

**THE  
EAST RIDGE  
MUNICIPAL  
CODE**

Prepared by the

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

in cooperation with the

**TENNESSEE MUNICIPAL LEAGUE**

September 2000

Change 3, January 12, 2017

**CITY OF EAST RIDGE, TENNESSEE**

**MAYOR**

Brent Lambert

**VICE MAYOR**

Larry Sewell

**COUNCIL MEMBERS**

Jacky Cagle

Esther Helton

Brian Williams

**CITY RECORDER**

Janet Middleton

## PREFACE

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

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

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

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

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

- (1) That all ordinances relating to subjects treated in the code or which should be added to the code are adopted as amending, adding, or deleting specific chapters or sections of the code (see section 8 of the adopting ordinance).
- (2) That one copy of every ordinance adopted by the city is kept in a separate ordinance book and forwarded to MTAS annually.
- (3) That the city agrees to pay the annual update fee as provided in the MTAS codification service charges policy in effect at the time of the update.

When the foregoing conditions are met MTAS will reproduce replacement pages for the code to reflect the amendments and additions made by such ordinances. This service will be performed at least annually and more often if justified by the volume of amendments. Replacement pages will be supplied with detailed instructions for utilizing them so as again to make the code complete and up to date.

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

Steve Lobertini  
Codification Consultant

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

SECTION 5E. Be it further enacted, That the style of all city ordinances shall be: "Be it ordained by the City Council of the City of East Ridge." Each ordinance shall be passed at two separate meetings on two separate days and shall be read in its entirety before its second and final passage before the same is operative.

**TITLE 1**

**GENERAL ADMINISTRATION<sup>1</sup>**

**CHAPTER**

1. CITY COUNCIL.
2. ELECTIONS.
3. MAYOR.
4. MAJOR DEPARTMENTS.
5. [DELETED.]
6. CODE OF ETHICS.

**CHAPTER 1**

**CITY COUNCIL<sup>2</sup>**

**SECTION**

- 1-101. Time and place of regular meetings.
- 1-102. Order of business.
- 1-103. General rules of order.

**1-101. Time and place of regular meetings, etc.** (1) The city council shall hold two (2) regular meetings per month as follows:

(a) Second Thursday of the month at 6:30 P.M.

(b) Fourth Thursday of the month at 6:30 P.M. If a regular meeting falls on a holiday, the meeting shall not be held, but shall go over to the next regular meeting.

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<sup>1</sup>Charter references

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

Municipal code references

Building, plumbing, electrical and gas inspectors: title 12.

Fire department: title 7.

Utilities: titles 18 and 19.

Wastewater treatment: title 18.

Zoning: title 14.

<sup>2</sup>Charter references

City council: § 5.

Qualifications: § 5A.

Vacancies: § 5C.

Quorum: § 5D.

(2) Place of meetings. Both regular and called meetings of the city council shall be held in the city hall.

(3) Special or called meetings. Special or called meetings of the city council may be held in addition to the foregoing regular meetings provided for, whenever the business of the city is such that special or called meetings are needed. The mayor or any two councilmembers shall have the authority to issue a call for a special or called meeting. Such call shall specify the time, and the general nature of the business to be considered. A call for a special or called meeting may be either oral or written but shall be given at least twenty-four hours before the convening of such meeting. (1993 Code, § 1-101, as amended by Ord. #572, Jan. 1994, modified)

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

- (1) Call to order by the mayor;
- (2) Roll call by the clerk/city recorder;
- (3) Approval of the minutes of the previous meeting by the city council;
- (4) Communications from citizens;
- (5) Communications from the mayor and council members;
- (6) Reports from committees, city manager and department heads;
- (7) Old business;
- (8) New business;
- (9) Adjournment. (1993 Code, § 1-102, as amended by Ord. #624, March 1997, Ord. #632, May 1997, and Ord. #657, March 1998, modified, and replaced by Ord. #864, June 2009)

**1-103. General rules of order.** The rules of order and parliamentary procedure contained in Robert's Rules of Order, Newly Revised, shall govern the transaction of business by and before the city council at its meetings in all cases to which they are applicable and in which they are not inconsistent with provisions of the charter or this code. (1993 Code, § 1-103, modified)

## CHAPTER 2

### ELECTIONS

#### SECTION

1-201. Hamilton County Election Commission authorized to hold elections.

1-202. Qualifications of candidates for elective offices.

**1-201. Hamilton County Election Commission authorized to hold elections.** The Hamilton County Election Commission is hereby authorized to hold all city elections as provided for in the city charter and other applicable laws. (1993 Code, § 1-201)

**1-202. Qualifications of candidates for elective offices.** Any person desiring to be a candidate for an elective office in the City of East Ridge must file a nominating petition signed by at least twenty-five (25) qualified voters of said city with the Hamilton County Election Commission no later than twelve o'clock (12:00) noon, prevailing time, on the third Thursday in the third calendar month before an election. (1993 Code, § 1-202, as amended by Ord. #521, May 1992)



**CHAPTER 3****MAYOR<sup>1</sup>****SECTION**

1-301. Generally supervises city's affairs.

1-302. Executes city's contracts.

**1-301. Generally supervises city's affairs.** The mayor shall perform such duties as provided by the charter and any ordinances duly enacted by the city council consistent with the charter. (1993 Code, § 1-301, as amended by Ord. #539, Feb. 1993, modified)

**1-302. Executes city's contracts.** The mayor shall execute all contracts as authorized by the city council. (1993 Code, § 1-302, as amended by Ord. #539, Feb. 1993, modified)

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<sup>1</sup>Charter references  
Powers and duties: § 5-B.  
Vacancies: § 5-C.

## CHAPTER 4

### MAJOR DEPARTMENTS

#### SECTION

- 1-401. Creation of major departments.
- 1-402. Establishment of department.
- 1-403. Requirements for bids.

**1-401. Creation of major departments.** (1) The following major departments are hereby recognized as the official departments of the city and shall have directors appointed as heads of each department:

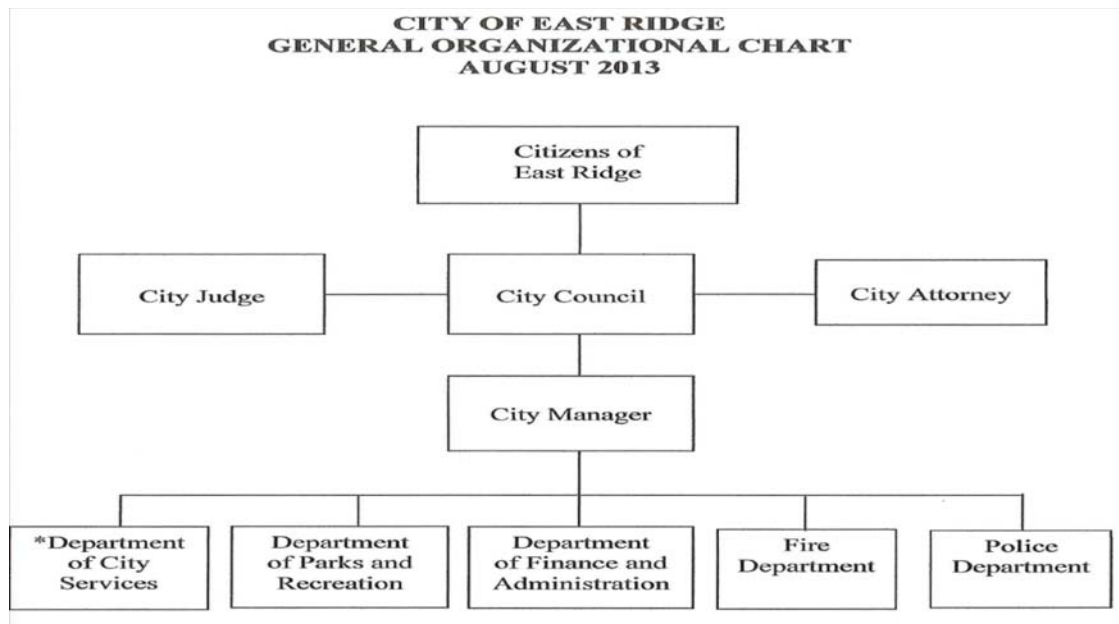
- (a) City services;
- (b) Parks and recreation;
- (c) Finance and administration;
- (d) Fire;
- (e) Police.

(2) Each major department may be divided into major divisions as determined by the city manager or his designee, and each division shall report to the director of that department.

(a) The deputy city manager shall assume all of the duties of the city manager when that position is vacant or the city manager is unable to perform the duties of that office.

(b) Any and all city employees who work on city court matters shall fall within the department of finance and administration and shall, for purposes of compliance with the city's personnel ordinance and policies, report to the finance and administration director; provided, however, that for all matters involving the day-to-day actions and operations of the court, those employees shall be under the authority of the city judge.

(c) The Organizational Chart for the City of East Ridge shall be, upon the passage of this ordinance, as follows:



\*Director of City Services is the current Deputy City Manager. (as added by Ord. #711, Jan. 2001, and replaced by Ord. #772, May 2004, Ord. #863, June 2009, Ord. #885, Sept. 2010, Ord. #909, Feb. 2012, Ord. #915, May 2012, and Ord. #955, Sept. 2013)

**1-402. Establishment of department.**<sup>1</sup> A recreation and playground department is established. (Ord. #678, March 1999)

**1-403. Requirements for bids.** Department heads as designated by the city manager or by an individual exercising the power of the purchasing agent may make purchases not to exceed one thousand dollars (\$1,000.00) in any day without the necessity of obtaining written bids or quotations provided such purchase does not have the effect of circumventing the provisions of this chapter. Department heads shall not split invoices with the same vendor in the same day to circumvent the one thousand dollar (\$1,000.00) limit. In the event an actual emergency is being addressed, or the time necessary to secure a product or service would interfere with or cause unnecessary delay, a department head may spend up to one thousand five hundred dollars (\$1,500.00) without written bids or quotations. Items which are used on a regular basis that exceed one thousand dollars (\$1,000.00) in value should be submitted to the purchasing agent for competitive bids. The city manager and any individual exercising the powers of

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<sup>1</sup>This section was originally added as § 2-201 by Ord. #678, March 1999. Ord. #714, March 2001 deleted all of title 2, chapter 2, except for this section. Therefore, it was placed here and administratively renumbered.

purchasing agent shall be required to secure at least three (3) written bids or quotations, in possible, on all purchases made by the city which are over one thousand dollars (\$1,000.00) but do not exceed ten thousand dollars (\$10,000.00). The city manager and any individual acting as the purchasing agent shall be required to advertise in a newspaper having general circulation in the city for sealed competitive bids on all purchases made by the city where the amount of the purchase is estimated to be more than ten thousand dollars (\$10,000.00), unless otherwise directed by a majority vote of the mayor and council for reasons as hereinafter provided, as allowed by general state law, or as set forth in this chapter. Bid advertisements shall specify a day and hour for the opening bids, which day shall be at least ten (10) days from and after the publication of the notice to bid. At the appointed day and hour, the city manager or his designee shall publicly open and record the bids. (as added by Ord. #897, Sept. 2011)

**CHAPTER 5**

**[DELETED]**

(This chapter was deleted by Ord. #955, Sept. 2013)

## CHAPTER 6

### CODE OF ETHICS

#### SECTION

- 1-601. Applicability.
- 1-602. Definition of "personal interest."
- 1-603. Disclosure of personal interest by official with vote.
- 1-604. Disclosure of personal interest in non-voting matters.
- 1-605. Acceptance of gratuities, etc.
- 1-606. Use of information.
- 1-607. Use of municipal time, facilities, etc.
- 1-608. Use of position or authority.
- 1-609. Outside employment.
- 1-610. Ethics complaints.
- 1-611. Violations.

**1-601. Applicability.** This chapter is the code of ethics for personnel of the municipality. It applies to all full-time and part-time elected or appointed officials and employees, whether compensated or not, including those of any separate board, commission, committee, authority, corporation, or other instrumentality appointed or created by the municipality. The words "municipal" and "municipality" include these separate entities. (as added by Ord. #818, Sept. 2006)

**1-602. Definition of "personal interest."** (1) For purposes of §§ 1-603 and 1-604, "personal interest" means:

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

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

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

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

(3) In any situation in which a personal interest is also a conflict of interest under state law, the provisions of the state law take precedence over the provisions of this chapter. (as added by Ord. #818, Sept. 2006)

**1-603. Disclosure of personal interest by official with vote.** An official with the responsibility to vote on a measure shall disclose during the meeting at which the vote takes place, before the vote and so it appears in the minutes, any personal interest that affects or that would lead a reasonable person to infer that it affects the official's vote on the measure. In addition, the official may recuse himself from voting on the measure. (as added by Ord. #818, Sept. 2006)

**1-604. Disclosure of personal interest in non-voting matter.** An official or employee who must exercise discretion relative to any matter, other than casting a vote, and who has a personal interest in the matter that affects or that would lead a reasonable person to infer that it affects the exercise of the discretion shall disclose, before the exercise of the discretion when possible, the interest on a form provided by and filed with the recorder. In addition, the official or employee may, to the extent allowed by law, charter, ordinance, or policy, recuse himself from the exercise of discretion in the matter. (as added by Ord. #818, Sept. 2006)

**1-605. Acceptance of gratuities, etc.** an official or employee may not accept, directly or indirectly, any money, gift, gratuity, or other consideration or favor of any kind from anyone other than the municipality:

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

(2) That might reasonably be interpreted as an attempt to influence his action, or reward him for past action, in executing municipal business. (as added by Ord. #818, Sept. 2006)

**1-606. Use of information.** (1) An official or employee may not disclose any information obtained in his official capacity or position of employment that is made confidential under state or federal law except as authorized by law.

(2) An official or employee may not use or disclose information obtained in his official capacity or position of employment with the intent to result in financial gain for himself or any other person or entity. (as added by Ord. #818, Sept. 2006)

**1-607. Use of municipal time, facilities, etc.** (1) An official or employees may not use or authorize the use of municipal time, facilities, equipment, or supplies for private gain or advantage to himself.

(2) An official or employee may not use or authorize the use of municipal time, facilities, equipment, or supplies for private gain or advantage to any private person or entity, except as authorized by legitimate contract or lease that is determined by the governing body to be in the best interest of the municipality. (as added by Ord. #818, Sept. 2006)

**1-608. Use of position or authority.** (1) An official or employee may not make or attempt to make private purchases, for cash or otherwise, in the name of the municipality.

(2) An official or employee may not use or attempt to use his position to secure any privilege or exemption for himself or others that is not authorized by the charter, general law, or ordinance or policy of the municipality. (as added by Ord. #818, Sept. 2006)

**1-609. Outside employment.** An official or employee may not accept or continue any outside employment if the work unreasonably inhibits the performance of any affirmative duty of the municipal position or conflicts with any provision of the municipality's charter or any ordinance or policy. (as added by Ord. #818, Sept. 2006)

**1-610. Ethics complaints.** (1) The city attorney is designated as the ethics officer of the municipality. Upon the written request of an official or employee potentially affected by a provision of this chapter, the city attorney may render an oral or written advisory ethics opinion based upon this chapter and other applicable law.

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

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

(c) When a complaint of a violation of any provision of this chapter is lodged against a member of the municipality's governing body, the complaint shall be referred to the city attorney and the city attorney shall determine if the complaint has merit, and if so determined shall fully investigate the matter and take such action consistent with this chapter, the City Code of East Ridge and other applicable law.

(3) The interpretation that a reasonable person in the circumstances would apply shall be used in interpreting and enforcing this code of ethics.

(4) When a violation of this code of ethics also constitutes a violation of a personnel policy, rule, or regulation or a civil service policy, rule, or regulation, the violation shall be dealt with as a violation of the personnel or civil service provisions rather than as a violation of this code of ethics. (as added by Ord. #818, Sept. 2006)



**1-611. Violations.** An elected official or appointed member of a separate municipal board, commission, committee, authority, corporation, or other instrumentality who violates any provision of this chapter is subject to punishment as provided by the municipality's charter or other applicable law, and in addition is subject to censure by the governing body. An appointed official or an employee who violates any provision of this chapter is subject to disciplinary action. (as added by Ord. #818, Sept. 2006)

**TITLE 2**

**BOARDS AND COMMISSIONS, ETC.**<sup>1</sup>

**CHAPTER**

1. LIBRARY BOARD.
2. [DELETED.]

**CHAPTER 1**

**LIBRARY BOARD**

**SECTION**

- 2-101. Library board created.
- 2-102. Chairman to preside.
- 2-103. Minutes.
- 2-104. Duties of board.
- 2-105. Funds.
- 2-106. Privileges.
- 2-107. Penalties.

**2-101. Library board created.** There is hereby created and established a library board to consist of five (5) residents of the city, to be appointed by the city council. Said members shall serve without compensation with two (2) serving for one (1) year, two (2) serving for two (2) years and one (1) serving for three (3) years, and their successors for a term of three (3) years. At the organizational meeting of the board, there shall be elected one (1) of its members as chairman and one (1) as secretary. At said meeting the members shall draw lots to determine the terms of their office. (1993 Code, § 12-601)

**2-102. Chairman to preside.** The chairman shall preside over all meetings of the board and shall have general charge of and supervision over the activities of the board. (1993 Code, § 12-602)

**2-103. Minutes.** The secretary shall keep a minute record of the proceedings of the board and shall be responsible to make all reports of the board to the city council. (1993 Code, § 12-603)

**2-104. Duties of board.** The members of the library board shall adopt by-laws and regulations governing their activities. The board is hereby

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<sup>1</sup>Municipal code reference  
Board of zoning appeals: title 13.

authorized to direct the affairs of the library, including the appointment of a librarian of its choice. The librarian's duties shall be to direct the internal affairs of said library and to direct such assistants or employees as may be necessary. The library board is hereby authorized to receive donations, devises and bequests to be used by it directly for library purposes. The library board shall furnish to the state library agency such statistics and information as may be required, and shall make annual reports to the City Council of East Ridge. (1993 Code, § 12-604)

**2-105. Funds.** The funds held by the city for the benefit of the Library of the City of East Ridge, Tennessee, shall be held in accordance with Tennessee Code Annotated, § 10-3-106 and shall be disbursed and drawn upon by vouchers of the city. (1993 Code, § 12-605)

**2-106. Privileges.** The Library of the City of East Ridge, Tennessee, shall be free to the inhabitants of the City of East Ridge. The board may extend the privileges and facilities of the library to persons residing outside the city upon such terms as may be deemed proper. (1993 Code, § 12-606)

**2-107. Penalties.** The library board shall set the appropriate penalties for loss or injury to library property. (1993 Code, § 12-607)

**CHAPTER 2**

**[DELETED]**

Section 2-201 was administratively renumbered § 1-402. Sections 2-202--2-205 were deleted by Ord. #714, March 2001.

**TITLE 3**

**MUNICIPAL COURT<sup>1</sup>**

**CHAPTER**

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

**CHAPTER 1**

**CITY JUDGE<sup>2</sup>**

**SECTION**

- 3-101. City judge.
- 3-102. Jurisdiction.
- 3-103. Creation, popular election, term, salary, etc.

**3-101. City judge.** The officer designated by the charter to handle judicial matters within the municipality shall preside over the city court and shall be known as the city judge. (1993 Code, § 1-604, modified)

**3-102. Jurisdiction.** (1) Violation of municipal ordinances. The city judge shall have the authority to try persons charged with the violation of municipal ordinances, and to punish persons convicted of such violations by levying a civil penalty not to exceed \$500.

(2) Violation of state laws. The city judge shall also have the authority to exercise jurisdiction concurrent with courts of general sessions in all cases involving the violation of the criminal laws of the state within the corporate limits of the city. (1993 Code, § 1-602, modified)

**3-103. Creation, popular election, term, salary, etc.** (1) Creation. Pursuant to Tennessee Code Annotated, § 16-18-201, a new City Judge of the City of East Ridge is hereby created.

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<sup>1</sup>Charter reference  
City court: § 6-A.

<sup>2</sup>Charter references  
City judge: § 6-B.  
Removal of city judge: § 6-D.

(a) The newly created judge's term shall commence after his election, by the qualified voters of the city, on November 2, 2004, and the conclusion of the current judges term in 2004;

(b) The requirements of city judge shall be the same as those as set forth in the Article VII of the Tennessee Constitution and § 3-103(2) of this code;

(c) The initial term of office for the newly created judge shall end in September 2006;

(d) The newly created judgeship shall then be elected, pursuant to Article VII, Section 5 of the Tennessee Constitution, for an eight (8) year term at the regular state judicial election in August of 2006 with the term commencing in September 2006;

(e) After the election in August of 2006 the City Judge in East Ridge shall be elected during the regular judicial election each and every eight (8) years thereafter;

(f) The current judgeship created by the Charter of the City of East Ridge shall forever end after the current term ends in December 2004 and shall not be filled by election or appointment again and the newly created city judge position shall assume all responsibilities of the current city judge position.

(g) All of the provisions of the Charter of East Ridge applicable to the city judge shall be applicable to the judge created herein except for those provisions contrary to this section wherein the terms of this section shall apply rather than the terms of the charter;

(h) It is the intent of this section that only one duly elected or appointed City Judge of East Ridge shall be serving at one time.

(2) Qualifications. The city judge shall be a resident of the City of East Ridge one (1) year and a resident of the state for five (5) years immediately preceding his election, at least thirty (30) years of age, licensed to practice law in Tennessee and meeting the other minimum requirements as set forth in the City Charter of the City of East Ridge.

(3) Vacancies in office. Vacancies in the office of city judge shall be filled by appointment of the city council of the city to serve until a special election is had at the next biennial August election occurring more than thirty (30) days after the vacancy occurs.

(4) Salary. The salary of the city judge shall be eight hundred dollars (\$800.00) per month. (1993 Code, § 1-601 and § 1-603, modified, as replaced by Ord. #767, April 2004)

## CHAPTER 2

### COURT ADMINISTRATION<sup>1</sup>

#### SECTION

- 3-201. Maintenance of docket.
- 3-202. Imposition of fines, penalties, and costs.
- 3-203. Disposition and report of fines, penalties, and costs.
- 3-204. Disturbance of proceedings.
- 3-205. Failure to appear.
- 3-206. Collection agencies; authorization of city to contract.

**3-201. Maintenance of docket.** The city judge shall keep a complete docket of all matters coming before him in his judicial capacity. The docket shall include for each defendant such information as his name; warrant and/or summons numbers; alleged offense; disposition; fines and costs imposed and whether collected; whether committed to workhouse; and all other information that may be relevant. (1993 Code, § 1-605)

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

In all cases heard or determined the city judge shall tax in the bill of costs municipal court fees in the amount of seventy-one dollars and twenty-five cents (\$71.25) in addition to all applicable litigation taxes and specific fees required to be imposed on specific cases. Of the above court fees, one dollar (\$1.00), on municipal code violations shall be sent to the state for municipal court training as required by Tennessee Code Annotated, § 16-18-304. (1993 Code, § 1-611, modified, and replaced by Ord. #785, March 2005)

**3-203. Disposition and report of fines, penalties, and costs.** All funds coming into the hands of the city judge in the form of fines, penalties, costs, and forfeitures shall be recorded by him and paid over daily to the city. At the end of each month he shall submit to the city council a report accounting for the collection or non-collection of all fines and costs imposed by his court during the current month and to date for the current fiscal year. (1993 Code, § 1-614, modified)

**3-204. Disturbance of proceedings.** It shall be unlawful for any person to create any disturbance of any trial before the city court by making

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<sup>1</sup>Charter reference

City court administration: § 6-C.

loud or unusual noises, by using indecorous, profane, or blasphemous language, or by any distracting conduct whatsoever. (1993 Code, § 1-615)

**3-205. Failure to appear.** Any person who fails to appear in city court to answer a summons or citation for the violation of any ordinance or provision of this code shall be guilty of a civil offense punishable under the general penalty clause of this code.

**3-206. Collection agencies; authorization of city to contract.**

(1) The city is authorized to contract with collection agencies to collect fees and costs assessed by the municipal court where the fines and costs have not been collected within sixty (60) days after they were due. Provided, however, any such contract with the collection agency shall be in writing, and shall include a provision specifying whether the collection agency may institute an action to collect fines and costs in a judicial proceeding. The collection agency may be paid an amount not exceeding that authorized by Tennessee Code Annotated, § 40-24-105(d).

(2) The city also authorizes the collection agency to collect any other municipal fees owed to the city. (as added by Ord. #894, Aug. 2011)



## CHAPTER 3

### WARRANTS, SUMMONSES AND SUBPOENAS

#### SECTION

3-301. Issuance of arrest warrants.

3-302. Issuance of summonses.

3-303. Issuance of subpoenas.

**3-301. Issuance of arrest warrants.**<sup>1</sup> The city judge shall have the power to issue warrants for the arrest of persons charged with violating municipal ordinances. (1993 Code, § 1-606, modified)

**3-302. Issuance of summonses.** When a complaint of an alleged ordinance violation is made to the city judge, the judge may in his discretion, in lieu of issuing an arrest warrant, issue a summons ordering the alleged offender to personally appear before the city court at a time specified therein to answer to the charges against him. The summons shall contain a brief description of the offense charged but need not set out verbatim the provisions of the ordinance alleged to have been violated. Upon failure of any person to appear before the city court as commanded in a summons lawfully served on him, the cause may be proceeded with ex parte, and the judgment of the court shall be valid and binding subject to the defendant's right of appeal. (1993 Code, § 1-607)

**3-303. Issuance of subpoenas.** The city judge may subpoena as witnesses all persons whose testimony he believes will be relevant and material to matters coming before his court, and it shall be unlawful for any person lawfully served with such a subpoena to fail or neglect to comply therewith. (1993 Code, § 1-608)

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<sup>1</sup>State law reference

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

## CHAPTER 4

### BONDS AND APPEALS

#### SECTION

3-401. Appearance bonds authorized.

3-402. Appeals.

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

**3-401. Appearance bonds authorized.** (1) Deposit allowed.

Whenever any person lawfully possessing a chauffeur's or operator's license theretofore issued to him by the Tennessee Department of Safety, or under the driver licensing laws of any other state or territory or the District of Columbia, is issued a citation or arrested and charged with the violation of any city ordinance or state statute regulating traffic, except those ordinances and statutes, the violation of which call for the mandatory revocation of a operator's or chauffeur's license for any period of time, such person shall have the option of depositing his chauffeur's or operator's license with the officer or court demanding bail in lieu of any other security required for his appearance in the city court of this city in answer to such charge before said court.

(2) Receipt to be issued. Whenever any person deposits his chauffeur's or operator's license as provided, either the officer or the court demanding bail as described above, shall issue the person a receipt for the license upon a form approved or provided by the department of safety, and thereafter the person shall be permitted to operate a motor vehicle upon the public highways of this state during the pendency of the case in which the license was deposited. The receipt shall be valid as a temporary driving permit for a period not less than the time necessary for an appropriate adjudication of the matter in the city court, and shall state such period of validity on its face.

(3) Failure to appear - disposition of license. In the event that any driver who has deposited his chauffeur's or operator's license in lieu of bail fails to appear in answer to the charges filed against him, the clerk or judge of the city court accepting the license shall forward the same to the Tennessee Department of Safety for disposition by said department in accordance with the provisions of Tennessee Code Annotated, § 55-50-801, et seq. (1993 Code, § 1-610, modified)

**3-402. Appeals.** Any defendant who is dissatisfied with any judgment of the city court against him may, within ten (10) days next after such judgment

is rendered, appeal to the next term of the circuit court upon posting a proper appeal bond.<sup>1</sup> (1993 Code, § 1-612)

**3-403. Bond amounts, conditions, and forms.** An appearance bond in any case before the city court shall be in such amount as the city judge shall prescribe and shall be conditioned that the defendant shall appear for trial before the city court at the stated time and place.

An appeal bond in any case shall be in such amount as the city judge shall prescribe, not to exceed the sum of two hundred and fifty dollars (\$250.00) and shall be conditioned that if the circuit court shall find against the appellant the fine and all costs of the trial and appeal shall be promptly paid by the defendant and/or his sureties. An appearance or appeal bond in any case may be made in the form of a cash deposit or by any corporate surety company authorized to do business in Tennessee or by two (2) private persons who individually own real property located within the county. No other type bond shall be acceptable. (1993 Code, § 1-613, modified)

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<sup>1</sup>State law reference  
Tennessee Code Annotated, § 27-5-101.

## CHAPTER 5

### CITY COURT CLERK

#### SECTION

- 3-501. Court clerk to be elected.
- 3-502. Election and term.
- 3-503. Qualifications.
- 3-504. Compensation.
- 3-505. Clerk; residency requirements.
- 3-506. Clerk; election and term.
- 3-507. Clerk; policies and procedures.

**3-501. Court clerk to be elected.** The City of East Ridge will have an elected city court clerk in accordance with Tennessee Constitution Article VI, Section 13. (as added by Ord. #932, Nov. 2012, and replaced by Ord. #938, Dec. 2012)

**3-502. Election and term.** At the next regular Hamilton County, Tennessee general election in August 2014 the city court clerk shall be elected by the qualified voters of the city for a four (4) year term and every four (4) years thereafter. The clerk shall take office September 1. (as added by Ord. #932, Nov. 2012, and replaced by Ord. #938, Dec. 2012)

**3-503. Qualifications.** Any candidate for the office of the city court clerk shall meet the qualifications for elective office for the City of East Ridge as set forth in the Charter and applicable state law. (as added by Ord. #932, Nov. 2012, and replaced by Ord. #938, Dec. 2012)

**3-504. Compensation.** Compensation for the clerk shall be set by the City Council of the City of East Ridge, Tennessee by ordinance at least ninety (90) days prior to the general election in 2014. Thereafter, the City Council of the City of East Ridge, Tennessee shall by ordinance<sup>1</sup> set the compensation for the city court clerk from time to time. It shall not be increased or decreased during a single term of office. (as added by Ord. #932, Nov. 2012, and replaced by Ord. #938, Dec. 2012)

**3-505. Clerk; residency requirements.** The elected clerk for the municipal court of the City of East Ridge must be a citizen of the United States and of the State of Tennessee, who is a bona fide resident and registered voter

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<sup>1</sup>Ordinances setting compensation for the clerk are available for review in the office of the city recorder.

of the City of East Ridge, for at least one (1) year before his/her election, is at least twenty-one (21) years of age and has never suffered a conviction for any crime involving moral turpitude. (as added by Ord. #963, Feb. 2014)

**3-506. Clerk; election and term.** Following the initial election of the clerk, in August, 2014, subsequent elections for the position of clerk shall be held every four (4) years, in November of the year of each such election. (as added by Ord. #963, Feb. 2014)

**3-507. Clerk; policies and procedures.** The elected clerk shall comply with all existing policies and procedures concerning the hiring, firing and oversight of personnel employed in the clerk's office. (as added by Ord. #963, Feb. 2014)

**TITLE 4**

**MUNICIPAL PERSONNEL**

**CHAPTER**

1. SOCIAL SECURITY.
2. PERSONNEL RULES AND REGULATIONS.
3. OCCUPATIONAL SAFETY AND HEALTH PROGRAM.
4. INFECTIOUS DISEASE CONTROL POLICY.
5. TRAVEL REIMBURSEMENT REGULATIONS.

**CHAPTER 1**

**SOCIAL SECURITY**

**SECTION**

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

**4-101. Policy and purpose as to coverage.** It is hereby declared to be the policy and purpose of this city to provide for all eligible employees and officials of the city (except part-time employees), whether employed in connection with a governmental or proprietary function, the benefits of the system of federal old age and survivors insurance. In pursuance of said policy, and for that purpose, the city shall take such action as may be required by applicable state and federal laws or regulations. (1993 Code, § 1-801, as replaced by Ord. #761, Dec. 2003)

**4-102. Necessary agreements to be executed.** The mayor is hereby authorized and directed to execute all the necessary agreements and amendments thereto with the state executive director of old age insurance, as agent or agency, to secure coverage of employees and officials as provided in the preceding section. (1993 Code, § 1-802, as replaced by Ord. #761, Dec. 2003)

**4-103. Withholdings from salaries or wages.** Withholdings from the salaries or wages of employees and officials for the purpose provided in the first section of this chapter are hereby authorized to be made in the amounts and at such times as may be required by applicable state or federal laws or regulations, and shall be paid over to the state or federal agency designated by said laws or regulations. (1993 Code, § 1-803, as replaced by Ord. #761, Dec. 2003)

**4-104. Appropriations for employer's contributions.** There shall be appropriated from available funds such amounts at such times as may be required by applicable state or federal laws or regulations for employer's contributions, and the same shall be paid over to the state or federal agency designated by said laws or regulations. (1993 Code, § 1-804, as replaced by Ord. #761, Dec. 2003)

**4-105. Records and reports to be made.** The municipality shall keep such records and make such reports as may be required by applicable state and federal laws or regulations. (1993 Code, § 1-805, as replaced by Ord. #761, Dec. 2003)

## CHAPTER 2

### PERSONNEL RULES AND REGULATIONS

#### SECTION

- 4-201. Definitions.
- 4-202. Coverage.
- 4-203. Administration.
- 4-204. Classification plan.
- 4-205. Compensation plan.
- 4-206. Recruitment.
- 4-207. Employee evaluations.
- 4-208. Use of employee evaluation.
- 4-209. Promotions.
- 4-210. Probationary period.
- 4-211. Transfers.
- 4-212. Demotions.
- 4-213. Hours of work.
- 4-214. Attendance and absences.
- 4-215. Overtime.
- 4-216. Outside employment.
- 4-217. Pecuniary interests.
- 4-218. Holiday leave.
- 4-219. Paid leave.
- 4-220. Approval of paid leave and donation of leave time.
- 4-221. Bereavement.
- 4-222. Occupational disability.
- 4-223. Military leave.
- 4-224. Voting leave.
- 4-225. Administrative leave.
- 4-226. Court and jury duty.
- 4-227. Family and medical leave.
- 4-228. Severe weather leave policy.
- 4-229. Holiday bonus.
- 4-230. Employee educational assistance program.
- 4-231. Longevity pay.
- 4-232. Nepotism.
- 4-233. Narcotics and intoxicating liquors.
- 4-234. Miscellaneous policies.
- 4-235. Use of municipal time, facilities, etc.
- 4-236. Use of position.
- 4-237. Use of city vehicles and equipment.
- 4-238. Sexual harassment.
- 4-239. Political activity.



- 4-240. Separations.
- 4-241. Resignation.
- 4-242. Lay-off.
- 4-243. Disability.
- 4-244. Disciplinary action.
- 4-245. Grievance procedure.
- 4-246. Amendment of personnel rules.
- 4-247. Personnel board.

**4-201. Definitions.** As used in these rules, the following words and terms shall have the meanings listed:

- (1) "Absence without leave." An absence from duty which was not authorized or approved.
- (2) "Applicant." An individual who has applied in writing on an application form for employment.
- (3) "Appointment." The offer to and acceptance by a person of a position either on a regular or temporary basis.
- (4) "City." The City of East Ridge, Tennessee.
- (5) "Class." A group of positions which are sufficiently alike in general duties and responsibilities to warrant the use of the same title, class specifications, and pay range.
- (6) "Class specification." A written description of a class consisting of a class title, a general statement of the level of work and of the distinguishing features of work, examples of duties, and desirable qualifications for the class.
- (7) "Classification." The act of grouping positions in classes with regard to:
  - (a) Duties and responsibilities;
  - (b) Requirements as to education, knowledge, experience, and ability;
  - (c) Tests of fitness; and
  - (d) Ranges of pay.
- (8) "Classification plan." The official or approved system of grouping positions into appropriate classes consisting of:
  - (a) An index to the class specifications;
  - (b) The class specifications; and
  - (c) Rules for administering the classification plan.
- (9) "Classified service." The classified service shall include all positions in the city service except those listed under exempt service.
- (10) "Compensation plan." The official schedule of pay approved by the mayor and council assigning one or more rates of pay (pay range) to each class title.
- (11) "Compensatory leave." Time off from work in lieu of monetary payment for overtime worked.

(12) "Demotion." Assignment of an employee from one class to another which has a lower maximum rate of pay and rank.

(13) "Department." The primary organizational unit which is under the immediate charge of a supervisor who reports directly to the city manager.

(14) "Director." An employee that oversees the operation of a department and reports directly to the city manager.

(15) "Disciplinary action." Action which may be taken when the employee fails to follow departmental rules or any provisions of these rules.

(16) "Dismissal." A type of disciplinary action which separates an employee from the city payroll.

(17) "Employee." An individual who is legally employed and is compensated through the payroll.

(18) "Family and medical leave." The excused absence without pay, after using paid leave, for a period of time not to exceed twelve (12) weeks for the purpose of family and/or medical leave.

(19) "Full-time employees." Individuals who work the equivalent of an average of forty (40) hours or more per week and whose position is not listed as temporary, part-time, or seasonal.

(20) "Grievance." A dispute arising between an employee and supervisor or other employee relative to some aspect of employment, interpretation of regulations and policies, or some management decision, other than disciplinary action, affecting the employee.

(21) "Immediate family." Includes the spouse, grandparents, parents, children, grandchildren, children-in-law, siblings, stepchildren, stepparents, and foster parents of an employee and similar blood relatives of the employee's spouse.

(22) "Lay-off." The involuntary non-disciplinary separation of an employee from a position because of shortage of work, materials, or funds.

(23) "Leave." An approved type of absence from work as provided for by these rules.

(24) "Maternity leave." An absence due to pregnancy, childbirth, adoption of a child, or related medical conditions.

(25) "Merit pay increase." An increase in compensation established in the compensation plan which may be granted to an employee for meritorious service and completion of minimum prescribed periods of employment in the class.

(26) "Nepotism." Favoritism shown to immediate family members or other close relatives by reason of relationship rather than merit.

(27) "Occupational disability or injury leave." An excused absence from duty because of an injury or illness sustained in the course of employment and determined to be compensable under the provisions of the Workers' Compensation Law.

(28) "Overtime." Authorized time worked by an employee in excess of normal working hours or work period.

(29) "Overtime pay." Compensation paid to an employee for approved overtime work performed in accordance with these rules.

(30) "Promotion." Assignment of an employee from one class to another which has a higher maximum rate of pay and rank.

(31) "Probationary period." a trial employment period.

(32) "Reclassification." The classification action of a position by classifying it upward, downward, or to a different classification on the basis of sufficient changes in the kind, development, or responsibilities of work assigned to the position.

(33) "Reprimand." A type of disciplinary action, oral or written, denoting a violation of personnel regulations which becomes part of the employee's personnel record.

(34) "Seniority." Length of service as a full-time employee.

(35) "Supervisor." Any individual having authority on behalf of the municipality to assign, direct, or discipline other employees, if the exercise of such authority is not a mere routine or clerical nature, but requires the use of independent judgment.

(36) "Suspension." An enforced leave of absence for disciplinary purposes or pending investigation of charges made against an employee.

(37) "Temporary employee." An employee holding a position which is of a temporary, seasonal, casual, or emergency nature.

(38) "Transfer." Assignment of an employee from one position to another position of equal pay and rank.

(39) "Work day or work period." Scheduled number of hours an employee is required to work per day or per scheduled number of days. (Ord. #575, Feb. 1994, modified, as replaced by Ord. #761, Dec. 2003)

**4-202. Coverage.** Except where noted, these rules shall apply only to full-time positions which are not specifically placed in the exempt service. The exempt service shall include the following:

(1) All elected officials and persons appointed to fill vacancies in elective offices.

(2) All members of appointive boards, commissions, or citizens committees.

(3) City attorney.

(4) Consultants, advisors, and counsel rendering temporary professional service.

(5) Independent contractors (city manager).

(6) Temporary employees who are hired to meet the immediate requirements of an emergency condition.

(7) Seasonal employees who are employed for not more than three (3) months during the fiscal year.

(8) Persons rendering part-time service.

(9) Volunteer personnel, such as volunteer police officers, firefighters; and all other personnel appointed to serve without compensation.

(10) Employees of the board of waterworks and sewerage commissioners or municipal hospital.

(11) Probationary employees except those sections specifically applicable to probationary employees. (Ord. #575, Feb. 1994, modified, as replaced by Ord. #761, Dec. 2003)

**4-203. Administration.** The city manager, or his delegated representative, shall have the basic responsibility for the personnel program as set forth in this policy. This policy shall conform to all requirements of the Fair Labor Standards Act. In addition to other duties as set forth, the city manager shall:

(1) Exercise leadership in developing a system of effective personnel administration within the municipal departments subject to this policy.

(2) Develop programs for improvement of employee effectiveness, including training, safety, and health.

(3) Recruit qualified applicants for city employment and identify qualified employees for promotion.

(4) Maintain records of all employees of the municipal departments.

(5) Maintain the classification plan.

(6) Maintain and recommend a pay plan for all city employees for approval of the mayor and council.

(7) Perform other such duties as may be assigned by the mayor and council. (Ord. #575, Feb. 1994, modified, as replaced by Ord. #761, Dec. 2003)

**4-204. Classification plan.** (1) Purposes. The classification plan provides a complete inventory of all positions in the municipal government's service and an accurate description and specifications for each class of employment. The plan standardizes titles, each of which is indicative of a definite range of duties and responsibilities, and has the same meaning throughout the city service.

(2) Composition of the classification plan. The classification plan shall consist of:

(a) A grouping of classes of positions which are approximately equal in difficulty and responsibility, which call for the same general qualification, and which can be equitably compensated within the same range of pay under similar working conditions;

(b) Position titles descriptive of the work of the class which identifies the class;

(c) Written specifications for each class of positions; and

(d) Physical standards for performance of the duties of the position.

(3) Use of job titles. Job titles are to be used in all personnel, accounting, budget appropriation and financial records of the city. No person will be appointed or employed in a position in the city service under a title not included in the classification plan.

(4) Use of the classification plan. The classification plan is to be used:

(a) As a guide in recruiting and examining candidates for employment;

(b) In determining lines of promotion and in developing employee training programs;

(c) In determining salaries to be paid for various types of work;

(d) In determining personal service items in departmental budgets; and

(e) In providing uniform job terminology understandable by all municipal government officers and employees and by the general public.

(5) Administration of the classification plan. The city manager is charged with maintaining the classification plan of the municipal government so that it will reflect the duties performed by each employee in the service of the city and the class to which each position is allocated. It is the duty of the city manager to examine the nature of the classes of positions, to make such changes in the classification plan as are deemed necessary by changes in the duties and responsibilities of existing positions; and periodically to review the entire classification plan and recommend appropriate changes in allocations or in the classification plan itself.

(6) Allocation of positions. Whenever a new position is established, or duties of an old position change, department heads shall submit in writing a comprehensive job description describing in detail the duties of such a position to the city manager. The city manager shall investigate the actual or suggested duties and recommend to the mayor and council the appropriate class allocation or the establishment of a new class. The mayor and council may direct that the recommendation be reviewed by outside management consultants. The mayor and council shall then approve or change such recommendations.

(7) Request for reclassification. Any employee who considers his/her position improperly classified shall first submit his/her request to the department head who shall review the justification for the request. The department head will notify the city manager of all requests for reclassification. If the city manager and department head find that there is merit in the request, the city manager shall grant the request. If they find the request is not justified, they shall advise the employee of their decision. (Ord. #575, Feb. 1994, modified, as replaced by Ord. #761, Dec. 2003)

**4-205. Compensation plan.** (1) Purpose. The pay plan is intended to provide fair compensation for all skill levels in the classification plan in consideration of ranges of pay for other levels, general rates of pay for similar

employment in private establishments and other public jurisdictions in the area, cost of living data, the financial condition of the municipality, and other factors.

(2) Composition. The pay plan for the City of East Ridge shall consist of minimum and maximum rates of pay with intermediate steps for each existing pay grade (skill level).

(3) Maintenance of the pay plan. The mayor and council may direct from time to time that comparative studies be made of all factors affecting the level of salary ranges and that recommendations be made to the mayor and council such changes in the salary ranges as appear to be in order. Such adjustments will be made by increasing or decreasing the salary ranges the appropriate number of steps as provided in the basic salary schedule, and the rate of pay for each employee will be adjusted an appropriate number of steps in conformity with the adjustment of the salary range for that class as approved by the mayor and council.

Under normal circumstances, an employee will progress through the step Increases annually, based on satisfactory job performance, and based on availability of funds and approval by the mayor and council.

(4) Use of salary ranges. Salary ranges are intended to furnish administrative flexibility in recognizing individual differences among positions allocated to the same skill level, and in providing incentives to employees.

The minimum rate established for a class is the normal hiring rate except in those cases where unusual circumstances (such as inability to fill the position at the hiring rate or exceptional qualifications of an applicant) appear to warrant employment of an individual at a higher rate in the pay range. Any department head desiring to appoint an applicant to start at a salary above the minimum must submit a written justification to the city manager for his approval. Such appointments shall be made only in exceptional cases.

(5) Pay for part-time work. When an employment decision is for a part-time position, only the proportioned part of the rate for the time actually employed will be paid.

(6) Hourly rates. In accordance with the Fair Labor Standards Act (FLSA), no employee whether full-time, part-time or probationary, shall be paid less than the federal minimum wage unless they are expressly exempt from the minimum wage requirement by FLSA requirements. Employees paid on an hourly rate basis are paid for all time actually worked.

(7) Rate of pay when position is classified or reclassified. A position that has been classified or reclassified upwards shall have the salary range set accordingly. When a position is reclassified upwards, the employee in that position shall continue receiving their current rate of pay unless that rate of pay falls below the minimum rate of the new classification. In such cases the rate shall be the minimum rate for the new skill level. (Ord. #575, Feb. 1994, modified, as replaced by Ord. #761, Dec. 2003)

**4-206. Recruitment.** (1) Applications. The City of East Ridge shall make every effort to attract qualified applicants for various types of positions. In so doing the appointing authority shall prepare and publish a public notice of vacancies when they occur in an officially designated newspaper, at an officially designated site in the city hall, and at such other sites as may be designated by the city manager. The city manager will also provide notice of vacancies in alternate media; including taped messages, radio announcements or other methods to ensure effective communication to someone with disabilities.

All applications for employment are received at the city manager's office and given thorough consideration by the appropriate department head. The City of East Ridge exercises a policy of fairness to every person who applies for work, and in cooperation with the supervisor involved, is responsible for the proper selection and placement of persons in various departments throughout the city. The city manager and department heads will make reasonable accommodations in the application process to applicants with disabilities making a request for such accommodations. The City of East Ridge shall not discriminate on the ground of race, color, religion, or national origin.

Applicants may be removed from consideration if:

- (a) The applicant declines an appointment when offered.
- (b) The applicant cannot be located.
- (c) The applicant moves out of the area.
- (d) The applicant is currently using controlled substances as listed in § 4-230(3)(c).
- (e) The applicant is found to have been convicted of a felony or a misdemeanor involving moral turpitude as the term is defined by law.
- (f) The applicant has made a false statement of material fact on the application.
- (g) The application was not filed within the period specified in the announcement or was not filed on the prescribed form or in a different format as allowed as a reasonable accommodation.
- (h) The applicant does not possess the minimum qualifications as indicated by the job description for the position.

(2) Recruitment by examination. All appointments in the city service shall be made according to merit and fitness and may be subject to competitive examination. All such examinations shall fairly and impartially test those in matters that are job related and essential to the duties of the position to be filled.

(3) Types of examinations. The examinations held to establish eligibility and fitness for a position may consist of one (1) or more of the following parts as determined by the city manager. The city manager will make reasonable accommodations in the examination process to applicants with disabilities requesting such accommodations.

- (a) Written test. This part, when required by job specifications, shall include a written demonstration designed to show the familiarity of

applicants with the knowledge necessary for the position for which they are applying.

(b) Oral test. This part, when required by job specifications, shall include a personal interview where the ability to deal with others, to meet the public, and/or other personal qualifications are to be evaluated. An oral interview may also be used in examinations where a written test is unnecessary, impractical or as a reasonable accommodation to someone unable to take a written test due to a disability.

(c) Performance test. This test, when required by job specifications, shall involve test of performance as would aid in determining the ability and manual skills of applicants to perform the work involved.

The performance test may be given a weight in the examination process or may be used to exclude from further consideration applicants who are unable to perform the essential functions of a specific position when it is determined:

(i) They cannot perform the essential functions due to a disability, which cannot reasonably be accommodated;

(ii) They pose a direct threat to themselves or others;

(iii) They are unable to perform the essential functions due to a temporary condition or disability not protected by ADA.

(d) Physical agility test. When required by job specifications, this test consists of job-related tests of bodily conditioning, muscular strength, agility, and physical fitness of job applicants for a specific position. This test may be given weight in the examination process or maybe used to exclude from further consideration applicants who do not meet the minimum required standards.

(e) Mental test. When required by job specifications, the mental test shall include any test to determine mental alertness, general capacity of the applicant to adjust his/her thinking to new problems, or to ascertain special character traits and attitudes.

(4) Notification and inspection of examination results. For entry level positions within all departments an eligible list may be established and maintained. Applicant access to this eligible list may require successfully passing one (1) or more of the examinations identified in § 4-206(3). These examinations shall be administered by the city manager and administrative staff as designated by the city manager. The eligible list shall be maintained by the city manager.

Examinations for access to the eligible list shall be offered in annual interviews or more frequently upon the discretion of the city manager. Eligible applicants obtaining the same score or composite score in the case of a multiple examination eligible list shall be considered to have the same rank on the eligible list. Individual names appearing on the eligible list shall remain in force



no longer than two (2) years. Those individuals whose tenure on the eligible list has reached two (2) years shall be allowed to participate in the examination next following the expiration from the eligible list and may or may not be reinstated on the list depending upon the results of their examination(s).

(5) Eligibility. Individuals shall be recruited from a geographic area as wide as is necessary to assure obtaining well-qualified applicants for the various types of employment positions. Recruitment, therefore, shall not be limited to residents of the City of East Ridge or Hamilton County. In cases where residents and non-residents are equally qualified for positions presently vacant, the resident shall receive first consideration in filling such vacancies. All applicants for positions including new hires as well as promotional advancements which require the potential for call-back to respond to emergency situations shall be required to live within twenty-five (25) road miles of the East Ridge city limits. If such employees live outside of this area, they must relocate within the area within six (6) months.

Present employees who were employed by the City of East Ridge prior to June 1, 2002, and were in violation of this section as of June 1, 2002, are exempted from this eligibility rule as it pertains to the violation that existed as of June 1, 2002. These requirements apply also to those positions listed as exempt.

(6) Medical examination of essential functions and general physicals.

(a) Pre-employment. Following a conditional offer of employment, each prospective employee, when required, may be given a medical examination for the essential functions for the position they have been offered and a general physical exam. The cost of the medical examination shall be borne by the city. Any prospective employee who is unable to successfully perform the essential functions tested for in the medical examination shall have their offer of employment by the city withdrawn only:

(i) If they cannot perform the essential functions due to a disability which cannot reasonably be accommodated.

(ii) They pose a direct threat to themselves or others.

(iii) They are unable to perform the essential functions due to a temporary condition or disability not protected by the Americans with Disabilities Act.

(b) Post-employment. All employees of the city may, during the period of their employment, be required by their department head and with the approval of the city manager, to undergo periodic examinations to determine their physical and mental fitness to perform the work of the position in which they are employed. This periodic examination shall be at no expense to the employee. Determination of physical or mental fitness will be by a physician designated by the city manager. When an employee of the city is reported by the examining physician to be physically or mentally unfit to perform work in the position for which

he/she is employed, the employee may, within five (5) days from the date of his/her notification of such determination, indicate in writing to the city manager his/her intention to submit the question of his/her physical or mental unfitness to a physician of his/her own choice. In the event there is a difference of opinion between the examining physician and the physician chosen by the employee, a physician shall be mutually agreed upon and designated by the examining physician and the physician chosen by the employee. The third physician's decision shall be final and binding as to the physical or mental fitness of the employee. The municipal government shall pay its physician; the employee shall pay his/her physician and the third physician shall be paid by the municipality. An employee determined to be physically or mentally unfit to continue in the position in which he/she is employed may be demoted in accordance with these rules or separated from city service only after it has been determined that:

- (i) They cannot perform the essential functions due to a disability, which cannot reasonably be accommodated.
- (ii) They pose a direct threat to themselves or others.
- (iii) They are unable to perform the essential functions due to a temporary condition or disability not protected by the Americans with Disabilities Act.

(7) Minimum age. All applicants must be at least eighteen (18) years of age to work as an employee. (Ord. #575, Feb. 1994, modified, as replaced by Ord. #761, Dec. 2003, and amended by Ord. #907, Dec. 2011)

**4-207. Employee evaluations.** Each employee may receive at least annually a written evaluation of his or her performance of assigned duties. Evaluations may be made whenever an employee is promoted or demoted. Special evaluations may also be performed as required. First year employees may receive an evaluation midway of the first year and at the end of the first year. The evaluation will be performed by the employee's immediate supervisor and shall be discussed with the employee. The employee will receive a rating on each assigned area of responsibility as well as an overall rating. Whenever an employee receives a rating that does not meet acceptable standards, the supervisor shall establish a documented plan designed to improve the employee's performance to a level that is acceptable. The supervisor will discuss the improvement plan with the employee during the discussion of the evaluation. The supervisor will then perform additional evaluations on a monthly basis until the employee's performance reaches the desired level. The employee and the supervisor will both sign each evaluation after discussion. Signature indicates only delivery and receipt of the evaluation, not approval. Disagreement by the employee with the results of the evaluation may be appealed under the grievance procedure in these rules and regulations. (Ord. #575, Feb. 1994, modified, as replaced by Ord. #761, Dec. 2003)

**4-208. Use of employee evaluation.** Employee evaluations may be used to assist in determining an employee's progression under the pay plan, to assist in choosing employees for promotion, and to determine layoff implementation whenever two (2) or more employees are basically qualified to fill one (1) position and both fulfill layoff requirements listed in these rules and regulations. (Ord. #575, Feb. 1994, modified, as replaced by Ord. #761, Dec. 2003)

**4-209. Promotions.** A promotion is an assignment of an employee from one position to another, which has a higher maximum rate of pay, rank and responsibility. Vacancies in positions above the lowest rank in any category shall be filled as far as practical by the promotion of employees. If the city manager determines there are no qualified employees eligible for promotion, then the position will be filled from a list of eligible applicants as determined by the recruitment process. Promotions in every case must involve a definite increase in duties and responsibilities and shall not be made merely for the purpose of affecting an increase in compensation. When an employee in one classification is promoted to a position in another classification and the employee's current rate of pay is less than the minimum rate, for the new position, the employee's salary shall be raised to that minimum rate. When the employee's salary falls above the new minimum rate, the employee will move to the new skill level at the next higher step from their old rate. (Ord. #575, Feb. 1994, modified, as replaced by Ord. #761, Dec. 2003)

**4-210. Probationary period.** During the first ninety (90) days of employment with the City of East Ridge all employees shall be considered probationary employees. This ninety (90) day period shall be used to assess the probationary employees' work ability, knowledge and attitude. At any time during this ninety (90) day period the probationary employee may be rejected for full time employment. The personnel rules and regulations regarding termination of employment shall not apply to probationary employees. All probationary employees offered and accepting full time employment shall on the date of acceptance of employment be considered a full time employee and shall be deemed to have accrued all benefits during the probationary period including building of annual leave time during the probationary period. (Ord. #575, Feb. 1994, modified, as replaced by Ord. #761, Dec. 2003)

**4-211. Transfers.** (1) When an employee desires to transfer from one position to another, it must be approved by the city manager. The transfer of an employee from one position to another without significant change in level of responsibility may be effective:

- (a) When the new employee meets the qualification requirements for the new position.
- (b) If it is in the best interest of the city.

