, fish, reptile, or bird as a prize for, or as an inducement to enter, any contest, game, or other competition, or as an inducement to enter a place of amusement; or offer such vertebrate as an incentive to enter into any business agreement whereby the offer was for the purpose of attracting trade.

Sec. 4-18. Selling chickens or ducklings less than eight weeks of age.

Chickens or ducklings younger than eight weeks of age may not be sold in quantities of less than ten to a single purchaser, nor shall any such animals be dyed.

Sec. 4-19. Pet Stores.

Stores which deal in live pets may be subject to inspection on demand by an animal control officer.

Sec. 4-20. Performing animal exhibitions or circuses.

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

(b) *Equipment; inspection.* All equipment used on a performing animal shall fit properly and be in good working condition. An animal control officer shall be authorized to inspect the premises at any time on demand.

Sec. 4-21. Elimination of animals-Authorized in certain cases.

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

(1) The animal is running at large.

(2) Attempts to peacefully capture the animal have been made and proved unsuccessful.

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

Sec. 4-22. Same-Certification of personnel authorized to discharge firearms.

Personnel empowered by this chapter or section to discharge firearms within the city limits shall qualify with the police range at least annually and may not discharge any firearms within the scope of their employment unless and until the range officer has issued or renewed the appropriate certification. Such certification shall be issued based on the following considerations:

(1) Thorough instruction in the operation of the type of firearms issued to the division of animal control.

(2) Thorough knowledge of all safety procedures.

Competent performance on the firing range.

Such other tests or qualifications as the police range officer in his discretion deems appropriate.

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

ARTICLE II. IMPOUNDMENT

Sec. 4-23. Generally.

(a) *Authority to seize; confinement period.* An unrestrained dog or a nuisance animal shall be taken by the police or animal control officers and impounded in an enclosure or animal shelter kept for that purpose, to be provided and maintained by the city, and there confined in a humane manner. Such an animal shall be kept for at least five (5) days unless sooner claimed by the owner. Impounded dogs and cats not suffering from an incurable injury or disease shall be kept for not less than five (5) working days.

(b) *Notice to owner; redemption; fees.* If by a tag or other means, the owner of an impounded animal can be identified, the animal control officer shall, immediately upon impoundment, notify the owner by telephone or by mail. Within five (5) days, the rightful owner of any animal held under this article may, provided the animal is properly vaccinated, licensed and tagged, obtain the animal upon payment of a pound fee as provided in this subsection; provided, however, that if an unvaccinated animal is claimed by the owner, the owner must make arrangements for the vaccination of the animal satisfactory to the superintendent of animal control. An owner reclaiming an impounded animal shall pay a fee as follows:

For catsYYYYY...\$10.00

Plus, for each day of impoundmentYY... ... 3.00

(2) For dogsYYYYY..\$20.00

Plus, for each day of impoundmentYYYY 4.00

(c) *Disposition if not reclaimed by owner; waiver of waiting period.* Any animal not reclaimed by its owner within five (5) working days shall become the property of the city and shall be placed for adoption in a suitable home for a fee of \$20.00 for each dog or \$10.00 for each cat, or humanely euthanized. If an unclaimed animal is

adopted, the adoptive owner must make arrangements for the vaccination of the animal satisfactory to the superintendent of animal control. The five-day waiting period is waived for a vicious or feral animal, or for any animal suffering from an incurable disease. Pursuant to MCA 1972, 97-41-3, as amended, an injured or neglected animal may be humanely euthanized without any waiting period

(d) *Additional proceedings against owner authorized.* The owner of an impounded animal may also be proceeded against for violation of this chapter.

Sec. 4-24. Livestock; redemption; fees.

Any hog, cow, bull, sheep, goat, horse, or mule found straying or running at large shall be captured and impounded in an enclosure provided and maintained for such purpose by the division of animal control. Within five days of its capture, the rightful owner of any animal so impounded may claim and obtain the release of the same by payment of an impoundment fee in the amount of \$50.00 for the first offense, \$75.00 for the second offense, and \$100.00 for third or greater offense, and a boarding fee in the amount of \$5.00 per day for each day, or fraction thereof, during which the animal has remained impounded. If any such animal is not claimed and redeemed by its owner within the five-day period, the animal shall be sold upon sealed bids to the highest and best bidder in satisfaction of all fees and expenses therewith incurred.

Sec. 4-25. Impoundment of animals attacking, injuring persons; destruction of rabid animals.

In case of an attack by any animal resulting in injury to any person, such animal shall be impounded by the animal control department for observation for a period of ten days, or the owner of such animal may, upon notification to the animal control department, have such animal impounded for ten days with a private veterinarian licensed to practice veterinary medicine within the state. If at the end of such period of time, or any time prior thereto, it is determined that the animal has rabies, such animal shall be immediately destroyed.

Sec. 4-26. Penalty for violation of article.

The failure to comply with this article shall constitute a misdemeanor, and the offender shall, on conviction, be fined \$5.00 for the first offense, \$25.00 for the second offense, and \$50.00 for the third offense. It shall be the duty of the division of animal control to enforce this article.

ARTICLE III. RABIES CONTROL

Sec. 4-27. Vaccination of dogs and cats against rabies required.

Any person owning, keeping, harboring, or having custody of any dog or cat three months of age or older within the city shall have that animal vaccinated annually for rabies with an anti-rabies virus (vaccine) properly administered by a duly authorized veterinarian. It shall be unlawful for any person to own or have in possession any dog or cat not so vaccinated. Every dog or cat must be so vaccinated immediately upon attaining the age of three months and every year thereafter.

Sec. 4-28. Metal and paper certificates thereof.

A metal certificate of vaccination with the year of vaccination, a certificate number and the name, address and phone number of the vaccinating veterinarian must be securely attached to a collar or harness that must be worn by the dog at all times. In addition to the metal certificate, a paper certificate must be issued stating the name of the owner, the address of the owner, a description of the dog or cat, the date of the vaccination, the number of the metal certificate and the kind of vaccine used.

ARTICLE IV. REGISTRATION

Sec. 4-29. Registration procedures and requirements.

No owner shall have within the city any dog or cat three months of age or older unless such dog or cat is currently registered with animal control. A current metal registration certificate, issued by licensed, practicing veterinarian authorized by animal control to issue the certificate, must be affixed to a collar or harness that must be worn by the dog at all times. No dog or cat shall be registered until it has a current vaccination.

Sec. 4-30. Application for registration.

Application for issuance of registration must be made by the owner, in writing or in person, to a licensed, practicing veterinarian authorized by Animal Control and be accompanied by a fee of five dollars (\$5.00), unless the cat or dog being registered has been neutered or spayed and proof of such surgical sterilization can be shown to a veterinarian authorized to issue such registrations; then the fee will be three dollars (\$3.00). If the original current registration certificate is lost or destroyed, the owner may obtain a duplicate registration from the Supervisor of Animal Control by paying a fee of two dollars (\$2.00). Registration fees collected by veterinarians pursuant to this section shall be turned over to the City of West Point monthly or on some other periodic schedule approved by the City.

Sec. 4-31. Validity of tags.

A registration or vaccination certificate and tag shall be valid only for the animal for which it was issued.

Sec. 4-32. Effective date.

This ordinance shall be effective from and after its adoption by the Board of Mayor and Selectmen and publication as required by law.

CHAPTER 5

BUSINESS AND BUSINESS REGULATIONS

- Art. I. Local Privilege Tax Code, Sec. 5-1 thru 5-12
- Art. II. Massage Parlors and Masseur/Masseuse, Sec. 5-13 thru 5-34
- Art. III. Transient Vendors, Sec. 5-35 thru 5-44
- Art. IV. Licensing of Amusement Devices
- Art. V. Adult Entertainment Ordinance

ARTICLE I. LOCAL PRIVILEGE TAX CODE

Sec. 5-1. Adoption of state local privilege tax code.

The state local privilege tax code, Mississippi Code Annotated, sections 27-17-1 thru 27-17-521, is hereby adopted as the privilege tax code of the City.

State law reference--Privilege licenses, generally, MS Code Ann., 1972, Sec. 27-17-1, et seq.

Sec. 5-2. Expiration of privilege licenses.

Pursuant to Section 27-17-463, MS Code, 1972, Amended, all privilege licenses issued by the City of West Point, Mississippi, pursuant to Title 27, Chapter 17, MS Code, 1972, Amended, shall expire one year from the date of issuance. (Ord. of 6-14/88, Sec.1)

Secs. 5-3 thru 5-12. Reserved.

ARTICLE II. MASSAGE PARLORS AND MASSEUR/MASSEUSE

Sec. 5-13. Definitions.

For the purposes of this article, a massage parlor is defined as "any place where members of the general public or any number thereof, may, for remedial or hygienic purposes, have their body rubbed, stroked, kneaded, manipulated or tapped with the hand or a mechanical instrument;" and a masseur is defined as a "man who practices this trade" and a masseuse is a "female practitioner thereof." It shall be unlawful and a violation of this article for a masseur/masseuse to massage the genital area of any patron of a massage parlor. (Ord. of 5/9/78, Sec.2)

Sec. 5-14. Permit required.

It shall be unlawful for any person to engage in the operation of a massage parlor or to operate as a masseur/masseuse without having first obtained a permit so to do. (Ord. of 5/9/78, Sec.1)

Sec. 5-15. Application for permit.

All applications for a permit as required by this article shall be made in writing under oath to the marshal of the City and shall specify the location of the massage parlor, giving the name and address of the owner and any and all persons having any ownership therein, as well as the name and address of any and all persons proposing to operate same, the name and address of each masseur/masseuse to be employed and all such other information as may be require by the marshal from time to time.

In addition to the foregoing information, any masseur/masseuse shall furnish to the marshal of the City a recent picture of themselves. (Ord. of 5/9/78, Sec. 3)

Sec. 5-16. Investigation and inspection; health certificate.

The marshal of the City, before recommending to the City council the issuance of a permit for either a massage parlor or a masseur/masseuse, shall thoroughly investigate the character and reputation of the owner or owners, operators, masseur/masseuse and shall inspect the premises where the massage parlor is proposed to be operated.

All persons engaging in the operation of massage parlors, as well as each masseur/masseuse, shall obtain at least once a year and as often thereafter as the County Health Officer may require, a health certificate from the County Health Department before engaging or continuing in the operation of a massage parlor or practicing the trade of masseur/masseuse, which shall be filed with the marshal of the City. (Ord. of 5/9/78, Sec. 4)

Sec. 5-17. Qualifications of permit holders.

No license shall be issued to an operator or a masseuse/masseur who is not an adult bonafide resident citizen of the City of West Point, Mississippi, at the time of the application; who has been denied an application either to practice the trade of masseur/masseuse or to operate a massage parlor within the past five (5) years; has been convicted of a felony or a violation of the liquor or drug laws of the State of or who has been convicted of the gambling laws of this State or of any crime either in State or Federal Court involving moral turpitude.

When a person holding a permit to either operate a massage parlor or to practice the trade of a masseur/masseuse moves his domicile from the City of West Point, Mississippi, he shall immediately forfeit any permit he holds under this article. (Ord. of 5/9/78, Sec. 5)

Sec. 5-18. Periodic inspections.

The marshal of the City shall at various times cause each massage parlor to be inspected by the County Health officer and any massage parlor found to be operating in an unsanitary or unhealthful manner shall immediately forfeit its permit, and such permit shall remain forfeited until such time as the County Health Officer shall certify that the aforesaid deficiency has been fully and adequately corrected. (Ord. of 5/9/78, Sec. 6)

Sec. 5-19. Penalties; forfeiture of license.

(a) Any person convicted of violating any of the terms of this article shall be guilty of a misdemeanor and shall be punished by a fine not exceeding three hundred dollars (\$300.00) or by imprisonment not to exceed ninety (90) days or both such fine and imprisonment. Each day of any violation thereof shall constitute a separate offense.

(b) In addition to any other penalty provided for the violation of this article, any person holding a license thereunder who violates any provision thereof shall forfeit said license after a hearing thereon before the marshal of the City to be held after notice served together with a copy of the facts constituting such violation. (Ord. of 5/9/78, Sec. 7)

Sec. 5-20. Term of license; fee.

No license issued under the terms of this article shall be valid for a period of more than one year following the date of the issuance thereof, and any applicant applying for a permit to either operate a massage parlor or to follow the trade of a masseur/masseuse shall pay a fee of twenty-five dollars (\$25.00) therefor. (Ord. of 5/9/79, Sec. 8)

Sec. 5-21. Applicability of article.

The provisions of this article shall not apply to any medical doctor licensed as such by the State of Mississippi, physical therapist licensed by the State of Mississippi, chiropractor, a person training an athletic team, or athletes in public schools, private schools and organized recreation department of the City of West Point. (Ord. of 5/9/78, Sec.9)

Sec. 5-22. Business hours.

No massage parlor covered by this article shall conduct any business on Sunday and shall remain open on other days only between the hours of 9:00 AM and 10:30 PM. (Ord. of 5/9/78, Sec. 10)

Sec. 5-23. Compliance with technical codes.

All massage parlors shall fully comply with all fire, building, electrical, plumbing and safety regulations of the City. (Ord. of 5/9/78, Sec. 11)

Secs. 5-24 thru 5-34. Reserved.

ARTICLE III. TRANSIENT VENDORS

Sec. 5-35. Terms defined.

Transient purchaser of precious metals, stones and gems. A transient purchaser of precious metals, stones and gems is any person not a resident of the City of West Point, Mississippi, who opens an office, center or location in any hotel or motel room, rooming house, parking lot, club, house, storehouse, or other place or who solicits from door to door for the purpose of purchasing precious metal, stones and gems and who does not own said premises or is not the holder of a formal lease thereon for a period of not less than two months and at a rental of not less than \$300.00 per month. The definition does not include any merchant or retail store domiciled in the City of West Point or engaged in business in the City who is the owner of the premises or is a holder of a formal lease thereon for a period of not less than two months and a rental of not less than \$300.00 per month and who has complied with all privilege tax laws of the State of Mississippi and the City of West Point.

Precious Metals. Precious metals shall include but not be limited to gold, silver, bronze, brass, pewter, nickel, or any combination or alloy thereof including silver coins, gold coins or any coins containing any amount whatsoever of silver, gold, nickel, pewter or other alloy.

Precious stones and gems. Precious stones and gems shall include but not be limited to diamonds, sapphires, rubies, opals, pearls, or any other stone or gem hat has value. (Ord. of 12/9/80, Sec. 1-3)

Sec. 5-36. Required maintenance in unchanged form.

It shall be unlawful for any person, firm or corporation, transient or permanent resident, acquiring, purchasing or otherwise dealing in precious metals, gems, stones, antique, used or scrap jewelry, flatware, silverware, silver, gold or other precious meals in whatever form, for a period of five (5) days from the date of said purchase or other acquisition, to sell, exchange, barter or remove from the place in which said business is conducted or to change the form of any such item by remounting, melting, cutting up or otherwise to change the form of any of said items described herein.

During the five-day period set forth, all items shall be kept physically separated according to the date of purchase or other acquisition and shall not be co-mingled with any other personalty. (Ord. of 12/9/80, Sec. 4)

Sec. 5-37. Log requirements.

Every person, firm or corporation dealing in the items described in Section 5-35, transient or permanent resident, shall maintain a log in duplicate and shall enter on said log a clear and accurate description of any items described in Section 5-35 which are purchased or otherwise acquired and the date and amount of money or other things of value paid for or accepted for said items and the name, race, sex, driver's license number, including the state of issuance of said license, residence and address of the seller. The seller and the purchaser shall each sign the log acknowledging the accuracy of the description of said items sold and consideration paid for said items. Each such person engaging in the business or enterprise of purchasing precious metals or precious stones, as defined herein, shall maintain or otherwise deliver to the Chief of Police of the City a daily report on forms prepared by and furnished by the Chief of Police, which form shall be completely filled out and show each item purchased during the preceding day. The original log shall be carefully preserved without alteration. Failure to log each purchase or other acquisition of any item described in this article shall constitute a separate violation of this article.

Each day any person, firm or corporation engages in activities defined herein shall fail to maintain a log as required or commit other violations of this article, said violation shall constitute a separate offense for each day said violation continues. (Ord. of 12/9/80, Sec. 5 & 7)

Sec. 5-38. Report of lost or stolen goods.

It shall be the duty of every person, firm or corporation engaging in the activities herein described upon receiving information or learning that any goods, articles or things solid, or left in possession of said person, firm or corporation have been lost or stolen to notify in writing the Chief of Police of the City of the facts, giving the name of the person from whom the same was received and any other facts in connection therewith that may be beneficial to the Police Department. (Ord. of 12/9/80, Sec. 6)

Sec. 5-39. Licensing requirements.

No transient person, firm, company, partnership or corporation shall engage in the business of purchasing precious metals, stones and gems unless he or it shall first have obtained a license to do so from the tax collector of the City of West Point. The fee for said license shall be \$250.00 for each sixty (60) day period or portion thereof.

Every such transient person, firm, company, partnership or corporation required to obtain a license to engage in business as a purchaser of precious metals, stones and gems shall make application in writing to the tax collector of the City of West Point. The application for said license shall be filed on forms to be furnished by the tax collector of the City of West Point for that purpose and shall be subscribed and sworn to by the person owning the business or having an ownership

interest therein or having control thereof. If the application is for a corporation, a duly authorized officer shall execute the application. (Ord. of 12/9/80, Sec. 8)

Sec. 5-40. Application for license.

The application, in addition to such other information as the tax collector may require, shall provide the following information:

- (1) Permanent business address of the applicant.
- (2) If the applicant be a person, then the home address of said person in addition to the address required in #1 above.
- (3) In the case of a person, he shall state the firm or firms he represents, together with copies of documents establishing the firm's state or country, form of organization, ownership, qualifications to do business in this state and the exact relationship between the firm and the transient purchaser of precious metals, stones and gems.
- (4) The applicant shall furnish a brief description of the items that he intends to purchase while in the City of West Point.
- (5) The applicant shall furnish the name and address of the hotel or motel or other place where the applicant purposes to purchase precious metals, stones and gems. (Ord. of 12/9/80, Sec. 8)

Sec. 5-41. Reporting requirements.

The owner, proprietor or manager of any hotel, motel, rooming house, or other place of public accommodation shall report, within six (6) hours after renting, to the police chief or tax collector of the City of West Point the name of any person that has rented a room or other space in which the purchase of precious metals, stones and gems will be bought giving the location of the room or area so rented. (Ord. of 12/9/80, Sec. 9)

ARTICLE IV: LICENSING OF AMUSEMENT DEVICES

Sec. 5-42. Beginning January 1, 1995, all slot amusement machines located within the corporate limits of the City of West Point, Mississippi, are hereby required to be licensed and taxed according to Section 27-27-3, et seq., MS Code, 1972, amended.

Sec. 5-43. The City Clerk and authorized Deputy City Clerks shall be responsible for licensing said machines, issuing and/or affixing identifying decals on said machines and collecting said taxes.

Sec. 5-44. In addition to the penalties imposed by Section 27-27-9 of the MS Code of 1972, as amended, persons violating this ordinance shall be guilty of a misdemeanor, the fine for which shall not be less than \$500.00 and not more than \$1,000. (Ord. of 4/14/95)

ARTICLE V: ADULT ENTERTAINMENT ORDINANCE

Section 5-50. An Ordinance is hereby created to read as follows and herein shall be known as the ΔAdult Entertainment Ordinance@ of West Point, Mississippi.

I. GENERAL PROVISIONS

- A. **Title.** This Chapter shall be known and may be cited as the ΔAdult Entertainment Ordinance.@
- B. **Authority.** The Adult Entertainment Code is enacted pursuant to the Home Rule of Power of West Point, Mississippi, in the interest of the public health, peace, safety, morals, and general welfare of the people of West Point, Mississippi, pursuant to Section 21-19-1 et seq. Mississippi Code as Amended, and the authority of the City of West Point to regulate the establishment of adult entertainment within the City Limits of West Point, Mississippi.
- C. **Jurisdiction.** The Adult Entertainment Code shall be effective throughout the City Limits of West Point, Mississippi. The City of West Point Police Department and the other respective Municipal Departments which regulate Fire, Building and Zoning shall be responsible for the Administration of this Ordinance.
- D. **Findings of Facts.** Based on the evidence, testimony presented, studies and research presented to this Board, and at the public hearing May 30, 2000, before the Planning Commission of the City of West Point, and on the findings incorporated in the United States Attorney General=s Commission on Pornography (1986), ΔA Summary of a National Survey of Real Estate Appraisers Regarding the Effect of Adult Bookstores on Property Values,@ conducted by the Division of Planning, Department of Metropolitan Development, City of Indianapolis, January 1984, the ΔStudy

of the Effects of Concentration of Adult Entertainment Establishments in the City of Los Angeles,@ conducted by the Planning Committee for the Los Angeles City Council, June 1977, the study conducted by the City of Austin, Texas, and information from Tampa, Florida, detailing the effects of Adult Entertainment Establishments in the Tampa area, the Board hereby finds:

- (1) Establishments exist or may exist within the City of West Point, Mississippi, where books, magazines, motion pictures, prints, photographs, periodicals, videos, records, novelties and/or devices which depict, illustrate, describe or relate to specified sexual activities are possessed, displayed, exhibited, distributed and/or sold.
- (2) Establishments exists or may exist within West Point, Mississippi:
 - (a) where the superficial tissues of one person are manipulated, rubbed, stroked, kneaded, and/or tapped by a second person, accompanied by the display or exposure of specified anatomical areas;
 - (b) where dancers, entertainers, performers, or other individuals, who, for any form of commercial gain, perform or are presented while displaying or exposing any specified anatomical area; or
 - (c) where lap dancing occurs.
- (4) The activities described in subsections (1) and (2) occur at establishments for the purpose of making a profit, and, as such, are subject to regulation by the City of West Point, Mississippi, in the interest of the health, safety, morals and general welfare of the people of West Point.

- (5) The competitive commercial exploitation of such nudity and semi-nudity is adverse to the public's interest and the quality of life, tone of commerce, and total community environment in West Point.
- (6) The commercial exploitation of nudity and semi-nudity consists of the use of nude and semi-nude entertainment in connection with or for the promotion of the sale of goods or services, and the receipt of money by the person engaging in nude or semi-nude entertainment in exchange for or as consideration for nude or semi-nude performance by such individual.
- (7) In order to promote and preserve the public peace and good order and to safeguard the health, safety, morals and welfare of the community and the citizens thereof, it is necessary and advisable for West Point to prohibit certain forms of nude and semi-nude acts, exhibitions, entertainment and commercial establishments.
- (8) In order to preserve the public peace and good order, and to safeguard the health, safety, morals, and welfare of the community and citizens thereof it is necessary and advisable to regulate and restrict the conduct of owners, operators, agents, employees, entertainers, performers, patrons, spectators, and persons on the premises of the commercial establishment subject hereto.
- (9) There is a direct relationship between the display or depiction of specified anatomical areas in subsection (2) and an increase in criminal activities, moral degradation and disturbances of the peace and good order of the community and the concurrencies of these activities is hazardous to the health and safety of those persons in attendance and tends to depreciate the value of adjoining property and harm the economic welfare of the community

as a whole. These secondary effects are adverse to the public's interest and quality of life, tone of commerce and total community environment in West Point.

- (10) When the activities described in subsections (1) and (2) are presented in establishments within West Point, Mississippi, other activities which are illegal, immoral, or unhealthful tend to accompany them, concentrate around them, and be aggravated by them. Such other activities include, but are not limited to, prostitution, solicitation for prostitution, lewd and lascivious behavior, possession, distribution and transportation of obscene materials, films, videos, sale or possession of controlled substances, and violent crimes against person and property.
- (11) When the activities described in subsections (1) and (2) are present in establishments within West Point, Mississippi, they tend to blight neighborhoods, adversely affect neighboring businesses, lower property values, foster an atmosphere which promotes crime, particularly the kinds detailed in subsection (5) and ultimately lead residents and businesses to move to other locations.
- (12) Physical contact within establishments at which the activities described in subsections (1) and (2) occur between employees exhibiting specified anatomical areas and customers poses a threat to the health of both and may lead to the spread of communicable and social diseases.
- (13) In order to preserve and safeguard the health, safety, morals, and general welfare of the people of West Point, Mississippi, it is necessary and advisable for West Point, Mississippi, to regulate the conduct of owners, managers, operators, agents, employees, entertainers, performers, and customers at

establishments where the activities described in subsections (1) and (2) occur.

- (14) The potential dangers to the health, safety, morals, and general welfare of the people of West Point, Mississippi, from the activities described in subsections (1) and (2) occurring at establishments without first obtaining a license under this Code are so great as to require the licensure of such establishments prior to their being permitted to operate.
- (15) Lap dancing does not contain any element of communication, and is therefore conduct rather than expression.
- (16) Lap dancing in establishments poses a threat to the health of the participants and promotes the spread of communicable and social diseases.
- (17) The Board of Mayor and Selectmen further find that sexually oriented business is frequently used for unlawful and unhealthy sexual activities, including prostitution and sexual liaison of a casual nature.
- (18) The concern over sexually transmitted diseases is a legitimate health concern of the County which demand reasonable regulations of sexually oriented businesses in order to protect the health and well-being of the citizens.
- (19) Licensing is a legitimate reasonable means of accountability to ensure that operators of sexually oriented businesses comply with the reasonable regulations within this Ordinance and the locational requirements of the Zoning Code, and to ensure that operators do not knowingly allow their establishments to be used as places of illegal sexual activity or solicitation.

E. Rules of Construction. The Adult Entertainment Code shall be liberally construed to accomplish its purpose of licensing, regulating and dispersing adult entertainment establishments.

F. Purpose. It is the intent of the Board of Mayor and Selectmen of the City of West Point, Mississippi, in adopting the Adult Entertainment Code to establish reasonable and uniform regulations that will reduce the adverse secondary effects adult entertainment establishments have upon the residents of West Point and protect the health, safety, morals and general welfare of the people of West Point, Mississippi.

G. Definitions. In the Adult Entertainment Code, unless the context suggests otherwise:

(1) Adult Arcade Any place or establishment operated for commercial gain which invites or permits the public to view adult material. For purposes of this Code, Adult Arcade is included within the definition of Adult Theater.

(2) Adult Bookstore/Adult Video Store An establishment which sells or offers adult material for sale or rent for commercial gain; unless the establishment demonstrates either (1) the adult material is accessible only by employees and the gross income from the sale or rental of adult material comprises less than forty percent (40%) of the gross income from the sale or rental of goods or services at the establishment, or (2) the individual items of adult material offered for sale or rental comprise less than ten percent (10%) of the individual items, as stock in trade, publicly displayed in the establishment and which is not accessible to minors at the establishment.

(3) Adult Booth A small enclosed or partitioned area inside an adult entertainment establishment which is: (1) designed or used for the viewing of

adult material by one or more persons and (2) is accessible to any person, regardless of whether a fee is charged for access. The term "adult booth" includes, but is not limited to, a "peep show" booth, or other booth used to view "adult material." The term "adult booth" does not include a foyer through which any person can enter or exit the establishment, or a restroom.

(4) Adult Dancing Establishment An establishment where employees display or expose specified anatomical areas to others, regardless of whether the employees actually engage in dancing.

(5) Adult Entertainment Establishment

- (a) Any adult arcade, adult theater, adult bookstore/adult video store, adult motel or adult dancing establishment; or any other establishment or business operated for commercial gain where any employee, operator or owner exposes his/her specified anatomical area for viewing by patrons, including but not limited to: massage establishments, tanning salons, modeling studios, or lingerie studios.
- (b) Excluded from this definition are any educational institutions where the exposure of specified anatomical areas is associated with a curriculum or program.
- (c) An establishment that possesses an Adult Entertainment License is presumed to be an Adult Entertainment Establishment.

(4) Adult Material Any one or more of the following, regardless of whether it is new or used:

- (a) Books, magazines, periodicals or other printed matter, photographs, films, motion pictures, video cassettes, d.v.d.=s, slides, or other visual representations; recordings, other audio matter; and novelties or devices which have as their primary or dominant theme subject matter depicting, exhibiting, illustrating, describing or relating to specified sexual activities or specified anatomical areas; or
- (b) Instruments, novelties, devices or paraphernalia which are designed for use in connection with specified sexual activities.

(3) Adult Motel Any hotel, motel, boarding house, rooming house or other place of temporary lodging which includes the word "adult" in any name it uses or otherwise advertises the presentation of adult material. The term "adult motel" is included within the definition of "adult theater."

(4) Adult Theater An establishment operated for commercial gain which consists of an enclosed building, or a portion or part thereof, or an open-air area used for viewing of adult material. "Adult motels," "adult arcade," "adult booth" and "adult motion picture theater" are included within the definition of "adult theater." An establishment which has "adult booths" is considered to be an "adult theater."

(5) Adult Video Store B see "Adult Bookstore."

(6) Board The Board of Mayor and Selectmen, City of West Point, Mississippi.

(7) Code The Adult Entertainment Code.

(8) Commercial Gain Operated for pecuniary gain which shall be presumed for any establishment which has received an occupational license. For the

purpose of this Code, operation for commercial or pecuniary gain shall not depend on actual profit or loss.

(9) Commercial Establishment Any business, location, or place which conducts or allows to be conducted on its premises any activity for commercial gain.

(10) Conviction A determination of guilt resulting from plea or trial, regardless of whether adjudication was withheld or whether imposition of sentence was suspended.

(11) Department The Fire Department, Clay County Health Department, or the West Point Planning Commission, including the respective directors, employees, and agents thereof.

(12) Educational Institution A premises or site upon which there is an institution of learning, whether public or private, which conducts regular classes and/or courses of study required for accreditation by The Mississippi Department of Education, The Mississippi Private Schools Association, Southern Association of Colleges and Secondary Schools, or, The Mississippi Institute For Higher Learning. The term educational institution includes a premises or site upon which there is a day care center, nursery school, kindergarten, elementary school, junior high school, senior high school; professional institution or an institution of higher education including a community college, junior college, or four year college or university; libraries, art galleries and museums open to the public; or any special institution of learning. However, the term educational institution does not include a premises or site upon which there is a vocational institution operated for commercial gain.

(13) Employee Any person who works or performs in an adult entertainment establishment, irrespective of whether said person is paid a salary or wage

by the owner or manager of the premises. Employer shall include any person who pays any form of consideration to an owner or manager of an establishment for the privilege to work, perform or expose his/her specified anatomical area within the establishment.

(14) Establishment The site or premises on which the Adult Entertainment Establishment is located, including the interior of the establishment, or portion thereof, upon which certain activities or operations are being conducted for commercial gain.

(15) Inspector Any officer of the West Point Police Department, Clay County Sheriff=s Office, the Building Inspector of the City of West Point, and officers of West Point Fire Department, who are authorized pursuant to this Code to inspect licensed premises.

(16) Licensed Premises - see Establishment.

(17) Licensee Any person whose application for an adult entertainment establishment has been granted and who totally or partially owns, operates or controls the establishment.

(18) Operator Any person who engages or participates in any activity which is necessary to or which facilitates the operation of an adult entertainment establishment, including but not limited to the licensee, manager, owner, doorman, bouncer, bartender, dancer, disc jockey, sales clerk, ticket taker, movie projectionist, or supervisor.

(19) Person includes, but is not limited to, an individual(s), firm(s), association(s), joint venture(s), partnership(s), estate(s), trust(s), business trust(s), syndicate(s), fiduciary(s), corporation(s), and all other or any other similar entity.

(20) Principal Stockholder Any person, as defined in Subsection (22) above, who owns or controls, legally or beneficially, ten percent (10%) or more of a corporation=s capitol stock, and includes the officers and directors. If no stockholder of a corporation owns or controls, legally or beneficially, at least ten percent (10%) of the capitol stock, all stockholders shall be considered principal stockholders. And, if a corporation is registered with the Securities and Exchange Commission, or pursuant to Chapter 71, Mississippi Code as Amended, and its stock is for sale to the general public, it shall not be considered to have any principal stockholders.

(21) Private Performance The display or exposure of any specified anatomical area by an employee at an Adult Entertainment Establishment to a person other than another employee while the person is in an area within the establishment not accessible during such display to all other persons in the establishment, or while the person is in an area in which the person is totally or partially screened or partitioned during such display from the view of all persons within the establishment.

(22) Specified Anatomical Areas means:

(a) less than completely and opaquely covered:

1. human genitals and pubic region; or
 2. cleavage of the human buttocks; or
 3. that portion of the human female breast encompassed within an area falling below the horizontal line one would have to draw to intersect a point immediately above the top of the areola.
- This definition shall include the entire lower portion

of the female breast, but shall not include any portion of the cleavage of the human female breast exhibited by a dress, blouse, shirt, leotard, bathing suit, or other wearing apparel, provided the areola is not so exposed; or

- (d) human male genitals in a discernibly turgid state, even if completely and opaquely covered.

(5) Specified Criminal Act means:

- (a) A criminal violation of this Code; or,
- (b) Any felony; or,
- (c) An offense under Chapter 284, Mississippi Laws of 1942 (Prostitution); or,
- (d) Section 97-29-31, Mississippi Code (Indecent Exposure); or,
- (e) An offense under Section 97-29-13 and 97-29-27, Mississippi Code (Bigamy; Incest); or,
- (f) An offense under 97-21-1 et seq. Miss Code as Amended (Forgery; Counterfeiting); or,
- (g) Offense under Section 97-9-59, Mississippi Code (Perjury); or
- (h) An offense under Section 97-9-73, 97-9-55 and 97-9-75, Mississippi Code (Obstruction of Justice); or,
- (i) An offense under Section 97-33-1 through 97-33-49, Mississippi Code (Gambling); or,
- (j) An offense under Uniform Controlled Substance Law of Mississippi, Section 41-29-101 et seq., Mississippi Code or The

Mississippi Implied Consent Law, Section 63-11-1 through 63-11-53, Mississippi Code; or,

- (k) An offense under Section 97-43-1 through 97-43-11, Mississippi Code. (Gambling)
- (l) An offense under 97-33-49 Miss. Code ; Uniformed Controlled Substance Law of Mississippi .

(13) Specified Criminal Offense means:

A conviction under Sections 97-31-5 through 97-31-53, Sections 67-1-1 through 67-1-99, or 67-3-1 through 67-3-73, Mississippi Code (Control of Alcoholic Beverages).

(14) Specified Sexual Activities means:

- (a) human genitals in a state of sexual stimulation, arousal or tumescence; or,
- (b) acts of human analingus, bestiality, buggery, cunnilingus, coprophagy, coprophilia, fellation, flagellation, masochism, masturbation, necrophilia, pederasty, pedophilia, sadism, sadomasochism, sexual intercourse, or sodomy; or
- (c) fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breast; or
- (d) excretory functions as part of or in connection with any of the activities set forth in subsections (a) through (b).

(5) Lap Dance also known as a Astraddle dance@, Aface dance@, or Aflash dance@ means the use by an employee, whether clothed or partially or totally nude, of any part of his or her body to touch, massage, rub, stroke, caress, or fondle the genital or pubic area of a person while at the establishment, or the

touching of the genital or pubic area of any employee by a person while at the establishment. It shall be a Alap dance regardless of whether the Atouch or Atouching occurs while the employee is displaying or exposing any specified anatomical area. It shall also be a Alap dance regardless of whether the Atouch or Atouching is direct or through a medium.

H. Regulation of Obscenity Subject to State Law. It is not the intent of the Board to legislate with respect to matters of obscenity. These matters are regulated and preempted by state law.

I. Land Development Code Approval. No application for a license as provided in Part II of this Ordinance, shall be approved until the appropriate provisions of the City of West Point Zoning Ordinance or similar Municipal Zoning Ordinance have been complied with, the required zoning approval obtained and the respective Zoning Official officially notifies The City Clerk of the City of West Point.

J. Penalty. In Part III(B)(C) and IV of this Ordinance where no specific penalties are provided and (1) any act is prohibited, or is made or declared to be unlawful, or an offense, or (2) whenever in this Ordinance the doing of any act is required or the failure to do any act is declared to be unlawful, the violation of any such provision of this Ordinance shall be punished as provided by a fine not to exceed one thousand dollars (\$1,000.00) or jail sentence not to exceed twelve (12) months, or both. Each day any violation of any provision of this Ordinance shall continue, shall constitute a separate offense, unless otherwise provided.

II. LICENSING PROVISIONS

A. Adult Entertainment License.

- (1) No adult entertainment establishment shall be permitted to operate without first having been issued an Adult Entertainment License by the City of West Point Police Department pursuant to this Code.
- (2) Adult Entertainment Licenses referred to in this Code shall be licenses limited to the following classifications:
 - (a) Adult bookstore/Adult video store; or
 - (b) Adult theater (adult arcade, adult booth and adult motel are considered an adult theater); or
 - (c) Adult dancing establishment; or
 - (d) Any adult entertainment establishment as defined in Section I. G(5) of this Ordinance.
- (5) An Adult Entertainment License for a particular Adult Entertainment Establishment shall be limited to one classification of license.
- (6) An Adult Entertainment Establishment may hold more than one classification of Adult Entertainment License.

B. Administration. The ultimate responsibility for the administration of this Code is vested in the Board. Several departments have been delegated responsibility pursuant to the provisions outlined in this Code:

- (1) When formally notified by the departments in (B)(2-6), below, that the requirements of this Code have been met or violated, the Chief of Police of the West Point Police Department shall issue all licenses herein, and grant, deny, revoke, renew, suspend and cancel Adult Entertainment Licenses for proposed or existing Adult Entertainment Establishments in the City of West Point, Mississippi.

- (2) The Chief of Police of the City of West Point, is responsible for verifying information contained on an application for an Adult Entertainment License, and for inspecting any proposed, licensed or non-licensed Establishment in West Point in order to ascertain whether it is in compliance with applicable criminal statutes and ordinances, and for enforcing applicable criminal statutes and ordinances including those set forth at PART II, III & IV of this Code.
- (3) The Chief of the West Point Fire Department is responsible for the periodic inspections of licensed premises and any proposed Establishment in order to ascertain whether it complies with or is complying with PART III of this Code and all applicable health codes, statutes, ordinances, and regulations in effect in the City of West Point.
- (4) The City of West Point Building Inspector is responsible for inspecting any proposed Establishment for which a license is being applied for in order to ascertain whether it complies with or is complying with PART III of this Code and all applicable building codes, statutes, ordinances, and regulations in effect in the City of West Point, Mississippi. The respective Building Official shall compare and certify that all aspects of the submitted floor plan, site plan and certified survey accurately depict the actual structure, and comply with the provisions of this Code.
- (5) The City of West Point Fire Department is responsible for the inspection of licensed premises or any proposed Establishment to ascertain whether it complies with or is complying with PART III of this Code and all applicable fire codes, statutes, ordinances, and regulations in effect in West Point, Mississippi.

- (6) The Building Inspector for the City of West Point is responsible for ascertaining whether a proposed Establishment for which a license is being applied for complies with Part I(J), the applicable portions of PART III of this Code and all applicable zoning regulations in effect in West Point, Mississippi, and whether a licensed establishment is complying with Part I(J) and PART III of this Code and all applicable zoning regulations and land use laws in effect in West Point.

C. Application.

(1) Filing. Any person desiring to operate an Adult Entertainment Establishment shall file with the Chief of Police, City of West Point, a sworn license application on a standard application form supplied by the Occupational Licensing Department.