(c) If it meets the personal needs of the employee as consistent with the other requirements of this rule.

(d) A reasonable accommodation when an employee is unable, due to a disability, to continue to perform the essential functions of the job.

An employee who transfers from one city department division to another will retain and carry forward all benefits earned or accrued or both as of the date of transfer. As a general rule lateral transfers require no increase in compensation. Employees in one classification who transfers from a position of a higher rate of pay to a classification and a position of a lower rate of pay shall have their pay rate reduced to the appropriate rate of pay for the new position.

(2) Nothing in this section shall impair or limit the city's ability to transfer employees from one position to another position if the city determines that it is in the best interest of the city to effect such a transfer. (Ord. #575, Feb. 1994, modified, as replaced by Ord. #761, Dec. 2003)

**4-212. Demotions.** A demotion is an assignment of an employee from one position to another, which has a lower maximum rate of pay, rank and responsibility. An employee may be demoted for any of the following reasons:

(1) Because his/her position is being abolished and he/she would otherwise be laid off.

(2) Because his/her position is being reclassified to a higher grade and the employee lacks the necessary skill to successfully perform the job.

(3) Because there is a lack of work.

(4) Because there is a lack of funds.

(5) Because another employee, returning from authorized leave granted in accordance with the rules on leave, will occupy the position to which the employee is currently assigned.

(6) Because the employee does not possess the necessary qualifications to render satisfactory service to the position he/she holds.

(7) Because the employee voluntarily requests such a demotion and it is available.

(8) As a reasonable accommodation when an employee, due to a disability, becomes unable to perform the essential functions of the job.

When an employee in one position is demoted to a lower position and the employee rate of pay is higher than the maximum rate for the new position, the employee's salary shall be reduced to an appropriate rate for the new position. (Ord. #575, Feb. 1994, modified, as replaced by Ord. #761, Dec. 2003)

**4-213. Hours of work.** The city manager shall establish a work schedule for each position, based on the needs of service, and taking into account the reasonable needs of the public, that may be required to do business with various departments. (Ord. #575, Feb. 1994, modified, as replaced by Ord. #761, Dec. 2003)

**4-214. Attendance and absences.** An employee shall be in attendance at work in accordance with these rules and with general department regulations. All departments shall keep daily attendance records of their employees.

Depending upon the type of leave requested, an employee shall be required to notify his or her supervisor that he or she is unable to report to work. Notification shall be in accordance with the requirements for each type of leave listed in these rules and regulations. Unauthorized absences shall be subject to disciplinary action up to and including dismissal. (Ord. #575, Feb. 1994, as amended by Ord. #691, Oct. 1999, modified, and replaced by Ord. #761, Dec. 2003)

**4-215. Overtime (and compensatory leave).** Overtime may be authorized by prior approval of the supervisor and/or the city manager. All non-exempt employees (as defined by the Fair Labor Standards Act) authorized to work overtime shall be paid at a rate of one and one-half (1 1/2) times the hourly rate for all overtime hour worked, or at the supervisor's discretion, shall receive compensatory time at the rate of one and one-half (1 1/2) times the hours worked provided the Fair Labor Standards Act shall be fully complied with. All non-exempt employees who are called back to work after normal work hours shall be compensated with overtime or compensatory leave for two (2) hours or actual time worked, whichever is greater. Public safety employees may accumulate a maximum of four hundred eighty (480) hours of compensatory leave time. All other city employees may accumulate a maximum of two hundred forty (240) hours of compensatory leave. (Ord. #575, Feb. 1994, modified, as replaced by Ord. #761, Dec. 2003)

**4-216. Outside employment.** No employee of the municipality shall perform any outside employment without a written authorization from the city manager or designee. Such authorizations shall not be granted if the work is likely to interfere with the satisfactory performance of the employee's duties, or is incompatible with his municipal employment, or is likely to cast discredit upon or create embarrassment for the municipality. The requirements of this section apply also to those full-time positions categorized as exempt. In the case of the city manager, city council approval is required. (Ord. #575, Feb. 1994, modified, as replaced by Ord. #761, Dec. 2003)

**4-217. Pecuniary interests.** No employee shall personally profit directly or indirectly from any contract, purchase, sale, or service between the municipality and any person or company; or personally as an agent providing any surety, bail, or bond required by law. No employees shall accept any free or preferred services, benefits, or concessions from any person or company. This requirement applies also to those positions categorized as exempt. (Ord. #575, Feb. 1994, modified, as replaced by Ord. #761, Dec. 2003)

**4-218. Holiday leave.** The following legal holidays are observed by the City of East Ridge: New Year's Day, Martin Luther King, Jr. Day, Good Friday, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and the Friday immediately following it, Christmas Eve, Christmas Day, and such other days as maybe designated by the mayor and council. The birthday of each full time employee shall be an official paid leave day for that employee of the City of East Ridge to be taken pursuant to rules determined by the city manager or the city manager's designee. When a holiday falls on Saturday or Sunday, the proceeding Friday will be observed or the following Monday, respectively, will be observed as a holiday for city employees. In order to receive holiday pay an employee must be a full-time employee and must not have been absent without leave either on the workday immediately before or after the holiday. If an employee is on paid leave, they will receive pay for the holiday in lieu of paid leave. (Ord. #575, Feb. 1994, modified, as replaced by Ord. #761, Dec. 2003, and amended by Ord. #783, March 2005, and Ord. #912, March 2012)

**4-219. Paid leave.** Paid leave allows employees time off to use for vacation, personal business, and illness. It shall be granted to all positions designated as full-time. Paid leave shall be accrued each pay period in accordance with the following schedule:

Years of service	Hours earned per pay period	Hours earned per year	Days earned per year
Up to 1 year complete	2.0	104	13.0
Up to 3 years complete	2.5	130	16.25
Up to 7 years complete	3.0	156	19.5
Up to 11 years complete	3.5	182	22.75
Up to 15 years complete	4.0	208	26
Up to 20 years complete	4.5	234	29.25
Over 20 years complete	5.0	260	32.5

The above schedule and credits are for uninterrupted service computed from the most recent date of continuous employment. Paid leave may be accumulated to

a maximum of three hundred twenty (320) hours. Employees shall be compensated on an annual basis, at their anniversary of employment for all hours accumulated above three hundred twenty (320). Any full-time employee that works a permanently assigned work week of more than forty (40) hours shall accrue paid leave at the same percentage increase as hours worked above forty (40). Example: A fifty-three (53) hour work week would earn thirty-three percent (33%) more than the normal schedule. (Ord. #575, Feb. 1994, modified, as replaced by Ord. #761, Dec. 2003)

**4-220. Approval of paid leave and donation of leave time.** All requests for scheduling paid leave for other than illness must be submitted for approval to the immediate supervisor at least twenty-four (24) hours in advance. Approval of a request for leave must be given by the supervisor and shall take into consideration the requirements of maintaining adequate service in the department.

(1) Approval of unscheduled paid leave shall be granted for the following reasons, provided the employee shall have sufficient paid leave accumulated:

- (a) Personal illness or disability.
- (b) Illness of a member of the employee's household that requires the employee's personal attention.
- (c) To keep a health care provider's appointment.

(2) Claims under false pretenses for unscheduled paid leave shall be cause for disciplinary action up to and including dismissal. In order to be granted approval for unscheduled paid leave an employee must meet the following conditions:

- (a) Notify the immediate supervisor prior to the beginning of the scheduled workday and the assigned work time.
- (b) Present, as required by the supervisor, a medical certificate signed by a licensed physician certifying that the employee has been incapacitated for work for the period of absence, the nature of the employee's illness or injury, and that the employee is again able to return to work and perform his or her duties; or, other sufficient information to permit reasonable inquiry about such services. Such statement is normally required if the absence is of three (3) consecutive days or longer but may be required at the discretion of the supervisor, with the approval of the city manager, for less than three (3) consecutive days.

Employees may appeal to the city manager for a determination of their entitlement if not in agreement with the decision of the superintendent and/or director.

Employees may during any fiscal year of the city donate to another employee up to four (4) hours of accumulated leave time by providing written notice to the city manager of such donation upon such form as shall be prescribed by the city manager or designee. Under other circumstances as

designated by the city manager or his designee, such as disaster relief, charitable relief for city employees or such similar type of extraordinary circumstances, city employees may donate in any fiscal year of the city up to four (4) hours of accumulated leave and the city shall undertake to convert said accumulated leave of up to four (4) hours to the cash equivalent and make the donation as prescribed by the employee. The donation of the cash equivalent of up to four (4) hours of accumulated leave shall be on such form as shall be prescribed by the city manager or his designee.

All employees hired on or after July 1, 2012 shall not have the right to sell any accumulated leave to the City of East Ridge. (Ord. #575, Feb. 1994, modified, as replaced by Ord. #761, Dec. 2003, and amended by Ord. #872, Feb. 2010, and Ord. #918, June 2012)

**4-221. Bereavement.** An employee may be absent and continue to be paid in case of death in the immediate family of the employee. Bereavement time off is charged to the employee's paid leave after the first three (3) days with pay. (Ord. #575, Feb. 1994, as amended by Ord. #679, March 1999, modified, and replaced by Ord. #730, Feb. 2002, and Ord. #761, Dec. 2003)

**4-222. Occupational disability.** All injuries arising out of and in the course of one's employment shall be governed by the Tennessee Worker's Compensation Law. Employees on occupational disability leave for seven (7) or less working days shall receive full pay from the city and is to be charged to employee's paid leave. If no leave is available, then the employee will not receive any compensation until, at such time, worker's compensation benefits begin. Employees with on-the-job injuries resulting in disability of greater than seven (7) days shall receive such benefits as provided by the Tennessee Worker's Compensation law. (Ord. #575, Feb. 1994, modified, as replaced by Ord. #761, Dec. 2003)

**4-223. Military leave.** Any full-time employee, who enters the Armed Forces of the United States, will be placed on military leave. The city manager shall approve military leave without pay when the employee presents his/her official orders. The employee must apply for reinstatement within the following time frame:

(1) Persons inducted into military service (voluntarily as well as involuntarily): ninety (90) days after release from service.

(2) Reservists ordered to initial period of active duty for training of not less than three (3) consecutive months: thirty-one (31) days after release from active duty.

(3) Reservists ordered to additional periods of active or inactive duty training (voluntarily or involuntarily): Must report to work at the beginning of the next regularly scheduled working period after expiration of last calendar day



necessary to travel from place of training to place of employment (or within a reasonable time if the employee's return is delayed through no fault of his own).

(4) Reservists "called up" (voluntarily as well as involuntarily) for the performance of operational missions under 10 U.S.C. § 673(b) for period of not more than ninety (90) days: thirty-one (31) consecutive days after release from active duty.

The city will comply with federal regulations that provide exceptions to the schedule for individuals who are hospitalized as a result of military service and whose term of hospitalization extends past their discharge dates.

The employee will be reinstated to a position in the current classification plan at least equivalent to his/her former position. His/her salary will be the salary provided under the position classification and compensation plan prevailing at the time of reinstatement or preemployment for the position to which he/she is assigned.

Any full-time employee who is a member of the United States Army Reserve, Navy Reserve, Air Force Reserve, Marine Reserve, National Guard, or any of the Armed Forces of the United States, will be granted military leave for any field training or active duty required (excluding extended active duty) pursuant to provisions in Tennessee Code Annotated, § 8-33-109. Such leave will be granted upon presentation of the employee's official order to the city manager. Compensation for such leave will be for a period not exceeding fifteen (15) working days in any one (1) calendar year, plus such additional days as may result from any call to active state duty pursuant to Tennessee Code Annotated, § 58-1-106. Military leave with pay shall not be charged against the employee's accrued sick leave, vacation, or compensatory credits. However, military time in excess of fifteen (15) working days within any one (1) calendar year may be charged against the employee's vacation leave at the option of the employee. (Ord. #575, Feb. 1994, modified, as replaced by Ord. #761, Dec. 2003)

**4-224. Voting leave.** All employees entitled to vote in national, state, or city elections shall, when necessary, be allowed sufficient time off with pay to exercise this right as determined by the supervisor. The City of East Ridge will comply with Tennessee State Law as set forth in Tennessee Code Annotated, § 2-1-106, which states:

Employer may designate period of permissible absenteeism. Any person entitled to vote in an election held in this state may be absent from any service or employment on the day of the election for a reasonable period of time, not to exceed three (3) hours, necessary to vote during the time the polls are open in the county where he is a resident. A voter who is absent from work to vote in compliance with this section may be subjected to any penalty or reduction in pay for his absence. If the tour of duty of an employee begins three (3) or more hours after the opening of the polls and ends three (3) or more hours before the closing of the polls of the county where he is resident, he may not take time off during this section. The employer may specify the hours during which the employee

may be absent. Request for such as absence may be made to the employer before twelve (12:00) noon of the day before the election.

The leave granted by this section shall be minimum time required to vote. The city may at its discretion verify whether an employee actually voted. If verification of an employee actually voting cannot be made, then compensation for voting leave will be denied for that employee. (Ord. #575, Feb. 1994, modified, as replaced by Ord. #761, Dec. 2003)

**4-225. Administrative leave.** An employee may be placed on administrative leave when an employee is removed from normal duties by the city manager or his or her designee, when considered necessary for proper operation of the city or welfare of the employee. This leave may be with or without pay as determined by the city manager, in his or her sole discretion. In cases when the city manager has placed an employee on unpaid administrative leave, that employee shall no longer continue to accrue paid leave pursuant to § 4-219 of this title 4. (Ord. #575, Feb. 1994, modified, as replaced by Ord. #761, Dec. 2003, and Ord. #832, Jan. 2008)

**4-226. Court and jury leave.** Leave may be authorized in order that employees may serve required court and jury duty, provided that such leave is reported in advance to the supervisor. In order to receive full pay for such leave, the employee must deposit any sums which he or she receives for jury duty with the city. (Ord. #575, Feb. 1994, modified, as replaced by Ord. #761, Dec. 2003)

**4-227. Family and medical leave.** (1) Definitions:

(a) "Eligible employee." Eligible employees are those who have been employed for at least twelve (12) months, who have provided at least one thousand two hundred fifty (1,250) hours of service during the twelve (12) months before leave is requested, and who work at a work site where at least fifty (50) employees are on the payroll (either at that site or within a 75-mile radius).

(b) "Parent." Mother or father of an employee, or an adult who had day to day responsibility for caring for the employee during his or her childhood years in place of the natural parents.

(c) "Son or daughter/child." Biological, adopted, or foster child, a stepchild, legal ward, or child of a person standing in loco parentis, who are the age of eighteen (18) years. Children who are eighteen (18) years or older qualify, if he or she is incapable of self-care because of mental or physical disability.

(d) "Serious health condition." An illness, injury, impairment, or physical or mental condition involving either inpatient care or continuing treatment by a health care provider. Examples of serious health conditions include but are not limited to heart attacks, heart

conditions requiring heart bypass or valve operations, most cancers, back conditions, spinal injuries, severe arthritis, etc.

(2) Leave provisions. (a) An eligible employee may take up to twelve (12) weeks of unpaid leave in a twelve (12) month period for the birth of a child or the placement of a child for adoption or foster care. Leave may also be taken to care for a child, spouse, or a parent who has a serious health condition.

(b) The right to take leave applies equally to male and female employees who are eligible.

(c) Unpaid leave for the purposes of care for a newborn child or a newly placed adopted or foster care child must be taken before the end of the first twelve (12) months following the date of birth or placement.

(d) An expectant mother may take unpaid medical leave upon the birth of the child, or prior to the birth of her child for necessary medical care and if her condition renders her unable to work. Similarly for adoption or foster care, leave may be taken upon the placement of the child or leave may begin prior to the placement if absence from work is required for the placement to proceed.

(e) An employee may take unpaid leave to care for a parent or spouse of any age who, because of a serious mental or physical condition, is in the hospital or other health care facility. An employee may also take leave to care for a spouse or parent of any age who is unable to care for his or her own basic hygiene, nutritional needs, or safety.

(f) Eligible employees, who are unable to perform the functions of the position held because of a serious health condition, may request up to twelve (12) weeks unpaid leave. The term serious health condition is intended to cover conditions or illnesses that affect an employee's health to the extent that he or she must be absent from work on a recurring basis or for more than a few days for treatment or recovery.

(g) Employees requesting medical leave due to their own illness or injury must use any balance of sick leave, annual leave, floating holidays prior to unpaid leave beginning. The combination of sick leave, annual leave, floating holidays and unpaid leave may not exceed twelve (12) weeks. Employees requesting family leave must use any balance of sick leave, annual leave, floating holidays prior to unpaid leave beginning. The combination of annual leave, floating holidays and unpaid leave may not exceed twelve (12) weeks.

(h) During periods of unpaid leave, an employee will not accrue any additional seniority or similar employment benefits during the leave period.

(i) If spouses are employed by the city and wish to take leave for the care of a new child or a sick parent, their aggregate leave is limited to twelve (12) weeks.

(3) Notification and scheduling. (a) An eligible employee must provide the employer at least thirty (30) days advance notice of the need for leave for birth, adoption or planned medical treatment, when the need for leave is foreseeable. This thirty (30) day advance notice is not required in cases of medical emergency or other unforeseen events, such as premature birth, or sudden changes in a patient's condition that require a change in scheduled medical treatment.

(b) Parents who are awaiting the adoption of a child and are given little notice of the availability of the child may also be exempt from this thirty (30) day notice.

(4) Certification. (a) The city reserves the right to verify an employee's request for family/medical leave.

(b) If an employee requests leave because of a serious health condition or to care for a family member with a serious health condition, the employer requires that the request be supported by certification issued by the health care provider of the eligible employee or the family member as appropriate. If the employer has reason to question the original certification, the employer may, at the employer's expense, require a second opinion from a different health care provider chosen by the employer. That health care provider may not be employed by the employer on a regular basis. If a resolution of the conflict cannot be obtained by a second opinion, a third opinion may be obtained from another provider and that opinion will be final and binding.

(c) This certification must contain the date on which the serious health condition began, its probable duration, and appropriate medical facts within the knowledge of the health care provider regarding the condition. The certification must also state the employee's need to care for the son, daughter, spouse, or parent and must include an estimate of the amount of time that the employee is needed to care for the family member.

(d) Medical certifications given will be treated as confidential and privileged information.

(e) An employee will be required to report periodically to the employer the status and the intention of the employee to return to work.

(f) Employees who have taken unpaid leave under this policy must furnish the city with a medical certification from the employee's health care provider that the employee is able to resume work before return is granted.

(5) Maintenance of health and COBRA benefits during unpaid leave.

(a) The city will maintain health insurance benefits, paid by the city for the employee, during periods of unpaid leave without interruption. Any payment for family coverage(s) premiums, or other payroll deductible insurance policies, must be paid by the employee or the benefits may not be continued.

(b) The city has the right to recover from the employee all health insurance premiums paid during the unpaid leave period if the employee fails to return to work after leave. Employees who fail to return to work because they are unable to perform the functions of their job because of their own serious health condition or because of the continued necessity of caring for a seriously ill family member may be exempt from the recapture provision.

(c) Leave taken under this policy does not constitute a qualifying event that entitles an employee to COBRA insurance coverage. However, the qualifying event triggering COBRA coverage may occur, when it becomes clearly known that an employee will not be returning to work, and therefore ceases to be entitled to leave under this policy.

(6) Reduced and intermittent leave. (a) Leave taken under this policy can be taken intermittently or on a reduced leave schedule when medically necessary as certified by the health care provider. Intermittent or reduced leave schedules for routine care of a new child can be taken only with approval of the city. The schedule must be mutually agreed upon by the employee and the city.

(b) Employees on intermittent or reduced leave schedules may be temporarily transferred by the employer to an equivalent alternate position that may better accommodate the intermittent or reduced leave schedule.

(c) Intermittent or reduced leave may be spread over a period of time longer than twelve (12) weeks, but will not exceed the equivalent of twelve (12) workweeks total leave in one twelve (12) month period.

(7) Restoration. (a) Employees who are granted leave under this policy will be reinstated to an equivalent or the same position held prior to the commencement of their leave.

(b) Certain highly compensated key employees, who are salaried and among the ten percent (10%) highest paid employees, may be denied restoration. Restoration may be denied if:

(i) The city shows that such denial is necessary to prevent substantial and grievous economic injury to the city's operations;

(ii) Restoration on such basis at the time the city determines that such injury would occur; and

(iii) In any case in which the leave has commenced, the employee elects not to return to work within a reasonable period of time after receiving such notice.

(8) The twelve (12) month FMLA period. The twelve (12) month period during which an employee is entitled to twelve (12) workweeks of FMLA leave is measured forward from the date the employee's first FMLA leave begins. An employee is entitled to twelve (12) weeks of leave during the twelve (12) month period after the leave begins. The next twelve (12) month period will begin the

first time the employee requests FMLA leave after the completion of the previous twelve (12) month period. (Ord. #575, Feb. 1994, modified, as replaced by Ord. #761, Dec. 2003)

**4-228. Severe weather leave policy.** The closing of city hall due to severe weather and the responsibility of employees to report to work under such conditions and to the uniform method for treating absences and lateness due to severe weather, shall be as follows:

(1) In the event of severe weather, every city employee shall make every attempt to report to work as usual.

(2) Each employee must inform his/her supervisor of his/her absence and the reason for it in the same manner used for any other absence. The employee shall report to work immediately should weather conditions change allowing safe transportation to his/her worksite.

(3) If an employee is unfavorably late due to severe weather conditions, the employee will not lose paid time unless the delay is longer than sixty (60) minutes. Delays of longer than sixty (60) minutes but less than one-half (1/2) day may be charged to paid or compensatory leave taken without pay, or may be made-up with the approval of the supervisor.

(4) If the employee reports to work and is not needed or the department has been closed, the employee shall be paid for four (4) hours and the remainder charged to compensatory, paid, or leave without pay, or may be made up with the approval of the supervisor.

(5) If the needs of the city require it, an employee may be temporarily assigned to another department at employee's existing rate of pay. (Ord. #575, Feb. 1994, modified, as replaced by Ord. #761, Dec. 2003)

**4-229. Holiday bonus.** The city manager shall review all funds of the city to determine a holiday bonus for all employees. Subject to availability of funds, the city manager shall establish an amount for a holiday bonus for each full-time employee, as well as, each part-time employee and public safety volunteers. The proposed holiday bonus shall then be submitted to the council for approval. Upon approval, holiday bonuses will be issued through payroll in the first pay period of December. (Ord. #575, Feb. 1994, modified, as replaced by Ord. #761, Dec. 2003)

**4-230. Employee educational assistance program.** (1) Purpose. The employee educational assistance program is established to share the tuition expenses of employees who want to improve his/her knowledge, abilities and potential for advancement through continuing education.

(2) Eligibility. Regular full-time employees, who have completed at least one (1) year of continuous service and wish to continue their education under this program, should discuss this matter with their department head to obtain approval before submitting an application for assistance to the personnel department and city manager for approval.

(3) Policy. The following provisions are established to govern the administration of the city's employee educational assistance program.

(a) Applications for assistance may only be made for attendance at a school of recognized educational standing, such as a high school, college, university, correspondence or vocational/technical school. Employees may be required to furnish information as to the accreditation of an institution.

(b) Eligible employees seeking assistance and meeting all the requirements for participation may receive full reimbursement of tuition for courses directly related to their job and one-half (1/2) reimbursement of tuition for courses indirectly related to their job. The department head shall recommend to the city manager whose decision shall be final as to whether the course of study is directly or indirectly related.

(c) Applications for assistance will not be considered if the employee is receiving funds for the same course work from any other source or if the course work is available through in-service training conducted by city or other approved agency. The following are additional directives for this item.

(i) In the case of partial funding from a source other than the city, the city may, upon approval of the city manager, reimburse the remaining tuition expense up to the limits established herein.

(ii) Should an employee knowingly accept assistance from the city while at the same time receiving assistance from another source and not notify the city of such, he or she will be ineligible for any further assistance from the city and any funds paid to the employee receiving assistance from the other source shall be deducted from his or her salary.

(d) This program is offered to assist employees who are pursuing additional training/education on their own time. The city realizes however that certain courses are offered only during working hours and will consider request for such attendance on a case by case basis. Employment responsibilities shall come first and approval to attend during work hours will be an exception as opposed to a practice. Any employee granted an exception will have to arrange with his supervisor to work an equivalent amount during each pay period.

(e) An employee who leaves city service during the course shall not be entitled to reimbursement.

(f) The city will not approve a request for assistance from an employee who is the subject of disciplinary action at the time of the request.

(g) Reimbursement of courses is subject to the successful completion of the course(s) by the employee with a grade of satisfactory or no less than a "C" (2.0 on a 4.0 scale).

(h) Request for assistance shall not be considered for more than two (2) courses per quarter, semester or school term.

(i) Employees who receive reimbursement under this policy for two (2) or more years (4 semesters, 6 quarters, or 16 months in a vocational/technical school) shall be required to remain in the employment of the city for at least one (1) full year from the date of course completion or any of the just mentioned participation periods are met.

(4) Procedures. The following procedures allow an employee to know in advance whether or not a selected course will be approved for full or half tuition assistance, assuming the course is completed with a satisfactory grade.

(a) An employee obtains a tuition reimbursement application form from the personnel office, completes the form in duplicate and forwards the application to his/her department head.

(b) The department head, after making his recommendation, sends the application (in duplicate) to the city manager's office.

(c) The city manager approves or disapproves the application. One (1) copy is returned to the employee, the other is retained by the personnel department.

(d) Within ten (10) days of completion of the course and after final grade(s) has been received, the employee submits his copy of the approval application to the city manager's office along with his grade and tuition/registration receipts.

(e) The city manager after verification of grades and receipts will forward the same to the finance department for payment. (Ord. #575, Feb. 1994, modified, as replaced by Ord. #761, Dec. 2003)

**4-231. Longevity pay.** All full-time employees who have served continuously ten (10) or more years shall receive, upon their retirement (a voluntary termination of employment) from employment with the city, longevity pay according to the following schedule:

Total Continuous Service	Awarded Value
Beginning the 10th year into the 14th year	2 days pay
Beginning the 15th year into the 19th year	4 days pay
Beginning the 20th year into the 24th year	6 days pay
Beginning the 25th year and thereafter	10 days pay

(Ord. #575, Feb. 1994, modified, as replaced by Ord. #761, Dec. 2003)



**4-232. Nepotism.** In no event shall a supervisor show any favoritism to any immediate family member. Any supervisor that shows favoritism toward an immediate family member may be disciplined up to and including termination.

Within the City of East Ridge no employees who are relatives shall be placed within the same direct line of supervision whereby one (1) relative is responsible for supervising the job performance or work activities of another relative; provided, that to the extent possible, the provisions of this chapter shall not be construed to prohibit two (2) or more such relatives from working within the same state governmental entity.

Present employees who were employed by the City of East Ridge prior to January 23, 2003, and were in violation of this section as of January 23, 2003 are exempt from this nepotism rule as it pertains to the violation that existed as of January 23, 2003. These requirements apply also to those positions listed as exempt. (Ord. #575, Feb. 1994, modified, as replaced by Ord. #761, Dec. 2003)

**4-233. Narcotics and intoxicating liquors.** (1) Purpose. The City of East Ridge recognizes that the use and abuse of drugs and alcohol in today's society is a serious problem that may involve the workplace. It is the intent of the City of East Ridge to provide all employees with a safe and secure workplace in which each person can perform his/her duties in an environment that promotes individual health and workplace efficiency. Employees of the City of East Ridge are public employees and must foster the public trust by preserving employee reputation for integrity, honesty, and responsibility.

To provide a safe, healthy, productive, and drug-free working environment for its employees to properly conduct the public business, the City of East Ridge has adopted this drug and alcohol testing policy effective December 12, 2002. This policy complies with the Drug-Free Workplace Act of 1988, which ensures employees the right to work in an alcohol and drug-free environment and to work with persons free from the effects of alcohol and drugs; Federal Highway Administration (FHWA) rules, which require drug and alcohol testing for persons required to have a commercial driver's license (CDL); Division of Transportation (DOT) rules, which include procedures for urine drug testing and breath alcohol testing; and the Omnibus Transportation Employee Testing Act of 1991, which required alcohol and drug testing of safety-sensitive employees in the aviation, motor carrier, railroad, pipeline, commercial marine and mass transit industries. In the case of this policy, the Omnibus Transportation Employee Testing Act of 1991 is most significant with its additional requirement of using the "split specimen" approach to drug testing, which provides an extra safeguard for employees. The types of tests required are: pre-employment, transfer, reasonable suspicion, post-accident/post-incident, random, return-to-duty, and follow-up.

It is the policy of the City of East Ridge that the use of drugs by its employees and impairment in the workplace due to drugs and/or alcohol are prohibited and will not be tolerated. Engaging in prohibited and/or illegal

conduct may lead to termination of employment. Prohibited and/or illegal conduct includes but is not limited to:

- (a) Being on duty or performing work in or on city property while under the influence of drugs and/or alcohol;
- (b) Engaging in the manufacture, sale, distribution, use, or unauthorized possession of (illegal) drugs at any time and of alcohol while on duty or while in or on city property;
- (c) Refusing or failing a drug and/or alcohol test administered under this policy;
- (d) Providing an adulterated, altered, or substituted specimen for testing; use of alcohol while on-call for duty; and
- (e) Use of alcohol or drugs within eight (8) hours following an accident/incident if the employee's involvement has not been discounted as a contributing factor in the accident/incident or until the employee has successfully completed drug and/or alcohol testing procedures.

This policy does not preclude the appropriate use of legally prescribed medication that does not adversely affect the mental, physical, or emotional ability of the employee to safely and efficiently perform his/her duties. It is the employee's responsibility to inform the proper supervisory personnel of his/her use of such legally prescribed medication before the employee goes on duty or performs any work.

In order to educate the employees about the dangers of drug and/or alcohol abuse, the city shall sponsor an information and education program for all employees and supervisors. Information will be provided on the signs and symptoms of drug and/or alcohol abuse; the effects of drug and/or alcohol abuse on an individual's health, work and personal life; the city's policy regarding drugs and/or alcohol; and the availability of counseling. The city manager has been designated as the municipal official responsible for answering questions regarding this policy and its implementation.

All City of East Ridge property may be subject to inspection at any time without notice. There should be no expectation of privacy in such property. Property includes, but is not limited to, vehicles, desks, containers, files and lockers.

(2) Scope. This policy applies to full-time, part-time, temporary and volunteer employees of the City of East Ridge. This policy also applies to all applicants for employment with the City of East Ridge.

(3) Consent form. Before a drug and/or alcohol test is administered, employees and applicants will be asked to sign a consent form authorizing the test and permitting release of test results to the laboratory, Medical Review Officer (MRO), city manager or his/her designee. The consent form shall provide space for employees and applicants to acknowledge that they have been notified of the city's drug and alcohol testing policy.

The consent form shall set forth the following information:

- (a) The procedure for confirming and verifying an initial positive test result;
- (b) The consequences of a verified positive test result; and
- (c) The consequences of refusing to undergo a drug and/or alcohol test.

The consent form also provides authorization for certified or licensed attending medical personnel to take and have analyzed appropriate specimens to determine if drugs or alcohol were present in the employee's system.

(4) Compliance with substance abuse policy. Compliance with this substance abuse policy is a condition of employment. The failure or refusal by an applicant or employee to cooperate fully by signing necessary consent forms or other required documents or the failure or refusal to submit to any test or any procedure under this policy in a timely manner will be grounds for refusal to hire or for termination. The submission by an applicant or employee of a urine sample that is not his/her own or is adulterated shall be grounds for refusal to hire or for termination.

(5) General rules. These are the general rules governing the drug and alcohol testing program for the City of East Ridge:

(a) City employees shall not take or be under the influence of any drugs unless prescribed by the employee's licensed physician. Employees who are required to take prescription and/or over-the-counter medications shall notify the MRO before the employees go on duty.

(b) City employees are prohibited from engaging in the manufacture, sale, distribution, use, or unauthorized possession of illegal drugs at any time and of alcohol while on duty or while in or on city property.

(c) All City of East Ridge property is subject to inspection at any time without notice. There should be no expectation of privacy in or on such property. City property includes, but is not limited to, vehicles, desks, containers, files and lockers.

(d) Any employee convicted of violating a criminal drug statute shall inform the director of his/her department of such conviction (including pleas of guilty and nolo contendere) within five (5) days of the conviction occurring. Failure to so inform the city subjects the employee to disciplinary action up to and including termination for the first offense. The city will notify the federal contracting officer pursuant to applicable provisions of the Drug-Free Workplace Act and the Omnibus Transportation Employee Testing Act.

(6) Drug testing. An applicant or employee must carry and present a current and recent photo ID to appropriate personnel during testing. Failure to present a photo ID is equivalent to refusing to take the test. Employees and applicants may be required to submit to drug testing under six (6) separate conditions.

(a) Types of tests. (i) Pre-employment. All applicants who have received a conditional offer of employment with the City of East Ridge must take a drug test before receiving a final offer of employment.

(ii) Transfer. Employees transferring to another position with the city which requires a CDL or to a safety-sensitive position shall undergo drug testing.

(iii) Post-accident/post-incident testing. Following any workplace accident/incident determined by supervisory personnel of the City of East Ridge to have resulted in significant property or environmental damage or in significant personal injury, including but not limited to a fatality or human injury requiring medical treatment, each employee whose performance either contributed to the accident/incident or cannot be discounted as a contributing factor to the accident/incident or who is reasonably suspected of possible drug use as determined during a routine post-accident/post-incident investigation or who receives a citation for a moving violation arising from the accident, will be required to take a post-accident/post-incident drug test.

Post-accident/post-incident testing shall be carried out within two (2) hours following the accident/incident. The employee's supervisor must document reasons why if employee is not taken for testing within two (2) hours.

Urine collection for post-accident/post-incident testing shall be monitored or observed by same-gender collection personnel at the established collection site(s).

In instances where post-accident/post-incident testing is to be performed, the City of East Ridge reserves the right to direct the MRO to instruct the designated laboratory to perform testing on submitted urine specimens for possible illegal/illegitimate substances.

Any testing for additional substances listed under the Tennessee Drug Control Act of 1989 as amended shall be performed at the urinary cut-off level that is normally used for those specific substances by the laboratory selected.

(A) Post-accident/post-incident testing for ambulatory employees. Following all workplace accidents/incidents where drug testing is to be performed, unless otherwise specified by the department head, affected employees who are ambulatory will be taken by a supervisor or designated personnel of the City of East Ridge to the designated urine specimen collection site within two (2) hours following the accident.

In the event of an accident/incident occurring after regular work hours, the employee(s) will be taken to the designated urine specimen collection site within two (2) hours. No employee shall consume drugs prior to completing the post-accident/post-incident testing procedures.

No employee shall delay his/her appearance at the designated collection site(s) for post-accident/post-incident testing. Any unreasonable delay in providing specimens for drug testing shall be considered a refusal to cooperate with the substance abuse program of the City of East Ridge and shall result in administrative action up to and including termination of employment.

(B) Post-accident/post-incident testing for injured employees. An affected employee who is seriously injured, non ambulatory and/or under professional medical care following a significant accident/incident shall consent to the obtaining of specimens for drug testing by qualified, licensed attending medical personnel and consent to the testing of the specimens.

Consent shall also be given for the attending medical personnel and/or medical facility (including hospitals) to release to the MRO of the City of East Ridge appropriate and necessary information or records that would indicate only whether or not specified prohibited drugs (and what amounts) were found in the employee's system. Consent shall be granted by each employee at the implementation date of the substance abuse policy of the City of East Ridge or upon hiring following the implementation date.

Post-accident/post-incident urinary testing may be impossible for unconscious, seriously injured, or hospitalized employees. If this is the case, certified or licensed attending medical personnel shall take and have analyzed appropriate specimens to determine if drugs were present in the employee's system. Only an accepted method for collecting specimens will be used. Any failure to do post-accident/post-incident testing within two (2) hours must be fully documented by the attending medical personnel.

(iv) Testing based on reasonable suspicion. A drug test is required for each employee where there is reasonable suspicion to believe the employee is using or is under the influence of drugs and/or alcohol.

The decision to test for reasonable suspicion must be based on a reasonable and articulate belief that the employee is using or has

used drugs. This belief should be based on recent physical, behavioral, or performance indicators of possible drug use. One (1) supervisor who has received drug detection training that complies with DOT regulations must make the decision to test and must observe the employee's suspicious behavior.

Supervisory personnel of the City of East Ridge making a determination to subject any employee to drug testing based on reasonable suspicion, shall document their specific reasons and observations in writing to the city manager within twenty-four (24) hours of the decision to test and before the results of the urine drug tests are received by the department. Urine collection for reasonable suspicion testing shall be monitored or observed by same gender collection personnel.

(v) Random testing. All safety-sensitive employees and employees possessing or wishing to obtain a CDL are subject to random urine drug testing.

It is the policy of the City of East Ridge to annually random test for drugs at least fifty percent (50%) of the total number of drivers possessing or obtaining a CDL and ten percent (10%) of the total number of safety-sensitive positions.

A minimum of fifteen (15) minutes and a maximum of two (2) hours will be allowed between notification of an employee's selection for random urine drug testing and the actual presentation for specimen collection.

Random donor selection dates will be unannounced with unpredictable frequency. Some may be tested more than once each year while others may not be tested at all, depending on the random selection.

If an employee is unavailable (i.e., vacation, sick day, out of town, work-related causes, etc.) to produce a specimen on the date random testing occurs, the City of East Ridge may omit that employee from that random testing or await the employee's return to work.

(vi) Return-to-duty and follow-up. Any employee of the City of East Ridge, who has violated the prohibited drug conduct standards and is allowed to return to work, must submit to a return-to-duty test. Follow-up tests will be unannounced, and at least six (6) tests will be conducted in the first twelve (12) months after an employee returns to duty. Follow-up testing may be extended for up to sixty (60) months following return to duty.

The employee will be required to pay for his or her return-to-duty and follow-up tests accordingly.

Testing will also be performed on any safety-sensitive employee and any employee possessing a CDL returning from

leave or special assignment in excess of six (6) months. In this situation, the employee will not be required to pay for the testing.

(7) Prohibited drugs. All drug results will be reported to the MRO. If verified by the MRO, they will be reported to the city manager. The following is a list of drugs for which tests will be routinely conducted (see Appendix A<sup>1</sup> for cut-off levels):

- (a) Amphetamines;
- (b) Marijuana;
- (c) Cocaine;
- (d) Opiates;
- (e) Phencyclidine (PCP);
- (f) Alcohol; and
- (g) Depressants.

The city may test for any additional substances listed under the Tennessee Drug Control Act of 1989.

(8) Drug testing collection procedures. Testing will be accomplished as non-intrusively as possible. Affected employees, except in cases of random testing, will be taken by a supervisor or designated personnel of the City of East Ridge to a drug test collection facility selected by the City of East Ridge (see Appendix B), where a urine sample will be taken from the employee in privacy. The urine sample will be immediately sealed by personnel overseeing the specimen collection after first being examined by these personnel for signs of alteration, adulteration, or substitution. The sample will be placed in a secure mailing container. The employee will be asked to complete a chain-of-custody form to accompany the sample to a laboratory selected by the City of East Ridge to perform the analysis on collected urine samples.

(a) Drug testing laboratory standards and procedures. All collected urine samples will be sent to a laboratory that is certified and monitored by the Federal Department of Health and Human Services (DHHS) (see Appendix C<sup>2</sup>).

As specified earlier, in the event of an accident/incident occurring after regular work hours, the supervisor or designated personnel shall take the employee(s) to the testing site within two (2) hours where proper collection procedures will be administered.

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<sup>1</sup>For all schedules and appendices reflected in this section relative to drug testing, etc., please refer to Ordinance #739 as the same may be amended from time to time.

<sup>2</sup>For all schedules and appendices reflected in this section relative to drug testing, etc., please refer to Ordinance #739 as the same may be amended from time to time.

The Omnibus Act requires that drug testing procedures include split specimen procedures. Each urine specimen is subdivided into two (2) bottles labeled as a "primary" and a "split" specimen. Both bottles are sent to a laboratory. Only the primary specimen is opened and used for the urinalysis.

The split specimen bottle remains sealed and is stored at the laboratory. If the analysis of the primary specimen confirms the presence of drugs, the employee has seventy-two (72) hours to request sending the split specimen to another DHHS certified laboratory for analysis. The employee will be required to pay for his or her split specimen test(s). In the event of conflicting results, the employer shall pay for an additional test.

For the employee's protection, the results of the analysis will be confidential except for the testing laboratory. After the MRO has evaluated a positive test result, the employee will be notified and the MRO will notify the city manager or his designee.

(b) Reporting and reviewing. The City of East Ridge shall designate a MRO to receive, report and file testing information transmitted by the laboratory. This person shall be a licensed physician with knowledge of substance abuse disorders (see Appendix C).

(i) The laboratory shall report test results only to the designated MRO, who will review them in accordance with accepted guidelines and the procedures adopted by the City of East Ridge.

(ii) Reports from the laboratory to the MRO shall be in writing or by fax. The MRO may talk with the employee by telephone upon exchange of acceptable identification.

(iii) The testing laboratory, collection site personnel, and MRO shall maintain security over all the testing data and limit access to such information to the following: the respective department head, the city manager or his designee and the employee.

(iv) Neither the City of East Ridge, the laboratory, nor the MRO shall disclose any drug test results to any other person except under written authorization from the affected employee, unless such results are necessary in the process of resolution of accident/incident investigations, requested by court order, or required to be released to parties (i.e., DOT, the Tennessee Department of Labor, etc.) having legitimate right-to-know as determined by the city attorney.

(9) Alcohol testing. An applicant or employee must carry and present a current and recent photo ID to appropriate personnel during testing. Failure to present a photo ID is equivalent to refusing to take the test. Employees and



applicants may be required to submit to alcohol testing under six (6) separate conditions:

- (a) Types of tests. (i) Post-accident/post-incident testing. Following any workplace accident/incident determined by supervisory personnel of the City of East Ridge to have resulted in significant property or environmental damage or in significant personal injury, including but not limited to a fatality or human injury requiring medical treatment, each employee whose performance either contributed to the accident/incident or cannot be discounted as a contributing factor to the accident/incident and who is reasonably suspected of possible alcohol use as determined during a routine post-accident/post-incident investigation or who receives a citation for a moving violation arising from the accident will be required to take a post-accident/post-incident alcohol test.

Post accident/post-incident testing shall be carried out within two (2) hours following the accident/incident. The employee's supervisor must document reasons why if employee is not taken for testing within two (2) hours.

(A) Post-accident/post-incident testing for ambulatory employees. Following all workplace accidents/incidents where alcohol testing is to be performed, unless otherwise specified by the department head, affected employees who are ambulatory will be taken by a supervisor or designated personnel of the City of East Ridge to the designated breath alcohol test site for a breath test within two (2) hours following the accident/incident. In the event of an accident/incident occurring after regular work hours, the employee(s) will be taken to the testing site within two (2) hours. No employee shall consume alcohol prior to completing the post-accident/post-incident testing procedure.

No employee shall delay his/her appearance at the designated collection site(s) for post-accident/post-incident testing. Any unreasonable delay in appearing for alcohol testing shall be considered a refusal to cooperate with the substance abuse program of the City of East Ridge and shall result in administrative action up to and including termination of employment.

(B) Post-accident/post-incident testing for injured employees. An affected employee who is

seriously injured, non-ambulatory, and/or under professional medical care following a significant accident/incident shall consent to the obtaining of specimens for alcohol testing by qualified, licensed attending medical personnel and consent to specimen testing. Consent shall also be given for the attending medical personnel and/or medical facility (including hospitals) to release to the MRO of the City of East Ridge, appropriate and necessary information or records that would indicate only whether or not specified prohibited alcohol (and what amount) was found in the employee's system. Consent shall be granted by each employee at the implementation date of the substance abuse policy of the City of East Ridge or upon hiring following the implementation date.

Post-accident/post-incident breath alcohol testing may be impossible for unconscious, seriously injured, or hospitalized employees. If this is the case, certified or licensed attending medical personnel shall take and have analyzed appropriate specimens to determine if alcohol was present in the employee's system. Only an accepted method for collecting specimens will be used. Any failure to do post-accident/post-incident testing within two (2) hours must be fully documented by the attending medical personnel.

(ii) Testing based on reasonable suspicion. An alcohol test is required for each employee where there is reasonable suspicion to believe the employee is using or is under the influence of alcohol.

The decision to test for reasonable suspicion must be based on a reasonable and articulate belief that the employee is using or has used alcohol. This belief should be based on recent, physical, behavioral, or performance indicators of possible alcohol use. One (1) supervisor who has received alcohol detection training that complies with DOT regulation must make the decision to test and must observe the employee's suspicious behavior. Supervisory personnel of the City of East Ridge making determination to subject any employee to alcohol testing based on reasonable suspicion shall document their specific reasons and observations in writing to the city manager within twenty-four (24) hours of the decision to test and before the results of the tests are received by the department.

(iii) Random testing. All safety-sensitive employees and employees possessing or wishing to obtain a CDL are subject to random urine drug testing.

It is the policy of the City of East Ridge to annually random test for alcohol at least twenty-five percent (25%) of the total number of drivers possessing or obtaining a CDL or at least ten percent (10%) of the total number of safety sensitive employees.

A minimum of fifteen (15) minutes and a maximum of two (2) hours will be allowed between notification of an employee's selection for random alcohol testing and the actual presentation for testing.

Random test dates will be unannounced with unpredictable frequency. Some employees may be tested more than once each year while others may not be tested at all, depending on the random selection.

If an employee is unavailable (i.e., vacation, sick days, out of town, work-related causes, etc.) to be tested on the date random testing occurs, the City of East Ridge may omit that employee from that random testing or await the employee's return to work.

(iv) Return-to-duty and follow-up. Any employee of the City of East Ridge who has violated the prohibited alcohol conduct standards must submit to a return-to-duty test. Follow-up tests will be unannounced, and at least six (6) tests will be conducted in the first twelve (12) months after an employee returns to duty. Follow-up testing may be extended for up to sixty (60) months following return to duty.

The employee will be required to pay for his or her return-to-duty and follow-up tests accordingly.

Testing will also be performed on any safety-sensitive employee and any employee possessing a CDL returning from leave or special assignment in excess of six (6) months. In this situation, the employee will not be required to pay for the testing.

(b) Alcohol testing procedures. All breach alcohol testing conducted for the City of East Ridge shall be performed using evidential breath testing (EBT) equipment and personnel approved by the National Highway Traffic Safety Administration (NHTSA).

Alcohol testing is to be performed by a qualified technician as follows:

(i) Step one. An initial breath alcohol test will be performed using a breath alcohol analysis device approved by the NHTSA. If the measured result is less than 0.02 percent breath alcohol level (BAL ), the test shall be considered negative. If the result is greater or equal to 0.04 percent BAL, the result shall be recorded and witnessed, and the test shall proceed to Step two.

(ii) Step two. Fifteen (15) minutes shall be allowed to pass following the completion of Step one above. Before the confirmation test or Step two is administered for each employee, the breath alcohol technician shall insure that the evidential breath-testing device registers 0.00 on an air blank. If the reading is greater than 0.00, the breath alcohol technician shall conduct one more air blank. If the reading is greater than 0.00, testing shall not proceed using that instrument; however, testing may proceed on another instrument. Then Step one shall be repeated using a new mouthpiece and either the same or equivalent but different breath analysis device.

The breath alcohol level detected in Step two shall be recorded and witnessed.

If the lower of the breath alcohol measurements in Step one and Step two is 0.04 percent or greater, the employee shall be considered to have failed the breath alcohol test. Failure of the breath alcohol test shall result in administrative action by proper officials of the City of East Ridge, up to and including termination of employment.

Any breath level found upon analysis to be between 0.02 percent BAL and 0.04 percent BA shall result in the employee's removal from duty without pay for a minimum of twenty-four (24) hours. In this situation, the employee must be retested by breath analysis and found to have a BAL of up to 0.02 percent before returning to duty with the City of East Ridge.

All breath alcohol test results shall be recorded by the technician and shall be witnessed by the tested employee and by a supervisory employee of the City of East Ridge, when possible. The completed breath alcohol test form shall be submitted to the city manager or his designee.

(10) Education and training. (a) Supervisory personnel who will determine reasonable suspicion testing. Training supervisory personnel who will determine whether an employee must be tested based on reasonable suspicion will include, at the minimum, two (2) sixty (60) minute periods of training on the specific, contemporaneous, physical, behavioral, and performance indicators of both probably drug use and alcohol use. One (1) sixty (60) minute period will be for drugs and one (1) will be for alcohol.

The City of East Ridge will sponsor a drug-free awareness program for all employees.

(b) Distribution of information. The minimal distribution of information for all employees will include the display and distribution of:

(i) Informational material on the effects of drug and alcohol abuse;

(ii) An existing community services hotline number, available drug counseling, rehabilitation, and employee assistance program for employee assistance;

(iii) The City of East Ridge policy regarding the use of prohibited drugs and/or alcohol; and

(iv) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace.

(11) Consequences of a confirmed positive drug and/or alcohol test result and/or verified positive drug and/or alcohol test result. Job applicants will be denied employment with the City of East Ridge if their initial positive pre-employment drug and alcohol test results have been confirmed/verified.

Job applicants will be denied employment with the City of East Ridge if their initial positive pre-employment drug and alcohol test results have been confirmed/verified. If a current employee's positive drug and alcohol test result has been confirmed, the employee is subject to immediate removal from any safety-sensitive function and may be subject to disciplinary action up to and including termination. The city may consider the following factors in determining the appropriate disciplinary response: the employee's work history, length of employment, current work assignment, current job performance, and existence of past disciplinary actions. However, the city reserves the right to allow employees to participate in an education and/or treatment program approved by the city employee assistance program as an alternative to or in addition to disciplinary action. If such a program is offered and accepted by the employee, then the employee must satisfactorily participate in and complete the program as a condition of continued employment. This program will be at the expense of the employee.

Employees temporarily removed from their position in violation of this policy for the first offense must utilize any vacation, sick time, or earned holidays. In the event that there are no leave hours remaining, the employee will be placed on temporary unpaid suspension and may use any accumulated compensatory time. No disciplinary action may be taken pursuant to this drug policy against employees who voluntarily identify themselves as drug users, obtain counseling and rehabilitation through the city's employee assistance program or other program sanctioned by the city, and thereafter refrain from violating the city's policy on drug and alcohol abuse. However, voluntary identification will not prohibit disciplinary action for the violation of city personnel policy and regulations, nor will it relieve the employee of any requirements for return-to-duty testing.

Refusing to submit to an alcohol or controlled substances test means that an employee:

(a) Fails to provide adequate breath for testing without a valid medical explanation after he or she has received notice of the requirement for breath testing in accordance with the provisions of this part;

(b) Fails to provide adequate breath for testing with a valid medical explanation after he or she has received notice of the requirement for urine testing in accordance with the provisions of this part; or

(c) Engages in conduct that clearly obstructs the testing process.

In either case the physician or breath alcohol technician shall provide a written statement to the city indicating a refusal to test.

(12) Voluntary disclosure of drug and/or alcohol use. In the event that an employee of the City of East Ridge is dependent upon or an abuser of drugs and/or alcohol and sincerely wishes to seek professional medical care, that employee should voluntarily discuss his/her problem with the respective department head in private.

Such voluntary desire for help with a substance problem will be honored by the City of East Ridge. If substance abuse treatment is required, the employee will be removed from active duty pending completion of the treatment. Substance abuse treatment will be at the employee's expense.

Affected employees of the City of East Ridge may be allowed up to thirty (30) consecutive calendar days for initial substance abuse treatment as follows:

(a) The employee must use all vacation, sick and compensatory time available.

(b) In the event accumulated vacation, sick and compensatory time is insufficient to provide the medically prescribed and needed treatment up to a maximum of thirty (30) consecutive calendar days, the employee will be provided unpaid leave for the difference between the amount of accumulated leave and the number of days prescribed and needed for treatment up to the maximum thirty (30) day treatment period. Voluntary disclosure must occur before an employee is notified of, or otherwise becomes subject to, a pending drug and/or alcohol test.

Prior to any return-to-duty consideration of an employee following voluntary substance abuse treatment, the employee shall obtain a return-to-duty recommendation from the Substance Abuse Professional (SAP) of the City of East Ridge. The SAP may suggest conditions of reinstatement of the employee that may include after-care and return-to-duty and/or random drug and alcohol testing requirements. The respective department head and city manager of the City of East Ridge will consider each case individually and set forth final conditions of reinstatement to active duty. The conditions of reinstatement must be met by the employee. Failure of the employee to complete treatment or follow after-care conditions, or subsequent failure of any drug or alcohol test under this policy will result in administrative action up to and including termination of employment.

These provisions apply to voluntary disclosure of a substance abuse problem by an employee of the City of East Ridge. Voluntary disclosure provisions do not apply to applicants. Employees found positive during drug

and/or alcohol testing under this policy are subject to administrative action up to and including termination of employment as specified elsewhere in this policy.

(13) Exceptions. This policy does not apply to possession, use, or provision of alcohol and/or drugs by employees in the context of authorized work assignments (i.e., undercover police enforcement, intoximeter demonstrations). In all such cases, it is the individual employee's responsibility to ensure that job performance is not adversely affected by the possession, use or provision of alcohol.

(14) Modification of policy. This statement of policy may be revised by the City of East Ridge at any time to comply with applicable federal and state regulations that may be implemented, to comply with judicial rulings, or to meet any changes in the work environment changes in the Drug and Alcohol Testing Policy of the City of East Ridge.

(15) Definitions. For purposes of the drug and alcohol testing policy, the following definitions are adopted:

(a) "Alcohol." The intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols including methyl or isopropyl alcohol.

(b) "Alcohol concentration." The alcohol in a volume of breath expressed in terms of grams of alcohol per 210 liters of breath as indicated by a breath test.

(c) "Alcohol use." The consumption of any beverage, mixture, or preparation, including any medication containing alcohol.

(d) "Applicant." Any person who has on file an application for employment or any person who is otherwise being considered for employment or transfer to the police department, fire department, or to a position requiring a Commercial Driver's License (CDL) being processed for employment. For the purposes of this policy, an applicant may also be a uniformed employee who has applied for and is offered a promotion or who has been selected for a special assignment; a non-uniformed employee who is offered a position as a uniformed employee; or an employee transferring to or applying for a position requiring a CDL.