(2) Contents. The application shall contain the following information and shall be accompanied by the following documents:

- (a) if the application is:
1. an individual - - his legal name, any aliases, and date of birth; or,
 2. a partnership - - the full and complete name of the partnership, and the legal names of all partners, dates of birth, and all aliases used by all of the partners, whether the partnership is general or limited, and, if in existence, a copy of the partnership agreement; or,
 3. a corporation - - the exact and complete corporate name, the date of its incorporation, evidence that the corporation is in good standing, the legal names and dates of birth,

and all aliases used, the capacity of all officers, directors and principal stockholders, and, if applicable, the name of the registered corporate agent and the address of the registered office for service of process; and

- (d) the application shall list the current local and legal domiciliary residential address of the principal stockholders of the corporation. For purposes of this subsection, principal stockholders are persons and not corporate or other legal entities. When the principal stockholder is a corporate or other legal entity, the application must trace back the ownership through any layers of corporate organization to the eventual principal stockholder who is a person; and
- (e) if the applicant intends to conduct the establishment under a name other than that of the applicant, the applicant shall state the establishment's fictitious name and provide all legal names, dates of birth, and all aliases used by all interested persons; and
- (f) whether preceding the date of the application, the applicant or any of the other individuals listed pursuant to subparagraph (a) above, have ever been convicted of a felony or a specified criminal act as provided in this Ordinance and, if so, the specified criminal act involved, the date of conviction and the place of conviction; and
- (g) whether the applicant or any of the other individuals listed pursuant to subparagraph (a) above, has (1) had a previous

license under this Code suspended or revoked, as well as the date of the suspension or revocation, and (2) whether the applicant has been a partner in a partnership or an officer, director or principal stockholder of a corporation whose license under this Code has previously been suspended or revoked, including the name and location of the establishment for which the license was suspended or revoked, as well as the date of the suspension or revocation; and

- (h) whether the applicant or any other individuals listed pursuant to subparagraph (a) above holds any other licenses under this Code and, if so, the names and locations of such other licensed establishments; and
- (i) the single classification of license for which the applicant is filing; and
- (j) the location of the proposed establishment, including a legal description of the property site, and a legal street address; and
- (k) the names of all employees, dates of birth and aliases used for the proposed establishment, if known, or, if presently unknown a statement to that effect; and
- (l) the applicant=s mailing address; and
- (m) a site plan and certified survey drawn to appropriate scale of the proposed establishment indicating but not limited to all property lines, right-of-way, and the location of buildings, parking areas and spaces, curb cuts, and driveways and shall state and indicate on the survey that the distance and

locational requirement of the Zoning Code have been satisfied;

and

(n) a floor plan drawn to appropriate scale of the proposed establishment indicating, but not limited to:

1. all windows, all doors, all entrances and exits; and
2. all fixed structural interior features, including but not limited to doors, walls, stages, partitions, projection booths, admission booths, adult booths, concession booths, stands, counters and similar structures; and
3. all proposed improvements or enlargements to be made, which shall be indicated and calculated in terms of percentage of increase in floor size; and

(d) the petition number of the adopted zoning resolution approving the use, or the circumstances in support of a claim the use has a valid non-conforming status; and

(e) list the name and phone number of the person for the Building Division to contact to schedule the inspection; and

(f) list the phone number of the existing or proposed establishment.

3. Application Fee. Each application shall be accompanied by a non-refundable fee of Five-Hundred Dollars (\$500.00) to defray the costs of processing and investigating of the application. If the application for a license is approved and a license is granted, one-half (2) of the application fee shall be applied as a credit towards the annual license fee required for the first year pursuant to Part II(G)(6) of this Code.

4. Rejection of Application. In the event the Police Chief of the City of West Point or one of the departments listed in Part II(B) above, determines, learns or is notified at any time that the applicant has not satisfied the application requirements for a proposed establishment, the applicant shall be promptly notified of such fact with a detailed list of reasons and the application shall be automatically denied.

G. Investigation of Application.

- (1) Upon receipt of an application properly filed with the Chief of Police and upon payment of the nonrefundable application fee, the West Point Police Department shall send the attached photocopies of the application to the Chief of the Fire Department and the West Point Building Inspector. Each department shall promptly conduct an investigation of the applicant, application and the proposed establishment in accordance with its responsibilities outlined in PART III. At the conclusion of its investigation, each department shall indicate on the photocopy of the application whether the application satisfies each requirement of this Code, date it, and sign it.
- (2) The Chief of Police shall deny an application if it finds that the proposed establishment will be in violation of any provision of PART III of this Code, or of any building, fire, health, or zoning statute, code, ordinance, or regulation. If the application fails to satisfy this Code or any other Code, the Department shall specifically state its reasons on a separate letter attached to the photocopy of the application.

C. Review.

- (1) The Departments shall conduct and complete an investigation of the application within 30 days from receipt of the application (day thirty). If a provision of this Code, including general Building, Fire, or Health Codes are found to be in violation, the respective department shall immediately notify the Chief of Police of the violation by marking the application as rejected, state the reasons and offer suggestions for correction.

Upon receipt of the rejected application, the Chief of Police shall wait until day thirty for the review from the other departments. Then, the Chief of Police shall notify the applicant of the denial.

All communications regarding approval or denial shall be issued by and through the Occupational Licensing Department. Any statements issued directly or independently by the review departments shall not be deemed to create a reliance or estoppel situation as to the provisions of this Code.

- (2) The Chief of Police shall issue or deny an application for an Adult Entertainment License within sixty (60) days from the date of the acceptance of a complete application. Upon the expiration of the sixty (60) day period the applicant may demand a license and begin operating the establishment for which a license is sought, unless and until the Chief of Police notifies the applicant of a denial of the license application and states the reasons for the denial.

The date of the proper filing of the application shall be the date the applicant furnishes the fully completed application and the required number of copies.

- (3) If the application has satisfied the requirements of this Code, the Chief of Police shall notify the applicant and issue the license to the applicant upon payment of the appropriate annual license fee provided in Part II(G)(6), with credit as provided in Part II(C)(3).
- (4) The Chief of Police shall deny the application if one of the departments:
 - (a) finds the application violates or fails to meet the provisions of this Code;
 - (b) states the application contains material false information;
 - (c) states the applicant or any of the other individuals listed pursuant to Part II(J) has a license under this Code which has been suspended or revoked; or
 - (d) states the granting of the application would violate a statute or ordinance, or an order from a Court of law which effectively prohibits the applicant from obtaining an Adult Entertainment License.
- (5) If the application is denied, the Chief of the Police Department shall notify the applicant with the reason(s) stated for the denial. Notification shall be sent certified U.S. Mail, return receipt requested, to the address provided on the license application which shall be considered the correct address. Each applicant has the burden to furnish any changed address to the Chief of Police, by U.S. Certified Mail, return receipt requested.

F. Establishment Existing on Effective Date.

- (1) Operators of Adult Entertainment Establishments existing and operating on the effective date of this Ordinance shall make an application for License hereunder, complete with all required information and the required number of copies, within sixty (60) days of said effective date. After completion of the application, said establishment shall be permitted to operate for sixty (60) days pending issuance of the license or until the application for license is denied, whichever comes first.
- (2) Notwithstanding Subsection (F)(1) above, every Adult Theater in existence at the effective date of this Ordinance shall comply with the Structure Requirements in Part III(C)(1) below, prior to the enactment date of this Ordinance.
- (3) Notwithstanding Subsection (F)(1) above, every Adult Dancing Establishment in existence at the effective date of this Ordinance shall comply with the Structure Requirements in Part III(C)(2) below, prior to enactment of this Ordinance.
- (4) Every existing Adult Entertainment Establishment must satisfy all requirements of this Code prior to the issuance of the license, particularly the general requirements of Part III(A) and the structural requirements of Part III(C).
- (5) If an application for license is denied, the operation of an existing Adult Entertainment Establishment shall cease within ten (10) business days of receipt of notice. Operation without a valid license is subject to the provisions of Part IV(A) of this Code.

- (6) If an operator of an existing and operating Adult Entertainment Establishment at the effective date of this Ordinance fails to receive an Adult Entertainment License pursuant to this Code within sixty (60) days of the enactment of this Ordinance, operation of said establishment shall cease. Operation without a license after enactment of this Ordinance is subject to the provisions of Part IV(A) of this Code.
- (7) Pursuant to Part I(J) every existing Adult Entertainment Establishment shall present proof of a special exception or of its legal non-conforming zoning status to the Zoning Division or respective municipality prior to issuance of the license.
- (8) Except for the above provisions, all the provisions of this Part and Ordinance shall apply to such licensees.

I. License.

- (1) Contents. An Adult Entertainment License shall state on its face the name of the Licensee the business, local residential and legal domiciliary residential address of the Licensee, the name of the establishment, the street address of the establishment, the classification(s) of the License, the date of application, the application number, the date of License issuance, and the date of License expiration.
- (2) Term. All Licenses issued under this Code shall be annual Licenses which shall commence running from date of issuance and shall expire twelve (12) months from said date.

(3) Renewal. Licenses shall be entitled to renewal annually subject to the provisions of this Code. Prior to forty-five (45) days of expiration date, the annual License may be renewed by presenting the License for the previous year and by paying the appropriate License fee.

(4) Expiration. A License shall expire for failure to obtain in hand a renewal pursuant to this Code by forty-five (45) days prior to expiration. An expired license may be renewed within sixty (60) days of expiration upon (i) presentment of an affidavit stating that the establishment has not been operated as an Adult Entertainment Establishment subsequent to expiration; (ii) the payment of the appropriate License fee; and (iii) payment of a penalty of ten percent (10%) of the appropriate License fee.

(5) Cancellation. All expired Licenses not renewed within sixty (60) days of expiration of current License, shall be cancelled and not subject to renewal.

(6) Annual License Fees. The following are the annual License fees under this Code for an Adult Entertainment Establishment:

(a) an Establishment having a License for an Adult Bookstore/Adult Video Store/or other Non-Dancing Adult Entertainment Establishments B eight hundred dollars (\$800.00).

(b) an Establishment having a License for an Adult Theater, as follows:

1. having Adult Booths B forty dollars (\$40.00) for each booth; or

2. having a hall or auditorium B five dollars (\$5.00) for each seat; or
 3. having an area outdoors designed to permit viewing by customers seated in vehicles B five dollars (\$5.00) for each private parking space.
- (d) Adult Motel B eight hundred dollars (\$800.00).
 - (e) An Establishment having a License for an Adult Dancing Establishment B two thousand dollars (\$2,000.00).
 - (f) Having a combination of (a), (b)(1), (b)(2), (b)(3), (c) and/or (d) B the cumulative license fee applicable to each under (a), (b)(1), (b)(2), (b)(3), (c) and (d).
 - (g) The annual License fees collected under this Code are declared to be regulatory fees which are collected for the purpose of examination and periodic inspection of Adult Entertainment Establishments pursuant to this Code and the administration thereof. These regulatory fees are in addition to and not in lieu of all other permit fees and License fees and any other taxes imposed by other provisions of State Law.
 - (h) The fees shall be based upon the information contained in the License application, subject to verification and inspection by the Building Division and Sheriff.
 - (i) The fee schedule contained in (6)(a-d) may be revised pursuant to resolution adopted by the Board when necessary to insure the fees covers the costs of administering and enforcing this Ordinance.

(10) Distribution of Fees.

- (a) The Chief of Police shall be responsible for the collection of the application and annual License fees pursuant to this Code and shall immediately forward same to the City Clerk for deposit into the City=s Account.
- (b) The distribution of the application fees to the various departments to defray costs of the implementation of this Ordinance shall be made pursuant to resolution adopted by the Board. The distribution may be revised by resolution when necessary to insure the distribution of fees covers the costs of the respective departments for the application procedures.
- (c) The distribution of the annual License fees shall be made pursuant to resolution adopted by the Board. The distribution may be revised by resolution when necessary to insure the distribution of fees covers the costs of the respective departments for the implementation, enforcement and compliance review of the regulations of this Code.

D. Transfer of License.

- (1) A Licensee shall not transfer his License to another person, or thereby surrender possession, control, and operation of the licensed establishment to such other person.
- (2) A Licensee shall not transfer his License to another location.
- (3) Any attempted transfer of a License either directly or indirectly in violation of this Section is hereby declared void, and the License shall

be deemed abandoned and the License shall be forfeited and revert to the Occupational Licensing Department.

I. Changed Name. No Licensee may change the name of an Adult Entertainment Establishment unless and until he satisfies each of the following requirements:

- (1) gives the West Point Police Department thirty (30) days notice in writing of the proposed name change;
- (2) pays the West Point Police Department a twenty-five dollar (\$25.00) change-of-name fee.

J. Enforcement.

(1) Suspension.

(a) Violation of Regulations. In the event a Licensed Adult Entertainment Establishment is operating in violation of a building, fire, health, or zoning statute, code ordinance or regulation, whether federal, state, or local, or the respective general requirements of Part III(A), the appropriate citing department shall promptly notify the Chief of Police who shall notify the Licensee of the violation and shall allow the Licensee a ten (10) business day period in which to correct that violation. If the Licensee fails to correct the violation within the ten (10) business day period, the Chief of Police shall forthwith suspend the License and shall notify the Licensee of the suspension. The suspension shall remain in effect until the citing Department notifies the Chief of Police in writing that the violation of the provision in question has been corrected.

(b) Illegal Transfer. In the event the Chief of Police or other Departments are notified, learn or find that a Licensee engaged in a license transfer contrary to Part II(H), the Chief of Police shall forthwith suspend the License, and notify the Licensee of the suspension. The suspension shall remain in effect until all of the requirements of Part II have been satisfied and a new License is issued by the Chief of Police.

(c) The renewal of or new application for a License pursuant to this Code shall not defeat the terms of Part II(J).

(d) Effect of Suspension. If a License is suspended, all operations within the Adult Entertainment Establishment shall cease for the period of the suspension, the License shall be suspended for the suspension period. The Alcohol Beverage Commission, State of Mississippi, shall be notified of the suspension and no other person shall be allowed to operate an Adult Entertainment Establishment at that location.

(e) Effective Date of Suspension. All periods of suspension shall begin fifteen (15) days, including Saturdays, Sundays and holidays, after the date the Chief of Police mails the notice of suspension to the Licensee or on the date the Licensee surrenders its License to the West Point Police Department, whichever occurs first.

(6) Revocation.

(a) False Information. In the event it is learned or found, or upon sufficient cause that a License was granted based upon false

information, misrepresentation of fact, or mistake of fact by the Licensee or its agent, the respective department which has knowledge of the false information shall notify the West Point Police Department and the Chief of Police shall forthwith revoke the License, and notify the Licensee of the revocation.

(b) Convictions for Violations of Part III & IV of this Code. In the event of one (1) or more convictions for violations of Part III or IV of this Code occurs within a period of two (2) years from the date of the violation from which the conviction resulted for which the License was suspended for a period of one hundred eighty (180) days pursuant to Part III(J)(1)(c)(3), the West Point Police Department shall forthwith revoke the License and notify the Licensee of the revocation. The time during which the License was suspended for one hundred eighty (180) days shall not be included within the two (2) year period.

(c) Effect of Revocation. If a License is revoked, the Licensee shall not be allowed to obtain another Adult Entertainment License for a period of two (2) years, and no License shall be issued during that time period to any other person for the location and premises upon which the Adult Entertainment Establishment was situated.

(d) Effective Date. The revocation shall take effect fifteen (15) days, including Saturdays, Sundays and holidays, after the date the West Point Police Department mails the notice of revocation to the Licensee or on the date the Licensee

surrenders its License to the Occupational Licensing Department, whichever occurs first.

K. Records and Reports; Consent.

- (1) Each licensee shall keep such records and make such reports as may be required by the West Point Police Department and the Building Inspector, City of West Point, to implement this Code and to carry out its purpose.

III. REGULATORY PROVISIONS

A. General Requirements.

- (1) Each Adult Entertainment Establishment shall, regardless of whether it is licensed, observe the following general requirements:
 - (a) conform to all applicable building statutes, codes, ordinances, and regulations, whether federal, state or local; and,
 - (b) conform to all applicable fire statutes, codes, ordinances, and regulations, whether federal, state or local; and,
 - (c) conform to all applicable health statutes, codes, ordinances, and regulations, whether federal, state or local; and,
 - (d) conform to all applicable zoning regulations and land use laws, whether state or local, including the City of West Point Zoning Ordinance; and,
 - (e) keep the Adult Entertainment License posted in a conspicuous place at the establishment at all times, which license shall be available for inspection upon request at all times; and

- (f) opaquely cover each non-opaque area through which a person outside the establishment may otherwise see inside the establishment; and,
- (7) This Code, particularly the enforcement provisions, shall not be construed to supersede the other powers and duties of the departments listed in II B, above.

B. Supplementary Requirements.

(1) Adult Theater. In addition to the general requirements for an Adult Entertainment Establishment contained in Section A & B of Part III above, an Adult Theater shall, regardless of whether it is licensed, observe the following special requirements:

- (a) If the Adult Theater contains a hall or auditorium area, the area shall comply with each of the following provisions:
 1. have individual or separate seats not couches, benches, beds or the like, to accommodate the maximum number of persons who may occupy the area; and,
 2. have a continuous main aisle alongside of the seating areas in order that each person seated in the areas shall be visible from the aisle at all times; and,
 3. have a sign posted in a conspicuous place at or near each entranceway to the hall or auditorium area which lists the maximum number of persons who may occupy the hall or auditorium area, which number shall not exceed the number of seats within the hall or auditorium area.

4. Post an Aids Crisis Sign on the side of the door which opens and allows patrons to enter the theater.
- (b) If the Adult Theater contains Adult Booths, each Adult Booth shall comply with each of the following provisions:
1. have a sign posted in a conspicuous place at or near the entranceway which states that only one person may occupy the booth; and
 2. have a permanently open entranceway for each booth not less than two (2) feet eight (8) inches wide and not less than seven (7) feet high, which will never be closed or partially closed by a curtain, door, or other partition which would be capable of wholly or partially obscuring any person situated in the booth. No curtains, doors or other partitions shall be affixed, attached or connected to the permanently open entrance way of any booth; and
 3. have one individual seat, not a couch, bench or the like; and
 4. have a continuous main aisle alongside the booth in order that each person situated in the booth shall be visible from the aisle at all times; and
 5. have, except for the open entranceway for each booth walls or partitions of solid construction without any holes or openings in such walls or partitions; and

6. post an Aids Crisis Sign at the open entranceway to the adult booths; and
 7. provide and display to the public, at a place near the main entrance of the establishment, any information, brochures, or pamphlets supplied by the Clay County Department of Health and/or Mississippi Department of Health, that deal with AIDS or communicable diseases.
- (c) If the Adult Theater is designed to permit outdoor viewing by a person(s) seated in automobiles, it shall have the motion picture screen so situated and the perimeter of the establishment so fenced or screened, that the adult material to be seen by those persons may not be seen from any public right-of-way or from surrounding properties.

(2) Adult Dancing Establishment. In addition to the general requirements for an Adult Entertainment Establishment contained in Section A & B of Part III above, an Adult Dancing Establishment shall, regardless of whether it is licensed, observe the following special requirements:

- (a) it shall have a stage provided for the display or exposure of human genitals, pubic region or cleavage of the human buttocks by any employee to a person other than another employee consisting of a permanent platform (or other similar permanent structure) raised a minimum of eighteen (18) inches above the surrounding floor and encompassing an area of at least one hundred (100) square feet; and,
- (b) any area in which a private performance occurs shall:

1. have a permanently open entranceway not less than seven (7) feet wide and not less than seven (7) feet high, which entranceway will never be closed or partially closed by any curtain, door, or other partition which would be capable of wholly or partially obscuring any person situated in the area; and,
2. have a wall to wall, floor to ceiling partition of solid construction without any holes or openings which partition may be completely or partially transparent and which partition separates the employee from the person viewing the display; and,
3. have, except for the entranceway, walls or partitions of solid construction without any holes or openings in such walls or partitions.

(c) In Adult Entertainment Establishments which do not sell, serve or allow the consumption of alcoholic beverages, the exposure by any employee of human genitals, pubic region or cleavage of the human buttocks, or any simulation thereof to public view shall be restricted to the stage required in (a) above. Non-employees or patrons shall not be permitted closer than four (4) feet to the stage edge when any employees expose those anatomical areas listed in this subsection.

(3) Prohibition of alcoholic beverages, light wine, and beer:

- a. No person or employee shall expose to public view his or her Aspecified anatomical areas@ or any simulation thereof in any establishment which serves or allows the consumption of alcoholic beverages, light wine and/or beer as said beverages are regulated and defined under State Law.

- b. No person owning, maintaining or operating an establishment serving alcoholic beverages shall suffer or permit any person or employee to expose to public view his or her Aspecified anatomical areas@ or any simulation thereof within the establishment which serves or allows the consumption of alcoholic beverages, light wine and/or beer.

- c. No person shall cause and no person maintaining, owning or operating an establishment service alcoholic beverages, light wine and/or beer shall suffer or permit the exposition of any graphic representation, including pictures or projection of film which depict Aspecified anatomical areas,@ engage in any Aspecified sexual activities@ or any other sexual act prohibited by law or any simulation thereof within any establishment which serves or allows the consumption of alcoholic beverages, light wine and/or beer.

IV. CRIMINAL PROVISIONS

A. Operation of Establishment Without Valid Adult Entertainment License. It shall be unlawful for any person to operate, or participate in the operation of an Adult Entertainment Establishment when the person knows or should know:

- (1) that the establishment does not have an Adult Entertainment License for the applicable classification, except as stated in Part II(F); or,
- (2) the application for a License pursuant to Part II(F) has been denied or was not issued pursuant to this Ordinance; or,
- (3) that the establishment has a License which is under suspension; or,
- (4) that the establishment has a License which has been revoked or cancelled; or,
- (5) that the establishment has a License which has expired.

B. Violations of the Regulations in this Code.

- (1) It shall be unlawful for any person to be an operator of an Adult Entertainment Establishment which does not satisfy all of the general requirements of Part III of this Ordinance.
- (2) It shall be unlawful for any person to be an operator of an Adult Theater which does not satisfy all of the special requirements of Part III(C).
- (3) It shall be unlawful for any person to be an operator of an Adult Dancing Establishment which does not satisfy all of the special requirements of Part III(C).

C. Allowing Employee to Engage in Prohibited Acts. It shall be unlawful for an operator of an Adult Entertainment Establishment, regardless of whether it is licensed under this Code, to knowingly or with reason to know, permit, suffer, or allow any employee:

- (1) to engage in a lap dance with a person at the establishment; or,
- (2) to contract or otherwise agree with a person to engage in a lap dance with a person at the establishment; or,
- (3) contract or otherwise agree with a person to engage in any specified sexual activity at the establishment; or,
- (4) to display or expose any specified anatomical area while simulating any specified sexual activity with any other person at the establishment, including with another employee; or,
- (5) to allow any person, excluding another employee, to touch any portion of the clothed or unclothed body of the employee below the neck and above the knee, excluding that part of the employee=s arm below the wrist, commonly referred to as the hand; or
- (6) to engage in a private performance unless such employee is in an area which complies with the special requirements of Part III; or,
- (7) to intentionally touch the clothed or unclothed body of any person at the Adult Entertainment Establishment, excluding another employee, at any point below the neck and above the knee of the person excluding that part of the person=s arm below the wrist, commonly referred to as the hand.

D. Advertising Prohibited Activity. It shall be unlawful for an operator of an Adult Entertainment Establishment, regardless of whether it is licensed under this

Code, to advertise the presentation of any activity prohibited by any applicable state statute or local ordinance.

E. Specified Criminal Offense. It shall be a violation of this Code when the Licensee or the licensed premises is convicted or is adjudged guilty of a specified criminal offense for activities that occurred at the establishment.

F. Minors Prohibited. It shall be unlawful for an operator of an Adult Entertainment Establishment, regardless of whether it is licensed under this Code, to knowingly, or with reason to know, permit, suffer, or allow:

- (1) admittance to the establishment of a person under twenty-one (21) years of age; or,
- (2) a person under twenty-one (21) years of age to remain at the establishment; or,
- (3) a person under twenty-one (21) years of age to purchase goods or services at the establishment; or
- (4) a person to work at the establishment as an employee who is under twenty-one (21) years of age.

G. Working at Establishment Which Does Not Have Valid Adult Entertainment License. It shall be unlawful for any person to work in an Adult Entertainment Establishment that he or she knows or should know is not licensed under this Code, except under the provisions of Part II(F), or which has a License which is under suspension, has been revoked or cancelled, or has expired.

H. Engaging in Prohibited Activity. It shall be unlawful for any employee of an Adult Entertainment Establishment, regardless of whether it is licensed under this Code:

- (1) to engage in a lap dance with a person at the establishment; or,

- (2) to contract or otherwise agree with a person to engage in a lap dance with a person at the establishment; or,
- (3) to engage in any specified sexual activity at the establishment; or,
- (4) to display or expose at the establishment less than completely and opaquely covered any specified anatomical area unless such employee is continuously positioned away from any person other than another employee, and unless such employee is in an area as described in Part III(B)(2); or,
- (5) to engage in the display or exposure of any specified anatomical area while simulating any specified sexual activity with any other person at the establishment, including with another employee; or,
- (6) to engage in a private performance unless such employee is in an area which complies with the special requirements set for in Part III(B)(2); or,
- (7) to intentionally touch the clothed or unclothed body of any person at the Adult Entertainment Establishment, excluding another employee, at any point below the neck and above the knee of the person excluding that part of the person=s arm below the wrist commonly referred to as the hand; or,
- (8) to allow any person, excluding another employee to touch any portion of the clothed or unclothed body of the employee below the neck and above the knee, excluding that part of the employee=s arm below the wrist, commonly referred to as the hand.

I. Touching of Employee by Non-Employee. It shall be unlawful for any person in an Adult Entertainment Establishment, other than another employee, to

intentionally touch the unclothed or clothed body of any employee at any point below the neck and above the knee of the employee excluding that part of the employee=s arm below the wrist, commonly referred to as the hand.

J. Exceeding Occupancy Limit of Adult Booth. It shall be unlawful for any person(s) to exceed the occupancy restrictions for an Adult Booth specified in Part III(c)(1).

K. Use of Restrooms or Dressing Rooms.

- (1) Notwithstanding any provision indicating to the contrary, it shall not be unlawful for any employee of an Adult Entertainment Establishment, regardless of whether it is licensed under this Code, to expose any specified anatomical area during the employee=s bona fide use of a restroom, or during the employee=s bona fide use of a dressing room which is accessible only and restricted to employees.
- (2) The restrictions of Part III & IV, including but not limited to Part IV (C)(H)(I), also apply to all restrooms and dressing rooms.
- (3) Notwithstanding any provision indicating to the contrary, it shall not be deemed unlawful for any person to expose any specified anatomical area during that person=s bona fide use of a restroom.

L. Hours of Operation.

- (1) It shall be unlawful for any operator of an Adult Entertainment Establishment to allow such establishment to remain open for business, or to permit any employee to engage in a performance, solicit a performance, make a sale, solicit a sale, provide a service, or solicit a service, between the hours of 1:00 a.m. and 10:00 a.m. of any particular day.

- (2) It shall be unlawful for any employee of an Adult Entertainment Establishment to engage in a performance, solicit a performance, make a sale, solicit a sale, provide a service, or solicit a service, between the hours of 1:00 a.m. and 10:00 a.m. of any particular day.

M. Alteration of License. It shall be unlawful for any person to alter or otherwise change the contents of an Adult Entertainment License without the written permission of the Occupational Licensing Department

N. False Statement or False Information in Applying for License.

- (1) It shall be unlawful for any person applying for an Adult Entertainment license to make a false statement which is intended to facilitate the issuance of a License.

O. Violations Subject to Criminal Prosecution. Whoever violates any section of Part III (B) and IV (A through N) of this Code may be prosecuting by the City Prosecuting Attorney, Chief of Police and/or State or County Attorney and punished as provided by law.

1. Upon conviction for a violation of Part III & IV, the prosecuting officials shall notify the Chief of Police, City of West Point and Clerk of the City of West Point of the conviction, including the date of the violation.

P. Violations Subject to Civil Prosecution. Whoever violates any section of Part III(A) of this Code may be prosecuted by the County Attorney, City Prosecuting Attorney, Building Inspector of the City of West Point in either City Court or in the Chancery or Circuit Courts of Clay County, Mississippi by injunction or otherwise as provided by law.

V. MISCELLANEOUS PROVISIONS

A. Appeals.

1. Subject to Part II, within thirty (30) days of the mailing of a notice of denial of an application for a License or a notice of suspension or revocation of a License, the aggrieved party may file a notice of appeal with the Clerk of the City of West Point. Following the filing of an appeal, the matter will be set for hearing within (30) days before the Board of Mayor and Selectmen. However, all parties shall be required to comply with the Chief of Police's decision during the pendency of an appeal. A decision by the Board is appealable to the Circuit Court within ten (10) days after the decision is rendered.
2. In the event the notice of denial of an application for a License was grounded in whole or in part upon failure to comply with or satisfy all applicable zoning regulations, the aggrieved party shall first file an application with the Chairman, City of West Point Planning Commission for a variance within thirty (30) days of the mailing of the notice of denial, receive a public hearing before the City of West Point Planning Commission and obtain a final decision therefrom within 120 days of the date of application denial. If the Planning Commission grants the variance, the aggrieved party shall notify the Clerk of the City of West Point and Chairman of Planning Commission of the variance within thirty (30) days of the grant of the variance. Should this Ruling fail to result in satisfactory decision by the City of West Point Chief of Police, the aggrieved party shall then file any appeal therefor with the City Clerk in accordance with Section 1. hereof.

Section 5-51. **CAPTIONS.** The captions, section headings, and section designations used in this amendment are intended for convenience of usage only. It shall have no affect on the interpretation of the provisions of this Ordinance.

Section 5-52. **LAWS IN CONFLICT.** All local laws and ordinances applying to The City of West Point, Mississippi, conflict with any provisions of this Ordinance are hereby superseded to the degree of conflict.

Section 5-53. **SEVERABILITY.** If any part of this Code, or any application thereof to any person or circumstance is declared to be void, unconstitutional or invalid for any reason, such portion or provision.

Section 5-54. **EFFECTIVE DATE.** The provisions of this Ordinance shall become effective upon publication in the manner provided by law. (Ord. 6/13/2000)

CHAPTER 6

CEMETERIES

State Law Reference--Cemeteries, generally, MS Code Ann., 1972, Sec. 41-43-1 thru 41-43-53; authority with regard to public cemeteries, Sec. 21-37-21.

Sec. 6-1. Coping, fencing.

It shall be unlawful for any person to erect, construct or install fences or similar devices on or around any cemetery lot. Provided, however, that this shall not prohibit the installation of corner markers which shall conform to specifications established by the Board of Mayor and Selectmen.

Sec. 6-2. Damaging, defacing cemetery property.

Any person who unlawfully, wilfully or maliciously breaks, cuts, disfigures, defaces, injures or destroys any tombstone, monument, grave stone or memorials or any tree, shrub or plant or any enclosure or fence within the cemetery, shall be guilty of a misdemeanor.

State law reference--Desecration of cemeteries, MS Code Ann., 1972, Sec. 97-29-25.

Sec. 6-3. Entering at night.

No person shall enter any cemetery during the hours of night, that is from sunset in the evening until sunrise of the following morning.

CHAPTER 7

CIVIL DEFENSE

State Law Reference--Civil defense, generally, MS Code Ann., 1972, Sec. 33-15-1, et seq.; emergencies generally, MS Code Ann., 1972, Sec. 45-17-1, et seq.; civil emergencies, reciprocal law enforcement assistance, Sec. 21-19-23, Sec. 21-21-31, et. seq.

Sec. 7-1. Purposes.

Due to the existing and ever present possibility of occurrence of calamities or emergencies resulting from enemy action, natural and man-made disasters, and in order that adequate preparations to deal with such disasters be made, and generally to provide for the common defense and to protect the public peace, health and safety, and to preserve the lives and property of the people, it is hereby found and declared necessary:

- (1) To create a City Emergency Preparedness Council that will insure the effective and efficient utilization of all the City's resources to prepare for and combat emergencies arising from the afore named disasters;
- (2) To invest the Emergency Preparedness Council with the responsibility of coordinating all disaster planning and operations by joint efforts with each department having an emergency role or responsibility; the Disaster Plan or Basic Plan will be the instrument through which the Board of Mayor and Selectmen may exercise the authority and discharge the responsibilities vested in them by the MS Civil Defense Act of 1952, as amended, and this chapter. The Basic Plan, with its annexes, shall become a part of this chapter when approved by the governing body;
- (3) To confer upon the executive heads or governing bodies of the City the emergency powers provided herein;
- (4) To provide for rendering of mutual aid between the cities and counties of the state, the state, and with the federal government with respect to the carrying out of emergency preparedness functions;
- (5) To authorize the establishment of an emergency preparedness council and the taking of such steps as are necessary and appropriate to carry out the provisions of this chapter.

Sec. 7-2. Coordination of activities.

All emergency preparedness functions shall be coordinated with the comparable functions of the federal and state governments, including their various departments and agencies, and of private agencies of every type, to the end that the most effective preparation and use may be made of the city's manpower, resources, and facilities for dealing with any disaster.

Sec. 7-3. Definitions.

The following words, whenever used in this chapter, shall, unless a different meaning clearly appears from the context, have the following meanings:

Emergency Preparedness or Civil Defense Council shall be used interchangeably and shall mean the organization authorized to coordinate emergency functions.

Emergency preparedness shall mean the preparation to carry out the basic governmental functions of maintaining the public peace, health, and safety during emergencies and to prevent, minimize and repair injury and damage resulting from disasters as defined in this section. These functions include written plans and without limitations, fire fighting, law enforcement, emergency medical and health services, rescue, warning, communications, radiological, chemical services and other special weapons defense, evacuation of persons from stricken areas, emergency welfare and transportation services, plant protection, temporary restoration of public utility services and other functions related to civil defense, together with all other activities necessary or incidental to the preparation for the carrying out of the foregoing functions. It shall not, however, include any activities that are the primary responsibility of the military forces of the United States.

Enemy attack or action shall mean a direct or indirect assault against any city, county, state of this country or the nation itself by the forces of a hostile nation or the agents thereof, including, but not limited to assault by bombing, radiological, chemical or biological warfare or sabotage.

Disaster shall mean occurrence or imminent threat of widespread or severe damage, injury or loss of life or property resulting from any natural or man-made cause, including but not limited to fire, flood, earthquake, windstorm, wave action, chemical spill, or other water contamination requiring emergency action to avert danger or damage, volcanic activity, epidemics, air contamination, blight, drought, infestation, explosion, riot, civil disturbance or hostile military or paramilitary action.

Riot or unlawful assembly shall mean any use of force or violence disturbing the public peace, or any threat to use such force and violence, if accompanied by immediate power of execution, by two or more persons acting together and without authority of law.

Chief administrative officer shall mean the Mayor of the City.

Coordinator or Director shall be the executive head of the emergency preparedness council under the direction and control of the chief administrative officer.

Volunteer shall mean contributing a service, equipment or facilities to the disaster preparedness organization without remuneration and shall also mean any person duly registered, identified and appointed by the coordinator of the emergency preparedness council and assigned to participate in the disaster preparedness activities.

Emergency forces shall mean the employees, equipment and facilities of all city departments, agencies, boards, institutions and commissions; and, in addition, shall include all volunteer personnel, equipment and facilities contributed by or obtained from volunteer persons or agencies.

Regulations shall include plans, programs and other emergency procedures deemed essential to disaster preparedness and operations.

Curfew shall mean a prohibition against any person or persons walking, running, loitering, standing, sitting, lying or motoring upon any alley, street, public property, or vacant premises, except persons officially designated to duty with reference to said emergency or those lawfully on the streets as defined hereinafter.

Cross reference--General definitions, Sec. 1-2.

Sec. 7-4. Organization, chief executive officer.

The Mayor is hereby authorized to create an organization for disaster preparedness and operations utilizing to the fullest extent the existing agencies within the city. The mayor as chief administrative officer shall be responsible for the organization, administration and operation of the disaster preparedness emergency forces of the city.

The board will designate a line of succession of that body to insure that the necessary responsibility for direction and control can be exercised in event of absence or inability of the chief administrative officer to act.

State law reference--Local organization for civil defense, MS Code Ann., 1972, Sec. 33-15-17.

Sec. 7-5. Council.

The council shall consist of the following:

- (1) An office of disaster preparedness under the direction and control of the chief administrative officer. This shall be the primary control center to serve as a command post or emergency operations center during disasters.
- (2) There shall be an executive head of the office of disaster preparedness who shall be known as the coordinator, and such assistants and other employees as are deemed necessary for the proper functioning of the council.
- (3) All employees, equipment and facilities of the city departments, agencies, boards and commissions, will participate in disaster preparedness activities. Duties assigned to an element shall be the same or similar to the normal duties of that element.
- (4) Volunteer persons and agencies offering manpower, services or equipment, or supplies and which are accepted by the council.

State law reference--Continuation of local councils, MS Code Ann., 1972, Sec. 33-15-45.

Sec. 7-6. Coordinator.

A coordinator will be appointed by the chief administrative officer, with the advice and approval of the Board of Mayor and Selectmen. The coordinator shall be well versed and trained in planning and operations before or immediately following appointment so that the most effective program to protect the public health, safety and welfare may be established without delay. The coordinator will act as an adviser to the chief administrative officer during emergencies.

Sec. 7-7. Chief of police emergency duties.

The Chief of Police, who is the chief law enforcement officer of the City, shall serve as principal adviser to the chief administrative officer on the implementation of the provisions of

emergency powers under this chapter during non-wartime emergencies or disasters.

Sec. 7-8. General powers and authority.

The Chief Administrative Officer may exercise power and authority necessary to fulfill his general powers and duties under this chapter, and his judgment shall be the sole criteria necessary to invoke emergency powers provided in this chapter and those invested by state statutes listed in Section 33-15-17 of the Mississippi Code of 1972. The Board of Mayor and Selectmen may convene to perform its powers as the situation demands, and receive reports relative to disaster preparedness activities.

State law reference--Emergency powers, MS Code Ann., 1972, Sec. 33-15-13.

Sec. 7-9. Promulgation of regulations.

The Chief Administrative Officer may promulgate such regulations during any period when disaster threatens or when a disaster has struck as he deems necessary to protect life and property and preserve critical resources. Example of those regulations may include, but not be limited to the following:

- (1) Regulations to prohibit or restrict the movement of vehicles in order to facilitate the work of disaster forces or to facilitate the mass movement of persons from areas that are hazardous or vulnerable to disasters or critical areas within the council's jurisdiction;
- (2) Enter into contracts, incur obligations, employ temporary workers, rent equipment, purchase supplies, levy taxes, appropriate and expend public funds without regard to time-consuming procedures and formalities normally prescribed by law;
- (3) After determining that a civil emergency exists and has been declared in writing and copy filed with the city clerk, a curfew may be declared as authorized in Section 45-17-3 and Section 45-17-5 of the MS Code, 1972, and may prohibit certain acts and activities as prescribed and authorized in Section 45-17-7 of said MS Code, 1972, such as closing retail liquor stores, discontinuance of sale of intoxicating liquor and/or beer, discontinuance of manufacture of, transfer, use, possession of Molotov cocktail or explosives, and discontinuance of sale of firearms. The governing body may provide that violations of any such

provisions be punishable as provided by Section 1-9 of this Code.

Sec. 7-10. Duties of Coordinator.

Under the supervision of the Board of Mayor and Selectmen, through the Chief Administrative Officer, the Coordinator shall be responsible for, but not necessarily limited to, the following duties:

- (1) The Coordinator shall be responsible for all phases of disaster preparedness and operations activities, which shall be in the written form of a Basic Plan, with warning, alerting and lines of succession for each department having an emergency responsibility. This plan will be a joint effort of the Coordinator and the head of each department. The Coordinator shall maintain liaison with the state and federal authorities to insure the compatibility of the planning and programs in emergency preparedness. The coordinator shall act as an adviser to the governing body and the chief administrative officer in matters concerning emergency preparedness and operations;
- (2) The recruitment of volunteer personnel and agencies to augment those of the political subdivision and areas not assigned to personnel and agencies of the political subdivision;
- (3) Negotiating and concluding with the owners or persons in control of real estate or other property for use of such for sheltering the public during emergencies and/or disasters and to designate such as public shelters;
- (4) Establish a public information program which will inform the people of the actions required for the protection of their persons and property in case of disaster;
- (5) The coordinator will be responsible for practice alerts, tests and exercises to insure the efficient operation of the council's disaster forces and the coordinating of all other public and private agencies' activities engaged in any disaster preparedness activity;
- (6) To assume any other such authority and conduct any such other activity as the governing body and/or the chief administrative officer may direct to promote and execute the disaster preparedness program;

- (7) To be prepared to give the governing body a status report of the degree of readiness of the council no less than annually or as directed by said body;
- (8) some of the duties ascribed to the chief administrative officer may, at his discretion, be handled by the coordinator, but the responsibility and authority stems from and remains with the chief administrative officer.

Sec. 7-11. Duty of department heads.

The head of each department, agency, board, institution and commission having an emergency assignment shall prepare in coordination with the coordinator that portion of the Basic Plan pertaining to his emergency assignment so that the most efficient and effective use may be made of the council's resources. Line of succession of three persons will be established and maintained. This line of succession will be in order with the best capable of carrying out all assigned duties and functions. Each head shall be responsible for maintaining their portion of the Basic Plan and the line of succession in a current state. Each department will prepare and keep current a list of resources, and keep said list on file in the emergency preparedness office.

Sec. 7-12. Peace officers; penalty.

- (a) With the approval of the Chief of Police of the city, any county and/or municipality may confer upon members of their civil defense auxiliary police units, the powers of peace officers, subject to such restrictions as shall be imposed.
- (b) Any civil defense auxiliary policeman having these powers conferred upon him may arrest without warrant any person violating or attempting to violate, in the officer's presence, any order, rule or regulation made pursuant to this chapter. This authority shall be limited to those rules and regulations which affect the public generally.
- (c) Neither an agency of this council, its employees or representatives engaged in any emergency preparedness activities, while complying with or attempting to comply with this chapter or any rule or regulation promulgated pursuant to the provisions of this chapter, shall be liable for the death of or any injury to persons, or damage to property, as a result of such activity, except in cases of willful conduct.

- (d) Any person convicted of violating any provision of this chapter or any rule, order or regulation made pursuant to this chapter, shall be punished by a fine not to exceed five hundred dollars (\$500.00) or imprisonment not exceeding six (6) months, or both.

Cross reference--General penalty, Sec. 1-9; Liability, Sec. 7-13.

State law reference--Penalties, MS Code Ann., 1972, Sec. 33-15-43.

Sec. 7-13. Private liability.

- (a) Neither the city nor agents and representatives of the city, while acting in good faith without willful misconduct, complying with or attempting to comply with any order, rule or regulation promulgated pursuant to the provision of this chapter, shall be eligible for any damage sustained to persons or property as the result of said activity.
- (b) Neither any person owning or controlling real estate or other premises who voluntarily and without compensation grants the City the right to license, inspect, designate or use the whole or any part or parts of such real estate or premises for the purpose of sheltering person during an actual, impending or practice enemy attack, or during the occurrence of natural or man-made disasters, shall be civilly liable for the death, injury to, any person or about such real estate or premises by virtue of its use for civil defense purposes, or loss of, or damage to, the property of such person, except in case of willful misconduct.

Sec. 7-14. Funds.

For the purpose of paying any expenses of its local emergency preparedness organization, the governing authority of the city authorizes the expenditure of any available funds from the general funds of said jurisdiction.

Sec. 7-15. Agreement with Federal government.

Any governing body of the emergency preparedness organization may enter into agreement with the federal government with the approval of the state Director of Civil Defense for matching funds, which may be available from the general funds or such other funds as may be available to the governing body or the purchase of

equipment by the city in conjunction with any federal matching program and funds for civil defense purposes.

Sec. 7-16. Gifts, grants, loans.

Whenever the federal government or any agency or officer thereof shall offer to this political subdivision services, equipment, supplies, material or funds by way of gift, grant or loan, for the purpose of emergency preparedness, the political subdivision acting with the consent of the governor and through its governing body of such political subdivision may authorize any officer of the political subdivision to receive such services, equipment, supplies, materials or funds on behalf of the political subdivision and subject to the terms of the offer and the rules and regulations, if any, of the agency making the offer.

Whenever any person shall offer to the political subdivision services, equipment, supplies, materials, or funds by way of gift, grant or loans, for the purpose of emergency preparedness, the political subdivision, acting through its governing body, may accept such offer and upon such acceptance the governing body may authorize any officer to receive such services, equipment, supplies, materials or funds on behalf of the political subdivision and subject to the terms of the offer, if any.

Sec. 7-17. Violation of regulations.

It shall be unlawful for any person to violate any of the provisions of this chapter or of the regulations or plans issued pursuant to the authority contained in this chapter, or to wilfully obstruct, hinder or delay any member or members of the disaster forces in the performance of their emergency assignments.

CHAPTER 8

CORPORATE LIMITS

Sec. 8-1. Described.

The corporate limits of the City are described as follows, to-wit:

CORPORATE LIMITS OF THE CITY OF WEST POINT, MISSISSIPPI (INCLUDING ANNEXATION)

Commence at the southeast corner of the SW₃ of the NW₃ of Section 24, T-17-S, R-6-E, Clay County, Mississippi, which is the **POINT OF BEGINNING** of this description, run thence West a distance of 1,980.0 feet to the Southwest corner of the SE₃ of the SE₃ of the NE₃ of Section 23, T-17-S, R-6-E; thence run North 01 degrees 01 minutes West a distance of 172.0 feet; thence run South 88 degrees 59 minutes West a distance of 249.0 feet; thence run North 03 degrees 00 minutes West a distance of 695.0 feet; thence run North 67 degrees 21 minutes East a distance of 284.1 feet; thence run North a distance of 350.5 feet to the southwest corner of the SE₃ of the NE₃ of the NE₃ of Section 23, T-17-S, R-6-E; thence run West to a point which is 624.0 feet east of the point where the south line of the N₂ of the N₂ of Section 23, T-17-S, R-6-E intersects the east right of way line of the West Point - Tibbee Public Road, which road is an extension of Grove Street in the City; thence run South 00 degrees 25 minutes West a distance of 940.0 feet; thence run South 67 degrees 40 minutes West a distance of 200.0 feet; thence run South 55 degrees 21 minutes West a distance of 80.0 feet; thence run South 62 degrees 30 minutes West a distance of 890.0 feet; thence run West a distance of 549.7 feet to the West property line of Bryan Brothers Packing Company property; thence run South 00 degrees 43 minutes 17 seconds East a distance of 2,526.18 feet to an iron rod; thence run South 89 degrees 50 minutes 06 seconds West along a fence a distance of 712.91 feet to a fence corner post; thence run North 88 degrees 11 minutes 52 seconds West along a fence a distance of 582.58 feet to a fence corner post; thence run South 86 degrees 21 minutes 14 seconds West along a fence a distance of 652.11 feet to an iron rod at a fence corner; thence run North 89 degrees 05 minutes 56 seconds West a distance of 1,026.60 feet to an iron rod on the West right of way of U. S Highway No. 45 Alternate; thence run northerly along the West right of way of said highway as follows: North 01 degrees 15 minutes 02 seconds East a distance of 39.27 feet to a concrete marker; thence run North 85 degrees 54 minutes 41 seconds East a distance of 210.86 feet to a concrete marker; thence run North 16 degrees 21 minutes 11 seconds East a distance of

185.75 feet to a concrete marker; thence run North 18 degrees 47 minutes 39 seconds West a distance of 304.18 feet to an iron rod; thence leaving said right of way run South 90 degrees 00 minutes 00 seconds West a distance of 465.59 feet to an iron rod; thence run North 87 degrees 42 minutes 06 seconds West along a fence a distance of 249.64 feet to a fence corner post; thence run North 88 degrees 10 minutes 24 seconds West a distance of 124.26 feet to a flat iron bar; thence run North 89 degrees 02 minutes 07 seconds West a distance of 978.74 feet to an iron rod; thence run South 00 degrees 14 minutes 12 seconds West along an existing fence 515.74 feet to an iron rod; thence run North 88 degrees 22 minutes 58 seconds West along an existing fence a distance of 504.25 feet to an iron rod; thence run North 00 degrees 24 minutes 42 seconds East along an existing fence a distance of 819.98 feet to a wooden fence post; thence run North 86 degrees 14 minutes 20 seconds West along an existing fence a distance of 143.55 feet to a wooden fence post; thence run North 00 degrees 14 minutes 12 seconds East along an existing fence a distance of 1,788.02 feet to an iron rod designating the southeast corner of the NE³ of Section 21, T-17-S, R-6-E, thence run South 89 degrees 56 minutes 40 seconds West along an existing fence a distance of 2,117.16 feet to an iron rod; thence run North 20 degrees 27 minutes 57 seconds East along an existing fence a distance of 214.68 feet to an iron rod; thence run North 87 degrees 25 minutes 57 seconds West along an existing fence a distance of 205.55 feet to a wooden fence post; thence run North 00 degrees 22 minutes 14 seconds East a distance of 235.68 feet to an iron rod on the Northwest right of way of the Columbus & Greenville Railroad; thence run North 42 degrees 35 minutes 28 seconds East along the northwest right of way of said Columbus & Greenville Railroad a distance of 2,992.31 feet to an iron pin on the centerline of Churchill Road; thence run Northeasterly along the west right of way line of said railroad a distance of 2,324.5 feet to the point of intersection of the west right of way line of said railroad with the west line of the NE³ of the SW³ of said Section 15; thence run North along the said west line of the NE³ of the SW³ of said Section 15 a distance of 921.0 feet, more or less, to the northwest corner of the NE³ of the SW³ of said Section 15; thence run Northeasterly along the centerline of what is known historically as "Old White Road" and the "Aberdeen - Starkville Road" and which is shown on the map and survey of the City of West Point made by Arthur L. Goodman as "City Limits Road" to the southwest corner of the NE³ of Section 10, T- 17-S, R-6-E; thence run West a distance of 61.30 feet to the west right of way line of U.S. Highway 45 Alternate; thence run North along said west right of way line of said highway a distance of 1,305.23 feet to an existing fence; thence run North 89 degrees 58 minutes 40 seconds West along said fence a distance of 1,932.95 feet to a fence corner; thence run North 00 degrees 44 minutes 27 seconds West along said fence a distance of 1,297.70 feet to a fence corner and the south right of way of Lone Oak Drive; thence run North 89 degrees 53 minutes 38 seconds East along said right of way a distance of 597.48 feet to an iron rod; thence

run North a distance of 2,667.12 feet; thence run North 01 degrees 45 minutes 43 seconds East a distance of 633.41 feet; thence run South 88 degrees 57 minutes 22 seconds West a distance of 1,265.00 feet; thence run North 00 degrees 54 minutes 28 seconds West a distance of 690.26 feet; thence run North 89 degrees 49 minutes 17 seconds East along a fence for 2,372.25 feet to a point on the West right of way line of U. S. Highway 45 Alternate; thence run South 88 degrees 10 minutes 46 seconds East a distance of 123.85 feet to an iron rod on the East right of way line of said highway; thence run North 89 degrees 31 minutes 21 seconds East along the North line of Seller's Subdivision for 675.00 feet to an iron rod; thence run South 00 degrees 38 minutes 43 seconds East a distance of 1,500.00 feet to an iron rod set on the west boundary line of Northgate Subdivision - Part II as recorded in Plat Book 2 at page 32 in the office of the Chancery Clerk of Clay County, Mississippi; thence run South 00 degrees 38 minutes 43 seconds East for 418.82 feet to a point on the North right of way of Industrial Access Road; thence run South 23 degrees 07 minutes 27 seconds East for 87.82 feet to a point on the South right of way of said road; thence run South 00 degrees 10 minutes 00 seconds West along the West line of Northgate Subdivision, as recorded in Plat Book 2 at Page 30 in the office of the Chancery Clerk of Clay County, for 996.00 feet; thence run North 90 degrees 00 minutes 00 seconds West along the West line of said subdivision for 16.50 feet; thence run South 10 degrees 18 minutes 00 seconds West along the West line of said subdivision for 352.00 feet; thence run North 90 degrees 00 minutes 00 seconds East along the South line of said subdivision for 363.30 feet; thence run North 14 degrees 37 minutes 49 seconds East a distance of 278.62 feet; thence run South 75 degrees 37 minutes 37 seconds East a distance of 482.44 feet; thence run South 01 degrees 28 minutes 51 seconds East a distance of 759.11 feet to the north line of Section 10, T-17-S, R-6-E; thence run East a distance of 2,530.59 feet to the southeast corner of the SW₃ of the SW₃ of Section 2, T-17-S, R-6-E, thence run North along the east line of the W₂ of the SW₃ of Section 2, T-17-S, R-6-E a distance of 1,712.64 feet to the south right of way line of a county road locally known as the West Point Industrial Park Access Road; thence run in an Easterly direction along the south right of way line of the West Point Industrial Park Access Road a distance of 1,690.30 feet to the west right of way line for the tracks of the Illinois Central Gulf Railway Company; thence run generally Northeastwardly along the said west line of said right of way to the point where said west line of said right of way intersects the north line of the SE₃ of Section 2, T-17-S, R-6-E; thence run East along the north line of said SE₃ of said Section 2 to the point where said north line of said SE₃ of said Section 2 intersects the west right of way line of the public road which is an extension of Eshman Avenue in the City of West Point, and which is generally called "West Point - Strong Station Road" or "West Point - Payne Field Road" or "West Point - Aberdeen Road"; thence run Southwardly along the said west right of way line of said public road to the point where it intersects the north line of Section 11,

T-17-S, R-6-E; thence run East along the north line of Sections 11 and 12 to the northeast corner of the NW₃ of the NW₃ of Section 12, T-17-S, R-6-E; thence run South to the northeast corner of the SW₃ of the NW₃ of said Section 12; thence run East along the quarter section line to a point 230.0 feet East of the northeast corner of the S₂ of the NW₃ of said Section 12; thence run Southerly parallel with the half section line of said Section 12 a distance of 1,255.0 feet; thence run Westerly parallel with the East and West one-half section line of said Section 12 a distance of 230.0 feet to the North-South one-half section line of said Section 12; thence run Southerly along the said North-South one-half section line to the center of said Section 12; thence run Westerly to the southeast corner of the SW₃ of the NW₃ of said Section 12; thence run South to the North section line of Section 13, T-17-S, R-6-E; thence run East along said North section line to the Northeast corner of the Northwest quarter of said Section 13; thence run South along the half section line to the Southeast corner of the Northwest quarter of said Section 13; thence run West along the half section line to the east line of the W₂ of the W₂ of Section 13; thence run South to a point 1,910.3 feet south of the north line of Section 24, T-17-S, R-6-E; thence run North 88 degrees 13 minutes East a distance of 1,353.8 feet; thence run South 01 degrees 26 minutes East a distance of 733.8 feet; thence run South 88 degrees 41 minutes West a distance of 301.9 feet; thence run South 89 degrees 28 minutes West a distance of 196.3 feet; thence run South 88 degrees 13 minutes West a distance of 206.0 feet; thence run North 89 degrees 19 minutes West a distance of 337.4 feet; thence run South 89 degrees 01 minutes West a distance of 327.9 feet; thence run South to the **POINT OF BEGINNING** for this description.

(Ordinance of May 12, 1998)

Sec. 8-2. Map and survey adopted.

A map and survey of all of the streets, blocks and lots within the corporate limits of the city, prepared by Arthur L. Goodman, registered Civil Engineer, and amended by Robert L. Calvert, register Professional Engineer, and bearing the date of June 12, 1979, and bearing the signature of said Robert L. Calvert and the signatures of Kenneth D. Dill, Mayor of the City, and John Cummings, Bill Garner, Jesse Harmon, Laddie Huffman and J.N. Orr, Selectmen of the City, is found to be a correct map of the streets blocks and lots within the corporate limits as of June 12, 1979.

Said map and survey is hereby approved, adopted and is hereby constituted and designated as the Official Map of the City of West Point, Clay County, Mississippi.

A duplicate or true copy of said official map shall be prepared by said Robert L. Calvert and the Clerk of the City of West Point is authorized, empowered and directed to file said duplicate copy of said

map with the Clerk of the Chancery Court to be recorded in the manner prescribed by law.

CHAPTER 9

ELECTIONS

State law reference--Elections, generally, MS Code Ann., 1972,
Section 23-1-1, et seq.

- Art. I. In General, Sec. 9-1 thru 9-17
Art. II. Election Commissioners, Sec. 9-18 thru 9-20

ARTICLE I. IN GENERAL

Sec. 9-1. Wards created.

There are hereby created five (5) wards or districts within the corporate limits, from each of which there will be elected by the qualified electors within each ward a selectman, who shall be and remain a resident citizen of the ward from which he or she is elected.

Sec. 9-2. Ward One Designated.

The designated voting place in Ward One (1) is the Recreation Center located in Block One Hundred Twenty-Three. The territory within the following outlined description shall constitute Ward One (1), to-wit:

Voting Ward One:

Begin where the centerline of East Main Street intersects the centerline of Cottrell Street; run thence northerly along the centerline of Cottrell Street to its intersection with the centerline of East Morrow St.; run thence easterly along the centerline of East Morrow Street to its intersection with the centerline of Fifth Street; run thence Northerly along the centerline of Fifth Street and the extension thereto to its intersection with the west right of way line of the Illinois Central Gulf Railroad (Aberdeen branch); run thence generally northeasterly along the west right of way line of the Illinois Central Gulf Railroad (Aberdeen Branch) to a point where said west right of way line intersects the north line of the southeast quarter (SE 1/4) of Section Two (2), Township Seventeen (17), Range Six (6) East; thence run east along the north line of said southeast quarter (SE 1/4) of said Section Two (2) to a point where it intersects the west right of way line of a public road which is an extension of Eshman Avenue in the City of West Point and which is generally called the "West Point-Strong Station

Road" or "West Point-Prairie Field Road" or "West Point-Aberdeen Road"; thence southerly along said west right of way line of said public road to the point where it intersects the north line of Section Eleven (11), Township Seventeen (17), Range Six (6) East; thence East along the north line of Section eleven (11) and Section Twelve (12) to the northeast corner of the Northwest Quarter of the Northwest Quarter (NW 1/4 NW 1/4) of Section Twelve (12), Township Seventeen (17), Range Six (6) East; thence South to the northeast corner of the Southwest Quarter of the Northwest Quarter (SW 1/4 NW 1/4) of said Section Twelve (12); thence run East along the quarter section line to a point 230 feet east of the northeast corner of the South one-half of the Northwest Quarter (S 1/2 NW 1/4) of said Section Twelve (12); run thence Southerly parallel with the half section line of said Section Twelve (12) a distance of 1255 feet; thence run Westerly parallel with the East-West half section line of said Section Twelve (12) a distance of 230 feet to the North-South half section line of said Section Twelve (12); thence run Southerly parallel with the half section line of said Section Twelve (12) a distance of 1255 feet; thence run Westerly parallel with the East-West half section line of said Section Twelve (12) a distance of 230 feet to the North-South half section line of said Section Twelve (12) thence run Southerly to the center of said Section Twelve (12); thence run Westerly to the southeast corner of the Southwest Quarter of the Northwest Quarter (SW 1/4 NW 1/4) of said Section Twelve (12); thence run South to the intersection of the centerline of East Main Street, which is also known at this point of intersection as Mississippi State Highway 50; thence run Westerly along the centerline of East Main Street to the point of beginning, being located in Sections Two (2), Eleven (11) and Twelve (12), Township Seventeen (17), Range Six (6) East in Clay County, Mississippi and being designated as "Voting Ward 1" of the City of West Point, Mississippi.

Sec. 9-3. Ward Two Designated.

The designated voting place in Ward Two (2) is the Clay County Courthouse located in Block One Hundred Sixty (160). The territory within the following outlined description shall constitute Ward Two (2), to-wit:

Voting Ward Two:

Begin where the centerline of East Main Street intersects the centerline of Cottrell Street; run thence Northerly along the centerline of Cottrell Street to its intersection with the centerline of East Morrow Street; run

thence Easterly along the centerline of East Morrow Street to its intersection with the centerline of Fifth Street; run thence Northerly along the centerline of Fifth Street and the extension thereof to its intersection with the west right of way line of the Illinois Central Gulf Railroad (Aberdeen Branch); thence run generally Northeasterly along the west right of way line of the Illinois Central Gulf Railroad (Aberdeen Branch) to a point where said west right of way line intersects the north line of Section Eleven (11), Township Seventeen (17), Range Six (6) East; thence run West along the north line of said Section Eleven (11) and the north line of Section Ten (10), Township Seventeen (17), Range Six (6) East, which becomes the centerline of North City Limits Road, to a point where it intersects the west right of way line of U.S. Highway 45 Alternate; thence run Southerly along the west right of way line of said U.S. Highway 45 Alternate to a point 61.3 feet east of the southwest corner of the Northeast Quarter (NE 1/4) of said Section Ten (10); thence West 61.3 feet to the southwest corner of the Northeast Quarter (NE 1/4) of said Section Ten (10), which is the same as the centerline of a public road known historically as "Old White road" and the "Aberdeen-Starkville Road" and which is shown on the Arthur L. Goodman map and survey of the City of West Point as "City Limits Road"; thence run Southwesterly along the centerline of said "Old White Road" to its intersection with the centerline of West Main Street, which is also known at the point of intersection as Mississippi State Highway 50; thence run East along the centerline of West Main Street to its intersection with the centerline of West Broad Street Extended; thence Southerly along the centerline of West Broad Street Extended to its intersection with West Broad Street; thence Southeasterly and Easterly along West Broad Street to its intersection with East Street; thence Northerly along the centerline of East Street to the point of beginning, said point of beginning being where the centerline of East Street, East Main Street and Cottrell Street intersects; being located in Sections Ten (10), Eleven (11), Fourteen (14) and Fifteen (15), Township Seventeen (17), Range Six (6) East in Clay County, Mississippi, and being designated as "Voting Ward 2" of the City of West Point, Mississippi.

Sec. 9-4. Ward Three Designated.

The designated voting place in Ward Three (3) is the West Point Electric System located in Block Twelve. The territory within the following outlined description shall constitute Ward Three (3), to-wit:

Voting Ward Three:

Begin where the centerline of Churchill Road intersects the centerline of Little Street; thence northerly along the centerline of Little Street to its intersection with the centerline of West Brame Avenue; thence Easterly along the centerline of West Brame Avenue to its intersection with the centerline of Commerce Street; thence Northerly along the centerline of Commerce Street to its intersection with the centerline of Travis Street; thence Easterly along the centerline of Travis Street to its intersection with the centerline of East Street; thence Northwesterly along the centerline of East Street to its intersection with the centerline of Broad Street; thence Westerly along the centerline of Broad Street, which becomes West Broad Street, to its intersection with the centerline of Broad Street, which becomes West Broad Street, to its intersection with the centerline of West Broad Street Extended; thence Northerly along the centerline of West Broad Street Extended to its intersection with the centerline of west Main Street; thence Westerly along the centerline of West Main Street to its intersection with a public road known historically as "Old White Road" and the "Aberdeen-Starkville public Road" and which is shown on the Arthur L. Goodman Map and survey of the City of West Point as "City Limits Road"; thence run Southwesterly along the centerline of "Old White Rod" to the northwest corner of the Northeast Quarter of the Southwest Quarter (NE 1/4 SW 1/4) of Section Fifteen (15), Township Seventeen (17), Range Six (6) East; thence South along the west line of the Northeast Quarter of the southwest quarter (NE 1/4 SW 1/4) of said Section Fifteen (15) a distance of 921 feet, more or less, to a point where it intersects the west right of way line of the Illinois Central Gulf Railroad (Starkville Branch); thence run Southwesterly along the west right of way line of said Railroad 2,324.5 feet to a point where it intersects the south line of Section Sixteen (16), Township Seventeen (17), Range Six (6) East, which is also the centerline of Churchill Road; thence East along the centerline of Churchill Road to the point of beginning, being located in Sections Fourteen (14), Fifteen (15), and Sixteen (16), Township Seventeen (17), Range Six (6) East and being designated as "Voting Ward 3" of the City of West Point, Mississippi.

Sec. 9-5. Ward Four Designated.

The designated voting place in Ward Four (4) is the Central School Gymnasium at the corner of Westbrook and East Streets located in Block Twenty. The territory within the following outlined description shall constitute Ward Four (4), to-wit:

Voting Ward Four:

Begin at the southeast corner of the Southwest Quarter of the Northwest Quarter (SW 1/4 NW 1/4) of Section Twelve (12), Township Seventeen (17), Range Six (6) East; run thence due South to the centerline of East Main Street, which is also known at this point as Mississippi Highway 50, which is the point of beginning of this description; From said point of beginning, run South through Section Thirteen (13), Township Seventeen (17), Range Six (6) East to the north line of Broadmoor Subdivision in the City of West Point, Mississippi; thence North 89 degrees 50 minutes East along the north boundary line of Broadmoor Subdivision 53.2 feet to the centerline of a creek, said point being the northeast corner of Broadmoor Subdivision; thence South 4 degrees 41 minutes West along the centerline of said creek 123 feet; thence run South 25 degrees 30 minutes West 80 feet, more or less, to the east line of the West one-half of the West one-half (W 1/2 W 1/2) of Section Thirteen (13), Township Seventeen (17), Range Six (6) East; thence South to a point 1910.3 feet South of the north line of Section Twenty-four (24), Township Seventeen (17), Range Six (6) East; thence North 88 degrees 13 minutes East 1353.8 feet; thence south 1 degree 26 minutes East 733.8 feet; thence South 88 degrees 13 minutes East 1353.8 feet; thence South 1 degree 26 minutes East 733.8 feet; thence South 88 degrees 41 minutes West 301.9 feet; thence South 89 degrees 28 minutes West 196.3 feet; thence South 88 degrees 13 minutes West 206.0 feet; thence North 89 degrees 19 minutes West 337.4 feet; thence South 89 degrees 1 minute West 327.9 feet; thence South to the southeast corner of the Southwest Quarter of the Northwest Quarter (SW 1/4 NW 1/4) of Section Twenty-four, Township Seventeen (17), Range Six (6) East, thence West to the west boundary line of Section Twenty-four (24), Township Seventeen (17), Range Six (6) East, which is also the centerline of Eshman Avenue to its intersection with the centerline of East Brame Avenue; thence Westerly along the centerline of East Brame Avenue to its intersection with the centerline of McClellan Street; thence Northerly along the centerline of McClellan Street to its intersection with the centerline of Dix Street; thence Westerly along the centerline of Dix Street to its intersection with the centerline of East Street; thence Northwesterly along the centerline of East Street to its intersection with the centerline of East Main Street; thence Easterly along the centerline of East Main Street to the point of beginning, being located in Sections Thirteen (13), Fourteen (14) and Twenty-four (24), Township Seventeen (17), Range Six (6) East and being designated as "Voting Ward 4" of the City of West Point, Mississippi.

Sec. 9-6. Ward Five Designated.

The designated voting place in Ward Five (5) is the Ivy Lanes Recreation Hall on Brame Avenue located in Block Sixty-five. The territory within the following outlined description shall constitute Ward Five (5), to-wit:

Voting Ward Five:

Begin at the southwest corner of the Southeast Quarter of the Southeast Quarter of the Northeast Quarter (SE 1/4 SE 1/4 NE 1/4) of Section Twenty-three (23) Township Seventeen (17), Range Six (6) East; thence North 1 degree 1 minute West 172 feet; thence South 88 degrees 59 minutes West 249 feet; thence North 3 degrees West 695 feet; thence North 67 degrees 21 minutes East 284.1 feet; thence North 350.5 feet to the southwest corner of the Southeast Quarter of the Northeast Quarter of the Northeast Quarter (SE 1/4 NE 1/4 NE 1/4) of Section Twenty-three (23) Township Seventeen (17), Range Six (6) East; thence run West to a point which is 624 feet East of a point where the south line of the North one-half of the North one-half (N 1/2 N 1/2) of Section Twenty-three (23), Township Seventeen (17), Range Six (6) East intersects the east right of way line of the West Point-Tibbee Public Road, said road being an extension of Grove Street in the City of West Point, Mississippi; thence South 0 degrees 25 minutes West 940.0 feet; thence South 67 degrees 40 minutes West 200.0 feet; thence south 55 degrees 21 minutes West 80.0 feet thence South 62 degrees 30 minutes West 890.0 feet; thence West 549.7 feet to the west property line of Bryan Packing Company property; thence North 2 degrees 09 minutes East 179.4 feet; thence North 2 degrees 27 minutes East 214.0 feet; thence North 1 degree 21 minutes East 273.5 feet; thence North 2 degrees 23 minutes East 228.5 feet; thence North 2 degrees 28 minutes East 300.0 feet; thence North 1 degrees 53 minutes East 209.5 feet; thence North 2 degrees 20 minutes East 420.5 feet; thence North 0 degrees 57 minutes East 318.0 feet; thence South 88 degrees 38 minutes East 204.0 feet; thence South 88 degrees 46 minutes East 123.0 feet; thence North 0 degrees 1 minutes East 447.5 feet; thence South 87 degrees 26 minutes East 75.0 feet; thence North 0 degrees 49 minutes East 187.5 feet; thence North 80.0 feet to the centerline of Churchill Road; thence Westerly along the centerline of Churchill Road 1102.9 feet; thence South 4 degrees 52 minutes West 1271.8 feet; thence south 89 degrees 43 minutes West 534 feet; thence North 4 degrees 52 minutes East 1271.8 feet to the centerline of Churchill Road; thence easterly along the

centerline of Churchill Road to its intersection with the centerline of Little Street; thence Northerly along the centerline of Little Street to its intersection with the centerline of Brame Avenue; thence Easterly along the centerline of Brame Avenue to its intersection with the centerline of Commerce Street; thence Northerly along the centerline of Commerce Street to its intersection with the centerline of Travis Street; thence Easterly along the centerline of Travis Street to its intersection with the centerline of East Street; thence Northwesterly along the centerline of East Street to its intersection with the centerline of Dix Street to its intersection with the centerline of McClellan Street; thence Southerly along the centerline of McClellan Street to its intersection with the centerline of Brame Avenue; thence Easterly along the centerline of Eshman Avenue; thence Southerly along the centerline of Eshman Avenue to a point due east of the point of beginning; thence West to the point of beginning, being located in Sections Fourteen (14), Fifteen (15), Twenty-two (22) and Twenty-three (23), Township Seventeen (17), Range Six (6) East, clay County, Mississippi and being designated as "Voting Ward 5" of the City of West Point, Mississippi.

Secs. 9-7 thru 9-17. Reserved.

ARTICLE II. ELECTION COMMISSIONERS

Sec. 9-18. Appointed.

There shall be elected by the Board of Mayor and Selectmen at the time and in the manner and for the term provided by state law, three (3) election commissioners, who shall be qualified electors of the city, one of whom the board shall elect, appoint or designate as the commissioner to have printed and distributed the official ballots to be used in city elections.

Sec. 9-19. Duties.

The duties of said election commissioners shall be as follows:

- (1) To meet whenever business may require and to sit as a board to hear and determine appeals from the decisions of the city clerk as registrar, allowing or refusing the application of any elector to be registered on the city registration books;
- (2) To review and revise the city registration book and poll books prior to every city election;
- (3) To perform all the duties in connection with municipal elections required of them, and such further duties in connection therewith as are provided by the State laws to be performed by county election commissioners, except such duties as are required by the city charter and by the State laws to be performed by the election managers and clerks.

State law references--Registration and elections, generally, MS Code Ann., 1972, Sec. 23-5-1, et seq.; hours of voting, MS Code Ann., 1972, Sec. 23-7-35.

Sec. 9-20. Procedures.

The election commissioner appointed to have printed and distributed the official ballots to be used in elections shall perform his duties in connection therewith, as near as may be, in the manner required by the state laws of the county commissioner appointed for similar purpose. He shall deliver to each of the election managers who may be designated by proper authorities to receive and distribute the ballots at the several voting places the

requisite number of official ballots and cards of instruction for the voting place to which such election manager has been assigned.

Sec. 9-21. Meetings.

The election commissioners shall meet at the city clerk's office at 10:00 AM on the first Tuesday after the appointment (unless an earlier date and another hour may be by them mutually agreed upon) for the purpose of organization, at which meeting they may transact any business requiring attention, and may adjourn from time to time as business may require. Their methods of procedure and their performance of the duties they are authorized to perform shall be the same, as near as may be, as provided for county election commissioners by the laws of the State.

CHAPTER 10

FIRE PREVENTION AND PROTECTION

State Law Reference--Fire protection and safety, generally, Sec. 45-111-1 thru 45-11-55.

Art. I. In General, Sec. 10-1 thru 10-23

Art. II. Fire Prevention Code, Sec. 10-25 thru 10-36

Art. III. Storage of Flammables, Sec. 10-37, 10-38

ARTICLE I. IN GENERAL

Sec. 10-1. Composition of fire department.

The fire department shall consist of one chief of the fire department, one assistant chief, and such additional force of regular firemen as the Board of Mayor and Selectmen may, from time to time, authorize.

Sec. 10-2. Fire stations.

The number of stations to be maintained, the location of each, and the character and kind of apparatus and other appliances to be kept at each, shall be designated by the Mayor and Board of Selectmen, from time to time, by ordinance or resolution.

Sec. 10-3. Selection of personnel.

Personnel to fill the different positions at the several stations and to discharge the duties thereof, shall be selected and appointed by the chief of the fire department and assigned by him to such duties and positions and at such station as he may determine. All such appointments and assignments, however, shall be subject to the approval of the Board of Mayor and Selectmen.

Sec. 10-4. Maintenance of equipment.

It shall be the duty of the employees at the several stations to care for and keep in good order the trucks engines, hose, ladders, and other apparatus at their respective stations, the same to be done under such rules and regulations as may be promulgated by the chief, with the approval of the Board of Mayor and Selectmen, and to perform such other duties as may be required of them by said rules in the line of their employment, or as may be required by this Code or by any ordinance that may be passed hereafter.

Sec. 10-5. Right of way of fire vehicles.

All fire trucks and all other vehicles of the fire department, including the vehicle conveying the chief of the fire department, shall have prior right of way upon any street or avenue, alley or railroad crossing, anywhere within the corporate limits, when going to or coming from a fire, and it shall be unlawful for any person, any driver of any automobile, buggy, wagon, or any other vehicle, or any engineer, conductor or other person having a railroad train in charge, to carelessly, wilfully, wantonly, or maliciously obstruct or delay the fire apparatus or any vehicle of the city in going to or coming from any response to a fire alarm.

Cross reference-Traffic, generally, Chapt. 21.

Sec. 10-6. Failure to clear right of way.

Upon the sound of the fire alarm, all railway trains or cars must clear all crossings and keep the same clear until the fire apparatus has passed or until it is obvious that the apparatus has gone in another direction. Any failure to observe the requirements of this or of the preceding section shall be a misdemeanor punishable by Section 1-9 of this Code.

Sec. 10-7. Interfering with fire trucks.

It shall be unlawful for any person wilfully and intentionally to interfere in any manner with any fire truck or other fire apparatus while on its way to or from a fire, or while at a fire, or upon any other occasion. Any person violating the provisions of this section shall be guilty of a misdemeanor, punishable as provided by Section 1-9 of this Code.

Sec. 10-8. Authority of fire chief as to adjacent buildings.

The Chief of the fire department, or the assistant chief, when in command of any fire, shall, with the concurrence of the Mayor or any member of the Board of Selectmen should the Mayor or such member be present or near the place of the fire, have authority to pull down or remove, or cause to be pulled down or removed, any building or fence or wall when, in his judgment, it is necessary to suppress the conflagration or prevent the spreading of the fire.

Sec. 10-9. Electric wires, lines.

The chief, or assistant chief, when in command of a fire, may cut or have cut any telegraph, telephone, electric railway wire or wires, or electric light wires whenever the same may be necessary to protect one or more firemen or other persons from danger, or

when such wire or wires are obstructions to the firemen in the performance of their duties.

Sec. 10-10. Damaging fire equipment.

Any person who shall injure any fire truck belonging to the city, or any apparatus belonging to the city, or shall place any obstruction in the way so as to hinder the free access to any engineer or hook and ladder vehicle, or other apparatus, or shall injure or remove any of the fire buckets or fire hooks or ladders without proper authority or purpose, shall be guilty of an offense.

Sec. 10-11. Driving over fire hoses.

It shall be unlawful for any person to drive over or pass over with a vehicle, the fire hoses of the fire department of the city. It is hereby made the duty of all persons driving near the scene of the fire while the same is in progress to take special notice of the hoses of the fire department that may be laid along the street or elsewhere in the vicinity of the fire. Any person violating the provisions of this section shall be guilty of an offense punishable as provided by Section 1-9 of this code.

Sec. 10-12. Telephone, telegraph lines in fire district.

It shall be unlawful for any person having a franchise from the city to construct and maintain telephone and telegraph or other such lines, above ground with the fire district of the city.

Secs. 10-13 thru 10-23. Reserved.

ARTICLE II. FIRE PREVENTION CODE

Sec. 10-24. Adopted.

There is hereby adopted for use within the corporate limits of the city the "International Fire Code, 2003 Edition., including any fees authorized therein, a copy of which is on file with the Clerk of the City of West Point as is provided by Section 21-19-25 of the MS Code of 1972, amended. (Ord. of 4/14/81, Sec. 1; Ord. of 6/18/82, Sec.6; Ord. of 5/14/91, Sec. 1);(Ord. of 11/14/95)(Ord. 9/12/2000)(Ord. of 11/11/03)

Sec. 10-25. Amendments, revisions. (Repealed by Ord. 11/14/95)

Secs. 10-26 thru 10-36. Reserved.

ARTICLE III. STORAGE OF FLAMMABLES

Sec. 10-37. Permit required.

It shall be unlawful to construct or install or cause to be constructed or installed any tank or container for the storage of kerosene, diesel fuel, gasoline or other highly volatile petroleum products within the city limits without first having secured a permit therefor from the building inspector.

Cross reference-Building code, Chapt. 23

State law reference-Definition of flammable liquids, MS Code Ann., 1972, Sec. 63-3-113.

Sec. 10-38. Above ground tanks.

No tank or container for the storage of kerosene, diesel fuel, gasoline or other highly volatile petroleum products shall hereafter be installed or constructed above ground on the premises occupied and used by a business selling at retail kerosene, diesel fuel, gasoline or other highly volatile petroleum products, provided that this section shall not apply to tanks for the storage of kerosene, diesel fuel, gasoline and other highly volatile petroleum products which are to be sold at wholesale through tank-truck delivery commonly called "bulk station."

CHAPTER 11

FOOD AND FOOD HANDLING ESTABLISHMENTS

Cross Reference-Health and Sanitation, Chapt. 13

State Law References-Food, generally, MS Code Ann., 1972, Sec. 75-29-1, et seq; local regulation and inspection, Sec. 75-29-101 thru 75-29-111.

Art. I. In General, Sec. 11-1 thru 11-11

Art. II. Food Handling Establishments, Sec. 11-12 thru 11-30

Art. III. Milk and Milk Products, Sec. 11-30 thru 11-34

ARTICLE I. IN GENERAL

Sec. 11-1. Quality of food or drink.

Any food or drink of any type sold or used for human consumption shall be clean and wholesome pursuant to regulations and standards adopted or promulgated by the county board of health. Final determination on questionable food or drink shall be made by the county board of health.

Sec. 11-2 thru 11-11. Reserved.

ARTICLE II. FOOD HANDLING ESTABLISHMENTS

Sec. 11-12. Definitions.

In the construction of this chapter, the terms used herein shall be defined as follows:

Food Handling Establishment shall be taken to mean and include a buffet lunch room, lunch counter, restaurant, cafe, dining room or hotel, bakery, soda fountain, soft drink stand, grocery store, fruit stand, meat market, packing house, poultry market, fish market, hamburger stand, ice cream wagon, and every other public place where food is processed, served, prepared, sold, given in exchange, given away, or consumed on the premises, and all establishments where food or candy is prepared, stored, or manufactured for use.

Health Certificate shall be a certificate from the county health department stating that the establishment where applicant conducts such business or proposes to conduct such business meets with the requirements of this chapter and other regulations of

the city and regulations of the Mississippi State Board of Health pertaining to said business. Said health certificate shall also be considered a permit.

Sec. 11-13. Health Certificate - Required; prerequisite to issuance of privilege license.

Before any privilege license shall be issued for the operation of any food handling establishment as defined in Section 11-12, or place where food is sold for human consumption, the party desiring a license shall obtain a health certificate and permit from the county health department stating that the establishment where applicant conducts such business, or proposes to conduct such business, meets with the requirements imposed by the city and the regulations of the State Board of Health. Said permit and certificate shall be upon only one place of business, which shall be stated therein, and shall not be assignable. Upon the presentation of said permit and health certificate, applicant may purchase a privilege license from the city as provided by law.

Sec. 11-14. Same - Application.

The county health department is authorized to issue such certificate and permit upon application of any person desirous of engaging in or continuing to engage in such business. Application shall be provided by the county health department. Such application shall contain all information required by the county health department and shall contain an agreement by the applicant consenting to have the inspector of the county health department enter, examine and inspect at any time, all, or any part of the premise and equipment used in conducting such business, or any product or food manufactured or sold therein, and to take samples of food or candy for the purpose of analysis, and to take samples of swabbings from eating and drinking utensils for bacteriological examination. Such application shall further contain an agreement by the applicant to conform to the rules and regulations for the State Board of health and requirements of the City relative to the conduct of such business.

State law reference-Regulations adopted by local governing authorities, MS Code Ann., 1972, Sec. 75-29-103.

Sec. 11-15. Refusal to issue.

The county health department is hereby authorized to refuse to issue a certificate and permit if, upon satisfactory proof that the place or equipment in question does not meet the requirements of the State Board of Health or the city pertaining to the type of establishment, or if the county health department shall, upon investigation, obtain information from any reliable source which

shows that the applicant is not the proper person to conduct said business insofar as public health is concerned.

Sec. 11-16. Certificate of health - Required.

Every person who handles food in any way shall have in his or her possession at all times, a certificate of health issued by the director of the county health department, stating that said person does not have or is not a carrier of any communicable or infectious disease.

Cross reference-Infectious diseases, Art. II, Chapt. 13.

Sec 11-17. Same - Cancellation; reexamination; renewal.

The director of the county health department may cancel a health certificate of any person when, after examination, such person is found to have some communicable or infectious disease, or is a carrier of such disease. The director of the county health department may at his discretion require the re-examination of any food handler at any time. Health certificates shall be renewed semi-annually.

Sec. 11-18. Employment of persons failing to have health certificates.

No person who operates any food establishment shall employ any person to work in such establishment who does not have in his possession a health certificate issued within the preceding six months.

Secs. 11-19 --- 11-29. Reserved.