(e) "Breath Alcohol Technician (BAT)." An individual who instructs and assists individuals in the alcohol testing process and operates an Evidential Breath-Testing device (EBT).

(f) "Chain of custody." The method of tracking each urine specimen to maintain control from initial collection to final disposition for such samples and accountability at each state of handling, testing, storing and reporting.

(g) "Collection site." A place where applicants or employees present themselves to provide, under controlled conditions, a urine specimen that will be analyzed for the presence of alcohol and/or drugs.

Collection site may also include a place for the administration of a breath analysis test.

(h) "Collection site personnel." A person who instructs donors at the collection site.

(i) "Commercial Driver's License (CDL)." A motor vehicle driver's license required to operate a Commercial Motor Vehicle (CMV).

(j) "Commercial Motor Vehicle (CMV)." Any vehicle or combination of vehicles meeting the following criteria: weighing more than twenty-six thousand (26,000) pounds; designed to transport more than fifteen (15) passengers; transporting hazardous materials required by law to be placarded, regardless of weight; and/or classified as a school bus.

(k) "Confirmation test." In drug testing, a second analytical procedure that is independent of the initial test to identify the presence of a specific drug or metabolite that uses a different chemical principle from that of the initial test to ensure reliability and accuracy. In breath alcohol testing, a second test following an initial test with a result of 0.02 or greater that provides quantitative date of alcohol concentration.

(l) "Confirmed positive result." The presence of an illicit substance in the pure form or its metabolites at or above the cutoff level specified by the National Institute of Drug Abuse identified in two (2) consecutive tests that utilize different test methods and that was not determined by the appropriate medical, scientific, professional testing, or forensic authority to have been caused by an alternate medical explanation or technically insufficient data. An EBT result equal to or greater than 0.02 is considered a positive result.

(m) "Consortium." An entity, including a group or association of employers or contractors, which provides alcohol or controlled substances testing as required by this part or other DOT alcohol or drug testing rules and that acts on behalf of the employers.

(n) "Department director." The director or chief of a city department or his/her designee. The designee may be an individual who acts on behalf of the director to implement and administer these procedures.

(o) "DHHS." The federal Department of Health and Human Services or any designee of the secretary, Department of Health and Human Services.

(p) "DOT agency." An agency of the United States Department of Transportation administering regulations related to alcohol and/or drug testing. For the City of East Ridge, the Federal Highway Administration (FHWA) is the DOT agency.

(q) "Driver." Any person who operates a commercial motor vehicle.

(r) "EAP." Employee Assistance Program.



(s) "Employee." An individual currently employed by the City of East Ridge.

(t) "Evidential Breath Testing (EBT) device." An instrument approved by the National Highway Traffic Safety Administration (NHTSA) for the evidential testing of breath and placed on NHTSA's "Conforming Products List of Evidential Breath Measurement Devices."

(u) "FHWA." Federal Highway Administration.

(v) "Initial test." In drug testing, an immunoassay test to eliminate negative urine specimens from further analysis. In alcohol testing, an analytic procedure to determine whether an employee may have a prohibited concentration of alcohol in a breath specimen.

(w) "Medical Review Officer (MRO)." A licensed physician (medical doctor or doctor of osteopathy) responsible for receiving laboratory results generated by an employer's drug testing program who has knowledge of substance abuse disorders and has appropriate medical training to interpret and evaluate an individual's confirmed positive test result together with his/her medical history and any other relevant biomedical information.

(x) "Negative result." The absence of an illicit substance in the pure form or its metabolites in sufficient quantities to be identified by either an initial test or confirmation test.

(y) "NHTSA." National Highway and Traffic Safety Administration.

(z) "Refuse to submit." Refusing to submit to an alcohol or controlled substance test means that a driver:

(i) Fails to provide adequate breath for testing without a valid medical explanation after he or she has received notice of the requirement for breath testing in accordance with the provisions of this part;

(ii) Fails to provide adequate urine for controlled substances testing without a valid medical explanation after he or she has received notice of the requirement for urine testing in accordance with the provisions of this part; or

(iii) Engages in conduct that clearly obstructs the testing process.

(aa) "Safety sensitive positions." Any employee of the city who would be considered a first responder such as fire or police personnel. Any employee who acts in the capacity of dispatcher for first responders. Any employee who is normally required, by virtue of his position with the city, to drive a city vehicle more than fifty percent (50%) of the time in a work day. Any employee who operates heavy equipment or light equipment, or other equipment that could be considered dangerous or could cause injuries. This would include employees of the fire and police departments, street department, traffic control, vehicle maintenance, sanitation,

building maintenance and recreation or any other department or position deemed as safety-sensitive by the city manager.

(bb) "Split specimen." Urine drug test sample will be divided into two (2) parts. One (1) part will be testing initially, the other will remain sealed in case a retest is required or requested.

(cc) "Substance abuse professional." A licensed physician (medical doctor or doctor of osteopathy), or a licensed or certified psychologist, social worker, employee assistance professional, or addiction counselor (certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission) with knowledge of and clinical experience in, the diagnosis and treatment of alcohol and controlled substances-related disorders. (Ord. #575, Feb. 1994, as amended by Ord. #646, Oct. 1997, modified, amended by Ord. #739, Dec. 2002, and replaced by Ord. #761, Dec. 2003)

**4-234. Miscellaneous policies.** (1) Solicitation. The city believes that its employees should not be exposed to frequent solicitations for charitable purposes; therefore, solicitation shall be limited to as few visits as necessary during the course of the year.

(2) Personal telephone calls. The use of the telephone during regular work hours for local and/or long distance calls of a personal nature, except in emergency cases, is discouraged and can result in disciplinary action.

(3) E-mail and Internet access. All employees with access to e-mail or the Internet must sign an acknowledgment regarding the policy for the use and monitoring of e-mail and Internet access as may be established by the city from time to time.

(4) Garnishment. An employee who is garnished for more than one (1) indebtedness within a twelve (12) month period is subject to disciplinary action in accordance with the following schedule:

(a) First offense. Oral reprimand.

(b) Second offense. Written reprimand.

(c) Third offense. May be discharged in accordance with the discipline and dismissal policy.

(5) Trip reimbursement. All trips that involve reimbursement and/or city expense shall not be undertaken without prior approval of the city manager. Mileage shall be reimbursed at the maximum rate allowable under the IRS regulations for rate per mile. Food reimbursement shall be at a rate of thirty-two dollars (\$32.00) per day provided the traveler leaves before 7:00 A.M. and returns after 7:00 P.M. For details regarding travel, obtain a copy of the city's travel policy from the finance director.<sup>1</sup>

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<sup>1</sup>Municipal code reference

Travel reimbursement regulations: title 4, chapter 5.

(6) Acceptance of gratuities.<sup>1</sup> No employee shall accept any money or other consideration or favor from anyone other than the city for the performance of an act which he would be required or expected to perform in the regular course of his duties; nor shall any employee accept, directly or indirectly, any gift, gratuity or favor of any kind which might reasonably be interpreted as an attempt to influence his actions with respect to city business.

(7) Use of tobacco products. In light of the fact that the use of tobacco products poses a threat not only to the user, but to non-users of tobacco products as well, the city has adopted Ord. #712 that prohibits use of tobacco products in municipal buildings and vehicles. Violators of this policy will be subject to associated fines and disciplinary action up to and including termination. (1993 Code, § 1-1005, as replaced by Ord. #761, Dec. 2003)

**4-235. Use of municipal time facilities, etc.** No city officer or employee shall use or authorize the use of municipal time, facilities, equipment, or supplies for private gain or advantage to himself or any other private person or group. Provided, however, that this prohibition shall not apply where the governing body has authorized the use of such time, facilities, equipment, or supplies. (1993 Code, § 1-1006, as replaced by Ord. #761, Dec. 2003)

**4-236. Use of position.** No city officer or employee shall make or attempt to make private purchases, for cash or otherwise, in the name of the city, nor shall he otherwise use or attempt to use his position to secure unwarranted privileges or exemptions for himself or others. (Ord. #575, Feb. 1994, as amended by Ord. #680, April 1999, modified, and replaced by Ord. #761, Dec. 2003)

**4-237. Use of city vehicles and equipment.** (1) Purpose. The purpose of this regulation is to establish rules for the utilization of both city-owned vehicles and equipment that are provided for use by employees in the performance of their official duties.

(2) Responsibility. The public safety director, with city manager approval, shall establish rules approved by the city council and included in the Public Safety Standard Operating Procedures Manual.

The following rules apply to all other persons who drive or are authorized to drive and/or operate or use a piece of equipment, tool, or any other piece of city-owned property. Each director is responsible for insuring that employees of his/her department, who at any time drive, use, or operate a city-owned vehicle, tool, or piece of equipment, are familiar with the requirements/regulations of this policy.

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<sup>1</sup>Municipal code reference  
Code of ethics: title 1, chapter 6.

(3) Regulations. (a) City-owned vehicles, tools, and equipment shall be operated only by persons who have received prior authorization from the city manager or his designee. Designees of the city manager vested with this authority shall have such designation in writing.

(b) City vehicles, tools, and equipment shall be used only for official city business and shall not be used for personal business or pleasure. They shall not be driven or used outside city limits, except in the performance of city business, unless authorized by the city manager or his designee.

(c) Except for those employees assigned full-time vehicles, city vehicles may be taken overnight only under the authorization of the city manager.

(d) Employees who are assigned city vehicles may use such vehicles for travel to and from work, but shall not use the vehicle for any personal reason except for those trips which are normally associated with travel to and from work and during meal breaks. Employee must provide proof of insurance (endorsement for use of non-owned vehicle).

(e) Vehicles will not be assigned to employees living outside the city whose one-way commute is greater than twenty-five (25) miles from the city limits of the City of East Ridge.

(f) On-call employees may from time to time be allowed to take a vehicle home. On such occurrences the rules that apply to those assigned vehicles shall be followed by those temporarily assigned vehicles.

(g) No driver or operator of a city vehicle or piece of equipment shall carry passengers except another city employee, elected city officials, approved volunteer personnel, clients, or persons engaged in or advising on matters relating to city business. Spouses who are accompanying a city employee to a meeting in which the employee is representing the city (prior approval of the city manager is required).

(h) All city employees who are assigned a city vehicle and then use the vehicle for travel to and from work shall receive a statement annually indicating the amount of benefit, for tax purposes, derived from their use of vehicle. Such benefit shall be determined based on the round trip mileage from the place of residence to place of business times the current allowances for mileage.

(i) The primary driver or operator of each city vehicle or piece of equipment is responsible for immediately reporting any vehicle or equipment problems to his or her supervisor. However, this does not relieve any other driver or operator of the vehicle from the same responsibilities. The supervisor shall be responsible for immediately reporting any vehicle or equipment problems to the vehicle maintenance supervisor.

(j) Any damage to a city vehicle or piece of equipment shall be immediately reported to the supervisor responsible for that vehicle or piece of equipment. If damage also occurs to vehicles or property not owned by the city, the accident shall also be reported to the appropriate police department. Whenever an accident occurs to a police department vehicle or whenever injury or death has occurred, the Tennessee Highway Patrol (THP) shall be notified and the THP will handle the investigation. If the THP is not available, the Hamilton County Sheriff's Office shall investigate. All accidents shall be reported as soon as possible by the supervisor to the vehicle maintenance shop.

(k) Regulations and procedures regarding the routine maintenance and care of city vehicles and equipment shall be issued by the director with city manager approval. Any regulations which the city manager may issue or which he has already issued shall be considered a part of the formal regulations concerning the operation of city vehicles and equipment. The vehicle maintenance supervisor shall inform the appropriate director, in writing, of any violations of these procedures.

(l) All drivers and operators of city vehicles and equipment shall have appropriate (as required by the employee's job description) driver's/operator's licenses issued by the State of Tennessee or the state in which the employee resides and shall obey all traffic laws, rules, and regulations of the State of Tennessee and the City of East Ridge.

(m) Traffic citations, fines, or other actions taken by any police jurisdiction against any employee while driving or operating a city-owned vehicle or piece of equipment shall be the responsibility of the employee and may be cause for disciplinary action.

(n) No employee shall operate a city vehicle or piece of equipment while under the influence of alcohol, any illegal drug, or any prescribed drug, which may impair his or her ability to operate the vehicle or piece of equipment. Alcoholic beverages and illegal drugs are not allowed in any city-owned vehicle or piece of equipment except in the case of law enforcement activities.

(o) Any department may further regulate the use of its vehicles, tools, and equipment so long as it is not in conflict with this general policy.

(4) Disciplinary action. Any employee caught misusing and/or abusing city-owned vehicles or equipment, carrying any unauthorized persons, using a city vehicle, tool, or piece of equipment for other than authorized purposes, or violating these regulations in any other way shall be subject to disciplinary action up to and including dismissal.

These requirements apply also to those positions listed as part-time, seasonal, temporary, and volunteer. (Ord. #575, Feb. 1994, modified, as replaced by Ord. #761, Dec. 2003, and amended by Ord. #907, Dec. 2011)

**4-238. Sexual harassment.** The definition of sexual harassment includes conduct directed by men toward women, conduct directed by men toward men, conduct directed by women toward men, and conduct by women toward women. Consequently, this policy applies to all officers and employees of the City of East Ridge including but not limited to, full and part-time employees, elected officials, permanent and temporary employees, employees covered or exempt from the personnel rules or regulations of the city, and employees working under contract for the city.

(1) Definition. Sexual harassment or unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature in the form of pinching, grabbing, patting, propositioning; making either explicit or implied job threats or promises in return for submission to sexual favors; making inappropriate sex-oriented comments on appearance; telling embarrassing sex-oriented stories; displaying sexually explicit or pornographic material, no matter how it is displayed; or sexual assault on the job by supervisors, fellow employees, or on occasion, non-employees when any of the foregoing unwelcome conduct affects employment decisions, makes the job environment hostile, distracting, or unreasonably interferes with work performance in an unlawful employment practice and is absolutely prohibited by the city.

(2) Making sexual harassment complaints. The city may be held liable for the actions of all employees with regard to sexual harassment and therefore, will not tolerate the sexual harassment of its employees. The city will take immediate, positive steps to stop it when it occurs.

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

Prevention is the best tool for the elimination of sexual harassment. Therefore, the following rules shall be strictly enforced. Any employee who feels he/she is being subjected to sexual harassment should immediately contact one of the persons below with whom the employee feels the most comfortable. Complaints may be made orally or in writing to:

- (a) The employee's immediate supervisor;
- (b) The employee's department head;
- (c) The city manager;
- (d) The mayor and council (if the complaint is against the city manager). Employees have the right to circumvent the employee chain of command in selecting which person to whom to make a complaint of

sexual harassment. The employee should be prepared to provide the following information:

(i) Official's or employee's name, department, and position title.

(ii) The name of the person or persons committing the sexual harassment, including their title/s, if known.

(iii) The specific nature of the sexual harassment, how long it has gone on, and any employment action (demotion, failure to promote, dismissal, refusal to hire, transfer, etc., taken against the employee as a result of the harassment.

(iv) Witnesses to the harassment.

(v) Whether the employee has previously reported the harassment and, if so, when and to whom.

(3) Reporting and investigation of sexual harassment complaints. The city manager is the person designated by the city to be the investigator of complaints of sexual harassment against employees. In the event the sexual harassment complaint is against the city manager, the investigator shall be appointed by the mayor and council.

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

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

Upon conclusion of the investigation, the investigator shall prepare a report of the findings and present them to the city manager. The report shall include the written statement for the person complaining of sexual harassment, the written statement of witnesses, the written statement of the person against whom the complaint of sexual harassment was made, and all the investigator's notes connected to the investigation.

(4) Action on complaints of sexual harassment. Upon receipt of a report of the investigation of a complaint of sexual harassment the city manager shall immediately review the report. If the appropriate city manager determines that the report is not complete in some respect, he/she may question the person complaining of sexual harassment, the person against whom the complaint has been made, witnesses to the conduct in question or any other person who may have knowledge about the harassment.

Based upon the report and his/her own investigation, where one is made, the city manager shall, within a reasonable time, determine whether the

conduct of the person against whom a complaint of harassment has been made constitutes sexual harassment. In making that determination, the city manager shall look at the record as a whole and at the totality of circumstances, including the nature of the conduct in question, the context in which the conduct, if any, occurred, and the conduct of the person complaining. The determination of whether sexual harassment occurred will be made on a case-by-case basis.

If the city manager determines that the complaint of harassment is founded, he/she shall take immediate and appropriate disciplinary action against the employee guilty of sexual harassment, consistent with his authority under the city charter, ordinances or rules governing his authority to discipline employees.

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

A written record of disciplinary actions taken shall be kept, including verbal reprimands. In all events, an employee found guilty of sexual harassment shall be warned not to retaliate in any way against the person making the complaint of sexual harassment, witnesses or any other person connected with the investigation of the complaint of sexual harassment.

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

(5) Obligation of employee. Employees are not only encouraged to report instances of sexual harassment; they are obligated to report them. Employees are also obligated to cooperate in every investigation of harassment. The obligation includes, but is not necessarily limited to, coming forward with evidence, both favorable and unfavorable, for a person accused of such conduct; fully and truthfully making written reports or verbally answering questions when required to do so by an investigator. Employees are also obligated to refrain from making bad faith accusations of sexual harassment.

Disciplinary action may also be taken against any employee who fails to report instances of sexual harassment, or who fails or refuses to cooperate in the investigation of a complaint of sexual harassment, or who files a complaint of sexual harassment in bad faith. (Ord. #575, Feb. 1994, modified, as replaced by Ord. #761, Dec. 2003)



**4-239. Political activity.** Nothing in this section is intended to prohibit any municipal government employee from privately expressing his/her political views or from casting his/her vote in all elections.

(1) City employees, while on duty, in uniform or on city property, are prohibited from participating in the following activities:

(a) Directly or indirectly solicit, receive, collect, handle, disburse or account for assessments, contributions or other funds for a candidate for city office.

(b) Organize, sell tickets to, promote or actively participate in a fundraising activity of a candidate for city office.

(c) Take an active part in managing the political campaign for a candidate for city office.

(d) Solicit votes in support of or in opposition to a candidate for city office.

(e) Act as a recorder, watcher, challenger or similar officer at the polls on behalf of a candidate for city office.

(f) Drive voters to the polls on behalf of a candidate for city office.

(g) Endorse or oppose a candidate for city office in a political advertisement, broadcast, campaign literature or similar material.

(h) Address a rally or similar gathering of the supporters of opponents of a candidate for city office.

(i) Initiate or circulate a nominating petition for a candidate for city office.

(j) Wear campaign buttons, pins, hats or other similar attachment, or distribute campaign literature in support or opposition to a candidate for city office.

(2) The city council may grant a city employee a leave of absence to become a candidate for any office other than an elective office for the City of East Ridge. No employee shall become a candidate for elective office for the City of East Ridge.

(3) City police officers are exempted from the regulations of this section when off duty and out of uniform. (Ord. #575, Feb. 1994, modified, as replaced by Ord. #761, Dec. 2003)

**4-240. Separations.** All separations of employees from positions shall be designated as one of the following types and shall be accomplished in the manner indicated: resignation, lay-off, disability, and dismissal. At the time of separation and prior to final payment, all records, equipment, and other items of municipal property in the employee's custody shall be transferred to the supervisor. Any amount due to a shortage in the above shall be withheld from the employee's final compensation. (Ord. #575, Feb. 1994, modified, as replaced by Ord. #761, Dec. 2003)

**4-241. Resignation.** An employee may resign by submitting in writing the reasons, including retirement, and the effective date, to his/her supervisor as far in advance as possible. Supervisors shall forward all notices of resignation to the city manager immediately upon receipt. (Ord. #575, Feb. 1994, modified, as replaced by Ord. #761, Dec. 2003)

**4-242. Lay-off.** The city manager, may lay-off any employee when they deem it necessary by reason of shortage of funds or work, the abolition of a position, or other material changes in the duties or organization, or for related reasons which are outside the employee's control and which do not reflect discredit upon service of the employee. Temporary employees shall be laid off prior to probationary or regular employees. The order of lay-off shall be in reverse order to total continuous time served upon the date established for the lay-off to become effective. (Ord. #575, Feb. 1994, modified, as replaced by Ord. #761, Dec. 2003)

**4-243. Disability.** An employee may be separated for disability when unable to perform required duties because of a physical or mental impairment. Action may be initiated by the employee or the city, but in all cases it must be supported by medical evidence acceptable to the city manager. The city may require an examination at its expense and performed by a licensed physician of its choice. (Ord. #575, Feb. 1994, as amended by Ord. #656, Feb. 1998, modified, as replaced by Ord. #761, Dec. 2003)

**4-244. Disciplinary action.** Whenever an employee's performance, attitude, work habits or personal conduct fall below a desirable level, supervisors shall inform employees promptly and specifically of such lapses and shall give them counsel and assistance. If appropriate and justified, a reasonable period of time for improvement may be allowed before initiating disciplinary action. In some instances, a specific incident in and of itself may justify severe initial disciplinary action; however, the action to be taken depends on the seriousness of the incident and the whole pattern of the employee's past performance and conduct. The types of disciplinary actions are:

(1) **Oral reprimand.** Whenever an employee's performance, attitude, work habits, or personal conduct fall below a desirable level, the supervisor shall inform the employee promptly and specifically of such lapses and shall give him/her counsel and assistance. If appropriate and justified, a reasonable period of time for improvement may be allowed before initiating disciplinary actions. The supervisor will place a memo in the employee's file stating the date of the oral reprimand, what was said to the employee, and the employee's response.

(2) **Written reprimand.** In situations where an oral warning has not resulted in the expected improvement, or when more severe initial action is warranted, a written reprimand may be sent to the employee within twenty-four (24) hours, and a copy shall be placed in the employee's personnel folder.

(3) Suspension. An employee may be suspended for up to three (3) days without pay by a director not to exceed a total of fifteen (15) days in a twelve (12) month period. An employee may be suspended with or without pay by the city manager for an indefinite length of time.

A written statement of the reason for suspension shall be submitted to the employee affected and to the city manager at least twenty-four (24) hours prior to the time the suspension becomes effective, provided, that during the advanced notice period the employee may be retained in duty status, placed on leave, or suspended with or without pay at the discretion of the director. The employee will be granted a hearing before the city manager, within ten (10) working days of the receipt of the employee's request by the city manager. The employee will be granted a hearing before the city manager, within (10) ten working days of the receipt of the employee's request by the city manager. An employee determined to be innocent of the charges shall be returned to duty with full pay for the period of suspension. All records associated with a suspension shall become a permanent part of the employee's personnel file. When warranted, an employee may be suspended without twenty-four (24) hours notice, if it is in the best interest of the city.

(4) Dismissal. The city manager may only dismiss an employee of the City of East Ridge for cause provided however that city manager may layoff any employee in accordance with the provisions of § 4-242. For purposes of this section cause means a substantial violation of any of the personnel regulations set forth in this title 4 or knowing and willful violation of any other ordinance of the City of East Ridge, or engage in an act of immoral turpitude. (Ord. #575, Feb. 1994, modified, as replaced by Ord. #761, Dec. 2003, and amended by Ord. #879, July 2010)

**4-245. Grievance procedure**. The most effective accomplishment of the work of the city requires prompt consideration and equitable adjustments of employee grievances. A grievance is defined as an employee's feeling of dissatisfaction, a difference, disagreement, or dispute arising between an employee and his supervisor and/or employer with some aspect of his/her employment, application, or interpretation of regulations and policies, or some management decision affecting him/her. A grievance can be something real, alleged, or a misunderstanding concerning rules and regulations or an administrative order involving the employee's health, safety, physical facilities, equipment or material used, employee evaluation, promotion, position classification, or transfer. Such misunderstandings, complaints, points of view and opinions will be considered a grievance except in cases where they relate to personnel action arising out of pay, suspension, and dismissal.

It is the desire of the city to address grievances informally, and both supervisors and employees are expected to make every effort to resolve problems as they arise. However, it is recognized that there will be occasional grievances,

which will be resolved only after a formal appeal and review. Accordingly, the following procedure is established to insure fair and impartial review:

Step one. The employee makes an oral or written presentation of the grievance to the immediate supervisor within twenty (20) working days from the incident which prompted the grievance. It shall be the supervisor's responsibility to promptly investigate the grievance, discuss the matter with the department head, and take action if possible. The supervisor shall inform the employee in writing of the decision and any action taken within seven (7) working days from the date the grievance was filed.

Step two. If the grievance cannot be resolved between the employee and the supervisor during Step 1, the employee may reduce the complaint or grievance to writing and request that the written statement be delivered to the department head (or city manager if the original grievance was filed with the department head) within three (3) working days of receipt of the department head's or supervisor's response. If the grievance is filed with the city manager, proceed to Step 3. If the employee is not satisfied with the response of the department head, he or she must proceed to Step 3.

Step three. If the grievance is not resolved with the department head, the employee may request, in writing within three (3) working days, review by the city manager. The city manager shall make such investigation and obtain the information sufficient to review the grievance within seven (7) working days, and will respond to the employee and the employee's department head in writing.

Step four. If the grievance involving termination only is not resolved with the city manager, then the employee has the right to appeal to the personnel board authorized under § 4-247 below in writing within three (3) working days after review by the city manager and the issuance of the city manager's decision in writing delivered to the employee. Outside the hearing the employee and the city manager shall have no contact direct or indirect with the personnel board. The personnel board is required to schedule a hearing with the employee within the above described ten (10) working days. The hearing shall include whatever witnesses and other matters relating to the termination that the employee shall deem necessary and appropriate. The city manager shall present such witnesses and other matters relating to the termination as the city manager deems necessary and appropriate. The personnel board hearing shall be governed by Roberts Rules of Order and by such other procedures as the personnel board shall reasonably adopt. The finding of the personnel board shall be in writing and shall be advisory to the city manager. The city manager shall review the personnel board's finding and shall within ten (10) days reconsider the termination in the personnel board's finding is for reinstatement. The city manager shall have final authority and decision on the termination notwithstanding the advisory finding of the personnel board in accordance with the city charter. (Ord. #575, Feb. 1994, modified, as replaced by Ord. #761, Dec. 2003, and Ord. #879, July 2010)

**4-246. Amendment of personnel rules.** Amendments or revisions to these rules may be recommended for adoption by the city manager. Such amendments or revisions of these rules shall become effective upon adoption by the mayor and council. (as added by Ord. #761, Dec. 2003)

**4-247. Personnel board.** The City Council of the City of East Ridge shall, not later than January 31 of each calendar year, appoint five (5) members to a personnel board to hear all personnel grievances in accordance with § 4-245 of the city code. Each city council member and the mayor shall be entitled to appoint one (1) person to the personnel board to serve for a period not to exceed one (1) year with the terms to run from March 1 to the end of the following February. The board shall only meet at such times as it is required in accordance with the provisions of § 4-245. All members to be appointed to the personnel board shall be residents of the City of East Ridge and shall be members of the community in good standing and good reputation. All appointments to the personnel board shall be confirmed by the city council as a whole not later than the last regularly scheduled meeting in February of each calendar year and shall have experience and training in the area of human resources. (as added by Ord. #879, July 2010)

### CHAPTER 3

#### OCCUPATIONAL SAFETY AND HEALTH PROGRAM<sup>1</sup>

##### SECTION

- 4-301. Title.
- 4-302. Director.
- 4-303. The plan.
- 4-304. Training program.
- 4-305. Report of work connected with death.
- 4-306. Request for variance.
- 4-307. Report to state.
- 4-308. Scope of applicability.
- 4-309. Report by employees.
- 4-310. Definitions adopted by reference.
- 4-311. Effective date of plan.

**4-301. Title.** This chapter shall be known as the "Occupational Safety and Health Program for the Employees of the City of East Ridge." (1993 Code, § 1-1101, as replaced by Ord. #746, May 2003, and Ord. #761, Dec. 2003)

**4-302. Director.** The City of East Ridge hereby designates the personnel director hereinafter referred to as the "director," to establish a safety and health program in compliance with the requirements of the Tennessee Occupational Safety and Health Act of 1972 and he is hereby given the authority to implement a plan subject to the approval of the city council which shall encompass the standards which have been promulgated by the State of Tennessee. (1993 Code, § 1-1102, modified, as replaced by Ord. #746, May 2003, and Ord. #761, Dec. 2003)

**4-303. The plan.** This plan shall be at least as effective as the federal or state standards on the same issues and shall include the following:

(1) The director or his authorized representatives shall have the right to enter at any reasonable time any establishment, construction site, plant or other area, workplace or environment where work is performed in the City of East Ridge; and to inspect and investigate any such place of employment and all pertinent conditions, processes, machines, devices, equipment and materials therein, and to question privately any supervisor or employee.

(2) The director shall provide for education and training of personnel for the administration of the program, and he shall provide for the education

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<sup>1</sup>The Occupational Safety and Health Program Plan for the City of East Ridge is available in the city recorder's office.

and training of all employees of the city to the extent that same is necessary for said employees to recognize and report safety and health problems as defined in the applicable standards.

(3) All employees shall be informed of the policies and the standards set forth by the Tennessee Occupational Safety and Health Act.

(4) All employees of the city shall be informed of safety hazards, exposure to toxic or harmful materials and imminent danger situations that may occur in their jobs.

(5) The director or his authorized representative shall upon any allegation of imminent danger immediately ascertain whether there is a reasonable basis for the complaint. He shall make a preliminary determination of whether or not the complaint appears to have merit. If such is the case he or his authorized representative shall give to any employee the right to participate in any investigation or inspection which involves a safety and/or health situation which concerns his work area. (1993 Code, § 1-1103, as replaced by Ord. #746, May 2003, and Ord. #761, Dec. 2003)

**4-304. Training program.** The director shall establish a safety and health-training program designed to instruct each employee in the recognition and avoidance of unsafe conditions and the regulations applicable to his work environment. (1993 Code, § 1-1104, as replaced by Ord. #746, May 2003, and Ord. #761, Dec. 2003)

**4-305. Report of work connected with death.** The director shall contact the Commissioner of Labor of the State of Tennessee by telephone in the event of the death of an employee involved in a work-related accident. This notification will be done as soon after the fatality as possible but not to exceed forty-eight (48) hours. (1993 Code, § 1-1105, as replaced by Ord. #746, May 2003, and Ord. #761, Dec. 2003)

**4-306. Request for variance.** The director shall set up a procedure for requesting a variance from the Tennessee Department of Labor in the event an operation within the city does not meet the standards set by the Occupational Safety and Health Act and immediate action to alleviate the discrepancy is not possible. (1993 Code, § 1-1106, as replaced by Ord. #746, May 2003, and Ord. #761, Dec. 2003)

**4-307. Report to state.** (1) The director shall establish and maintain a system for collecting and reporting safety and health data required under the Tennessee Occupational Safety and Health Act.

(2) The director shall make an annual report to the Commissioner of Labor for the State of Tennessee showing the accomplishments and progress of the City of East Ridge in its Occupational Safety and Health Program. (1993 Code, § 1-1107, as replaced by Ord. #746, May 2003, and Ord. #761, Dec. 2003)

**4-308. Scope of applicability.** The director shall apply this program to employees of each administrative department, commission, board, division or other agency of the City of East Ridge. (1993 Code, § 1-1108, as replaced by Ord. #761, Dec. 2003)

**4-309. Report by employees.** The director shall provide a means whereby any employee may submit a report of what he feels is a safety and/or health hazard to his immediate supervisor and the director without fear of jeopardizing his job or chances for future promotion. Such reports shall be preserved and the action thereon shall be noted on said reports and signed by the director or his designees. (1993 Code, § 1-1109, as replaced by Ord. #761, Dec. 2003)

**4-310. Definitions adopted by reference.** In implementing the plan the director shall adopt therein all the words and phrases designated as "definitions" in the Tennessee Occupational Safety and Health Act, promulgated regulations and standards thereunder. The director shall submit said plan to the Tennessee Department of Labor for approval on or before October 15, 1973. (1993 Code, § 1-1110, as replaced by Ord. #761, Dec. 2003)

**4-311. Effective date of plan.** The plan, upon its approval by the Tennessee Department of Labor, shall become effective to the City of East Ridge and at this time shall become a part of this chapter as fully and completely as if set out herein. (1993 Code, § 1-1111, as replaced by Ord. #761, Dec. 2003)



**CHAPTER 4****INFECTIOUS DISEASE CONTROL POLICY****SECTION**

- 4-401. Purpose.
- 4-402. Coverage.
- 4-403. Administration.
- 4-404. Definitions.
- 4-405. Policy statement.
- 4-406. General guidelines.
- 4-407. Hepatitis B vaccinations.
- 4-408. Reporting potential exposure.
- 4-409. Hepatitis B virus post-exposure management.
- 4-410. Human immunodeficiency virus post-exposure management.
- 4-411. Disability benefits.
- 4-412. Training regular employees.
- 4-413. Training high risk employees.
- 4-414. Training new employees.
- 4-415. Records and reports.
- 4-416. Legal rights of victims of communicable diseases.

**4-401. Purpose.** It is the responsibility of the City of East Ridge to provide employees a place of employment, which is free from recognized hazards that may cause death or serious physical harm. In providing services to the citizens of the City of East Ridge, employees may come in contact with life-threatening infectious diseases which can be transmitted through job related activities. It is important that both citizens and employees are protected from the transmission of diseases just as it is equally important that neither is discriminated against because of basic misconceptions about various diseases and illnesses. The purpose of this policy is to establish a comprehensive set of rules and regulations governing the prevention of discrimination and potential occupational exposure to Hepatitis B Virus (HBV), the Human Immune-deficiency Virus (HIV), and Tuberculosis (TB). (as replaced by Ord. #761, Dec. 2003)

**4-402. Coverage.** Occupational exposures may occur in many ways, including needle sticks, cut injuries or blood spills. Several classes of employees are assumed to be at high risk for blood borne infections due to their routinely increased exposure to body fluids from potentially infected individuals. Those high risk occupations include but are not limited to:

- (1) Paramedics and emergency medical technicians;
- (2) Occupational nurses;
- (3) Housekeeping and laundry workers;

- (4) Police and security personnel;
- (5) Firefighters;
- (6) Sanitation and landfill workers; and
- (7) Any other employee deemed to be at high risk per this policy and an exposure determination. (as replaced by Ord. #761, Dec. 2003)

**4-403. Administration.** This infection control policy shall be administered by the city manager or his/her designated representative who shall have the following duties and responsibilities:

- (1) Exercise leadership in implementation and maintenance of an effective infection control policy subject to the provisions of this chapter, other ordinances, the city charter, and federal and state law relating to OSHA regulations;
- (2) Make an exposure determination for all employee positions to determine a possible exposure to blood or other potentially infectious materials;
- (3) Maintain records of all employees and incidents subject to the provisions of this chapter;
- (4) Conduct periodic inspections to determine compliance with the infection control policy by municipal employees;
- (5) Coordinate and document all relevant training activities in support of the infection control policy;
- (6) Prepare and recommend to the city council any amendments or changes to the infection control policy;
- (7) Identify any and all housekeeping operations involving substantial risk of direct exposure to potentially infectious materials and shall address the proper precautions to be taken while cleaning rooms and blood spills; and
- (8) Perform such other duties and exercise such other authority as may be prescribed by the city council. (as replaced by Ord. #761, Dec. 2003)

**4-404. Definitions.** (1) "Body fluids." Fluids that have been recognized by the Centers for Disease Control as directly linked to the transmission of HIV and/or HBV and/or to which universal precautions apply: blood, semen, blood products, vaginal secretions, cerebrospinal fluid, synovial fluid, pericardial fluid, amniotic fluid, and concentrated HIV or HBV viruses.

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

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

(4) "Human Immune-deficiency Virus (HIV)." The virus that causes acquired immune-deficiency syndrome (AIDS). HIV is transmitted through

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

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

(6) "Universal precautions." Refers to a system of infectious disease control which assumes that every direct contact with body fluid is infectious and requires every employee exposed to direct contact with potentially infectious materials to be protected as though such body fluid were HBV or HIV infected. (as replaced by Ord. #761, Dec. 2003)

**4-405. Policy statement.** All blood and other potentially infectious materials are infectious for several blood-borne pathogens. Some body fluids can also transmit infections. For this reason, the Centers for Disease Control developed the strategy that everyone should always take particular care when there is a potential exposure. These precautions have been termed "universal precautions."

Universal precautions stress that all persons should be assumed to be infectious for HIV and/or other blood-borne pathogens. Universal precautions apply to blood, tissues, and other potentially infectious materials. Universal precautions also apply to semen, (although occupational risk or exposure is quite limited), vaginal secretions, and to cerebrospinal, synovia, pleural, peritoneal, pericardial and amniotic fluids. Universal precautions do not apply to feces, nasal secretions, human breast milk, sputum, saliva, sweat, tears, urine, and vomitus unless these substances contain visible blood. (as replaced by Ord. #761, Dec. 2003)

**4-406. General guidelines.** General guidelines which shall be used by everyone include:

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

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

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

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

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

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

(a) While handling an individual where exposure is possible;

(b) While cleaning or handling contaminated items or equipment;

(c) While cleaning up an area that has been contaminated with one of the above.

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

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

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

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

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

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

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

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

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

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

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

(13) Linen soiled with blood or other potentially infectious materials shall be handled as little as possible and with minimum agitation to prevent contamination of the person handling the linen. All soiled linen shall be bagged at the location where it was used. It shall not be sorted or rinsed in the area. Soiled linen shall be placed and transported in bags that prevent leakage. The employee responsible for transported soiled linen should always wear protective gloves to prevent possible contamination. After removing the gloves, hands or other skin surfaces shall be washed thoroughly and immediately after contact with potentially infectious materials.

(14) Whenever possible, disposable equipment shall be used to minimize and contain clean-up. (as replaced by Ord. #761, Dec. 2003)

**4-407. Hepatitis B vaccinations.** The City of East Ridge shall offer the appropriate Hepatitis B vaccination to employees at risk of exposure free of charge and in amounts and at times prescribed by standard medical practices. The vaccination shall be voluntarily administered. High risk employees who wish to take the HBV vaccination should notify their department head who shall make the appropriate arrangements through the infectious disease control coordinator. (as replaced by Ord. #761, Dec. 2003)

**4-408. Reporting potential exposure.** City employees shall observe the following procedures for reporting a job exposure incident that may put them at risk for HIV or HBV infections (i.e., needle sticks, blood contact on broken skin, body fluid contact with eyes or mouth, etc.):

(1) Notify the infectious disease control coordinator of the contact incident and details thereof.

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

(3) Arrangements will be made for the person to be seen by a physician as with any job-related injury. Once an exposure has occurred, a blood sample should be drawn after consent is obtained from the individual from whom exposure occurred and tested for Hepatitis B surface antigen (HBsAg) and/or antibody to human immunodeficiency (HIV antibody). Testing on the source individual should be done at a location where appropriate pretest counseling is available. Post-test counseling and referral for treatment should also be provided. (as replaced by Ord. #761, Dec. 2003)

**4-409. Hepatitis B virus post-exposure management.** For an exposure to a source individual found to be positive for HBsAg, the worker who has not previously been given the hepatitis B vaccine should receive the vaccine series. A single dose of hepatitis B immune globulin (HBIG) is also recommended, if it can be given within seven (7) days of exposure. For exposure from an HBsAg-positive source to workers who have previously received the vaccine, the exposed worker should be tested for antibodies to hepatitis B surface antigen (anti-HBs), and given one dose of vaccine and one dose of HBIG if the antibody level in the worker's blood sample is inadequate (i.e., 10 SRU by RIA, negative by EIA). If the source individual is negative for HBsAg and the worker has not been vaccinated, this opportunity should be taken to provide the hepatitis B vaccine series. HBIG administration should be considered on an individual basis when the source individual is known or suspected to be at high risk of HBV infection. Management and treatment, if any, of previously vaccinated workers who receive an exposure from a source who refuses testing or is not identifiable should be individualized. (as replaced by Ord. #761, Dec. 2003)

**4-410. Human immunodeficiency virus post-exposure management.** For any exposure to a source individual who has AIDS, who is found to be positive for HIV infection, or who refuses testing, the worker should be counseled regarding the risk of infection and evaluated clinically and serologically for evidence of HIV infection as soon as possible after the exposure. The worker should be advised to report and seek medical evaluation for any acute febrile illness that occurs within twelve (12) weeks after the exposure. Such an illness, particularly one characterized by fever, rash, or lymphadenopathy, may be indicative of recent HIV infection.

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

If the source individual was tested and found to be seronegative, baseline testing of the exposed worker with follow-up testing twelve (12) weeks later may be performed if desired by the worker or recommended by the health care provider. If the source individual cannot be identified, decisions regarding appropriate follow-up should be individualized. Serologic testing should be made available by the city to all workers who may be concerned they have been infected with HIV through an occupational exposure. (as replaced by Ord. #761, Dec. 2003)

**4-411. Disability benefits.** Entitlement to disability benefits and any other benefits available for employees who suffer from on-the-job injuries will be determined by the Tennessee Workers Compensations Bureau in accordance with the provisions of Tennessee Code Annotated, § 50-6-303. (as replaced by Ord. #761, Dec. 2003)

**4-412. Training regular employees.** On an annual basis all employees shall receive training and education on precautionary measures, epidemiology, modes of transmission and prevention of HIV/HBV infection and procedures to be used if they are exposed to needle sticks or potentially infectious materials. They shall also be counseled regarding possible risks to the fetus from HIV/HBV and other associated infectious agents. (as replaced by Ord. #761, Dec. 2003)

**4-413. Training high risk employees.** In addition to the above, high risk employees shall also receive training regarding the location and proper use of personal protective equipment. They shall be trained concerning proper work practices and understand the concept of "universal precautions" as it applies to their work situation. They shall also be trained about the meaning of color coding and other methods used to designate contaminated material. Where tags are used, training shall cover precautions to be used in handling contaminated material as per this policy. (as replaced by Ord. #761, Dec. 2003)

**4-414. Training new employees.** During the new employee's orientation to his/her job, all new employees will be trained on the effects of infectious disease prior to putting them to work. (as replaced by Ord. #761, Dec. 2003)

**4-415. Records and reports.** (1) Reports. Occupational injury and illness records shall be maintained by the infectious disease control coordinator. Statistics shall be maintained on the OSHA-200 report. Only those work-related injuries that involve loss of consciousness, transfer to another job, restriction of work or motion, or medical treatment are required to be put on the OSHA-200.

(2) Needle sticks. Needle sticks, like any other puncture wound, are considered injuries for record keeping purposes due to the instantaneous nature of the event. Therefore, any needle stick requiring medical treatment (i.e.,

gamma globulin, hepatitis B immune globulin, hepatitis B vaccine, etc.) shall be recorded).

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

(4) Employee interviews. Should the city be inspected by the U.S. Department of Labor Office of Health Compliance, the compliance safety and health officer may wish to interview employees. Employees are expected to cooperate fully with the compliance officers. (as replaced by Ord. #761, Dec. 2003)

**4-416. Legal rights of victims of communicable diseases.** Victims of communicable diseases have the legal right to expect, and municipal employees, including police and emergency service officers are duty bound to provide, the same level of service and enforcement as any other individual would receive.

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

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

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

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

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

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

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

(8) All circumstance, not covered in this policy, that may arise concerning releasing confidential information regarding a victim, or suspected



victim, of a communicable disease shall be referred directly to the appropriate department head or city attorney.

(9) Victims of a communicable disease and their families have a right to conduct their lives without fear of discrimination. An employee shall not make public, directly or indirectly, the identity of a victim or suspected victim of a communicable disease.

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

(11) Any employee who disseminates confidential information in regard to a victim, or suspected victim of a communicable disease in violation of this policy shall be subject to serious disciplinary action and/or civil/and/or criminal prosecution. (as replaced by Ord. #761, Dec. 2003)

## CHAPTER 5

### TRAVEL REIMBURSEMENT REGULATIONS

#### SECTION

4-501. Purpose.

4-502. Definitions.

4-503. General policy.

4-504. Justifiable expenses.

**4-501. Purpose.** Stated herein are the city's policy and the necessary rules and regulations for payment of expenses incurred while city employees, members of the city council, and the city manager are traveling on city business. It is the intent of this policy to assure fair and equitable treatment to all individuals traveling on city business at city expense. It is the purpose of these regulations to provide a reasonable and systematic means by which the cost of travel may be estimated for budget preparation and controlled for purpose of economy. (as replaced by Ord. #740, May 2003, and Ord. #761, Dec. 2003)

**4-502. Definitions.** (1) "Authorized trip." Travel on city business, which has been approved by the city council and/or the city manager.

(2) "Travel advance." Money given in advance of travel when the estimated expenses are anticipated to be more than fifty dollars (\$50.00).

(3) "Authorized signature." Those individuals with the authority to permit travel on city business. On official travel forms, authorized signature includes the city manager or his representative.

(4) "Travel request and approval form." A form prepared by the traveler and indicating the destination, date and amount needed for an authorized trip.

(5) "Travel expense reimbursement voucher." The form prepared by the traveler upon conclusion of an authorized trip for reimbursement of travel expenses.

(6) "Official mileage chart." The form prepared by the traveler for reimbursement of an authorized trip in a personal car.

(7) "Traveler." The individual representing the city on an authorized trip. (as replaced by Ord. #761, Dec. 2003)

**4-503. General policy.** (1) Travel on city business includes trips within and outside the city to conferences, conventions, workshops, seminars, educational training courses, forums and other city related business meetings. Justifiable expenses related to such travel are described in § 4-504 of this chapter.

(2) All authorized trips and travel advances and reimbursements shall be made only on the authorization of the city council and/or city manager.

Claims for reimbursement for authorized trips must be presented to the city manager's office on the standard travel expense reimbursement voucher, properly completed and signed by a person authorized to approve expenditure documents and the traveler.

(3) Travelers authorized to travel may secure an advance of funds to cover the cost of travel. All travel advances should be presented to the city manager's office not more than fifteen (15) days or less than seven (7) days before the start of travel in order to allow adequate time for preparation of finances.

(4) It is the responsibility of the traveler to prepare the travel expense reimbursement voucher for expenses incurred. It is also the traveler's responsibility to file the properly completed travel expense reimbursement voucher and receipts with the city manager's office no later than thirty (30) days from the date of returning from the authorized trip. If reimbursement is claimed later than thirty (30) days after return, it may be disallowed, unless previous authorization for late filing has been given by the city manager.

(5) Any expense considered excessive will be disallowed. (Ord. #532, Nov. 1992, modified, as replaced by Ord. #740, May 2003, and Ord. #761, Dec. 2003)

**4-504. Justifiable expenses.** (1) Transportation. (a) In general, the city will reimburse for travel the coach airfare, when available, or the current mileage rate, not to exceed the cost of coach airfare.

(b) Mode of transportation. (i) City vehicles.

(A) City vehicles should be used whenever practical for official business.

(B) Reimbursement for gasoline, parking, tolls, and justifiable repairs to the city vehicle will be provided if documented with receipts.

(C) When traveling in a city owned vehicle, the battery, oil and other accessories should be checked and fuel should be obtained at the city garage prior to departure.

(D) All travel must be made by the most direct route possible. Any traveler traveling by an indirect route must assume any extra expenses incurred thereby. Deviations from the most direct route must be authorized in advance, except in cases of emergency.

(ii) Commercial aircraft. (A) If air travel is feasible, the fare for commercial air transportation on any trip should not exceed the regular tourist fare.

(B) Travelers are encouraged to make reservations as early as possible in order to take advantage of any available discount fares and to be ticketed before any pending rate increases.

(C) If the cost of air travel is paid by the traveler, a copy of paid ticket must be submitted to the city manager's office for reimbursement.

(D) The travel agency should bill the city, when possible.

(E) If other means of transportation are not feasible or the use of a private automobile better serves the city's purposes, then use of a traveler's private automobile may be authorized.

(F) For the use of private automobile, the traveler will be reimbursed at the current internal revenue service approved mileage rate, plus parking and toll fees, if documented with receipts.

(G) An odometer reading from the beginning and the end of the trip must be shown on the official mileage chart, which must also be submitted with the travel expense reimbursement voucher.

(c) Related transportation costs. (i) Taxicab, public conveyance and limousine fare, including tips, will be allowed if travel by such means is necessary. All such expenses must be justified and explained in the travel expense reimbursement voucher.

(ii) Ferry fares, road and bridge tolls and parking charges are reimbursable items. Receipts should accompany these expenses and are required for any parking expenses.

(iii) Rental cars will be permitted only in the event that the amount of business transportation required at the destination and to/from the airport is less than the amount that would be spent on cabs and limousines. The most economical model should be selected and all receipts should accompany the travel expense reimbursement voucher.

(iv) Rental cars for the general purpose of sightseeing or personal entertainment at the business destination are not allowable costs.

(2) Lodging. (a) Expenditures for lodging must be reasonable and generally follow lodging rates published in the Federal Travel Regulations Guide. It is recognized that expenditures will vary by geographic location; the city shall pay the prevailing single room rate per traveler at the place of lodging.

(b) Hotel accommodations will be made in advance and will be paid by a city check made payable to the hotel or charged to the city credit card.

(c) Additional costs incurred due to the traveler being accompanied by a spouse or other individuals not involved in city

business are not reimbursable expenses. Such non-reimbursable expenses would include the additional expense of a double room, extra meal costs, etc.

(3) Meals--per diem method. (a) Meals will be reimbursed in accordance with the current Meals and Incidental (M&I) rates published in the Federal Travel Regulations Guide. On arrival and departure dates, meals will be reimbursed at three-fourths (3/4) of the published rate. To qualify for M&I per diem, the traveler must remain in an official travel status for four (4) hours or more. These amounts include tip and applicable taxes. This is a per diem allowance and does not need to be supported by receipts, provided the travel advance form is properly completed.

(b) This per diem method applies equally to the council members and the city manager unless utilizing actual cost method.

(4) Miscellaneous/other expenses. (a) Tips are considered as a proper item of traveling expense, provided the amounts are reasonable in proportion to the services rendered. They should be listed separately on the travel expense reimbursement voucher.

(b) For registration fees for conferences, conventions, seminars, banquets, etc. which require payment in advance, a vendor's invoice with a proper registration form stating the amount of the fee must be presented to the city manager's office at least two (2) weeks in advance of the conference. If possible, upon return from the conference, a receipt for the registration fee should accompany the travel expense reimbursement voucher. If the registration fees are paid at the conference, then a receipt is required for reimbursement.

(c) Long distance telephone charges will be reimbursed only if related to city business. The points and parties between which the calls were made must be stated on the voucher together with the reason therefore.

(d) Meals or lodging provided in registration fees are to be identified on the travel expense reimbursement voucher. If meals are provided in registration, an appropriate adjustment in the per diem reimbursement will be made.

(e) When a traveler believes that it is in the best interest of the City of East Ridge to have a guest join the traveler for a meal, that traveler may obtain reimbursement for such meal and associated expenses if the date, name of guest, and the business necessity or desirability for such guest's expenses are submitted with the travel expense claim. Such expenditures will be left to the discretion of the city manager.

(5) Non-reimbursable items. (a) Personal expenses, such as: telephone calls, haircuts, valet, laundry, beauty parlor, and room service are not reimbursable.

(b) Self-entertainment activities such as: paid TV, movies, nightclubs, health clubs, dinner theaters, bowling, etc. are not reimbursable.

(c) No traveler shall be allowed either mileage or transportation expenses when the traveler is transported by another traveler who is entitled to mileage or transportation expenses.

(d) No travel insurance premiums will be paid by the city.

(e) The cost of travelers checks or money orders is not a reimbursable item.

(f) Loss of funds or personal belongings while traveling is the responsibility of the traveler and will not be reimbursed. (as replaced by Ord. #740, May 2003, and Ord. #761, Dec. 2003, and amended by Ord. #907, Dec. 2011)

**TITLE 5**

**MUNICIPAL FINANCE AND TAXATION**

**CHAPTER**

1. MISCELLANEOUS.
2. REAL AND PERSONAL PROPERTY TAXES.
3. FISCAL ADMINISTRATION.
4. PURCHASING.
5. PRIVILEGE TAXES.
6. WHOLESALE BEER TAX.
7. OCCUPANCY TAX ON HOTELS AND MOTELS.

**CHAPTER 1**

**MISCELLANEOUS**

**SECTION**

5-101. Official depository for city funds.

**5-101. Official depository for city funds.** The city council shall designate by resolution the official depositories for all city funds. (1993 Code, § 6-501, modified)

## CHAPTER 2

### REAL AND PERSONAL PROPERTY TAXES

#### SECTION

5-201. When due and payable.

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

**5-201. When due and payable.**<sup>1</sup> Taxes levied by the city against real property shall become due and payable annually on the first day of October of the year for which levied. (1993 Code, § 6-101)

**5-202. When delinquent--penalty and interest.**<sup>2</sup> All real property taxes shall become delinquent on and after the first day of March next after they become due and payable and shall thereupon be subject to such penalty and interest as is authorized and prescribed by the state law for delinquent county real property taxes.<sup>3</sup> (1993 Code, § 6-102)

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<sup>1</sup>State law references

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

<sup>2</sup>Charter and state law reference

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

<sup>3</sup>Charter and state law references

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

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



## CHAPTER 3

### FISCAL ADMINISTRATION

#### SECTION

- 5-301. Bank accounts.
- 5-302. Authority to open accounts.
- 5-303. Authorized withdrawals.
- 5-304. Signature cards.
- 5-305. Payment of accounts.
- 5-306. No official as custodian of funds.
- 5-307. Responsibility for cash receipts.
- 5-308. Supervision of fiscal affairs.