ARTICLE III. MILK AND MILK PRODUCTS

State Law Reference -- Milk and milk products, generally, MS Code Ann., 1972, Sec. 75-31-1, et seq.

Sec. 11-30. Regulations adopted.

The regulations of the Mississippi State Board of Health entitled "Production and Sale of Milk and Certain Milk Products" as promulgated and in force shall be and constitute the milk code of the city.

Sec. 11-31. Grading.

All milk sold or distributed in the city shall be graded as provided for in the regulations of the Mississippi State Board of Health.

Sec. 11-32. Enforcement of regulations.

It shall be the duty of the health officer, his agents or assistants, with the county health board, to enforce the provisions of this article.

Sec. 11-33. Sale to final consumer.

No milk or milk products shall be sold to the final consumer or to restaurants, soda fountains, grocery stores, or similar establishments in the city, except Grade "A" Pasteurized milk or milk products which have been produced and pasteurized under the requirements of the Mississippi State Board of Health. When any milk distributor fails to meet the requirements imposed hereunder, the county health department is authorized to revoke his permit or take such other appropriate action.

State law reference--Retail sales, regulations as to, MS Code Ann., 1972, Sec. 75-31-47.

Sec. 11-34. Revocation of permit.

Any person engaged in the production, sale, offer for sale, storage or distribution of milk products, as defined in the regulations of the Mississippi State Board of Health, or any person handling or having control of, or using any milk, milk products, milk container or receptacles described in said regulations, who shall violate any provisions of this article, or any lawful rule or regulation of the county health department, shall be guilty of a misdemeanor punishable as provided by section 1-9. In addition, the health department shall have the right to revoke any permit.

State law reference--Revocation of license, MS Code Ann., 1972, Sec. 75-31-329.

CHAPTER 12

GARBAGE AND TRASH

State Law Reference--Power of municipality to compel and regulate removal, MS Code Ann., 1972, Sec. 21-19-1.

Art. I. In General, Sec. 12-1 thru 12-12

Art. II. Solid Waste, Sec. 12-13 thru 12-64

Div. 1. Generally, Sec. 12-13 thru 12-50

Div. 2. Rates & Charges, Sec. 12-51 thru 12-59

Div. 3. Enforcement, Sec. 12-60 thru 12-64

ARTICLE I. IN GENERAL

Sec. 12-1. Littering.

(a) It shall be unlawful for any person to drop, throw or deposit upon any street, sidewalk or right of way, any object, article or substance.

(b) Any person who accidentally causes any such object, article or substance to be dropped, thrown or deposited upon any street, sidewalk or right of way shall immediately remove the same or cause it to be removed.

(c) Any person removing a wrecked or damaged vehicle from a street shall remove any glass or other substances dropped upon the street, sidewalk or right of way from such vehicle.

State law reference--Littering of highways and streets, MS Code Ann., 1972, Sec. 97-15-29, 31.

Secs. 12-2 thru 12-12. Reserved.

ARTICLE II. SOLID WASTE

DIVISION 1. GENERAL

Sec. 12-13. Title of article.

This article shall be known as the "City of West Point, Mississippi, Solid Waste Ordinance."

Sec. 12-14. Policy.

In order to protect the public health, safety and welfare, prevent the spread of disease and creation of nuisances, conserve

our natural resources, enhance the beauty and quality of our environment and provide a coordinated city-wide solid waste program, it is declared to be the public policy of the city to regulate solid waste management to:

- (1) Provide for safe and sanitary storage, processing, collection, transportation and disposal of solid wastes;
- (2) Develop long-range plans for adequate solid waste management systems to meet future demands;
- (3) Provide a coordinated city program of control of solid wastes in cooperation with federal, state and local agencies responsible for the prevention, control or abatement of air, water and land pollution; and
- (4) Encourage efficient and economical solid waste management systems.

Sec. 12-15. Definitions.

The following words and terms used in this article shall have the meanings as respectively ascribed to them by this section, unless the context indicates otherwise.

City shall mean the City of West Point, Mississippi, a municipal corporation.

Business establishment shall mean each person, firm or corporation or association licensed to do business in the city and having a location therein generating refuse; apartments and multi-family dwellings consisting of more than eight family units; nursing homes; schools; libraries; governmental organizations and buildings; hospitals, trailer courts; and, in addition thereto, all others generating two (2) or more cubic yards of refuse per week.

Sanitary Landfill means a controlled area of land upon which solid waste is deposited, compacted, covered with compacted earth each day as deposited, with no on-site burning of wastes, and so located, contoured and drained that it will not constitute a source of water pollution.

Incinerator means a device designed to burn that portion of garbage and rubbish which will be consumed at temperatures generally ranging sixteen hundred degrees Fahrenheit or over.

Bulky Wastes shall mean large items of furniture, tires, appliances, construction debris, metal products, rubbish generated by tree surgeons, major landscaping, major landscaping

contractors, and all rubbish that exceeds the limits set forth in Section 12-20 of this Chapter.

Composting or Compost Plant means an officially controlled method or operation whereby putrescible solid wastes are broken down through microbic action to a material offering no hazard or nuisance factors to public health or well being.

Garbage shall mean every accumulation of waste (animal, vegetable and/or other matter) that results from the preparation, storage, processing, consumption, handling, packaging, decay or composition of meats, fish, fowl, fruits, grains, or any other animal or vegetable matter, and all putrescent matter.

Person means any and all persons, natural or artificial, including any individual, firm, institution, association, municipal or private corporation, organized or existing under the laws of this state or any other state or governmental agency or county of this state.

Health Department means the Mississippi State Board of Health, any county health department or any authorized employee or representative of said department.

Rubbish shall mean all wood products, waste wood, tree trimmings, dead plants, weeds, leaves, grass clippings, chips, shavings, rags, straw, packaging material, glass, mineral or metallic substances.

Cross reference--General definitions and rules of construction, Sec. 1-2.

Sec. 12-16. Administering agency - Designated.

The responsible agency for administration of this article shall be the Department of Public Works, Sanitation Division of the City.

Sec. 12-17. Same - Powers and duties.

It shall be the function and duty of the Sanitation Division to:

- (1) To supervise general execution of all solid waste regulations;
- (2) To supervise storage, collection and disposal of all solid wastes;
- (3) To issue permits;

- (4) To designate and approve schedules of collection, special and regular collection points, and any exemptions to any provision of this article as contained herein.

Sec. 12-18. General standards of sanitation.

Every owner, tenant, occupant or person in care of any premises shall keep his premises in a clean and sanitary condition.

Cross reference-Health and Sanitation, Chapt. 13.

Sec. 12-19. Residential & Small Business Garbage Receptacles.

All garbage shall be placed in plastic garbage bags, securely tied, and placed at the curb. No garbage shall be placed at the curb for collection in any receptacle without first having been placed in plastic garbage bags and securely tied. Plastic bags provided by the City for leaves and other items of small rubbish shall not be used for garbage. (Ord. Of 10/8/96)

Sec. 12-20. Yard rubbish.

All rubbish, with the exception of branches and tree trimmings, shall be placed in plastic rubbish bags and securely tied. Rubbish bags placed for collection shall be placed near the curb but not in the street. Plastic bags provided by the City and marked "GARBAGE ONLY" shall not be used for rubbish. Branches and tree trimmings may be placed loose as near the curb as possible, but not in the street. Loose yard rubbish shall be in lengths no greater than six feet (6'), diameter no greater than four inches (4"), and a weight of no more than 35 pounds per item. Rubbish generated by tree surgeons, major landscaping contractors, or major landscaping will be considered Bulky Waste and will be picked up by the City only under the provisions of Section 12-29 of this Chapter. (Ord. Of 10/8/96)

Sec. 12-21. Residential storage containers.

Residential storage containers shall be of substantial galvanized metal or plastic construction, fly-tight and provided with handles on the sides and tight fitting cover with handles. Containers must be between twenty (20) and thirty-two (32) gallon capacity, and no single receptacle shall weigh more than sixty (60) pounds when filled. Disposable waterproof paper or plastic bags may also be used.

Sec. 12-22. Commercial storage containers.

Business or commercial establishment storage containers shall be of such design and construction as specified by the Director of the Sanitation Division.

Sec. 12-23. Number of containers.

Owners or occupants of premises must provide a sufficient number of containers for storage of solid waste between collections.

Sec. 12-24. Request for collection service.

Each new occupant shall notify the department at the beginning of such occupancy to request collection service.

Sec. 12-25. Residential collection.

On the days designated for collection, owners or occupants at premises shall properly prepare and place solid waste in disposable containers or bundles as described herein, at the curb for collection by the sanitation division.

Sec. 12-26. Placement of containers in event of disability.

Persons unable to place solid waste on the curb for reasons of physical condition must apply to the city clerk and submit such reasons for their inability to meet the provisions of this article. Exceptions will be made on valid cases to continue this service of solid waste pick up at another point on their property.

Sec. 12-27. Commercial pickup.

Collection of business or commercial solid waste in excess of 1 cubic yard per week will be made from approved containers and shall be provided by private contractor selected by the business owner. Collection of commercial solid waste for small generators (less than 1 cubic yard per week), located in predominately residential areas, may be provided by the City in plastic bags placed at the curb. (Ord. of 10/8/96)

Sec. 12-28. Hazardous wastes.

Hazardous wastes as herein described shall not be collected by the city.

Sec. 12-29. Bulky wastes.

Bulky waste shall not be collected as a routine matter by the City, but shall be disposed of by the owner at an approved disposal site. Bulky waste placed at the curb will be considered to have

been placed by the owner for collection by the City at an additional fee as set forth in Section 12-51 of this Chapter. Bulky waste collected by the City for an additional fee will be collected on a special schedule as determined necessary by the Sanitation Supervisor. If the owner of the Bulky Waste can be determined, the additional fees for collection shall automatically be billed to the owner of the Bulky Waste, pursuant to Section 12-52 of this Chapter. If the owner of the Bulky Waste cannot be determined, the additional fees shall be automatically billed to the owner of the property upon which the Bulky Waste is placed. (Ord. of 10/8/96)

Sec. 12-30. Discarded refrigeration equipment.

All discarded refrigerators or freezers must have the latches or handles removed to promote public safety.

Sec. 12-31. Building debris.

It shall be the duty and responsibility of all construction contractors, builders and remodelers, tree trimming contractors, tree surgeons, landscapers and the like, to remove all of the rubbish, trimmings and trash resulting from the operation and immediately following the same, so as to leave the area free and clear of such rubbish, trimmings, and debris.

Sec. 12-32. Collection schedule.

All solid waste shall be collected once per week, except on specific exclusion by the health department. Waste containing garbage shall be collected once weekly.

Sec. 12-33. Permit required for private collection.

A city permit is required to collect on a fee basis any solid waste, except by the city or contract agent.

Sec. 12-34. Collection vehicles.

Any vehicle used to collect solid waste, wet or dry, shall be of a type capable of being fully enclosed in a manner to prevent the escape therefrom of any noxious or disagreeable odors, or the escape of any contents of such vehicle. Such vehicle shall be capable of being completely emptied and cleaned.

Sec. 12-35. Disposal.

Solid waste shall be disposed of at city-operated landfills, private sanitary landfills with a city permit, or other lawful disposal station or methods approved by appropriate health officers.

Sec. 12-36. Failure to provide service to renter property.

It shall be unlawful for an owner to rent any premises to be occupied by more than one family without providing the services required by this article.

Sec. 12-37. Collection in enclosed areas prohibited.

Except as provided under Section 12-26, it shall be unlawful for collectors to enter houses, gates, fences, enclosed areas, etc., to make collections.

Sec. 12-38. Failure to use proper receptacles.

It shall be unlawful for any person to deposit for collection on any street or any private property any waste paper, cans or other rubbish without placing same in an enclosed receptacle, bundle or container.

Cross reference--Littering, Sec. 12-1.

Sec. 12-39. Excessive accumulations prohibited.

No solid waste shall be accumulated for any period exceeding one week.

Sec. 12-40. Unauthorized use of containers.

It shall be unlawful to deposit solid waste in the container of another person, dwelling unit or establishment without the consent of the owner.

Sec. 12-41. Interfering with collection.

It shall be unlawful to interfere in any manner with solid waste collectors or collection equipment.

Sec. 12-42. Dumping at unauthorized places.

It shall be unlawful to discharge, dump or empty any contents of any vehicle except at a location approved by the City.

Sec. 12-43. Unauthorized collection on fee basis.

No person except city permit holders or contract agents shall collect solid waste on a fee basis.

Secs. 12-44 thru 12-50. Reserved.

State law references--Rates and charges for collection, MS Code Ann., 1972, Sec. 19-5-17.

Sec. 12-51. Fees and Charges Levied.

There is hereby fixed and levied by the city a sanitation charge and fee as follows: (Ord. of 10/8/96; Amended by Ord. of 9/12/02)

- (1) Upon each family occupying a house or an apartment or house trailer as a residence within the city, a flat monthly charge of seven dollars (\$9.50) per month.
- (2) Upon each business establishment within the City generating less than one cubic yard of refuse weekly that is collected by the City, a flat monthly charge of ten dollars (\$15.00) per month.
- (3) For collection and disposal by the City of Bulky Wastes placed at the curb:
 - (a) Minimum charge - \$5.00
 - (b) Large items of furniture - \$5.00 per item
 - (c) Car Tires - \$1.00 each
 - (d) White goods - \$10.00 per appliance
 - (e) Mattresses and box springs - \$5.00 per set
 - (f) Over sized tree limbs and brush - \$50.00 per hour
 - (g) Other large rubbish items - \$50.00 per hour
- (4) Repealed.
- (5) Businesses and industries removing their own Garbage shall dispose of same at the Golden Triangle Regional Solid Waste Management Authority Landfill and shall pay such disposal fees as are set by the Board of Directors of said Authority.

Sec. 12-52. Billing and collection.

The billing and collection of monthly charges levied by this division shall be done by the West Point Electric Department, and charges shall be added to and included in the monthly utility bills in some such manner so as to distinguish the said charge from other charges appearing on the utility bill. Said bill shall be payable at the West Point Electric Department office at the same time that the utility bill is due and payable. Such charges, when collected, shall be paid to the city's general fund.

Secs. 12-53 thru 12-59. Reserved.

DIVISION 3. ENFORCEMENT

Sec. 12-60. Requirements for permits.

A permit is required to collect or dispose of any solid waste, except by the city or contract agent on a fee basis. Upon application, the city may grant a permit immediately or may set the matter for a hearing, but no application may be denied without a hearing.

The permit application shall state the type of solid waste to be collected or disposed of, type of equipment and plan of operation.

The duration of the permit shall not exceed one (1) year, and the permit shall be issued at no cost to approved applicants.

Sec. 12-61. Hearings on permit applications.

(a) If a hearing is set on permit application, it shall be set within twenty-one (21) days after the receipt of the application and the applicant shall be notified as to the time and place of hearing.

(b) The city board shall hear such evidence as the applicant cares to offer. A determination shall be made within ten (10) days after the conclusion of the hearing, and said determination shall be final.

Sec. 12-62. Hearings on appeal.

Appeal may be made in writing by filing with the city clerk.

The administering authority shall investigate and either grant the relief requested or set the matter for hearing before the city council. At said hearing, the applicant shall be given the opportunity to prove any error in the charges. The determination reached by the city board shall be final.

Sec. 12-63. Insurance.

Each applicant shall file a statement of insurance coverage of not less than \$100,000/\$300,000 covering bodily injury and \$100,000 property damage.

Sec. 12-64. Inspection procedure.

All containers are subject to inspection by the sanitation department, and subsequent approval or condemnation.

The City inspector shall have the right to go upon the premises at any reasonable time to inspect all places and containers where solid waste is accumulated and stored.

Sec. 12-65 thru 12-70. Reserved.

DIVISION 4. CITY/COUNTY LANDFILL

Sec. 12-71. User fees.

The following is hereby established as the user fees to be charged to each user who deposits solid waste materials in the West Point/Clay County Landfill:

1. The minimum user charge shall be \$2.00;
2. Uncompacted garbage, trash, and other solid wastes user charge shall be \$1.00 per cubic yard;
3. Compacted garbage, trash, and other solid wastes, user charge shall be \$2.00 per cubic yard;
4. Metal appliances - \$2.00 per cubic yard (subject to minimum charge) - deposited in special containers;
5. Shredded wood products, compost, manure, gravel, and/or dirt-no charge.

The above rate shall apply to each user which shall include all individual haulers, contractors, businesses, industries, and private haulers who deposit solid wastes directly in the West Point/Clay County Landfill, but shall not apply to solid wastes deposited in the landfill directly by refuse vehicles owned and operated by the City of West Point, Mississippi or Clay County, Mississippi.

The above rates shall be paid in cash at the landfill gate on a per trip basis by all users, unless satisfactory prior arrangements have been made by the user for charges to be billed on a monthly basis. (Ord. of 6/12/90, eff. 7/1/90)

Sec. 12-72. Hazardous materials.

No hazardous material as defined by type and quantity by the US Environmental Protection Agency shall be deposited in the West Point/Clay County Landfill by any user, unless prior arrangements have been made with the Director of Public Works of

the City of West Point, Mississippi. Any user who willfully violates provisions of this section shall, upon conviction, be guilty of a misdemeanor and shall be subject to a fine of not more than one thousand dollars (\$1,000).

CHAPTER 13

HEALTH AND SANITATION

State Law Reference--Municipal regulations, generally, MS Code Ann., 1972, Sec. 21-19-1, et seq.

Art. I. In General, Sec. 13-1 thru 13-21

Art. II. Infectious Diseases, Sec. 13-22 thru 13-24

Art. III. Junk Cars, Sec. 13-30 thru 13-39

Art. IV. Public Nuisance (Property Clearance), Sec. 13-40 thru 13-49.

ARTICLE I. IN GENERAL

Sec. 13-1. Unsanitary conditions declared a nuisance.

Whenever any building, erection, excavation, room, place, vehicle, car, sewer pipe, passage, premises, business pursuit, matter or thing, or sewerage, drainage or ventilation thereof in the city shall, in the opinion of the Board of Mayor and Selectmen, be, by reason of its unsanitary condition, a nuisance, dangerous or detrimental to life or health, the Board may have the same declared a nuisance and abated by being removed, suspended, altered, purified, cleansed, disinfected, or otherwise improved.

Sec. 13-2. Unsanitary conditions prohibited.

It shall be unlawful for any unoccupied house or other house, or for any portion of any premises or grounds, whether occupied or unoccupied, to be in an unclean, filthy or unsanitary condition, or for stagnant water to be and remain thereon.

Sec. 13-3. Duty of owner or occupant of premises.

(a) It shall be the duty of the owner of any occupied or unoccupied premises or grounds to keep and to have the same and all portions thereof kept clean and free of filth, and to drain such premises or in some other manner prevent water from remaining thereon for such length of time as to render it dangerous to the health of the city or neighborhood.

(b) It shall likewise be the duty of the occupant of any premises and the lessee of any unoccupied or vacant premises or grounds to observe and comply with the requirements of subsection (a); provided, however, that an occupant or lessee shall not be held responsible for unlawful conditions that existed when he came into possession of the property.

Sec. 13-4. Discharge of unsanitary or offensive substances.

It shall be unlawful for any person to discharge from his house, factory, lot, premises or from any other place, by use of pipe, tiling, bucket, vessel or in any other way, into any street, avenue, sidewalk, alley, gutter, ditch or drain anywhere in the city, any household or kitchen refuse which might be unsanitary or offensive or dangerous to the health.

Sec. 13-5. Dead animals.

It shall be unlawful for any person to throw, deposit or lay on any street, sidewalk, alley or on any vacant lot, ditch, water course, gutter or drain, any dead animal or fowl.

Sec. 13-6. Sweepings and trash.

No owner or occupant of any residence or of any business shall sweep or throw, or cause or permit to be swept or thrown on any sidewalk, street, alley or gutter, any sweepings, paper, cloth, leather, straw, shavings, ashes, cans, buckets, bottles, broken dishes, or any cuttings or trimmings or shrubbery or grass from yards, or any other such trash of any kind.

Cross reference--Littering, generally, Sec. 12-1.

Sec. 13-7. Abatement of nuisances - Specified.

Any premises or grounds in the city, including any lot or stable where animals are kept, which by reason of any kind of filth or stagnant water accumulating thereon, or for any other reason found to be in an unsanitary condition to such extent to be a danger to health or offensive to the sight or smell of persons in the neighborhood, are hereby declared to be nuisances, subject to being dealt with as hereinafter provided.

Sec. 13-8. Same - Notice to offender.

The owner of any premises in a condition as specified in Section 13-7, or the occupant or lessee thereof, who, after receipt of notice in writing by order of the Board of Mayor and Selectmen, shall refuse or fail to correct such condition within twenty-four hours or such time designated in said notice, shall be subject to punishment as provided in Section 1-9 of this code.

Sec. 13-9. Same - Continuing offense.

For every day thereafter that the nuisance is allowed to continue to exist, such owner or occupant shall be subject to

penalty as provided in Section 1-9 of this code, each and every day being treated as a separate offense.

Sec. 13-10. Same - Correction by City.

The Board of Mayor and Selectmen may, in their discretion, order abatement of a nuisance by the City, whereupon all costs and expense may be charged to the property owner and shall constitute a lien thereon until paid.

Secs. 13-11 thru 13-21. Reserved

ARTICLE II. INFECTIOUS DISEASES

State Law References--Contagious diseases, generally, MS Code Ann., 1972, Sec. 97-27-11, 13, 97-27-5; municipal authority as to health laws, Sec. 19-5-47; controlling contagious or infectious diseases, Sec. 21-19-3.

Sec. 13-22. Immunizations - Smallpox.

It shall be unlawful for any child to attend any school in the city unless said child shall have, previous to application for admission to said school, been properly immunized against smallpox with a vaccine and a method approved by the state board of health as provided by law; or that such child is, because of a previous case of smallpox, immune from the danger of contracting the disease.

State law reference--Compulsory vaccination for smallpox, MS Code Ann., 1972, Sec. 41-23-23.

Sec. 13-23. Same - Diphtheria.

No child who will be under nine (9) years of age on the date of his or her application for admission to a school in the city shall be permitted to attend such school unless said child has been inoculated against diphtheria by injections of diphtheria toxoid in accordance with standards approved by the State Board of Health.

State law reference--Vaccination of children, generally, MS Code Ann., 1972, Sec. 37-7-301, Sec. 41-3-55.

Sec. 13-24. General regulations.

The provisions and regulations of the State Board of Health and State law shall apply in the City. By and with the consent of the public health officer of Clay County, the Mayor and Chief of Police are authorized and empowered to promulgate and establish by proclamation such regulations as may be necessary to prevent the introduction and spread of contagious and infectious diseases, and to establish quarantine laws, rules and regulations applicable to persons and property within the city limits and five (5) miles outside the corporate limits in cases of necessity or emergency.

Sec. 13-25 thru 13-29 reserved.

ARTICLE III JUNK CARS

Section 13-30: Name

This ordinance shall be known and cited as the City of West Point Junk Vehicle Ordinance.

Section 13-31: Purpose

The purpose of this ordinance is to limit and restrict the outdoor storage, parking or unreasonable accumulation of junk, unused, partially dismantled or non-operating motor vehicles, motorcycles, boats, house trailers, or tractor trailers, or new or used parts thereof upon premises primarily used or zoned for any type of residential purpose within the City of West Point; to thereby avoid injury and hazards to children and others attracted to such vehicles or trailers; the devaluation of property values and the psychological ill effect of the presence of such vehicles or trailers upon adjoining residents and residential property owners.

Section 13-32: Responsible Party or Person Defined

As used in the above and foregoing Ordinance, the term Responsible Party or Person means any individual, business or entity responsible for creating, causing, maintaining or permitting the nuisance activity, premises, condition or conduct encompassed by the terms of this Ordinance; and includes, but is not limited to, the real or personal property owner, tenant, lessee, possessor, or occupant of real property, the president or other officer of the corporation, a business owner or manager of a business.

Section 13-33: Regulations

(a) No Responsible Party or Person shall park, store, or place upon any public right-of-way or public property, or upon any premises that is primarily used or is zoned for any type of residential purpose within the City of West Point, any motor vehicle, motorcycle, boat, house trailer, or tractor trailer or new or used parts of junk therefrom, unless the same is wholly contained within a fully enclosed building and does not violate any zoning or building laws of the City of West Point, county, or State of Mississippi, except for the following:

1. Duly licensed and operable vehicles or trailers with substantially all main component parts attached.
2. Vehicles or trailers that are temporarily inoperable, because of minor mechanical failure, but which are not, in any manner, dismantled and have substantially all main component parts attached,

which may remain upon such private property for not to exceed 7 days.

3. Not more than one vehicle in fully operating condition, such as stock care or modified car that has been re-designed or reconstructed for a purpose other than that for which it was manufactured, provided no building or garage is located upon the premises in which the same could be parked or stored. In no event shall any such vehicle be parked, repaired, or maintained in the front or side street yard area of any such residential premises.

(b) No repairing, redesigning, modifying or dismantling work or operations shall be allowed upon any vehicle or trailer or parts thereof upon any public right-of-way or public property or on any property primarily used or zoned for any type of residential purpose for a period in excess of 24 hours except:

1. Such as shall be accomplished within fully enclosed buildings;
2. Will not constitute a nuisance or annoyance to adjoining property owners or occupants; and
3. Does not violate any provision of the Zoning Ordinance and Development Code of the City of West Point, Mississippi.

Any such work within such 24-hour period heretofore allowed shall not, however, consist of any major repair, re-designing, modifying or dismantling work, but only such occasional minor work as may frequently be required to maintain a vehicle or trailer or parts thereof in normal operating condition. Nothing herein contained shall be construed to permit the parking and/or repair or maintenance on said vehicles in any front yard or side yard.

(c) No Responsible Party or Person shall at any time engage in any activity for or on behalf of others, whether for profit or gratis, relative to the performance any storage, parking, repair, redesign, modification, or dismantling work or operation upon any vehicle or parts thereof upon any public right-of-way or public property or on any property primarily used or zoned for any type of residential purpose of which they are the owner, co-owner, tenant or co-tenant.

(d) In the event the foregoing regulations create any special or peculiar hardship beyond the control of the particular violator thereof because of unforeseen circumstances, the Building Inspector of the City of West Point is hereby given the authority to grant permission to an applicant to operate contrary to the provisions hereof for a limited period of not to exceed 7 days provided no adjoining property owner or occupant is unreasonably adversely affected thereby and the spirit and purpose of the ordinance are still substantially observed.

Section 13-34: Nuisance Declared

Any parking, storage, placement, or operation in violation of the provisions of this ordinance are hereby declared to be a public nuisance which may be enjoined or which may subject the violator to the fines and penalties herein provided for.

Section 13-35: Enforcement Procedures

A. Compliance Officer Designated. The City Building Inspector, all sworn Police Officers of the City of West Point, Mississippi, and/or any other City official specifically named by the Board of Mayor and Selectmen to enforce the provisions of this Ordinance, be and are hereby designated as Compliance Officers for the purpose of enforcing the terms of the above and foregoing Ordinance.

B. Compliance Order; contents. Whenever the Compliance Officer determines that any property is maintained in violation of one or more of the provisions of this Ordinance, he or she shall serve on one or more of the responsible parties a written Compliance Order which contains:

- (1)The date and location of the violation;
- (2)The section of the code violated and a brief description of the violation;
- (3)The actions required to correct the violation(s) or abate the condition(s);
- (4)The time period after which the City will enter the property to abate the conditions or issue a misdemeanor violation citation if compliance is not achieved;
- (5)The time period for abatement shall be at least seven (7) days, unless it is determined by the Compliance Officer that the conditions constitute an imminent threat to the public health, safety or welfare or is a flagrant violation of the terms of this ordinance. The Compliance Officer may grant an extension of time upon good cause, provided the responsible party signs a written agreement to abate the nuisance within a time certain.
- (6)That a citation will be issued charging the responsible party or parties with a misdemeanor violation of the terms of this Ordinance if abatement is not achieved within the time set forth in the Compliance Order.

C. Citation; Order to Appear. If the responsible parties or parties fail to abate the conditions set forth in the Compliance Order issued by the Compliance Officer, the Compliance Officer shall issue a misdemeanor citation charging the responsible party with violation of the terms of this Ordinance. Said citation shall be in writing and of a form and content approved by the Municipal

Court. The citation shall be an order and summons to appear before the Municipal Court at a time and date established by the Municipal Court and said time and date shall be written on the citation. The Compliance Officer shall file a copy of the Citation with the Court Clerk and the Court Clerk shall enter the Citation on the Court docket. Failure of the Responsible Party or Parties to appear before the Municipal Court at the time and date set forth on the Citation shall constitute *prima fascia* evidence of Contempt of Court and subject to judicial action by the Municipal Court.

Section 13-36: Severability Clause

The procedures provided in this Ordinance shall be cumulative and in addition to any other procedure or legal remedy provided for in the Ordinance of the City of West Point or by state law for the abatement of nuisance related activities, premises, conditions or conduct. Nothing in this Ordinance shall be deemed to prevent the City from commencing a civil or criminal proceeding to abate a nuisance under applicable civil, criminal or municipal code provisions as an alternative or alternatives to the proceedings set forth in this Ordinance. The provisions of this ordinance are hereby declared to be severable and if any clause, sentence, word, section or provision is declared void or unenforceable for any reason by any court of competent jurisdiction, it shall not affect any portion of the ordinance other than said part of portion thereof.

Section 13-37: Penalty

Any person, firm or corporation who is convicted of a violation of any of the provisions of this ordinance shall be deemed guilty of a misdemeanor and shall be punished by a fine of not less than \$100.00 and not more than \$1,000.00, or by imprisonment in the county jail for not to exceed 90 days, or by both such fine and imprisonment. Each day that a violation continues to exist shall constitute a separate offense. (Ord. of 7/8/03)

Section 13-38 thru 13-39 reserved.

**ARTICLE IV.
PUBLIC NUISANCE**

State Law Reference - Municipal regulations, generally, MS Code Ann., 1972, Sec. 21-17-1 et sequa and Section 21-19-1 et sequa.

Section 13-40. Findings

(a)The city has a history and reputation for well-kept properties, and property values and general welfare of the community are founded, in part, upon the appearance and maintenance of private property;

(b)Owners and occupants of some properties within the city have permitted visual blight, including, but not limited to, deteriorated buildings, the accumulation of overgrown, rank and noxious vegetation and the accumulation of broken or discarded personal property in front, side, and rear yards;

(c)The existence of such conditions as described in this chapter is injurious and inimical to the public health, safety and welfare of city residents and contributes to the deterioration of residential, commercial and industrial areas;

(d)Abatement of these conditions is in the best interest of the health, safety and welfare of the citizens of the city because maximum use and enjoyment of properties in close proximity to one another depends upon minimum standards of cleanliness, safety, and sightliness.

(e)The beneficial effects of maintaining minimum standard of cleanliness, safety, and sightliness for properties in the city include, but are not limited to, appreciation of property values, physical improvements of residential, commercial and industrial zones, attraction of capital investors to residential, commercial and industrial zones, increase in commercial trade and industrial productivity and increase in the tax base of the city;

(f)The abatement of such conditions will improve the general welfare, health, safety, and image of the city;

(g)The abatement procedures set forth in this chapter are reasonable and afford due process to all affected persons;

(h)The uses and abuses of property, as described in this chapter, reasonably relate to the proper exercise of police power to protect the health, safety and welfare of the public.

Section 13-41: Definitions

As used in this Ordinance, the following words and terms shall be defined as follows:

1. *Abate/Abatement* means action to terminate, stop, cease, repair, rehabilitate, replace, demolish, correct or otherwise remedy nuisance activity, condition, premises or conduct by such means and in such manner as to bring the activity, condition, premises or conduct into compliance with the laws or regulations of the City of West Point and/or the State of Mississippi or in such manner as is necessary to promote the health, safety or general welfare of the public.

2. *City* shall mean the City of West Point, Mississippi acting under the authority of its Board of Mayor and Selectmen.

3. *City Clerk* means the City Clerk of the City of West Point, Mississippi.

4. *Compliance Officer* shall mean the City Building Inspector, any sworn Police Officer of the City of West Point, Mississippi, or any other City official named by the Board of Mayor and Selectmen to enforce the provisions of this Ordinance.

5. *Court Clerk* shall mean the clerk or any assistant clerk of the Municipal Court of the City of West Point Mississippi.

6. *Minor* shall mean any person under the age of eighteen (18) years, and who is not emancipated.

7. *Municipal Court* shall mean the Municipal Court of the City of West Point, Mississippi.

8. *Owner* means the owner or owners of any premises or real property.

9. *Premises or real property* shall mean, in context, any location, building, structure, residence, garage, room, shed, shop, store, dwelling, lot, parcel, land or portion thereof, whether improved or unimproved.

10. *Public Nuisance* shall mean any condition, instrumentality or machine located in a building or on premises, which constitutes a health hazard and/or which is or may be unsafe or dangerous to members of the general public by reason of their inability to appreciate the peril therein, and/or which may reasonably be expected to attract children to the premises and risk injury by playing with, in, or on it.

11. *Responsible party or person* means any individual, business or entity responsible for creating, causing, maintaining or permitting the nuisance activity, premises, condition or conduct; and includes, but is not limited to, the property owner, tenant, lessee, possessor, or

occupant of real property, the president or other officer of the corporation, a business owner or manager of a business.

Section 13-42: Unlawful Property Nuisance.

It is unlawful for any person owning, renting, leasing, occupying, managing or having charge, or possessing of any real property in this City to maintain such premises in such a manner that any of the following conditions are found to exist thereon:

1. A building, structure, or portion thereof, which is in a dilapidated or dangerous condition so as to be unfit, unsafe, or unsuitable for human occupancy. Such conditions include, but are not limited to:
 - a. Inadequate or inoperable mechanical, electrical, plumbing, or sanitation systems or equipment;
 - b. Lack of sound and effective exterior walls or roof covering to provide weather protection;
 - c. Lack of structural integrity, including deteriorated or inadequate foundations, joints, vertical or horizontal support;
 - d. Broken, missing, or inoperable windows or doors constituting a hazardous condition or a potential attraction to trespassers;
 - e. Buildings or structures which are unpainted or which otherwise lack exterior coating, causing dry rot, warping or termite infestation;
 - f. Broken, deteriorated, or substantially defaced structures visually impacting on the neighborhood or presenting a risk to public safety;
 - g. Substandard building conditions described in the International Building Code.
- 2) An abandoned building or structure such as:
 1. An unoccupied and unsecured building or structure;
 2. A partially constructed, reconstructed, or demolished building or structure where work is abandoned for 120 consecutive days;
 3. A damaged or partially destroyed building or structure not removed or repaired within 120 days after the damage or destruction, or, if the removal or repair cannot reasonably be accomplished within 120 days, upon which removal or repair has not been commenced within such period and prosecuted diligently toward completion.
- 3). Property maintained in a condition so defective, unsightly, or in a state of such deterioration, disrepair or neglect that it causes a health, safety or fire hazard or an public nuisance to children or others such as:
 1. The accumulation of dirt, litter, refuse, trash or debris in carports, parking areas, driveways, front yards, side

- yards, rear yards, vestibules, doorways of buildings, the adjoining sidewalk, or alley;
2. Storage of personal property (other than items designated for outdoor use) in front, exterior side, or rear yard areas visible to public view, including, but not limited to unregistered, inoperative or dismantled vehicles or vehicle parts, building materials not currently being used for the construction of improvements on the site, appliances, household furnishings or equipment, tools, machines, garbage cans, packing boxes, debris, rubbish, and broken or discarded furniture;
 - 4). Trees, weeds, grass, vines, brush, or other vegetation which are dead, decayed, infested, diseased, overgrown, or likely to harbor rats or vermin, or which are detrimental to neighboring property or property values. This paragraph shall be applicable to every track of land upon which any building, facility or other structure of any type is located, regardless of the condition of the structure. This paragraph shall not be applicable to:
 - a. Tracks of land in its natural forested or unimproved state that have not been subdivided, platted, or recorded for development purposes;
 - b. Tracks of land used primarily for agricultural purposes;
 - c. Tracks of land that have not been improved or occupied for a period of at least 25 years and upon which no structure exists;
 - d. Natural wildlife areas, open fields, or other similar situated tracks of land with and A-O (Agricultural-Open) zone pursuant to the Zoning Ordinance and Development Code of the City
 - 5). Abandoned and broken equipment or machinery, or parts thereof;
 - 6). The discharge of sewerage or untreated wastewater into any yard, open ditch, storm sewer line or any other open public or private property area;
 - 7). Fences or walls:
 1. which lack structural support because of missing or wet soil, missing or failed footings, or missing or failed fastenings; or which otherwise do not stand erect;
 2. which are in disrepair due to damage, crumbling mortar, missing bricks or wood, rotted wood, breaks or dents in their structure;
 - 8). Front yards, and street side yards on improved lots, including corner lots, which lack required landscaping with a lawn, ground cover, bushes, or trees, or which lack required covering with rock or other decorative material, except

during permitted construction, demolition, or remodel work on the lot;

- 9) A surface excavation or grading on private property which:
1. Contains four (4) or more inches of standing water for a period in excess of five (5) days during which no rain has fallen; or
 2. Has sides which slope at an angle that exceeds City standards.
 3. This prohibition does not apply to:
 1. Completed drainage facilities which are owned or maintained by, or approved and maintained in the manner approved by, the City of West Point or Clay County;
 2. Excavations made as part of construction approved by the City and protected with barriers or fences that meet City, County and/or State standards; or
 3. Excavations which are completely surrounded by a fence or other secure barrier at least six (6) feet tall;

10) A vehicle or vehicles parked or stored in a required front or corner side yard, except on a driveway or a paved area or behind a solid fence or wall a minimum of six (6) feet in height, on lots in a residentially zoned district. No more than fifty percent (50%) of the front yard may be paved or used for such parking.

11) Clothing, linen, towels, laundry, rugs, mattresses, and other similar material hung, placed, or attached to power lines, trees, bushes, fences, buildings, railings, or walls and visible from public property or an area open to the public.

12) Waste matter or personal property placed on rooftops.

13) Construction or agricultural equipment, machinery, or materials, parked or placed on residential premises and visible from public property or an area open to the public; except during permitted construction, demolition or remodel work on the site. This restriction does not apply to residential areas located within A-O (Agricultural-Open) zones.

14) Commercial vehicles with a gross weight of 10,000 pounds or more which are parked on the street right-of-way or on a lot or parcel in a residentially zoned district, unless the vehicle is in the process of delivering goods or services.

15) Vehicle or vessel repair which occurs in a residentially zoned district and is offensive or detrimental to the health, safety, or welfare of other persons, or which substantially interferes with the reasonable enjoyment of property by other persons, because of the substances,

odors, noise, or visual clutter created by the repair; or because of the items stored in connection with the repair, or because the repair is performed on a vehicle not owned by the occupant of the property;

16) Any building or structure which is a public nuisance under common law.

17) Any violation of the zoning ordinances or occupying or otherwise using property in violation of the provisions of any conditional use permit, planned development permit, variance or other land use entitlement or land use permit.

18) Any condition or activity which is a "nuisance" or a "public nuisance" as defined in by the State of Mississippi or which is specifically declared to constitute a nuisance by any statute of the State of Mississippi or by any ordinance of the City of West Point.

19) Any building or structure which is constructed, altered, repaired, modified, maintained or used in violation of the provisions of the City of West Point, Mississippi Zoning Ordinance and Development Code.

Section 13-43: Public Nuisance Declared

All property found to be maintained in violation of any one or more of the provisions of Section 3 of this Ordinance is hereby declared to be a public nuisance and shall be abated pursuant to the procedures set forth herein. The procedures for abatement set forth herein shall not be exclusive and shall not in any manner limit or restrict the City from enforcing other City ordinances or abating public nuisances in any manner provided by law.

Section 13-44: Responsibility for Property Maintenance

Every responsible party who owns or is in possession of premises within the City is required to maintain such premises in a manner so as not to violate the provisions of this Chapter.

Section 13-45: Right to Enter Property to Inspect or Abate

Any officer, employee, or agent of the City of West Point may enter and inspect or abate any building or premises whenever necessary to secure compliance with, or prevent violation of, any provision of this Ordinance. If required by law, the officer, employee or agent shall first obtain consent of the responsible party or an appropriate court order.

Section 13-46: Abatement Procedure

(1) Compliance Order; contents. Whenever the Compliance Officer determines that any property is maintained in violation of one or more of the provisions of this Ordinance, he or she shall serve on one or

more of the responsible parties a written Compliance Order which contains:

- a. The date and location of the violation;
- b. The section of the code violated and a brief description of the violation;
- c. The actions required to correct the violation(s) or abate the condition(s);
- d. The time period after which the City will enter the property to abate the conditions or issue a misdemeanor violation citation if compliance is not achieved;
- e. The time period for abatement shall be at least fifteen (15) days, unless it is determined by the Compliance Officer that the conditions constitute an imminent threat to the public health, safety or welfare. The Compliance Officer may grant an extension of time upon good cause, provided the responsible party signs a written agreement to abate the nuisance within a time certain.
- f. That a citation will be issued charging the responsible party or parties with a misdemeanor violation of the terms of this Ordinance if abatement is not achieved within the time set forth in the Compliance Order.

(2) Citation; Order to Appear. If the responsible parties or parties fail to abate the conditions set forth in the Compliance Order issued by the Compliance Officer, the Compliance Officer shall issue a misdemeanor citation charging the responsible party with violation of the terms of this Ordinance. Said citation shall be in writing and of a form and content approved by the Municipal Court. The citation shall be an order and summons to appear before the Municipal Court at a time and date established by the Municipal Court and said time and date shall be written on the citation. The Compliance Officer shall file a copy of the Citation with the Court Clerk and the Court Clerk shall enter the Citation on the Court docket. Failure of the Responsible Party or Parties to appear before the Municipal Court at the time and date set forth on the Citation shall constitute *prima facie* evidence of Contempt of Court and subject to judicial action by the Municipal Court.

Section 13-47: Penalties

Any responsible party who violates any of the provisions of this ordinance shall be deemed guilty of a misdemeanor and shall be punished by a fine of not less than \$100.00 or more than \$1,000.00, or by imprisonment in the county jail for not to exceed 90 days, or by both such fine and imprisonment. Each day that a violation continues to exist shall constitute a separate offense.

Section 13-48: Severability

The procedures provided in this Chapter shall be cumulative and in addition to any other procedure or legal remedy provided for in the Ordinance of the City of West Point or by state law for the abatement of nuisance related activities, premises, conditions or conduct. Nothing in this Chapter shall be deemed to prevent the City from commencing a civil or criminal proceeding to abate a nuisance under applicable civil, criminal or municipal code provisions as an alternative or alternatives to the proceedings set forth in this Ordinance. The provisions of this ordinance are hereby declared to be severable and if any clause, sentence, word, section or provision is declared void or unenforceable for any reason by any court of competent jurisdiction, it shall not affect any portion of the ordinance other than said part of portion thereof. (Ord of 7/8/03)

Section 13-49 reserved.

CHAPTER 14

MISCELLANEOUS PROVISIONS AND OFFENSES

ARTICLE I. IN GENERAL

Sec. 14-1. Adoption of state misdemeanors.

All offenses under state penal law amounting to a misdemeanor shall also be offenses against the city when committed within the city limits; and upon conviction thereof, the same punishment shall be imposed by the city as is provided by state law, not in excess of the maximum penalty which may be imposed by municipal corporations.

State law reference--MS Code Ann., 1972, Sec. 21-19-15 authorizes the adoption of an ordinance prohibiting any act constituting a misdemeanor under state law, whereas Sec. 21-13-19 provides that state misdemeanors shall be offenses against municipalities without further action by the municipality.

Secs. 14-2 thru 14-11. Reserved.

ARTICLE II. DRUGS AND DRUG PARAPHERNALIA

Sec. 14-12. Definitions.

A "Controlled Substance" means a drug, substance or immediate precursor in Schedules I through V of Sections 41-29-113 through 41-29-121 of the Mississippi Code of 1972, as amended.

"Drug paraphernalia" means all equipment, products and materials of any kind which are used intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance in violation of this article. It includes, but is not limited to:

- (a) Kits used, intended for use, or designed for use in planting, propagating, cultivating, growing or harvesting of any species of plant which is a controlled substance or from which a controlled substance can be derived;**
- (b) Kits used, intended for use, or designed for use in manufacturing, compounding, converting, producing, processing or preparing controlled substances;**
- (c) Isomerization devices used, intended for use, or designed for use in increasing the potency of any species of plant which is a controlled substance;**
- (d) Testing equipment used, intended for use, or designed for use in identifying, or in analyzing the strength, effectiveness or purity of controlled substances;**
- (e) Diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose and lactose, used, intended for use, or designed for use in cutting controlled substances;**
- (f) Scales and balances used, intended for use, or designed for use in weighing or measuring controlled substances;**
- (g) Separation gins and sifters used, intended for use, or designed for use in removing twigs and seeds from, or in otherwise cleaning or refining marijuana;**
- (h) Blenders, bowls, containers, spoons, and mixing devices used, intended for use, or designed for use in compounding controlled substances;**

- (i) Capsules, balloons, envelopes or other containers used, intended for use, or designed for use in packaging small quantities of controlled substances;**
- (j) Hypodermic syringes, needles and other objects used, intended for use, or designed for use in parenterally injecting controlled substances into the human body;**
- (k) Containers and other objects used, intended for use or designed for use in storing or concealing controlled substances;**
- (l) Objects used, intended for use, or designed for use in ingesting, inhaling, or otherwise introducing marijuana, cocaine, hashish, or hashish oil into the human body, such as:
 - (1) Metal, wooden, acrylic, glass, stone, plastic or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls:**
 - (2) Water pipes;**
 - (3) Carburetion tubes and devices;**
 - (4) Smoking and carburetion masks;**
 - (5) Roach clips: meaning objects used to hold burning material such as a marijuana cigarette that has become too small or too short to be held in the hand;**
 - (6) Miniature cocaine spoons, and cocaine vials;**
 - (7) Chamber pipes;**
 - (8) Carburetor pipes;**
 - (9) Electric pipes;**
 - (10) Air-driven pipes;**
 - (11) Chillums;**
 - (12) Bongs;****

(13)Ice pipes or chillers. (Ord of 5/9/83, Sec. 1, M.B. 27, Pg. 130)

Sec. 14-13. Determination of articles falling within the definition of section 14-12.

In determining whether an object is drug paraphernalia within the meaning of this article, a Court or other authority should consider, in addition to all other logically relevant factors, the following:

- (a) Statements by an owner or by anyone in control of the object concerning its use;
- (b) Prior convictions, if any, of an owner, or of anyone in control of the object, under any city, state or federal law relating to any controlled substance;
- (c) The proximity of the object, in time and space, to a direct violation of this chapter;
- (d) The proximity of the object to a controlled substance;
- (e) The existence of any residue of controlled substances on the object;
- (f) Direct or circumstantial evidence of the intent of an owner, or of anyone in control of the object, to deliver it to persons whom he knows, or should reasonably know, intend to use the object to facilitate a violation of the Uniform Controlled Substance Law of the State of Mississippi; the innocence of an owner or of anyone in control of the object, as to a direct violation of the Uniform Controlled Substance Law of the State of Mississippi shall not prevent a finding that the object is intended for use, or designed for use as "drug paraphernalia";
- (g) Instructions, oral or written, provided with the object concerning its use;
- (h) Descriptive materials accompanying the object which explain or depict its uses;
- (i) National and local advertising concerning its use;

- (j) The manner in which the object is displayed for sale;
- (k) Whether the owner, or anyone in control of the object, is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products;
- (l) Direct or circumstantial evidence of the ratio of sales of the object(s) to the total sales of the business enterprise;
- (m) The existence and scope of legitimate uses for the object in the community;
- (n) Expert testimony concerning its use. (Ord. of 5/9/83, Sec. 2, M.B. 27, Pg. 130)

Sec. 14-14. Use or possession with intent to use.

It is unlawful for any person who is not authorized by the State Board of Medical Licensure, State Board of Pharmacy or other lawful authority to use, or to possess with intent to use, drug paraphernalia, to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance in violation of the Uniform Controlled Substance Law of the State of Mississippi.

Sec. 14-15. Deliver, sell, possess or manufacture.

It is unlawful for any person to deliver, sell, possess with intent to deliver or sell, or manufacture with intent to deliver or sell, drug paraphernalia, knowing or under circumstances where one reasonably should know, that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance in violation of the Uniform Controlled Substance Law of the State of Mississippi. (Ord of 5/9/83, Sec. 3(b), M.B. 27, Pg. 130)

Sec. 14-16. Advertisement or promotion.

It is unlawful for any person to place in any newspaper, magazine, handbill or other publication any advertisement,

knowing, or under circumstances where one reasonably should know, that the purpose of the advertisement, in whole or in part, is to promote the sale of objects designed or intended for use as drug paraphernalia. (Ord. of 5/9/83, Sec. 3(c), M.B. 27, Pg. 130)

Sec. 14-17. Seizure, penalties.

Any drug paraphernalia used in violation of this article shall be seized and forfeited to the municipality.

Any person violating any of the provisions of sections 14-14, 14-15 or 14-16 is guilty of a misdemeanor. (Ord. of 5/9/83, Sec. 3(d), (e), M.B. 27, Pg. 130)

Secs. 14-18 thru 14-27. Reserved.

ARTICLE III. FIREARMS, FIREWORKS AND EXPLOSIVES

Sec. 14-28. Discharge of firearms within city limits.

It shall be unlawful for any person to discharge any description of firearms whatever anywhere within the corporate limits of the City of West Point, Mississippi, except by a duly authorized law enforcement officer when imperatively necessary in the performance of his official duties, or by a person in the performance of military duty under military regulations, or by a person acting in actual self defense or for the purpose of protecting life, limb, or property; except that same may be discharged by a person who is engaged in hunting game, within the legal season for hunting such game, and such hunting and discharge occur under the following conditions:

- (a) The hunting occurs on property owned in whole or in part by the hunter;
- (b) If the hunter owns no interest in said property, then the hunter shall have written permission to hunt thereon from an owner of an interest therein;
- (c) The property consists of at least ten (10) contiguous acres;
- (d) The discharge of such firearm does not occur within 150 feet of a dwelling or occupied building;
- (e) The said discharge does not occur within 100 feet

of a public road or highway;

- (f) The said discharge does not occur within one-fourth (1/4) of a mile of a church on Sunday; and
- (g) The person discharging the firearm has complied with all applicable state and federal laws pertaining to such hunting.

(Ord. of 6/28/83; Ord. of 10/13/98)

Sec. 14-29. Firecrackers, roman candles, etc.

It shall be unlawful for any person to explode any firecracker, roman candle, dynamite or any other explosive substance for any purpose whatever anywhere within the corporate limits of the City of West Point, Mississippi. (Ord. of 6/28/83, Book 27, Pg. 179)

Sec. 14-30. Air guns, pellet guns, etc.

It shall be unlawful for any person to use, shoot, or discharge within the corporate limits of the City of West Point, any air gun, pellet gun, or any similar weapon or thing that shoots a ball or pellet; with exceptions noted in 14-28 above. (Ord. of 6/28/83, Book 27, g. 179; Ord. of 10/13/98)

Sec. 14-31. Slings, slingshots, blow guns, etc.

It shall be unlawful for any person to shoot or discharge gravel, marbles, shot, arrows, or any other substance out of a sling, slingshot, blow gun, bow or any other device or instrument of like kind or character or whatever name known for any purpose whatever anywhere within the corporate limits of the City of West Point; with exceptions as noted in 14-28 above. (Ord. of 6/28/83, Book 27, Pg. 179; Ord. of 10/13/98)

Sec. 14-32. Sale of fireworks prohibited.

It shall be unlawful for any person, partnership, firm or corporation to sell any description of firecrackers or fireworks or any other such commodities within the corporate limits of the City of West Point. (Ord. of 6/28/83, Book 27, Pg. 179)

Sec. 14-33. Violations.

(a) Any person who violates any of the provisions of this article shall be guilty of a misdemeanor.

(b) Every day any violation of any section of this article shall continue shall constitute a separate offense. (Ord. of 6/28/83, Book 27, Pg. 179)

Secs. 14-34 thru 14-43. Reserved.

ARTICLE IV. REGULATIONS PERTAINING TO MINORS

Sec. 14-44. Curfew.

It shall be unlawful for any minor person under the age of eighteen (18) years to be on the public streets, alleys and ways and in public places of business in the City of West Point, Mississippi, after the hour of 11:00 p.m. and prior to the hour of 6:00 a.m. on the nights of Sunday through Thursday of each week, and after the hour of 12:00 midnight on the nights of Friday and Saturday of each week. (Ord.. of 6/28/83, M.B. 27, Pg. 177)

Sec. 14-45. Presence of minors in places holding license for dancing and sale of beer.

(a) It shall be unlawful for any person under the age of eighteen (18) to enter upon the premises of any establishment within the corporate limits of the City of West Point which holds a privilege license for dancing and where beer is sold.

(b) It shall be unlawful for the owner, manager, or operator of any establishment described in subsection (a) to permit any person under the age of eighteen (18) to enter the premises of the said establishment. (Ord. of 6/28/83, Sec. 1, 3, M.B. 27, Pg. 177)

Sec. 14-46. Presence of minors in places holding license for dancing and sale of liquor.

(a) It shall be unlawful for any person under the age of twenty-one (21) to enter upon the premises of any establishment within the corporate limits of the City of West Point which holds a privilege license for dancing and where liquor is sold.

(b) It shall be unlawful for the owner, manager, or operator of any establishment described in subsection (a) to permit any person under the age of twenty-one (21) to enter the premises of the said establishment. (Ord. of 6/28/84, Sec. 2, 4, M.B. 27, Pg. 177)

Sec. 14-47. Violations.

(a) Any person who violates the provisions of subsection (a) of section 14-45 or 14-46 shall be guilty of a misdemeanor.

(b) Upon conviction of any person for a first offense of violating subsection (b) of section 14-45 or 14-46, such person shall be fined not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500.00).

(c) Upon any second conviction of any person violating subsection (b) of section 14-45 or 14-46, the offenses being committed within a period of one (1) year, such person shall be fined not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00).

(d) Upon any third conviction of any person violating subsection (b) of section 14-45 or 14-46, the offenses being committed within a period of two (2) years, such person shall be fined not less than two hundred dollars (\$200.00) nor more than five hundred dollars (\$500.00). In addition, the Clerk of the City of West Point shall, after conviction and upon receipt of the court abstract, revoke the privilege license for dancing of the establishment owned, managed or operated by the person so convicted. (Ord. of 6/28/83, Sec. 5, 6, M.B. 27, Pg. 177)

Sec. 14-51. Prohibiting the purchase or use of tobacco by minors.

It shall be unlawful for any minor (person under the age of 18) to purchase, possess, or use cigarettes or other tobacco products in any public place, including any school campus or grounds, or in any school building. Said possession or use constitutes a public safety and health hazard to the general public and to said person, including the adverse effects to the general public of secondary smoke caused by such tobacco use.

Any person under the age of eighteen (18) years who purchases, possesses, or uses cigarettes or any other tobacco products in any public place including school campus, ground, and buildings shall be guilty of a misdemeanor and, upon conviction or adjudication of such offense, shall be punished as provided by law. (Ord. of 6/8/04)

CHAPTER 15

MOTOR VEHICLES, MOTORCYCLES

Sec. 15-1. Protective helmets for motorcycle riders.

It shall be unlawful for any person to ride on a motor bike, motorcycle or other like motor vehicle, propelled on and over the streets, avenues, alleys and public ways within the city limits, without wearing on the head of such person, securely fastened, a crash helmet or protective helmet, so designed and constructed that it will protect the face and head of such person in case of accident, collision or being thrown from the vehicle.

Sec. 15-2. Failure to wear helmet; penalty.

Any person failing to or neglecting to wear such crash helmet or protective helmet when riding on a motor bike, motorcycle or other like motor vehicle, shall be guilty of a misdemeanor, punishable as provided by section 1-9 of this code.

CHAPTER 16

NOISE

Sec. 16-1. Outdoor amplifiers.

It shall be unlawful for any person to employ and make use of an outdoor sound amplifier or loud speaker in any place or point within the city limits without having first secured a permit from the chief of police, approved by the Mayor, which permit shall prescribe the place or places at which such amplifier or loudspeaker shall be situated and the volume of amplification that shall be employed.

Sec. 16-2. Vehicular Audio Systems

A. It shall be unlawful for any person to operate or cause to be operated an audio system, in a motor vehicle driven, standing or parked on a highway or street or within 50 feet of a highway or street within the City of West Point, so as to produce a C-weighted sound level in excess of 60 DB(c) measured at, or adjusted to, a distance of 50 feet from said motor vehicle unless said system is being operated to request assistance or warn of a hazardous situation.

B. The measurement of sound shall be made with a sound level meter meeting the standards prescribed by the American National Standards Institute. The instruments shall be maintained in calibration and good working order. Measurements recorded shall be taken so as to provide a proper representation of the sound source.

C. This shall not apply to authorized emergency vehicles responding to emergency calls or in the immediate pursuit of an actual or suspected violator of the law; to audio systems of sound trucks or vehicles in parades, processions or public demonstrations provided that the operator thereof obtains and operate such audio systems in accordance with the permit required by other provisions of the laws of the City of West Point, Mississippi.

D. The following terms having the meaning indicated:

(1) audio system - any device or combination of devices designed for the production, reproduction or amplification of sound including, but not limited to, any radio, stereo, compact disc player or loudspeaker, which is operated in, installed in or powered by a motor vehicle.

(2) decibel (dB) - a unit for measuring the volume of a sound, equal to 20 times the logarithm to the base 20 of the ratio of the pressure of the sound measured to the reference pressure, which is 20 micropascals (20 micronewtons per square meter).

(3) sound level meter - an instrument which includes a microphone, amplifier, RMS detector, integrator or time averager, output meter, and weighting networks used to measure sound pressure levels.

(4) sound level - the weighted sound pressure level obtained by the use of a sound level meter and frequency weighting network, such as A, B, or C as specified in American National Standards Institute specifications for sound level meters (ANSI S 1.4-1071, or the latest approved revisions thereof). Readings shall be made on the C-weighting scale.

(5) sound pressure level - 20 times the logarithm to the base 10 of the ratio of the RMS sound pressure to the reference pressure of 20 micropascals ($20 \times 10^{-6} \text{N/m}^2$). The sound pressure level is denoted L_p or SPL and is expressed in decibels.

(6) the terms motor vehicle, authorized emergency vehicle and highways and streets shall have the meanings ascribed by Mississippi's Uniform Highway Traffic Regulations Law - Rules of the Road.

E. Any person violating any of the provisions of these ordinances shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined no more than one thousand dollars (\$1,000) and incarcerated no more than six (6) months in jail for each such violation.

F. Insofar as the provisions of these ordinances are inconsistent with the provisions of other ordinances of the City of West Point, except as specified hereinabove, the provisions of this Ordinance shall be controlling.

G. In the event any provision of this Ordinance is declared unconstitutional or the application thereof to any person or circumstance is held invalid, the applicability of such provision to other persons or circumstances and the constitutionality or validity of every other provision of this Ordinance shall remain valid and enforceable and shall not be affected thereby. (Ord. of 4/9/91)

CHAPTER 16A

PARKS AND RECREATION

Sec. 16A-1. Vehicles prohibited except on designated areas.

It shall be unlawful for any automobile, motorcycle, bicycle or any other vehicle either unauthorized or otherwise to be driven or operated within any park or recreational area of the city, except in areas specifically designated as roadways and parking areas for said parks and recreational areas. (Ord. of 6/9/81, Sec. 1)

Sec. 16A-2. Use of roller skates in unauthorized areas.

It shall be unlawful for any person to use roller skates of any type on any basketball court, tennis court, handball court, or other paved or hard surfaced area specifically constructed for any recreational activity. (Ord. of 6/9/81, Sec. 2)

Sec. 16A-3. Consumption of alcoholic beverages.

It shall be unlawful for any person to consume or have in their possession any intoxicating liquor within any park or recreational area or in any parking area adjacent thereto. (Ord. of 6/9/81, Sec. 3)

Cross reference--Alcoholic Beverages, Chapt. 3.

Sec. 16A-4. Damaging Property.

It shall be unlawful for any person to destroy, damage, deface, vandalize or otherwise physically misuse any equipment, building, facility or appurtenance of any park or recreational area. (Ord. of 6/9/81, Sec. 4)

Cross reference--Damaging cemetery property, Sec. 6-2.

Sec. 16A-5. Undesirable activities, generally.

It shall be unlawful for any person to engage in any activity within a city park or recreational area that is unsafe, unsanitary, or obnoxious with respect to the public in general. (Ord. of 6/9/81, Sec. 5)

Sec. 16A-6. Animals or fowl on park property.

It shall be unlawful for any person who is the owner or

has custody of any animal or fowl to permit said animal or fowl to enter upon the premises of any park or recreational area or any parking facility appurtenant thereto. (Ord of 6/9/81, Sec. 6)

Cross reference--Animals and Fowl, Chapt. 4.

Sec. 16A-7. Littering.

It shall be unlawful for any person to drop, throw or deposit upon the premises of any park or recreational area or parking area appurtenant thereto any object, article, or substance except in areas or containers designated for the deposit of garbage and litter. (Ord. of 6/9/81, Sec. 7)

Cross reference--Littering generally, Sec. 12-1.

Sec. 16A-8. Offenses.

Any person violating the provisions of this chapter shall be guilty of a misdemeanor and upon conviction thereof, shall be fined not more than \$500,00 or imprisoned not exceeding six months or both such fines and imprisonment, and every day that a violation of this chapter continues shall constitute a separate and distinct offense and such fine or imprisonment shall be in addition to any other penalty imposed by law. (Ord. of 6/9/81, Sec. 8)

Cross reference--General penalty, Sec. 1-9.

CHAPTER 17

PLANNING

State Law Reference--Zoning and Planning, generally, MS Code Ann., 1972, Sec. 17-1-1, et seq.

Art. I. Subdivision Development, Zoning, Land Development, Sec. 17-1 thru 17-10

Art. II. Flood Control, Sec. 17-11 thru 17-49

Art. III. Historic Preservation, Sec. 17-53, 17-54

ARTICLE I. SUBDIVISION DEVELOPMENT, ZONING, LAND DEVELOPMENT

Section 17-1. Zoning Ordinance and Land Development Code

All zoning and land development within the Corporate Limits of the City of West Point, Mississippi shall be in accordance with the provisions of the "Land Development Code of the City of West Point," adopted January 1, 2000, as amended, which is incorporated herein by reference and attached hereto as Appendix B.

Sections 17-2 thru 17-10. Reserved.

ARTICLE II. FLOOD CONTROL

State Law Reference--Floods and flood control, generally, MS Code Ann., 1972, Sec. 51-35-1 thru 51-35-351.

Section 17-11. Flood Damage Prevention Ordinance

All matter relating to flood damage control and prevention within the Corporate Limits of the City of West Point, Mississippi shall be in accordance with the provisions of the "Flood Damage Prevention Ordinance of the City of West Point," which is incorporated herein by reference and attached hereto as Appendix C.

Sections 17-12 thru 17-49. Reserved.

ARTICLE III. HISTORIC PRESERVATION

Sec. 17-53. Designation of historic preservation district.

The City of West Point's Historic Preservation Commission shall advise the Board of Selectmen as to the designation of historic preservation districts, historic landmarks and landmark sites and to further act in accordance with the provisions of Sections 39-13-1 through 39-13-9, Mississippi code of 1972.

Editor's Note--According to the preamble of the ordinance adopted January 9, 1979, from which this section is derived, a Historic Preservation Commission was established on November 14, 1978 and five members were appointed to serve on the Commission. The preamble further states as follows:; "The said Commission is hereby authorized and empowered to act to preserve, promote and develop the historic resources of the City of West Point, Clay County, Mississippi, in accordance with the provisions of the Mississippi Local Government Historic Preservation Act of 1978, Sections 39-13-1 through 39-13-9 of the Mississippi Code of 1972.

Sec. 17-54. Delineation of districts.

1) West Point Central City Historic District (listed 6/1/82 on National Register, MS Dept. of Archives & History): That part of the city known as "Downtown West Point" whose boundaries are fully described herein & a map kept on file in the Office of the City Clerk, is hereby declared a Historic Preservation District under the Mississippi Local Government Historic Preservation Law of 1978, Section 39-13-2 of the Mississippi code of 1972, and any new construction or the remodeling of any existing structure within the Historic Preservation District shall be compatible in form, mass, color and texture with the existing buildings within the said District. Enforcement of the above architectural controls shall be by the City of West Point Planning Commission.

Beginning at the Southeast corner of Lot Seven (7), Block Eight (8) of the Arthur L. Goodman Survey, run thence North to the Northeast corner of said lot, thence run west along the north line of lots seven (7), six (6), and five (5) of block eight (8) to the center of the Illinois Central Gulf Railroad tracks, thence run northwest along the center of said Illinois Central Gulf Railroad tracks to a point where they intersect the center of East Morrow Street, thence run West along the center of East Morrow Street to a point where said street intersects the center of Division Street, thence run South down the center of Division Street to a point which is in the center of the Illinois Central Gulf Railroad tracks, and proceed thence Southwestwardly along the center of said tracks 1500 feet, thence proceed Easterly to the southwest corner of block seventy-three (73) thence northeast along the west side of block seventy-three (73) to the northwest corner of block five (5), thence south along the west line of lot nine (9), block five (5) to the southwest corner of said lot and block, proceed thence eastwardly along the south line of lots nine (9), eight (8), seven (7), six (6), five (5), four (4), three (3), two (2) and one (1) of block five (5) to the southeast corner of lot one (1), block five (5), proceed thence south along the east line of block five (5) to the southeast corner of said block, thence west along the south

line of block five (5) a distance of 96 feet, thence south to the northwest corner of out eight (8), block ten (10), thence south along the west line of lot eight (8), block ten (10) to the southwest corner of said lot, thence run east along the south line of lots 5, 6, 8, 9, 10 of block four (4) and lots 13 and 12 of block three (3) to the southeast corner of lot 12, block 3, thence run south across Broad Street to the northwest corner of lot 2, block 12, run thence south along the west line of lots 2 and 3 of block 12 to the southwest corner of lots 3, block 12, thence run northeast along the south line of lots 3 and 1 of block 12 to the northwest corner of lot 10, block 12, thence run south along the west line of lots 10, 9, 8, 7, 6, 5 of block 12 to the southwest corner of Lot 5, Block 12, thence run East along the south line of lot 5, block 12 across Commerce Street to the southwest corner of block 16, from said point run south across East Westbrook Street and along the West line of block 18 to the southwest corner of lot 3, block 18, thence run east along the south line of lot 3, block 18 to the southeast corner of block 18, thence run north along the east line of block 18 to the northeast corner of said block, thence run east across the Illinois Central Gulf Railroad tracks and along the north line of block 19 to the northeast corner of block 19, thence run northwesterly across East Westbrook Street to the southeast corner of Block 17, thence run Northwesterly along the east line of block 12 and block 7 to the northeast corner of block 7, thence run northwesterly across east main street to the southeast corner of lot 7, block 8, which is the point of beginning, according to the A.L. Goodman Map and Survey of the City of West Point, Mississippi, as adopted by said city on the 11th day of January, 1938.

- 2) Court Street Historic District (listed 8/12/82 on National Register)
Commerce Street Historic District (listed 8/31/90);
East Main Street Historic District (listed 8/31/90);
South Division Street Historic District (listed 8/31/90);
West Point School Historic District (listed 8/31/90)

These districts are shown on a map kept on file in the Office of the City Clerk, are hereby declared a Historic Preservation Districts under the Mississippi Local Government Historic Preservation Law of 1978, Section 39-13-2 of the Mississippi code of 1972, and any new construction or the remodeling of any existing structure within the Historic Preservation District shall be compatible in form, mass, color and texture with the existing buildings within the said District. Enforcement of the above architectural controls shall be by the City of West Point Planning Commission

CHAPTER 18

POLICE

Art. I. In General, Sec. 18-1 thru 18-31

Art. II. Auxiliary Police, Sec. 18-32 thru 18-37

ARTICLE I. IN GENERAL

Sec. 18-1. Chief of Police - Responsibilities.

The Chief of Police shall be the Chief of the police force and the executive officer, under the direction and supervision of the Mayor. He will be held responsible for the good order of the City and for the general good conduct of the officers and men of the police force.

Sec. 18-2. Same - Duties.

The Chief of Police shall devote his whole time to the duties of his office. As head of the police force, he shall lay out and establish beats, and assign to the members of the force their respective duties and work. He shall supervise them in person and see to it that they and each of them intelligently, faithfully and rigidly perform such duties and work.

Sec. 18-3. Same - reports.

The Chief of Police shall, in writing, report to the City Board each month his official acts and doings, the condition of the police force, the number of times each policeman has been absent, with the cause of such absence, the number of arrests made and the causes of arrests, the number of violations of ordinances reported, with any remark on the conduct of the policeman calling for remark, and he shall also report all violations of duty by the police force. On failure to report violations of duty by the police force, he, himself, shall be held guilty of neglect of duty and may be tried the same as if his neglect appears to be willful.

Sec. 18-4. Preserving the peace.

The Chief of Police shall endeavor at all times to preserve the public peace, prevent the commission of crimes, and arrest offenders; he shall protect the rights of persons and property; he shall pay strict regard to matters concerning public health; he shall report nuisances in streets, alleys and

other places; he shall provide proper police force and protection at fires; he shall protect strangers and travelers at railway stations and other public places in the city; he shall enforce obedience to all laws and ordinances of the city which are designed for the protection of the public health or public property or public peace.

He shall pay frequent visits, at uncertain hours, to various portions of the City, and thus be able to supervise the conduct of the police force, as well as arrest law breakers and offenders.

Sec. 18-5. Number of Policemen.

The Board of Mayor and Selectmen shall determine the number of policemen to be employed by the City, fix their salaries and wages, and elect and employ the policemen. The policemen employed shall serve at the pleasure of the said Board and may be discharged without notice.

Sec. 18-6. Direction and supervision.

The policemen of the City shall be under the direction and supervision of the Chief of Police, under such rules and regulations as, from time to time, may be made by the Board of Mayor and Selectmen, and shall report to him regularly at such times as he may designate, and shall well and faithfully perform the various duties imposed upon them, without partiality and with promptness.

Sec. 18-7. Hours of duty.

Each member of the police force, including the police chief and all subordinate officers, shall devote his whole time and attention to the business of the police department, and although certain hours may be allotted to the members of the force for ordinary performance of duty, each will be deemed always on duty and must at all times be prepared to act immediately on notice that his services are required.

Sec. 18-8. General duties.

It shall be the duty of the police to guard the city by day and night; to enforce obedience to all laws and ordinances; to preserve peace and order at all hours, and prevent, whenever possible, the commission of assaults, breaches of the peace and all other offenses about to be committed; to assist when necessary in suppressing any riot, or other disorderly conduct and breach of peace; to guard the city from fire, and, on appearance of fire, to give instant alarm; to be vigilant in

detecting and reporting all offenders against the laws and ordinances, and to promptly arrest every offender without fear or favor, and to bring him before the appropriate authority for trial as provided.

Sec. 18-9. Failure to report offenses.

Any member of the police force who shall know or have reason to know any person guilty of any breach of the city ordinances or laws who shall conceal and fail to report the same, shall, upon proof thereof, be removed from office.

Sec. 18-10. Report of suspicious persons.

Every policeman shall strictly watch the conduct of all persons of suspicious, doubtful, dangerous or bad character, and take particular notice of all cars or other vehicles at night which, under any circumstances, excite suspicion, and shall, when about to arrest an offender or examine any suspicious person, declare himself a policeman in the execution of his office and shall perform his duty.

Sec. 18-11. Property belonging to offenders.

All money and other property taken from prisoners, or otherwise coming into the possession of the police force or any member thereof, whether the same be stolen property or property of the prisoner, shall be placed in the hands of the Chief of Police for safe keeping, to be dealt with by him as hereinafter provided.

Sec. 18-12. Report of condition of streets.

It shall be the duty of policemen to note, from time to time, the condition of all bridges, culverts, crossings, drain-pipes, sewers, streets and sidewalks, and report thereon to the street commissioner.

Sec. 18-13. Inspection of street lights.

Policemen on duty at night shall carefully inspect all street lights on their beats and report the condition of the same to the Chief of Police, who shall keep a record of the same.

Sec. 18-14. Report of nuisances.

Each policeman, when coming off duty, shall report to the police chief all nuisances observed by him and violations

of ordinances of which he has knowledge or information, and all cases seeming to need investigation.

Sec. 18-15. Duties in case of fire.

It shall be the duty of the Chief of Police and policemen to preserve the public peace and to remove all suspicious persons or others not usefully employed in the extinguishment of fires or the preservation of property.

Sec. 18-16. Conduct.

Each member of the police force must refrain from violent and profane language, and in the performance of his duty must keep command of his temper; he must be civil and respectful to every member of the police force; he shall not maltreat or use any unnecessary violence with any citizen or prisoner, and he must never use his club or firearms except in the most urgent cases.

Sec. 18-17. Drinking while on duty.

It shall be unlawful for any member of the police force to drink any alcoholic beverage of any kind while on duty or while in uniform.

Sec. 18-18. Failure to comply with rules.

A failure or refusal on the part of any policeman to observe and comply with any of the rules, regulations and requirements imposed shall subject such policeman to dismissal or suspension from the police force, and to prosecution before the appropriate officer when such is a violation of any law of the city.

Sec. 18-19. Removal from office.

The Mayor shall have power to remove any policeman from his office at any time without hearing. When the Mayor removes a policeman he shall at the next regular meeting of the Board report such fact, together with the causes for removal, and, if the Board of Selectmen sustain the action of the Mayor, said policeman shall stand discharged. If the Board fails to sustain and approve the action of the Mayor, said policeman shall automatically become reinstated.

Sec. 18-20. Subsistence allowance.

Of the amounts appropriated by the Board for police officials, the sum of five dollars (\$5.00) per day for each work

day shall be designated as and shall constitute a statutory subsistence allowance. The purpose of this section is to give police officials the tax benefits provided by Section 120 of the 1954 Internal Revenue code.

Editor's note--This provision was effective from and after July 15, 1958.

Secs. 18-21 thru 18-31. Reserved.

ARTICLE II. AUXILIARY POLICE

Sec. 18-32. Established.

There is hereby established and created an auxiliary police force, to consist of such number as the Mayor and Chief of Police may from time to time determine, who shall serve at the pleasure of the Board of Mayor and Selectmen.

Sec. 18-33. Appointment.

The Mayor and Chief of Police, with the consent of the Board of Selectmen, are authorized to appoint such number of auxiliary policemen as will be sufficient in their judgement, to act in collaboration with the regular police force to maintain peace and order under any emergency situation that may arise.

Sec. 18-34. Compensation.

The auxiliary police force shall not receive compensation or pay in connection with their training and preparation for the duties to be performed, but when called into active service in any emergency, they will be paid such sum as may be determined by the Board of Mayor and Selectmen.

Sec. 18-35. Oath.

Said auxiliary policemen shall become policemen when they have subscribed to the oath prescribed by statute, which oath shall remain on file with the City Clerk.

Sec. 18-36. Call to active duty.

The Mayor and/or the Chief of Police, shall have the power to call into active service any part or all of the auxiliary policemen appointed and qualified as provided herein, when they shall determine that the services of such auxiliary police

force is necessary to preserve order, to keep the peace and to enforce the laws.

Sec. 18-37. Powers and duties.

The auxiliary policemen shall, when called into active duty, have all the rights, authority and powers possessed by any regularly employed and appointed police officer of the city. The auxiliary police force shall act solely and completely under the orders of the Mayor and under his supervision, or under the supervision of such person as the Mayor may designate. In the absence of the Mayor, the Chief of Police shall supervise and direct the auxiliary police force.

ARTICLE III. JUNKED AND ABANDONED VEHICLES

Sec. 18-38. Definitions

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

Automobile junkyard means any established place of business which is maintained, used or operated for storing, keeping, buying, or selling wrecked, scraped, ruined, or dismantled motor vehicles or motor vehicle parts.

Junked vehicle means any motor vehicle which:

(1) Is inoperative and which does not have lawfully affixed thereto both an unexpired license plate and a valid motor vehicle inspection certificate and which is wrecked, dismantled, partially dismantled, or abandoned, or

(2) Remains inoperative for a period of more than 120 days.

Property means any real property within the city which is not a street or highway.

Street or highway means the entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel.

Vehicle means a machine propelled by power other than human power designed to travel along the ground by use of wheels, treads, runners, or slides and transport persons or property or pull machinery and shall include, without limitation, automobile, truck, trailer, motorcycle, tractor, buggy, and wagon.

Sec. 18-39. Application of article.

Nothing in this article shall affect ordinances that permit immediate removal of a vehicle left on public property which constitutes an obstruction to traffic.

Sec. 18-40. Penalty for violation of this article.

Upon conviction for violation of any provisions of this article relating to the maintaining of a public nuisance, as described in this article or in permitting or allowing such public nuisance to exist, such violator shall be guilty of a misdemeanor and, upon conviction, shall be fined in an amount not exceeding \$500.00 or be imprisoned in the city jail for a period not exceeding 90 days, or by both. Each day that such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such under this article.

Sec. 18-40. Location or presence within the city deemed public nuisance; exceptions.

The location or presence of any junked vehicle on any lot, tract, parcel of land or portion thereof, occupied or unoccupied, improved or unimproved, within the City shall be deemed a public nuisance, and it shall be unlawful for any person to cause or maintain such public nuisance by wrecking, dismantling, rendering inoperable, abandoning or discarding his vehicle on the property of another or to suffer, or permit or allow the same to be placed, located, maintained or exist upon his own real property; provided, however, that this section shall not apply to:

(1) A vehicle or part thereof which is completely enclosed within a building in a lawful manner where it is not visible from the street or other public or private property;

(2) A vehicle or part thereof which is stored or parked in a lawful manner on private property in connection with the business of a licensed vehicle dealer or automobile junkyard; or

(3) Unlicensed inoperable vehicles stored on private property; provided, however, that the vehicles and outdoor storage areas are maintained in such a manner that they do not constitute a health hazard and are screened from ordinary public view.

Sec. 18-42. Abatement of removal order; contents; service.

(a) Whenever such public nuisance exists in the City in violation of this article, the Chief of Police, who shall administer this article or his designees shall give not less than ten days' notice to the owner of the real property or the occupant, if any, of the

premises whereon such public nuisance exists, to abate or remove the same, stating the nature of the public nuisance on private property and that it must be removed and abated within ten days. A request for a hearing must be made before expiration of the ten day period by the aggrieved person. Such notice shall be mailed by certified or registered mail with a five day return receipt requested, to the owner or the occupant of the private premises whereupon such public nuisance exists. If the notice is returned undelivered by the United States Post Office, official action to abate the nuisance shall be continued to a date not less than ten days from the date of such return.

(b) A public hearing prior to the removal of the vehicle or part thereof as a public nuisance is to be held before the Mayor and Board of Selectmen, when such a hearing is requested by the owner or occupant of the public or private premises or by the owner or occupant of the premises adjacent to the public right-of-way which the vehicle is located, within ten days after service of notice to abate the nuisance. Any resolution or order requiring the removal of a vehicle or part thereof shall include a description of the vehicle, the correct identification number and license number of the vehicle, if available at the site.

Sec. 18-43. Removal with permission of the owner or occupant.

If within ten days after receipt of notice from the Chief of Police, or his designees to abate the nuisance, as provided in this section, the owner or occupant of the premises shall give his written permission to the Chief of Police, or his designees for removal of junked motor vehicle from the premises. The giving of such permission shall be considered compliance with the provisions of Section 18-42.

Sec. 18-44. Disposal of junked vehicles; redemption.

(a) If such public nuisance is not abated by the owner or occupant after such notice is given in accordance with this article, official action shall be taken by the City to abate such nuisance. Junked vehicles or parts thereof shall be impounded until lawfully claimed or disposed of.

(b) Vehicles so impounded shall be held for 90 days and thereafter shall be disposed of with all rights of ownership being forfeited. Anytime prior to the expiration of 90 days, the record title holder shall be allowed to redeem the vehicle upon the payment of all costs including towing, storage, and other such administrative costs as may be determined.

Sec. 18-45. Authority to enforce article.

The Chief of Police or his designees may enter upon private property for the purposes specified in this article to examine vehicles or parts thereof, obtain information as to the identity of vehicles and to remove or cause removal of a vehicle or parts thereof declared to be a nuisance pursuant to this article. The Board of Mayor and Selectmen shall have the authority to issue all orders necessary to enforce this article.

CHAPTER 19

STREETS AND SIDEWALKS

State Law Reference--Highways and streets, generally, MS Code Ann., 1972, Sec. 65-1-1, et seq.

Art. I. In General, Sec. 19-1 thru 19-30

Art. II. House Numbering, Sec. 19-31 thru 19-44

Art. III. Parades, Sec. 19-45 thru 19-48

ARTICLE I. IN GENERAL

Sec. 19-1. General maintenance of streets and rights of way.

The City maintains its streets and sidewalks for the purpose of affording pedestrians the right, privilege and opportunity to move orderly and safely from place to place on its sidewalks and across its streets in the normal, customary and usual manner. The vehicular portions of its streets are maintained for the purpose of affording the public in general the right to move safely from place to place, principally by use of vehicles. The assumption of any other right by anyone and any attempt to use the public walkways and streets for any other use or purpose or in any other manner than normal and customary use is prohibited.