**5-301. Bank accounts.** All monies received by the City of East Ridge, from whatever source, shall be immediately deposited in an appropriate account to be opened in one of the banks operating within the city. (1993 Code, § 6-201)

**5-302. Authority to open accounts.** All bank accounts for the deposit of municipal funds shall be opened only upon a majority vote of the city council, and a certified copy of the resolution authorizing the opening of the account shall be the authority of the bank for the opening of such account. (1993 Code, § 6-202)

**5-303. Authorized withdrawals.** Funds from said account shall be withdrawn only by checks or receipts of withdrawal for the transfer of funds from one account to the other and signed by the city manager and the finance director. In the event the city manager and the finance director, or either of them, is not available for the signing of checks or receipts of withdrawal, then those persons designated by the city council are authorized to sign such checks or receipts of withdrawal. (1993 Code, § 6-203)

**5-304. Signature cards.** Current signature cards showing the authorized signatures of the city manager and finance director shall be furnished to each bank in which a bank account of the city is maintained. (1993 Code, § 6-204)

**5-305. Payment of accounts.** The city manager and finance director shall sign no checks for the payment of any account of the city unless the check in payment of such account is accompanied by a statement from the creditor approved by the head of the department incurring the account, together with a properly executed purchase order. This requirement shall not apply to the payment of current payrolls or to the payment of principal and interest obligations upon the bonded indebtedness of the city. (1993 Code, § 6-205)

**5-306. No official as custodian of funds.** No official of the city shall be designated specifically as the custodian of any fund, since all funds of the city are to be maintained in various banks. All officials having authority to sign checks or receipts for withdrawals upon any account of the city shall be bonded in the sum of \$10,000.00. All employees of the city who receipt for cash payments made to the city shall be bonded in the sum of \$5,000.00. (1993 Code, § 6-206)

**5-307. Responsibility for cash receipts.** The head of each department shall designate the person or persons within a department who are authorized to receive on behalf of the city cash payments for the city, such as but not limited to, receipts for fines, costs, licenses, permits, etc. Such persons so designated by the head of the department shall be responsible for the funds received by them and shall transmit said funds to the finance director. All such employees shall be bonded as set out in the preceding section. (1993 Code, § 6-207)

**5-308. Supervision of fiscal affairs.** In accordance with the charter of the City of East Ridge, as amended, the city manager shall have general charge of and supervision over all fiscal affairs of the city. He shall designate one clerk in his department to have the sole responsibility for the deposit of all receipts of the city in appropriate accounts. A sufficient number of accounts shall be maintained in the name of the city to properly segregate all funds of the city which are required by law to be segregated. The fiscal clerk herein referred to shall be bonded as required in § 5-306. (1993 Code, § 6-208)

## CHAPTER 4

### PURCHASING

#### SECTION

- 5-401. General requirements.
- 5-402. Purchasing agent.
- 5-403. Requirement for bids.
- 5-404. Exceptions.
- 5-405. Capital equipment.
- 5-406. Compliance with municipal purchasing law of 1983.
- 5-407. Delegation.

**5-401. General requirements.** All purchases for goods and services delivered, procured, provided or leased to the City of East Ridge shall be made by the issuance of a purchase order or signed agreement (contract) between the vendor and the city. The issuance, accountability and payment of purchase orders shall be the responsibility of the city manager pursuant to and in conformity with section 5-I of the East Ridge City Charter as compiled dated December 23, 2008. Contracts for services and goods shall be approved by the city council whenever it is estimated that the proposed expenditure shall exceed ten thousand dollars (\$10,000.00). Such contracts shall be signed by the mayor and city manager. (Ord. #563, Sept. 1993, as amended by Ord. #698, March 2000, and replaced by Ord. #868, Sept. 2009)

**5-402. Purchasing agent.** Pursuant to § 5-I (10) of the East Ridge City Charter, the city manager is the purchasing agent for the city. The city manager may designate other individuals to exercise the powers of purchasing agent. The city manager shall announce any such designation of an individual to exercise the powers of purchasing agent at a council meeting so that a record of such designation shall appear in the minutes of the city council. (Ord. #563, Sept. 1993)

**5-403. Requirement for bids.** Department heads as designated by the city manager or by an individual exercising the powers of the purchasing agent may make purchases of not to exceed \$500.00 in any day without the necessity of obtaining written bids or quotations provided such purchase does not have the effect of circumventing the provisions of this chapter. Department heads shall not split invoices with the same vendor in the same day to circumvent the \$500.00 limit. In the event an actual emergency is being addressed, or the time necessary to secure a product or service would interfere with or cause unnecessary delay, a department head may spend up to \$1,500.00 without written bids or quotations. Items which are used on a regular basis that exceed \$500.00 in value should be submitted to the purchasing agent for competitive

bids. The city manager and any individual exercising the powers of purchasing agent shall be required to secure at least three (3) written bids or quotations, if possible, on all purchases made by the city which are over \$500.00 but do not exceed \$5,000.00. The city manager and any individual acting as the purchasing agent shall be required to advertise in a newspaper having general circulation in the city for sealed competitive bids on all purchases made by the city where the amount of the purchase is estimated to be more than \$5,000.00, unless otherwise directed by a majority vote of the mayor and council for reasons as hereinafter provided, as allowed by general state law, or as set forth in this chapter. Bid advertisements shall specify a day and hour for the opening of bids, which day shall be at least ten (10) days from and after the publication of the notice to bid. At the appointed day and hour, the city manager or his designee shall publicly open and record the bids. (Ord. #563, Sept. 1993, as amended by Ord. #698, March 2000)

**5-404. Exceptions.** The requirements of § 5-403 shall not apply in the following circumstances:

(1) When any goods or services which may not be procured by competitive means because of the existence of a single source of supply or because of a proprietary product are required by the city. A record of all such sole source or proprietary purchases shall be made by the purchasing agent and shall specify the amount paid, the items purchased, and from whom the purchase was made. A report of such sole source or proprietary purchases shall be made as soon as possible to the city council by the city manager and shall include all items of information as required for the record.

(2) To purchases or leases of any supplies, materials or equipment for immediate delivery in actual emergencies arising from unforeseen causes, including delays by contractors, delays in transportation, and unanticipated volume of work. A record of any such emergency purchase shall be made by the purchasing agent authorizing such emergency purchase and shall specify the amount paid, the items purchased, from whom the purchase was made and the nature of the emergency. A report of any emergency purchase shall be made as soon as possible to the city council by the city manager and shall include all items of information as required in the record.

(3) To leases or lease-purchase agreements requiring total payments of less than two thousand five hundred dollars (\$2,500.00) in each fiscal year the agreement is in effect; provided, that this exemption shall not apply to leases of like or related items which individually may be leased or lease-purchased with total payments of less than two thousand five hundred dollars (\$2,500.00) in any fiscal year, but which are customarily leased or lease purchased in numbers of two (2) or more, if the total lease or lease-purchase of the payments for such items under a single agreement would be two thousand five hundred dollars (\$2,500.00) or more in any fiscal year.

(4) To purchases, leases, or lease-purchases of real property.

(5) To purchases, leases, or lease-purchases from any federal, state, or local government unit or agency of secondhand articles or equipment or other materials, supplies, commodities, and equipment; and

(6) Purchases made pursuant to and in conformity with Tennessee Code Annotated, § 12-3-1001 et seq.

(7) To perishable commodities when such items are purchased in the open market. A record of all such purchases shall be made by the purchasing agent authorizing such purchases and shall specify the amount paid, the items purchased, and from whom the purchase was made. A report of such purchases shall be made, at least monthly, by the city manager to the city council and shall include all items of information as required in the record.

(8) Fuel and fuel products may be purchased in the open market without public advertisement, but shall whenever possible be based on at least three (3) competitive bids. Fuel and fuel products may be purchased from the department of general services' contract where available. (Ord. #563, Sept. 1993)

**5-405. Capital equipment.** No purchases of equipment of a capital nature shall be made without the prior approval of the city council. Equipment, material, facilities or services specified by items in the budget at the time of adoption or as duly amended shall be considered approved for purchase when so designated by the city council. (Ord. #563, Sept. 1993)

**5-406. Compliance with municipal purchasing law of 1983.** The City of East Ridge shall comply with the Municipal Purchasing Law of 1983 as codified in Tennessee Code Annotated, § 6-56-301, et seq., except as the requirements set forth in this chapter are more stringent than those as set forth in said Act; in such case, the provisions of this chapter shall control as specifically authorized in Tennessee Code Annotated, § 6-56-306. (Ord. #563, Sept. 1993)

**5-407. Delegation.** Department heads may delegate purchasing responsibility up to the limits established herein when such delegation has been approved by the purchasing agent. (Ord. #563, Sept. 1993)

**CHAPTER 5****PRIVILEGE TAXES****SECTION**

5-501. Tax levied.

5-502. License required.

**5-501. Tax levied.** Except as otherwise specifically provided in this code, there is hereby levied on all vocations, occupations, and businesses declared by the general laws of the state to be privileges taxable by municipalities, an annual privilege tax in the maximum amount allowed by state laws. The taxes provided for in the state's "Business Tax Act" (Tennessee Code Annotated, § 67-4-701, et seq.) are hereby expressly enacted, ordained, and levied on the businesses, business activities, vocations, and occupations carried on within the city at the rates and in the manner prescribed by the act. (1993 Code, § 6-301)

**5-502. License required.** No person shall exercise any such privilege within the city without a currently effective privilege license, which shall be issued by the recorder to each applicant therefor upon the applicant's compliance with all regulatory provisions in this code and payment of the appropriate privilege tax. (1993 Code, § 6-302)

## CHAPTER 6

WHOLESALE BEER TAX

## SECTION

5-601. To be collected.

**5-601. To be collected.** The city manager is hereby directed to take appropriate action to assure payment to the city of the wholesale beer tax levied by the "Wholesale Beer Tax Act," as set out in Tennessee Code Annotated, title 57, chapter 6.<sup>1</sup> (1993 Code, § 6-401)

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<sup>1</sup>State law reference

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

## CHAPTER 7

### OCCUPANCY TAX ON HOTELS AND MOTELS

#### SECTION

5-701. Definitions.

5-702. Privilege tax levied; use.

**5-701. Definitions.** As used in this chapter, unless the context otherwise requires:

(1) "Consideration" means the consideration charged, whether or not received, for the occupancy in a hotel valued in money, whether to be received in money, goods, labor or otherwise, including all receipts, cash, credits, property and services of any kind or nature without any deduction therefrom whatsoever. Nothing in this definition shall be construed to imply that consideration is charged when the space provided to the person is complimentary from the operator and no consideration is charged to or received from any person.

(2) "Hotel" means any structure or space, or any portion thereof, which is occupied or intended or designed for occupancy by transients for dwelling, lodging or sleeping purposes, and includes any hotel, inn, tourist camp, tourist court, tourist cabin, motel or any place in which rooms, lodgings or accommodations are furnished to transients for a consideration.

(3) "Occupancy" means the use or possession, or the right to use or possession, of any room, lodgings or accommodations in any hotel.

(4) "Operator" means the person operating the hotel whether as owner, lessee or otherwise.

(5) "Person" means any individual, firm, partnership, joint venture, association, social club, fraternal organization, joint stock company, corporation, estate, trust, business trust, receiver, trustee, syndicate or any other group or combination acting as a unit.

(6) "Transient" means any person who exercises occupancy or is entitled to occupancy of any rooms, lodgings or accommodations in a hotel for a period of less than thirty (30) continuous days. (as added by Ord. #779, Jan. 2005, repealed by Ord. #781, Feb. 2005, and replaced by Ord. #782, March 2005)

**5-702. Privilege tax levied; use.** (1) Pursuant to the provisions of Tennessee Code Annotated, §§ 67-4-1401 through 67-4-1425, there be and is hereby levied a privilege tax upon the privilege of occupancy in any hotel of each transient. From and after the operative date of the ordinance comprising this section the rate of the levy shall be four percent (4%) of the consideration charged by the operator. This privilege tax shall be collected pursuant to and subject to the provisions of these statutory provisions. The city finance director or his designee is designated as the authorized collector to administer and



enforce this section and these statutory provisions. The city finance director is specifically authorized to contract with Hamilton County for collection of the tax enacted herein.

(2) The proceeds received from this tax shall be designated for the development and implementation of public improvements and the general obligations of the city. The proceeds shall be placed in the city's debt service fund. (as added by Ord. #779, Jan. 2005, repealed by Ord. #781, Feb. 2005, and replaced by Ord. #782, March 2005, and Ord. #911, March 2012)

**TITLE 6**

**LAW ENFORCEMENT<sup>1</sup>**

**CHAPTER**

1. POLICE DEPARTMENT.
2. ARREST PROCEDURES.
3. CITATIONS, WARRANTS, AND SUMMONSES.
4. ENFORCEMENT OF DISABLED PARKING.

**CHAPTER 1**

**POLICE DEPARTMENT**

**SECTION**

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

**6-101. Policemen subject to chief's orders.** All policemen shall obey and comply with such orders and administrative rules and regulations as the police chief may officially issue. (1993 Code, § 1-501)

**6-102. Policemen to preserve law and order, etc.** Policemen shall preserve law and order within the city. They shall patrol the city and shall assist the city court during the trial of cases. Policemen shall also promptly serve any legal process issued by the city court. (1993 Code, § 1-502)

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

- (1) All known or reported offenses and/or crimes committed within the corporate limits.
- (2) All arrests made by policemen.

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<sup>1</sup>Municipal code reference

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

Please also note that Ord. #720, June 2001, creates the position of public safety director/chief and states: "Any future reference in the code to either police chief or fire chief will be recognized as a reference to the public safety director/chief."

(3) All police investigations made, funerals, convoys, fire calls answered, and other miscellaneous activities of the police department.

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

The police chief shall be responsible for insuring that the police department complies with the section. (1993 Code, § 1-507)

## CHAPTER 2

### ARREST PROCEDURES

#### SECTION

6-201. When policemen to make arrests.

6-202. Disposition of persons arrested.

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

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

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

(3) Whenever a felony has in fact been committed and the officer has probable cause to believe the person has committed it. (1993 Code, § 1-504)

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

(2) Felonies or misdemeanors. A person arrested for a felony or a misdemeanor shall be disposed of in accordance with applicable federal and state law and the rules of the court which has jurisdiction over the offender. (1993 Code, § 1-506)

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<sup>1</sup>Municipal code reference

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

## CHAPTER 3

### CITATIONS, WARRANTS, AND SUMMONSES

#### SECTION

6-301. Citations in lieu of arrest in non-traffic cases.

6-302. Summonses in lieu of arrest.

**6-301. Citations in lieu of arrest in non-traffic cases.**<sup>1</sup> Pursuant to Tennessee Code Annotated, § 7-63-101, et seq., the city council appoints the fire inspector in the fire department and the code enforcement officer in the building department special police officers having the authority to issue citations in lieu of arrest. The fire inspector in the fire department shall have the authority to issue citations in lieu of arrest for violations of the fire code adopted in title 7, chapter 2 of this municipal code of ordinances. The code enforcement officer in the building department shall have the authority to issue citations in lieu of arrest for violations of the building, utility and housing codes adopted in title 12 of this municipal code of ordinances.

The citation in lieu of arrest shall contain the name and address of the person being cited and such other information necessary to identify and give the person cited notice of the charges against him, and state a specific date and place for the offender to appear and answer the charges against him. The citation shall also contain an agreement to appear, which shall be signed by the offender. If the offender refuses to sign the agreement to appear, the special officer in whose presence the offense was committed shall immediately arrest the offender and dispose of him in accordance with Tennessee Code Annotated, § 7-63-104.

It shall be unlawful for any person to violate his agreement to appear in court, regardless of the disposition of the charge for which the citation in lieu of arrest was issued.

**6-302. Summonses in lieu of arrest.** Pursuant to Tennessee Code Annotated, § 7-63-201, et seq., which authorizes the city council to designate certain city enforcement officers the authority to issue ordinance summonses in the areas of sanitation, litter control and animal control, the council designates the sanitation supervisor in the sanitation department and the animal control officer in the animal control department to issue ordinance summonses in those areas. These enforcement officers may not arrest violators or issue citations in lieu of arrest, but upon witnessing a violation of any ordinance, law or

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<sup>1</sup>Municipal code reference

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

regulation in the areas of sanitation, litter control or animal control, may issue an ordinance summons and give the summons to the offender.

The ordinance summons shall contain the name and address of the person being summoned and such other information necessary to identify and give the person summoned notice of the charge against him, and state a specific date and place for the offender to appear and answer the charges against him.

The ordinance summons shall also contain an agreement to appear, which shall be signed by the offender. If the offender refuses to sign the agreement to appear, the enforcement officer in whose presence the offense occurred may (1) have a summons issued by the clerk of the city court, or (2) may seek the assistance of a police officer to witness the violation. The police officer who witnesses the violation may issue a citation in lieu of arrest for the violation, or arrest the offender for failure to sign the citation in lieu of arrest. If the police officer makes an arrest, he shall dispose of the person arrested as provided in § 6-301 above.

It shall be unlawful for any person to violate his agreement to appear in court, regardless of the disposition of the charge for which the ordinance summons was issued.

## CHAPTER 4

### ENFORCEMENT OF DISABLED PARKING

#### SECTION

6-401. Volunteer enforcement of disabled parking laws and ordinances.

**6-401. Volunteer enforcement of disabled parking laws and ordinances.** The City of East Ridge shall establish a volunteer program for enforcement of disabled parking laws and ordinances.

(1) A volunteer appointed under this section shall be a resident of the City of East Ridge. The program shall be open to any person twenty-one (21) years of age and older, regardless of such person's disability status; provided, that preference shall be given to an applicant with a disability;

(2) The City of East Ridge, after appointment of any volunteer, shall provide mandatory training for such volunteer prior to authorizing a volunteer to issue citations.

(3) All citations issued by such volunteer under this section shall have the same force and effect as a citation issued by a law enforcement officer for the same offense.

(4) Each volunteer shall be given a distinctive piece of clothing to wear only when on duty. (Ord. #652, Jan. 1998)

**TITLE 7**

**FIRE PROTECTION AND FIREWORKS**<sup>1</sup>

**CHAPTER**

1. FIRE DISTRICT.
2. FIRE CODE.
3. FIRE DEPARTMENT.
4. FIRE SERVICE OUTSIDE CITY LIMITS.
5. FIREWORKS.

**CHAPTER 1**

**FIRE DISTRICT**

**SECTION**

7-101. Fire limits described.

**7-101. Fire limits described.** The corporate fire limits shall be and include all of that area of the city zoned as commercial. (1993 Code, § 7-101, modified)

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<sup>1</sup>Municipal code reference

Building, utility and housing codes: title 12.

Please also note that Ord. #720, June 2001, creates the position of public safety director/chief and states: "Any future reference in the code to either police chief or fire chief will be recognized as a reference to the public safety director/chief."



## CHAPTER 2

### FIRE CODE<sup>1</sup>

#### SECTION

- 7-201. Fire codes adopted.
- 7-202. Enforcement.
- 7-203. Definition of "municipality."
- 7-204. [Deleted.]
- 7-205. Gasoline trucks.
- 7-206. Variances.
- 7-207. Violations and penalties.
- 7-208. Appendices to the code adopted.
- 7-209. Amendments to code adopted.

**7-201. Fire codes adopted.** The International Fire Code,<sup>2</sup> 2012 edition, NFPA 101 Life Safety Code,<sup>3</sup> 2012 edition, are hereby adopted as the official fire codes of the city, one (1) copy of each code has been filed with city hall and is available for public use and inspection. (1993 Code, § 7-201, as replaced by Ord. #844, June 2008, and Ord. #948, Dec, 2013)

**7-202. Enforcement.** The International Fire Code, 2012 edition, Life Safety Code, 2012 edition, herein adopted by reference shall be enforced by the chief of the fire department or his appointee. He shall have the same powers as the state fire marshal. (1993 Code, § 7-202, as replaced by Ord. #844, June 2008, and Ord. #948, Dec. 2013)

**7-203. Definition of "municipality."** Whenever the word "municipality" is used in the International Fire Code, 2012 edition, Life Safety Code, 2012 edition, herein adopted, it shall be held to mean the City of East Ridge, Tennessee. (1993 Code, § 7-203, as replaced by Ord. #844, June 2008, and Ord. #948, Dec. 2013)

**7-204. [Deleted].** (1993 Code, § 7-204, as deleted by Ord. #844, June 2008, and Ord. #948, Dec. 2013)

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<sup>1</sup>Municipal code reference

Building, utility and residential codes: title 12.

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

<sup>3</sup>Copies of this code are available from the National Fire Protection Association, Inc., 1 Batterymarch Park, Quincy, MA 02269-9101.

**7-205. Gasoline trucks.** No person shall operate or park any gasoline tank truck within the central business district or within any residential area at any time except for the purpose of, and while actually engaged in, the expeditious delivery of gasoline. (1993 Code, § 7-205)

**7-206. Variances.** The chief of the fire department may recommend to the city council variances from the provisions of the International Fire Code, 2012 edition, Life Safety Code, 2012 edition upon application in writing by any property owner or lessee, or the duly authorized agent of either, when there are practical difficulties in the way of carrying out the strict letter of the code, provided that the spirit of the code shall be observed, public safety secured, and substantial justice done. The particulars of such variances when granted or allowed shall be contained in a resolution of the city council. (1993 Code, § 7-206, as replaced by Ord. #844, June 2008, and Ord. #948, Dec. 2013)

**7-207. Violations and penalties.** It shall be unlawful for any person to violate any of the provisions of this chapter or the International Fire Code, 2012 edition, Life Safety Code, 2012 edition, herein adopted, or fail to comply therewith, or violate or fail to comply with any order made thereunder; or build in violation of any detailed statement of specifications or plans submitted and approved thereunder, or any certificate or permit issued thereunder, and from which no appeal has been taken; or fail to comply with such and orders affirmed or modified by the city council or by a court of competent jurisdiction, within the time fixed herein. The violation of any section of this chapter shall be punishable by a penalty of up to five hundred dollars (\$500.00) for each offense. Each day a violation is allowed to continue shall constitute a separate offense. The application of a penalty shall not be held to prevent the enforced removal of prohibited conditions. (1993 Code, § 7-207, as replaced by Ord. #844, June 2008, and Ord. #948, Dec. 2013)

**7-208. Appendices to the code adopted.** The following appendices/ annexes to the International Fire Code, 2012 edition, and as further amended in this chapter, are hereby adopted as part of the official fire code of the city.

International Fire Code, 2012 edition:

- Appendix B - Fire Flow Requirements for Buildings
- Appendix C - Fire Hydrant Locations and Distribution
- Appendix D - Fire Apparatus
- Appendix E - Hazard Categories
- Appendix F - Hazard Ranking
- Appendix G - Cryogenic Fluids--Weight and Volume Equivalents
- Appendix H - Hazardous Material Management Plan and Hazardous Materials Inventory Statement
- Appendix I - Fire Protection Systems - Noncompliant Conditions

Appendix J - Building Information Sign  
 (as added by Ord. #844, June 2008, and replaced by Ord. #948, Dec. 2013)

**7-209. Amendments to code adopted.** The following sections of the International Fire Code, 2012 edition, are hereby amended, as hereinafter provided:

(1) All reference to the International Existing Building Code and International Electrical Code are deleted in their entirety and substituting in lieu thereof shall be the appropriate reference to the International Building Code, 2012 edition, and/or the International Residential Code, 2012 edition, and/or the National Electrical Code provisions adopted by the city.

(2) Section 101.1 is deleted in its entirety and the following language is substituted in lieu thereof:

Section 101.1 Title. These regulations shall be known as the International Fire Code hereinafter referred to as "this code."

(3) Section 105.4.6 is deleted in its entirety.

(4) Section 109 Violation and penalties shall be deleted in its entirety and replaced with East Ridge City Code, Title 7, Chapter 2, Section 7-207.

(5) Section 111.4 is deleted in its entirety and the following language is substituted in lieu thereof:

Section 111.4. Failure to Comply. Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be punishable by a penalty of up to five hundred dollars (\$500).

(6) Section 113.2 is amended by adopting a non-refundable annual fee schedule for operational permits, construction permits, inspections, and tests which shall be as follows:

Operational Permits

Amusement Buildings (special amusement building)	\$50.00
Compressed gases (storage and use)	\$50.00
Cutting and Welding	\$50.00
Hazardous Materials	\$50.00
High-piled Storage	\$50.00

Hot work operations	\$50.00
LP-gas	\$50.00
Places of assembly	\$50.00
Temporary membrane structures and tents	\$50.00

When more than one (1) permit is required for the same location, the fire code official is authorized to consolidate such permits into a single permit provided the each provision is listed in the permit.

#### Construction Permits

Automatic fue-extinguishing systems	\$100.00
Fire alarm and detection systems and related equipment	\$100.00

#### Inspections/Tests

Fire & Life Safety Inspection for Certificate of Occupancy	\$50.00
Environmental Reviews	\$50.00
Fire Alarm Acceptance Test	\$50.00
Fire Sprinkler Acceptance Test	\$50.00
Kitchen Hood Suppression Test	\$50.00
Re-inspection Fee	\$25.00

The above fees in section 113.2 are to be allocated for fire prevention, public education materials, and training.

(7) Section 113.3 Work commencing before permit issuance is deleted in its entirety and the following language is submitted in lieu thereof;

(8) Section 113.3 Any person who commences work on a building, structure, electrical, gas, mechanical or plumbing system before obtaining the necessary permits shall be subject to a penalty of 100% of the usual permit fees in addition to the required permit fees.

(9) Section 903.2.1.1 (note 1) is deleted in its entirety and the following language is submitted in lieu thereof;

Section 903.2.1.1 (note 1) Group A-1. (1) The fire area exceeds 5,000 square feet (465 m<sup>2</sup>).

(10) Section 903.2.1.3 (note 1) is deleted in its entirety and the following language is submitted in lieu thereof;

Section 903.2.1.3 (note 1) Group A-3. (1) The fire area exceeds 5,000 square feet (465 m<sup>2</sup>).

(11) Section 903.2.1.4 (note 1) is deleted in its entirety and the following language is submitted in lieu thereof;

Section 903.2.1.4 (note 1) Group A-4. (1) The fire area exceeds 5,000 square feet (465 m<sup>2</sup>).

(12) Section 903.2.3 (note 1) is deleted in its entirety and the following language is submitted in lieu thereof;

Section 903.2.3 (note 1) Group E. (1) Throughout all Group E fire areas greater than 5,000 square feet (465 m<sup>2</sup>) in area.

(13) Section 903.2.4 (note 1) is deleted in its entirety and the following language is submitted in lieu thereof;

Section 903.2.4 (note 1) Group F-1. (1) A Group F-1 fire area exceeds 5,000 square feet (465 m<sup>2</sup>).

(14) Section 903.2.7 (note 1) is deleted in its entirety and the following language is submitted in lieu thereof;

Section 903.2.7 (note 1) Group M. (1) A Group M fire area exceeds 5,000 square feet (465 m<sup>2</sup>).

(15) Section 903.2.9 (note 1) is deleted in its entirety and the following language is submitted in lieu thereof;

Section 903.2.9 (note 1) Group S-1. (1) A Group S-1 fire area exceeds 5,000 square feet (465 m<sup>2</sup>).

(16) Section 903.2.10 (note 1) is deleted in its entirety and the following language is submitted in lieu thereof;

Section 903.2.10 (note 1) Group S-2 enclosed parking garages. (1) Where the fire area of the enclosed parking garage exceeds 5,000 square feet (465 m<sup>2</sup>); or (as added by Ord. #844, June 2008, and replaced by Ord. #948, Dec. 2013)

## CHAPTER 3

### FIRE DEPARTMENT<sup>1</sup>

#### SECTION

- 7-301. Establishment, equipment, and membership.
- 7-302. Objectives.
- 7-303. Organization, rules, and regulations.
- 7-304. Records and reports.
- 7-305. Tenure and compensation of members.
- 7-306. Chief responsible for training and maintenance.
- 7-307. Chief to be assistant to state officer.

**7-301. Establishment, equipment, and membership.** There is hereby established a fire department to be supported and equipped from appropriations by the city manager. All apparatus, equipment, and supplies shall be purchased by or through the city and shall be and remain the property of the city. The fire department shall be composed of a chief and such number of subordinate officers and firemen as the city manager shall appoint. (1993 Code, § 7-309, modified)

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

- (1) To prevent uncontrolled fires from starting.
- (2) To prevent the loss of life and property because of fires.
- (3) To confine fires to their places of origin.
- (4) To extinguish uncontrolled fires.
- (5) To prevent loss of life from asphyxiation or drowning.
- (6) To perform such rescue work as its equipment and/or the training of its personnel makes practicable. (1993 Code, § 7-310, modified)

**7-303. Organization, rules, and regulations.** The chief of the fire department shall set up the organization of the department, make definite assignments to individuals, and shall formulate and enforce such rules and regulations as shall be necessary for the orderly and efficient operation of the fire department, under the direction of the city manager. (1993 Code, § 7-311, modified)

**7-304. Records and reports.** The chief of the fire department shall keep adequate records of all fires, inspections, apparatus, equipment, personnel, and work of the department. He shall submit such written reports on those

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<sup>1</sup>Municipal code reference

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

matters to the mayor as the mayor requires. The mayor shall submit a report on those matters to the mayor or the city manager as they may require. (1993 Code, § 7-312, modified)

**7-305. Tenure and compensation of members.** The chief shall have the authority to suspend any other member of the fire department when he deems such action to be necessary for the good of the department. The chief may be suspended up to thirty (30) days by the mayor. However, only the city manager shall dismiss either the fire chief or subordinate officers and firemen. (1993 Code, § 7-313, modified)

**7-306. Chief responsible for training and maintenance.** The chief of the fire department, shall be fully responsible for the training of the firemen and for maintenance of all property and equipment of the fire department, under the direction and subject to the requirements of the city manager. (1993 Code, § 7-314, modified)

**7-307. Chief to be assistant to state officer.** Pursuant to requirements of Tennessee Code Annotated, § 68-102-108, the fire chief is designated as an assistant to the state commissioner of insurance and is subject to all the duties and obligations imposed by Tennessee Code Annotated, title 68, chapter 102, and shall be subject to the directions of the commissioner in the execution of the provisions thereof. (1993 Code, § 7-316, modified)



## CHAPTER 4

### FIRE SERVICE OUTSIDE CITY LIMITS

#### SECTION

7-401. Restrictions on fire service outside city limits.

**7-401. Restrictions on fire service outside city limits.** No personnel or equipment of the fire department shall be used for fighting any fire outside the city limits unless the fire is on city property or, in the opinion of the fire chief, is in such hazardous proximity to property owned or located within the city as to endanger the city property, or unless the city council has developed policies for providing emergency services outside of the city limits or entered into a contract or mutual aid agreement pursuant to the authority of:

(1) The Local Government Emergency Assistance Act of 1987, as amended, codified in Tennessee Code Annotated, § 58-2-601, et seq.<sup>1</sup>

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<sup>1</sup>State law references

Tennessee Code Annotated, § 58-2-601, et seq., as amended by Public Acts 1988, Ch. 499, authorizes any municipality or other local governmental entity to go outside of its boundaries in response to a request for emergency assistance by another local government. It does not create a duty to respond to or to stay at the scene of an emergency outside its jurisdiction.

This statute, as amended, does not require written agreements between the local governments, but authorizes them to develop policies and procedures for requesting and responding to requests for emergency assistance, including provisions for compensation for service rendered.

The statute specifies which municipal officers may request and respond to requests for emergency assistance and provides for the appointment by municipal governing bodies of additional municipal officers with the same authority.

The statute provides that the senior officer of the requesting party will be in command at the scene of the emergency.

The statute outlines the liabilities of the requesting and responding governments as follows: (1) Neither the responding party nor its employees shall be liable for any property damage or bodily injury at the actual scene of any emergency due to actions performed in  
(continued...)

- (2) Tennessee Code Annotated, § 12-9-101, et seq.<sup>1</sup>
- (3) Tennessee Code Annotated, § 6-54-601.<sup>2</sup>

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(...continued)

responding to a request for emergency assistance; (2) The requesting party is not liable for damages to the equipment and personnel of the responding party in response to the request for emergency assistance; and (3) Neither the requesting party nor its employees is liable for damages caused by the negligence of the personnel of the responding party while enroute to or from the scene of the emergency.

<sup>1</sup>State law reference

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

<sup>2</sup>State law reference

Tennessee Code Annotated, § 6-54-601 authorizes municipalities (1) To enter into mutual aid agreements with other municipalities, counties, privately incorporated fire departments, utility districts and metropolitan airport authorities which provide for firefighting service, and with industrial fire departments, to furnish one another with fire fighting assistance. (2) Enter into contracts with organizations of residents and property owners of unincorporated communities to provide such communities with firefighting assistance. (3) Provide fire protection outside their city limits to either citizens on an individual contractual basis, or to citizens in an area without individual contracts, whenever an agreement has first been entered into between the municipality providing the fire service and the county or counties in which the fire protection is to be provided. (Counties may compensate municipalities for the extension of fire services.)

## CHAPTER 5

### FIREWORKS

#### SECTION

7-501. Definition.

7-502. Manufacture, sale and discharge of fireworks.

7-503. Bond for fireworks display required.

7-504. Disposal of unfired fireworks.

7-505. Exceptions.

7-506. Seizure of fireworks.

**7-501. Definition.** "Fireworks" shall mean and include any combustible or explosive composition, or any substance or combination of substances, or article prepared for the purpose of producing a visible or an audible effect by combustion, explosion, deflagration or detonation, and shall include blank cartridges, toy pistols, toy cannons, toy canes, or toy guns in which explosives are used, the type of balloons which require fire underneath to propel the same, firecrackers, torpedoes, skyrockets, roman candles, daygo bombs, sparklers, or other devices of like construction and any devices containing any explosive or flammable compound, or any tablets or other device containing substance, except that the term "fireworks" shall not include auto flares, paper caps containing not in excess of an average of twenty-five hundredths of a grain of explosive content per cap, and toy pistols, toy canes, toy guns or other devices for use of such caps, the sale and use of which shall be permitted at all times. (1993 Code, § 7-401)

**7-502. Manufacture, sale and discharge of fireworks.** (1) The manufacture of fireworks is prohibited within the municipality.

(2) Except as hereinafter provided it shall be unlawful for any person to store, to offer for sale, expose for sale, sell at retail, or use or explode any fireworks; provided that the city manager shall have power to grant permits for supervised public displays of fireworks by the City of East Ridge, fair association, amusement parks, and other organizations. Every such display shall be handled by a competent operator approved by the chief of the fire department of the City of East Ridge, and shall be of such character, and be so located, discharged or fired as in the opinion of the chief of the fire department, after proper inspection, shall not be hazardous to property or endanger any person.

(3) Applications for permits shall be made in writing in advance of the date of the display. After such privilege shall have been granted, sale, possession, use and distribution of fireworks for such display shall be lawful for that purpose only. No permit granted hereunder shall be transferable. (1993 Code, § 7-402)

**7-503. Bond for fireworks display required.** The permittee shall furnish a bond in an amount deemed adequate by the city manager for the payment of all damages which may be caused either to a person or persons or to property by reason of the permitted display, and arising from any acts of the permittee, his agents, employees, or subcontractors. (1993 Code, § 7-403)

**7-504. Disposal of unfired fireworks.** Any fireworks that remain unfired after the display is concluded shall be immediately disposed of in a way safe for the particular type of fireworks remaining. (1993 Code, § 7-404)

**7-505. Exceptions.** Nothing in this chapter shall be construed to prohibit any resident wholesaler, dealer, or jobber to sell at wholesale such fireworks as are not herein prohibited; or the sale of any kind of fireworks provided the same are to be shipped directly out of the city; or the use of fireworks by railroads or other transportation agencies for signal purposes or illumination, or the sale or use of blank cartridges for a show or theater, or for signal or ceremonial purposes in athletics or sports, or for use by military organizations. (1993 Code, § 7-405)

**7-506. Seizure of fireworks.** Policemen and firemen shall seize, take, remove, or cause to be removed at the expense of the owner all stocks of fireworks offered or exposed for sale, stored, or held in violation of this chapter. (1993 Code, § 7-406)

**TITLE 8**

**ALCOHOLIC BEVERAGES**<sup>1</sup>

**CHAPTER**

1. INTOXICATING LIQUORS.
2. BEER.

**CHAPTER 1**

**INTOXICATING LIQUORS**

**SECTION**

- 8-101. Definition of alcoholic beverages.
- 8-102. Consumption of alcoholic beverages on premises.
- 8-103. Privilege tax on retail sale of alcoholic beverages for consumption on the premises.
- 8-104. Annual privilege tax to be paid to the city clerk.
- 8-105. Concurrent sales of liquor by the drink and beer.
- 8-106. Advertisement of alcoholic beverages.
- 8-107. Penalty for late payment of liquor by the drink privilege tax.

**8-101. Definition of alcoholic beverages.** As used in this chapter, unless the context indicates otherwise: Alcoholic beverages means and includes alcohol, spirits, liquor, wine, and every liquid containing alcohol, spirits, wine and capable of being consumed by a human being, other than patented medicine or beer, where the latter contains an alcoholic content of five percent (5%) by weight, or less. (as replaced by Ord. #778, Nov. 2004)

**8-102. Consumption of alcoholic beverages on premises.** Tennessee Code Annotated, title 57, chapter 4, inclusive, is hereby adopted by reference so as to be applicable to all sales of alcoholic beverages for on premises consumption which are regulated by the said code when such sales are conducted within the corporate limits of East Ridge, Tennessee. It is the intent of the city council that the said Tennessee Code Annotated, title 57, chapter 4, inclusive, shall be effective in East Ridge, Tennessee, the same as if said code sections were copied herein verbatim. (as added by Ord. #778, Nov. 2004)

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<sup>1</sup>Municipal code reference

Minors in beer places, etc.: title 11, chapter 1.

State law reference

Tennessee Code Annotated, title 57.

**8-103. Privilege tax on retail sale of alcoholic beverages for consumption on the premises.** Pursuant to the authority contained in Tennessee Code Annotated, § 57-4-301, there is hereby levied a privilege tax (in the same amounts levied by Tennessee Code Annotated, title 57, chapter 4, section 301, for the City of East Ridge General Fund to be paid annually as provided in this chapter) upon any person, firm, corporation, joint stock company, syndicate, or association engaging in the business of selling at retail in the City of East Ridge on alcoholic beverages for consumption on the premises where sold. (as added by Ord. #778, Nov. 2004)

**8-104. Annual privilege tax to be paid to the city clerk.** Any person, firm, corporation, joint stock company, syndicate or association exercising the privilege of selling alcoholic beverages for consumption on the premises in the City of East Ridge shall remit annually to the city clerk the appropriate tax described in § 8-103. Such payments shall be remitted not less than thirty (30) days following the end of each twelve (12) month period from the original date of the license. Upon the transfer of ownership of such business or the discontinuance of such business, said tax shall be filed within thirty (30) days following such event. Any person, firm, corporation, joint stock company, syndicate, or association failing to make payment of the appropriate tax when due shall be subject to the penalty provided by law. (as added by Ord. #778, Nov. 2004)

**8-105. Concurrent sales of liquor by the drink and beer.** Any person, firm, corporation, joint stock company, syndicate or association which has received a license to sell alcoholic beverages in the City of East Ridge, pursuant to Tennessee Code Annotated, title 57, chapter 4, shall notwithstanding the provisions of § 8-212(3) of the ordinances of the City of East Ridge, qualify to receive a beer permit from the city. (as added by Ord. #778, Nov. 2004)

**8-106. Advertisement of alcoholic beverages.** All advertisement of the availability of liquor for sale by those licensed pursuant to Tennessee Code Annotated, title 57, chapter 4, shall be in accordance with the Rules and Regulations of the Tennessee Alcoholic Beverage Commission. (as added by Ord. #778, Nov. 2004)

**8-107. Penalty for late payment of liquor by the drink privilege tax.** A five percent (5%) monthly penalty is established for non-payment or late payment of the liquor by the drink privilege tax. (as added by Ord. #1022, Nov. 2016)

## CHAPTER 2

### BEER<sup>1</sup>

#### SECTION

- 8-201. Beer board.
- 8-202. Meetings of the beer board.
- 8-203. Record of beer board proceedings to be kept.
- 8-204. Requirements for beer board quorum and action.
- 8-205. Powers and duties of the beer board.
- 8-206. "Beer" defined.
- 8-207. Permit required for engaging in beer business.
- 8-208. Privilege tax.
- 8-209. Beer permits shall be restrictive.
- 8-210. Classes of consumption permits.
- 8-211. Limitation on number of permits.
- 8-212. Interference with public health, safety, and morals prohibited.
- 8-213. Issuance of permits to persons convicted of certain crimes prohibited.
- 8-214. Prohibited conduct or activities by beer permit holders, employees and persons engaged in the sale of beer.
- 8-215. Revocation of beer permits.
- 8-216. Civil penalty in lieu of revocation or suspension.
- 8-217. Violations.
- 8-218. Loss of clerk's certification for sale to minor.
- 8-219. Temporary permits.

**8-201. Beer board.** There is hereby created and established a board to consist of five (5) residents of the city, to be appointed by the city council with each councilmember having one (1) appointment to said board. The initial members of the board shall have staggered terms with two (2) having terms expiring in November 1986, two (2) having a term expiring in November 1987 and one (1) having a term expiring in November of 1988. The board members shall draw lots to determine their terms at the first meeting of the newly appointed board. Thereafter, as their terms expire, new members of the boards shall be appointed for three (3) year terms. The mayor has the prerogative of naming the chairman of the beer board each November. The board shall select

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<sup>1</sup>Municipal code references

Minors in beer places, etc.: title 11, chapter 1.

Tax provisions: title 5.

State law reference

For a leading case on a municipality's authority to regulate beer, see Watkins v. Naifeh, 635 S.W.2d 104 (Tenn. 1982).

its own secretary, and shall serve without pay except that any necessary expenses incurred in performing their duties, shall be paid by the city. (Ord. #555, Aug. 1993, as replaced by Ord. #858, March 2009)

**8-202. Meetings of the beer board.** All meetings of the beer board shall be open to the public. The board shall hold regular meetings in the city hall at such times as it shall prescribe. When there is business to come before the beer board, a special meeting may be called by the chairman provided he gives a reasonable notice thereof to each member. The board may adjourn a meeting at any time to another time and place. The chief building official for the city shall submit to the beer board certification of all measurements and all maps for all pending applications at least one (1) week prior to any regular or special called meeting. (1993 Code, § 2-202, as amended by Ord. #555, Aug, 1993, modified, and replaced by Ord. #858, March 2009)

**8-203. Record of beer board proceedings to be kept.** The secretary of the beer board shall provide the record of the proceedings of all meetings of the beer board. The record shall be a public record and shall contain at least the following: The date of each meeting; the names of the board members present and absent; the names of the members introducing and seconding motions and resolutions, etc., before the board; a copy of each such motion or resolution presented; the vote of each member thereon; and the provisions of each beer permit issued by the board. (as replaced by Ord. #858, Feb. 2009)

**8-204. Requirements for beer board quorum and action.** The attendance of at least a majority of the members of the beer board shall be required to constitute a quorum for the purpose of transacting business. Matters before the board shall be decided by a majority of the members present if a quorum is constituted. Any member present but not voting shall be deemed to have cast a "nay" vote. (as replaced by Ord. #858, Feb. 2009)

**8-205. Powers and duties of the beer board.** The beer board shall have the power and it is hereby directed to regulate the selling, storing for sale, distributing for sale, and manufacturing of beer within this municipality in accordance with the provisions of this chapter. (as replaced by Ord. #858, Feb. 2009)

**8-206. "Beer" defined.** The term "beer" as used in this chapter shall mean and include all beers, ales, and other malt liquors having an alcoholic content of not more than five percent (5%) by weight. (Ord. #555, Aug. 1993, modified, as replaced by Ord. #858, Feb. 2009)

**8-207. Permit required for engaging in beer business.** It shall be unlawful for any person to sell, store for sale, distribute for sale, or manufacture



beer without first making application to and obtaining an annual permit from the beer board. The application shall be made on such form as the board shall prescribe and/or furnish, and pursuant to Tennessee Code Annotated, § 57-5-104(a), shall be accompanied by a non-refundable application fee of two hundred fifty dollars (\$250.00) for regular beer permits, an additional fifty dollars (\$50.00) for temporary beer permits issued under § 8-207(4) and three hundred dollars (\$300.00) for all temporary special events permits under § 8-219. All applications whether for regular beer permits or temporary permits shall be fully completed and submitted at least two (2) weeks prior to any regularly scheduled or special called meeting of the beer board. Said fee shall be in the form of a cashier's check payable to the City of East Ridge. Applicants must be persons of good moral character and must certify that they have read and are familiar with the provisions of this chapter.

(1) In order to receive a permit, an applicant must establish that:

(a) No beer will be sold except at places where such sale will not cause congestion of traffic or interference with schools, churches, or other places of public gathering, or otherwise interfere with public health, safety and morals;

(b) No sale shall be made to minors;

(c) No person, firm, corporation, joint-stock company, syndicate, or association having at least five percent (5%) ownership interest in the business of the applicant shall have been convicted of any violation of the laws against possession, sale, manufacture, or transportation of beer or other alcoholic beverages, or the manufacture, delivery, sale or possession with intent to manufacture, deliver or sell any controlled substance, or any crime involving moral turpitude within the past ten (10) years;

(d) No person employed by the applicant in such distribution or sale has been convicted of any violation of the laws against possession, sale, manufacture, or transportation of beer or other alcoholic beverages, or the manufacture, delivery, sale or possession with intent to manufacture, deliver or sell any controlled substance that is listed in Schedules I through V in title 39, chapter 17, part 4, or any crime involving moral turpitude within the past ten (10) years; and

(e) No sale shall be made for on-premise consumption unless the application so states.

(2) An applicant shall disclose and/or include the following information in the application:

(a) Name of the applicant;

(b) Name of applicant's business;

(c) Location of business by street address or other geographical description to permit an accurate determination of conformity with the requirements of this section;

(d) Persons, firms, corporations, joint-stock companies, syndicates, or associations having at least a five percent (5%) ownership interest in the applicant;

(e) Identity and address of a representative to receive annual tax notices and any other communication from the city and/or county legislative body or its committee;

(f) That no person, firm, joint-stock company, syndicate, or association having at least a five percent (5%) ownership interest in the business of the applicant nor any person to be employed in the distribution or sale of beer has been convicted of any violation of the laws against possession, sale, manufacture, or transportation of beer or other alcoholic beverages or any crime involving moral turpitude within the past ten (10) years;

(g) Whether or not the applicant is seeking a permit which would allow the sale of either for on-premises consumption or for off-premises consumption, or both of the foregoing. If a holder of a beer permit for either off-premises consumption or on-premises consumption desires to change the permit holder's method of sale, the permit holder shall apply to the beer board for a new permit;

(h) An affidavit signed by the applicant acknowledging receipt of a copy of all applicable ordinances and providing a scaled drawing of the property for which the permit is requested; and

(i) Such other relevant information as may be required by the beer board. An applicant or permit holder shall be required to amend or supplement its application promptly if a change in circumstances affects the responses provided in its application.

(3) Any applicant making a false statement in the application shall forfeit such applicant's permit and shall not be eligible to receive any permit for a period of ten (10) years.

(4) Temporary beer licenses or permits not to exceed thirty (30) days' duration may be issued at the request of the applicant upon the same conditions governing permanent permits. Such a temporary license or permit shall only be issued if based upon the application the applicant compiles with the conditions of this chapter and code as determined by the chairman of the beer board. In no event shall the issuance of a temporary permit be construed to grant unto any applicant the right or expectation that the beer board is obligated or otherwise bound to grant a permanent permit. (as replaced by Ord. #806, Dec. 2005, and Ord. #858, Feb. 2009)

**8-208. Privilege tax.** There is hereby imposed on the business of selling, distributing, storing or manufacturing beer a privilege tax of one hundred dollars (\$100.00). Any person, firm, corporation, joint stock company, syndicate or association engaged in the sale, distribution, storage or manufacture of beer shall remit the tax on January 1, to the City of East Ridge,

Tennessee. At the time a new permit is issued to any business subject to this tax, the permit holder shall be required to pay the privilege tax on a prorated basis for each month or portion thereof remaining until the next tax payment date. (Ord. #555, Aug. 1993, modified, as replaced by Ord. #858, Feb. 2009)

**8-209. Beer permits shall be restrictive.** All beer permits shall be restrictive as to the type of beer business authorized under them. Separate permits shall be required for selling at retail, storing, distributing, and manufacturing. Beer permits for retail sale of beer may be further restricted by the beer board so as to authorize sales only for off-premises consumption. A single permit may be issued for on-premise and off-premise consumption. It shall be unlawful for any beer permit holder to engage in any type or phase of the beer business not expressly authorized by his permit. It shall likewise be unlawful for him not to comply with any and all express restrictions or conditions which may be written into his permit by the beer board. (as replaced by Ord. #858, Feb. 2009)

**8-210. Classes of consumption permits.** Permits issued by the beer board shall consist of three (3) classes:

(1) Class 1 On-Premises Permit. A Class 1 On-Premises Permit shall be issued for the consumption of beer only on the premises. To qualify for a Class 1 On-Premises Permit, an establishment must, in addition to meeting the other regulations and restrictions in this chapter:

- (a) Be primarily a restaurant or an eating place; and
- (b) Be able to seat a minimum of thirty (30) people, including children, in booths and at tables, in addition to any other seating it may have; and
- (c) Have all seating in the interior of the building under a permanent roof; and

In addition, the monthly beer sales of any establishment which holds a Class 1 On-Premises Permit shall not exceed fifty percent (50%) of the gross sales of the establishment. Any such establishment which for two (2) consecutive months or for any three (3) months in any calendar year has beer sales exceeding fifty percent (50%) of its gross sales, shall have its beer permit revoked. Beginning July 1, 2009, all holders of a Class 1 Beer Permit shall report its monthly beer sales, including the percentage of beer sales to its gross sales to the city not later than the fifteenth (15th) of the month next following on such forms as shall from time to time be required by the city to assure that the Class 1 permit holder is in compliance with this section. The city will keep these forms in the permit holder's individual business tax file so that the confidentiality required by Tennessee Code Annotated, § 67-4-722 may be maintained. If the monthly sales for any Class 1 Beer Permit holder exceeds fifty percent (50%) of the monthly gross sales of the permit holder for either three (3) consecutive months during one (1) calendar year or for any four (4)

months in one (1) calendar year, the Class 1 Beer Permit of such permit holder may be suspended or revoked by the beer board. In the alternative, and in lieu of suspension or revocation of the permit, the beer board has the discretion to impose a civil penalty in lieu of suspension in accordance with the terms of § 8-216 herein. Any such permit holder that fails to provide such reports timely for two (2) consecutive or more months in any calendar year shall have its beer permit revoked.

(2) Class 2 On-Premises Permit. Other establishments making application for a permit to sell beer for consumption on the premises, which do not qualify, or do not wish to apply for, a Class 1 On-Premises Permit, but which otherwise meet all other regulations and restrictions in this chapter, shall apply for a Class 2 On-Premises Permit.

(3) Class 3 Off-Premises Permit. An off-premises permit shall be issued for the consumption of beer only off the premises. To qualify for an Off-Premises permit, an establishment must, in addition to meeting the other regulations in this chapter:

- (a) Be a grocery store or a convenience type market; and
- (b) In either case, be primarily engaged in the sale of grocery and personal and home care and cleaning articles, but may also sell gasoline. (as replaced by Ord. #858, Feb. 2009)

**8-211. Limitation on number of permits.** The number of Class 2 licenses for the sale of beer shall be limited to eight (8). Provided that all requirements of this chapter are complied with, all existing permits for the sale of beer within the corporate limits of the city at the date of the passage of the ordinance comprising this chapter shall continue to be renewed. A new permit may be issued to a qualified purchaser of an existing establishment in which a permit is now held for the sale of beer, and the permit used only within the establishment or building purchased. (as replaced by Ord. #858, Feb. 2009)

**8-212. Interference with public health, safety, and morals prohibited.** No permit authorizing the sale of beer will be issued when such business would cause congestion of traffic or would interfere with the public health, safety, and morals. In no event will a permit be issued authorizing the manufacture or storage of beer, or the sale of beer within two hundred fifty feet (250') of any school, church or other place of public gathering. The East Ridge City Council may, on a case by case basis, grant variances to the distance requirements set forth in this section for off-premises sales only. The distances shall be measured in a straight line<sup>1</sup> from the nearest point on a building on the

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<sup>1</sup>State law reference

See Watkins v. Naifeh, 635 S.W. 2d 104 (Tenn. 1982) and other cases cited therein which establish the straight line method of measurement.

property line upon which sits the building from which the beer will be manufactured, stored or sold to the nearest point on the property line of the school, church or other place of public gathering. No permit shall be suspended, revoked or denied on the basis of proximity of the establishment to a school, church, or other place of public gathering if a valid permit has been issued to any business on that same location as of January 1, 1993, unless beer is not sold, distributed or manufactured at that location during any continuous six (6) month period after January 1, 1993. (as replaced by Ord. #858, Feb. 2009, Ord. #905, Oct. 2011, and Ord. #1000, Dec. 2015)

**8-213. Issuance of permits to persons convicted of certain crimes prohibited.** No beer permit shall be issued to any person who has been convicted for the possession, sale, manufacture, or transportation of intoxicating liquor, or any crime involving moral turpitude within the past ten (10) years. No person, firm, corporation, joint-stock company, syndicate, or association having at least a five percent (5%) ownership interest in the applicant shall have been convicted of any violation of the laws against possession, sale, manufacture, or transportation of beer or other alcoholic beverages or any crime involving moral turpitude within the past ten (10) years. (as amended by Ord. #823, June 2007, and replaced by Ord. #858, Feb. 2009)

**8-214. Prohibited conduct or activities by beer permit holders, employees and persons engaged in the sale of beer.** It shall be unlawful for any beer permit holder, employee or person engaged in the sale of beer to:

- (1) [Deleted.]
- (2) Employ any minor under eighteen (18) years of age in the sale, storage, distribution or manufacture of beer.
- (3) Make or allow any sale of beer between the hours of 3:00 A.M. and 8:00 A.M. during any night of the week; or between the hours of 3:00 A.M. and 12:00 noon on Sundays.
- (4) Make or allow any sale of beer to a person under twenty-one (21) years of age.
- (5) Allow any person under twenty-one (21) years of age to loiter in or about his place of business.
- (6) Make or allow any sale of beer to any intoxicated person or to any feeble-minded, insane, or otherwise mentally incapacitated person.
- (7) Allow drunk persons to loiter about his premises.
- (8) Serve, sell, or allow the consumption on his premises of any alcoholic beverage with an alcoholic content of more than five percent (5%) by weight.
- (9) Allow pool or billiard playing in the same room where beer is sold and/or consumed.

(10) Allow the sale of beer in any establishment where adult entertainment occurs or adult materials, novelty or other adult items are sold or stored.

(11) Fail to provide and maintain separate sanitary toilet facilities for men and women. (Ord. #555, Aug. 1993, modified, as replaced by Ord. #858, Feb. 2009)

**8-215. Revocation of beer permits.** The beer board shall have the power to revoke any beer permit issued under the provisions of this chapter when the holder thereof is guilty of making a false statement or misrepresentation in his application or of violating any of the provisions of this chapter. However, no beer permit shall be revoked until a public hearing is held by the board after reasonable notice to all the known parties in interest. Revocation proceedings may be initiated by the police chief or by any member of the beer board.

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

The city manager in the case of an emergency shall have the power to revoke or suspend any beer permit issued under the provisions of this chapter or issue a fine for any violations under this chapter such revocation suspension or fine only until the next beer board meeting. (Ord. #555, Aug. 1993, as amended by Ord. #586, Feb. 1995, modified, amended by Ord. #823, June 2007, and replaced by Ord. #858, Feb. 2009)

**8-216. Civil penalty in lieu of revocation or suspension.**

(1) Definition. "Responsible vendor" means a person, corporation or other entity that has been issued a permit to sell beer for off-premises consumption and has received certification by the Tennessee Alcoholic Beverage Commission under the "Tennessee Responsible Vendor Act of 2006," Tennessee Code Annotated, § 57-5-601, et seq.