Sec. 19-2. Paving of streets and sidewalks.

No sidewalk or street shall be paved and paid out of public money, nor shall any sidewalk or street pavement already constructed be repaired and so paid for, unless the same is ordered by the Board of Mayor and Selectmen as provided by law.

Sec. 19-3. Duty to keep sidewalks clean.

It shall be the duty of occupants of improved property or owners of vacant property adjacent to sidewalks, to keep said sidewalks clean and free from any debris.

Sec. 19-4. Disturbing or injuring sidewalks, streets.

Any person who shall willfully disturb or injure a sidewalk or curb or street shall be guilty of a misdemeanor, punishable as provided in Section 1-9.

Sec. 19-5. Driving vehicles across sidewalks.

It shall be unlawful to drive any vehicle across a paved sidewalk except at a point where the pavement is provided with a driveway constructed for that purpose. In the event it is absolutely necessary and unavoidable to cross a sidewalk, suitable protection against damage or injury to the sidewalk shall be taken.

Sec. 19-6. Use of water sprinklers near streets, sidewalks.

It shall be unlawful for any person using any water plug, hose or sprinkler to direct the flow onto any street or sidewalk.

Sec. 19-7. Casting construction debris onto streets.

It shall be unlawful for any person engaged in the construction, alteration, repair or removal of any building or other structure to cast or drop, or cause or permit to be cast or dropped from any elevation onto any street, alley, sidewalk or public way any construction debris. Any such debris shall be removed by careful use of machinery or other safe method which will insure against injury to persons or property or annoyance to the public.

Sec. 19-8. Obstructing streets or sidewalks.

It shall be unlawful for any person to obstruct any public street, avenue, alley or sidewalk in any manner so as to prevent free and uninterrupted passage on and along such street, avenue, alley or sidewalk.

Sec. 19-9. Encroachments.

No encroachments on the sidewalks, streets or public ways by the erection of buildings, walls, fences or any other structure, shall be permitted.

Sec. 19-10. Gates opening onto public ways.

It shall be unlawful for gates or doors, except self-closing screen doors, to structures bordering on sidewalks to be erected or constructed so as to open outward onto or across the sidewalk.

Sec. 19-11. Games in streets.

It shall be unlawful to fly kites or to play baseball, marbles, or any similar game in or upon the streets.

Sec. 19-12. Construction of sidewalks.

(a) Any person desiring to construct a sidewalk in front of his property shall first get a permit from the Mayor. Such sidewalk shall be constructed according to the profile showing width and grade to be furnished by the mayor.

(b) All sidewalks shall be constructed according to the grade fixed by the city engineer, if such has been established. Where none has been established, it shall be built according to the grade decided upon by special ordinance in each case.

Sec. 19-13. Breaking surface of streets - Prohibited; exceptions

It shall be unlawful for any person to dig into the streets of the city, except a plumber, electrician and/or gas fitter who has been duly licensed or such other person to whom the city has granted a franchise by the terms of which he is authorized to dig into the streets.

Sec. 19-14. Same - Permit required.

Any person desiring to dig into or excavate any of the streets of the city shall first obtain a written permit from the city clerk. If said street is paved, said person shall, before said permit is issued, submit to the city clerk an estimate of the size of the ditch or excavation and shall make a deposit with the city clerk of a sum equal to the estimated cost of replacing the paving to be removed or dug up.

Sec. 19-15. Same - Liability for damages.

Any person who shall dig into any of the streets of the city shall be liable for any damages of whatever kind or nature that may be sustained by virtue of the said digging.

Sec. 19-16. Same - Precautions.

Any person digging into the streets of the city shall observe the following precautions:

Wooden or iron barriers, at least four feet high, shall be placed around the excavated area from the beginning of the excavation until the ditch or hole shall have been completely filled and tamped and accepted by the city. These barriers shall be painted red. At night time, there shall be conspicuously displayed so as to be seen by

pedestrians and travelers at a distance of one hundred feet, lights which shall be so constructed that they will burn all night long, and shall be placed at the four corners of the barriers around the excavation and at such other intervals as may be necessary.

Sec. 19-17. Same - Inspection.

After such excavation and digging shall have been completed, filled, and tamped, the street commissioner or other person designated by the city shall inspect the area to determine if it has been properly done, and shall release said person from any further liability for damages.

Sec. 19-18. Replacement of paving.

Immediately thereafter, on streets that have been paved, the said street commissioner or other responsible party shall replace the paving taken up in the excavated area, the costs thereof being charged to the deposit made by the person securing the permit to make such excavation. The balance of said deposit, if any, after such repaving has been done and the costs thereof paid, shall be refunded to the depositor. However, if the deposit was not sufficient to cover the costs of replacing the paving, then such depositor shall immediately pay to the city clerk a sum sufficient to cover the balance due.

Sec. 19-19. Maintenance of railroad crossings.

Every railroad which has railroad tracks running into and through the city limits is hereby required to fix and maintain crossings wherever their railroad tracks cross any of the public streets or highways of the city as follows: The space between the rails and on either side of the tracts shall be filled in for the full width of the street with materials to be designated by the Board or its authorized agent, so that the surface between the rails and on either side thereof shall be on a level with the top surface of the rails.

Sec. 19-20. Solicitation of money on public streets.

It shall be unlawful for any person to stand in the traveled portion of any street in the city and beg, ask, solicit or hold out a receptacle to receive money or any other thing of value from persons in and/or driving a motor vehicle on and over the said streets. (Ord. of 4/12/77, Sec. 1)

Secs. 19-21 thru 19-30. Reserved.

ARTICLE II. HOUSE NUMBERING

Sec. 19-31. System established.

Standardizing an address reference system within the City of West Point is imperative to provide appropriate levels for public and emergency service responses, commensurate with *The City of West Point=s Plan of Annexation*, approved in 1998.

Standardization also provides orderly developmental transition, complimentary to *The City of West Point, Mississippi, Development Code, Subdivision Regulations and Zoning Ordinance*, adopted in January, 2002, as well as the necessary postal, utility, and parcel delivery services. This ordinance establishes a perpetual, uniform method for survey and numbering buildings and structures on property adjacent to public and private roadways in the City of West Point.

Authority and responsibility for addressing within the corporate limits will be directed by City Hall for the initial grid planning and sustained by the West Point Water & Light Department

The general plan is a grid style overlay with physical distance surveys to compute assignment of house numbers based on 1200 numbers per linear mile (1 per 4.4 linear feet) of roadway. The Central Reference Point (CRP) for the City overlay is the intersection of Main and Division streets, is hereby designated as the null reference and assigned a null reference of $\Delta 100$ ". There are no house or structure numbers less than 100 in any direction.

Central Reference Axis (CRA) follow Main Street (Highway 50) and Division Street road features or the continued imaginary extensions to each of our bordering county lines. Main Street is hereby designated the division line between transitioning north/south axis roads. Division Street is hereby designated as the division line between transitioning east/west axis roads.

Sec. 19-32. Designation of number.

A base numbering of 100 is used for every road originating from the CRP or its axis. Those addresses will be determined by measuring the distance from the point of origin, radiating away from the CRP/CRA, dividing by 4.4 and adding to the base number of 100 for all public roads or private drives with access serving four or more resident, tenant, or business structures. Excepting in place names, private roads, driveways, and subdivisions should use the suffixes Δ Drive or Trail@, to depict non-public or private status when naming.

Base numbers for other public roads and private drives with access to resident, tenant, or business structures will be determined by first determining the road=s point of origin as that point closest to the CRP. Then, as objectively as possible, designate whether its primary axis is an east/west or a north/south component. Finally, establish the base numbering value from its relative linear relationship to the CRP.

Measure distances from the predetermined point of origin to the primary vehicle access (driveway) to the structure, divide by 4.4, then add or subtract as appropriate from the pre-determined base number. Round last digits of answers to follow this scheme: structures along designated primary east/west axis roads shall be evenly numbered on the north side and oddly numbered on the south side of roadbed. Structures along designated primary north/south axis roads shall be evenly numbered on the east side and oddly numbered on the west side of roadbeds.

Sec. 19-33. Master plan.

The necessary preemption of West Point 1976 *Codified Ordinance*, concerning Section II, House Numbering, changes the numbering of each 20 feet of land fronting on streets or avenues to 4.4 feet. Also changed is the application to odd house numbering on the west side of roadbeds and even numbering on the east side of roadbeds. This plan has been presented to the Clay County Board of Supervisors for their consideration and approval, primarily for rendering emergency ambulance service through the City of West Point for all Clay County.

Areas exempted: Those plats, residences, buildings, and structures existing with pre-1976 scheme of house numbering, unless they depict redundancy or are non-conforming to application of the 1976 Codified Ordinance, until such time that resources or need for change described in item 6 below changes rationale.

Exceptions: Apartment complexes, hotels or motels with more than four units, and private gated subdivisions with multiplex units may be numbered sequentially; however, numbers should radiate from a designated point of origin or reference a first or second floor, e.g. 101, 201, etc. Alphanumeric combinations, e.g. 1A, 2B, should be avoided if direct mail or parcel delivery services are expected.

Areas included: All post 1998 corporate limits to include naming and numbering those private drives serving four or more tenant residences, mobile homes, businesses, or structures with separate utility accounts.

This plan must be accomplished in three phases with correlating priority:

- 1. Any area in the pre 1998 corporate limits with rural addresses**
- 2. Newly annexed areas approved in West Point=s 1998 Plan of Annexation**
- 3. Newly acquired water districts acquired as a result of annexation**
- 4. Remainder of County Districts as determined and approved by the Clay County Board of Supervisors**
- 5. Areas determined and requested by U.S. Government postal or parcel agents requiring prioritization attention, submitted to and approved by the Mayor and City Board of Selectmen or Clay County Board of Supervisors as appropriate**
- 6. Areas within the pre 1998 annexation corporate limits whose general plat and transitional development cause need for alignment with this current address scheme.**

This master plan for naming and numbering is permanently shown on records and maps exclusive of privacy act protection information at City Hall and the West Point Police and Fire Departments.

Sec. 19-34: Prior Ordinances Repealed

All ordinances and resolutions previously adopted by the Board of Mayor and Selectmen of the City of West Point, Mississippi, to the extent that they are in conflict with the provisions hereof, be and are hereby repealed.

Secs. 19-35 thru 19-44. Reserved.

ARTICLE III. PARADES

Sec. 19-45. Permit required.

It shall be unlawful to conduct a parade or march or for any person to participate in a parade or march on the public streets, alleys or ways of the city without first obtaining a

permit.

Sec. 19-46. Application for permit.

Any person, group of persons or organization desiring to conduct a parade or march on the public streets, alleys or ways shall make an application in writing to the Chief of Police for a permit to conduct such parade or march on a form provided. Such application shall be made not less than forty-eight (48) hours prior to the time the parade or march is to begin, and shall be signed by a responsible person or officer of the organization making the application. Such application shall give the following information:

- (1) Date and hour of parade or march is to begin;
- (2) Point of beginning and point of ending and the exact route over which the march or parade will be made, and the estimated time required to pass a given point on the route of the parade;
- (3) The estimated number of persons to walk or march and the number and character of vehicles that will be a part of the march or parade;
- (4) What part of the streets, alleys or ways on the route of the parade will be required, i.e., what portion of the width.

Sec. 19-47. Approval or modification of parade plans.

Upon receipt of the application, the Chief of Police shall determine whether or not the proposed parade or march as reflected by said application will unduly interfere with and impede the normal traffic. If the Chief of Police shall determine that the proposed march or parade will not unduly interfere with or impede traffic, he shall so advise the applicant. The Chief of Police may, at his discretion, make such modifications as he may deem necessary. Such modifications may include (1) changing or altering the route of the march or parade; (2) changing the date and/or time of day of the parade or march; (3) changing or altering the length of the march or parade; (4) changing the width of the parade or march; (5) or any combination of the foregoing suggested areas of modifications; (6) any other modification that will cause the said parade or march not to unduly interfere with or impede traffic. If such modifications are incorporated into an amended application, the Chief of Police shall forthwith issue a permit for such parade or march.

Sec. 19-48. Permit fee.

A privilege tax or permit fee of five dollars (\$5.00) is hereby levied upon each parade and march and shall be paid to the Chief of Police prior to issuance of a permit. Such permit fee shall be paid into the City treasury.

Secs. 19-49 thru 19-59. Reserved.

ARTICLE IV. EXCAVATIONS

Sec. 19-60. Submission of plan.

It shall be unlawful for any person, corporation, firm, partnership or any branch or department of the City of West Point to perform any work on or under the surface of the right of way of any dedicated street as now laid out within the city or any street which may be dedicated to the city in the future without first having submitted a plan for the proposed work to the city inspector and having received his approval thereon within two (2) working days thereafter. The word "street" as used in this article shall mean and include any street, alley, road or other public way within the city. (Ord. of 11/14/78)

Cross reference-General definitions, Sec. 1-2.

Sec. 19-61. General applicability.

Any party set forth inside Section 19-60 in the performance of such work as described in said section shall abide by all ordinances of the City and rules and regulations of the Utilities Department in the performance of such work. In cases of emergency where such work must be performed at a time when the Utilities Department is not open to the general public, the work shall proceed and the application for permission for the performance thereof shall be made to the City Inspector within forty-eight (48) hours after the commencement of said work. (Ord. of 11/14/78)

Sec. 19-62. Fees.

The City shall not charge any fees of any kind as a prerequisite to the obtaining permission to do any work covered by the provisions of this article. (Ord. of 11/14/78)

Sec. 19-63. Promulgation of rules and regulations.

The City Inspector is hereby authorized to promulgate

with the approval of the Board of Mayor and Selectmen rules and regulations for the implementation of this article, which rules and regulations shall have the effect of law. (Ord. of 11/14/78)

Sec. 19-64. Maintenance of maps.

Any person, corporation, firm or partnership, who owns, operates, or maintains any pipeline for the transportation or distribution of natural gas, petroleum, petroleum products or other hazardous gases or liquids (hereinafter called "utility operator") located under the surface of the right-of-way of any dedicated street as now laid out within the city or any street which may be dedicated to the city in the future shall maintain in the office of the City Inspector a map of its pipeline system within the City. Each person or any branch or department of the City making application for approval to work on or under the surface of any right of way as above set out shall check said map and notify any utility operator with pipelines in the area of his work. The utility, upon receiving such advance notification, shall, within the two (2) days allowed for approval by the city inspector, make investigation to determine the location of its pipelines in the area of the proposed work and mark by some reasonable and customary means the location of pipelines in or near the area of work so as to enable the person engaged in the work to locate the pipeline in advance of and during the work, or shall advise that marking is not necessary. (Ord. of 11/14/78)

Sec. 19-65. Violations of regulations.

Any person, corporation, firm, partnership and any city employee in charge of the performance of any work covered by this article or the rules and regulations promulgated thereunder, who fails to comply with the terms thereof, shall be punishable as provided in Section 1-9. (Ord. of 11/14/78)

CHAPTER 20

TAXATION

State Law Reference--Taxation and finance, generally, MS Code Ann., 1972, Sec. 21-33-1, et seq.

Art. I. In General, Sec. 20-1 thru 20-42

Art. II. Sales Tax, Sec. 20-43 thru 20-54

Art. III. Slot Amusement Machine Tax, Sec. 20-55 thru 20-

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ARTICLE I. IN GENERAL

Sec. 20-1. Tax assessor.

The Board of Mayor and Selectmen shall annually at the regular December meeting of said Board appoint a tax assessor for the City and fix his salary. His duties shall be as hereinafter described. The tax assessor shall be a qualified elector and resident citizen of the city, except that the Board, in its discretion, may enter into contract for such assessment services as may from time to time be required with a person or firm of good reputation, experience and character. Such contract shall not exceed one year in term but may be automatically renewable at the pleasure of the Board.

Sec. 20-2. Tax collector; bond.

The City Clerk shall be the City Tax Collector and perform all the duties incident to the Office of City Tax Collector. He shall be required to make bond in a sum not less than fifteen thousand dollars (\$15,000.00), payable to the city, conditioned for the faithful performance of his duties as tax collector, and to account for all taxes collected, which bond is to be approved by the Board of Mayor and Selectmen.

Sec. 20-3. Provision of assessment rolls, etc.

The Board of Mayor and Selectmen shall provide the tax assessor with the necessary books, papers and assessment rolls and assessment blanks. The assessment roll shall be as near as practicable in the form of the assessment rolls approved by the State Tax Commission of the State of Mississippi, and which are used by the counties of the State of Mississippi. The tax assessor in making up the assessment roll of property for taxes in the city shall make up said rolls and show the property and values therein as near as

practicable as the assessment rolls of the county are made up and the property shown therein.

Sec. 20-4. Assessment valuation.

All property, both real and personal, shall be assessed according to its intrinsic value and as near as may be as provided for the assessment of property under the general laws of the State of Mississippi.

Sec. 20-5. Annual assessment of property; time.

It shall be the duty of the city tax assessor, beginning on the first day of January and ending on the fifteenth day of March of each and every year, to call upon every person, firm, company and corporation residing or being domiciled or doing business in the city to take the assessment under oath of all property of every kind and description that is taxable under the laws of the State of Mississippi, except real estate, owned or controlled by such person, firm, company or corporation.

Sec. 20-6. Assessment of real property.

It shall be the duty of the City tax assessor, beginning on the first day of January and ending on the fifteenth day of march of each and every year, to call upon every person, firm, company and corporation residing or being domiciled or doing business in or owning real estate in the city, to take the assessment under oath of all real property of every description owned or controlled by such person, firm, company or corporation liable to taxation by the City, except such real property as is assessed by the State Tax Commission of the State of Mississippi under the laws thereof.

Sec. 20-7. Individual listing of taxable property.

Each person liable for taxation shall make out, on the printed form furnished by the tax assessor, and deliver to the tax assessor, a true list of his taxable property with the true actual value thereof of which he was possessed on the first day of January preceding, in his own right, or in the right of his wife, or as executor, administrator, guardian, trustee, or otherwise, rendering separate lists of the property of each. The blanks in the printed form shall be filled in by the person rendering the form and be subscribed before and certified by the tax assessor or by an officer authorized to administer oaths.

Sec. 20-8. Disposition of tax forms.

The tax forms furnished by the taxpayers to the assessor shall be preserved by him and the forms of personal property shall be arranged alphabetically and bound together and the forms of real property shall be arranged in numerical order according to lots and blocks and bound together, and the tax assessor shall deliver them to the City Clerk to be filed by the Clerk and preserved for inspection by the Board of Mayor and Selectmen, and thereafter carefully preserved.

Sec. 20-9. Failure to list taxable property.

If any person called upon to render an assessment of his property subject to taxation under the charter of laws of the City shall fail, neglect or refuse to furnish to the assessor within ten (10) days after being called upon by the assessor a list of his taxable property with the true value thereof affixed to each item of said property, then it shall be the duty of the tax assessor, from the best information he can obtain in reference to the amount and value of the property owned and possessed by such person, to arrive at the true value of the same and place it upon the assessment roll. If any person shall willfully undervalue any property owned or possessed by him, it shall be the duty of the tax assessor, from the best information he can obtain, to arrive at the true value of said property and place it upon the assessment roll.

Sec. 20-10. Refusal to provide list.

Any person who refuses to give his true name, together with a list of his taxable property, to the tax assessor when requested to do so, shall, upon conviction thereof be punished as provided in Section 1-9.

Sec. 20-11. Assessment of real property of unknown owner.

All real estate located within the City limits shall be shown on the assessment roll, and the assessor, if he is unable to ascertain who the owner is, shall assess said real estate as owner unknown by an accurate description of said property and at its real value.

Sec. 20-12. Filing of assessment roll on real property.

The assessment roll or rolls containing the assessment and valuation of all taxable real property in the City, with the names of the owners thereof, as made by the tax assessor, shall, when completed by the said tax assessor, be filed with the City Clerk, together with the affidavit of the assessor appended thereto to the effect that he has faithfully

endeavored to ascertain and assess all persons and real property in the City subject to taxation, and that he has not omitted any person or thing from the assessment roll or placed upon or accepted any under valuation of any property. The assessment roll assessing real property shall be filed on or before the 1st day of July, every year.

Sec. 20-13. Filing of assessment roll on personal property.

The assessment roll containing the assessment and valuation of all taxable personal property in the City, with the names of the owners thereof as made by the tax assessor, shall, when completed by the tax assessor, be filed with the City Clerk, together with the affidavit of the assessor appended thereto as stated in Section 20-12. The assessment roll assessing personal property shall be filed on or before July 1st of each year.

Sec. 20-14. Equalizing assessment.

After the completion of such assessments and the assessment rolls have been filed with the Clerk, the Board of Mayor and Selectmen shall meet and equalize the assessment of the property and shall fix some day not less than thirty (30) days after the assessment is completed to hear objections to the assessment, which objections shall be made in writing, and to examine the same. It shall be the duty of the Board to give notice by publication in some newspaper published in the City, or by posting notices in three or more public places in the City, of the time and place fixed for such hearing of said objections. At said time and place, after hearing all objections, the Board shall have the power to approve, change or correct, increase or diminish such assessment as shall be proper to show, as nearly as may be the property taxable to each person and the value thereof, and to equalize the assessment. When the assessment roll has been examined and corrected by the Board, said Board shall, by resolution, finally approve said assessments, whereupon said assessment rolls shall be conclusive and final as to the assessments contained therein.

Sec. 20-15. Approval of assessment; collection warrant.

If the assessment has been corrected and finally approved as provided in Section 20-14, the Mayor shall issue his warrant annexed to the tax list to the City Tax Collector, whereupon the Tax Collector shall be charged with the amount of taxes due to be collected under the levy and assessment.

Sec. 20-16. Levy of taxes.

Each and every year, after the examination of the assessments and valuation and correction of the assessment rolls made and filed by the assessor, and the final approval thereof by the Board of Mayor and Selectmen, said Board shall, by ordinance, make a levy of taxes on all real and personal property and all other property of any kind or description subject to taxation by the City for the purpose of defraying the general expenses of the government of the City and for all other purposes as permitted by law, for the fiscal year.

Sec. 20-17. Collection procedure.

All ad valorem taxes due the City shall be due and collectible on the first day of September in the year for which they are assessed and levied. On the first day of September of each year, the tax collector shall begin to collect the taxes levied by the Board and shall complete said collection on the 15th day of October of each year, except where the taxpayer elects to pay in installments as hereinafter provided, but the Board of Mayor and Selectmen shall have the power to extend the time for the collection of taxes by ordinance, and all taxes not paid on or before the first Monday of April of each subsequent year or such other day as may be fixed by the Board by ordinance as the limit within which the taxes shall be paid, shall be collected by distress and sale of any personal property liable therefor and by the sale of all real property liable therefor, which shall be done and made as is provided by law.

Sec. 20-18. Due dates for collection.

The ad valorem taxes levied by the City for each year, including ad valorem taxes levied for bonds and other evidence of indebtedness for money borrowed and interest, shall be due, payable and collectible as follows, to-wit:

- (1) All of said ad valorem taxes shall be paid on or before October 15th of the year in which the said taxes are assessed; or
- (2) If the taxpayer so elects, one-half of the total amount of such ad valorem taxes levied and assessed to each person shall be collectible by the tax collector and shall be paid on or before the 15th day of October of each year, and the remainder of said taxes shall thereafter be payable in two (2) equal installments, one to be

paid on or before the 30th day of November and the other to be paid on or before the 15th of January, next.

Sec. 20-19. Payment in installments.

If any person elects to pay the taxes levied and assessed against him in installments, he shall be required to pay, in addition to the amount of taxes unpaid, interest thereon at the rate of one-half of one per cent per month, or any fractional part thereof from and after October 15th of said year to the date of payment of such taxes.

Sec. 20-20. Delinquent taxes.

It shall be the duty of every person assessed with ad valorem taxes to pay all such taxes to the tax collector on or before the due dates fixed and prescribed in Section 20-18, and upon failure to so pay his taxes, the said taxes shall become delinquent, and it shall be the duty of the tax collector to enforce payment thereof by distress and sale of the personal property and by sale of real estate as is provided by law and the provisions hereof.

If any person fails or neglects to pay the taxes levied and assessed against him as provided herein on or before the due dates fixed in Section 20-18, he shall be required to pay, in addition to the amount of taxes then due, and in addition to the interest prescribed in Section 20-19, all other fees, penalties and costs prescribed by any ordinance of the City for failure to pay taxes when due.

Sec. 20-21. Collection of taxes upon default.

The failure to pay the taxes due and collectible as provided herein promptly on the due dates fixed shall mature all taxes levied and assessed during that year then remaining unpaid. On such default, it shall be the duty of the tax collector to immediately proceed to collect all installments of taxes then remaining unpaid, by distress and sale of any personal property liable therefor. Such sale shall take place at the door of the City Hall, unless the property distrained be too cumbersome to be removed, and five (5) days notice of the time and place of sale shall be given by advertisement posted in three (3) public places in the city, one of which shall be at the City Hall. The tax collector shall be allowed to collect and retain, in addition to the taxes, interest, fees and costs, all necessary expenses of removing and keeping the property distrained. It shall be the duty of the tax collector to enforce

the provisions herein contained and to collect all taxes due by distraint and sale of personal property, and any taxes levied against any lands due and remaining unpaid after the 1st day of November of each year, the land shall be sold as is provided by law and any ordinances of the City. Provided, however, any taxpayer in default may, at any time prior to the sale of his property for such taxes, pay the delinquent installment or installments of such taxes, plus all fees, interest, costs and penalties thereon and all necessary expenses, and reinstate his installment payments and the balance of his installments of such taxes shall be due and payable as if such taxpayer had not been in default.

Sec. 20-22. Advance payment of taxes or installments.

Any persons desiring to do so may pay all of his taxes for the fiscal year at any time on or before the first day of August of the year in which said taxes are due. Any person who had paid the first installment of his taxes may pay the remaining installments at any time on or before the date they become due, and it shall be the duty of the tax collector to issue a receipt in full for all taxes due upon payment thereof.

Sec. 20-23. Tax receipt.

The tax collector shall give to every person paying taxes a receipt dated, numbered and filled in so as to show by whom and on what taxes were paid. Said receipt shall show the amount of taxes payable for each installment period and the total amount of taxes to be paid for the fiscal year. Each receipt, in addition to the number, shall be so arranged as to show and provide for installment payments, receipts for installments to be marked "First Installment", "Second Installment" and "Third Installment", respectively.

Sec. 20-24. Special improvements assessments.

Payments and interest on all special improvement assessments of whatever kind and nature made and approved by the Board shall be due and payable on the first of September of the year in which they are due, and the tax collector shall collect said installments and interest at the same time and in the same manner that he collects the other taxes for the City. If the said payments and interest are not paid on or before the first day of December in the year in which they shall be due or such other day as may be fixed by the Board by ordinance as the limit within which taxes shall be paid, shall be collected by the sale of the property against which assessments have been made, which sale shall be at

the same time and in the same manner as sale of real estate for taxes.

Sec. 20-25. Penalty for late payment.

Any person failing to pay any taxes assessed against him or his property within the time provided by this chapter, or fails to pay any special assessment made against his property on or before the time provided by ordinance, shall be liable to an additional sum of ten percent of the amount of taxes assessed against him or his property and/or the amount of any special improvement as damage, which additional sum shall be collected as the amount due for taxes and/or special assessments are collected, and no property shall be exempt from seizure or sale from the taxes and damages aforesaid.

Sec. 20-26. Sale of personal property for delinquent taxes.

In case any taxpayer shall fail, neglect or refuse to pay his taxes on any taxable personal property on or before the due date, it shall be the duty of the tax collector after said date, with the aid of the Chief of Police or any member of the police department, to seize any personal property of the delinquent taxpayer sufficient to pay such delinquent taxes and ten percent damages thereon, and to advertise the same for sale for ten (10) days by posting notices thereof at the Mayor's office and at two other public places in the City, or by publication in a newspaper, said notices to state the time, and place of sale, and the tax collector shall sell said property, in accordance with such notice, to pay such delinquent taxes plus ten percent damages.

Sec. 20-27. Sale of real estate for delinquent taxes.

All real estate within the City Limits on which taxes and/or installments and interest on special improvement assessments have not been paid within the time provided by this chapter, or within such time provided by ordinance, shall be advertised and sold by the City tax collector as provided by the laws of the State for the sale of real estate for taxes, except that said sale shall be made on the first Monday of April in the year succeeding that for which said taxes and/or installments are due, unless said time shall be changed by ordinance duly adopted by the Board.

Sec. 20-28. Fiscal year.

The fiscal year of the City shall begin on July 1 of each year and end on June 30 of the following year.

Sec. 20-29. Exemption of new industry.

New factories and new enterprises of public utilities hereafter established in the City shall be granted exemption from ad valorem taxes on tangible property used in, or necessary to the operation of the service or industry but not upon the products thereof, for a period of five (5) years, the time of such exemption to commence from the date of charter, if a corporation, and if an individual enterprise, then from the commencement of work, said exemption to be granted in the manner herein provided. The new factories and new enterprises of public utility to be exempted are enumerated as and limited to:

All factories making cotton goods; all woolen mills; all knitting factories; all factories for making hosiery; all rope factories; all factories for making and manufacturing machinery and farming implements in a finished state for consumer use without additional processor labor; all factories for making automobiles, wagons, buggies, clothing, shoes or parts thereof; all factories for making furniture, fixtures, utensils or implements of either wood or metal or other materials for use in homes, hotels, schools or offices; all coffin factories; all factories for making cement, building tile, drain tile, brick, clay products or products in which sand and clay are used; all factories for making glass or glass products; all wood veneering plants; all creosote plants; all wood pulp plants making wood pulp used in the manufacture of paper, pasteboard and like products; all factories for making paper or paper products out of wood pulp, cotton stalks, or other material; wood reduction plants engaged in the business of extracting resin turpentine, pine oil and like products from wood pulp and/or refuse; all factories for making soap or wood pulp and/or refuse; all factories making soap or chemicals; all creameries, cheese factories, milk condensing plants; all factories for canning, packing or preserving food other than beverages; all pecan shelling, hulling and/or packing plants or factories; all tanneries and all factories making leather and leather products; all factories run exclusively by water power; all conduit and pipe lines, pumping plants and other property and equipment and appliances used in the transportation and distribution of natural and artificial gas, crude oil and electricity for fuel, light and power, ice factories and hydroelectric plants, water works plants or systems for furnishing water for domestic

purposes and fire protection; factories manufacturing cotton fibre from cottonseed hulls or linters; factories manufacturing all by-products from cotton seed hulls and linters; and factories grinding agricultural feeds and making mixed feed for livestock from agricultural products.

Sec. 20-30. Application for exemption.

Any person, firm or corporation claiming an exemption under Section 20-29 shall first file an application therefor in triplicate with the Board of Mayor and Selectmen. Each copy shall be duly sworn to by the individual making the application or by the proper officer of a firm or corporation. In the application full information shall be given as to the property proposed to be exempted, the kind of articles to be manufactured and the date from which the exemption is claimed, and shall show the actual value of the property sought to be exempted, whether it is in existence to be subsequently built, purchased, owned or acquired by the applicant.

Sec. 20-31. Approval of exemption.

At the next regular meeting of the Board after the filing of the application, the Board shall proceed to investigate the matter and determine whether the property is exempt. If the property is exempt, the Board shall approve the application by a resolution duly entered on its minutes fully describing the property to be exempted and the date when such exemption begins and expires.

Secs. 20-32 thru 20-42. Reserved.

ARTICLE II. SALES TAX

Sec. 20-43. Levied.

The Board of Mayor and Selectmen hereby levy and impose upon all persons engaging in any of the businesses taxed by Sections 2-C, 2-D and 2-F of the Sales Tax Law of Mississippi, being Section 10-108, 10-109 and 10-111 of the Mississippi code of 1942, Annotated, as amended, an additional tax of one-half of one percent (1/2 of 1%) on retail sales, but not to include income or sales classed as wholesale under Section 1 of the Sales Tax Law, or which are exempt under the said Sales Tax Law. The said tax shall be collected and paid to the treasurer of the City for the benefit of the

general fund of the City.

Secs. 20-44 thru 20-54. Reserved.

ARTICLE III. SLOT AMUSEMENT MACHINE TAX

Sec. 20-55. Term defined.

The term "slot amusement machine" or "machine" shall mean any mechanical device or contrivance which is operated, played, worked, manipulated or used by inserting or depositing any coin, slug, token or thing of value, in which may be seen any pictures or heard any music, or wherein any game may be played, or any form of diversion had.

Cross reference--General definitions, Sec. 1-2.

Sec. 20-56. Tax levied.

There is hereby levied and imposed one-half (1/2) of the hereinafter described tax as authorized by House Bill No. 943, Regular Session, 1970 Mississippi Legislature, upon each person engaging in the business of owning or placing on location for the purpose of operation any slot machine, annual license taxes according to the following schedule:

- (1) For each machine wherein may be seen any picture or heard any music, a license tax for each such machine in the amount of eighteen dollars (\$18.00);
- (2) For each machine (not elsewhere specifically taxed in this section) wherein or whereby any game may be played or any form of diversion had, a license tax for each such machine in the amount of thirty dollars (\$30.00);
- (3) For each machine (not elsewhere specifically taxed in this section) wherein or by means of which children may obtain a ride upon a "hobby horse" or the figure of any animal, or upon the fixture of a boat, airplane, rocket or other such machine, a license tax of twelve dollars (\$12.00) for each machine.

The measure of the tax shall be the amount of money required to operate or play any machine one (1) time.

Sec. 20-57. License.

Every person engaged in the business of owning or placing on location for the purpose of operation any slot machine shall first, before commencing the same, apply for and procure from the city tax collector a privilege specified therein. The tax levied shall be due and payable annually on January 1, all licenses issued under the provisions of this article shall expire annually on December 31. A license may be renewed without penalty during the month of January. The amount of the license tax to be paid for a period of less than twelve (12) months shall be that proportionate amount of the annual license tax that the number of months, or fractional part thereof, remaining until January 1 next bears to twelve (12) months.

The license shall entitle the owner or the person placing the machine on location for the purpose of operation to operate a machine of the type specified until December 31 next. If a machine for which a license has been issued should be destroyed or traded, the privilege of operation for the remaining time covered by the license may be transferred to another machine of the same type -y procedure to be specified by the tax collector. Where a slot machine of the same type is changed to require additional coins or money to operate a machine, an additional license shall be obtained and a tax paid at the rate hereinabove set out to be prorated for the months remaining on the original license, and the licensee shall be allowed credit for the tax paid for the months remaining on the original license.

Where ownership of a machine upon which a valid license is attached is transferred to another person, no additional tax shall be required.

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

Sec. 20-58. Penalties.

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

Any person who has paid the tax for the operation of a machine, but who has failed to affix the license to the machine

shall be liable for fifty percent (50%) of the amount of the tax penalty.

It shall be unlawful for any person to place on location any machine without paying the tax herein levied.

Sec. 20-59. Exemption.

This article shall not apply to any machine operated for gambling purposes, to any machine kept at a regular place of business of distributors or manufacturers for sale or lease without being operated in a place of business commonly known as a pool hall or billiard parlor when the gross income from the operation of such pool table is taxable under the Mississippi Sales Tax Law.

Sec. 20-60. License tax in addition to other taxes.

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

Sec. 20-61. Administration and enforcement.

All of the general provisions of Chapter 137, Laws of 1944, insofar as they apply to municipalities, shall apply to and are hereby adopted as the means by which the provisions of this article may be enforced and the taxes and penalties imposed may be collected.

Sec. 20-62. Records.

It shall be the duty of every person taxable under this article to keep and preserve for a period of three (3) years adequate records showing the location on which each machine is placed for the purposes of operation, type of machine and the size coin required to operate the machine one (1) time.

CHAPTER 21

TAXICABS

Sec. 21-1. Licensing; regulation.

Licensing and regulation of motor vehicles for hire in the City shall conform to the Mississippi Code Annotated, 1972, Sections 21-27-131 thru 21-27-137, and said provisions are adopted as fully as if set forth herein.

Sec. 21-2. Driving without license.

Any person who drives or operates any motor vehicle for hire without having been duly licensed by the City as provided in Section 21-1 shall be guilty of a misdemeanor punishable as provided by Section 1-9 of this Code.

CHAPTER 22

TRAFFIC

State Law Reference--Traffic regulations and rules of the road generally, Sec. 63-3-1, et seq.

- Art. I. In General, Sec. 22-1 thru 22-12
- Art. II. Traffic Schedules, Sec. 22-13 thru 22-26
- Art. III. Handicapped Parking, Sec. 22-27 thru 22-29

ARTICLE I. IN GENERAL

Sec. 22-1. Uniform Traffic Code adopted.

There is hereby adopted by reference a traffic regulation code entitled "The Uniform Traffic Regulation Code" as the official traffic regulation code for the City.

A copy of said Code shall remain on file in the office of the City Clerk and the police department.

ARTICLE II. TRAFFIC SCHEDULES

Sec. 22-13. Speed limits.

(a) It shall be unlawful for any automobile or other vehicle to be driven within the fire limits at a greater speed than twenty (20) miles per hours, and in other parts of the city at a speed greater than thirty (30) miles per hour, except the city limits streets at a speed greater than thirty-five (35) miles per hours.

(b) It shall be unlawful to pass a public school during normal school hours, or to pass a building of public worship during the usual hours of worship, or to pass a public hospital at any time, at a speed greater than fifteen (15) miles per hour.

(c) Traffic on Mississippi State Highway 45-A shall not travel at any greater speeds than (1) forty-five (45) miles per hour from the South Corporate Limits to the South right of way line of the Illinois Central Railway Company and from the North Corporate Limit line of the City to its intersection with Half Mile Street; and (2) thirty-five (35) miles per hour between its intersection with Half Mile Street to the South right of way line of the Illinois Central Railway company.

Sec. 22-14. One-way streets designated.

The following streets are designated as one-way streets for vehicular traffic, and it shall be unlawful to travel upon such streets except in the direction as indicated by marker:

Jordan Avenue, from Commerce Street Westward to its intersection with South Division Street;

Court Street, from its intersection with Broad Street northward to its intersection with Jordan Avenue;

Travis Street, from its intersection with Court Street to its intersection with Division Street.

Sec. 22-15. Parking prohibited.

Parking is hereby specifically prohibited as follows, to-wit:

Between the east and west curbs and at any intersection of U.S. Highway 45-A;

On the east side of Cottrell Street, from its intersection with Main Street north to its intersection with the north right of way line of the Columbus and Greenville Railway Company;

On the South side of Westbrook Street, from its intersection with Court Street east to its intersection with Commerce Street;

On the East side of Calhoun Street, between Main Street and Dix Street;

On the West side of East Street, between Main Street and Travis Street;

On the East side of Grove Street, between Tournament Street and Brame Avenue;

On South Division Street, between Main Street and Jordan Avenue, and on the West side of Division Street between Jordan Avenue and Brame Avenue;

On the East side of Commerce Street between Tournament Street and Brame Avenue;

On the East side of Court Street, between Broad Street

and Westbrook Street, on all days of the week, except Sunday;

On the West side of Forrest Street, from Main Street to Lee Street;

On Half Mile Street, from a point one hundred (100) feet West of the intersection of Queen Street with Half mile street, to a point where the spur track of the Columbus and Greenville Railway Company that goes into the plant of the Babcock & Wilcox company, intersects Half Mile Street.

On the South side of West Main Street, between Water Street and West Broad Street, and on the North side of West Main Street between Forest Street and Clarke Street;

On the East side of Fifth Street, between its intersection with Main Street and the South side or line of Lot one (1) in Block One Hundred Seventeen (117), Ward One (1) (being the South line of the baseball park);

On the South side of Brame Avenue between its intersection with McCord Street and its intersection with Miller Street.

Secs. 22-16 thru 22-26. Reserved.

ARTICLE III. HANDICAPPED PARKING

Sec. 22-27. Reserved parking.

All parking areas located on public streets, alleys, or in municipally owned parking lots which are marked with the international wheelchair logo, are hereby reserved for the parking of motor vehicles bearing a special license plate decal or which have a special handicapped parking certificate displayed on the vehicle dashboard as provided in Section 27-19-56 of the Mississippi Code of 1972, Amended. (Ord. of 1/22/85, Sec. 1)

Sec. 22-28. Unlawful parking.

It shall be unlawful for any person to park a motor vehicle in any designated handicapped parking zone which is located on public streets, alleys, or in municipally owned parking lots, which does not bear a special license plate deal

or which does not have the special handicapped parking certificate on the vehicle dashboard. (Ord. of 1/22/85, Sec. 2)

Sec. 22-29. Violations.

Any person violating the provisions of this article shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than one hundred dollars (\$100.00) for each violation in accordance with Section 27-19-56 of the Mississippi Code of 1972, Amended. (Ord. of 1/22/85, Sec. 3)

CHAPTER 23

WATER AND SEWER

State Law Reference--Authority of municipality to operate waterworks, 21-27-7.

Art. 1. In General, Secs. 23-1 thru 23-15

Art. II. Water and Sewer Rates, Secs. 23-16 thru 23-33

Art. III. Sewer Use, Secs. 23-34 thru 23-111

ARTICLE I. IN GENERAL

Sec. 23-1. Pollution of water.

It shall be unlawful for any person to corrupt, pollute or make impure by any means or agency, or in any manner whatever, the water supplied or intended to be supplied to its consumers by the City.

Sec. 23-2. Wasting water.

It shall be unlawful for any consumer of water supplied by the City to willfully waste the water so supplied, or to permit the same to be wasted by leaving open a faucet, a cock or stops, either to prevent freezing or for any other purpose.

Sec. 23-3. Disposal of human excreta.

Every house used as human habitation within the City Limits shall be provided with suitable facilities for the disposal of human excreta pursuant to Article II hereof.

Editor's note--Portions of this section were effectively superseded by Article II of this Chapter. The editor has edited Section 23-3 accordingly.

Sec. 23-4. Connection with City's water and sewer system.

Every owner of any residence, store, factory, hotel, restaurant, boarding house, railroad depot, market, machine shop, oil mill and all other businesses or any other buildings situated anywhere within the corporate limits which is accessible to a main or lateral water or water and sewer line, is hereby required to connect such residence, store, factory, or other buildings with the sewer system and the water system of the City, such connection to be made in accordance with the City's rules and regulations for such work. (Ord. of 8/14/79,

Sec. 1); (Ord. of 3/9/99)

Sec. 23-4-A Cross Connection Control Program: (Ord. of 3/9/99)

Pursuant to Mississippi State Department of Health Environmental Regulations, Division 300, Part 301, it is the responsibility of the City of West Point to protect its drinking water by instituting and enforcing a cross connection control program. (Ord. of 3/9/99)

Sec. 23-4-B Definitions: (Ord. of 3/9/99)

- (1) Potable Water: Water that is fit for human consumption.**
- (2) Non-Potable Water: Water not fit for human consumption or of questionable quality.**
- (3) Cross Connection: Any arrangement of piping where a potable water line is connected to non-potable water; it may be a pipe-to-pipe connection where potable and non-potable water lines are directly connected, or a pipe-to-water connection where the potable water outlet is submerged in non-potable water. If the potable and non-potable source are separated by gate valves, check valves or devices other than the appropriate backflow preventer as outlined by this ordinance, a cross connection exists. By-pass arrangements, jumper connections, swivel or change over assemblies, or other temporary or permanent assemblies through which, or because of which, backflow may occur are considered to be cross connections.**
- (4) Backflow: The reversal of normal flow direction where water flows from the intended point of delivery towards the supply.**
- (5) Back Pressure Backflow: Backflow caused by a lower pressure in the potable supply than at the point of delivery.**
- (6) Back Siphonage Backflow: Backflow caused by a negative pressure in the potable supply line.**
- (7) Health Hazard, (High Hazard): Contamination with**

the potential to endanger the health and well being of the consumer.

- (8) **Non-Health Hazard, (Low Hazard): Contamination that will not endanger the health of the consumer, but does not meet the established water quality standards for Public Water Systems.**

Sec. 23-4-C Backflow Prevention Assembly Requirement: (Ord. of 3/9/99)

- C.01 Elimination & Protection of Cross Connections. Cross connections occurring within the City of West Point shall be eliminated or protected with the appropriate backflow preventer. Cross connections are eliminated by establishing an air gap between the potable and non-potable sources. Cross connections are protected by installing the appropriate backflow preventer. It shall be the responsibility of the owner of the cross connection to eliminate the cross connection or protect the cross connection with the appropriate backflow preventer.**
- C.02 Connections to Sewer. Direct connections, permanent or temporary, between the City of West Point and a sanitary or storm sewer are prohibited.**
- C.03 Home Wells. Connection to any source of water other than the City of West Point, including home wells, is prohibited unless the appropriate backflow preventer is installed.**
- C.04 Approved Backflow Prevention Assemblies. Only backflow prevention assemblies approved by the Mississippi State Department of Health shall be installed.**
- C.05 Installation Requirements. Reduced Pressure Principle Assemblies, double check valves assemblies, and pressure vacuum breakers shall be installed in a manner and location that provides adequate access for testing and repair of the assembly. Reduced pressure principal assemblies and double check valve assemblies shall not be subject to possible flooding. Reduced pressure principle assemblies and double check valve assemblies shall not be**

installed in a pit or enclosure below ground level.

Section 23-4-D Responsibility of Water System: (Ord. of 3/9/99)

- D.01 Surveys.** An authorized agent of the Water System, utilizing written guidelines published by the Mississippi State Department of Health, shall conduct surveys and on-site visits as necessary to locate existing cross connections. Single family dwellings and multi-family dwellings designed to house no more than eight families shall not be included in this survey unless there is reason to believe a cross connection exists. A survey of the water system shall be completed by **August 2000**. Upon completion of this survey, the responsible official of the water system shall certify to the Mississippi State Department of Health, on forms provided by the Department, that the required survey has been properly performed and completed in accordance with the written guidelines published by the Department.
- D.02 Right to Entry.** The Water System, acting through its agent, shall have the right to enter any non-residential building, during reasonable hours, to inspect the plumbing system installed in any such building or premises provided prior notification on the inspection is given. The Agent shall first obtain consent of the owner to enter any single-family dwelling.
- D.03 Classification of Hazard.** Each cross connection found will be classified as High Hazard or Low Hazard by the authorized agent of the Water System. If a connection is found to be a high hazard cross connection, the owner of the connection shall be notified in writing within (10) days, that the cross connection must be eliminated or protected by the appropriate backflow preventer within 90 days of notification. If the connection is found to be low hazard cross connection, the owner of the connection shall be notified in writing within 10 days that the connection shall be eliminated or protected by the appropriate backflow preventer within one year of notification.
- D.04 Selecting the Appropriate Backflow Preventer.** It shall be the responsibility of the water system,

acting through its agent, to determine the type of backflow preventer required at each cross connection and the location the backflow preventer will be installed. The type backflow preventer required location to be installed will be selected utilizing guidelines published by the Mississippi State Department of Health.

- D.05 Existing Backflow Preventers.** Any backflow prevention device or assembly installed on the Water System to protect the Water System against the possibility of backflow from a customer's water service prior to the adoption of this policy shall be governed by the policy. Existing backflow preventers will be required at all new connections where a cross connection will be created.
- D.06 Review of Meter Applications.** The Water System, acting through its agent, shall review all applications for new meters to determine if a cross connection will be created. The appropriate backflow preventer will be required at all new connections where a cross connection will be created.
- D.07 Inspections.** The Water System acting through its agent, will periodically inspect any connections to the water system as deemed necessary to insure cross connections have not been created.
- D.08 Record Keeping.** The Water System shall maintain records of the type, size and location of each backflow preventer installed in the system, when each backflow preventer is due to be tested, and the results of each test. Records shall be maintained for five (5) years from date of test and inspection.

Section 23-4-E Testing: (Ord. of 3/9/99)

- E.01 Tests Required.** Each reduced pressure principle backflow prevention assembly, double check valve assembly, and pressure vacuum breaker shall be tested immediately after installation, after repairs of any kind, and annually. Any backflow preventer found to be non-functional shall be repaired and retested within 14 days of the initial test.

E.02 Certified Testers. Only backflow preventer testers certified by the Mississippi State Department of Health shall test backflow preventers located in the City of West Point.

E.03 Notification: The Water System will notify the owner of each backflow preventer 60 days prior to the due date that the backflow preventer is due to be tested.

Sec. 23-4-F Violations and Penalties: (Ord. of 3/9/99)

F.01 Refusal of Inspection. If the owner of a connection refuses to let the agent of the Water System inspect that connection to determine if a cross connection exists, a reduced pressure principle backflow prevention assembly will be required at that connection.

F.02 Maintaining a Cross Connection. If the owner of the connection, after having been informed that a cross connection exists at the connection, refuses to eliminate or protect the cross connection through the use of the appropriate backflow preventer, water service to the connection shall be terminated until such times as the owner complies with Mississippi State Department of Health Regulations.

Section 2. All ordinances, resolutions, or orders, or portions thereof, in conflict herewith are repealed to the extent of such conflict.

Section 3. This ordinance shall become effective and be in force from and after its publication as provided by law.

Sec. 23-5. Failure to connect to sewer system.

Any person who shall fail to connect such houses, buildings or premises with the City's sewer system within thirty (30) days after having been notified so to do by the inspector or other designated authority shall be deemed guilty of a misdemeanor punishable as provided in Section 1-9 of this Code, and each day's failure thereafter to make such connection shall be a separate offense. Whenever the offending party shall be a nonresident of the City, the penalty may be assessed by the Mayor and made a charge against said property and collected by execution.

Cross reference---Connection required, Sec. 23-31.

Secs. 23-6 thru 23-15. Reserved.

ARTICLE II. WATER AND SEWER RATES

Sec. 23-16. Water rates - Inside City.

The following is hereby established as the rates to be charged for water furnished to each customer by the water system owned and operated by the City, for each calendar month, to-wit:

First 2,000 gallons at \$9.00, which is the minimum charge;
All over 2,000 gallons at \$1.80 per thousand gallons.

The above rates shall apply to each customer (each meter) that is within the City Limits. (Ord. of 4/23/91)(Ord. Of 5/12/98, eff. 7/1/98)(Ord. 2/11/03)

The above rates shall apply to each master water metered installation within the City Limits, except that the minimum water charge for the first 2,000 gallons per connection on the customer=s side of the master water meter shall be \$9.00 per connection, which shall be the minimum charge.

Sec. 23-17. Same-Outside City.

The rates set forth in Section 23-16 shall apply to all customers (each meter) outside the City Limits, except that the minimum charge for the first 2,000 gallons shall be \$18.00 (Ord. of 5/12/98, eff. 7/1/98)(Ord. 2/03).

The above rates shall apply to each master water metered installation outside the City Limits, except that the minimum water charge for the first 2,000 gallons per connection on the customer=s side of the master water meter shall be \$18.00 per connection, which shall be the minimum charge. (Ord. Of 5/12/98, eff. 7/1/98)

Sec. 23-18. Sewer rates.

The following is hereby established as the rates to be charged to each connection thereto for use of the sewage system owned and operated by the City for each calendar

month:

The first 2,000 gallons of water usage at \$7.00, which is the minimum charge;

All over 2,000 gallons of water usage at \$1.20 per 1,000 gallons;

BOD surcharge in excess of 200mg/l at \$0.30 per pound.

Penalty for BOD in excess of permitted Daily Maximum at \$0.50/lb.

Penalty for BOD in excess of permitted Monthly Average at \$0.20/lb.

The above rates shall apply to each customer connected to the sewage system (each water meter) that is within the City Limits, except master meter installations.

The above rates shall apply to all master water meter installations within the City Limits, except that the minimum sewer charge for the first 2,000 gallons per connection on the customer side of the master water meter shall be \$7.00 per connection, which shall be the minimum charge.

The above rates shall apply to all sewer customers outside the City Limits, except that the minimum charge for the first 2,000 gallons shall be \$14.00.

The above rates shall apply to each master water meter installations outside the City Limits, except that the minimum sewer charge for the first 2,000 gallons per connection on the customers side of the master meter shall be \$14.00 per connection which shall be the minimum charge. (Ord. of 6/30/89; Ord. of 6/12/90, ef. 7/1/90; Ord. of 4/23/91, eff. 6/1/91; Ord of 5/12/98 eff. 7/1/98)(Ord. 2/03)

Sec. 23-19. Connection charges.

The following charges shall be made for each connection (tap) made to the water system and/or sewerage system owned and operated by the City:

<u>Description of Service Provided</u>	<u>Charge Inside City</u>	<u>Charge</u>
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		<u>Outside City</u>
3/4" water connection	\$150.00	\$300.00
1" water connection	\$300.00	\$600.00
1 2" water connection	\$600.00	
		\$1,200.00
2" water connection	\$800.00	\$1,600.00
3" water connection	\$1,000.00	\$2,000.00
Larger than 3" water connection	Actual Cost	Actual cost doubled
4" sewer connection	\$150.00	\$300.00
6" sewer connection	\$200.00	\$400.00
Larger than 6" sewer connection	Actual Cost	Actual cost doubled
3/4" check valve	\$12.00	\$12.00
1" check valve	\$12.00	\$12.00
1 2" check valve	\$26.00	\$26.00
2" check valve	\$35.00	\$35.00
Pavement Cut	\$50.00	\$100.00
1" road bore	\$250.00	
		\$500.00
Road bore larger than 1"	Actual cost	Actual cost doubled

Mississippi sales tax charges are applicable to all of the above charges. All charges must be paid for prior to connections being made

(Ord. 2/03)

Sec. 23-20. Billing and collection.

All bills for water and/or sewer services shall be due and payable on the date thereof and shall become delinquent ten (10) days after ten days after the date thereof. A penalty charge of ten percent (10%) of the total bill shall be added and collected to each delinquent bill.

Sec. 23-21. Cut off for delinquency; restoration of service.

When a monthly water and sewer bill shall remain delinquent ten (10) days, water service shall be cut off. When cut off, in order to have service restored, a customer shall pay the delinquent bill and a cut off fee of fifteen dollars (\$15.00), if the restoration is made during normal working hours of the maintenance crew of the City. If the restoration is made during hours other than the maintenance crew normal work hours,

the charge shall be thirty dollars (30.00). (Ord. of 6/30/89, applicable 8/1/89)

Sec. 23-22. Deposit.

A deposit of ten dollars (\$10.00) shall be made by each residential customer prior to furnishing water and sewer service to such customer. A deposit equal to the estimated monthly water and sewer charge shall be made by each commercial and industrial customer before furnishing water and sewer service to such customer. Upon the discontinuance of service to a customer and payment of all water and sewer service bills, the deposits made by such customer shall be refunded.

Secs. 23-23. Unauthorized connection or reconnection.

1. No authorized personnel shall willfully connect, reconnect, or tamper with any water or electric meter or meters of the West Point Water & Light Department for the purpose of obtaining or restoring electric or water service which has been disconnected by authorized personnel of the Water and Light Department.

2. The intentional use, without the consent of the City of West Point or the West Point Water and Light Department, of any electricity or water produced or distributed by the City of West Point, shall constitute a prima facie evidence of knowledge on the part of the person, firm, or corporation having custody of the room, building, or property being served by the electric and/or water service.

3. Any water or electric meter which is found to have been tampered with, connected, or reconnected without the consent of the City of West Point or the Water and Light Department shall be disconnected without notice to the customer and shall not be reconnected until all fees and charges have been paid in full, plus an additional reconnection charge of \$50.00. (Ord. of 4/9/91)

Sec. 23-24 thru 23-33. Reserved.

ARTICLE III. SEWER USE

DIVISION I. GENERALLY

Sec. 23-34. Definitions.

Unless the context specifically indicates otherwise, the meaning of terms used in this article shall be as follows:

"BOD" (denoting Biochemical Oxygen Demand) shall mean the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at 20 degrees C, expressed in milligrams per liter.

"Building Drain" shall mean that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five (5) feet (1.5 meters) outside the inner face of the building wall.

"Building Sewer" shall mean the extension from the building drain to the public sewer or other place of disposal.

"Combined Sewer" shall mean a sewer receiving both surface runoff and sewage.

"Garbage" shall mean solid wastes from the domestic and commercial preparation, cooking, and dispensing of food, and from the handling, storage, and sale of products.

"Industrial Wastes" shall mean the liquid wastes from industrial manufacturing process, trade, or business as distinct from sanitary sewage as defined in 40 CFR 35.905.

"Natural Outlet" shall mean any outlet into a watercourse, pond, ditch, lake or other body of surface or groundwater.

"Person" shall mean any individual, firm, company, association, society, corporation or group.

"pH" shall mean the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.

"Properly Shredded Garbage" shall mean the wastes from the preparation, cooking, and dispensing of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than 1/2 inch (1.27 centimeters) in any dimension.

"Public Sewer" shall mean a sewer in which all owners of abutting properties have equal rights, and is controlled by public authority.

"Sanitary Sewer" shall mean a sewer which carries sewage and to which storm, surface, and ground waters are not intentionally admitted.

"Sewage" shall mean a combination of the water-carried wastes from residences, business building, institutions, and industrial establishments, together with such ground, surface, and storm waters as may be present.

"Sewage Treatment Plant" shall mean any arrangement of devices and structures used for treating sewage.

"Sewage Works" shall mean all facilities for collecting, pumping, treating, and disposing of sewage.

"Sewer" shall mean a pipe or conduit for carrying sewage.

"Shall" is mandatory; "May" is permissive.

"Slug" shall mean any discharge of water, sewage, or industrial waste which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than fifteen (15) minutes more than five (5) times the average 24-hour concentration or flows during normal operations.

"Storm Drain" (sometimes termed "storm sewer") shall mean a

sewer which carries storm and surface waters and drainage, but excludes sewage and industrial wastes, other than unpolluted cooling water.

"Superintendent" shall mean the Superintendent of Utilities of the City of West Point or his authorized representative.

"Suspended Solids" shall mean solids that either float on the surface of, or are in suspension in water, sewage, or other liquids and which are removable by laboratory filtering.

"City" shall mean the City of West Point, Mississippi, or, when appropriate to the context, its duly authorized representative.

"Watercourse" shall mean a channel in which a flow of water occurs, either continuously or intermittently. (Ord. of 6/13/89, M.B. 29, Pg. 585)

Cross reference--Definitions and interpretations, generally, Sec. 1-2.

Secs. 23-35 thru 23-40. Reserved.

DIVISION 2. USE OF PUBLIC SEWERS REQUIRED

Sec. 23-41. Deposit of objectionable waste in unsanitary manner.

It shall be unlawful for any person to place, deposit, or permit to be deposited in any unsanitary manner on public or private property within the City, or in any area under the jurisdiction of said City, any human or animal excrement, garbage or other objectionable waste. (Ord. of 6/13/89, M.B. 29, Pg. 585)

Sec. 23-42. Pollution of natural outlets.

It shall be unlawful to discharge to any natural outlet within the City, or in any area under the jurisdiction of said City, any sewage or polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this article. (Ord. of 6/13/89, M.B. 29, Pg. 585)

Sec. 23-43. Privies, septic tanks, cesspools, etc., restricted.

Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of

sewage. (Ord. of 6/13/89, M.B. 29, Pg. 585)

Sec. 23-44. Installation of suitable toilet facilities required.

The owner of all houses, buildings, or properties used for human occupancy, employment, recreation, or other purposes, situated within the City and abutting on any street, alley, or right of way in which there is not located or may in the future be located a public sanitary or combined sewer of the City, is hereby required at his expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper public sewer in accordance with the provision of this article, within ninety (90) days after official notice to do so, provided that said public sewer is within one hundred (100) feet (30.5 meters) of the property line. If an on-site pressure system is required for a service connection, the operation and maintenance costs for the facility shall be the responsibility of the owner or user. (Ord. of 6/13/89, M.B. 29, Pg. 585)

Secs. 23-45 thru Sec. 23-50. Reserved.

DIVISION 3. PRIVATE SEWAGE DISPOSAL

Sec. 23-51. Connection to private system.

Where a public sanitary or combined sewer is not available under the provisions of Division 2, Section ____, the building sewer shall be connected to a private sewage disposal system complying with the provisions of this article. (Ord. of 6/13/89, M.B. 29, Pg. 585)

Sec. 23-52. Permit required; application form.

Before commencement of construction of a private sewage disposal system the owner shall first obtain a written permit signed by the Superintendent. The application for such permit shall be made on a form furnished by the City, which the applicant shall supplement by any plans, specifications, and other information as are deemed necessary by the Superintendent. (Ord. of 6/13/89, M.B. 29, Pg. 585)

Sec. 23-53. Inspections; effective date of permit.

A permit for a private sewage disposal system shall not become effective until the installation is completed to the satisfaction of the Superintendent. He shall be allowed to inspect the work at any stage of completion and, in any event, the applicant for the permit shall notify the Superintendent when the work is ready for final inspection, and before any

underground portions are covered. The inspection shall be made within twenty-four (24) hours of the receipt of notice by the Superintendent. (Ord. of 6/13/89, M.B. 29, Pg. 585)

Sec. 23-54. Compliance with Public health Department required.

The type, capacities, location, and layout of a private sewage disposal system shall comply with all recommendations of the Department of Public health of the State of Mississippi. No permit shall be issued for any private sewage disposal system employing subsurface soil absorption facilities where the area of the lot is less than three (3) acres. No septic tank or cesspool shall be permitted to discharge to any natural outlet. (Ord. of 6/13/89, M.B. 29, Pg. 585)

Sec. 23-55. Availability of public sewer.

At such time as a public sewer becomes available to a property served by a private sewage disposal system, as provided in Division 3, Section 23-54, a direct connection shall be made to the public sewer in compliance with this article, and any septic tanks, cesspools, and similar private sewage disposal facilities shall be abandoned and filled with suitable material. (Ord. of 6/13/89, M.B. 29, Pg. 58)

Sec. 23-56. Operation and maintenance of disposal system.

The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times, at no expense to the City. If an on-site pressure system is required for use of the public sewer facilities, the operation and maintenance costs of the pressure system shall be the responsibility of the owner or user. (Ord. of 6/13/89, M.B. 29, Pg. 585)

Sec. 23-57. Additional requirements.

No statement contained in this division shall be construed to interfere with any additional requirements that may be imposed by the Health Officer. (Ord. of 6/13/89, M.B. 29, Pg. 585)

Sec. 23-58. Transition to public sewer.

When a public sewer becomes available, the building sewer shall be connected to said sewer within sixty (60) days and the private sewer disposal system shall be cleaned of sludge and filled with clean bank-run gravel or dirt. (Ord. of

6/13/89, M.B. 29, Pg. 585)

Secs. 23-59 thru 23-64. Reserved.

DIVISION 4. BUILDING SEWERS AND CONNECTION

Sec. 23-65. Written permit required.

No authorized person shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the Superintendent. (Ord. of 6/13/89, M.B. 29, Pg. 585)

Sec. 23-66. Classification of permits.

There shall be two (2) classes of building sewer permits: (a) for residential and commercial service; and (b) for service to establishments producing industrial wastes. In either case, the owner or his agent shall make application on a special form furnished by the City. The permit application shall be supplemented by any plans, specifications, or other information considered pertinent in the judgment of the Superintendent.

As a condition for authorization to dispose of industrial wastes through the municipal system, the industrial applicant for a sewer permit shall provide the City with information describing wastewater constituents and characteristics, and the type of activity and quantity of production. (Ord. of 6/13/89, M.B. 29, Pg. 585)

Sec. 23-67. Costs of installation and connection.

All costs and expense incident to the installation and connection of the building sewer shall be borne by the owner. The owner shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer. (Ord. of 6/13/89, M.B. 29, Pg. 585)

Sec. 23-68. Separate and independent building sewers.

A separate and independent building sewer shall be provided for every building; except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard, or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer. (Ord. of

6/13/89, M.B. 29, Pg. 585)

Sec. 23-69. Use of old building sewers after examination.

Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the Superintendent, to meet all requirements of this article. (Ord of 6/13/89, M.B. 29, Pg. 585)

Sec. 23-70. Applicable standards and specifications.

The size, slope, alignment, materials of construction of a building sewer, and the methods to be used in excavating, placing of the pipe, jointing, testing, and backfilling the trench, shall conform to the requirements of the building and plumbing code or other applicable rules and regulations of the City. In the absence of code provisions or in amplification thereof, the materials and procedures set forth in appropriate specifications of the American Society for Testing and Materials (ASTM) and the Water Pollution Control Federation (WPCF) Manual of Practice No. 9 shall apply. (Ord. of 6/13/89, M.B. 29, Pg. 585)

Sec. 23-71. Elevation and lifting.

Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer. (Ord. of 6/13/89, M.B. 29, pg. 585)

Sec. 23-72. Connection of surface run-off conduits prohibited.

No person shall make connection of roof downspouts, exterior foundation drains, areaway drains, or other sources of surface run-off or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer. (Ord. of 6/13/89, M.B. 29, Pg. 585)

Sec. 23-73. Conformance with applicable regulations.

The connection of the building sewer into the public sewer shall conform to the requirements of the building and plumbing code or other applicable rules and regulations of the City, or the procedures set forth in appropriate specifications of the ASTM and the WPCF Manual of Practice No. 9. All such connections shall be made gas tight and water tight. Any

deviation from the prescribed procedures and materials must be approved by the Superintendent before installation. (Ord. of 6/13/89, M.B. 29, Pg. 585)

Sec. 23-74. Inspection and connection to public sewer.

The applicant for the building sewer permit shall notify the Superintendent when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the Superintendent or his representative. (Ord. of 6/13/89, M.B. 29, Pg. 585)

Sec. 23-75. Barricading of excavations.

All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to prevent the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the City. (Ord. of 6/13/89, M.B. 29, Pg. 585)

Secs. 23-76 thru 23-81. Reserved.

DIVISION 5. USE OF PUBLIC SEWERS

Sec. 23-82. Discharge of unauthorized wastes.

No person shall discharge or cause to be discharged any storm water, surface water, groundwater, roof runoff, subsurface drainage, uncontaminated cooling water, or unpolluted industrial process waters to any sanitary sewer. (Ord. of 6/13/89, M.B. 29, Pg. 585)

Sec. 23-83. Discharge to combined or storm sewers.

Storm water and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as combined sewers or storm sewers, or to a natural outlet approved by the Superintendent. Industrial cooling water or unpolluted process waters may be discharged, on approval of the Superintendent, to a storm sewer, combined sewer, or natural outlet. (Ord. of 6/13/89, M.B. 29, Pg. 585)

Sec. 23-84. Prohibited waters or wastes.

No person shall discharge or cause to be discharged any of the following described waters or wastes to any public sewers:

- (a) Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid, or gas.
- (b) Any waters or wastes containing toxic or poisonous solids, liquids, or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create an public nuisance, or create any hazard in the receiving waters of the sewage treatment plant, including, but not limited to, cyanide in excess of 0/05 mg/l as CN in the wastes as discharged to the public sewer.
- (c) Any waters or wastes having a pH lower than 6.0, or having any other corrosive property capable of causing damage or hazard to structures, equipment, and personnel of the sewage works.
- (d) Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the sewage works, such as, but not limited to ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails and paper dishes, cups, mile containers, etc., either whole or ground by garbage grinders. (Ord. of 6/13/89, M.B. 29, Pg. 585)

Sec. 23-85. Discharge of potentially harmful wastes subject to approval of Superintendent.

No person shall discharge or cause to be discharged the following substances, materials, waters, or wastes if it appears likely in the opinion of the Superintendent that such wastes can harm either the sewers, sewage treatment process, or equipment, have an adverse effect on the receiving stream or can otherwise endanger life, limb, public property, or constitute a nuisance. In forming his opinion as to the acceptability of these wastes, the Superintendent will give consideration to such factors as the quantities of subject wastes in relation to flows and velocities in the sewers, materials of construction of the sewers, nature of the sewage treatment process, capacity of he sewage treatment plant, degree of treatability of wastes in the sewage treatment plant, and other pertinent factors. The substances prohibited are:

- (a) Any liquid or vapor having a temperature higher than 120 degrees F, (49 degrees C);**
- (b) Any water or waste containing fats, wax, grease, or oils, whether emulsified or not, in excess of 150 mg/l or containing substances which may solidify or become viscous at temperatures between 32 and 150 degrees F, (0 and 65 degrees C);**
- (c) Any garbage that has not been properly shredded. The installation and operation of any garbage grinder equipped with a motor of 3/4 horsepower (0.76 hp metric) or greater shall be subject to the review and approval of the Superintendent;**
- (d) Any waters or wastes containing strong acid, iron, pickling wastes, or concentrated plating solutions whether neutralized or not;**
- (e) Any waters or wastes containing iron, chromium, copper, zinc, and similar objectionable or toxic substances; or wastes exerting an excessive chlorine requirement, to such degree that any such material received in the composite sewage at the sewage treatment works exceeds the limits established by the Superintendent for such materials. (For Industrial Process Wastes, see Section 23-86);**
- (f) Any waters or wastes containing phenols or other taste or odor-producing substances, in such concentrations exceeding limits which may be established by the Superintendent as necessary, after treatment of the composite sewage, to meet the requirements of the State, Federal, or other public agencies of jurisdiction for such discharge to the receiving waters;**
- (g) Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the Superintendent in compliance with applicable State or Federal regulations;**
- (h) Any waters or wastes having a pH in excess of 8.5 or below 6.0;**
- (i) Materials which exert or cause:
 - (1) Unusual concentrations of inert suspended****

solids (such as, but not limited to Fullers earth, lime, slurries, and lime residues) or of dissolved solids (such as, but not limited to sodium chloride and sodium sulfate);

- (2) Excessive discoloration (such as, but not limited to dye wastes and vegetable tanning solutions);
 - (3) Unusual BOD, chemical oxygen demand, or chlorine requirements in such quantities as to constitute a significant load on the sewage treatment works;
 - (4) Unusual volume of flow or concentration of wastes constituting "slugs" as defined herein;
- (j) Waters or wastes containing substances which are not amenable to treatment or reduction by the sewage treatment processes employed, or are amenable to treatment only to such degree that the sewage treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters;
- (k) Any waste prohibited by Environmental Protection Agency standards 40 CFR 403. (Ord. of 6/13/89, M.B. 29, Pg. 585)

Sec. 23-86. Minimum pretreatment requirements.

All industrial and commercial process wastewater shall be pretreated prior to discharge to the public sewers, if necessary, in accordance with the provision of the United States Environmental Protection Agency, the Bureau of Pollution Control, and/or the City, whichever is more stringent. The minimum pretreatment requirements are as follows:

<u>Parameter</u> <u>(mg/l)</u>	<u>Maximum Concentration</u>
BOD5	200.0*
Suspended Solids (SS)	300.0*
TKN	30.0*
Arsenic	0.05
Barium	5.0
Boron	1.0

Cadmium	0.02	
Chromium	0.05	
Copper		0.02
Cyanide	0.05	
Lead	0.10	
Manganese	0.50	
Mercury	0.002	
Nickel	0.08	
Selenium	0.02	
Silver	0.01	
Zinc	0.05	

***BOD5, SS and TKN may be increased by written approval of Superintendent for limited periods of time.**

As a condition for authorization to dispose of industrial wastes through the municipal system, the industrial applicant for a sewer permit shall provide the City with information describing wastewater constituents and characteristics, and the type of activity and quantity of production.

Sec. 23-87. Authority of Superintendent.

If any waters or wastes are discharged, or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated in Section 23-85 and 23-86 of this division, and which in the judgment of the Superintendent may have a deleterious effect upon the sewage works, processes, equipment, or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the Superintendent may:

- (a) reject the wastes;**
- (b) require pretreatment to an acceptable condition for discharge to the public sewers;**
- (c) require control over the quantities and rates of discharge, and/or**
- (d) require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges under the provisions of Section 23-91.**

If the Superintendent permits the pretreatment or equalization of wastes flows, the design and installation of the plants and equipment shall be subject to the review and approval of the Superintendent, and subject to the requirements of all

applicable codes, ordinances and laws. (Ord. of 6/13/89, M.B. 29, P. 585)

Sec. 23-88. Grease, oil and sand interceptors, when provided.

Grease, oil and sand interceptors shall be provided when, in the opinion of the Superintendent, they are necessary for the proper handling of liquid wastes containing grease in excessive amounts, or any flammable wastes, sand, or other harmful ingredients; except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the Superintendent, and shall be located as to be readily and easily accessible for cleaning and inspection. (Ord. of 6/13/89, M.B. 29, Pg. 585)

Sec. 23-89. Preliminary treatment or flow-equalizing facilities.

Where preliminary treatment or flow-equalizing facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at his expense. (Ord. of 6/13/89, M.B. 29, Pg. 585)

Sec. 23-90. Installation of control manholes.

When required by the Superintendent, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable control manhole together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling, and measurement of the wastes. Such manhole, when required, shall be accessibly and safely located, and shall be constructed in accordance with plans approved by the Superintendent. The manhole shall be installed by the owner at his expense, and shall be maintained by him so as to be safe and accessible at all times. (Ord. of 6/13/89, M.B. 29, Pg. 585)

Sec. 23-91. Measurements, tests and analyses standards.

All measurements, tests and analyses of the characteristics of waters and wastes to which reference is made in this article shall be determined in accordance with the latest edition of "Standard Methods for the Examination for Water and Wastewater", published by the American Public Health Association, and shall be determined at the control manhole provided, or upon suitable samples taken at said control manhole. In the event that no special manhole has

been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected. Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the sewage works and to determine the existence of hazards to life, limb, and property. (The particular analyses involved will determine whether a 24-hour composite of all outfalls of a premise is appropriate or whether a grab sample or samples should be taken. Normally, but not always, BOD and suspended solids analyses are obtained from 24-hour composite of all outfalls whereas pH's are determined from periodic grab samples). (Ord of 6/18/89, M.B. 29, Pg. 585)

Sec. 23-92. Industrial wastes of unusual strength.

No statement contained in this division shall be construed as preventing any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the City for treatment, subject to payment therefor by the industrial concern. (Ord. of 6/13/89, M.B. 29, Pg. 585)

Secs. 23-93 thru 23-98. Reserved.

DIVISION 6. PROTECTION FROM DAMAGE

Sec. 23-99. Unauthorized tampering, damage, etc., prohibited.

No unauthorized person shall maliciously, wilfully, or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance, or equipment which is a part of the sewage works. Any person violating this provision shall be subject to immediate arrest upon charge of disorderly conduct. (Ord. of 6/13/89, M.B. 29, Pg. 585)

Sec. 23-100. Entry for inspection, observation, etc.

The Superintendent and other duly authorized employees of the City bearing proper credentials and identification shall be permitted to enter all properties for the purpose of inspection, observation, measurement, sampling, and testing in accordance with the provision of this article. The Superintendent or his representatives shall have no authority to inquire into any processes including metallurgical, chemical, oil, refining, ceramic, paper, or other industries beyond that point having a direct bearing on the kind and source of discharge to the sewers or waterways or facilities for waste treatment. Ord. of 6/13/89, M.B. 29, Pg. 585)

Sec. 23-101. Observation of safety rules.

While performing the necessary work on private properties referred to in Section 23-100 hereinabove, the Superintendent or duly authorized employees of the City shall observe all safety rules applicable to the premises established by the company. The company is responsible for providing accesses as required in Division 5, Section 23-90. (Ord. of 6/13/89, M.B. 29, Pg. 585)

Sec. 23-102. Entry on easements on private properties.

The Superintendent and other duly authorized employees of the City bearing proper credentials and identification shall be permitted to enter all private properties through which the City holds a duly negotiated easement for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair, and maintenance of any portion of the sewage works lying within said easement. All entry and subsequent work, if any, on said easement, shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved. (Ord. of 6/13/89, M.B. 29, Pg. 585)

Secs. 23-103 thru 23-108. Reserved.

DIVISION 7. PENALTIES

Sec. 23-109. Notice of violations.

Any person found to be violating any provision of this article, except Division 7, shall be served by the City with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction hereof. The offender shall, within the period of time stated in such notice, permanently cease all violations. (Ord. of 6/13/89, M.B. 29, Pg. 585)

Sec. 23-110. Continuing violations.

Any person who shall continue any violation beyond the time limit provided for in Section 23-109 shall be guilty of a misdemeanor, and conviction thereof shall be fined in the amount not to exceed one thousand dollars (\$1,000) for each violation. Each day in which any such violation shall continue shall be deemed a separate offense. Additionally, chronic violation of the terms of this article may result in termination

of the sewer disposal permit. (Ord. of 6/13/89, M.B. 29, Pg. 585)

Sec. 23-111. Liability for expense, loss or damage.

Any person violating any of the provisions of this article shall become liable to the City for any expense, loss, or damage occasioned the City by reason of such violation. (Ord. of 6/13/9, M.B. 29, Pg. 585)

PART III

TECHNICAL CODES

**CHAPTER 24
BUILDINGS**

Sec. 24-1. Building code adopted.

The International Building Code, 2003 Edition, is hereby adopted as the building code governing all building operations in the city, including any fees authorized therein, a copy of which is on file with the Clerk of the City of West Point as provided by Sec. 21-19-25 of the MS Code, 1972, amended. (Ord of 6/8/82, Sec. 2; Ord. of 8/13/85, Sec. 1; Ord. of 5/14/91, Sec. 2); (Ord. of 11/14/95); (Ord. of 11/11/03)

State law reference--Authority to adopt technical codes, MS Code Ann., 1972, Sec. 21-19-25.

Sec. 24-2. Revisions adopted. (Repealed by Ordinance of 11/14/95)

Sec. 24-3. (Repealed by Ordinance of 11/14/95)

Sec. 24-4. Permits

Any owner or authorized agent who intends to construct, enlarge, alter, repair, move, demolish, or change the occupancy of a building or structure, or to erect, install, enlarge, alter, repair, remove, convert or replace any electrical, gas, mechanical or plumbing system, the installation of which is regulated by this code, or to cause any such work to be done, shall first make application to the Building Official and obtain the required permit.

Sec. 24-5. Building Permit Fees

\$1000 and less	\$15.00 minimum fee
\$1001 to \$50,000	\$15.00 for the first \$1,000.00 plus \$5.00 for each additional thousand or fraction thereof, to and including \$50,000.
\$50,001 to \$100,000	\$260.00 for the first \$50,000.00 plus \$3.00 for each additional thousand or fraction thereof, to and including \$100,000.
\$100,001 to \$500,000	\$460.00 for the first \$100,000 plus \$3.00 for each additional

The term "electrical wiring" and "wiring" used in this chapter shall be construed to mean an installation of electric conductors, fittings, fixtures, equipment and appliances or apparatus intended for use in connection with electricity for any purposes unless exempted herein.

Sec. 25-4. Applicability of provisions.

None of the provisions of this chapter shall apply to public service utility operated under a franchise, the installation or maintenance of communication or signal wiring.

Sec. 25-5. National Electrical Code Adopted.

The National Electrical Code of 2003, prepared under the direction of the National Fire Protection Association, Battery March Park, Quincy, MA, 02269, an official copy of which is on file with the Clerk of the City of West Point, as is provided by Section 21-19-25 of the Mississippi code of 1972, is hereby adopted including any fees authorized therein. (Ord. of 10/11/83, M.B. 27, Pg. 248; Ord. of 12/9/86, Sec. 1);(Ord. of 11/14/95);(Ord. 2/9/99); (Ord. 9/12/2000); (Ord. 12/10/01); (Ord. of 11/11/03)

Sec. 25-6. Additional rules and regulations.

In addition to the rules and regulations of the National Electrical Code, the following regulations are provided and made a part of this Chapter:

- (1) Anything herein to the contrary, all conductors shall be copper;
- (2) Anything herein to the contrary, all service entrances shall have a main disconnect;
- (3) Service entrance conductors shall be the same size as the rating of the service equipment, the main breaker, or the main fuses;
- (4) All service equipment and panels shall be labelled properly where the owner will know each circuit;
- (5) All service disconnecting means shall have a rating of not less than 100 amperes;
- (6) The minimum size rigid conduit to be used for a mast shall be 1-1/2";

- (7) The minimum size conductor to be used in an installation shall be number 12;**
- (8) The grounded conductor shall be the same size as the ungrounded conductors through a 200 ampere service. Over 200 amperes check with the electrical inspector;**
- (9) The grounding conductor shall be installed in a continuous run as follows: A driven ground rod (5/8" x 8') to a cold water pipe and then to the service equipment. Size of conductor shall be in accordance with Article 250 of the National Electric Code;**
- (10) All wiring installed in, on, over, or under any type of building or structures which is within that area designated as the Fire District shall be in rigid metal conduit, intermediate conduit, electrical metallic tubing, or flexible conduit. All new circuits replacing existing circuits or supplying new installations in existing structures shall comply with this provision;**
- (11) All wiring in, on, or under any building or structure with solid masonry, concrete block, tile or metal walls located within the area served by the City, shall be installed in rigid conduit, intermediate conduit, electrical metallic tubing, or flexible conduit;**
- (12) All concealed electrical wiring installed at the place of manufacturing or assembly shall be inspected by a nationally recognized testing laboratory or an electrical inspector who meets the approval of the electrical inspector for the City of West Point;**
- (13) A switch or circuit breaker that serves as the disconnecting means for a motor-driven heater having a motor more than 1/8 horsepower shall be located within sight of the motor controller.**
- (14) The maximum number of outlets on one 110v circuit will be eight. There will be 2 kitchen circuits.**
- (15) All circuits will be properly fused according to the amp rating of the wire.**
- (16) There will be not less than one piece of romex put in a nipple.**

(17) No. 10 Romex or smaller must be run in the attic in an area that includes all space in which the pitch of the roof is 2' or smaller. Any romex used beyond this point must be stapled to the side of the ceiling joist, or drilled through joist. Romex must be stapled according to NEC 1971.