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

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

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

Payment of the civil penalty in lieu of revocation or suspension by a permit holder shall be an admission by the holder of the violation so charged and shall be paid to the exclusion of any other penalty that the city may impose. (as replaced by Ord. #823, June 2007, and Ord. #858, Feb. 2009)

**8-217. Violations.** Each sale of beer to a minor shall constitute a separate offense. Except as provided in § 8-216, any violation of this chapter shall constitute a civil offense and shall, upon conviction, be punishable by a penalty under the general penalty clause of this code. Each day a violation shall be allowed to continue shall constitute a separate offense. (as replaced by Ord. #858, Feb. 2009)

**8-218. Loss of clerk's certification for sale to minor.** If the beer board determines that a clerk of an off-premises beer permit holder certified under Tennessee Code Annotated, § 57-5-606, sold beer to a minor, the beer board shall report the name of the clerk to the alcoholic beverage commission within fifteen (15) days of determination of the sale. The certification of the clerk shall be invalid and the clerk may not reapply for a new certificate for a period of one (1) year from the date of the beer board's determination. (as added by Ord. #823, June 2007, and replaced by Ord. #858, Feb. 2009)

**8-219. Temporary special events permits.** The city manager or the city manager's designee shall have the authority, where in the city manager's opinion the beer board is not able to act in a timely manner, to issue a one-time temporary permit for sale of beer in the City of East Ridge for a period not to exceed three (3) days from the date issued for non-city sponsored group activities providing that such permit shall not be for any activity on city owned or controlled property. (as added by Ord. #858, Feb. 2009, and amended by Ord. #860, Aug. 2009)

**TITLE 9**

**BUSINESS, PEDDLERS, SOLICITORS, ETC.<sup>1</sup>**

**CHAPTER**

1. MISCELLANEOUS.
2. PEDDLERS, SOLICITORS, ETC.
3. TAXICABS.
4. POOL ROOMS.
5. WRECKING AND TOWING SERVICE.
6. REGULATION OF AMBULANCES.
7. LICENSING AND REGULATION OF MASSAGE PARLORS.
8. TELECOMMUNICATIONS SERVICES.
9. CABLE TELEVISION.
10. YARD SALES.

**CHAPTER 1**

**MISCELLANEOUS**

**SECTION**

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

**9-101. "Going out of business" sales.** It shall be unlawful for any person to falsely represent a sale as being a "going out of business" sale. A "going out of business" sale, for the purposes of this section, shall be a "fire sale," "bankrupt sale," "loss of lease sale," or any other sale made in anticipation of the termination of a business at its present location. When any person, after advertising a "going out of business" sale, adds to his stock or fails to go out of business within ninety (90) days he shall prima facie be deemed to have violated this section. (1993 Code, § 5-101)

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<sup>1</sup>Municipal code references

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

Junkyards: title 13.

Liquor and beer regulations: title 8.

Noise reductions: title 11.

Zoning: title 14.



## CHAPTER 2

### PEDDLERS, SOLICITORS, ETC.<sup>1</sup>

#### SECTION

- 9-201. Definitions.
- 9-202. Exemptions.
- 9-203. Permit required.
- 9-204. Permit procedure.
- 9-205. Restrictions on peddlers, street barkers, solicitors, solicitors for charitable purposes and solicitors for subscriptions.
- 9-206. Restrictions on transient vendors.
- 9-207. Display of permit.
- 9-208. Suspension or revocation of permit.
- 9-209. Expiration and renewal of permit.
- 9-210. Violation and penalty.

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

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

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

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

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<sup>1</sup>Municipal code references

Privilege taxes: title 5.

Trespass by peddlers, etc.: § 11-501.

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

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

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

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

(5) "Transient vendor"<sup>1</sup> means any person who brings into temporary premises and exhibits stocks of merchandise to the public for the purpose of selling or offering to sell the merchandise to the public. Transient vendor does not include any person selling goods by sample, brochure, or sales catalog for future delivery; or to sales resulting from the prior invitation to the seller by the owner or occupant of a residence. For purposes of this definition, "merchandise" means any consumer item that is or is represented to be new or not previously owned by a consumer, and "temporary premises" means any public or quasi-public place including a hotel, rooming house, storeroom, building or part of a building, tent, vacant lot, railroad car, or motor vehicle which is temporarily occupied for the purpose of exhibiting stocks of merchandise to the public. Premises are not temporary if the same person has conducted business at those premises for more than six (6) consecutive months or has occupied the premises as his or her permanent residence for more than six (6) consecutive months.

(6) "Street barker" means any peddler who does business during recognized festival or parade days in the city and who limits his business to

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<sup>1</sup>State law references

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

The definition of "transient vendors" is taken from Tennessee Code Annotated, § 62-30-101(3). Note also that Tennessee Code Annotated, § 67-4-709(a) prescribes that transient vendors shall pay a tax of \$50.00 for each 14 day period in each county and/or municipality in which such vendors sell or offer to sell merchandise for which they are issued a business license, but that they are not liable for the gross receipts portion of the tax provided for in Tennessee Code Annotated, § 67-4-709(b).

selling or offering to sell novelty items and similar goods in the area of the festival or parade. (as replaced by Ord. #978, Aug. 2014)

**9-202. Exemptions.** The terms of this chapter shall neither apply to persons selling at wholesale to dealers, nor to newsboys, nor to bona fide merchants who merely deliver goods in the regular course of business, nor to persons who attempt to make personal contact with a resident at his/her residence without prior specific invitation or appointment from the resident, for the primary purpose of attempting to enlist support for or against a particular political party, political issue, or political candidate, even if the personal contact involves distribution of a handbill or flyer advertising the particular political party, political issue, or political candidate, or involves accepting the donation of money for or against the particular political party, political issue, or political candidate. (1993 Code, § 5-202, as replaced by Ord. #978, Aug. 2014)

**9-203. Permit required.** No person, firm or corporation shall operate a business as a peddler, transient vendor, solicitor or street barker, and no solicitor for charitable or religious purposes or solicitor for subscriptions shall solicit within the city unless the same has complied with the provisions of § 9-204. (1993 Code, §§ 5-201 and 5-301, as replaced by Ord. #978, Aug. 2014)

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

- (a) The complete name and permanent address of the business or organization the applicant represents.
- (b) An identification photograph of the applicant, taken by the city finance director or his/her designee.
- (c) A brief description of the type of business and the goods to be sold.
- (d) The dates for which the applicant intends to do business or make solicitations.
- (e) The names and permanent addresses of each person who will make sales or solicitations within the city.
- (f) The make, model, complete description, and license tag number and state of issue, of each vehicle to be used to make sales or solicitations, whether or not such vehicle is owned individually by the person making sales or solicitations, by the business or organization itself, or rented or borrowed from another business or person.
- (g) Tennessee State sales tax number, if applicable.

(2) Permit fee. Each applicant for a permit as a peddler, transient vendor, solicitor or street barker shall submit with his application a nonrefundable fee of twenty dollars (\$20.00). There shall be no fee for an application for a permit as a solicitor for charitable purposes or as a solicitor for subscriptions.

(3) Permit issued. Upon the completion of the application form and the payment of the permit fee, where required, the city finance director or his/her designee shall issue a permit and provide a copy of the same to the applicant.

(4) Permit to be worn by peddlers and solicitors. After the issuance of the permit, an additional copy of the permit shall be provided to all peddlers and solicitors in a form, such as a pin or lanyard, appropriate for display on their person. This copy of the permit shall be visible and worn on the person of the peddler or solicitor at all times while making sales or solicitations. Furthermore, the peddler or solicitor must present the permit for inspection prior to making sales or solicitations. This subsection (4) shall not apply to any transient vendor, street barker, solicitor for charitable purposes or solicitor for subscriptions.

(5) Additional permit holder designation display; vehicle designation fee. In addition to subsections (2), (3) and (4) above, all peddlers and solicitors shall be provided with a magnet, sticker, or similar permit holder designation display designed by the city manager or his/her designee, and/or the chief of police or his/her designee. The permit holder designation display shall be placed on the front driver-side door of any vehicle used by a peddler or solicitor at all times while making sales or solicitations. All peddlers and solicitors shall pay a permit holder designation display fee of twenty-five dollars (\$25.00), regardless of whether they own or operate a vehicle. A designation display provided under this subsection shall expire and be renewed in the same manner as a permit under § 9-209 below. The cost of a renewal designation display, and the cost of a replacement designation display in the event it is lost or stolen, shall be twenty-five dollars (\$25.00). This subsection (5) shall not apply to any transient vendor, street barker, solicitor for charitable purposes or solicitor for subscriptions.

(6) Submission of application form to chief of police. Immediately after the applicant obtains a permit from the finance director, the city finance director shall submit to the chief of police a copy of the application form and the permit. (1993 Code, § 5-203, as replaced by Ord. #978, Aug. 2014)

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

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

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

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

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

(5) Enter in or upon any premises or attempt to enter in or upon any premises wherein a sign or placard bearing the notice "Peddlers or Solicitors Prohibited," or similar language carrying the same meaning, is located. (as replaced by Ord. #978, Aug. 2014)

**9-206. Restrictions on transient vendors.** A transient vendor shall not advertise, represent, or hold forth a sale of goods, wares or merchandise as an insurance, bankrupt, insolvent, assignee, trustee, estate, executor, administrator, receiver's manufacturer's wholesale, cancelled order, or misfit sale, or closing-out sale, or a sale of any goods damaged by smoke, fire, water or otherwise, unless such advertisement, representation or holding forth is actually of the character it is advertised, represented or held forth. (as replaced by Ord. #978, Aug. 2014)

**9-207. Display of permit.** Each peddler, street barker, solicitor, solicitor for charitable purposes or solicitor for subscriptions is required to have in his possession a valid permit while making sales or solicitations, and shall be required to display the same to any police officer upon demand. In addition, each peddler, street barker and solicitor shall be required to abide by § 9-204(4) and (5). (1993 Code, § 5-304, as replaced by Ord. #978, Aug. 2014)

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

(a) Any false statement, material omission, or untrue or misleading information which is contained in or left out of the application; or

(b) Any violation of this chapter.

(2) Suspension or revocation by the city council. The permit issued to any person or organization under this chapter may be suspended or revoked by the city council, after notice and hearing, for the same causes set out in paragraph (1) above. Notice of the hearing for suspension or revocation of a permit shall be given by the finance director in writing, setting forth specifically the grounds of complaint and the time and place of the hearing. Such notice

shall be mailed to the permit holder at his last known address at least five (5) days prior to the date set for hearing, or it shall be delivered by a police officer in the same manner as a summons at least three (3) days prior to the date set for hearing. (1993 Code, § 5-306, as replaced by Ord. #978, Aug. 2014)

**9-209. Expiration and renewal of permit.** The permit of peddlers, solicitors and transient vendors shall expire on the same date that the permit holder's privilege license expires. The registration of any peddler, solicitor, or transient vendor who for any reason is not subject to the privilege tax shall be issued for six (6) months. The permit of street barkers shall be for a period corresponding to the dates of the recognized parade or festival days of the city. The permit of solicitors for religious or charitable purposes and solicitors for subscriptions shall expire on the date provided in the permit, not to exceed thirty (30) days. (1993 Code, § 5-213, as replaced by Ord. #978, Aug. 2014)

**9-210. Violation and penalty.** In addition to any other action the city may take against a permit holder in violation of this chapter, such violation shall be punishable by a penalty of up to five hundred dollars (\$500) for each offense. Each day a violation occurs shall constitute a separate offense. (as replaced by Ord. #978, Aug. 2014)

## CHAPTER 3

### TAXICABS

#### SECTION

- 9-301. Scope of chapter.
- 9-302. Definitions.
- 9-303. Character of service to be furnished.
- 9-304. Certificate of public convenience and necessity.
- 9-305. Application for certificate.
- 9-306. Hearing on certificate.
- 9-307. Issuance of certificate.
- 9-308. Transfer of certificate.
- 9-309. Suspension or revocation of certificate.
- 9-310. Indemnity bond or liability insurance required.
- 9-311. Privilege taxes to be paid.
- 9-312. Records and reports required.
- 9-313. Permit requirements for taxicab drivers.
- 9-314. Form and content of application for permit; accompanying documents.
- 9-315. Fee for permit.
- 9-316. Investigation of application for permit.
- 9-317. Persons ineligible for permits.
- 9-318. Issuance of permit.
- 9-319. Term of permit; design.
- 9-320. Display and illumination of permit.
- 9-321. Suspension or revocation of permit.
- 9-322. Photograph of applicant for permit to be filed.
- 9-323. Inspection, fees, certificate.
- 9-324. Condition of taxicabs.
- 9-325. Signs, insignia, color scheme for taxicabs.
- 9-326. Rates prescribed; rate card to be posted.
- 9-327. Receipt for fare to be given if requested.
- 9-328. Refusal to pay legal fare.
- 9-329. Manifests to be maintained.
- 9-330. Drivers prohibited from soliciting patronage.
- 9-331. Aiding or engaging in unlawful or immoral acts prohibited.
- 9-332. Places for accepting and discharging passengers.
- 9-333. Group rides regulated.
- 9-334. Use of streets for parking regulated; private facilities required.

**9-301. Scope of chapter.** The provisions of this chapter relate to the operation and control of taxicabs in the city and to the drivers of taxicabs.

**9-302. Definitions.** The following words and phrases when used in this chapter shall have the meaning as set out herein:

(1) "Certificate" means a certificate of public convenience and necessity issued by the city council authorizing the holder thereof to conduct a taxicab business in the city.

(2) "Cruising" means the driving of a taxicab on the streets, alleys, or public places of the city in search of or soliciting prospective passengers for hire.

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

(4) "Manifest" means a daily record prepared by a taxicab driver of all trips made by the driver showing time and place of origin, destination, number of passengers, and the amount of fare of each trip.

(5) "Person" includes an individual, a corporation or other legal entity, a partnership, and any unincorporated association.

(6) "Rate card" means a card issued by the city for display in each taxicab which contains the rates of fare then in force.

(7) "Senior citizen" means any passenger who is sixty-two (62) years old or older.

(8) "Taxicab" means a motor vehicle regularly engaged in the business of carrying passengers for hire, having a seating capacity of less than eight (8) persons, and not operated on a fixed route.

(9) "Taximeter" means a meter instrument or device attached to a taxicab which measures mechanically the distance driven and the waiting time upon which the fare is based.

(10) "Waiting time" means the time when a taxicab is not in motion from the time of acceptance of a passenger or passengers to the time of discharge, but does not include any time that the taxicab is not in motion if due to any cause other than the request, act, or fault of a passenger or passengers.

**9-303. Character of service to be furnished.** All persons engaged in the taxicab business in the city operating under the provisions of this chapter shall render an overall service to the public desiring to use taxicabs. Holders of certificates of public convenience and necessity shall maintain a central place of business and keep it open twenty four (24) hours a day for the purpose of receiving calls and dispatching cabs, unless a lesser time is agreed to by the city council. They shall answer all calls received by them for services inside the city as soon as they can do so and if the services cannot be rendered within a reasonable time they shall then notify the prospective passengers how long it will be before the call can be answered and give the reason therefor.

Any holder who refuses to accept a call anywhere in the city at any time when the holder has available cabs, or who fails or refuses to give overall service shall be deemed a violator of this chapter and the certificate granted to the holder shall be revoked at the discretion of the city council.



**9-304. Certificate of public convenience and necessity.** It shall be unlawful for any person to operate or permit a taxicab owned or controlled by him to be operated as a vehicle for hire upon the streets of the city without having first obtained a certificate of public convenience and necessity from the city council.

**9-305. Application for certificate.** An application for a certificate of public convenience and necessity shall be filed with the city council upon forms provided by the finance director's office, shall be verified under oath, and shall furnish the following information:

- (1) Name, address. The name and address of the applicant.
- (2) Financial status. The financial status of the applicant, including the amounts of all unpaid judgments against the applicant and the nature of the transaction or acts giving rise to the judgments.
- (3) Experience. The experience of the applicant in the transportation of passengers.
- (4) Necessity. Any facts which the applicant believes tend to prove that public convenience and necessity require the granting of a certificate.
- (5) Vehicles, facilities. The number of vehicles to be operated or controlled by the applicant and the location of proposed depots and terminals.
- (6) Color scheme insignia. The color scheme or insignia to be used to designate the vehicle or vehicles of the applicant.
- (7) Additional information. Such further information as the city council may require.

**9-306. Hearing on certificate.** Upon the filing of an application for a certificate of public convenience and necessity, the finance director shall fix a time and place for a public hearing thereon. Notice of the hearing shall be given to the applicant and to all persons to whom certificates of public convenience and necessity have been heretofore issued. Due notice shall also be given the general public by posting a notice of the hearing in the official city newspaper. Any interested person may file with the city council a memorandum in support of or in opposition to the issuance of a certificate.

**9-307. Issuance of certificate.** (1) Findings. If the city council finds that further taxicab service in the city is required by the public convenience and necessity and that the applicant is fit, willing, and able to perform such public transportation and to conform to the provisions of this chapter and other rules promulgated by the city council, then the city council shall issue a certificate stating the name and address of the applicant, the number of vehicles authorized under the certificate, and the date of issuance; otherwise, the application shall be denied.

(2) Matters to be considered. In making the above findings, the city council shall take into consideration the number of taxicabs already in

operation; whether existing transportation is adequate to meet the public need; the probable effect of increased service on local traffic conditions; and the character, experience, and responsibility of the applicant.

**9-308. Transfer of certificate.** No certificate of public convenience and necessity may be sold, assigned, mortgaged, or otherwise transferred without the consent of the city council.

**9-309. Suspension or revocation of certificate.** (1) Grounds. A certificate issued under the provisions of this chapter may be revoked or suspended by the city council if the holder thereof has violated any of the provisions of this chapter, has discontinued operations for more than sixty (60) days, or has violated any ordinances of the city, law of the United States, or of the State of Tennessee, the violation of which unfavorably reflects on the fitness of the holder to offer public transportation.

(2) Notice, hearing. Prior to suspension or revocation, the holder shall be given notice of the proposed action to be taken and shall have an opportunity to be heard at the next regularly scheduled meeting of the city council.

**9-310. Indemnity bond or liability insurance required.** (1) Bond. No certificate of public convenience and necessity shall be issued or continued in operation unless there is in full force and effect an indemnity bond for each vehicle authorized in an amount established by resolution of the city council. The bond or bonds shall inure to the benefit of any person who is injured or who sustains damage to property proximately caused by the negligence of a holder, his servants, or agents. Said bond or bonds shall be filed in the office of the finance director and shall have as surety thereon a surety company authorized to do business in the State of Tennessee.

(2) Liability insurance. The city council may in its discretion allow the holder to file, in lieu of a bond or bonds, a liability insurance policy issued by an insurance company authorized to do business in the State of Tennessee. The policy shall conform to the provisions of this section relating to bonds.

**9-311. Privilege taxes to be paid.** No certificate of public convenience and necessity shall be issued or continued in operation unless the holder thereof has paid the applicable privilege taxes levied by the city council.

**9-312. Records and reports required.** (1) Operating information. Every holder shall keep accurate records of receipts from operations, operating and other expenses, capital expenditures, and such other operating information as may be required by the city council. Every holder shall maintain the records containing such information and other data required by this chapter at a place readily accessible for examination by the finance director's office.

(2) Annual reports to city business tax office. Every holder shall submit reports of receipts, expenses, and statistics of operation to the city business tax office for each calendar year, in accordance with a uniform system prescribed by the finance director. The reports shall reach the business tax office on or before the last day of August of the year following the calendar year for which the reports are prepared.

(3) Accident reports. All accidents arising from or in connection with the operation of taxicabs shall be reported within twenty four (24) hours from the time of occurrence to the police department in a form of report to be furnished by that department.

(4) Other records. It shall be mandatory for all holders to file with the finance director's office copies of all contracts, agreements, arrangements, memoranda, or other writing relating to the furnishing of taxicab service to any hotel, theater, hall, public resort, railway station, or other place of public gathering, whether such arrangements are made with the holder or any corporation, firm, or association with which the holder may be interested or connected.

**9-313. Permit requirements for taxicab drivers.** No person shall act as a driver of a taxicab unless he has obtained a taxicab driver's permit from the police department.

**9-314. Form and content of application for permit; accompanying documents.** (1) Application. Taxicab drivers' permits shall be applied for in writing on such form as the chief of police may prescribe. The application shall show proof of the applicant's state class D license with an F endorsement; what experience he has had in driving motor vehicles; whether the applicant has been convicted of violating any motor vehicle, traffic, or criminal law of the city or state or of any other city or state, together with the particulars of all such convictions; and such other information as the chief of police may require.

(2) Accompanying documents. Each applicant shall be accompanied by at least two (2) recent photographs of the applicant of such size and design as designated by the chief of police; a certificate from a reputable physician of the city showing that the applicant is not disabled by reason of defects in his sight, hearing, body, or limbs from safely operating a motor vehicle; and certificates from at least three (3) reputable persons personally acquainted with the applicant showing him to be a person of good moral character.

**9-315. Fee for permit.** No permit or renewal of a permit to drive a taxicab shall be issued until the applicant therefor has first paid to the police department a fee of fifteen dollars (\$15.00).

**9-316. Investigation of application for permit.** Except on an application for renewal, before a taxicab driver's permit is issued, the chief of

police shall investigate the statements made in the application and shall determine whether the applicant complies with this chapter and is entitled to a permit.

**9-317. Persons ineligible for permits.** No taxicab driver's permit shall be issued to anyone who has been convicted of any offense or crime involving moral turpitude or who, in the opinion of the chief of police, is otherwise not physically or morally fit to drive a taxicab in the city. No permit shall be issued to anyone less than eighteen (18) years old.

**9-318. Issuance of permit.** The chief of police shall issue a taxicab driver permit to any applicant therefor who complies with this chapter and who under its provisions is entitled to the permit. Any applicant refused a permit or permit renewal may request an appeal to the city manager, who upon review of the matter shall decide whether said permit should be issued.

**9-319. Term of permit; design.** (1) A taxicab driver's permit shall be issued for a period of not more than one (1) year and shall continue in effect only through December 31st of the year within which it is issued, except that during December of any year, permits may be issued to be effective through December 31st of the next year. No pro-ration of the fee is allowed.

(2) Taxicab drivers' permits shall be of such size and design as the chief of police may prescribe. However, each permit shall bear on its face a photograph of the applicant, the number of his permit, its expiration date, and such other information as the chief of police may direct.

**9-320. Display and illumination of permit.** The permit of each taxicab driver shall be kept prominently displayed and visible to the passengers of the taxicab operated by him. After sundown, it shall be illuminated by a suitable light so as to remain plainly visible to the passengers at all times.

**9-321. Suspension or revocation of permit.** (1) Grounds. Any permit granted to any taxicab driver under the terms of this chapter may be suspended or revoked by the chief of police for the driver's failure or refusal to comply with any of the provisions of this chapter. The permit may also be revoked if the taxicab driver's state class D license with an F endorsement is revoked or expires; if he willfully or persistently violates any city ordinance or state or federal law; or if he becomes physically or morally unfit to operate a taxicab.

(2) Conditions precedent to revocation. A permit may not be revoked unless the taxicab driver has received notice of the proposed revocation and reasons therefor at least forty-eight (48) hours prior to the hearing, and has had an opportunity to show cause why his permit should not be revoked.

(3) Appeal of revocation. Any taxicab driver whose license is revoked under this section may request an appeal to the city manager, who upon review of the matter shall decide whether said permit should be revoked or reinstated.

**9-322. Photograph of applicant for permit to be filed.** One photograph of each applicant for a taxicab driver's permit shall be retained in the files of the police department with the application. The files shall be kept in a readily accessible place at the police department.

**9-323. Inspections, fees, certificates.** (1) Time, place, fee. To insure compliance with the provisions of this chapter all taxicabs shall be inspected before they can be placed in service as a taxicab. Thereafter, they shall be regularly inspected semiannually in January and July by the city's fleet manager. An inspection fee of twenty dollars (\$20.00) per vehicle shall be charged for each inspection. The times and places for such inspections shall be prescribed by the fleet manager who shall also see that notice thereof is either published in the official city newspaper or given individually to each holder of a certificate of public convenience and necessity.

(2) Certification of inspection. A certificate of inspection shall be issued and prominently displayed on the windshield of each taxicab found to comply with the provisions of this chapter. No holder of a certificate of public convenience and necessity shall allow a taxicab to be operated without a certificate of inspection.

(3) Additional inspections. In addition to the initial inspection and regular semiannual inspections for which the fees are to be charged, taxicabs shall be inspected without cost to the holders at such other times and places as the chief of police or fleet manager may reasonably direct.

(4) Noncompliance with inspection requirements. When any taxicab is found not to conform to the requirements of this chapter its certificate of inspection shall be revoked. Such taxicab shall not thereafter be operated in the city until it has been put in proper condition, an extra ten dollar (\$10.00) inspection fee paid, and a new certificate of inspection obtained following re-inspection by the fleet manager.

**9-324. Condition of taxicabs.** All taxicabs operated in the city shall be kept in a clean and sanitary condition inside and out. They shall also be kept in such mechanical condition as is reasonably necessary to provide for their satisfactory operation and the safety of the public. They shall be equipped with such lights, brakes and other mechanical equipment and devices as are required by state law and this code for motor vehicles generally.

**9-325. Signs, insignia, color scheme for taxicabs.** (1) Each taxicab shall bear on the outside of each rear door, in painted letters not less than two

inches (2") in height, the name of the owner, and in addition may bear an identifying design approved by the city council.

(2) No vehicle covered by the terms of this chapter shall be licensed whose color scheme, identifying design, monogram, or insignia to be used thereon in the opinion of the city council conflicts with or imitates any color scheme, identifying design, monogram, or insignia used on a vehicle or vehicles already operating under this chapter in such a manner as to be misleading or tend to deceive or defraud the public. If after a license has been issued for a taxicab hereunder, the color scheme, identifying design, monogram, or insignia thereof is changed so as to be in the opinion of the city council in conflict with or in imitation of any color scheme, identifying design, monogram, or insignia used by any other person, owner or operator, in such a manner as to be misleading or tend to deceive the public, the license of or certificate covering the taxicab or taxicabs shall be suspended or revoked.

**9-326. Rates prescribed; rate card to be posted.** (1) No owner or driver of a taxicab shall charge a greater sum for the use of a taxicab than is prescribed by resolution of the city council. Taxicabs must use the most direct route possible from the point of passenger entry to the passenger's destination point. When more than one passenger employs the same taxicab, no charge shall be made for the additional passengers except when they ride beyond the previous passenger's destination and then only for the additional distance traveled. In establishing the rates, the city council may authorize a discount of up to twenty percent (20%) from the regular rates, fees, and charges for senior citizens.

(2) Every taxicab operated under this chapter shall have a rate card issued by the business tax office setting forth the authorized maximum rates of fare which can be charged. Said card shall be displayed in such manner as to be in full view of all passengers and shall clearly denote if any senior citizen discount rates are in effect.

**9-327. Receipt for fare to be given if requested.** The driver of any taxicab shall upon demand by any passenger tender to the passenger a receipt for the amount charged.

**9-328. Refusal to pay legal fare.** It shall be unlawful for any person to refuse to pay the legal fare for any taxicab after having hired it, and it shall be unlawful for any person to hire any taxicab with intent to defraud the person from whom it is hired of the value of such service.

**9-329. Manifests to be maintained.** (1) Form contents. Every driver shall maintain a daily manifest upon which are recorded all trips made each day, showing time and place of origin and destination of each trip and amount of fare. All completed manifests shall be returned to the owner by the driver at

the conclusion of his tour of duty. The forms for each manifest shall be furnished to the driver by the owner and shall be of a character approved by the finance director's office.

(2) Preservation. Every holder of a certificate of public convenience and necessity shall retain and preserve all drivers' manifests in a safe place for at least the calendar year next preceding the current calendar year, and the manifests shall be available to the police department and the finance director's office.

**9-330. Drivers prohibited from soliciting patronage.** No driver shall solicit passengers for a taxicab nor cruise in search of passengers. Neither shall any driver annoy any person, obstruct the movement of any person, or follow any person for the purpose of soliciting his patronage.

**9-331. Aiding or engaging in unlawful or immoral acts prohibited.** No driver shall help, aid, assist, use, otherwise engage, or knowingly allow his taxicab to be used in the commission of or in furtherance of any unlawful or immoral act, purpose, or design.

**9-332. Places for accepting and discharging passengers.** Drivers of taxicabs shall not receive or discharge passengers in the roadway but shall pull up to the right-hand sidewalk as nearly as possible, or in the absence of a sidewalk, to the extreme right-hand side of the road and there receive or discharge passengers. Upon one-way streets, passengers may be discharged on either side of the road.

**9-333. Group rides regulated.** Whenever one passenger has lawfully and properly entered or engaged a taxicab, no additional passenger shall be accepted without the consent of the first passenger. The first passenger has the right to require the additional passengers to pay one-half the cost for the shared mileage on this trip. In any event sufficient room must be left for the driver at all times to have free, comfortable, and easy control of the operation of the taxicab. Not more than two (2) passengers shall be permitted to sit upon the same seat occupied by the driver of any taxicab.

**9-334. Use of streets for parking regulated; private facilities required.** All holders of a certificate of public convenience and necessity are required to provide private facilities for the parking of their taxicabs when the taxicabs are not engaged or lawfully parked.

## CHAPTER 4

### POOL ROOMS<sup>1</sup>

#### SECTION

- 9-401. Prohibited in residential areas.
- 9-402. Hours of operation regulated.
- 9-403. Minors to be kept out; exception.
- 9-404. Gambling, etc. not to be allowed.
- 9-405. Definition of terms.
- 9-406. License required.
- 9-407. Fee to be paid by applicant.
- 9-408. License transferability; change of business location.
- 9-409. License revocation.
- 9-410. Posting of license.

**9-401. Prohibited in residential areas.** It shall be unlawful for any person to open, maintain, conduct or operate any place where pool tables or billiard tables are kept for public use or hire on any premises located in any block where fifty percent (50%) or more of the land is used or zoned for residential purposes. (1993 Code, § 5-501)

**9-402. Hours of operation regulated.** It shall be unlawful for any person to open, maintain, conduct or operate any place where pool tables or billiard tables are kept for public use or hire at any time on Sunday or between the hours of 11:00 P.M. and 6:00 A.M. on other days. (1993 Code, § 5-502)

**9-403. Minors to be kept out; exception.** It shall be unlawful for any person engaged regularly, or otherwise, in keeping billiard, bagatelle, or pool rooms or tables, their employees, agents, servants, or other persons for them, knowingly to permit any person under the age of eighteen (18) years to play on said tables at any game of billiards, bagatelle, pool, or other games requiring the use of cue and balls, without on each occasion first having obtained the written consent of the father and mother of such minor, if living; if the father is dead, then the mother, guardian, or other person having legal control of such minor; or if the minor be in attendance as a student at some literary institution, then the written consent of the principal or person in charge of such school; provided that this section shall not apply to the use of billiards, bagatelle, and pool tables in private residences. (1993 Code, § 5-503)

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<sup>1</sup>Municipal reference  
Privilege tax: Title 5.



**9-404. Gambling, etc. not to be allowed.** It shall be unlawful for any person operating, conducting or maintaining any place where pool tables, billiard tables, or mechanical amusement devices as that term is hereinafter defined in § 9-405 of this chapter are kept for public use or hire or for the use of members in private clubs, to permit any gambling as defined in the statutes of the State of Tennessee (which are adopted herein by reference) or other unlawful or immoral conduct on such premises. (1993 Code, § 5-504)

**9-405. Definition of terms.** The term "pool table or billiard table" whenever used in this chapter shall be deemed to include any table at which any game of billiards, pool, or other games requiring the use of cues and balls is played. The term "mechanical amusement device" whenever used in this chapter shall be deemed to include any machine, which, upon the insertion of a coin, slug, token, plate or disk may be operated for use as a game, entertainment or amusement, whether or not registering a score. It shall include such devices as marble machines, pinball machines, skill ball, mechanical grab machines, electronic game machines, and all games, operations, or other transactions similar thereto under whatever name they may be designated, but shall not include jukeboxes. (1993 Code, § 5-505)

**9-406. License required.** Any person who keeps for operation in the city (except for private use in his home) any pool table, billiard table, or mechanical amusement device as defined herein shall obtain an annual license for each such pool table, billiard table or mechanical amusement device from the city manager. (1993 Code, § 5-506, modified)

**9-407. Fee to be paid by applicant.** Every applicant, before being granted a license shall pay the following annual fee for operating or maintaining for operation each such pool table, billiard table or mechanical amusement device:

- (1) Pool tables and billiard tables, twenty-five dollars (\$25.00) per table.
  - (2) Mechanical amusement devices, fifteen dollars (\$15.00) per device.
- (1993 Code, § 5-507)

**9-408. License transferability; change of business location.**

(1) The license required under this chapter may be transferred from one pool table, billiard table or mechanical amusement device to another similar such table or device, but not more than one such pool table, billiard table or mechanical amusement device shall be operated under one license at the same time.

(2) If a licensee moves his place of business to another location within the city, the license may be transferred to such new location upon application to the city manager, giving the street and number of the new location, providing

said new location is in compliance with the code of the City of East Ridge, Tennessee. (1993 Code, § 5-508, modified)

**9-409. License revocation.** In addition to any other penalty provided by law, any license issued under this chapter may be revoked by the city council if the licensee, directly or indirectly, permits the operation thereunder of any such pool table, billiard table or mechanical amusement device contrary to the provisions of this chapter or the laws of the state or the ordinance of the city. The city council shall take such action only after five (5) days written notice to the licensee specifying the violation with which he is charged, and a hearing at which the licensee or his attorney may submit evidence in his defense. (1993 Code, § 5-509, modified)

**9-410. Posting of license.** Each license shall be posted permanently and conspicuously at the location of the pool table, billiard table or mechanical amusement device on the premises wherein such pool table, billiard table or device is licensed to be operated or maintained for operation. (1993 Code, § 5-510)

## CHAPTER 5

### WRECKING AND TOWING SERVICE

#### SECTION

- 9-501. Purpose.
- 9-502. Definitions.
- 9-503. District wrecker classifications.
- 9-504. Permit required.
- 9-505. City manager.
- 9-506. Application.
- 9-507. Fees; expiration date and renewal.
- 9-508. Investigation of applicant.
- 9-509. Issuance of license.
- 9-510. Revocation.
- 9-511. Required equipment and standards.
- 9-512. Required storage facilities and procedures for district wreckers.
- 9-513. Notification required for vehicles held over thirty days.
- 9-514. Insurance.
- 9-515. Billing and charges for district wreckers.
- 9-516. Wrecker zones for district wreckers.
- 9-517. Regulations for district wreckers.
- 9-518. Vehicles to be towed to place designated by owner; coercion at scene of an accident prohibited.
- 9-519. Wreckers to go to scene of accident on call of owner or police only.
- 9-520. Solicitation of towing work by operator, etc., of district wrecker prohibited.
- 9-521. Emergency towing and storage.
- 9-522. Fleet service contracts.
- 9-523. Severability.

**9-501. Purpose.** The purpose of this chapter is to establish regulations and procedures to license district wrecker operators who apply to remove wrecked or disabled vehicles at the request or call of the city police department or other departments of the city and to establish a rotation call list procedure for such operators. (Ord. #677, March 1999, as replaced by Ord. #787, Dec. 2007, and Ord. #1017, Sept. 2016)

**9-502. Definitions.** For purposes of this chapter the following words and phrases shall have the meanings respectively ascribed to them by this section:

- (1) "District wrecker." All wrecker or towing operators licensed by the city under this chapter who qualify to be placed on the rotation call list to respond to requests for towing of vehicles made by the city as of the effective

date of this chapter or later added as the needs of the city require it. As of the effective date of this chapter, there are three (3) district wrecker operators in the city, which is sufficient for the needs of the city. Of those three (3), one (1) district operator has a C Class wrecker which meets the needs of the city. Any district wrecker licensed as of the date of this chapter may add a C Class wrecker and be automatically added to the C Class district rotation. At no time may a district wrecker operator respond to a district wrecker call wherein a C Class wrecker is required as determined by the City of East Ridge or other agency if that district wrecker operator does not own a C Class wrecker as that term is defined in this chapter.

(2) "Inside storage." The storing of a motor vehicle within an enclosed building being used by the wrecker operator at his/her place of business.

(3) "Normal business hours." The hours from 8:00 A.M. to 5:00 P.M. except Saturdays, Sundays, and the following holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day.

(4) "Outside storage." The storing of a motor vehicle within a lot or premises being used by the wrecker or towing operator as a place of business, but not inside storage as described above.

(5) "Wrecker inspector." That officer or employee of the city police department designated by the police chief as the person responsible for receiving applications, conducting investigations of proposed wrecker operators.

(6) "Wrecker or towing operator." Any person engaged in the business of, or offering the services of a wrecker or towing service to remove wrecked or disabled vehicles at the request or call of the city, whereby motor vehicles are or may be towed or otherwise removed from one place to another by the use of a motor vehicle adapted to and designed for that purpose. (Ord. #677, March 1999, as replaced by Ord. #787, Dec. 2007, and Ord. #1017, Sept. 2016)

**9-503. District wrecker classifications.** (1) For purposes of this chapter, district wreckers are classified into three (3) classes, Class A, Class B and Class C with minimum requirements for each classification as follows:

(a) Class A. For towing passenger cars, pick-up trucks, small trailers, etc.

CHASSIS:

- (i) Minimum GVWR 14,500 lbs.;
- (ii) Dual rear wheels;
  - (A) Minimum 7.50 X 16
  - (B) Minimum 225 X 16
  - (C) Minimum tread 8/32;
- (iii) Minimum 60 inch cab to axle;
- (iv) Present a professional outward appearance; and
- (v) Fully functional drivers and passenger side mirrors.

WRECKER:

- (i) Manufactured body, boom, and underlift;
  - (ii) Minimum 60 inch cab to axle;
  - (iii) Hydraulic recovery boom
    - (A) Minimum capacity 8 ton retracted
    - (B) Minimum capacity 4,000 LD extended
    - (C) Hydraulic elevation
    - (D) Hydraulic extension;
  - (iv) Dual hydraulic 8,000 lbs. winches
    - (A) Direct mount winch motors
    - (B) 6 X 19 3/8 inch cable
    - (C) 100 feet minimum of cable from winch
    - (D) Swidged thimbles (no clamps)
  - (v) Hydraulic wheel lift
    - (A) Hydraulic elevation
    - (B) Hydraulic extension
    - (C) 3,500 lb capacity at full extension
    - (D) 7,500 lb tow rating
    - (E) Sound and operational tire restraint straps
    - (F) Safety chains OEM specs or %70 grade 5/16 inch
  - (vi) Operational dollies;
  - (vii) Tow sling w/J hooks and chains
    - (A) Sling straps in sound working condition
    - (B) J hooks and chain in sound WO
  - (viii) Tow lights w/cord (operational)
  - (ix) Rotating light bar (fully operational)
  - (x) Work lights (operational)
  - (xi) Trailer ball attachment
  - (xii) Attachment or carrying straps for motorcycle
  - (xiii) Safety package
    - (A) 5 lb fire extinguisher (charged and operational)
    - (B) Shovel
    - (C) Broom
    - (D) Bucket
    - (E) 2 3/8 inch X 10 ft recovery chains (not "J" hooks sling chains) minimum
    - (F) 5 lbs oil dry
    - (G) First aid kit.
- (b) Class B. For towing medium size trucks, trailers, etc.  
CHASSIS:
- (i) Minimum GVWR 25,500 lbs
  - (ii) Dual rear wheel
    - (A) 8.25 X 22.5
    - (B) 265R X 22.5

- (C) Minimum 8/32 tread all six tires
- (iii) Minimum cab to axle 108 inches
- (iv) Air brakes
- (v) Professional outward appearance
- (vi) Functional drivers/passenger side mirrors

## WRECKER:

- (i) Manufactured body, boom, and wheellift
- (ii) Boom capacity 16 ton
- (iii) Hydraulically powered boom
  - (A) Hydraulic elevation
  - (B) Hydraulic extension
- (iv) Dual 16,000 lb hydraulic winches
  - (A) Direct mount hydraulic motor
  - (B) 6 X 19 1/2 inch cable
  - (C) 150 feet of cable from the winch
  - (D) Swidged thimbles (no clamps)
- (v) Hydraulic wheellift
  - (A) Power elevation
  - (B) Power extension
  - (C) 8,000 lb capacity full extension
  - (D) 32,000 lb tow rating
  - (E) 1/2 inch OEM or T-70 safety chain permanently attached
- (vi) Medium duty truck hitch w/ 1/2 in. chassis
- (vii) Rear jacks or spades (wheellift not acceptable)
- (viii) Tow lights or bar w/cord (operational)
- (ix) Rotating light bar (fully operational)
- (x) Work lights
  - (A) Upper work lights
  - (B) Lower hook up lights
  - (C) All lights must be operational
- (xi) Tow ball and/or attachment
- (xii) Safety package
  - (A) 5 lb fire extinguisher
  - (B) Shovel
  - (C) Broom
  - (D) Pry bar
  - (E) Bucket
  - (F) 5 lbs oil dry
  - (G) Pair 3/8 in. X 10 ft. chains minimum
  - (H) Pair 1/2 in. X 10 ft. chains minimum
  - (I) First aid kit

(c) Class C. For towing large trucks, road tractors and trailers.

## CHASSIS:

- (i) Minimum GVWR 50,000 lbs.
- (ii) Tandem axle
  - (A) 10 X 22.5 minimum
  - (B) 285R X 22.5 minimum
  - (C) 8/32 Tread minimum all ten (10) tires
- (iii) Minimum 156 inch C.B.
- (iv) Air brake
- (v) Air service lines
- (vi) Professional outward appearance
- (vii) Functional driver/passenger side mirrors

## WRECKER:

- (i) Manufactured body, boom, and underlift
- (ii) Boom capacity of 25 ton
- (iii) Hydraulically powered boom
  - (A) Power elevation
  - (B) Power extension
- (iv) Dual hydraulic 25,000 lb winches
  - (A) Direct mount winch motors
  - (B) 6 X 19 5/8 inch cable minimum
  - (C) 200 ft. minimum from winch
  - (D) Swidged thimbles (no clamps)
- (v) Hydraulically powered underlift
  - (A) Power elevation
  - (B) Power extension
  - (C) 12,000 lb capacity full extension
  - (D) 80,000 lb tow rating
  - (E) 5/8 OEM or A-80 safety chain
- (vi) Truck hitches w/chains and/or underlift attachment
- (vii) Hydraulic rear jacks or spades
- (viii) Tow bar w/cord
- (ix) Rotating light bar
- (x) Air and service lines
- (xi) Work lights
  - (A) Upper work lights
  - (B) Lower/hookup lights
  - (C) All lights operational
- (xii) Tow ball and pintal hook attachment
- (xiii) Safety package
  - (A) 5 lb fire extinguisher
  - (B) Broom
  - (C) Shovel
  - (D) Pry bar
  - (E) Bucket
  - (F) 5 lbs. oil dry

- (G) 2 pair of T70 X 10 ft minimum chain
- (H) 1 pair of A80 X 10 ft minimum chain
- (I) First aid kit. (Ord. #677, March 1999, as replaced by Ord. #787, Dec. 2007, and Ord. #1017, Sept. 2016)

**9-504. Permit required.** No person shall engage in the business of, or offer the services of, a district wrecker, whereby motor vehicles are, or may be towed or otherwise moved from one place to another by the use of a motor vehicle adapted for that purpose without having been issued a permit as provided by this chapter. Permits shall be issued for Class A through Class C wreckers as the vehicles meet the requirements of § 9-503. Additionally, permits shall be granted for "district wreckers" as provided herein. (Ord. #677, March 1999, as replaced by Ord. #787, Dec. 2007, and Ord. #1017, Sept. 2016)

**9-505. City manager.** (1) The city manager shall approve, issue, revoke or suspend licenses consistent with the provisions of this chapter.

(2) The city manager shall administer the provisions of this chapter through the police department and the inspector shall be the police chief or his/her designee.

(3) The action of the city manager in granting or refusing a license or in revoking or suspending a license shall be final, except as such action shall be appealed within five (5) business days to the city council by filing a written notice of appeal with the city attorney at his office. (Ord. #677, March 1999, as replaced by Ord. #787, Dec. 2007, and Ord. #1017, Sept. 2016)

**9-506. Application.** Any person desiring to obtain a district wrecker permit shall file with the wrecker inspector an application setting out, among other things, the following:

(1) Name and address of the person desiring the license.

(2) The location and full description of all property to be utilized in connection with the business, including tax parcel numbers and zoning of the property.

(3) The number of wreckers or towing cars owned or available for use by the applicant and a full description of the wreckers sufficient to determine a proper classification under § 9-503.

(4) A statement that all wreckers are properly equipped for the applicable classification set forth in § 9-503 and contain the required equipment set out in § 9-503, and that all wreckers meet applicable state and federal regulations.

(5) A statement that the wrecker or towing operator will accept responsibility for any and all personal property left in towed or stored vehicles.

(6) A statement setting forth and describing available space including inside storage, if available, for properly accommodating and protecting all



disabled motor vehicles to be towed or otherwise removed from the place where they had been disabled.

(7) A statement that the applicant will provide twenty-four (24) hour service, including holidays, and that he/she will have a qualified operator on duty at all times for each district wrecker location licensed hereunder.

(8) A statement that the wrecker operator will not release any vehicles impounded by the city without authorization by the police department, that a file will be maintained on all vehicle release forms and that this file will be made available for police inspection upon request.

(9) Information to show that the applicant has had at least three (3) year's experience as a wrecker operator.

(10) An assurance that the applicant will maintain a minimum of one (1) properly equipped and operable wrecker throughout the year for which application is being made.

(11) Proof of insurance in accordance with § 9-514.

(12) Information to show that the applicant has been in the wrecker business as a wrecker operator in the City of East Ridge for a period of three (3) years. (Ord. #677, March 1999, as replaced by Ord. #787, Dec. 2007, and Ord. #1017, Sept. 2016)

**9-507. Fees; expiration date and renewal.** Any new applicant for a district wrecker permit under this chapter, except those who have been heretofore licensed under ordinances and procedures of the city in effect on the effective date of this chapter shall be charged an application and investigation fee of two hundred dollars (\$200.00) to cover the expense of investigating the applicant, the place of business, and the wreckers and equipment. The initial applications and permits hereunder for currently licensed wrecker operators shall be without an investigation fee other than the fifty dollar (\$50.00) annual fee. If an applicant changes his/her business location, or adds or substitutes a new or different wrecker, there shall be a supplemental investigation fee of one hundred dollars (\$100.00). Additionally, there shall be an annual license fee of fifty dollars (\$50.00) per wrecker licensed hereunder which shall be collected by the finance director upon granting an approved license or renewal license. All licenses shall expire on December 31st and applications for renewal shall be filed by November 30th of each year. Late applications for renewal will be considered in due course, but the applicant will not be privileged to operate such wreckers from December 31st until the renewal is approved by the wrecker board. (Ord. #677, March 1999, as amended by Ord. #693, Nov. 1999, and replaced by Ord. #787, Dec. 2007, and Ord. #1017, Sept. 2016)

**9-508. Investigation of applicant.** The wrecker inspector shall investigate or cause to be investigated each applicant for a district wrecker permit under this chapter to determine whether the applicant has the necessary equipment and facilities to qualify as a district wrecker operator, and, if the

applicant is qualified. The wrecker inspector shall report his/her findings to the police chief. The police chief shall direct or make such further investigation as he/she deems proper and grant or refuse a permit based upon other things the necessity and needs of additional district wrecker operators within the city. (Ord. #677, March 1999, as replaced by Ord. #787, Dec. 2007, and Ord. #1017, Sept. 2016)

**9-509. Issuance of license.** Every person qualified under this chapter shall be issued a permit by the finance director for each district wrecker approved by the city manager or his/her designee, which permit shall at all times be kept with each wrecker. The permit shall bear a notation "district wrecker." Such permit shall have printed thereon the year for which it is valid. (Ord. #677, March 1999, as replaced by Ord. #787, Dec. 2007, and Ord. #1017, Sept. 2016)

**9-510. Revocation.** (1) The city manager or his/her designee shall suspend or revoke the permit of any permittee on any of the following grounds:

(a) If the permit was procured by fraudulent conduct or false statement of a material fact or a material fact concerning the applicant which was not disclosed at the time of his making application that would have constituted just cause for refusing to issue the license.

(b) Failure of a district wrecker permittee to have an operable and properly equipped wrecker and qualified operator on duty at all times or to promptly respond to police calls.

(c) If the district wrecker permittee has knowingly overcharged or consistently overcharges.

(d) A violation of any provision of this chapter.

(e) If a district wrecker does not meet all applicable state and federal regulations.

(f) The police chief may suspend or revoke a permit in his/her discretion for due cause not specified herein.

(2) Such suspension or revocation shall terminate all authority and permission granted by such district wrecker permit to the licensee. Any person whose permit has been revoked shall not be eligible to again apply for a district wrecker permit for a period of one (1) year from the date of such revocation. (Ord. #677, March 1999, as replaced by Ord. #787, Dec. 2007, and Ord. #1017, Sept. 2016)

**9-511. Required equipment and standards.** In addition to the equipment required under the applicable district wrecker classifications set forth in § 9-504, all district wreckers shall have and maintain additional equipment and standards as follows:

(1) The following additional equipment is required:

(a) At least one (1) heavy-duty push broom;

- (b) Flood lights on hoist to illuminate scene at night;
  - (c) One (1) shovel;
  - (d) A twenty (20) pound Class ABC Underwriter Laboratory approved fire extinguisher, a two and seven-tenths (2.7) pound Halon 1301/1211 fire extinguisher, or equivalent fire extinguisher adequately charged.
- (2) The appearance of all district wreckers shall be reasonably good with equipment painted.
- (3) All district wreckers shall display the firm's name, address and phone number. Such information shall be painted on or permanently affixed on both sides. Such lettering shall be at least three inches (3") high. Magnetic signs will not be permitted as a substitute.
- (4) It is the responsibility of the district wrecker to have equipment for removing glass and other debris from the accident scene and to remove such debris from the highway. (Ord. #677, March 1999, as replaced by Ord. #787, Dec. 2007, and Ord. #1017, Sept. 2016)

**9-512. Required storage facilities and procedures for district wreckers.** District wreckers provide proper storage facilities and procedures as follows:

- (1) The wrecker operator shall provide a properly zoned (or lawful nonconforming use) fenced lot or building for proper and safe storage. Such lot for storage shall be located on the same property as the wrecker service facility or in close enough proximity to the wrecker service facility to permit the operator to visually observe the storage facility and to prevent vandalism or other loss or damage to vehicles and their contents. The fence shall be a minimum of six feet (6') high, constructed of chain-link fencing, lumber, or other material which will serve as a significant deterrent to unauthorized entry. The fencing shall be equipped with lockable gates, which shall be locked at all times when the storage facility is unattended. There shall be room to store at least ten (10) cars within the fenced lot. Class C operators shall additionally have room to store a minimum of one (1) tractor and trailer within the fenced lot.
- (2) Records of the vehicles towed and charges of tows from calls received from the city rotation list shall be maintained for at least one (1) year and shall be open for inspection by the city and the owner of any vehicle towed or his/her agent.
- (3) All vehicles towed under the rotation call list provided for by this chapter shall be stored inside a building or inside the fenced storage facility described above unless authorization to do otherwise is obtained from the vehicle's owner.
- (4) The wrecker service shall notify the registered owners and lienholders, within fifteen (15) days after any vehicle is towed pursuant to a request by any officer or official of the City of East Ridge, of the location of the stored vehicles and the costs of securing possession of the towed and stored

vehicle. Any wrecker service that fails to comply with the notice provisions of this section shall only be entitled to receive the costs of towing the vehicle and the costs for storing the vehicle during the fifteen (15) day notice period. The City of East Ridge Police Department is hereby authorized to provide, upon written request, to the wrecker service company registration records on stored vehicles for the purposes of issuing the notice required by this section. (Ord. #677, March 1999, as replaced by Ord. #787, Dec. 2007, and Ord. #1017, Sept. 2016)

**9-513. Notification required for vehicles held over thirty days.**

The state department of revenue will be notified of all vehicles held over thirty (30) days, except when arrangements for longer storage are made by the owner, as required by Tennessee Code Annotated, § 55-16-101. (Ord. #677, March 1999, as replaced by Ord. #787, Dec. 2007, and Ord. #1017, Sept. 2016)

**9-514. Insurance.** Before the police chief shall approve a district wrecker permit under this chapter, including a renewal license, the applicant shall deposit with the wrecker inspector a certificate of an underwriter that the applicant has in force a policy or policies of insurance issued by an insurance company authorized to transact business in the state with the minimum insurance coverage required by applicable state and federal regulations and as follows:

(1) A general liability policy covering the operation of applicant's own business, equipment or vehicles for bodily injuries in the amount of two hundred fifty thousand dollars (\$250,000.00) for any one (1) person killed or injured, six hundred thousand dollars (\$600,000.00) for more than one (1) person injured or killed in any one (1) accident and seventy-five thousand dollars (\$75,000.00) for all damage arising from injury to or destruction of property. All such policies shall include cargo or "on-hook" riders or otherwise protect the operator against such liability. All such policies shall include garage keeper's liability riders or otherwise protect the operator against liability for damage to towed or wrecked cars kept on the premises arising from fire, theft, or other casualty.

(2) All applicants shall provide a copy of such insurance policies with their application and shall provide copies of all renewals thereof to the wrecker inspector. The insurance policy shall be subject to approval by the city attorney, or his designees, as to the minimum requirements contained herein. A certificate of insurance shall be provided which contains an endorsement providing a minimum of ten (10) working days' notice in the event of a cancellation of the policy or an expiration of a policy without a copy of a renewal being provided to the wrecker inspector, any license issued hereunder shall be suspended until a new policy and certificate of insurance are provided. (Ord. #677, March 1999, as replaced by Ord. #787, Dec. 2007, and Ord. #1017, Sept. 2016)

**9-515. Billing and charges for district wreckers.** All applicants for a district wrecker permit shall be subject to regulation as to billing and charges for any call from the police department referred to the district wrecker under the call rotation system as follows:

(1) The owner of a wrecker or towing car shall have prepared billheads with his/her name and the address of his/her place of business printed thereon. If requested by the owner of the disabled vehicle, the operator of the wrecker, before towing a disabled vehicle, the operator of the wrecker, before towing a disabled vehicle away, shall prepare a bill on his/her billhead form in duplicate, the original of which shall be given to the owner of the disabled vehicle or his/her authorized representative. This bill shall contain the following information:

(a) Name and address of person engaging towing car.

(b) State license number of disabled vehicle.

(c) Storage rates per day or part thereof.