(18) There shall be two inspections on new construction:

Rough-in: Before any finish material is installed on the interior walls.

Final: Upon completion. (Ord. of 4/14/81, Sec. 4)

(19) Grounding continuity between a grounded outlet box and the grounding circuit of the receptacle shall be established by means of bonding jumper between the outlet box and the receptacle grounding terminal. There are two ways: Bonding Clip and Receptacle that has bonding wire on it.

(20) Conductors #8 and larger installed raceways, shall be stranded, except when used as bus-bars or in metal sheathed cable.

(21) Boxes shall be of sufficient size to provide free space for all conductors enclosed in the box. Maximum number of conductors shall be according to NEC Code, Article 370-6 and the tables.

(22) All 120 volt single phase circuits installed outside of a building shall have ground-fault circuit protection.

Sec. 25-7. License and Certification - Required.

No person shall install any electrical wiring in, on, under or above any buildings, or structure within the area served with electricity by the City without first procuring a proper license from the City, and such license shall entitle the holder to install electrical wiring in, on, under or above any building or structure within the area served with electricity by the City during the period for which the license is issued, and during such period only, provided that all other provisions of this chapter are complied with by such licensee. Any licensee hereunder who fails to comply with, or who violates any of the provisions of this chapter shall be notified in writing by the electrical inspector of such failure or violation, and said licensee shall, within five (5) days thereafter, or within such

other time, either more or less, as may be required by the electrical inspector in such notice, correct and remedy any such failure or violation. Upon failure to do so, the Board of Mayor and Selectmen shall have the right to immediately revoke and cancel the license of such licensee, and another license shall not thereafter be issued until such failure or violation shall have been corrected and remedied. A person installing electrical wiring fixtures, appliances, or equipment on any premises occupied or owned by such person only, and without the employment of other persons to do or assist with such work shall not be required to have a license, but, nevertheless, all such electrical work so done must comply with, and not violate any of the requirements of this chapter and, should any such work done or materials used fail to comply with, or violate any of the provisions of this chapter, the electrical inspector shall have the right to require such person to correct and remedy such failure or violation within five (5) days after notice. Should such person fail to correct and remedy such failure or violation, then the electrical inspector shall have the right to authorize and require the electrical department of the City to cut off City electric power supply to the premises of such person until such violation is corrected. No person (unless licensed hereunder so to do) shall be permitted to wire-in any sign, light, or other electrical fixtures, appliances, apparatus, or equipment of any kind for any customers or dealer or agent, but this prohibition shall not apply to any person regularly employing a maintenance electrician to install and maintain electrical wiring, fixtures, appliance, apparatus, and equipment upon the premises of such person. Nevertheless, all such electrical work done and all such electrical materials placed or supplied upon such premises shall be subject to the same rules and regulations and conditions and provisions of this chapter. Fraudulent statements concerning occupancy or employment to avoid obtaining license and/or bond will be considered a violation of this chapter punishable as provided in section 1-9.

Sec. 25-8. Same - Issuance by electrical inspector.

The electrical inspector is designated to be and constitute the person to five examinations and issue license to qualified persons who desire to engage in the business of installing, repairing or maintaining of electrical wiring within the City.

Secs. 25-9, 25-10, 25-11, and 25-12.

Reserved.

Editor's note--Sections 25-9, 25-10, 25-11, and 25-12 were repealed by Section XII of Ord. of 7/13/82, which said ordinance created a Board of Examiners and is codified herein as Article VI of Chapter 2. These sections have been reserved for future use.

Sec. 25-13. Bond required.

Any person, firm or corporation, before doing any electrical wiring in, on, under or above any building or structure within the area served by electricity by the City shall furnish the City with a surety bond (in form and with surety or sureties acceptable to the electrical inspector) in the penal sum of one thousand dollars (\$1,000) conditioned upon the installation of electrical wiring in accordance with the requirements of this chapter, and further conditioned that such person, firm or corporation shall, without further cost to the person for whom the work was done, remedy any defective or faulty work, and to replace any inferior or nonstandard material installed, and such bond as if furnished shall be liable for the correction of the faulty work or the replacement of the inferior or nonstandard material, and any additional cost, arising from the above mentioned causes.

Sec. 25-14. Notification; permit required.

Any person desiring to install electrical wiring, or make additions to and/or alterations in existing electrical wiring, shall, before the work is started, and after complying with other requirements of this chapter, file written notice at the office of the electrical inspector, fully stating the nature of work to be done and the owner and location of the property where the work is to be done, and obtain a permit therefor, and shall, before receiving such permit, pay to the office of the electrical inspector the inspection fee or fees as required by this chapter.

Sec. 25-15. Temporary wiring.

It shall be unlawful for any person to conceal electrical wiring or to connect any electrical wiring for electrical service, until after permission in writing to do so has been granted by the electrical inspector. Permission for temporary electrical service to wiring shall state the length of time for such service, and the wiring shall be disconnected from electrical service at the expiration of that time unless permission in writing for permanent service has been granted.

Sec. 25-16. Installations damaged by fire.

No person shall perform any work on an electrical installation damaged by fire unless said party shall have first applied to the electrical inspector for a ruling on what portion of the wiring system must be replaced, and said electrical service shall not be connected to any building within or outside of the area damaged by fire without the written approval of the electrical inspector.

Sec. 25-17. Prefabricated buildings or sections.

All buildings, structures, or prefabricated sections and panel manufactured or assembled outside the jurisdiction of the electrical inspector shall meet the requirements of the National Electrical Code and other regulations provided herein.

Sec. 25-18. Adding wiring to existing wiring.

Additional wiring shall not be connected to existing wiring if the current consuming device and/or appliances of the additional wiring will place an overload.

Sec. 25-19. Public service utilities.

No public service utility shall reconnect or furnish electric current to any electrical wiring on which service has been discontinued, unless an inspection has been made by the electrical inspector of the wiring within twelve (12) months prior to the date the electric service is desired, until after the electrical wiring has been inspected or re-inspected by the electrical inspector and determined by him to be in reasonably safe condition. If it is found that the electrical wiring contains hazards to life and/or property, the electrical inspector shall furnish the owner of the property a written report outlining the nature of such hazards; and said hazard must be eliminated, and it must be determined by reinspection that the electrical wiring is in a reasonably safe condition before it is again served with electric current.

Sec. 25-20. Tampering with fuses, etc.

It shall be unlawful to tamper with fuses or other automatic overload protective devices for electrical wiring, equipment or appliances by placing metal coins or other metal in behind fuse plugs or by connecting or placing wires or other metal in, on or around fuse blocks or other automatic overload protective devices or by other means to furnish electric current to electrical wiring, equipment, fixtures and/or appliances in such manner that they will not have the

protection of a fuse or other automatic overload protective device required by this chapter. The occupants of the building where such a condition is found to exist will be held liable, and will be prosecuted for violation of this section, it being the intent of this section to make it mandatory on the occupant to see that such conditions, which are extremely hazardous, do not exist.

If any persons commences any work under this section before obtaining the necessary permit from the administrative authority, the permit and the inspection fee shall be doubled. (Ord. of 7/26/83, M.B. 27, Pg. 207)

Sec. 25-21. Right of entry of electrical inspector.

The electrical inspector shall have the right to enter, during reasonable hours, any building in the discharge of his duties including, but not limited to, the purpose of making an inspection or test of electrical wiring, and when the installation for electrical wiring, or any part thereof, is found to be dangerous or hazardous to life or property, he shall notify, in writing, the person using or operation such electrical wiring, or the owner of the building, if said building is found to be unsafe. Such notice shall: (a) be in writing; (b) include a description of the building sufficient for identification; (c) state the nature of the discrepancy; (d) said notice shall further state that if such repairs, alterations, necessary changes or corrections as outlined by the electrical inspector are not voluntarily completed within ten days after receipt of such notice, the electrical inspector shall order that all utility services shall not be restored until necessary changes or corrections are made. (Ord. of 4/14/81, Sec. 6)

Sec. 25-22. Fees - Established.

A fee shall be charged for each inspection and/or re-inspection required. Such fees shall be based on the number of service drops, service entrance conductors, service laterals, and number of outlets or attachments - 1 service drop, 1 set of service entrance conductors, 1 service lateral shall be considered 1 wiring job. All inspection fees shall be paid in full to the electrical inspector before a certificate of approval is issued or permission granted for the admission of electric current. The schedule of fees shall be kept posted in the office of the electrical inspector and a copy thereof furnished each person obtaining a license to install electrical wiring.

Sec. 25-23. Same - Schedules. (Repealed by Ordinance of 11/14/95)

Sec. 25-24. Same- Payments into Water & Light Department.

All inspection fees shall be collected by the office of the Building Inspector and shall be paid into the Water and Light Department. (Ord. of 4/14/81, Sec. 8)

CHAPTER 26

GAS

Sec. 26-1. Gas code adopted.

There is hereby adopted for use within the corporate limits the International Fuel Gas Code, 2003 Edition", regulating the installation of gas piping systems, fuel gas utilization equipment and related accessories, including any fees that are authorized therein. (Ord. of 4/14/81, Sec. 9; Ord of 6/8/82, Sec. 2; Ord of 8/13/85, Sec. 1; Ord. of 5/14/91, Sec 4);(Ord. of 11/14/95);(Ord. Of 7/13/99)(Ord. Of 9/12/2000); (Ord. of 11/11/03)

State law reference--Authority to adopt technical codes, MS Code Ann., 1972, Sec. 21-19-25.

Sec. 26-2. Amendments, revisions.(Repealed by Ordinance of 11/14/95)

CHAPTER 27

HOUSING

Sec. 27-1. Housing code adopted.

There is hereby adopted for use within the corporate limits of the City the International Residential Code, 2003 Edition", published by the International Code Council, Inc., Falls Church, VA, regulating and controlling the design, construction, the quality of materials, erection, installation, alteration, repair, location, relocation, replacement, addition to, use or maintenance of one and two family dwellings and townhouses in the City of West Point, MS, except any fees that are authorized therein shall not be included in this adoption, such fees being adopted separately and set forth in this Part III of the Code of Ordinances. (Ord. of 4/14/81, Sec. 11; Ord. of 8/13/85, Sec. 1); (Ord. 9/12/00); (Ord. of 11/11/03)

State law reference--Authority to adopt technical codes by reference, MS Code Ann., 1972, Sec. 21-19-25.

Sec. 27-2. Amendments, revisions.

Reserved.

Editor's note--This section has been reserved at the discretion of the editor, inasmuch as it was effectively superseded by Ord. of 8/13/85.

Sec. 27-3. Amendments to Code in 21-1 and Revisions in 27-2 adopted.

CHAPTER 3, SECTION 309 - DESIGNATION OF UNFIT DWELLINGS AND LEGAL PROCEDURES OF CONDEMNATION.

309.2 Form of Notice - Section 309.2(3) is hereby added to read as follows:

"Said notice shall further state if such repairs, reconstruction, alterations, removal or demolitions are not voluntarily completed within the stated time set forth in the notice, the housing official shall order that all utility services be terminated and that said service shall not be reconnected until corrective action is taken."

309.2(f) is hereby added to read as follows:

"In the event that the dwelling shall be vacant at the time of condemnation, the notice shall state, in lieu of paragraphs c, d & e above, that the housing official shall order that all utility services to said dwelling immediately be terminated and said services will not be reconnected until such repairs, reconstruction and alterations are complete. (Ord. of 4/14/81, Sec. 13)

CHAPTER 28

MECHANICAL

Sec. 28-1. Mechanical code adopted.

There is hereby adopted for use within the corporate limits of the City the International Mechanical Code, 2003 Edition, published by the International Code Council of Falls Church, VA, regulating the design, construction, quality of materials, erection, installation, repair, relocation, replacement, addition to or maintenance of mechanical systems within the city limits of the City of West Point, MS, including any fees authorized therein, a copy of which is on file with the Clerk of the City of West Point as is provided by Section 21-1925 of the MS Code, 1972, amended. (Ord. of 4/14/81, Sec. 14; Ord. of 6/8/82, Sec. 4; Ord of 8/13/85, Sec. 1; Ord. of 5/14/91, Sec. 5); (Ord. 9/12/00); (Ord. of 11/11/03)

State law reference--Authority to adopt technical codes by reference, MS Code Ann., 1972, Sec. 21-19-25.

Sec. 28-2. Amendments, revisions. (Repealed by Ordinance of 11/14/95)

Sec. 28-3. Mechanical permit fees. (Repealed by Ordinance of 11/14/95)

CHAPTER 29

PLUMBING

Sec. 29-1. Plumbing Code adopted.

There is hereby adopted for use within the water and sewer service area limits of the City, the International Plumbing Code, 2003 Edition, published by the International Code Council, Falls Church, VA, regulating the design, construction, quality of materials, erection, installation, repair, relocation, replacement, addition to and maintenance of plumbing systems within the city limits of the West Point, MS, and including any fees authorized therein, a copy of which is on file with the Clerk of the City of West Point as is provided by Sec. 21-19-25 of the MS Code, 1972, amended.. (Ord. of 4/14/81, Sec. 17; Ord. of 6/8/82, Sec. 5; Ord of 8/13/85, Sec. 1; Ord. of 5/14/91, Sec. 7); (Ord. of 11/14/95); (Ord. 9/12/00); (Ord. of 11/11/03)

State law reference--Authority to adopt technical codes by reference, MS Code Ann., 1972, Sec. 21-19-25.

Sec. 29-2. Amendments, revisions. (Repealed by Ord. of 11/14/95)

Sec. 29-3. Amendments to code in 29-1 and Revisions in 29-2 adopted.

Sec. 29-4. Plumbing permit fees.

Plumbing permit fees are as follows:

Issuing each permit in addition	\$10.00
For each plumbing fixture, floor drain or trap (including water & drainage piping)	\$2.50
For each building sewer	\$5.00
For installation, alteration or repair of water treating equipment	\$ 5.00
For installation of water heater	\$ 2.50

For each building sewer replacement \$15.00

For vacuum breakers or backflow protective devices installed subsequent to the installation of the piping or equipment served 1-5 \$ 2.50

Over five \$.50

Sprinkler systems, each \$ 5.00

Gas Permit Fees:

For each gas meter installation \$15.00

Re-inspection fee, if any \$ 5.00

If any person commence any work before obtaining the necessary permit from the plumbing official, the permit and inspection fee shall be doubled. (Ord. of 4/14/81, Sec. 20)

APPENDIX A

FRANCHISES

APPENDIX A

FRANCHISES

AN ORDINANCE OF THE BOARD OF MAYOR AND SELECTMEN OF THE CITY OF WEST POINT, MISSISSIPPI, GRANTING AS HEREINAFTER SET FORTH TO AMERICAN CABLE SYSTEMS, INC., DBA COMCAST CABLEVISION, (HIS, THEIR ITS) SUCCESSORS AND ASSIGNS, A NONEXCLUSIVE FRANCHISE FOR THE INSTALLATION, AND OPERATION AND MAINTENANCE OF A CABLE COMMUNICATION SYSTEM WITHIN THE CITY OF WEST POINT ESTABLISHING CERTAIN CONDITIONS THEREFORE; PROVIDING FOR ACCEPTANCE OF THE FRANCHISE; PROVIDING FOR REPEAL OF ORDINANCES OR PARTS THEREOF INCONSISTENT HERewith; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE

BE IT ORDAINED, by the Board of Mayor and Selectmen of the City of west Point, Mississippi, the following, to-wit:

SECTION 1. Grant of Franchise. There is hereby created, granted and established a nonexclusive, full and complete franchise for a period as hereinafter provided for the installation, operation and maintenance of a cable communication system within the franchise area as defined herein to Comcast Cablevision, provided, however, that said franchise shall be subject to the following terms and performance conditions.

SECTION 2. Definitions. For the purpose of this Ordinance the following terms, phrases, words and their derivations shall have the meanings given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number and words in the singular number include the plural number. The word "shall" is mandatory and "may" is permissive. Words not defined shall be given their common and ordinary meaning.

(a) RESERVED.

(b) "Board" shall mean the Board of Mayor and Selectmen of the City of west Point, Mississippi.

(c) "Cable Communications Policy Act of 1984" shall mean the Federal Cable Communications Policy Act of 1984, Pbl L. 98-549.

(d) "Cable Communications System" or "CATV System" shall mean a system of antennas, cables, wires, lines, towers, wave facilities, designed and constructed for the purpose of producing, receiving, transmitting, amplifying and distributing audio, video, data, and other forms of electronic or electrical signals, utilizing public rights-of-way. Said company that now serves or will serve only subscribers in one or more multiple-unit dwellings under common ownership, control or management, even if such facility does not directly use a highway, sidewalk, easement, dedication or other public property.

(e) "City" is the City of West Point in the State of Mississippi.

(f) "Company" is American Cable Systems, Inc., DBA Comcast Cablevision, the grantee of rights under this Ordinance awarding a franchise, or his successor, transferee or assignee.

(g) "Converter" means an electronic device which converts signals to a frequency not susceptible to interference within the television receiver of a subscriber, and by an appropriate channel selector also permits a subscriber to view all signals included in the universal or basic service delivered at designated converter locations.

(h) "Dedication" shall be limited to those rights-of-way for the benefit of the public and controlled by the City, the terms, conditions or limitations upon which are not inconsistent with the erection, construction or maintenance of a CATV system, its structures or equipment.

(i) "Easement" shall be limited to those right-of-way or easements of record in favor of the City, their terms, conditions or limitations upon which are not inconsistent with the erection, construction or maintenance of a CATV system, its structures or equipment.

(j) "FCC" shall mean the Federal Communications Commission and any legally appointed, designated or elected agent or successor.

(k) "Franchise area" is defined as the area within the Corporate Limits of the City of West Point, Mississippi.

(l) "Gross Revenues" shall mean all revenue collected directly or indirectly from subscribers and users of the CATV system by the Company, its affiliates, subsidiaries, parent, assigns or transferees, from or in connection with the operation of the cable communication system pursuant to this Ordinance;

provided, however, all revenues shall include, but not be limited to, monthly service fees from subscribers, pay cable fees, installation and reconnection fees, converter rentals, data service fees and charges, and including any subscriber revenues from subscribers within the City and even if subscribers reside in one or more multiple-unit dwellings under common ownership, control or management or connected to the Company's CATV system and provided further that this shall not include any sales taxes on services furnished by the Company herein nor other charges imposed directly upon any subscriber or user by the State, City governmental unit and collected by the Company on behalf of said governmental unit.

(m) "Highway" is a way or place of whatever nature, publicly maintained and open to the use of the public for purposes of vehicular travel. "Highway" shall include street or ally.

(n) "Installation" shall mean the connection of the system from feeder cable to subscribers terminals.

(o) "Sidewalk" is that portion of a highway, other than the roadway, set apart by curbs, barriers, markings or other delineation for pedestrian travel, including parkways, on City owned right-of-way or easements on private lands.

SECTION 3. Rights and Privileges of Company. The franchise granted by the City pursuant to this Ordinance shall grant to the Company, on the terms and conditions hereinafter set forth, the right and privilege to erect, construct, operate and maintain in, upon, along, across, above, over and under the highways, sidewalks, easements, dedications and other public property now in existence and as may be created and established during its term, any poles, wires, cable, underground conduits, manholes and other television conductors and fixtures necessary for the maintenance and operation of a distribution, and receipt of television programs, and other audio-visual electrical signals insofar as is consistent with Ordinances of the City and the rights to transmit the same to the inhabitants of the specified area of the City.

SECTION 4. Agreement. Upon the adoption of this franchise and execution hereof by Company, Company agrees to be bound by all the terms and conditions contained herein.

SECTION 5. Term. The term of the franchise to be granted by the City pursuant to this Ordinance shall be for a period of ten (10) years from the effective date of this Ordinance, which

franchise term may be renewed in accordance with applicable federal and/or state law.

SECTION 6. Commencement of Franchise Term. The franchise term shall commence with the effective date of this Ordinance.

SECTION 7. Area. This franchise is granted for the franchise area, which is defined as the area within the Corporate Limits of the City of West Point, Mississippi.

SECTION 8. Franchise Fee. The Company shall pay to City, as is hereinafter provided a franchise fee equal to five percent (5%) of the Company's gross revenues (as defined in Section 2(1) above) from its operation in the City under this ordinance.

SECTION 9. Rates. The rates that may be charged by the Company shall be in accordance with the regulations adopted by the FCC pursuant to the Cable Communications Policy Act of 1984. Provided, however, that in the event the FCC adopts new regulations relative to the establishment of rates by Company, or in the event federal and/or state laws are passed during the term of this franchise affecting rates set by Company, then City reserves the right to modify the terms hereof consistent with said new laws or regulations.

SECTION 10. Rights of Individuals.

(a) Company shall not deny service, deny access or otherwise discriminate against subscribers, or general citizens on the basis of race, color, religion, national origin, sex, age, or handicap. Company shall comply at all times with all other applicable Federal, State and local laws and regulations, and all executive and administrative orders relating to nondiscrimination which are hereby incorporated and made a part of this Ordinance by reference.

(b) Company shall strictly adhere to all Federal and State Equal Employment Opportunity requirements.

SECTION 11. Liability and Indemnification.

(a) The Company shall hold the City harmless from all damages or claims for damages arising by reason of negligence in constructing, maintaining or operating under the franchise granted herein.

(b) The Company shall maintain, and by his acceptance of this franchise, specifically agree that he will maintain throughout

the term of this franchise, liability insurance insuring the Company in the minimum amounts as follows:

(1) Workmen's Compensation Insurance as provided by the laws of the State of Mississippi.

(2) Two million dollars for bodily injury or death to any one person, within the limits, however, of four million dollars for bodily injury or death resulting from any one accident.

(3) One million dollars for property damage resulting from any one accident. The insurance policies obtained by a grantee in compliance with this section shall be issued by a company or companies acceptable to the City, and a current certificate or certificates of insurance, along with written evidence of payment of all required premiums, shall be filed and maintained with the agency during the term of the license. The policies shall name the City of West Point as an additional insured and shall contain a provision that a written notice of cancellation or reduction in coverage in the policy shall be delivered to the City thirty (30) days in advance of the effective date thereof.

SECTION 12. Signal Quality Requirements. Company shall install, operate and maintain the system in a good workmanlike manner, free from defects in materials and workmanship, and shall operate in accordance with the technical specifications, standards and requirements contained in Subpart K Technical Standards of Part 76-CABLE TELEVISION SERVICE of Rules and Regulations of the Federal Communications Commission, 47 C.F.R. 76.601 et. seq. (1984) , as may be amended from time to time by FCC.

SECTION 13. Operation and Maintenance of System.

Service Standards

(a) The Company shall render operation and maintenance pursuant to the standards of the Federal Communications Commission and in full compliance with the Cable Communication Policy Act of 1984.

(b) Local customers shall at all times have access to a local or toll free telephone number, so that customers may register complaints and requests without charge to the customer. Company shall, at all times keep and maintain sufficient phone lines so as to enable a subscriber to reach Company and register a complaint after a reasonable time and effort, except in case of a substantial failure of the system or a substantial

portion thereof.

(c) Company shall dispatch personnel to investigate all service complaints and equipment malfunctions within twenty-four hours and strive to resolve such complaints as promptly as possible. Provided however, that in the event of substantial system failure resulting from natural causes, Company shall restore service as soon as practical, commensurate with the circumstances. Planned interruption of service shall be only for good cause. Insofar as possible, planned service interruptions shall be preceded by notice, be of brief duration, and occur during minimum viewing hours.

(d) RESERVED.

(e) Company shall permit the City's designated representative to inspect and test the system's technical equipment and facilities upon reasonable (twelve to twenty-four hours) notice. The City and its designated representative shall disclose information revealed only to the extent necessary and as required by applicable law.

SECTION 14. Safety Requirement.

(a) The Company shall at all times employ ordinary care and shall install and maintain in use commonly accepted methods and devices for preventing failures and accidents which are likely to cause damage, injuries or nuisances to the public.

(b) The Company shall install and maintain its wires, cables, fixtures and other equipment in accordance with the requirements of the City and other applicable standard regulations, and in such manner that they will not unreasonable interfere with installations of the City or of a public utility serving the City.

(c) All structures and all lines, equipment and connections in, over, under, and upon the streets, sidewalks, alleys, easements, and public ways or places in the City, wherever situated or located, shall at all times be kept and maintained in a safe, suitable, substantial condition, and in good order and repair.

SECTION 15. New Developments. It shall be the policy of the City and Company, consistent with the Cable Communications Policy Act of 1984, to amend this franchise when necessary to enable the Company to take advantage of any developments in the field of transmission of television and radio signals which will afford the Company an opportunity to more effectively and

efficiently or economically serve its customers.

SECTION 16. Conditions on Street Occupancy.

(a) Any pavements, sidewalks, curbing or other paved area taken up or any other installation made, including overhead installations, shall be done under permits issued for work by the proper officials of the City, and shall be done in such manner as to give the least inconvenience to the inhabitants of the City. Company shall, at its own cost and expense, and in a manner approved by the City, replace and restore any such pavements, sidewalks, curbing or other paved areas in as good a condition as before the work involving such disturbance was done.

(b) In case of disturbance of any highway, sidewalk, alley, public way, paved area, or utility easement areas, the Company shall, at its own cost and expense and in a manner approved by the City, restore such street, sidewalks, alley, public way, paved area, or utility easement areas in as good a condition as before the work involving such disturbance was done. Company shall provide ten (10) days written notice prior to commencement of work. In case of emergency, company shall provide such written notice as reasonably possible. In no event shall Company create a disturbance without notice to the City.

(c) If at any time during the period of this franchise the City shall lawfully elect to alter or change the grade of any street, sidewalk, alley, or other public way, the Company, upon reasonable notice by the City, shall remove, replace and relocate its poles, wires, cables, underground conduits, and manholes and other fixtures at its own expense.

(d) Before any poles are placed in any public way by the Company, they shall be approved and permitted by the City and placed in such manner as not to interfere with the usual traffic on such public way.

(e) The Company shall, on the request of any person holding a building moving permit issued by the City, temporarily raise or lower its wires to permit the moving of buildings. The expense of such temporary removal or raising or lowering of wires shall be paid by the person requesting the same, and the Company shall have the authority to require such payment in advance. The company shall be given sufficient advance notice to arrange for such temporary wire changes.

(f) The Company shall have authority to trim trees upon and

overhanging streets, alleys, sidewalks, easements and public ways and places of the City so as to prevent the branches of such trees from coming in contact with the wires and cables of the Company.

(g) In any and all areas of the City where cables, wires or other like facilities are required by the City to be placed underground, the Company shall place his cables, wires or other like facilities underground.

(h) Upon failure of a company to satisfactorily complete any work upon the public streets as may be required by law or the terms of its franchise within the time prescribed, the City, at its option, may cause such work to be done and the Company shall pay the City the cost thereof within thirty (30) days after receipt of an itemized report.

(i) The Company shall be subject to all ordinances now in force or that may be hereafter passed relative to the use of highways, streets, alleys, bridges and public places in the City.

SECTION 17. Construction.

(a) Company shall immediately extend the installation of cables, amplifiers, and related equipment throughout the franchise area so as to be able to provide service consistent with Section 17(d).

(b) In the event the operation of any part of a cable television system, excluding drops, is discontinued for a continuous period of three months, or in the event such system has been installed in any public street without complying with the requirements of the grantee's license, the Company shall promptly, upon being given ten days' notice, remove from the streets or public places all such property and poles of such system. Any property which the Company allows to remain in place sixty days after having been notified by the City that it must be removed shall be considered permanently abandoned.

(c) Underground Service. Company agrees to construct or reconstruct any portion of its system facilities within the franchise area using a system of underground construction in the event that electric and telephone service within the area shall be constructed or reconstructed underground. Said underground construction shall be provided by Company at no additional cost to customers.

(d) The Company is required and shall construct its system to any areas within the existing and future Corporate Limits of the city where the linear density is at least Twenty (20)

subscribers per mile.

(e) **Drop Cable Lines.** Company shall provide to Subscriber, free of construction cost and/or charges, a connection to a Subscriber's residence if the length of the connection is one hundred fifty (150) feet or less. If the connection to a residence from the cable system exceeds one hundred fifty (150) feet in length, then the Company shall impose a construction connection charge that shall be calculated under the following formula:

Number of feet of aerial drop cable less one hundred fifty (150) feet x cost of material per foot to Company, plus labor cost per foot.

(f) **Plant Extension.** Company shall provide to Subscriber, free of construction cost and/or charges, aerial plant extension television wire and cable as long as there are at least twenty (20) subscribers per mile. If there are less than twenty (20) subscribers per mile, then each Subscriber whose residence is passed by the extension may pay to the Company a construction connection charge that shall be calculated as follows:

(1) Step One: $x = \frac{\text{cost per mile}}{20}$

(2) Step Two: $y = \frac{\text{cost per mile}}{\# \text{ of subscribers per mile}}$

(3) Step Three: $y - x = \text{cost per residence per mile}$

Example: Assume there is one (1) mile of extension that will pass five (5) subscribers, and the construction cost for the one mile extension equals \$10,000.

(1) Step One: $x = \frac{\$10,000}{20} = \500.00

(2) Step Two: $y = \frac{\$10,000}{5} = \$2,000$

(3) Step Three: $y - x = \$2,000 - \$500 = \$1,500 \text{ per home}$

Conclusion: Each Subscriber to the cable system who lives on this particular one mile extension will pay a one time construction extension connection fee of \$1,500.

In the event that at least five (5) subscribers choose to pay according to the calculation, the company shall construct the

additional extension.

SECTION 18: RESERVED.

SECTION 19. The Company shall connect, erect, and maintain its coaxial cable on poles maintained by South Central Bell Telephone Company, 4-County Electric Power Association and the West Point Electric System or their successors, when and where practicable, providing reasonable written pole attachment agreements can be entered into with said utility companies.

SECTION 20. Payment of Fee and Penalties.

(a) The franchise fee assessed shall be payable to the City quarterly, on a calendar basis, and Company shall file a complete and verified statement showing a detailed breakdown of all gross revenues of Company within the City during the period for which said payment is made, and said payment shall be made to the City not later than thirty (30) days after the end of each quarter of the calendar year. On or before April 1st of each calendar year, the Company shall file with the City Administrator a statement certified by a Certified Public Accountant, showing a detailed breakdown of the gross revenues, as defined herein, of the Company during the preceding calendar year.

(b) The City shall have the right to inspect the Company's income records and the right to audit and to recompute any amounts determined to be payable under this Ordinance; provided, however, that such audit shall take place within thirty-six (36) months following the close of each year. Any additional amount due to the City as a result of the audit shall be paid within thirty (30) days following written notice to the Company by the City, which notice shall include a copy of the audit report.

(c) The City shall bear the expense of any inspection or audit of the Company books.

(d) Company shall fully cooperate in making available at reasonable times, and the City shall have the right to inspect the books and income records pertaining to the enforcement by the City of this agreement which are applicable to the CATV system, at any time during the normal business hours; provided, however, where volume and convenience necessitate, company may require inspection to take place on Company premises.

SECTION 21. Public Service Requirements. Company shall:

(a) Provide at least one service outlet to any City owned facility or public school located within the Corporate Limits or any administrative agency of said City or Public School.

(b) Provide a Public Interest Channel for local announcements and transmission of local programming. Provided however, Company shall reserve the right to approve the content of any local programming and/or announcement broadcast on the Public Interest Channel to the extent allowed by law.

(c) Make its facilities immediately available to the City upon request during the course of any emergency or disaster.

SECTION 23. Termination of Franchise. In the event any franchise payment or recompute amount is not made on or before the applicable dates as specified, or in the event that the Company fails to comply with any other material provision of this Ordinance or any applicable law, rule or regulation, the City reserves the right to terminate the grant of franchise and all rights and privileges of the Company hereunder. The City shall notify Company of any alleged material violation in writing and demand correction in a reasonable time, which shall not be less than sixty (60) days from the date of the alleged violation. If the Company fails either to correct the violation within the prescribed period or to commence correction of the violation within the time prescribed and thereafter diligently pursue correction of such violation, the City shall give written notice of not less than 20 days of a public hearing to be held before the Mayor and Board of Selectmen. The notice shall specify the violation alleged to have occurred. The Company shall have the right at said public hearing, to produce evidence and to examine and cross examine witnesses. The Board shall issue a written decision and shall furnish the Company a copy thereof.

SECTION 24. Interference with Cable Service Provided. No owner of residential dwelling unit, apartment complex, or other single family or multi-family residential unit shall interfere with the right of any tenant or lawful resident thereof to receive cable communication service, cable installation, or maintenance from Company.

SECTION 25. Penalties and Charges to Tenants by Owner for Cable Service Prohibited. No owner, agent, or representative of any single family or multifamily residential dwelling unit shall penalize, charge or surcharge a tenant or resident, or forfeit or threaten any right of such tenant or resident, or discriminate in any way against such tenant or resident who

requests or receives cable communication service from Company.

SECTION 26. Reselling Service Prohibited. No person, firm, business or corporation shall resell any cable service, program, or signal transmitted by Company without the expressed written consent of Company and City.

SECTION 27. Limitations on Access Prohibited. The Company shall not prohibit or limit any program or class or type of program presented over any channel made available for public interest, educational, governmental, or leased programming purposes. Provided however, Company shall have the right to refuse or limit any program or announcement which is obscene or unlawful.

SECTION 28. Compliance with State and Federal Laws and Franchise Modification. Notwithstanding any other provisions of this franchise to the contrary, the Company shall at all times comply with all laws and regulations of the State and Federal government or any administrative agency thereof. Provided however, if any such State or Federal law or regulation shall require the Company to perform any service, or shall permit the Company to perform any service, or shall prohibit the Company from performing any service, in conflict with the terms of this franchise or of any law or regulation of the City, then as soon as possible following knowledge thereof, the Company shall notify the City Administrator of the point of conflict believed to exist between such regulation or law and the laws or regulations of the City or this franchise. If the City determines that a material provision of this Ordinance is affected by any subsequent action of the State or Federal government, the City shall have the right to modify any of the provisions hereof to such reasonable extent as may be necessary to carry out the full intent and purposes of this agreement.

SECTION 29. RESERVED.

SECTION 30. Most Favored Nations. City shall not authorize or permit another cable television system to operate in the City on terms or conditions more favorable or less burdensome to such operator than those applied to the Company pursuant to this franchise. If such franchise is granted on terms more favorable to the grantee thereof than those contained herein, then the Company shall have the right to comply with all the terms of such other franchise in lieu of compliance herewith.

SECTION 31. Severability. If any article, section, subsection,

sentence, clause, phrase or portion of this Ordinance is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions of this Ordinance.

SECTION 32. Repealer. All Ordinances, Resolutions, and Agreements, or parts thereof, made heretofore by the Board of Mayor and Selectmen of the City of West Point, Mississippi, in conflict with the provisions hereof, including all Ordinances heretofore granting franchise rights to Comcast Cablevision, are hereby repealed.

SECTION 33. Effective Date. This Ordinance shall become effective from and after its adoption and publication as required by law.

The above and foregoing Ordinance was previously reduced to writing, proposed and introduced for the consideration of the Board of Mayor and Selectmen of the City of West Point, Mississippi, and was voted upon section by section and upon the Ordinance as a whole, and was unanimously adopted on this the 9th day of June, 1992, by the Board of Mayor and Selectmen of the City of West Point, Mississippi, in lawful session assembled.

(SEAL)

Dill, Mayor

Kenneth D.

Dewel G. Brasher, Jr., Clerk

**AN ORDINANCE OF THE BOARD OF MAYOR AND
SELECTMEN OF THE CITY OF WEST POINT, MISSISSIPPI,
ESTABLISHING PROCEDURES FOR THE ORDERLY
DEVELOPMENT OF AN ADVANCED COMMUNICATIONS AND
TELECOMMUNICATIONS NETWORK WITHIN THE
CORPORATE LIMITS OF THE CITY**

WHEREAS, the City of West Point has heretofore entered into certain contracts, franchises, and agreements with South Central Bell Telephone Company, authorizing South Central Bell to utilize City property and City easements to provide conventional telephone service to residents and businesses of the City; and

WHEREAS, the City of West Point has heretofore granted a non-exclusive franchise to Comcast Incorporated, authorizing the franchisee to utilize City property and City easements to provide conventional cable video programming service to the residents and businesses of the City; and

WHEREAS, the much-publicized convergence of technologies in the computer, telephone, cable, and electric power industries has resulted in the rapid emergence of a new advanced telecommunications industry, offering new services not presently provided by the existing telephone or cable industries, the network facilities for which may be installed in the City at some future date by the City's telephone company, or cable company, or by the City's public power company; and

WHEREAS, the implications of the emergence of this new technology to serve the so-called "National Information Infrastructure" are vitally important for the City and its citizens, taxpayers, and ratepayers, in terms of assuring access to all users on reasonable and non-discriminatory terms and conditions; and

WHEREAS, the Board of Mayor and Selectmen of the City of West Point, Mississippi, finds and determines that the City needs to adopt and implement a strategic plan for communications and telecommunications in the City, in order to assure the orderly replacement of existing "wired" networks with more advanced technology, or new construction utilizing more advanced technology, including but not limited to fiber optics networks; and

WHEREAS, it is in the best interest of the City and its citizens, taxpayers, and ratepayers to maintain but not upgrade the communications and telecommunications

facilities in the City pending the formulation and adoption by the Board of Mayor and Selectmen of a strategic plan and policy for communications and telecommunications in the City, to assure that no party enjoys an unequal competitive advantage or disadvantage prior to formulation and adoption of such plan and policy.

NOW, THEREFORE, BE IT RESOLVED, by the Board of Mayor and Selectmen of the City of West Point, Mississippi, the following, to wit:

SECTION 1. At such time as the Mayor may hereafter determine, and under such conditions as he may set forth, the City of West Point, Mississippi, hereby subpoenas the production by South Central Bell Telephone Company, and by Comcast Incorporated of maps, documents, or records indicating or reflecting the location and nature of all telecommunication plant, equipment, property, and facilities within the City of West Point, Mississippi, owned, controlled, or used by such party, noting with particularity any and all facilities utilizing or based on fiber optic technologies, which maps, documents and records shall be produced by the applicable party within such time period as shall be specified by the Mayor.

SECTION 2. On and after the date of the adoption of the above and foregoing ordinance, no agency, corporation, company, individual, or entity, public or private, shall begin or continue the construction of any new plant, equipment, property, or facility, within the Corporate Limits of the City of West Point, Mississippi, which is not the technologically equivalent replacement for any existing plant, equipment, property, or facility as of the date of the effective date of this Ordinance.

SECTION 3: The Mayor is hereby authorized to form a Telecommunication Task Force to develop and recommend a Telecommunications Strategic Plan for the City of West Point, said task force to be composed of such persons as the Mayor may hereafter recommend and be approved by the Board of Mayor and Selectmen. Said members of he said task force shall serve without compensation and for such term as the Board of Mayor and Selectmen may direct.

SECTION 4: This Ordinance shall become effective from and after its publication as required by law.

The above and foregoing Ordinance was previously reduced to writing, proposed and introduced for the consideration of the Board of Mayor and Selectmen of the City of West Point, Mississippi, and was voted upon Section by Section and upon the Ordinance as a whole and the vote was as follows:

Selectman Linda Hannah voted "yea"
Selectman Homer Ryland voted "yea"
Selectmen John Cummings voted "yea"
Selectman Jesse Harmon voted "yea"
Selectman James Watson voted "yea"

The Ordinance having received a majority vote of the Board of Mayor and Selectmen, the Mayor declared the Ordinance adopted on this the 13th day of December, 1994, by the Board of Mayor and Selectmen of the City of West Point, Mississippi, in lawful session assembled.

(SEAL)

Kenneth D. Dill, Mayor

Dewel G. Brasher, Jr., Clerk

APPENDIX B

(INCORPORATED HEREIN BY REFERENCE IS THE LAND DEVELOPMENT CODE OF THE CITY OF WEST POINT, MISSISSIPPI. SAID DEVELOPMENT CODE IS A SEPARATE BOUND DOCUMENT ADOPTED JANUARY 1, 2000, A COPY OF WHICH IS ON FILE WITH THE CLERK OF THE CITY OF WEST POINT)

APPENDIX C

(INCORPORATED HEREIN BY REFERENCE IS THE FLOODPLAIN DAMAGE PREVENTION ORDINANCE OF THE CITY OF WEST POINT, MISSISSIPPI. SAID FLOODPLAIN ORDINANCE IS A SEPARATE BOUND DOCUMENT ADOPTED NOVEMBER 8, 2005 A COPY OF WHICH IS ON FILE WITH THE CLERK OF THE CITY OF WEST POINT)