(d) An estimate of the amount to be charged for towing which may thereafter only be adjusted for good cause. The printing of a schedule of fees on a billhead marked as to services rendered shall be sufficient for this purpose.

(2) The duplicate copy of the bill shall be retained by the wrecker or towing car owner for a period of one (1) year, and shall be subject to inspection by the wrecker inspector or his/her duly authorized representative.

(3) In the event the bill is for an amount more than the schedule of charges for routine services described in subsection (4) below, then the bill shall contain an itemization of the number of worker-hours involved in the recovery and towing of the disabled vehicle, an itemization of the vehicle-hours involved, and any other special charges which cause the bill to be higher than the schedule of charges for routine services.

(4) The maximum charge for district wrecker calls shall be the same as the State of Tennessee Department of Safety charges, as the same may be amended from time to time.

All Class C operators must keep on file at their location, for a period of one (1) year, video documentation of the scene, and the conditions for which all additional charges are being billed pursuant to this chapter. Video documentation shall consist of videotape, film, photographs, or other media which accurately depicts the scene and conditions as they actually appeared at the time of recovery.

No storage fee shall be charged by any district wrecker class if the vehicle is reclaimed by the owner within the first eight (8) hours. For every wrecker class, if more than one (1) owner or employee per wrecker is of necessity assigned to assist in the recovery of the disabled vehicle, the normal hourly wage of the additional employee's adjusted fringe benefits can be made as an additional charge. (Ord. #677, March 1999, as replaced by Ord. #787, Dec. 2007, and Ord. #1017, Sept. 2016)

**9-516. Wrecker zones for district wreckers.** The entire City of East Ridge shall be considered one (1) zone. Any applicant for a district wrecker shall have its offices and storage facilities within the city. Police calls will be placed only to operators with district licenses and will be placed from a separate rotating call list for Class A, Class B and Class C wreckers. Class B wreckers may be listed on both the "A" and "B" class list upon request. Class C wreckers may be listed on both Class "C" and Class "B" upon request. (Ord. #677, March 1999, as replaced by Ord. #787, Dec. 2007, and Ord. #1017, Sept. 2016)

**9-517. Regulations for district wreckers.** A district wrecker permittee shall follow these procedures:

(1) No district wrecker permittee shall operate his/her business jointly with any other district wrecker permittee. Joint operation shall include common or joint use of any real or personal property as specified more fully in paragraph (19) below, or joint use of any employees as specified more fully in paragraph (20) below.

(2) No permittee shall directly or indirectly operate more than one (1) district wrecker. Indirect operation shall include common or joint use of any real or personal property as specified more fully in subsection (19) below, or joint use of any employees as specified more fully in subsection (20) below.

(3) All permittees are expected to be familiar and comply with the traffic laws of the city and the state, and abide by all provisions of this chapter.

(4) Permittees will be familiar with and abide by all provisions of this chapter.

(5) No permittee shall charge unreasonable rates for services rendered.

(6) Permittees shall be available for twenty-four (24) hour service with vehicles in proper operating condition and have a qualified operator on duty.

(7) Permittees shall be available for twenty-four (24) hour service with vehicles in proper operating condition and have a qualified operator on duty.

(8) Permittees shall have a telephone number prominently posted for after-hours release of vehicles. The permittees may make an additional charge for releasing a vehicle other than during normal business hours except when the location is otherwise open for business.

(9) The police department may direct that a police impoundment be towed to a city lot at no additional charge.

(10) Amber lights are to be used in the immediate vicinity of a wreck and while towing a vehicle.

(11) All operators shall respond to a wreck within a reasonable time after being called, and except for exigent or unusual circumstances, a response must be made within thirty (30) minutes after the dispatch request is made to the wrecker operator. If the wrecker is engaged elsewhere, or for any reason the wrecker operator cannot reasonably expect to respond within thirty (30) minutes, it shall be the duty of the wrecker operator to so advise the police department and decline to accept the call whereupon the next wrecker operator

on rotation shall be called. Class C wreckers shall be granted an additional fifteen (15) minutes to respond to a tow for a large truck, road tractor and trailers.

(12) No licensee shall refer or delegate police calls to other wrecker companies.

(13) No answering service, paging service or similar service or procedure may be used to forward a call to an owner or employee of the wrecker service during normal business hours. The operator may provide for an after-hours number which shall be provided to the wrecker inspector.

(14) The first wrecker operator at the scene shall tow the vehicle causing the greatest hazard as directed by the investigating police officer.

(15) No repairs or other additional services shall be performed except on request of the owner.

(16) An operator may accept a dispatch of more than one (1) wrecker only if qualified wreckers and operators are available within the time limits specified above.

(17) All district wrecker permittees shall file with the wrecker inspector a photocopy of a current operator's license for each employee authorized to operate a wrecker. The photocopy of any new operator's license shall be filed within ten (10) days following employment or renewal of the operator's license.

(18) No district wrecker permittee shall jointly use any real or personal property with any other district wrecker permittees except as provided herein. Real property shall be considered to be jointly used if it is used in any manner for the use of storage of any wrecker, wrecker equipment, or wrecked and disabled vehicles by two (2) or more permittees. Separate recorded parcels of real property shall be deemed to be one (1) parcel of real property for purposes of this chapter if:

(a) The parcels have any common boundaries;

(b) The boundaries of the parcels are separated only by a public street, alley, or private driveway; or

(c) A common parcel of property as described above was subdivided, sold, leased, rented, or in any manner divided or conveyed on or after the effective date of the chapter by the owner of such property to create separate parcels.

No district wrecker permittee shall use any wrecker, equipment or other personal property owned by another district wrecker permittee, excluding bona-fide lease or rental contracts for a term of thirty (30) days or more except upon a written lease or rental agreement supported by fair market consideration. A copy of any such lease or rental contract shall be filed with the wrecker inspector within thirty (30) days of the vehicle first being used on district wrecker calls. District wrecker permits issued prior to September 1, 1989, may be renewed without regard to the requirement for separate recorded parcels of real property and operated notwithstanding the provisions of paragraphs (1) and (2) of this section.

(19) Each district wrecker operator shall regularly employ at least two (2) primary operators for each location permitted under this chapter, who shall be employed forty (40) hours per week during normal working hours or a normal work week, if the permittee's normal work week for employees is less than forty (40) hours. A photocopy of the primary operator's Commercial Driver's License (CDL) or commercial motor vehicle license shall be submitted to the wrecker inspector within ten (10) days following their employment and the operator shall keep the wrecker inspector advised of any changes in employment of such operators within ten (10) days. The same person cannot be qualified to act as the primary operator for more than one (1) district wrecker permittee. Nothing herein shall prevent a primary operator of one (1) permittee to act as a part-time operator for another permittee. The owner(s) may qualify as a primary operator(s) providing that he/she regularly operates the wrecker and responds to wrecks or disabled vehicles personally during normal business hours. (Ord. #677, March 1999, as replaced by Ord. #787, Dec. 2007, and Ord. #1017, Sept. 2016)

**9-518. Vehicles to be towed to place designated by owner; coercion at scene of an accident prohibited.** The wrecker operator may tow the wrecked or disabled vehicles to the operator's place of business; provided, if the owner or agent of the wrecked or disabled vehicle pays or secures the towing charges, then the wrecker operator or crane operator shall pull the vehicle to any place within the city designated by such owner or agent. It shall be unlawful for the owner of a district wrecker, his/her agent, employee or representative at the scene of any accident to high-pressure or otherwise to coerce or insist upon any owner of a wrecked or disabled vehicle to sign a work order or agreement at the scene of the accident for any repairs to be made on such wrecked or disabled vehicle. (Ord. #677, March 1999, as replaced by Ord. #787, Dec. 2007, and Ord. #1017, Sept. 2016)

**9-519. Wreckers to go to scene of accident on call of police only.** It shall be unlawful for any district wrecker operator, or his/her agent or representative, to go to any place where an accident has occurred unless called by the police department dispatcher. In any event, the wrecker shall clear with the police dispatcher before going to the accident scene. It shall be unlawful for the owner of any district wrecker, or his/her agent or representative, to go to the place of a wreck by reason of information received by shortwave or police radio. (Ord. #677, March 1999, as replaced by Ord. #787, Dec. 2007, and Ord. #1017, Sept. 2016)

**9-520. Solicitation of towing work by operator, etc., of district wrecker prohibited.** A district wrecker operator shall not proceed to the scene of a disabled motor vehicle without having been requested or notified to do so, as provided in § 9-520 of this code. Responding to a call upon notice from gas



station attendants, taxicab drivers or unauthorized persons shall be considered a violation of this chapter; provided that, the provisions of this section shall not be operable during periods of snow emergencies proclaimed by the city. (Ord. #677, March 1999, as replaced by Ord. #787, Dec. 2007, and Ord. #1017, Sept. 2016)

**9-521. Emergency towing and storage.** Whenever any police officer finds a vehicle standing upon any street or highway which constitutes a hazard to the safe movement of traffic along such street, or when the towing of such vehicle is otherwise permitted by this code or other applicable law, the officer shall:

- (1) Notify the police dispatcher, who shall call the district wrecker having the class of wrecker necessary.
- (2) The district wrecker shall tow the wrecker or disabled motor vehicle in the manner and procedures as provided in this chapter; and
- (3) The district wrecker operator shall be entitled to recover any unpaid charges for towing and storage in accordance with title 55, chapter 16, Tennessee Code Annotated, "Unclaimed or Abandoned Vehicles." (Ord. #677, March 1999, as replaced by Ord. #787, Dec. 2007, and Ord. #1017, Sept. 2016)

**9-522. Fleet service contracts.** (1) Owners or operators of a fleet of vehicles may apply to the wrecker inspector to have their vehicles listed with the police department for the dispatch of a particular wrecker service in lieu of having the district wrecker respond to a wreck for a disabled vehicle. To defray the cost of establishing and maintaining this system, each applicant shall pay a fee of twenty dollars (\$20.00) with the original application and an additional twenty dollar (\$20.00) fee for each amendment thereafter. Such applications shall be accepted only from owners or operators having a right to directly control the use of the vehicle, and they shall not be accepted from auto repair facilities or leasing companies other than for vehicles directly used in such businesses.

(2) If an owner or operator of a fleet of vehicles has a request on file to notify a particular wrecker service, and the police officer on the scene is so notified, he/she shall radio the dispatcher who shall notify the requested wrecker company, if the wrecker company meets the qualifications and response time set forth in this chapter to tow the type of vehicle to be towed, and to do so would not interfere with the public's health, safety or welfare. However, if the officer or dispatcher is notified of a particular wrecker service after a district wrecker operator has been dispatched, then the request for the particular wrecker service shall be denied, notwithstanding the fact that an application has been filed and the twenty dollar (\$20.00) fee paid. (as added by Ord. #787, Dec. 2007, and replaced by Ord. #1017, Sept. 2016)

**9-523. Severability.** If any provision of this chapter is determined to be unenforceable or invalid, such determination will not affect the validity of the

other provisions contained in this chapter. Failure to enforce any provision of this chapter does not affect the rights of the parties to enforce such provision in another circumstance, nor does it affect the rights of the parties to enforce any other provision of this chapter at any time. (as added by Ord. #1017, Sept. 2016)

## CHAPTER 6

### REGULATION OF AMBULANCE SERVICES

#### SECTION

- 9-601. Regulatory authority.
- 9-602. Definitions.
- 9-603. Certification and license required.
- 9-604. Application for certification and license.
- 9-605. License fee.
- 9-606. Duties of license official.
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- 9-608. Insurance policy.
- 9-609. Transfer of license.
- 9-610. Operating requirements for ambulance services.
- 9-611. Ambulance service rotation list.
- 9-612. Enforcement and penalties.

**9-601. Regulatory authority.** Tennessee Code Annotated, § 7-61-103, authorizes the governing body of any city to license ambulance services and adopt and enforce reasonable regulations to control ambulance services to protect the public health and welfare. (Ord. #600, Oct. 1995)

**9-602. Definitions.** (1) "Ambulance" means any privately or publicly owned land or air vehicle that is especially designed, constructed or modified and equipped and is intended to be used for and is maintained or operated for transportation for persons who are sick, injured, wounded, or otherwise incapacitated, helpless, dead or in need of medical care.

(2) "City" is the City of East Ridge, Tennessee.

(3) "City license officials" or "license official" is the City Manager of the City of East Ridge or his authorized delegate.

(4) "Coordinator" is the Fire Chief for the City of East Ridge or his delegate who shall act as emergency medical service coordinator for the city and report to the city manager.

(5) "Person" is any person, firm, partnership, association, corporation, company or organization of any kind.

(6) "Service provider" or "service" is any person certified by the coordinator and licensed by the license official to provide emergency or non-emergency ambulance transportation of patients within the city limits of East Ridge, Tennessee.

(7) "Patient" is any person suffering from any illness, or injury whether alive or dead.

(8) "Department" is the Tennessee Department of Health, Division of Emergency Medical Services.

- (9) "ALS service" is Advanced Life Support Ambulance Service.
- (10) "BLS service" is Basic Life Support Ambulance Service.
- (11) "City communications center" or "fire/police communications center" is the City of East Ridge Fire/Police Communications Center. (Ord. #600, Oct. 1995)

**9-603. Certification and license required.** (1) It shall be unlawful for any person to operate or hold themselves out as being available to act as a service provider within the City of East Ridge unless such person has received certification by the coordinator and a license by the license official to operate as a service provider.

(2) The coordinator may waive the requirements of certification and license on an emergency temporary basis during times of disaster or other public health emergency that requires uncertified persons be allowed to act as service providers until the abatement of the public health emergency.

(3) The coordinator shall report to the city manager any public health emergency that requires temporary waiver of certification and license as mentioned in subsection (2) above. (Ord. #600, Oct. 1995)

**9-604. Application for certification and license.** Any person desiring to receive certification as a service provider shall submit application to the city on such forms as may be required by the license official and EMS coordinator. The application shall contain the following information:

(1) The applicant's name, business address, principal place of business and the name under which the applicant would do business and provide service in the City of East Ridge;

(2) If the applicant is a corporation, the name and address of any person owning more than 10% of the applicant's previously issued stock;

(3) If the applicant is doing business other than as a corporation, the name and address of all persons possessing an equity or ownership interest in the business;

(4) Name of contact person who shall act as director, manager or chief of service provider;

(5) The operating experience of the applicant in providing for the care, treatment, and if applicable, transportation of patients either within or without the City of East Ridge;

(6) A list of all employees engaged in the applicant's operation within the city including the current certification status of all emergency medical technicians, paramedics and first responder personnel;

(7) Such financial records as may be required by the coordinator and/or license official to reflect current financial status of the applicant;

(8) The schedule of rates proposed to be charged by ambulance services applicant;

(9) Evidence of insurance as required in § 9-608 of this chapter;

(10) A description of the applicant's training program, including training requirements for new employees, continuing education requirements, and employee performance evaluation programs;

(11) A description of each ambulance to be used including the make, model, year of manufacture, and any identifying registration numbers;

(12) In the case of ground ambulances; the engine, chassis numbers, and the current mileage of each vehicle to be used;

(13) Copy of certification by the department of each ground ambulance to be used in the City of East Ridge; and

(14) All service providers in good standing with the city at the time of the passage of this ordinance will not be required to go through the licensing procedure again. Those providers now in service must immediately conform to the mandates of this chapter. However, the providers shall be given one hundred eighty (180) days to comply with the mandates of § 9-610 (7)(a). (Ord. #600, Oct. 1995)

**9-605. License fee.** An application hereunder shall include an unconditional undertaking on the part of the applicant to pay to the city upon the issuance of the license herein required, the privilege taxes for the conduct of an ambulance business. (Ord. #600, Oct. 1995)

**9-606. Duties of license official.** After the filing of the application to operate a private ambulance service, the city manager acting as the license official shall conduct an investigation to determine the need for such service and the suitability of the applicant to perform as a service provider. The license official in issuing or denying the aforesaid license shall be guided by the following guidelines:

(1) That there is a present public need for such services;

(2) That the applicant is financially able to furnish suitable equipment at acceptable rates;

(3) That the equipment, premises and employees have been certified by the EMS coordinator as required by this chapter,

(4) That the applicant is duly insured pursuant to the provisions of § 9-608 in this code;

(5) That all of the laws of the state and ordinances of the city have been complied with by the applicant. (Ord. #600, Oct. 1995)

**9-607. Duties of EMS coordinator.** The fire chief acting as EMS coordinator shall:

(1) Inspect or cause to be inspected all ambulance service providers equipment, premises and employees. The coordinator shall report to the license official and provide:

(a) The coordinator's certification that each ambulance service provider's equipment, premises and employees comply with the requirements of this code and state law;

(b) The EMS coordinator's recommendation to either issue or deny the license to the ambulance service; and

(c) Assistance to the license official in any way the city manager determines is needed to complete the license officials investigations concerning the issuance or denial of a license.

(2) Coordinate the operation of ambulance service in the City of East Ridge on a day to day basis as required in §§ 9-610 and 9-611 of this chapter and report to the city manager.

(3) Coordinate all medical stand-by's, special events, and other programs or activities where either fire, rescue, service provider personnel or other medical personnel will be needed or utilized within the City of East Ridge. (Ord. #600, Oct. 1995)

**9-608. Insurance policy.** All service providers shall file with the license official an insurance policy as required by the Financial Responsibility Law of the State of Tennessee providing insurance coverage for each and every ambulance owned, operated, and/or leased by the service and professional liability coverage on its employees. In complying with this requirement each service shall:

(1) Maintain insurance only with insurance companies authorized to do business in the State of Tennessee;

(2) Maintain liability insurance on all vehicles and professional liability coverage on it's employees of not less than one million dollars (\$1,000,000.00) per occurrence. (Ord. #600, Oct. 1995)

**9-609. Transfer of license.** Licenses issued for any service provider are not transferable.

(1) Any change in ownership or sub-lease of a service will require a new certification and license process to occur.

(2) Any change in addition/deletion of vehicles or employees shall be submitted to the city EMS coordinator along with proper certificates relating to:

(a) Vehicle certification, and

(b) Employee training certification and status with the department. (Ord. #600, Oct. 1995)

**9-610. Operating requirements for ambulance services.** In addition to meeting all the aforementioned requirements for certification and license all new and current certified service providers shall at all times conform to the following requirements:

(1) Any ambulance used by a service provider for emergency or non-emergency transportation of patients shall conform to all standards, rules and regulations promulgated and defined by the department.

(2) All paramedics, emergency medical technicians, and first responders staffing an ambulance shall be certified by the State of Tennessee and in good standing with the department.

(3) All service provider personnel working on ambulances shall be:

(a) Medically certified by the department at some level;

(b) Physically fit to perform the duties required;

(c) Not subject to epilepsy, vertigo or any other infirmity of body or mind which would render them unfit for the safe operation of the ambulance;

(d) Able to speak, read and write the English language;

(e) Clean of dress and person not addicted to the use of intoxicating liquors or narcotics; and

(f) Dressed in uniform used by service that displays the name of the personnel and level of certification by the department. The uniform shall have some type of insignia patch on it displaying the name of the service.

(4) All service provider personnel working on ambulances shall comply with the requirements of this chapter and all other pertinent laws and ordinances.

(5) Personnel shall have been issued and shall be in possession of a current class D, endorsement F driver's license of the State of Tennessee or the equivalent issued in another state.

(6) Service providers that are on the city ALS/BLS rotation list shall maintain an office in the city limits of East Ridge.

(7) Service providers shall sign an agreement of cooperation with the city fire department in keeping with the spirit and intent of department rule 1200-12-1. Such agreement of cooperation shall provide the following:

(a) Service providers shall be cooperatively assigned and permitted to use fire department dispatch frequency and shall maintain communication with the fire department.

(b) The fire department shall respond to emergency calls for medical assistance in the city limits as first responders and coordinate response of service providers.

(c) The city fire department shall operate the nationally recognized incident command system as required by state and federal laws and regulations.

(d) All service providers shall operate under the city fire department incident command system. Incident command shall determine and implement such sectors as triage, transportation, safety, rehabilitation, rescue, operations, etc., and service providers to assist where needed and as required.

(e) The city fire personnel shall assist service providers as needed at scenes of emergency and may ride to the hospital with/and assist ambulance crew when needed.

(f) Service providers are to replace supplies used by fire department first responders and shall bill the patient for their use.

(g) Service providers and the fire department are to cooperate in the replacement of equipment and supplies and the retrieval of each others equipment from emergency scenes and hospitals.

(h) Service providers and the fire department are to exchange patient information, records and reports, and quality assurance procedures.

(8) All service providers are required in cases of disaster to respond to the request of the city fire/police communications center and report for response coordination by the city EMS coordinator or the state E.M.S. regional consultant.

(9) Service providers are required to make every effort to place as many ambulances as possible in service during times of natural/man-made disaster or mass-casualty incidents.

(10) Especially during times of disaster, service providers that are on the city ALS/BLS rotation list for emergency calls are required to give priority to city calls as opposed to other areas outside the city.

(11) Equipment shall be available to allow ambulances to travel in inclement weather conditions including ice and snow.

(12) All maintenance, repairs records and inventory records of ambulances shall be available for inspection by the coordinator or the coordinator's designee or the state E.M.S. regional consultant at all times.

(13) No service provider shall deny emergency medical services or transportation to any patient based upon the patients race, creed, sex, national origin, or ability to pay. (Ord. #600, Oct. 1995)

**9-611. Ambulance service rotation list.** It shall be the intention of the City of East Ridge to provide Advanced Life Support (ALS) ambulance service to all emergency calls when possible. If an ALS service is not available a Basic Life Support (BLS) service shall be summoned. The city shall maintain an ALS/BLS rotation list in the fire/police communications center. Such ALS/BLS rotation list and procedures shall include:

(1) A list of names and phone numbers of each certified service provider offering ALS ambulances.

(2) A list of names and phone numbers of each certified service provider offering BLS ambulances.

(3) A service may appear on both ALS and BLS rotation list if said service offers both ALS and BLS ambulances.

(4) On receipt of a request for emergency ambulance service the city fire/police communications center will notify the ALS service that is next in line



on the ALS rotation list. If that service has no ALS ambulance available, the communications center will call the next ALS service on the ALS rotation list, and so on until an ALS service is dispatched on the call.

(5) If no ALS service is available for an emergency call, the city communications center will notify the next BLS service on the BLS rotation list. This procedure will continue until a BLS service is dispatched on the call.

(6) Each request for an ambulance will constitute one turn on either ALS/BLS rotation list for each service provider. However, if a citizen calls the communications center and requests a specific provider, that will not constitute a turn on the ALS/BLS rotation list.

(7) A service provider shall not respond a BLS ambulance to a call when the city communications center has requested an ALS ambulance unless authorized to do so by the communications center or the E.M.S. coordinator or his designee.

(8) If a service provider is dispatched by the communications center to an incident where no transport of a patient occurs that service shall be put back on top of the appropriate rotation list and shall not lose a turn on the rotation list.

(9) No service provider shall make any emergency call in the City of East Ridge without first notifying the city fire/police communications center and obtaining clearance for the trip. This rule shall apply to all service providers regardless of whether or not said service participates on the ALS/BLS rotation list.

(10) If a service provider responds to a non-emergency ambulance call, convalescent call, service call, invalid call or any other type call that subsequently changes to an emergency call the service provider shall immediately notify the city communications center by radio or telephone to request assistance and/or clearance as is required.

(11) No service provider shall answer any call on a non-emergency basis in order to either avoid notifying the city communications center or circumventing the spirit and intent of these rules and regulations.

(12) No service provider licensed by the city license official shall refuse to respond to an emergency call from the city fire/police communications center if the service provider has an ambulance available. This rule shall apply regardless of whether or not the service provider participates on the ALS/BLS rotation list.

(13) A service provider shall respond only with the number of ambulances requested and cleared by the city communications center.

(14) Effective at 12:01 A.M. the day following approval of this chapter by the City of East Ridge Mayor and Council, a new ALS and BLS rotation list will begin. Each current licensed and certified service provider shall be placed on the new ALS/BLS list in alphabetical order. Any new service provider that is certified and licensed in the future shall be added to the bottom of the appropriate list and not in alphabetical order.

(15) The EMS coordinator at his discretion may make any changes necessary in the ALS/BLS system's operating procedures to meet with the changing needs of the City of East Ridge and the service providers. Any new rules which are promulgated shall automatically become part of this chapter. (Ord. #600, Oct. 1995)

**9-612. Enforcement and penalties.** (1) All vehicles, equipment and response reports shall be available at all times for inspection by the coordinator, the coordinator's designee and the department of health regional emergency medical services consultant.

(2) The coordinator or the coordinator's designee shall investigate allegations of violation of requirements of this chapter, and the rules and regulations of the department. Additionally, the coordinator shall present any findings of the above mentioned investigations or inspections and any patient care issues to the city license official and state EMS consultant.

(3) Any violation of this chapter by a service provider or service provider's employee shall be a misdemeanor and shall be punishable as such. Additionally, any service provider who shall violate any provision of this chapter shall be subject to immediate suspension by the license official. In addition to any fine which may be assessed under the general penalty clause of this code. During such suspension the service provider shall carry out no activities in the city involving the operation of ambulances. Where the license official orders the suspension of a licensed service provider for violations of this chapter, the service provider shall be entitled to a hearing before the city manager as soon as reasonably practical if he should request such hearing. Upon the hearing, the city manager shall have the power to continue the suspension for a definite period of time, or to revoke the license in it's entirely. If the service provider shall not request a hearing before the city manager, then the action of the license official in making a suspension shall be final and shall continue for the period fixed by the license official. If the city manager feels that the violation is such that the license should be permanently revoked, then he may request a hearing for such service provider before the mayor and council for the purpose of having that body determine whether the license should be permanently revoked. The service provider shall be notified of such hearing and shall be given an opportunity to present any matter in his defense. (Ord. #600, Oct. 1995)

## CHAPTER 7

### LICENSING AND REGULATION OF MASSAGE PARLORS

#### SECTION

- 9-701. Permit and license required.
- 9-702. Definitions.
- 9-703. Applications.
- 9-704. Investigation and issuance.
- 9-705. Applications by employees of massage parlors or massagers or masseuses.
- 9-706. Issuance of permits.
- 9-707. Revocation of permits and licenses.
- 9-708. Hearing on revocation.
- 9-709. Regulation concerning the operation of massage parlors.
- 9-710. Inspection of massage parlors.
- 9-711. Penalties.

**9-701. Permit and license required.** It shall be unlawful for any person to engage in the business of operating a massage parlor or in the occupation of an employee as a massager or as a masseuse within the corporate limits of the City of East Ridge, Tennessee, without first obtaining a permit and license therefor as provided herein. (1993 Code, § 5-801)

**9-702. Definitions.** (1) The words "massage parlor" as used herein shall mean any place or location wherein the principal business of administering massages in any manner whatsoever to the person of a customer or patron is carried out for hire.

(2) The words "employee of a massage parlor" or "massager" or "masseuse" shall include any person who is employed in a massage parlor, whether male or female, and who undertakes to perform a massage in any manner upon the person of a customer or patron. (1993 Code, § 5-802)

**9-703. Applications.** Applicants for a permit or license under this chapter to operate a massage parlor must file with the city manager a sworn application in writing, in duplicate, on a form to be furnished by the city manager which shall give the following information:

- (1) Name and description of the applicant;
- (2) Address (both residence address and business address);
- (3) A brief description of the nature of the business to be conducted and the service or services to be rendered to the customers or patrons of the business;
- (4) If the business is to be owned by some person other than the applicant, the name and address of the owner, together with credentials from

the owner establishing the right of the applicant to make application for the license and permit;

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

(6) A photograph of the applicant, taken within sixty (60) days immediately prior to the date of the filing of the application, which picture shall be not less than 2" x 2" showing the head and shoulders of the applicant in a clear and distinguishing manner;

(7) The fingerprints of the applicant and the names of at least two reliable property owners of Hamilton County, Tennessee who will certify as to the applicant's good character and business responsibility, or in lieu of the names of references, any other available evidence as to the good character and business responsibility of the applicant as will enable an investigator to properly evaluate such character and business responsibility;

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

(9) A certification upon the application by the applicant that no person will be employed in such business except a person who has been issued a license and permit by the City of East Ridge under the terms of this chapter; and

(10) At the time of the filing of the application, a fee of \$25.00 shall be paid to the city manager to cover the cost of investigation. (1993 Code, § 5-803)

**9-704. Investigation and issuance.** (1) Upon receipt of such application, the original shall be referred to the chief of police, who shall cause such investigation of the applicant's business and moral character to be made as he deems necessary for the protection of the public good;

(2) If as a result of such investigation the applicant's character or business responsibility is found to be unsatisfactory, the chief of police shall endorse on such application his disapproval and his reasons for the same, and return the said application to the city manager, who shall notify the applicant that his or her application is disapproved, and that no permit or license will be issued; and

(3) If as a result of such investigation the character and business responsibility of the applicant is found to be satisfactory, the chief of police shall endorse on the application his approval and return the same to the city manager, who shall, upon payment of the prescribed business license privilege tax of the State of Tennessee, deliver to the applicant his permit and issue a license. The city manager shall keep a permanent record of all licenses issued. (1993 Code, § 5-804)

**9-705. Applications by employees of massage parlors or massagers or masseuses.** Applicants for a permit under this chapter to work as an employee of massage parlors, or as a massager or masseuse must file with

the city manager a sworn application in writing, in duplicate, on a form to be furnished by the city manager, which shall give the following information:

- (1) The name, age, and description of the applicant;
- (2) Residence address;
- (3) Address of place of occupation;
- (4) A photograph of the applicant, taken within sixty (60) days immediately prior to the date of the filing of the application, which picture shall be 2" x 2" showing the head and shoulders of the applicant in a clear and distinguishing manner;
- (5) The applicant shall attach to his or her application his or her certificate as a physical therapist or physiotherapist issued by the State Board of Medical Examiners of the State of Tennessee as required by Tennessee Code Annotated, § 63-13-102 or a certificate or license from the State of Tennessee which would authorize the applicant to engage in the business of performing massages as an incident to such certificate or license as authorized in Tennessee Code Annotated; and
- (6) At the time of the filing of the application a fee of \$2.00 shall be paid to the city manager for the administrative expense of the issuance of a permit. (1993 Code, § 5-805)

**9-706. Issuance of permits.** The city administrator shall issue a permit to all persons certified as physical therapists or physiotherapists by the Board of Medical Examiners of the State of Tennessee, as provided in Tennessee Code Annotated, § 63-13-102 et seq. If an applicant does not possess a certificate as specified above and as required under said code section of the code of the State of Tennessee, then the city manager shall not issue a permit to engage in the business of performing massages upon the person of a customer or patron in the City of East Ridge, Tennessee.

No operator of any massage parlor to whom a permit and license has been issued in the City of East Ridge shall conduct any massage activities himself or herself unless he or she also has a permit to act as a massager or masseuse.

No such person shall employ any person in the establishment operated by him or her who does not have a permit from the City of East Ridge, Tennessee, to act as a massager or masseuse. (1993 Code, § 5-806)

**9-707. Revocation of permits and licenses.** (1) Permits and licenses issued under the provisions of this chapter may be revoked after notice and hearing, for any of the following causes:

- (a) Fraud, misrepresentation, or false statement contained in the application for license;
- (b) Any violation of this ordinance;
- (c) Conviction of any crime or misdemeanor involving moral turpitude; and

(d) Conducting the business of a massage parlor in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety or general welfare of the public.

(2) Notice of the hearing for revocation of a license or permit shall be given in writing, setting forth specifically the grounds of the complaint and the time and place of hearing. Such notice shall be mailed postage prepaid to the licensee at his last known address at least five (5) days prior to the date set for hearing. (1993 Code, § 5-807)

**9-708. Hearing on revocation.** The hearing shall be conducted by the council of the City of East Ridge, Tennessee, in a regularly scheduled meeting. After hearing the evidence, the council shall determine whether or not the license or permit shall be revoked, continued in force, or suspended for any period of time not to exceed sixty (60) days. The decision and order of the council shall be final and conclusive. (1993 Code, § 5-808, modified)

**9-709. Regulations concerning the operation of massage parlors.**

(1) When performing massages in any manner upon the body of a patron or customer a massagist shall be fully clothed and the customer shall be covered in the manner usually employed in hospitals and offices of the medical profession;

(2) Massage parlors shall be operated only between the hours of 7:00 A.M. and 10:00 P.M.;

(3) A massage parlor as a minimum shall have individual dressing rooms and lockers for patrons or customers, shall have separate showers and restrooms for male and female customers, patrons and employees; and

(4) The administering of massages shall not be conducted in private areas, but shall be conducted in separate general areas for males and females. (1993 Code, § 5-809)

**9-710. Inspection of massage parlors.** By accepting a license or permit from the City of East Ridge, Tennessee, the licensee or permittee does thereby consent to an inspection of the premises or operations of massage parlor at any time by the Police Department of the City of East Ridge, Tennessee. The permittee or licensee shall give free access to the police department in making such inspections, and any effort to deny access to any part of the establishment shall be deemed a violation of this chapter. (1993 Code, § 5-810)

**9-711. Penalties.** Any person violating any of the provisions of this chapter shall, upon conviction thereof, be in accordance with the provisions of the general penalty clause in this code punished and the license or permit of such person (if any) shall be subject to revocation. (1993 Code, § 5-811)

## CHAPTER 8

### TELECOMMUNICATIONS SERVICES

#### SECTION

- 9-801. Definitions.
- 9-802. Services prohibited without franchise and without authorization from State of Tennessee.
- 9-803. Application for telecommunications franchise; application fee.
- 9-804. General provisions for telecommunications services.
- 9-805. Engineering designs for telecommunications services systems; "as built" drawings for systems.
- 9-806. No adverse effect upon adjacent properties.
- 9-807. No adverse effect upon other utilities.
- 9-808. Restoration of public rights-of-way.
- 9-809. Maintenance of telecommunications services system in safe condition.
- 9-810. Notification of execution of any security agreement or similar agreement concerning telecommunications services systems.
- 9-811. Indemnification of city by providers.
- 9-812. Insurance to be maintained by providers.
- 9-813. Removal or relocation of systems.
- 9-814. Assignment of franchise; lease or sale of capacity.
- 9-815. Removal of obsolete equipment.
- 9-816. No cost to city arising out of franchise.
- 9-817. Performance bond from providers.
- 9-818. Franchise fee from providers.
- 9-819. Default of providers.
- 9-820. Notices.
- 9-821. Nondiscrimination by providers.
- 9-822. No grant of use of other utilities' property.

**9-801. Definitions.** For the purposes of this chapter, the following definitions shall apply:

(1) "City of East Ridge" and "city" shall mean the City of East Ridge Tennessee.

(2) "Gross revenue" shall mean all revenues of any kind collected by provider from any source whatsoever for customer access to a long distance telephone carrier or provider using a telecommunications services system within the City of East Ridge. For the purposes of this section, "Gross revenue" shall not include:

(a) Any taxes which are collected by provider from its customers,

(b) Lease or rental fees received from a lessee or sublessee of provider's system for which a five percent (5%) franchise fee on the

lessee's or sublessee's gross revenue is paid to the city pursuant to this article, or

(c) Revenues from sale of capacity in provider's system for which a franchise fee on the purchaser's gross revenue is paid to the city pursuant to this article.

(3) "Provider" shall mean any person who owns, leases, operates, installs, purchases capacity in or maintains any network or equipment within the City of East Ridge for telecommunications services containing communication cables, wires, lines, towers, wave guides, optic fiber, microwave, laser beams or conduit and any associated converters, equipment or facilities designed and constructed for the purpose of producing, receiving or amplifying or distribution, by audio, video or other forms of electronic signals to or from subscribers or locations within the City of East Ridge and not including cable television, (hereinafter collectively referred to as "provider's system" or "system") in, on or over the public rights-of-way of the City of East Ridge.

(4) "Telecommunications services" shall mean all telephone and telegraph services of any kind whatsoever including, but not limited to, the following:

(a) Services interconnecting interexchange carriers for the purpose of voice data transmission;

(b) Services connecting interexchange carriers or competitive carriers to telephone companies providing local exchange services for the purpose of voice or data transmission;

(c) Services connecting interexchange carriers to any entity, other than another interexchange carrier, or telephone company providing local exchange services, for the purpose of voice or data transmission;

(d) Services providing private line point-to-point service for end users for voice and data transmission; and

(e) Local exchange telephone services. (Ord. #608, Feb. 1996)

**9-802. Services prohibited without franchise and without authorization from State of Tennessee.** No person or entity shall use the public rights-of-way in the city for telecommunications services without first having received a franchise from the governing body of the city for telecommunications services. No person shall provide services directly regulated by the Tennessee Public Service Commission (or any successor agency) under Tennessee law unless so authorized by the public service commission, if such authorization is required. No person or entity shall use the public rights-of-way in the city for video dial tone or personal communication service without first having received a franchise from the governing body of the city for telecommunications services. (Ord. #608, Feb. 1996)



**9-803. Application for telecommunications franchise; application fee.** Any entity desiring to construct, operate, lease or purchase capacity (for resale) in a telecommunications system within the rights-of-way of the city shall make application for a franchise from the city to the office of the city manager on the form provided by the city manager. Such application shall be accompanied by an application fee of seven hundred fifty dollars (\$750.00). (Ord. #608, Feb. 1996)

**9-804. General provisions for telecommunications services.** Any provider shall comply with any special requirements of the office of the city manager or office of the city traffic engineer with respect to the specific location and installation of provider's system and with respect to any other matters which affect the installation, operation and maintenance of provider's system; to the maximum extent possible, provider's system shall be installed underground, provided that provider's system may be installed above ground where either telephone or electric utility facilities are above ground at the time of installation. To the extent that provider, installs its system in underground ducts, provider shall provide to the city one duct of equal size to that of provider's for the city's exclusive use; if provider installs its own poles, provider will reserve space on said poles for the city to install its own line on said poles. To the extent that provider installs fiber optic fibers for its system, provider agrees to provide the city with four (4) dark fiber optic fibers and access thereto (including lateral connections) on provider's system, at no cost to the city for the city's unrestricted exclusive use; provider shall also provide coordination and engineering assistance to the city for providing such fiber optic accesses for initial hookup as the city may desire at no cost to the city. The city will not sell or lease said fibers to any competitor or potential customer of provider during the term of any franchise to provider for telecommunications services. Provider, with the prior written approval of the city manager the city traffic engineer, may make minor deviations from the provider's system as shown in the map attached to provider's franchise application in the event unforeseen problems necessitate the rerouting of said system. Provider will comply with all applicable city ordinances and state laws, including but not limited to obtaining building permits, street cut permits and any other permit required by applicable laws. (Ord. #608, Feb. 1996)

**9-805. Engineering designs for telecommunications services systems; "as built" drawings for systems.** Engineering designs for provider's system will be prepared by a competent engineering group which shall be licensed by the state if required by state law and installation will be performed by a competent contractor which shall be licensed by the state if required by state law, and provider will furnish said engineering designs to the city no less than thirty (30) days prior to commencement of construction. Provider will provide to the city manager "as built" drawings for its system within 120 days

of completion of the initial phase of said system; provider shall update said drawings within 120 days of the completion of any material change to provider's system; said "as built" drawings shall include, at a minimum, the routing of provider's system and the location of all amplifiers, power supplies and system monitor test points, provided that if provider already has its system, or a portion thereof, in place as of the effective date of this section, provider shall provide such "as built" drawings to the city manager within the time provided in such provider's franchise application. (Ord. #608, Feb. 1996)

**9-806. No adverse effect upon adjacent properties.** Under no conditions will the installation of provider's system adversely affect any properties adjacent to the public rights-of-way without the prior express written permission of the owner of such properties. (Ord. #608, Feb. 1996)

**9-807. No adverse effect upon other utilities.** Under no conditions will the installation of provider's system adversely affect any existing utilities without the prior express written permission of such utilities. Provider's system will not physically interrupt or interfere with the facilities in the public rights-of-way of the Chattanooga Gas Company, BellSouth, the Electric Power Board of Chattanooga, the water utility in whose area provider's system is located, Chattanooga Cable TV Company, and any other utilities or companies holding a franchise in any right-of-way in which provider's system is to be located. Provider is responsible for ensuring compliance with this section. (Ord. #608, Feb. 1996)

**9-808. Restoration of public rights-of-way.** Provider shall promptly restore to its original condition in accordance with the city's standard specifications for streets and sidewalks any street pavement, sidewalks or other portions of the public right-of-way disrupted by construction of provider's system. By acceptance of any franchise from the city to provide telecommunications services, provider warrants the restoration of any disturbed right-of-way or part thereof. Provider will, to the maximum extent possible coordinate all system installation, repairs and maintenance with other utilities and franchisees so as to minimize the number of street cuts and interruption of traffic within the city. (Ord. #608, Feb. 1996)

**9-809. Maintenance of telecommunications services system in safe condition.** Provider shall maintain provider's system in a safe condition during the term of any franchise it holds from the city. (Ord. #608, Feb. 1996)

**9-810. Notification of execution of any security agreement or similar agreement concerning telecommunications services systems.** Provider will notify the city of the execution of any security agreement or similar agreement concerning any of the facilities and property, real or personal, of the

provider located in the City of East Ridge and will, upon three (3) business days notice, allow the city to inspect any such agreements in East Ridge Tennessee. (Ord. #608, Feb. 1996)

**9-811. Indemnification of city by providers.** Provider will defend, indemnify and hold harmless the city, its officers, employees, successors and assigns from any and all actions or claims for damages arising out of or related to the operation, installation or maintenance of provider's system. (Ord. #608, Feb. 1996)

**9-812. Insurance to be maintained by providers.** Provider will provide for approval by the office of the city manager evidence of general liability insurance to further indemnify the city against losses of whatever kind and nature as a result of provider's system being in the public right-of-way with limits of liability not less than those set forth in the Tennessee Governmental Tort Liability Act, as amended from time to time. Such insurance policy or policies shall name the City of East Ridge as an additional insured and shall provide that the same may not be canceled for any reason except after thirty (30) days written notice to the city. (Ord. #608, Feb. 1996)

**9-813. Removal or relocation of systems.** In the event the city shall need the right-of-way for the purpose of providing public improvements either to the street or the public right-of-way, for the best interest for the public or in the event the city abandons a public right-of-way and does not reserve an easement for provider, and provider's system or any part thereof should need to be relocated or removed, such relocation or removal will be done at the sole expense of the provider; in the event provider fails or refuses to timely complete such relocation or removal, the city shall have the right to perform such relocation or removal, and provider shall promptly reimburse the city for all costs associated therewith. (Ord. #608, Feb. 1996)

**9-814. Assignment of franchise; lease or sale of capacity.** No provider shall assign or transfer any franchise from the city without the prior approval of the East Ridge City Council by ordinance or resolution, which approval shall not be unreasonably withheld. No provider shall lease or rent any portion of the right-of-way it uses to any other entity which has not obtained a franchise for telecommunications services from the city, and no provider shall sell, lease or rent any portion of or capacity in provider's system to any other entity which has not obtained a franchise for telecommunications services from the city.

A mortgage, lien, deed to secure debt, deed of trust, security interest or other encumbrance of provider's franchise as a part of acquiring, constructing, equipping or maintaining provider's system shall not be considered a violation of this section; any such creditor shall be entitled to all the rights and remedies

granted to same in any documents relating to any such transaction, provided that any sale or transfer of provider's system or any portion thereof following a foreclosure sale shall be subject to the prior approval of the East Ridge City Council by ordinance or resolution which approval shall not be unreasonably withheld. (Ord. #608, Feb. 1996)

**9-815. Removal of obsolete equipment.** When provider opens a trench, accesses a conduit or boring, or is working on aerial locations, or when provider is aware that any other franchise or public utility is opening a trench, accessing a conduit or boring, or is working on aerial locations with access to provider's system provider shall remove all of its obsolete communication cables, wires, lines, towers, wave guides, optic fiber, microwave, laser beams, conduit and all of its obsolete associated converters, equipment or facilities while they are open without interfering with the efficient operation of other public utilities. In the event provider's franchise is terminated, forfeited or abandoned, the city may require provider to remove provider's system or any portion thereof from the public right-of-way within a reasonable period of time, and in the event provider fails to do so the city may, at its option, remove provider's system or any portion thereof from the public right-of-way and seek reimbursement therefor from provider or from any performance bond posted by provider in favor of the city. (Ord. #608, Feb. 1996)

**9-816. No cost to city arising out of franchise.** The city shall incur no costs or expenses as a result of granting any franchise to provider or as a result of connecting to provider's system (other than usual and customary fees for the use of provider's system in the event the city utilizes same). (Ord. #608, Feb. 1996)

**9-817. Performance bond from providers.** Any provider shall, during construction of any phase of provider's system, post a bond in form satisfactory to the office of the city manager, in the amount of the lesser of:

- (1) Two hundred fifty thousand dollars (\$250,000.00) or
- (2) The cost of such construction, to secure the performance of all of provider's obligations under provider's franchise and this article including, but not limited to, the cost of removal of provider's system from the public right-of-way in the event provider's franchise is terminated or abandoned and the cost of repairing any damage to the city rights-of-way in the event provider fails to repair same.

For a period of one year after the city manager has certified satisfactory completion of construction of provider's system or any part thereof to the city's standards set forth in providers franchise ordinance and this article and to any applicable standards otherwise imposed by law, provider shall post a bond, in form satisfactory to the office of the city manager in the amount of fifty thousand dollars (\$50,000.00) to secure the performance of all of provider's

obligations under provider's franchise ordinance and this article including, but not limited to, the cost of removal of provider's system from the public right-of-way in the event provider's franchise is terminated or abandoned and the cost of repairing any damage to the city rights-of-way in the event provider fails to repair same. (Ord. #608, Feb. 1996)

**9-818. Franchise fee from providers.** Provider shall pay to the city on a quarterly basis a franchise fee of five percent (5%) of the gross revenue, as defined in § 9-801 above, of the provider. Payments of said franchise fee shall be due and payable on or before the fifteenth day of February, May, August and November of each year for the preceding calendar quarter.

In the event it is determined that the city is not permitted by law or otherwise to assess or collect a franchise fee based upon provider's gross revenues, then an annual franchise fee based upon a flat fee per linear foot of public right-of-way in which provider has installed it's system in the city's public right-of-way shall be paid by the provider to the city according to the schedule set forth in the chart below which will be amended before the year 2002 to establish said fee for subsequent years):

<u>Payment Due</u>	<u>Fee Per Linear Foot</u>
1997	\$1.00
1998	\$1.05
1999	\$1.15
2000	\$1.21
2001	\$1.27

Such payment shall be due and payable thirty (30) days after the end of each calendar year or, if the provider pays its taxes based upon a fiscal year ending other than on December 31, such payment shall be due and payable thirty (30) days after the end of each fiscal year of the provider.

Provider shall submit to the city with its franchise fee payment a sworn report showing total revenue, detailed by category, received by provider from the operations of provider's system during the preceding calendar quarter. Provider shall also make available in the City of East Ridge for inspection by the city, upon three business days notice, independently audited financial statements showing all revenue, detailed by category, received by provider during the preceding calendar or fiscal year.

Upon fifteen days written notice from the city, provider shall make available in East Ridge all books and records of the provider which are requested by the city for audit purposes to ensure that franchise fees in the proper amount have been paid. In the event any such audit reveals that provider has paid less than ninety-seven percent (97%) of any portion of any franchise fee payment due to the city, provider shall reimburse the city for the

cost of any such audit as well as for any franchise fee payment which is overdue together with interest thereon as provided below.

In the event any franchise fee payment due under this section is paid late, provider shall also pay interest thereon at the rate of eighteen percent (18%) per annum for any period such payment is late. No portion of the franchise fee shall be noted separately on bills to customers except as required by law.

Notwithstanding anything herein to the contrary, the franchise fees payments due under this section shall be paid beginning January 1, 1997. (Ord. #608, Feb. 1996)

**9-819. Default of providers.** (1) The occurrence of any one or more of the following events, at the city's sole option, shall constitute an event of default by the provider under any franchise from the city for telecommunications services:

(a) The provider shall fail to pay when due any franchise fee as and when such fee becomes due or any lessee or sublessee of provider's system shall fail to pay any franchise fee as and when such fee becomes due as set forth in § 9-818 above.

(b) The provider shall fail to observe or perform any other obligation to be observed or performed by it under this article.

(c) The provider shall dissolve or discontinue the provider's business, or transfer all or substantially all of the property of the provider without the prior consent of the East Ridge City Council by ordinance or resolution.

(d) A judgment creditor of the provider other than the holder of a valid security interest in provider's system shall obtain possession of any portion of the provider's system in the public rights-of-way of the city by any means.

(e) That provider fails to begin actual construction on provider's system within six (6) months of the date provider obtains a franchise for telecommunications services from the city, or provider has not substantially completed provider's system as set forth in the franchise from the city to provider within two (2) years of the date provider obtains a franchise for telecommunications services from the city.

(2) Upon the occurrence of any event of default specified in this section, the city shall notify provider in writing of such event of default and identify the event of default; such notice shall also notify provider that the franchise from the city to provider for telecommunications services is considered forfeited by provider and canceled not less than fifteen (15) business days from the date of receipt of such notice by provider unless such default, violation, non-compliance or other event causing forfeiture of said franchise specified in the notice has been cured with said fifteen (15) business days.

(3) Before any franchise for telecommunications services may be terminated and canceled, provider shall be provided with an opportunity to be

heard before the governing body of the city. In the event provider desires to have a hearing before the city council, provider shall within ten (10) business days of its receipt of the aforementioned notice, notify in writing the clerk of the city council of its desire for such a hearing; upon receipt of such a request for a hearing, the clerk shall notify the council at or before its next meeting of such request and the council shall schedule a hearing upon such request. The termination of provider's franchise shall be stayed until the conclusion of such hearing before the city council. In the event the city council determines that no event of default has occurred or that such default has been timely cured, provider's franchise shall continue in full force and effect.

(4) In the event the city council determines that a specific default cannot be cured within such fifteen (15) business day period and the provider has timely instituted action necessary to cure such default, provider shall be permitted to diligently pursue such cure to completion; the city council may specify a time period within which provider must cure such default, and in the event provider fails to cure within such time period, provider's franchise for telecommunications services shall be considered forfeited and canceled. (Ord. #608, Feb. 1996)

**9-820. Notices.** Any notices or communication required in the administration of provider's franchise for telecommunications services from the city shall be sent by hand delivery or by any method that assures overnight delivery and shall be addressed as follows:

If to the city:

Office of the Mayor  
East Ridge City Hall  
1517 Tombras Avenue  
East Ridge, Tennessee 37412

with a copy to:

Office of the City Attorney  
605 Lindsay Street  
Chattanooga, Tennessee 37403

If to the provider, to the address of provider listed on the franchise ordinance from the city. (Ord. #608, Feb. 1996)

**9-821. Nondiscrimination by providers.** Provider will not discriminate against any employee or applicant for employment because of race, color, religion, sex or national origin, and provider will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex or national origin. Such action shall include employment upgrading, demotion, transfer, recruitment or recruitment advertising, layoff, termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. Provider will post in conspicuous places, available to employees and applicants

for employment notices setting forth the provisions of this nondiscrimination clause. (Ord. #608, Feb. 1996)

**9-822. No grant or use of other utilities' property.** Nothing in this article or in a provider's franchise shall be deemed to grant to any provider any rights to work in, use or attach to any facilities of the Electric Power Board of the City of Chattanooga, Bellsouth or any other utility or entity occupying space in the public rights-of-way without the prior express written permission of any such entity. (Ord. #608, Feb. 1996)



## CHAPTER 9

### CABLE TELEVISION

#### SECTION

9-901. To be furnished under franchise.

**9-901. To be furnished under franchise.** Cable television service shall be furnished to the City of East Ridge and its inhabitants under franchise as the city council shall grant. The rights, powers, duties and obligations of the City of East Ridge and its inhabitants and the grantee of the franchise shall be clearly stated in the franchise agreement which shall be binding upon the parties concerned.<sup>1</sup>

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<sup>1</sup>For complete details relating to the cable television franchise agreement see Ord. #499 dated Sept. 13, 1990 in the office of the city recorder.

## CHAPTER 10

### YARD SALES

#### SECTION

- 9-1001. Definitions.
- 9-1002. Property permitted to be sold.
- 9-1003. Permit required.
- 9-1004. Permit procedure.
- 9-1005. Permit conditions.
- 9-1006. Hours of operation.
- 9-1007. Exceptions.
- 9-1008. Display of sale property.
- 9-1009. Display of permit.
- 9-1010. Advertising.
- 9-1011. Persons exempted from chapter.
- 9-1012. Violations and penalty.

**9-1001. Definitions.** For the purpose of this chapter, the following terms, phrases, words, and their derivations shall have the meaning given here:

(1) "Person" shall mean a person, persons, individual or individuals, applicant and all members of a single household or residence shall be considered a "person" for the purposes of this chapter.

(2) "Personal property" shall mean property which is owned, utilized and maintained by an individual or members of his or her residence and acquired in the normal course of living in or maintaining a residence. It does not include merchandise, which was purchased for resale or obtained on consignment.

(3) "Yard sales" shall mean and include all general sales, open to the public, conducted from or on any premises for the purpose of disposing of personal property including but not limited to, all sales entitled "garage," "lawn," "attic," "porch," "room," "moving," "backyard," "patio," "flea market," or "rummage" sale. This definition does not include the operation of such businesses carried on in a nonresidential zone where the person conducting the sale does so on a regular day-to-day basis. This definition shall not include a situation where no more than five (5) specific items or articles are held out for sale and all advertisements of the sale specifically identify the items to be sold. (as added by Ord. #773, May 2004)

**9-1002. Property permitted to be sold.** It shall be unlawful for any person to sell or offer for sale, under authority granted by this chapter, property other than personal property. (as added by Ord. #773, May 2004)

**9-1003. Permit required.** No yard sale shall be conducted until the person desiring to conduct the yard sale obtains a permit from the City of East Ridge. The cost of the permit shall be ten dollars (\$10.00). The first yard sale permit issued each year to an individual shall be without charge. Members of more than one (1) residence may join in obtaining a permit for a yard sale to be conducted at the residence of one of them. (as added by Ord. #773, May 2004)

**9-1004. Permit procedure.** (1) Application. The applicant or applicants for a yard sale permit shall file a written application with the City of East Ridge at least three (3) days in advance of the proposed yard sale setting forth the following information:

- (a) Full name and address of applicant or applicants.
- (b) The location at which the yard sale is to be held.
- (c) The date or dates upon which the yard sale shall be held.
- (d) The date or dates of any other yard sales by the same applicant or applicants within the current calendar year.

(e) A statement that the property to be sold was owned by the applicant or applicants as his or her own personal property and was neither acquired nor consigned for the purpose of resale.

(f) A statement that the applicant or applicants will fully comply with this and all other applicable ordinances and laws.

(2) Issuance of permit. Upon the applicant complying with the terms of this chapter, the City of East Ridge shall issue a permit. (as added by Ord. #773, May 2004)

**9-1005. Permit conditions.** The permit shall set forth the time and location of the yard sale. No more than four (4) yard sale permits shall be issued to one (1) residential location, residence and/or family household or person during any calendar year. If members of more than one (1) residence join in requesting a yard sale permit, then the yard sale permit shall be considered as having been issued for each and all of the residences. (as added by Ord. #773, May 2004)

**9-1006. Hours of operation.** Yard sales shall be conducted between 6:00 A.M. to 6:00 P.M. and for no more than three (3) consecutive days. (as added by Ord. #773, May 2004)

**9-1007. Exceptions.** (1) Inclement weather. If a yard sale is not held on the dates for which the permit is issued or is terminated during the first day of the sale because of inclement weather conditions, and a statement by the permit holder to this effect is submitted, the City of East Ridge shall issue another permit to the applicant for a yard sale to be conducted at the same location within thirty (30) days from the date when the first sale was to be held.

(2) The number of yard sales relative to a residence contained in § 9-1005 above shall not be considered as a restriction on any new owner or occupant of a residence or location so long as the remaining portions of this chapter are complied with. It shall be the decision of the zoning compliance officer on whether or not this section applies. (as added by Ord. #773, May 2004)

**9-1008. Display of sale property.** (1) Personal property offered for sale may be displayed within the residence, in a garage, carport, and/or in a front, side or rear yard, but only in such areas. No personal property offered for sale at a yard sale shall be displayed in any public right-of-way.

(2) A vehicle offered for sale may be displayed on a permanently constructed driveway within the front or side yard.

(3) Personal property offered for sale shall be displayed not more than twenty-four (24) hours before the time the yard sale is scheduled to start and shall be removed from public display within twenty-four (24) hours from the end of the yard sale. (as added by Ord. #773, May 2004)

**9-1009. Display of permit.** Yard sale permit shall be posted on the premises in a conspicuous place so as to be seen by the public. (as added by Ord. #773, May 2004)

**9-1010. Advertising.** (1) Signs permitted. Only the following signs may be displayed for a yard sale:

(a) Two (2) signs permitted. Two (2) signs of not more than four (4) square feet shall be permitted to be displayed on the property where the yard sale is being conducted.

(b) Directional signs. Two (2) directional signs of not more than two (2) square feet each are permitted, provided the premises on which the yard sale is conducted is not on a major thoroughfare, and written permission to erect such signs is received from the property owners on whose property the signs are to be placed.

(2) Time limitations. No sign or other form of advertisement shall be exhibited for more than two (2) days prior to the day the yard sale is to commence.

(3) Removal of signs. Signs shall be removed each day at the close of the yard sale activities.

(4) Posting of signs. Signs shall not be attached to utility poles, highway or street signs or directional signals and shall not be in or on any street, highway, alley, sidewalk or public right-of-way. (as added by Ord. #773, May 2004)

**9-1011. Persons exempted from chapter.** The provisions of this chapter shall not apply to or affect the following:

(1) Persons selling goods pursuant to a court order.

(2) Persons acting in accordance with their powers and duties as public officials.

(3) Any sale conducted by any merchant or other business establishment on a regular, day-to-day basis from or at the place of business wherein the sale would be permitted by zoning regulations of the City of East Ridge protection of the nonconforming use section thereof, or any other sale conducted by a manufacturer, dealer or vendor in which sale would be conducted from property zoned premises, and not otherwise prohibited by other ordinances. (as added by Ord. #773, May 2004)

**9-1012. Violations and penalty.** Any person found guilty of violating the terms of this chapter shall be subject to a penalty of up to fifty dollars (\$50.00) for each offense. (as added by Ord. #773, May 2004)

## TITLE 10

### ANIMAL SERVICES

#### DEFINITIONS

##### CHAPTER

1. IN GENERAL.
2. DOGS AND CATS.
3. DANGEROUS DOGS.
4. BARKING DOGS.
5. ANIMAL EUTHANASIA.

#### DEFINITIONS

(1) "Abandon." Forsake, desert or absolutely give up an animal previously under the custody or possession of a person without having secured another owner or custodian or by failing to provide one (1) or more of the elements of adequate care for a period of twenty-four (24) or more consecutive hours.

(2) "Adequate care." The reasonable practice of good animal husbandry, production, management, confinement, feeding, watering, protection, shelter, transportation, treatment and, when necessary, euthanasia, appropriate for the age, species, condition, size and type of the animal and the provision of veterinary care when needed to prevent suffering, disease, or the impairment of health. "Adequate care" includes adequate feed, adequate water, adequate exercise, adequate shelter, adequate space and adequate veterinary care, as those terms are defined in this title.

(3) "Adequate exercise." The opportunity for the animal to move sufficiently to maintain normal muscle tone and mass for the age, species, condition and size of the animal.

(4) "Adequate feed." The provision of and access to food that is:

(a) Of sufficient quantity and nutritive value to maintain each animal in good health;

(b) Accessible to each animal without duress or competition;

(c) Prepared so as to permit ease of consumption for the age, species, condition, size and type of each animal;

(d) Provided in a clean and sanitary manner;

(e) Placed so as to minimize contamination by excrement and pests; and

(f) Provided at suitable intervals for the species, age, and condition of the animal, but at least once daily, except as prescribed by a veterinarian or as dictated by naturally occurring states of hibernation or fasting normal for the species.

(5) "Adequate shelter." (a) The provision of and access to shelter that:

- (i) Is suitable for the species, age, condition, size, and type of each animal;
- (ii) Provides adequate space for each animal;
- (iii) Is safe and protects each animal from injury, rain, sleet, snow, hail, direct sunlight, the adverse effects of heat or cold, physical suffering, and impairment of health;
- (iv) Is properly lighted;
- (v) Is properly cleaned;
- (vi) Enables each animal to be clean and dry, except when detrimental to the species; and
- (vii) For dogs and cats, provides a solid surface, resting platform, pad, floor mat, or similar device that is large enough for the animal to lie on in a normal manner and can be maintained in a sanitary manner. A shelter whose wire, grid, or slat floors sag under the animal's weight, permit the animal's feet to pass through the openings, or otherwise do not protect the animal's feet or toes from injury is not adequate shelter.

(b) With respect to outdoor facilities for dogs or cats, "adequate shelter" means the provision of one (1) or more shelter structures that are accessible to each animal in each outdoor facility and that are large enough to allow each animal in the shelter structure to sit, stand, and lie in a normal manner and to turn about freely. In addition to the shelter structures, one (1) or more separate outside areas of shade must be provided, large enough to contain all the animals at one time and protect them from the direct rays of the sun. Shelters in outdoor facilities for dogs or cats must:

- (i) Contain a roof, four (4) sides, and a floor;
- (ii) Provide the dogs and cats with adequate protection and shelter from the cold and heat, provided that no animal may be maintained in any outdoor location where the ambient temperature is under thirty-five degrees Fahrenheit (35°F) or higher than one hundred degrees Fahrenheit (100°F) or any indoor location where the ambient temperature is under forty-five degrees Fahrenheit (45°F) or exceeds eighty-five degrees Fahrenheit (85°F);
- (iii) Be provided with a wind break and rain break at the entrance; and
- (iv) Contain clean, dry bedding material, with additional clean, dry bedding provided in any unheated shelter when the outside temperature is thirty-five degrees Fahrenheit (35°F) or lower.

(c) Building surfaces in contact with animals in outdoor housing facilities must be impervious to moisture. Metal barrels, cars, refrigerators or freezers, and the like must not be used as shelter

structures. The floors of outdoor housing facilities may be of compacted earth, absorbent bedding, sand, gravel, or grass, and must be replaced if there are any prevalent odors, diseases, insects, pests, or vermin. All surfaces must be maintained on a regular basis. Surfaces of outdoor housing facilities including houses, dens, etc. that cannot be readily cleaned and sanitized must be replaced when worn or soiled.

- (6) (a) "Adequate space." Sufficient space to allow each animal:
- (i) To easily stand, sit, lie, turn about and make all other normal body movement in a comfortable, normal position for the animal; and
  - (ii) To interact safely with other animals in the enclosure.
- (b) Outside runs must be at least ten feet (10') long and thirty-six inches (36") wide for dogs weighing up to forty-five (45) pounds, and at least ten feet (10') long and forty-eight inches (48") wide for dogs weighing forty-five (45) pounds or more. When an animal is tethered, "adequate space" means a tether that permits the above actions and is:
- (i) Appropriate to the age and size of the animal;
  - (ii) Attached to the animal by a properly fitted collar, halter, or harness configured so as to protect the animal from injury and to prevent the animal or tether from becoming entangled with other objects or animals or from extending over an object or edge that could result in the strangulation or injury of the animal; and
  - (iii) At least three (3) times the length of the animal, as measured from the tip of the nose to the base of the tail, except when the animal is being walked on a leash or is attached by a tether to a lead line.
- (c) When freedom of movement would endanger the animal, temporarily and appropriately restricting movement of the animal according to accepted veterinary standards for the species is considered provision of adequate space, provided, however, that no animal shall be tethered for more than a reasonable period.

(7) "Adequate veterinary care." Provision of medical care to alleviate suffering, prevent disease transmission and maintain health as well as provision of available care to prevent diseases through accepted practice by the American Veterinary Medical Association for the age, species, condition, size, and type of each animal.

(8) "Adequate water." The provision of and access to clean, potable water of a drinkable temperature which is provided in a suitable manner, in sufficient volume, and at suitable intervals, but at least once every eight (8) hours, to maintain normal hydration for the age, species, condition, size, and type of each animal, except as prescribed by a veterinarian or as dictated by naturally occurring states of hibernation or fasting normal for the species. Such water shall be provided in clean, durable receptacles that are accessible to each



animal and placed so as to minimize contamination of the water by excrement or pests. Alternatively, provision of an alternate source of hydration consistent with generally accepted husbandry practices may be provided.

(9) "Adoption." The transfer of ownership of a dog or cat from a releasing agency to an individual.

(10) "Altered." A surgical procedure performed by a licensed veterinarian that renders a dog or cat permanently incapable of reproducing.

(11) "Ambient temperature." The temperature surrounding the animal.

(12) "Animal." A living organism characterized by voluntary movement except human beings and plants; see also the definitions of "animal" in Tennessee Code Annotated, §§ 38-1-401, 39-14-201, and 63-12-03.

(13) "Animal hoarder." A person who possesses a large number of animals and who:

(a) Keeps animals in severely overcrowded conditions where they are unable to be in a state of good health;

(b) Displays the inability to recognize or understand the nature of, or has reckless disregard for, the conditions of the animals; or

(c) Lives in unsanitary, unhealthful or potentially dangerous conditions and fails to or is unable to provide the animals with adequate care as defined in this chapter.

(14) "Animal services officer." A person who is legally sworn and authorized by the city to carry out the duties imposed by this chapter and state law.

(15) "Animal services division." The Division of the City of East Ridge government that is responsible for enforcing all city and state laws and codes pertaining to animals, and operating the animal shelter.

(16) "Animal shelter." A humane shelter for animals.

(17) "At large." An animal that is not:

(a) Contained behind an adequate fence;

(b) Confined within an adequate enclosure;

(c) Under the control of a person physically capable of restraining the animal; or

(d) Controlled by a leash or tether no more than six feet (6') in length and appropriate for the size, age and weight of the animal.

(18) "Attack." Acts by an animal off its owner's property in a vicious, terrorizing or threatening manner or in an apparent attitude of aggression. "Attack" does not include any actions by an animal in defense of itself, its owner or another person or against aggression by any person or animal.

(19) "Collar." A well-fitted device that:

(a) Encircles an animal's neck in such a way as to avert trauma or injury to the animal;

(b) Allows two (2) fingers to be inserted between the neck and the collar;

(c) Is appropriate to the age and size of the animal; and

- (d) Is constructed of nylon, leather or similar material.
- (20) "Community cat." Any cat that:
- (a) Is altered;
  - (b) Has been lost or abandoned by its owner; and
  - (c) Has community care givers providing adequate care.
- (21) "Companion animal." Any domestic or feral dog, domestic or feral cat, guinea pig, small domesticated mammal, rabbit not raised for human food or fiber, miniature pig, potbellied pig, aquatic animal, amphibian, reptile or bird. Livestock, game species, exotic animals as defined in (29) below, or any animals regulated under federal law as research animals shall not be considered companion animals for the purposes of this chapter.
- (22) "Cruelty." Any act, omission, or neglect whereby unjustifiable physical pain, suffering, or death of an animal is caused or permitted.
- (23) "Curbside sale." Any attempt to sell, barter, trade, or adopt any companion animal on a public or private street, parking lot, or similar location.
- (24) "Dangerous dog." Any dog that has been so designated pursuant to title 10 chapter 3.
- (25) "Animal services supervisor." The senior-most officer of the animal services division who is responsible for supervising staff and managing the daily operations of the ASD and the animal shelter.
- (26) "Dog." Any member of the animal species *Canis familiaris* or any animal which is a cross of any animal that is a member of the *Canis familiaris* species, not including wolf/dog crossbreeds and wolf hybrids.
- (27) "Domestic animal." Any animal that may be legally possessed by a person and is commonly kept in or around a residence, outbuildings or businesses.
- (28) "Euthanasia." The humane destruction of an animal accomplished by a method that involves instantaneous unconsciousness and immediate death or by a method that involves anesthesia, produced by an agent that causes painless loss of consciousness, and death during such loss of consciousness.
- (29) "Exotic animal." All animals classified as Class I animals under Tennessee Code Annotated, § 70-4-403, as amended, and any relevant state regulations propagated thereunder, as well as any wolf-hybrid and the following species of non-venomous snakes when such snakes reach six feet (6') in length:
- (a) Reticulated python (*Python reticulatus*);
  - (b) Burmese python (*Python molurus bivittatus*);
  - (c) African rock python (*Python sebae*);
  - (d) Common boa (*Boa constrictor*); and
  - (e) Green anaconda (*Eunectes murinus*).
- (30) "Feral cat." Any cat that is a descendant of a domesticated cat that has returned to the wild.
- (31) "Foster home." A private residential dwelling and its surrounding grounds where care and/or rehabilitation are provided to companion animals through an affiliation with the animal services division or a releasing agency.

(32) "Fowl." Any of various birds of the order galliformes, including chickens, roosters, ducks, geese, turkeys, and pheasants, or any bird that is used for food or hunted as game.

(33) "Impound." The taking into custody of an animal by the animal services division.

(34) "Kennel." Any premises wherein any person engages in the business of boarding, breeding, buying, hunting, training for a fee, or selling dogs or cats, except a facility operated by a humane society or a governmental agency or its authorized agents, for the purpose of impounding or caring for animals.

(35) "Licensed veterinarian." A person licensed by a state agency or board to practice veterinary medicine.

(36) "Livestock." All equines as well as animals which are customarily raised primarily for use as food or fiber for human utilization or consumption, including but not limited to bovine, sheep, goats, swine (except miniature or potbellied pigs), and fowl. "Livestock" also includes animals of the genus camelidae, ratites, and any other individual animal specifically raised for food or fiber, excluding companion animals.

(37) "Menacing fashion." Any action by an animal that would cause an individual to reasonably believe that the animal is likely to cause physical injury.

(38) "Neglect." Occurs when the owner or keeper of an animal does any of the following:

(a) Fails to provide an animal with adequate care as defined in this chapter;

(b) Fails to sufficiently and properly care for an animal to the extent that the animal's health is jeopardized;

(c) Keeps any animal under conditions which increase the probability of the transmission of disease;

(d) Allows any animal, including one who is aged, diseased, maimed, hopelessly sick, disabled, or not ambulatory, to suffer unnecessary pain; or

(e) Meets the definition of an animal hoarder as defined in this chapter.

(39) "Owner." Any person, group of persons, corporation, organization or association (excluding the animal services division, any non-profit releasing agency, feral cat caretaker, or veterinarian) that:

(a) Has a property right in an animal;

(b) Keeps or harbors an animal;

(c) Has an animal in his or her care or acts as a custodian of an animal for ten (10) or more consecutive days when the true owner of the animal is unknown to such person; or

(d) Has an animal in his or her care or acts as a caretaker or custodian of an animal by agreement with or with permission of the true owner of the animal.

(40) "Person." Any individual, partnership, corporation, firm, organization, trade or professional association, limited liability company, joint venture, association, trust, estate, or any other legal entity, and any officer, member, or shareholder thereof.

(41) "Potentially dangerous dog." Any dog that has been so designated pursuant to title 10, chapter 3.

(42) "Proof of ownership." Documentation in support of a property right in an animal that includes, but is not limited to, veterinary records, rabies inoculation certificates, licenses, photographs, bills of sale, breed registries, written transfers of ownership, and verbal or written third-party verifications.

(43) "Properly cleaned." An animal's primary enclosure is:

(a) Cleared of carcasses, debris, food waste and excrement with sufficient frequency to minimize the animal's contact with those contaminants;

(b) Sanitized with sufficient frequency to minimize odors and the hazard of disease; and

(c) Cleaned so as to prevent the animals confined therein from being directly or indirectly sprayed with a stream of water or exposed to hazardous chemicals or disinfectants.

(44) "Proper enclosure." A place in which a companion animal is securely confined indoors or in a securely enclosed and locked pen or structure suitable to prevent the entry of children under the age of twelve (12) and designed to prevent the companion animal from escaping. Such enclosure shall have secure sides and a secure top to prevent the companion animal from escaping and shall also provide protection for the companion animal from the elements. The enclosure shall be of suitable size for the companion animal.

(45) "Properly restrained." An animal that is:

(a) Kept within a proper enclosure;

(b) Controlled by a competent person by means of a chain, leash, or other like device not to exceed six feet (6') in length; or

(c) Secured within or upon a vehicle being driven or parked. "Properly restrained" within or upon a vehicle does not include restraint or confinement that would allow an animal to fall from or otherwise escape the confines of a vehicle or that would allow an animal to have access to persons outside the vehicle.

(46) "Provoke." To goad, instigate or stimulate an aggressive or defensive response by an animal, but does not include any reasonable actions by an individual that are intended to defend against the animal.

(47) "Nuisance." Any animal or group of animals that, by way of example and not of limitation, habitually:

- (a) Damages, soils or defiles community or neighborhood private property or public property;
- (b) Turns over garbage containers or damages flower or vegetable gardens;
- (c) Causes unsanitary or offensive conditions;
- (d) Impedes the safety of pedestrians, bicyclists, or motorists;
- (e) Is allowed to remain an unaltered free-roaming cat; or
- (f) Meets the requirements of a "barking dog" as specified in chapter 4 of this title.

(48) "Reasonable period." A period of time not to exceed twelve (12) hours in a twenty-four (24) hour period.

(49) "Relinquish." Giving up all rights to an animal, thereby making it the property of the animal services division.

(50) "Sanitary conditions." Space free from health hazards, including excessive animal waste, overcrowding of animals, or other conditions that endanger the animal's health. This definition does not include any condition resulting from a customary and reasonable practice pursuant to farming or animal husbandry.

(51) "Seizure." See "impound."

(52) "Severe injury." Any injury in which the victim suffers pain as a result of an attack by an animal and which includes any broken bone, bleeding, disfiguring lacerations requiring multiple sutures or cosmetic surgery, or death on the part of the victim.

(53) "Stray." Any animal:

- (a) That is at large;
- (b) That appears to be lost, unwanted or abandoned; and
- (c) Whose owner is unknown or not readily available. Feral cats and community cats shall not be considered stray animals for purposes of this chapter.

(54) "State of good health." Freedom from disease and illness and in a condition of proper body weight and temperature for the age and species of the animal, unless the animal is undergoing appropriate treatment.

(55) "Tether." The restraint and confinement of an animal by use of a restraint device.

(56) "Under control." An animal that is:

- (a) Securely confined in a fenced enclosure on the property of the owner or keeper of the animal such that the enclosure prevents the animal from leaving the property;
- (b) Located on the property of the owner or keeper of the animal and secured by means of a leash or tether which prevents the animal from leaving the property; or
- (c) Secured by means of a leash held by a person of suitable age and discretion. (as added by Ord. #941, May 2013)

## CHAPTER 1

### IN GENERAL

#### SECTION

- 10-101. Running at large prohibited.
- 10-102. Keeping near a residence or business restricted.
- 10-103. Pen or enclosure to be kept clean.
- 10-104. Cruelty to animals.
- 10-105. Keeping in such manner as to become a nuisance prohibited.
- 10-106. Seizure and disposition of animals.
- 10-107. Bird sanctuary.
- 10-108. Violation and penalty.
- 10-109. [Deleted.]

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

Any person, including its owner, knowingly or negligently permitting an animal to run at large may be prosecuted under this section even if the animal is picked up and disposed of under other provisions of this chapter, whether or not the disposition includes returning the animal to its owner. (1993 Code, § 3-101, modified, as replaced by Ord. #941, May 2013)

**10-102. Keeping near a residence or business restricted.** Except in agriculture zones swine and goats are prohibited within the corporate limits. No person shall keep or allow any other animal or fowl enumerated in the preceding section to come within one thousand feet (1,000') of any residence, place of business, or public street, as measured in a straight line. (1993 Code, § 3-102, modified, as replaced by Ord. #941, May 2013)

**10-103. Pen or enclosure to be kept clean.** When animals or fowls are kept within the corporate limits, the building, structure, corral, pen, or enclosure in which they are kept shall at all times be maintained in a clean and sanitary condition. (1993 Code, § 3-105, modified, as replaced by Ord. #941, May 2013)

**10-104. Cruelty to animals.** (1) A person commits an offense who intentionally, knowingly, and/or by omission:

- (a) Tortures, maims or grossly overworks an animal.

(b) Fails unreasonably to provide adequate food, water, shelter, space, ventilation, and/or care for an animal in the person's custody.

(c) Abandons unreasonably an animal in the person's custody.

(d) Transports or confines an animal in a cruel manner including, but not limited to, keeping an animal in a vehicle or other type of conveyance without adequate ventilation and enclosing any animal in the trunk of a vehicle.

(e) Inflicts burns, cuts, lacerations or other injuries or pain by any method, including blistering compounds, to the legs or hooves of horses in order to make them sore for any purpose including, but not limited to, competition in horse shows and similar events.

(f) Inflicts burns, cuts, lacerations or other injuries or pain by any method to any animal.

(g) Teases, molests, baits, provokes or in any way torments any animal.

(h) Neglects an animal in any way as defined in title 10 of the city code.

(2) It is a defense to prosecution under this section that the person was engaged in accepted veterinary practices, medical treatment by the owner or with the owner's consent, or bona fide experimentation for scientific research.

(3) Any animal services officer or police officer shall rescue any animal which is being confined in violation of subsection (1)(d) of this section and shall issue a court citation to the owner of the animal or to the appropriate person who is responsible for any such inhumane animal treatment.

(4) Whenever any animal is kept within any building or on any premises without food, water, shelter, adequate space and ventilation, proper sanitation or proper care and attention, it shall be the duty of any animal services officer or police officer to enter such building or premises to take possession of and remove such animal. Such entry shall be affected in accordance with § 10-233.

(5) Any animal confiscated under this section may be taken to a veterinarian for immediate treatment, and any expenses incurred for veterinary care and treatment shall be the responsibility of the owner.

(6) It shall be unlawful for any person having charge of livestock or exotic animals, to fail to furnish or cause not to be furnished to such livestock or exotic animals water and food at least once in every twelve (12) hours.

(7) It shall be unlawful for a person to knowingly tie, tether, chain or restrain an animal in a manner that results in the animal suffering bodily injury, pain or discomfort, including the use of tethers, chains, etc. that are too short and restrict adequate space or too heavy (logging type chains, etc.) and inhibiting normal movement. (1993 Code, § 3-107, modified, as replaced by Ord. #941, May 2013)

**10-105. Keeping in such manner as to become a nuisance prohibited.** No animal or fowl shall be kept in such a place or condition as to become a nuisance because of either noise, odor, contagious disease, or other reason. (1993 Code, § 3-106, as replaced by Ord. #941, May 2013)

**10-106. Seizure and disposition of animals.** Any animal, fowl or reptile, (hereafter referred to as an animal), found running at large or otherwise being kept in violation of this chapter may be seized by any animal services officer or police officer and confined in an animal shelter provided or designated by the city council. If the animal is properly identifiable, or the owner is known, he shall be given notice in person, by telephone, or by written notice. Tagged animals will be retained for a period of five (5) working days. Notice of the animal's impoundment shall be posted at the animal shelter. If not claimed by the owner, the animal may be offered for adoption or humanely euthanized in accordance to state and city code. If the animal is not identified with the required identification tags, or the owner is not known or cannot be located, the animal shall be declared a stray and a notice describing the impounded animal or fowl will be posted at the animal shelter with a general description of the animal, date of impoundment, and date of planned disposition. The animal shall be retained for a period of three (3) working days and then offered for adoption or humanely euthanized in accordance with state and city code.

The animal services division shall collect from each person claiming an impounded animal or fowl reasonable fees, in accordance with a schedule approved by the city council, to cover the costs of impoundment and maintenance. (1993 Code, § 3-110, as amended by Ord. #637, July 1997, modified, and replaced by Ord. #713, Feb. 2001, and Ord. #941, May 2013)

**10-107. Bird sanctuary.** The entire area embraced within the city is hereby designated as a sanctuary for wild birds. It shall be unlawful to trap, hunt, shoot or attempt to shoot or molest in any manner any wild bird or to rob any bird's nest. When any species of wild bird is found to be congregating in such numbers in a particular locality that they constitute a nuisance or menace to health or property, and if such are declared by qualified authorities to be creating a public nuisance and the city council is so informed, appropriate action may be taken by duly constituted officials after a thorough investigation. Trapping or killing of such birds shall not be resorted to unless Audubon Societies, bird clubs, garden clubs or humane societies are unable to find a satisfactory alternative. (1993 Code, § 3-113, modified, as replaced by Ord. #941, May 2013)

**10-108. Violation and penalty.** Any violation of any section of the chapters contained within title 10 of the East Ridge Municipal Code shall subject the offender to a penalty of up to fifty dollars (\$50.00) for each offense.



Change 2.5, May 23, 2013

10-12

Each day the violation shall continue shall constitute a separate offense. (as replaced by Ord. #941, May 2013)

**10-109. [Deleted.]** (Ord. #637, July 1997, as deleted by Ord. #941, May 2013)

## CHAPTER 2

### DOGS AND CATS

#### SECTION

- 10-201. Registration of animals.
- 10-202. Who is deemed an owner.
- 10-203. License tag.
- 10-204. Running at large prohibited.
- 10-205. Harboring or taking possession of dogs and cats at large.
- 10-206. Inoculation required.
- 10-207. Prerequisite to license.
- 10-208. Records required; tags.
- 10-209. Dogs shall wear tags.
- 10-210. Vicious dogs to be properly restrained.
- 10-211. [Deleted.]
- 10-212. Female dogs to be confined while in heat.
- 10-213. Seizure and disposition of dogs and cats.
- 10-214. Notice of impounding to owner of registered dog and cat.
- 10-215. Redemption of impounded dogs and cats by owner.
- 10-216. [Deleted.]
- 10-217. Disposition of unclaimed dogs and cats.
- 10-218. Apprehension and disposition of rabid animals and suspects generally.
- 10-219. Quarantine of animal inflicting bite, suspected of biting, or suspected of being rabid.
- 10-220. Destruction or quarantine of animals in contact with rabid animals.
- 10-221. Report required when person is bitten by animal.
- 10-222. Veterinarians to report results of examination of animal which has bitten person.
- 10-223. Forwarding head of rabid or suspected animal to state health department.
- 10-224. Surrender and examination of carcasses of animals.
- 10-225. Abandoned animals at rental properties of all types.
- 10-226. Safety of animals in parked vehicles.
- 10-227. Prohibition of animal defecation.
- 10-228. Safety of animals in motor vehicles.
- 10-229. Seizure of dogs at large upon return to owner's property.
- 10-230. East Ridge leash law.
- 10-231. Sale or barter of live animals: flea markets prohibited.
- 10-232. Adoption of animals.
- 10-233. Inspections.
- 10-234. Maximum number of animals per household; multiple pet license or breeder permit established.
- 10-235. Continuing care fee required.

10-236. Authority to prevent acts of cruelty; unlawful interference with officers performing their duties.

**10-201. Registration of animals.** (1) All residents owning, keeping, or harboring any dog or cat over six (6) months of age and spayed/neutered shall pay to the city a yearly registration fee of ten dollars (\$10.00) for each animal. Any resident owning, keeping, or harboring any dog or cat over six (6) months of age that is not spayed/neutered shall pay the city a yearly registration fee of twenty-five dollars (\$25.00). Individual animal registration fees are waived for approved multiple pet license or breeder permit holders, as provided hereinafter.

(2) Upon receipt of the registration fee required by subsection (1) and the production of any unexpired certificate of rabies vaccination, the East Ridge Animal Services Division shall issue a registration certificate to the owner of the dog or cat, giving the owner's name, date issued, amount paid, description, name, age and sex of the dog or cat, the registration tax number issued, the date the dog or cat was vaccinated.

(3) At the time a registration certificate is issued under subsection (2), the East Ridge Animal Shelter shall also deliver a registration tag bearing the serial number of the registration certificate and the year in which it was delivered. The color and/or shape of the tag may be changed every year and it shall be the duty of every owner to provide each dog or cat for which a tag is issued with a collar or harness to which the registration tag must be affixed and such owner shall see that the collar or harness is worn by the dog or cat at all times.

(4) It shall be unlawful for any person owning, keeping, or harboring an animal within the city to fail to register such animal as required by this section. (Ord. #548, April 1993, as replaced by Ord. #941, May 2013)

**10-202. Who is deemed an owner.** If any dog or cat is found on the premises of any person for a period of ten (10) days or more, this shall be prima facie evidence that such dog or cat belongs to the occupant of such premises. Any person keeping or harboring a dog or cat for ten (10) consecutive days, shall for the purposes of this title, be declared to be the owner thereof and liable for violations of this chapter. (Ord. #548, April 1993, as replaced by Ord. #941, May 2013)

**10-203. License tag.** The animal services division shall issue a metal license tag for each dog and cat registered as provided herein; marked "Registered, 20\_\_, City of East Ridge, No. \_\_." Such tag shall be fastened to the dog's collar and worn by the dog when off the premises of its owner or custodian. It shall be unlawful for any person to use a tag on a dog or which such tag was not issued. (Ord. #548, April 1993, modified, as replaced by Ord. #941, May 2013)

**10-204. Running at large prohibited.** It shall be unlawful for any person to allow any dog belonging to him or under his control or habitually found on premises occupied by him or immediately under his control to go upon the premises of another, or upon any public street or sidewalk or other public property in the city, unless such dog is attended by the owner or his representative or under the immediate control of such owner or representative. To be deemed under control, as provided herein, such dog shall not be more than fifty feet (50') away from the owner or representative and immediately responsive to his call. Any dog found running at large in violation of this section and unregistered, whether or not in violation of this section, is declared to be a nuisance and liable to seizure and disposal as provided in this chapter. (Ord. #548, April 1993, as replaced by Ord. #941, May 2013)

**10-205. Harboring or taking possession of dogs or cats at large.** It shall be unlawful for any person in the city to harbor or keep in his possession or under his control any dog or cat, whether or not tagged and registered, found running at large, except for the purpose of notifying the animal services division or the owner and holding such dog or cat until the ASD or owner demands it.

Any person taking possession of any dog or cat shall, within twenty-four (24) hours thereafter, notify the animal services division or owner of his action and advise the ASD where such dog or cat may be found. (Ord. #548, April 1993, as replaced by Ord. #941, May 2013)

**10-206. Inoculation required.** Any person who owns, keeps or harbors a dog or cat within the city shall have such dog or cat properly inoculated or immunized against rabies in accordance with state law. Any person who obtains an uninoculated dog or cat shall at once have such dog or cat properly inoculated against rabies and have such inoculation repeated yearly; provided that, dogs or cats need not be inoculated before reaching the age of three (3) months; provided further that, the provisions of this section shall not apply to nonresidents of the city traveling through or temporarily staying in the city for a period of not more than thirty (30) days, nor to persons bringing dogs or cats to the city exclusively for show or exhibit purposes; provided further that, the owner of such dogs or cats shall keep them confined. No person shall bring a dog or cat into the city for the sale, exchange or other disposition unless such dog or cat has been inoculated by a veterinarian of the state in which the owner lives or by some person authorized to make vaccinations and the owner of such dog or cat has in his possession a certificate of the person making the vaccination or inoculation. (Ord. #548, April 1993, as replaced by Ord. #941, May 2013)

**10-207. Prerequisite to license.** No dog or cat license required by this chapter shall be issued for any dog or cat unless the owner thereof furnishes a valid certificate that such dog or cat has been inoculated or immunized against

rabies within the previous twelve (12) months. (Ord. #548, April 1993, as replaced by Ord. #941, May 2013)

**10-208. Records required; tags.** Any person who inoculates or re-inoculates a dog or cat against rabies shall keep a record of such inoculation or re-inoculation, which record shall be subject to inspection by the health officer or his representatives, and shall provide the owner of the dog or cat with an approved tag, which shall have thereon, indelible or engraved, the year of the inoculation and a number which shall correspond with the number on the record kept by the person inoculating or re-inoculating such dog or cat. Such inoculation tag shall be securely fastened to the collar worn by the dog. (Ord. #548, April 1993, as replaced by Ord. #941, May 2013)

**10-209. Dogs shall wear tags.** It shall be unlawful for any person to own, keep or harbor any dog which does not wear tags evidencing the vaccination or inoculation and registrations required by the preceding sections. (Ord. #548, April 1993, as replaced by Ord. #941, May 2013)

**10-210. Vicious dogs to be properly restrained.** It shall be unlawful for any person to own or keep any dog known to be vicious or dangerous unless such dog is so confined and/or otherwise securely restrained as to reasonably provide for the protection of other animals and persons. (Ord. #548, April 1993, as replaced by Ord. #941, May 2013)

**10-211. [Deleted.]** (Ord. #548, April 1993, as deleted by Ord. #941, May 2013)

**10-212. Female dogs to be confined while in heat.** Every owner of a female dog is required to confine such female for the period during which time she is in heat in such a manner so as not to create a nuisance. (Ord. #548, April 1993, as replaced by Ord. #941, May 2013)

**10-213. Seizure and disposition of dogs and cats.** The animal services division may seize and impound any dog or cat found running at large or otherwise being kept in violation of this chapter as provided in § 10-106; provided that, if any dog or cat so found is sick, injured or of a vicious nature, the animal services supervisor may humanely destroy such dog or cat immediately. If, in the attempt to seize any dog or cat, it becomes impossible to secure it by hand or device, the animal services supervisor, if convinced that the seizure of the dog or cat is necessary to the public welfare and safety, may have it destroyed by having an East Ridge police officer or other authorized officer shoot it, provided such officer is close enough to the animal to kill it humanely and so far removed from any bystander that no human life may be imperiled by the act. (Ord. #548, April 1993, modified, as replaced by Ord. #941, May 2013)

**10-214. Notice of impounding to owner of registered dog or cat.**

If any dog or cat seized as provided in this chapter is registered, the animal services division shall give notice as provided in § 10-106 to the owner given on the registration record, within twenty-four (24) hours after the seizure of such dog or cat. (Ord. #548, April 1993, as replaced by Ord. #941, May 2013)

**10-215. Redemption of impounded dogs and cats by owner.** In no event shall a dog or cat be released from the pound unless it has been properly registered and vaccinated in accordance with this chapter and has appropriate tags. The owner of a dog or cat may claim and redeem it upon payment of an impoundment fee of twenty-five dollars (\$25.00), plus board for each day such dog or cat is detained at the fare of four dollars (\$4.00) per day in addition to reimbursement for any damages caused by the impoundment; provided, however, that upon the second and subsequent offenses, the above impoundment fee shall be fifty dollars (\$50.00) in addition to the board of four dollars (\$4.00) per day plus any damages caused by the impoundment as set forth above. Under certain circumstances, including but not limited to persons unlawfully relinquishing animals at the animal shelter, the animal services supervisor is authorized to waive fees. (Ord. #548, April 1993, modified, as replaced by Ord. #941, May 2013)

**10-216. [Deleted.]** (Ord. #548, April 1993, modified, as deleted by Ord. #941, May 2013)

**10-217. Disposition of unclaimed dogs and cats.** Any registered dog or cat impounded shall be kept for a period of five (5) days after notice to the owner, and if not redeemed within such period, may be humanely destroyed or otherwise disposed of as provided in this title. Any unregistered dog or cat impounded shall be kept for three (3) days and if not claimed or redeemed, shall be humanely destroyed or otherwise disposed of as provided for in this title. Owner relinquished animals are immediately available for the foregoing disposition. (Ord. #548, April 1993, as replaced by Ord. #941, May 2013)

**10-218. Apprehension and disposition of rabid animals and suspects generally.** All dogs, cats and other animals capable of being infected with rabies, which are rabid or believed to be rabid, shall be immediately reported to the animal services division. Such dogs or other animals shall be taken up and impounded if this can be safely accomplished. If it is necessary to destroy the dog or other animal for the safety of the community, every effort shall be made to avoid damage to the brain of the dog or other animal. (Ord. #548, April 1993, as replaced by Ord. #941, May 2013)

**10-219. Quarantine of animal inflicting bite, suspected of biting, or suspected of being rabid.** When any dog, cat, or other animal capable of

being infected with rabies has bitten any person, is suspected of having bitten any person, or is suspected of being infected with rabies, the East Ridge Animal Shelter shall cause such dog, cat, or other animal to be quarantined for such time as he may deem necessary, but not for less than ten (10) days from the day the person was bitten. No such animal shall be killed or destroyed or removed from the city, except upon authorization of the East Ridge Animal Shelter or its duly authorized representative. Only dogs, cats, and other animals which appear well shall be released from quarantine or impoundment. No person shall hide, kill, conceal or aid or assist in hiding, killing or concealing any such animal defined in this section or shall conceal or permit the same to be removed from the city for the purpose of preventing its quarantine as provided herein. (Ord. #548, April 1993, as replaced by Ord. #941, May 2013)

**10-220. Destruction or quarantine of animals in contact with rabid animals.** All dogs and other animals capable of being infected with rabies that have come in contact with a rabid dog or other animal shall be destroyed by a humane method or shall be quarantined and/or vaccinated as follows:

(1) If no vaccination has been given within the previous period of twelve (12) months, the dog or other animal may be vaccinated and then quarantine for ninety (90) days.

(2) If vaccinated within the previous twelve (12) months, the dog or other animal shall be revaccinated and then quarantined for thirty (30) days.

(3) There shall be placed in a conspicuous place in plain view of all entrances to the place of quarantine under this section a placard on which shall be printed, in letters not less than two inches (2") high, the word "Rabies-Quarantine." Such quarantine shall be at the expense of the owner. The place of quarantine shall be cleaned and disinfected to the satisfaction of the East Ridge Animal Shelter. (Ord. #548, April 1993, as replaced by Ord. #941, May 2013)

**10-221. Report required when person is bitten by animal.** When a person is bitten by a dog or other animal capable of being infected with rabies, prompt report of such bite shall be made to the East Ridge Animal Shelter. Such reports shall be made by any physician attending the person bitten, or, if such person is received at a hospital or dispensary. The report shall contain information required by the East Ridge Animal Shelter. When a physician was not consulted or the person not taken to a hospital or dispensary, the report shall be made by the person bitten or any other person who has knowledge of the facts surrounding such incident. (Ord. #548, April 1993)

**10-222. Veterinarians to report results of examination of animal which has bitten person.** Whenever a veterinarian is called upon to examine a dog or other animal that has bitten a person, he shall promptly report the

results of his examination to the East Ridge Animal Shelter. (Ord. #548, April 1993, as replaced by Ord. #941, May 2013)

**10-223. Forwarding head of rabid or suspected animal to state health department.** When an animal under quarantine has been diagnosed as being rabid, or suspected by a licensed veterinarian as being rabid, and dies while under quarantine, the East Ridge Animal Shelter shall send the head of such animal to the state health department for pathological examination. (Ord. #548, April 1993, as replaced by Ord. #941, May 2013)

**10-224. Surrender and examination of carcasses of animals.** The carcass of any dead animal found within the city shall, upon demand, be surrendered to the East Ridge Animal Shelter for examination if, in the opinion of the East Ridge Animal Shelter, such examination is necessary or advisable. (Ord. #548, April 1993, as replaced by Ord. #941, May 2013)

**10-225. Abandoned animals at rental properties of all types.** With regard to any landlord or property owner that allows a renter or lessee to have pet(s) on the landlord's property, such landlord or property owner of rental property of whatever nature, whether hotel, motel, apartment, duplex or otherwise, cannot surrender an abandoned animal to East Ridge Animal Services without charge. As the landlord/property owner allowed the renter or lessee to have a pet or pets on the property, the property owner or landlord is responsible for the animals left behind, and a surrender fee of thirty-five dollars (\$35.00) per animal will be required to surrender any animal or animals left on their property. If a property owner or landlord abandons animals, then the property owner or landlord shall be cited for animal cruelty. (as added by Ord. #869, Sept. 2009, as replaced by Ord. #941, May 2013)

**10-226. Safety of animals in parked vehicles.** No person shall leave any animal in any standing or parked vehicle in such a way as to endanger the animal's health, safety or welfare. An animal services officer or police officer is authorized to use reasonable force to remove the animal from the vehicle whenever it appears that the animal's health, safety or welfare is or will be endangered. Although officers shall make every attempt to locate animal's owner, if animal is in immediate distress, a police officer or animal services officer must continue to find the owner while the animal is transported to nearest veterinary hospital.

(1) The animal shall be transported to the nearest veterinary hospital to be evaluated for heat related illnesses.

(2) The owner shall be issued a citation for animal cruelty.

(3) The owner shall be responsible for all fees charged for the care of the animal.



(4) Officers involved in extracting the animal from the vehicle shall not be held responsible for any damages to vehicle or articles left inside the vehicle. (as added by Ord. #869, Sept. 2009, as replaced by Ord. #941, May 2013)

**10-227. Prohibition of defecation.** It is unlawful for the owner of any animal to allow or permit such animal to defecate on any property or improved private property, without immediately cleaning up and disposing of such waste. It is the responsibility of the animal's owner to properly dispose of any solid waste resulting from an act in violation of this section. (as added by Ord. #869, Sept. 2009, as replaced by Ord. #941, May 2013)

**10-228. Safety of animals in motor vehicles.** No person shall transport or carry on any public highway or public roadway any dog or other animal in a motor vehicle unless the animal is safely enclosed within the vehicle, or if traveling in an unenclosed vehicle (including, but not limited to, convertibles, pick-up and flat-bed trucks) shall be confined by a container, cage or other device that will prevent the animal from falling from or jumping from the motor vehicle. (as added by Ord. #869, Sept. 2009, as replaced by Ord. #941, May 2013)

**10-229. Seizure of dogs at large upon return to owner's property.** Upon witnessing a dog at large return to its legal property, East Ridge Animal Services officers may impound such animal if in the opinion of the officer:

(1) There is no secure way to confine the animal to the owner's property; or

(2) The animal could present a danger to the public, traffic or other domestic animals if left until the owner returned home.

At the time of impoundment, a notice of impound shall be posted in a conspicuous place visible to the animal's owner. (as added by Ord. #869, Sept. 2009, as replaced by Ord. #941, May 2013)

**10-230. East Ridge leash law.** It shall be unlawful for any person knowingly to permit any dog owned by him or under his control to run at large within the city limits of East Ridge. All dogs must be properly restrained by a leash or such device when not on property owned by the animal's owner. No dog shall be allowed to run loose from its owner's property, and no dog shall be allowed to relieve itself in a neighbor's yard/property.

(1) No person walking a dog shall allow such dog under that person's control to go upon the property of another without consent from such property owner. The owner of said animal shall be responsible to pay for the repairs of any destruction done by the dog to the other's property.

(2) All dogs shall be leashed while at Camp Jordan Park; and no dog shall be allowed to run loose therein.

If found in violation of this chapter, punishment with a fine of no more than twenty-five dollars (\$25.00). (as added by Ord. #869, Sept. 2009, as replaced by Ord. #941, May 2013)

**10-231. Sale or barter of live animals; flea markets prohibited.**

(1) It shall be unlawful for any person to willfully sell, display, or offer for sale, or give away as part of a commercial transaction, a live animal on any street, highway, public right-of-way, commercial parking lot, hotel, motel, or at any outdoor special sale, swap meet, flea market, parking lot sale, or carnival.

(2) A notice describing the charge and the penalty for a violation of this section may be issued by any police officer or animal services officer.

(3) This section shall not apply to the following: East Ridge Animal Services or East Ridge Animal Shelter, or similar rescue group. For purposes of this section, "rescue group" is a not-for-profit entity whose primary purpose is the placement of dogs, cats, or other animals that have been removed from a public animal control agency or shelter, or that have been surrendered or relinquished to the entity by the previous owner. (as added by Ord. #869, Sept. 2009, as replaced by Ord. #941, May 2013)

**10-232. Adoption of animals.** (1) Pursuant to the Tennessee Code Annotated and the expressed intention of the City of East Ridge to minimize pet overpopulation, all animals adopted from East Ridge Animal Services shall be altered (spayed or neutered). In the event an animal is not spayed/neutered at the time of adoption, it is the responsibility of the adopter to ensure said animal is spayed/neutered within thirty (30) days pursuant to the requirements set forth in the animal services adoption contract.

(2) An adoption fee of up to seventy-five dollars (\$75.00) may be required to cover the cost of the aforementioned surgery and vaccinations, which must be performed at an approved veterinary facility.

(3) Under certain circumstances, including but not limited to special adoption events, the animal services supervisor is hereby authorized to waive or reduce adoption fees at his/her discretion.

(4) Animals other than dogs and cats, including but not limited to rabbits, ferrets, domestic birds, etc. may be adopted at the shelter. Such adoptions will comply with all applicable state and city codes and ordinances.

(5) Upon completion of the requisite holding period for registered and/or stray animals, the animal services division may transfer custody of animals to approved humane organizations, such as animal rescues, humane societies, sanctuaries, etc. Such organizations must be registered and incorporated as non-profit organizations in their respective states.

(6) Approval for all adoptions is subject to the discretion of the animal services supervisor. Adoptions may be refused in cases where safety and welfare of an animal or the public could be jeopardized. (as added by Ord. #941, May 2013)

**10-233. Inspections.** (1) Whenever it is necessary to make an inspection to enforce any of the provisions of or perform any duty imposed by this chapter or other applicable law, or whenever there is reasonable cause to believe that there exists in any building or upon any premises any violation of the provisions of this chapter or other applicable law, any animal services officer or police officer is hereby empowered to enter such property at any reasonable time and to inspect the property and perform any duty imposed by this chapter or other applicable law, but only if the consent of the occupant or owner of the property is freely given or a search warrant is obtained, as follows:

(a) If such property is occupied, he shall first present proper credentials to the occupant and request entry, explaining his reasons therefore;

(b) If such property is unoccupied, he shall first make a reasonable effort to locate the owner or other persons having charge or control of the property, present proper credentials and request entry, explaining his reasons therefore; and

(c) If such entry is refused or cannot be obtained because the owner or other person having charge or control of the property cannot be found after due diligence, the animal services supervisor or his/her representative or police officer shall obtain a warrant to conduct a search of the property.

(2) Notwithstanding any other provision of this chapter, an animal services officer or police officer shall have the authority to enter upon any property to enforce the provisions of this chapter if a violation of such law is being committed in the presence or plain view of the officer. (as added by Ord. #941, May 2013)

**10-234. Maximum number of animals per household; multiple pet license or breeder permit established.** (1) Unless otherwise prohibited by applicable zoning, health or similar laws or regulations, a person may keep, lodge or maintain five (5) or more dogs and/or cats over the age of six (6) months, or any combination thereof, provided that such person obtains a multiple pet license or breeder permit from the animal services division. The animal services division shall establish minimum standards for the residents, facilities or quarters where animals are kept, in accordance with applicable codes and ordinances. Such standards shall be enforced by the animal services division, by virtue of inspection conducted by animal services or police officers, in accordance with the provisions of this chapter. The requirements of a multiple pet license or breeder permit shall not be applicable to a non-profit registered animal shelter, zoo, governmental agency, humane society incorporated pursuant to the laws of the state, an institution of higher learning, or a circus or an animal exhibition officially recognized or sanctioned by the city and operated in compliance with city ordinances, and health and zoning regulations.

Where zoning laws, health laws and other laws or regulations do not preclude, a person may keep, lodge or maintain five (5) or more dogs and/or cats over the age of six (6) months, or any combination thereof, if such person applies for and receives from the animal services division a multiple pet license or breeder permit. The animal services division shall possess the authority to establish minimum standards for the residence, facilities or quarters where animals are kept, in accordance with applicable state and city codes and ordinances. Such standards may be enforced by way of inspection conducted by any animal services officer or police officer in accordance with other provisions in this chapter.

(2) To be eligible for a multiple pet license, all animals maintained on the premises over the age of six (6) months must be spayed/neutered and properly vaccinated against rabies. Any person possessing unneutered animals over the age of six (6) months on their premises who is otherwise required to obtain a multiple pet license by the provisions of this section must apply for and receive a breeder permit. All animals must be properly vaccinated against rabies. In cases where a breeder permit is required, an approved permit will be issued in lieu of the multiple pet license.

(3) It shall be the responsibility of the person wishing to keep, lodge or maintain in excess of five (5) dogs and/or cats over the age of six (6) months or any combination thereof, to apply for a multiple pet license or breeder permit. The animal services division shall have the power to revoke such license if negligence in care or misconduct occurs that is detrimental to animal welfare or to the public. Revocation of a license by the animal services division shall restrict animal ownership to less than five (5) animals, pending a hearing in East Ridge Municipal Court.

(4) The cost of a multiple pet license shall be one hundred fifty dollars (\$150.00) per year. The cost of a breeder permit shall be two hundred fifty dollars (\$250.00) per year. All licenses shall be renewed annually. Prior to issuing a multiple pet license or breeder permit, the residence, facility or quarters for which a license or permit is sought shall be inspected to ensure minimum standards are being met.

(5) The provisions set forth in this section do not eliminate or replace any other license or registration requirements established in this chapter; however, upon approval of a multiple pet license or breeder permit, the recipient of such license or permit shall be required to pay a flat fee of one hundred fifty dollars (\$150.00) for a multiple pet license or two hundred fifty dollars (\$250.00) for a breeder permit and shall not be required to pay additional fees for each individual animal in his/her possession respectively. Individual pet registrations/records for animals maintained by a multiple pet license holder or breeder permit holder are required in order to maintain current animal descriptions and proof of rabies vaccination.

(6) Minimum requirements for approval of a multiple pet license or breeder permit are as follows:

(a) All animals must be kept in accordance with all other provisions of this title. Violations of any section or subsection in title 10, Animal Services, will result in a citation under the specific code violated, and may result in the revocation of a multiple pet license or breeder permit.

(b) Written consent of at least seventy-five percent (75%) of residents and/or property owners within one hundred feet (100') of the property boundaries of a multiple pet or breeder residence is required prior to approval.

(c) The perimeter of properties or areas where animals are kept must be entirely fenced, with a minimum fence height of four feet (4').

(d) Dog runs, kennels, and/or other animal enclosures must be no less than thirty feet (30') from the nearest adjacent residence.

(e) A completed application which shall include: the name(s), address, and phone number(s) of persons wishing to obtain a multiple pet license or breeder permit; the written consent of seventy-five percent (75%) of residents and/or property owners within one hundred feet (100') of the boundaries of the property seeking the license/permit; a complete list of all animals kept on the property, including verification of current rabies vaccinations.

(7) If at any point following approval of a multiple pet license or breeder permit, probable cause exists to revoke the approved license, or the permit holder is in violation of any part of this section or other provision of title 10, Animal Services, any animal services officer or police officer may issue a court summons to the license or permit holder, setting out the violation, and requiring the license or pet holder to appear in East Ridge Municipal Court for a hearing regarding the suspension or revocation of the license permit. (as added by Ord. #941, May 2013)

**10-235. Continuing care fee required.** (1) Any animal owner wishing to surrender their pet(s) to the animal services division shall be required to pay a fee of up to thirty-five dollars (\$35.00) per animal. Any animal owner wishing to surrender a litter of kittens or puppies shall be required to pay a fee of up to one hundred dollars (\$100.00) per litter. An owner shall be defined as set forth in § 10-202.

(2) Under certain circumstances, including but not limited to loss of home or employment, death in the family, etc. these fees may be reduced or waived at the discretion of the animal services supervisor. (as added by Ord. #941, May 2013)

**10-236. Authority to prevent acts of cruelty; unlawful interference with officers performing their duties.** (1) Any animal services officer or police officer may lawfully interfere to prevent the preparation of any act of cruelty upon any animal in his or her presence.

(2) It shall be unlawful for any person to interfere with or obstruct in any way an animal services officer or police officer in the discharge of his/her duties as pertaining to the enforcement of these chapters (title 10).

(3) It shall be unlawful for any person to tamper, remove, or in any way interfere with a humane trap lawfully placed and by any animal services officer or police officer. (as added by Ord. #941, May 2013)

### CHAPTER 3

#### DANGEROUS AND POTENTIALLY DANGEROUS DOGS

##### SECTION

10-301. Findings.

10-302. Citation for designation of dangerous dog or potentially dangerous dog; hearing; designation of dangerous dog or potentially dangerous dog; imposition of conditions; no change of ownership pending hearing.

10-303. Notice of designation.

10-304. Impoundment and abatement of potentially dangerous dog or dangerous dog.

10-305. Possession unlawful without proper restraint; failure to comply with mandatory restrictions.

10-306. Mandatory restrictions on potentially dangerous dogs.

10-307. Mandatory restrictions on dangerous dogs.

10-308. Removal of designation of potentially dangerous dog.

10-309. Change of ownership, custody or location of dog; death of dog.

**10-301. Findings.** (1) Dangerous dogs have become a serious and widespread threat to the safety and welfare of citizens and domestic animals of this city. In recent years, the number of reports in communities of dogs having assaulted without provocation and seriously injuring individuals, particularly children, has increased, and many of these attacks have occurred in public places.

(2) The number and severity of these attacks are often attributable to the failure of owners to register, confine and properly control dangerous and potentially dangerous dogs.

(3) The necessity for the regulation and control of dangerous and potentially dangerous dogs is a citywide problem, requiring regulation, and existing laws are currently inadequate to deal with the threat to public health and safety posed by dangerous and potentially dangerous dogs. (as added by Ord. #869, Sept. 2009, and replaced by Ord. #941, May 2013)

**10-302. Citation for designation of dangerous dog or potentially dangerous dog; hearing; designation of dangerous dog or potentially dangerous dog; imposition of conditions; no change of ownership pending hearing.** (1) If an animal services officer or a law enforcement officer has investigated and determined that there is probable cause to believe that a dog is dangerous or potentially dangerous, a citation shall be issued for the owner to appear in city court for the purpose of determining whether or not the dog in question should be designated as a dangerous or potentially dangerous dog. Except by agreement of the respondent and counsel for the city, and with

the approval of the judge, the hearing shall be held not less than five (5) nor more than fifteen (15) business days after service of citation upon the owner or keeper of the dog.

(2) The court shall designate a dog as a "potentially dangerous dog" if the court finds, upon a preponderance of the evidence, that the dog:

(a) Has, without provocation, chased or approached a person in either a menacing fashion or an apparent attitude of attack within the prior eighteen (18) month period while that dog was off the property of its owner; or

(b) Has attempted to attack or has attacked a person or domestic animal within the prior eighteen (18) month period; or

(c) Has, within the prior eighteen (18) month period while off the property of its owner, engaged in any behavior when unprovoked that reasonably would have required a person to take defensive action to prevent bodily injury; or

(d) Has, when unprovoked while off the property of its owner, bitten a person or a domestic animal causing a minor injury.

(3) The court shall designate a dog as a "dangerous dog" if the court finds, upon a preponderance of the evidence, that the dog:

(a) Has, without provocation, on two (2) or more occasions within the prior eighteen (18) month period, chased or approached a person in either a menacing fashion or an apparent attitude of attack within the prior 18-month period while that dog was off the property of its owner; or

(b) Has attempted to attack or has attacked a person or domestic animal on two (2) or more occasions within the prior eighteen (18) month period; or

(c) Has, on two (2) or more occasions within the prior eighteen (18) month period while off the property of its owner, engaged in any behavior when unprovoked that reasonably would have required a person to take defensive action to prevent bodily injury; or

(d) Has, when unprovoked while off the property of its owner, bitten a person or a domestic animal, causing injury; or

(e) Has previously been declared a potentially dangerous dog but has not been kept in compliance with any restrictions placed by the city court judge upon the owner of such dog; or

(f) Has been owned, possessed, kept, used or trained in violation of Tennessee Code Annotated, § 39-14-203.

(4) No dog may be declared potentially dangerous or dangerous as a result of injury or damage, if, at the time the injury or damage the victim of the injury or damage was:

(a) Committing a willful trespass or other tort upon premises occupied by the owner or keeper of the dog;

(b) Teasing, tormenting, abusing or assaulting the dog; or

(c) Committing or attempting to commit a crime. No dog may be declared potentially dangerous or dangerous if the dog was protecting or defending a person within the immediate vicinity of the dog from an



unjustified attack. No dog may be declared potentially dangerous or dangerous if an injury or damage was sustained by a domestic animal which, at the time of the injury or damage, was teasing, tormenting, abusing or assaulting the dog. No dog may be declared potentially dangerous or dangerous if injury or damage to a domestic animal was sustained while the dog was working as a hunting dog, herding dog or predator control dog on the property of, or under the control of, its owner or keeper, and the damage or injury was appropriate to the work of the dog.

(5) Upon designating a dog as a dangerous dog or a potentially dangerous dog, the court shall impose the restrictions on the owner of such dog as set forth in this chapter and may impose such additional restrictions on the respondent as are appropriate under the circumstances of the case. The court shall reduce such restrictions to writing and have them served on the respondent.

(6) It shall be unlawful for any person who is subject to any such restrictions to fail to comply with such restrictions.

(7) It shall be unlawful for any person who has been served with a citation to appear in city court for the purpose of determining whether such person's dog should be designated as a potentially dangerous dog or dangerous dog to transfer ownership of such dog until after the city court has issued a ruling on such a citation. It shall be unlawful for any person whose dog has been designated as a potentially dangerous dog or dangerous dog to transfer ownership of such dog to another person without:

(a) Having advised such other person that the dog has been designated as a potentially dangerous dog or dangerous dog; and

(b) Having advised such other person in writing of the restrictions that have been placed upon such dog. (as added by Ord. #869, Sept. 2009, and replaced by Ord. #941, May 2013)

**10-303. Notice of designation.** Within ten (10) working days after a hearing conducted pursuant to this chapter, the owner or keeper of the dog, if absent from the hearing, shall be notified by the city court in writing of the decision of the court and of any restrictions imposed upon the respondent, either personally through ASD or by first-class mail, postage prepaid. If a dog is declared to be potentially dangerous or dangerous, the owner or keeper shall comply with all restrictions imposed by this chapter and by the city court. (as added by Ord. #869, Sept. 2009, and replaced by Ord. #941, May 2013)

**10-304. Impoundment and abatement of potentially dangerous dog or dangerous dog.** (1) If upon investigation it is determined by the animal services officer or law enforcement officer that probable cause exists to believe a dog poses an immediate threat to public safety, then the animal services officer or law enforcement officer may immediately seize and impound the dog

pending a hearing to be held pursuant to this chapter. At the time of an impoundment pursuant to this subsection or as soon as practicable thereafter, the officer shall serve upon the owner or custodian of the dog a notice of a hearing to be held pursuant to this chapter to declare the dog dangerous or potentially dangerous.

(2) Any animal services officer may impound any potentially dangerous dog or dangerous dog if the animal services officer has reasonable cause to believe that any of the mandatory restrictions upon such dog are not being followed if the failure to follow such restrictions would likely result in a threat to public safety. The owner or custodian of a potentially dangerous dog or dangerous dog shall surrender such a dog to any animal services or law enforcement officer upon demand. In the event such a dog is impounded, the animal services officer shall serve a citation upon the owner of such dog for violation of the provisions of this chapter.

(3) If a dog has been impounded pursuant to subsection (1) or subsection (2), the animal services manager may permit the dog to be confined at the owner's expense in a veterinary facility pending a hearing pursuant to this chapter, provided that such confinement will ensure the public safety. Notwithstanding any other provision of this chapter, the daily boarding fee for a dog impounded pursuant to subsection (1) or subsection (2) shall be ten dollars (\$10.00).

(4) No dog that has been designated by the court as a dangerous dog or potentially dangerous dog may be released by the animal shelter or a veterinarian until the owner has paid all veterinarian costs and all other fees and costs of the animal shelter that are normally charged to an owner prior to redemption of the animal. If the owner fails to pay such fees and costs and take possession of the dog within ten (10) days of the owner's receipt of notice of the designation of the dog as dangerous or potentially dangerous dog, the dog shall be deemed to have been abandoned and may be disposed of by ASD. Euthanasia or surrender to ASD or the animal shelter of such a dog does not free the owner of responsibility for all cost incurred up to and including the date of the euthanasia or surrender. (as added by Ord. #869, Sept. 2009, and replaced by Ord. #941, May 2013)

**10-305. Possession unlawful without proper restraint; failure to comply with mandatory restrictions.** It is unlawful for a person to have the custody of or own or possess a potentially dangerous dog or a dangerous dog that is not properly restrained. It is unlawful for a person to have the custody of or own or possess a potentially dangerous dog or a dangerous dog unless such person is in full compliance with all restrictions placed upon such person by the court that has designated such dog as a potentially dangerous dog or a dangerous dog. (as added by Ord. #869, Sept. 2009, and replaced by Ord. #941, May 2013)

**10-306. Mandatory restrictions on potentially dangerous dogs.**

Once the dog is designated as a potentially dangerous dog by the East Ridge City Court, the following shall be restrictions are mandatory upon the owner or custodian of such dog:

(1) The dog must be kept indoors or confined on the owner's or keeper's property by a fence (other than an "electric fence") capable of confining the dog or by a proper enclosure;

(2) The owner must allow inspection of the dog and its enclosure by the ASD and must produce, upon demand, proof of compliance with such restrictions;

(3) In the event that the owner or custodian of the dog is a tenant on real property where the dog is being kept, the owner or custodian must obtain written permission, to be filed with the ASD, to keep the dog on certain specified premises from the landlord or property owner;

(4) The owner and dog must attend and complete a course on commonly accepted dog obedience methods approved by the ASD; and

(5) The owner and dog must attend and successfully complete an American Kennel Club canine good citizenship course and test within a time specified by the court.

The court may impose additional restrictions that the court deems necessary. (as added by Ord. #869, Sept. 2009, and replaced by Ord. #941, May 2013)

**10-307. Mandatory restrictions on dangerous dogs.** (1) If the dog is designated as a dangerous dog by the East Ridge City Court, the owner or custodian of such dog shall comply with the following restrictions:

(a) The dog must be kept in a proper enclosure if the dog is maintained unattended out-of-doors; such proper enclosure must be enclosed within an outer fence, and the outer perimeter of the proper enclosure must be no less than five feet (5') from the outer fence.

(b) The owner must allow inspection of the dog and its enclosure by the ASD and must produce, upon demand, proof of compliance with the restrictions set forth in this section and any additional restrictions imposed by the city court.

(c) In the event that the owner or custodian of the dog is a tenant on real property where the dog is being kept, the owner or custodian must obtain written permission, to be filed with the ASD, to keep the dog on certain specified premises from the landlord or property owner.

(d) The owner and dog must attend and complete a training class and/or behavior modification course approved by the ASD that is designed to teach the owner how to deal with, correct, manage and/or alter the problem behavior.

(e) A sign, available exclusively from ASD, the cost of which shall be included in the annual fee for a dangerous dog, having reflective letters and backing with letters measuring at least 1.5 inches in width and 1.5 inches in height and reading "beware of dangerous dog" shall be posted in a conspicuous place at all entrances to the premises on or within which such dog is kept;

(f) A dangerous dog shall not be permitted to leave the premises of the owner unless such dog is properly restrained and humanely muzzled for protection of persons and other animals.

(g) A dangerous dog may never, even with the owner present, be allowed to be unrestrained on property that allows the dog direct access to the public.

(h) The owner of a dangerous dog shall not permit such a dog to be chained, tethered or otherwise tied to any inanimate object such as a tree, post or building, inside or outside of its own separate enclosure.

(i) Such dog shall be photographed by the ASD for future identification purposes.

(j) Neutering or spaying of the dog.

(k) Implantation of an identification microchip in such dog; the serial number of the identification microchip must be supplied to ASD.

(l) Requiring the owner of the animal or owner of the premises on which the animal is kept to obtain and maintain liability insurance in the amount of one hundred thousand dollars (\$100,000.00) and to furnish a certificate of insurance.

(m) Maintaining and updating annually a record maintained with ASD that lists the dog owner(s) or agent contact information, emergency contact persons and phone numbers, veterinarian, landlord and/or property owner contact information, property/liability insurance carrier, vaccination, licensing and/or permit number, photo of the animal and any other information deemed necessary by the ASD.

(n) Samples preserved for possible dna identification which must be delivered to ASD.

(o) The wearing of a collar and/or tag that visually identifies the dog as being dangerous (purchased through the ASD).

(p) Notification in writing to the ASD of the location of the dog's residence, temporary or permanent, including prior notice of plans to move the dog to another residence within the city or outside the city and/or to transfer ownership of the dog.

(q) Any other reasonable requirement specified by the city court.

(2) The cost of all such restrictions must be paid by the owner. (as added by Ord. #869, Sept. 2009, and replaced by Ord. #941, May 2013)

**10-308. Removal of designation of potentially dangerous dog.** If there are no additional instances of the behavior described in § 10-302(2) within

eighteen (18) months of the date of designation as a potentially dangerous dog, the dog shall automatically be removed from the list of potentially dangerous dogs. The dog may be, but is not required to be, removed from the list of potentially dangerous dogs prior to the expiration of the eighteen (18) month period if the owner or keeper of the dog demonstrates to the ASD that changes in circumstances or measures taken by the owner or keeper, such as training of the dog, confinement, etc., have mitigated the risk to the public safety; in such event, the owner or the ASD may petition the city court to remove such designation. (as added by Ord. #869, Sept. 2009, and replaced by Ord. #941, May 2013)

**10-309. Change of ownership, custody or location of dog; death of dog.** (1) The owner or custodian of a dangerous dog or potentially dangerous dog who moves or sells the dog, or otherwise transfers the ownership, custody or location of the dog, shall, at least fifteen (15) days prior to the actual transfer or removal of the dog, notify ASD in writing of the name, address and telephone number of the proposed new owner or custodian, the proposed new location of the dog, and the name and description of the dog.

(2) The owner or custodian shall, in addition to the above, notify any new owner or custodian of a dangerous dog or potentially dangerous dog in writing regarding the details of the dog's record and the terms and conditions for confinement and control of the dog. The transferring owner or custodian shall also provide ASD with a copy of the notification to the new owner or custodian of his or her receipt of the original notification and acceptance of the terms and conditions. ASD may impose different or additional restrictions or conditions upon the new owner or custodian.

(3) If a dangerous dog or potentially dangerous dog should die, the owner or custodian shall notify ASD no later than twenty-four (24) hours thereafter and, upon request, from ASD shall produce the animal for verification or evidence of the dog's death that is satisfactory to ASD.

(4) If a dangerous dog or potentially dangerous dog escapes, the owner or custodian shall immediately notify ASD and make every reasonable effort to recapture the escaped dog to prevent injury and/or death to humans or domestic animals.

(5) The following persons must notify ASD when relocating a dog to East Ridge, even on a temporary basis:

(a) The owner of a potentially dangerous or dangerous dog that has been designated as such by another lawful body other than the City of East Ridge; and

(b) The owner of a dog that has had special restrictions placed against it by any humane society or governmental entity or agency other than the City of East Ridge based upon the behavior of the dog.

No such designation as a dangerous dog or potentially dangerous dog or any similar such designation shall be recognized by the City of East Ridge if

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such designation is based solely on the breed of the dog. Such owner is subject to the restrictions set forth in this chapter. (as added by Ord. #869, Sept. 2009, and replaced by Ord. #941, May 2013)

## CHAPTER 4

### BARKING DOGS

#### SECTION

10-401. Barking dogs--definition.

10-402. Barking dogs generally.

10-403. Citation for barking dog.

**10-401. Barking dogs--definition.** (1) As used in this chapter, "barking dog" means any dog which, by causing frequent or long, continued noise for an extended period of time, disturbs the comfort or repose of any person in a residence, hotel, motel or hospital, or creates any other noise that a reasonable person would find distressing or disruptive, regardless whether the dog is physically situated in or upon private property. An "extended period of time" means that, in a twenty-four (24) hour period, the dog either:

- (a) Barks incessantly for fifteen (15) minutes or more; or
- (b) Barks intermittently for sixty (60) minutes or more.

(2) A dog shall not be deemed a "barking dog" for purposes of this chapter if, at any time the dog is barking, a person is trespassing or threatening to trespass upon private property in or upon which the dog is situated, or when the dog is being teased or provoked or is responding to an emergency. (as added by Ord. #941, May 2013)

**10-402. Barking dogs generally.** (1) It shall be unlawful for a barking dog, as defined by this chapter, to exist in the city.

(2) For purposes of this chapter, a violation occurs when:

(a) A person allows a barking dog violation to exist, whether through willful action, failure to act, or failure to exercise proper control over a barking dog;

(b) A person whose agent, employee, or independent contractor allows a barking dog violation to exist, whether through willful action, failure to act, failure to exercise proper control over a barking dog; or

(c) A person who is the owner of, or a person who is a lessee or sub-lessee with the current right of possession of, real property allows a barking dog violation to exist in or upon said property.

(3) For purposes of this section, there may be more than one (1) person responsible for a barking dog violation. (as added by Ord. #941, May 2013)

**10-403. Citation for barking dog.** (1) As provided hereinafter, animal services officers or police officers have the authority to issue a citation to any person responsible for a barking dog violation if probably cause exists pursuant to this section, based upon the officer's investigation.

(2) For the first violation, the person responsible for a barking dog shall be given a ten (10) day warning period within which to correct the problem before a citation for a barking dog is issued.

(3) Each day a barking dog violation exists shall be a separate violation, with the person responsible for the barking dog violation subject to a separate citation and fine for each such violation. A barking dog citation may include a violation for one (1) or more days on which a violation exists and for violation of one (1) or more code sections. (as added by Ord. #941, May 2013)



## CHAPTER 5

### ANIMAL EUTHANASIA

#### SECTION

10-501. Animal euthanasia--general.

10-502. Animal euthanasia--East Ridge Animal Services and Animal Shelter.

**10-501. Animal euthanasia--general.** (1) Euthanasia of companion animals shall be performed by means of lethal injection pursuant to techniques provided for by the Tennessee Code Annotated.

(2) Euthanasia of companion animals shall only be performed by officers of the animal services division who are duly licensed and certified in the State of Tennessee to practice animal euthanasia, as well as licensed veterinarians, and veterinary medical technicians who have successfully completed a euthanasia technician certification course.

(3) Notwithstanding this section or any other law to the contrary, whenever an emergency situation exists that requires the immediate euthanasia of an injured, dangerous, or severely diseased companion animal, an animal services officer, law enforcement officer, or a veterinarian may humanely destroy the animal. (as added by Ord. #941, May 2013)

**10-502. Animal euthanasia--East Ridge Animal Services and Animal Shelter.** (1) Euthanasia of companion animals shall only be performed when the animal services division and/or a licensed veterinarian determines that such animal is unadoptable for one (1) or more of the following reasons:

(a) The animal is suffering from an injury or illness that requires treatment beyond that which a reasonable pet owner would provide, or the animal's prognosis following treatment is grim.

(b) The animal is dangerous or vicious and poses a threat to public safety.

(c) The animal has been at the shelter for a protracted period of time and further impoundment would be inhumane and/or deleterious to the animal's health and well being.

(d) The animal is in imminent danger of dying and is suffering.

(2) Owner requested euthanasia of companion animals may be performed by the animal services division or referred to a veterinarian at the discretion of the animal services supervisor, in accordance with shelter policies and procedures. (as added by Ord. #941, May 2013)

**TITLE 11**

**MUNICIPAL OFFENSES<sup>1</sup>**

**CHAPTER**

1. ALCOHOL.
2. [REPEALED.]
3. OFFENSES AGAINST THE PEACE AND QUIET.
4. FIREARMS, WEAPONS AND MISSILES.
5. TRESPASSING AND INTERFERENCE WITH TRAFFIC.
6. MISCELLANEOUS.
7. GRAFFITI.

**CHAPTER 1**

**ALCOHOL<sup>2</sup>**

**SECTION**

- 11-101. Drinking alcoholic beverages in public, etc.  
11-102. Minors in beer places.  
11-103. Violations and penalty.

**11-101. Drinking alcoholic beverages in public, etc.** It shall be unlawful for any person to drink, consume or have an open can or bottle of beer or intoxicating liquor in or on any public street, alley, avenue, highway, sidewalk, public park, public school ground or other public place.

**11-102. Minors in beer places.** No person under the age of twenty-one (21) shall loiter in or around or otherwise frequent any place where beer is sold at retail for on premises consumption. (1993 Code, § 10-222, modified)

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<sup>1</sup>Municipal code references

Animal control: title 10.

Housing and utilities: title 12.

Fireworks and explosives: title 7.

Traffic offenses: title 15.

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

<sup>2</sup>Municipal code reference

Sale of alcoholic beverages, including beer: title 8.

State law reference

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

**11-103. Violations and penalty.** A violation of any provision of this chapter shall subject the offender to a penalty of up to five hundred dollars (\$500) for each offense.

**CHAPTER 2**

**[REPEALED]**

(This chapter was repealed by Ord. #889, January 2011)

## CHAPTER 3

### OFFENSES AGAINST THE PEACE AND QUIET

#### SECTION

11-301. Disturbing the peace.

11-302. Anti-noise regulations.

11-303. Violation and penalty.

**11-301. Disturbing the peace.** No person shall disturb, tend to disturb, or aid in disturbing the peace of others by violent, tumultuous, offensive, or obstreperous conduct, and no person shall knowingly permit such conduct upon any premises owned or possessed by him or under his control. (1993 Code, § 10-202)

**11-302. Anti-noise regulations.** Subject to the provisions of this section, the creating of any unreasonably loud, disturbing, and unnecessary noise is prohibited. Noise of such character, intensity, or duration as to be detrimental to the life or health of any individual, or in disturbance of the public peace and welfare, is prohibited.

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

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

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

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

quiet, comfort, or repose of any person in any hospital, dwelling, hotel, or other type of residence, or of any person in the vicinity.

(d) Pets. The keeping of any animal, bird, or fowl which by causing frequent or long continued noise shall disturb the comfort or repose of any person in the vicinity.

(e) Use of vehicle. The use of any automobile, motorcycle, truck, or vehicle so out of repair, so loaded, or in such manner as to cause loud and unnecessary grating, grinding, rattling, or other noise.

(f) Blowing whistles. The blowing of any steam whistle attached to any stationary boiler, except to give notice of the time to begin or stop work or as a warning of fire or danger, or upon request of proper city authorities.

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

(h) Building operations. The erection, excavation, demolition, exterior alteration, or exterior repair of any building in any residential area or section, or the construction, excavation, or repair of streets or highways in any residential area or section, shall only be permitted between the hours of 7:00 A.M. and 6:00 P.M. on weekdays and Saturdays, or between the hours of 9:00 A.M. and 6:00 P.M. on Sundays, except in the case of urgent necessity in the interest of public health and safety, and then only with a permit from the building official granted for a period while the urgent necessity continues not to exceed thirty (30) days.

If the building official should determine that the public health and safety will not be impaired by the erection, excavation, demolition, exterior alteration, or exterior repair of any building, or by the construction, excavation, or repair of streets or highways outside of the times permitted hereinabove, and if he/she shall further determine that loss or inconvenience would result to any party in interest through delay, he/she may grant permission for such work to be done outside the times permitted hereinabove upon application being made at the time the permit for the work is granted or during the process of the work.

The work described hereinabove shall not be allowed on the following holidays without said permit granted by the building official: Independence Day, Labor Day, Memorial Day, Easter Day, Thanksgiving Day, and Christmas Day.

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

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

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

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

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

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

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

(c) Noncommercial and nonprofit use of loudspeakers or amplifiers. The reasonable use of amplifiers or loudspeakers in the course of public addresses which are noncommercial in character and in the course of advertising functions sponsored by nonprofit organizations. However, no such use shall be made until a permit therefor is secured from the city council. Hours for the use of an amplified or public address system will be designated in the permit so issued and the use of such systems shall be restricted to the hours so designated in the permit. (1993 Code, § 10-233, modified, as amended by Ord. #1019, Sept. 2016)

**11-303. Violation and penalty.** A violation of any provision of this chapter shall subject the offender to a penalty of up to five hundred dollars (\$500) for each offense.

**CHAPTER 4****FIREARMS, WEAPONS AND MISSILES****SECTION**

- 11-401. Air rifles, etc.
- 11-402. Throwing missiles.
- 11-403. Discharge of firearms.
- 11-404. Violation and penalty.

**11-401. Air rifles, etc.** It shall be unlawful for any person in the city to discharge any air gun, air pistol, air rifle, "BB" gun, or sling shot capable of discharging a bullet or pellet, made of metal, plastic or any other kind of material, whether propelled by spring, compressed air, expanding gas, explosive, or other force-producing means or method. (1993 Code, § 10-213)

**11-402. Throwing missiles.** It shall be unlawful for any person to maliciously throw any stone, snowball, bottle, or any other missile upon or at any vehicle, building, tree, or other public or private property or upon or at any person. (1993 Code, § 10-214)

**11-403. Discharge of firearms.** It shall be unlawful for any unauthorized person to discharge a firearm within the corporate limits. (1993 Code, § 10-212, modified)

**11-404. Violation and penalty.** A violation of this chapter shall subject the offender to a penalty of up to five hundred dollars (\$500) for each offense.



## CHAPTER 5

**TRESPASSING AND INTERFERENCE WITH TRAFFIC****SECTION**

11-501. Trespassing.

11-502. Interference with traffic.

11-503. Violation and penalty.

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

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

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

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

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

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

(5) Peddlers, etc. It shall also be unlawful and deemed to be a trespass for any peddler, canvasser, solicitor, transient merchant, or other person to fail to promptly leave the private premises of any person who requests or directs him to leave.<sup>1</sup>

**11-502. Interference with traffic.** It shall be unlawful for any person to stand, sit, or engage in any activity whatever on any public street, sidewalk, bridge, or public ground in such a manner as to prevent, obstruct, or interfere

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<sup>1</sup>Municipal code reference

Provisions governing peddlers: title 9, chapter 1.

with the free passage of pedestrian or vehicular traffic thereon. (1993 Code, § 10-232)

**11-503. Violation and penalty.** A violation of any provision of this chapter shall subject the offender to a penalty of up to five hundred dollars (\$500) for each offense.

## CHAPTER 6

### MISCELLANEOUS

#### SECTION

11-601. Abandoned refrigerators, etc.

11-602. Caves, wells, cisterns, etc.

11-603. Posting notices, etc.

11-604. Curfew for minors.

11-605. Violations and penalty.

11-606. Tobacco use on municipal property and in municipal vehicles prohibited.

**11-601. Abandoned refrigerators, etc.** It shall be unlawful for any person to leave in any place accessible to children any abandoned, unattended, unused, or discarded refrigerator, icebox, or other container with any type latching or locking door without first removing therefrom the latch, lock, or door or otherwise sealing the door in such a manner that it cannot be opened by any child. (1993 Code, § 10-223, modified)

**11-602. Caves, wells, cisterns, etc.** It shall be unlawful for any person to permit to be maintained on property owned or occupied by him any cave, well, cistern, or other such opening in the ground which is dangerous to life and limb without an adequate cover or safeguard. (1993 Code, § 10-231)

**11-603. Posting notices, etc.** No person shall paint, make, or fasten, in any way, any show-card, poster, or other advertising device or sign upon any public or private property unless legally authorized to do so. Each posting of such unauthorized notice shall constitute a separate offense. (1993 Code, § 10-226, modified)

**11-604. Curfew for minors.** It shall be unlawful for any minor, under the age of eighteen (18) years, to be abroad at night after 11:00 P.M. unless upon a legitimate errand or accompanied by a parent, guardian or other adult person having lawful custody of such minor. (1993 Code, § 10-224)

**11-605. Violations and penalty.** A violation of any provision of this chapter shall subject the offender to a penalty of up to five hundred dollars (\$500) for each offense.

**11-606. Tobacco use on municipal property and in municipal vehicles prohibited.** It shall only be lawful for anyone to smoke or use tobacco type products on the asphalted parking areas of city owned property, in areas designated by city manager or city manager's designee, and smoking and use of

tobacco type products in vehicles owned, operated or leased by the City of East Ridge shall be prohibited.

(1) Anyone found to be violating this provision shall be subject to a fine of up to fifty dollars (\$50.00).

(2) Any employee of the City of East Ridge found violating this provision shall be subject to, in addition to the above fine, disciplinary action being taken against them up to and including termination.

(3) Such designated areas shall be posted in conspicuous areas. (as added by Ord. #712, Feb. 2001, and replaced by Ord. #919, July 2012)

**CHAPTER 7****GRAFFITI****SECTION**

- 11-701. Intent and findings.
- 11-702. Declaration of public nuisance.
- 11-703. Terms defined.
- 11-704. Graffiti unlawful.
- 11-705. Removal of graffiti.
- 11-706. Notice to owner, possessor of property.
- 11-707. Authorization to use municipal funds.
- 11-708. Authorization for the municipality to remove graffiti.
- 11-709. Authorization to use persons assigned to perform community service.
- 11-710. Reimbursement to municipality.
- 11-711. Reward for information.
- 11-712. Violations.

**11-701. Intent and findings.** Graffiti on public and private property is a blighting factor which deteriorates property and also depreciates the value of the property and the value of the adjacent and surrounding properties. The City Council of the City of East Ridge concurs with the findings of the general assembly of the State of Tennessee related to graffiti. It is the city council's intent to provide for the prohibition of the placement of graffiti on public and private property as herein set forth. Graffiti is inconsistent with the city's aesthetic standards and goals, and unless it is quickly removed from public and private properties, other adjacent properties will become the target of graffiti. The existence of graffiti tends to breed community discontent and criminal activity. The prompt removal of graffiti is necessary to prevent its proliferation. While the property and its owner or possessor is a victim of the graffiti, it is always the duty of the property owner or possessor to remove graffiti as soon as reasonably possible. To assist in preventing and controlling the further spread of graffiti, city council authorizes the use of city funds and the establishing of a partnership with the community to remove graffiti on public and private property as set forth herein and as provided in accordance with Tennessee Code Annotated, § 6-54-127. (as added by Ord. #876, May 2010)

**11-702. Declaration of public nuisance.** For the purpose of promoting the public safety, health, welfare, convenience and enjoyment, to protect the public investment in public property, and to preserve and enhance the scenic beauty of property visible from publicly owned property, the City Council of the City of East Ridge finds and declares that graffiti constitutes a public nuisance that may be abated and curtailed in accordance with the laws of this state. (as added by Ord. #876, May 2010)

**11-703. Terms defined.** (1) "Advertising" shall for purposes of this section mean any letter, word, name, number, symbol, slogan, message, drawing, picture, writing, or other mark of any kind lawfully placed on property by an owner or tenant of the property, or an agent of such owner or tenant, for the purpose of promoting products or services or conveying information to the public.

(2) "Graffiti" shall mean, without limitation, any letter, word, name, number, symbol, slogan, message, drawing, picture, writing, or other mark of any kind visible to the public that is drawn, painted, chiseled, scratched or etched on a rock, tree, wall, bridge, fences, gate, building, facade or other structure; provided, this definition shall not include advertising or any other letter, word, name, number, symbol, slogan, message, drawing, picture, writing, designed mural or other mark of any kind lawfully placed on property by an owner of the property, a tenant of the property, by an authorized agent for such owner or tenant, or unless otherwise approved by the owner or tenant.

(3) "Publicly owned property" shall mean the property owned or controlled by a federal, state, or local governmental entity, including, but not limited to, public parks, streets, roads and sidewalks.

(4) "Tenant" shall mean any person shown by the records of the register of deed's office as a lessee of property, or any person lawfully in actual physical possession of property. (as added by Ord. #876, May 2010)

**11-704. Graffiti unlawful.** (1) It shall be unlawful for any person to write, paint, inscribe, scratch, scrawl, spray, place or draw graffiti of any type on any public or private building, structure or any other real or personal property.

(2) It shall be unlawful for any person to possess, while in any public building or facility, or while on private property, any of the following materials with the intent to use such materials to violate subsection (1) and/or subsection (3): spray paint containers, paint, ink, marking pens containing non-water soluble fluid, brushes, applicators or other materials for marking, scratching, or etching.

(3) It shall be unlawful for the owner and/or occupant of fixed real or personal property located within the public view to place or give permission to place graffiti, as defined herein, on said real or personal property if the graffiti tends to incite violence by referring to gang or criminal activity, depicts or expresses obscenity as defined by Tennessee Code Annotated, § 39-17-901 or contains defamatory material about a public or private person, except as otherwise allowed by law. (as added by Ord. #876, May 2010)

**11-705. Removal of graffiti.** It shall be unlawful for any person owning property, acting as manager or agent for the owner of property, or in possession or control of property to fail to remove or effectively obscure any graffiti upon such property. (as added by Ord. #876, May 2010)

**11-706. Notice to owner, possessor of property.** (1) In the event that the police department finds that graffiti exists, the chief of police or his designee, shall mail or deliver a written order to the owner and possessor of the subject real property, addressed to the owner's last known address and to the property address. Notice may also be accomplished by posting the order in a clearly visible location on the subject property. The written order should contain the following:

- (a) A description of the real estate sufficient for identification;
- (b) Inform the owner/possessor that the police department has found graffiti exists on the property; and
- (c) An order that the owner and/or possessor remove or obliterate the graffiti within four (4) days;
- (d) Inform the owner that graffiti has been declared a public nuisance and that failure to remove the graffiti may result in further civil action by the city; and
- (e) Inform the owner that failure to remove graffiti is unlawful and may result in citation to municipal court.

(2) By written request, the four (4) day time period for removal of graffiti may be waived due to weather conditions by the chief of police.

(3) The property owner may also request assistance, in writing, for the graffiti removal based on the owner's inability to perform removal.

(4) A property owner, occupant, or lessee may appeal the order to remove the graffiti by filing a written appeal with the city manager before the expiration of the four (4) day time period. Unless resolved otherwise, the city manager shall place the appeal for consideration by the city council at the next regularly scheduled city council meeting. (as added by Ord. #876, May 2010)

**11-707. Authorization to use municipal funds.** The municipality may use municipal funds to remove graffiti or other inscribed material from publicly owned real or personal property or privately owned real or personal property visible from publicly owned property and located within the City of East Ridge and to replace or repair publicly owned property or privately owned property visible from publicly owned property within the City of East Ridge that has been defaced with graffiti or other inscribed material. The city manager, or his designee, may authorize the use of municipal funds for the purposes described herein in an amount up to dollars. (Expenditure of amounts in excess of \_\_\_\_\_ dollars (\$\_\_\_\_\_) shall be submitted for city council approval. (as added by Ord. #876, May 2010)

**11-708. Authorization for the municipality to remove graffiti.** The municipality may remove graffiti or other inscribed material, or if the graffiti or other inscribed material cannot be removed cost-effectively, repair or replace that portion of the property that was defaced, but the municipality may not paint, repair, or replace other parts of the property that were not defaced by

graffiti. Written consent of the property owner and possessor of the property, if not the same, shall be obtained. The written consent shall contain method of removal of the graffiti. (as added by Ord. #876, May 2010)

**11-709. Authorization to use persons assigned to perform community service.** The municipality may use persons assigned to perform community service work, as ordered by a general sessions, criminal, or juvenile court, to perform graffiti removal services under supervision. (as added by Ord. #876, May 2010)

**11-710. Reimbursement to municipality.** In the event the person or persons responsible for the graffiti are convicted and the court orders the offender(s) to pay restitution for the cost of the clean up, and the city has expended funds to remove the graffiti, the restitution shall be directed to the city as reimbursement for the cost of the clean up. (as added by Ord. #876, May 2010)

**11-711. Reward for information.** The city shall pay a reward of two hundred fifty dollars (\$250.00) to person(s) who report information to the police department, which information leads to the arrest and conviction of any person who unlawfully applies graffiti to any public property or private property visible from the public right-of-way. The determination of the reward shall be made by the chief of police or his designee. (as added by Ord. #876, May 2010)

**11-712. Violations.** Any person, firm, or corporation, whether owner, occupant, or lessee, violating or failing to comply with any provision of this chapter or any notice or order issued pursuant to its provisions, shall be punished by a fine not to exceed the state authorized maximum of fifty dollars (\$50.00) per violation. Each day that a violation continues shall be deemed a separate offense and punishable as such. (as added by Ord. #876, May 2010)



**TITLE 12**

**BUILDING, UTILITY, ETC. CODES**

**CHAPTER**

1. BUILDING AND RESIDENTIAL CODES.
2. PLUMBING CODE.
3. ELECTRICAL CODE.
4. GAS CODE.
5. PROPERTY MAINTENANCE CODE.
6. ENERGY CONSERVATION CODE.
7. SWIMMING POOL CODE.
8. MECHANICAL CODE.
9. EXISTING BUILDINGS CODE.
10. LANDSCAPE MANUAL.

**CHAPTER 1**

**BUILDING AND RESIDENTIAL CODES<sup>1</sup>**

**SECTION**

- 12-101. Building code adopted.
- 12-102. Modifications.
- 12-103. Available in city hall.
- 12-104. Violations and penalty.
- 12-105. Appendices to code adopted.
- 12-106. Amendments to code adopted.
- 12-107. Handicap and accessibility code adopted.

**12-101. Building code adopted.** Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 et seq. and for the purpose of regulating the construction, alteration, repair, use, occupancy, location, maintenance, removal, and demolition of every building or structure or any appurtenance connected or attached to any building or structure, the International Building Code<sup>2</sup>, 2012 edition, and the International Residential Code as prepared and

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<sup>1</sup>Municipal code references

Fire protection, fireworks, and explosives: title 7.

Planning and zoning: title 14.

Streets and other public ways and places: title 16.

Utilities and services: titles 18 and 19.

<sup>2</sup>Copies of this code (and any amendments) may be purchased from the  
(continued...)

adopted by the International Code Congress, is hereby adopted and incorporated by reference as a part of this code and is hereinafter referred to as the building code. (Ord. #642, Oct. 1997, as replaced by Ord. #843, June 2008, and Ord. #947, Dec. 2013)

**12-102. Modifications.** (1) Definitions. Whenever the building and residential code refers to the "Chief Appointing Authority" or the "Chief Administrator," it shall be deemed to be a reference to the city manager. When the "Building Official" or "Director of Public Works" is named it shall, for the purposes of the building and residential codes, mean such person as the city manager has appointed or designated to administer and enforce the provisions of the building and residential codes.

(2) Permit fees. The recommended schedule of permit fees set forth in Appendix "B" of the building code is adopted. (Ord. #642, Oct. 1997, modified)

**12-103. Available in city hall.** Pursuant to the requirements of the Tennessee Code Annotated, § 6-54-502 one (1) copy of the building and residential codes has been placed on file in the city hall and shall be kept there for the use and inspection of the public. (Ord. #642, Oct. 1997, modified)

**12-104. Violations and penalty.** It shall be unlawful for any person to violate or fail to comply with any provision of the building and residential codes as herein adopted by reference and modified. The violation of any section of this chapter shall be punishable by a penalty of up to five hundred dollars (\$500.00) for each offense. Each day a violation is allowed to continue shall constitute a separate offense. (1993 Code, § 4-104, modified)

**12-105. Appendices to code adopted.** The following appendices to the International Building Code, 2012 edition, and the International Residential Code, 2012 edition, and as further amended in this chapter, are hereby adopted as part of the official building codes of the city:

- (1) International Building Code, 2012 edition:
  - Appendix A - Employee Qualifications
  - Appendix C - Agricultural Buildings
  - Appendix D - Fire District, as amended
  - Appendix F - Rodent Proofing
  - Appendix J - Grading, as amended.
- (2) International Residential Code, 2012 edition:
  - Appendix A - Sizing and Capacities of Gas Piping
  - Appendix B - Sizing of Venting Systems

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(...continued)

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

Appendix C - Exit Terminals of Mechanical Draft  
Appendix J - Existing Buildings and Structures (as added by  
Ord. #843, June 2008, and replaced by Ord. #947, Dec. 2013)

**12-106. Amendments to code adopted.** (1) The following sections and appendices of the International Building Code, 2012 edition, are hereby amended, as hereinafter provided:

(a) Section 107.2 is amended by adding a new Subsection 107.2.6 and other new subsections through 107.2.10 which shall read as follows:

107.2.3 Requirements. When required by the building official, two or more copies of specifications, and of drawings drawn to scale with sufficient clarity and detail to indicate the nature and character of the work, shall accompany the application for a permit. Such drawings and specifications shall contain information, in the form of notes or otherwise, as to the quality of materials, where quality is essential to conformity with the technical codes. Such information shall be specific, and the technical codes shall not be cited as a whole or in part, nor shall the term "legal" or its equivalent be used as a substitute for specific information. All information, drawings, specifications and accompanying data shall bear the name and signature of the person responsible for the design.

107.2.6 Additional data. The building official may require details, computations, stress diagrams, and other data necessary to describe the construction or installation and the basis of calculations. All drawings, specifications and accompanying data required by the building official to be prepared by an architect or engineer shall be affixed with their official seal.

107.2.8 Design professional. The design professional shall be an architect or engineer legally registered under the laws of this state regulating the practice of architecture or engineering and shall affix his official seal to said drawings, specifications and accompanying data, for the following;

1. All Group A, E and I occupancies.
2. Buildings and structures two stories or more high.
3. Buildings and structures 5,000 sq ft or more in area.

For all other buildings and structures, the submittal shall bear the certification of the applicant that some specific state law exception permits its preparation by a person not so registered.

Exception: Group R3 buildings, regardless of size, shall require neither a registered architect or engineer, nor a certification that an architect or engineer is not required.

107.2.9 Structural and fire resistance integrity. Plans for all buildings shall indicate how required structural and fire resistance integrity will be maintained where a penetration of a required fire resistant wall, floor or partition will be made for electrical, gas, mechanical, plumbing and communication conduits, pipes and systems. Such plans shall also indicate in sufficient detail how the fire integrity will be maintained where required fire resistant floors intersect the exterior walls and where joints occur in required fire resistant construction assemblies.

107.2.10 Affidavits. The building official may accept a sworn affidavit from a registered architect or engineer stating that the plans submitted conform to the technical codes. For Buildings and Structures, the affidavit shall state that the plans conform to the laws as to egress, type of construction and general arrangement and, if accompanied by drawings, show the structural design and that the plans and design conform to the requirements of the technical codes as to strength, stresses, strains, loads and stability. The building official may without any examination or inspection accept such affidavit, provided the architect or engineer who made such affidavit agrees to submit to the building official copies of inspections reports as inspections are performed and upon completion of the structure, electrical, gas, mechanical, or plumbing systems a certification that the structure, electrical, gas, mechanical or plumbing system has been erected in accordance with the requirements of the technical codes. Where the building official relies upon such affidavit, the architect or engineer shall assume full responsibility for the compliance with all provisions of the technical codes and other pertinent laws or ordinances. Affidavits will only be accepted by the building official where emergency or extraordinary circumstances are established. If sufficient evidence of emergency or extraordinary circumstances is shown, the building official shall have discretion to issue permits based upon affidavits without stamped drawings.

(b) Section 109.2 is amended by adopting a non-refundable fee schedule for all building permits which shall be as follows:

#### 109.2 NON-REFUNDABLE PERMIT FEES

Total Valuation	Fee
\$1,000 and less	No fee, unless inspection required, in which case a \$25.00 fee for each inspection shall be charged
\$1,001 to \$50,000	\$25.00 for the first \$1,000.00 plus \$5.00 for each additional thousand or fraction thereof, to and including \$50,000.00
\$50,001 to \$100,000	\$270.00 for the first \$50,000.00 plus \$4.00 for each additional thousand or fraction thereof, to and including \$100,000.00
\$100,001 to \$500,000	\$470.00 for the first \$100,000 plus \$3.00 for each additional thousand or fraction thereof, to and including \$500,000
\$500,001 and up	\$1,670.00 for the first \$500,000 plus \$2.00 for each additional thousand or fraction thereof

#### 109.2.1 MOVING FEE

For the moving of any building or structure, the fee shall be \$100.00

#### 109.2.2 DEMOLITION FEES

For the demolition of any building or structure, the fee shall be:

Residential Structures (maximum of 4 units)	\$100.00
Non-Residential and Apartments	\$200.00

#### 109.2.3 PENALTIES

Where work for which a permit is required by this Code is started or proceeded prior to obtaining said permit, the fees herein specified shall be doubled in accordance with section 109.4 of the International Building Code, 2012 Edition, but the payment of such double fee shall not relieve any persons from fully complying with the requirements of this Code in the execution of the work or from any other penalties prescribed herein.

## 109.2.4 OTHER FEES

Certificates of Occupancy (New Facility)	\$25.00
Certificates of Occupancy (Conditional)	\$50.00
Certificates of Occupancy (Existing Facility)	\$50.00
Zoning Letter	\$50.00
Code Compliance Letter (Basic)	\$50.00
Code Compliance Letter (Detailed)	\$0.05/sf
Permit Transfer	\$25.00
Re-inspections	\$25.00
Rezoning Application	\$200.00
Variance Application	\$400.00
Use on Review	\$75.00
Tree Permit	\$10.00
Street Cut	\$200.00
Plan Checking Fee	30% of Bldg. Permit Fee
Planning Commission Fee	\$75.00

All of the fees in 109.2.4 shall be nonrefundable unless in the determination of the City Council of East Ridge, the department has not completed sufficient review to justify the entire fees for Construction Plans Review due to the withdrawal of an application prior to review. In such incidents any proportional refund shall be the sole discretion of the City Council of East Ridge.

(c) Section 109.4 Work commencing before permit issuance shall be amended by adding a new sentence at the end of that subsection which shall state as follows;

Any person who commences work on a building, structure, electrical, gas, mechanical or plumbing system before obtaining the necessary permits shall be subject to a penalty of 100% of the usual permit fee in addition to the required permit fees.

(d) Section 903.3.5.2 entitled Secondary Water Supply is deleted in its entirety.

(e) Section 3401.1 Existing buildings or structures is amended by deleting such section in its entirety and substituting in lieu thereof the following language:

3401.7 Existing buildings or structures

3401.7 Alterations, repairs or rehabilitation work may be made to any existing structure, building, electrical, gas mechanical or plumbing system without requiring the building, structure, plumbing, electrical, mechanical or gas system to comply with all the requirements of the technical codes, provided that the alteration, repair or rehabilitation work conforms to the requirements of the technical codes for new construction. The building official shall determine the extent to which the existing system shall be made to conform to the requirements of the technical codes for new construction by applying the following standards:

(1) If, within any twelve (12) month period, alterations or repairs costing in excess of thirty (30%) percent of the replacement value of the entire building are made to an existing building, such building shall be made to conform to the requirements of this code for new buildings.

(2) If an existing building is damaged by fire or otherwise in excess of thirty (30%) percent of its replacement value before such damage is repaired, the entire building shall be made to conform to the requirements of this code for new buildings.

(3) For purposes of this section, the building official shall use the latest edition of R.S. Means Square Foot Costs Data, to determine the replacement cost of an existing building. The building official may require the replacement cost of an existing building to be determined by a registered architect, engineer, licensed general contractor or other professional. Any such review shall be approved by the building official and all costs associated with such review shall be paid by the party asserting that the alterations and repairs are less than thirty (30%) percent of the replacement cost of the building at the time they are made.

(f) Section 3404.2 Flood Hazard Areas is amended by adding the following language to the end of that subsection:

The appropriate Flood Hazard Regulations of the East Ridge Zoning Ordinance and the Federal Regulations referenced therein shall constitute the official regulations of the City of East Ridge with regard to any construction within the Flood Hazard Zone.

(g) That any reference to the International Sewage Disposal Code, and/or the International Electrical Code shall be deleted from the reference standards in Chapter 35 of the International Building Code and all such references shall be construed to reference the appropriate official codes adopted by the City of East Ridge.

(h) By adopting Appendix D in its entirety with the exception of D101.2, D101.2.1, D101.2.2, and D101.2.3, which sections are deleted in their entirety and the following language is substituted in lieu thereof:

D101.2 Establishment of Area. The fire district of the City of East Ridge is fully described at East Ridge City Code 7-101.

(i) By adopting Appendix J in its entirety with the exceptions of J103, J104, J110 which sections deleted in their entirety.

(2) Title 12 building and utility codes chapter 1 § 12-101 of the East Ridge city code be further amended to add the following amended sections of the International Residential Code, 2012 edition, as hereinafter provided:

(a) Section R105.2 is amended by deleting subsection 1 in its entirety and substituting in lieu thereof the following:

(1) One story detached accessory structures used as tool and storage sheds, playhouses, and similar uses provided the floor area does not exceed 120 square feet.

(b) Section R108.2 Schedule of fees is deleted in its entirety and the following language shall be substituted in lieu thereof:

All fees approved by the city under § 109.2 of the International Building Code, as amended, shall be collected in the same manner under this section.

(c) R311.2 Exit doors required. Not less than two exit doors conforming to this section shall be provided for each dwelling unit. The required exit doors shall provide for direct access from the habitable portions of the dwelling to the exterior without requiring travel through a garage. Access to habitable levels not having an exit in accordance with section R311.8 or a stairway in accordance with Section R311.7

Exception: Travel through a garage is allowed when the exterior wall of the garage has an exit door meeting the requirements of Section R311.2.1

(d) R311.2.1 Door type and size. The required exit door shall be a side hinged door not less than 3 feet in width and 6 feet 8 inches in



height. Other doors shall not be required to comply with these minimum dimensions.

Exception: The second means of egress exit door shall be a side-hinged door or a side sliding door not less than 2 feet 8 inches in width and 6 feet 8 inches in height.

(e) Section R313.2. One and Two Family Dwelling Automatic Fire Systems is deleted in its entirety.

(f) Section R322. Flood Resistant Construction is deleted in its entirety and the following language shall be substituted in lieu thereof:

The appropriate Flood Hazard Regulations of the East Ridge Zoning Ordinance and the Federal Regulations referenced therein shall constitute the official regulations of the City of East Ridge with regard to any construction within the Flood Hazard Zone.

(g) Section R403. Table R403.1 entitled Minimum Width of Concrete or Masonry Footings is deleted in its entirety and the following Amended Table and subsection is adopted in lieu thereof:

TABLE R403.1  
 MINIMUM WIDTH OF CONCRETE OR MASONRY FOOTINGS  
 (Inches)

	LOAD-BEARING VALUE OF SOIL (psf)			
	1,500	2,000	3,000	≥4,000
Conventional light-frame construction				
1-story	16	16	16	16
2-story	19	16	16	16
3-story	27	21	16	16
4-inch brick veneer over light frame or 8-inch hollow concrete masonry				
1-story	16	16	16	16
2-story	25	20	16	16
3-story	36	28	20	16
8-inch solid or fully grouted masonry				

	LOAD-BEARING VALUE OF SOIL (psf)			
1-story	20	16	16	16
2-story	33	25	18	16
3-story	46	36	25	20

For SI: 1 inch= 25.4 mm, 1 pound per square foot= 0.0479 kN/m<sup>2</sup>.

Where minimum footing width is 16 inches, a single wythe of solid or fully grouted 12-inch nominal concrete masonry units is permitted to be used.

R403.1.3.1 Foundations with stemwalls. Foundations with stemwalls shall be provided with a minimum of one No. 4 bar at the top of the wall and one No. 4 bar at the bottom of the footing.

(g) Any reference to the International Existing Building Code, the International Property Maintenance Code shall be deleted from the reference standards in Chapter 44 of the International Residential Code and all such references within the International Residential Code shall be construed to reference the appropriate official codes adopted by the City of East Ridge. (as added by Ord. #843, June 2008, and replaced by Ord. #947, Dec. 2013)

**12-107. Handicap and accessibility code adopted.** American National Standard. Accessible and Usable Buildings and Facilities (ICC/ANSI A117.1-2009), one (1) copy of which has been placed on file in city hall and shall be kept there for the use and inspection of the public, is hereby adopted as the official handicap and accessibility code of the city. (as added by Ord. #843, June 2008, and replaced by Ord. #947, Dec. 2013)

## CHAPTER 2

### PLUMBING CODE<sup>1</sup>

#### SECTION

- 12-201. Plumbing code adopted.
- 12-202. Amendments to code adopted.
- 12-203. Available in city hall.
- 12-204. Violations and penalty.
- 12-205. Appendices to the code adopted.

**12-201. Plumbing code adopted.** The International Plumbing Code,<sup>2</sup> 2012 edition, is hereby adopted as the official plumbing code of the city. (Ord. #642, Oct. 1997, as replaced by Ord. #847, July 2008, and Ord. #951, Dec. 2013)

**12-202. Amendments to code adopted.** The following sections and appendices of the International Plumbing Code, 2012 edition, are hereby amended, as hereinafter provided:

(1) Section 101.1 and 101.2 are deleted in their entirety and the following language is substituted in lieu thereof:

Section 101.1 Title. These regulations shall be known as the International Plumbing Code hereinafter referred to as "this code."

Section 101.2 Scope. The provisions of this code shall apply to the erection, installation, alteration, repairs, relocation, replacement, addition to, use or maintenance of plumbing systems within this jurisdiction. This code shall also regulate nonflammable medical gas, inhalation anesthetic, vacuum piping, nonmedical oxygen systems and sanitary and condensate vacuum collection systems. The installation of fuel gas distribution piping and equipment, fuel gas-fired water heaters and water heater venting systems shall be regulated by the International Fuel Gas Code. Provisions in the appendices shall not apply unless specifically adopted.

Exceptions: Detached one- and two-family dwellings and multiple single-family dwellings (townhouses) not more than tree stories high with separate

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<sup>1</sup>Municipal code references

Cross connections: title 18.

Street excavations: title 16.

Wastewater treatment: title 18.

Water and sewer system administration: title 18.

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

means of egress and their accessory structures shall comply with the International Residential Code.

(2) Section 106.1 is deleted in its entirety and the following language is substituted in lieu thereof:

106.1 When required. Any properly licensed contractor who desires 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 and 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 code official and obtain the required permit for the work.

(3) Section 106.5.3 and 106.5.4 are deleted in their entirety and the following new sections are substituted in lieu thereof:

Section 106.5.3 Expiration. Every permit issued by the code official under the provisions of this code shall expire by limitation and become null and void if the work authorized by such permit is not commenced within 180 days from the date of such permit, or if the work authorized by such permit is suspended or abandoned at any time after the work is commenced for a period of 180 days. Before such work can be recommenced, and new permit shall be first obtained.

Section 106.5.4 Extensions. Any permittee holding an unexpired permit shall have the right to apply for an extension of the time within which the permittee will commence work under that permit when work is unable to commence within the time required by this section for good and satisfactory reasons. The code official shall extend the time for action by the permittee for a period not exceeding 180 days if there is reasonable cause. No permit shall be extended more than once.

(4) Section 106.6.2 is deleted in its entirety and the following language is substituted in lieu thereof:

Section 106.6.2 Fee Schedule. The fees for all plumbing work shall be as indicated in the following schedule:

PERMIT FEES:

Issuance Fee	\$20.00
Administration Fee	5.00

Plus the following when provided:

Unprotected Fixtures	4.00
Water Heaters	4.00
Traps and Drains	4.00

Backflow Prevention Devices:	
Vacuum Breakers 1-5	4.00
Over 5	3.00
Reduced Pressure Devices 1-5	4.00
Over 5	3.00
Double Check Valve Assemblies 1-5	4.00
Over 5	3.00
Piping--New, Repair, Alt:	
Water Services	10.00
Water Distribution Lines	10.00
Drainage and/or Vent Lines	10.00
Building Sewers	10.00
Others	10.00
Sewer Connections:	
Sanitary Sewer	50.00
For Each Grease or Oil Interceptor	5.00
Reinspection Fee	25.00

All of the fees in this section shall be nonrefundable unless in the determination of the director of public safety. In such incidents any proportional refund shall be the sole discretion of the director of public safety.

(5) Section 106.6.3 entitled refunds is deleted in its entirety.

(6) Sections 108.4 and 108.5 are deleted in their entirety and the following language is substituted in lieu thereof:

Section 108.4 Violation penalties. Any person who shall violate a provision of this code or shall fail to comply with any of the requirements hereof or who shall erect, install, alter or repair plumbing work in violation of the approved construction documents or directive of the code official, or of a permit or certificate issued under the provisions of this code, shall be guilty of a municipal offense subject to the general penalty set forth in East Ridge City Code § 12-204. Each day that a violation continues after due notice has been served shall be deemed a separate offense.

Section 108.5 Stop work orders. Upon notice from the code official, work on any plumbing system that is being done contrary to the provisions of this code or in a dangerous or unsafe manner shall immediately cease. Such notice shall be in writing and shall be given to the owner of the property, or to the owner's agent, or to the person doing the work. The notice shall state the conditions under which work is authorized to resume. Where and emergency exists, the code official shall not be

required to give a written notice prior to stopping the work. Any person who shall continue any work in or about the structure after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be assessed a fine in accordance with general penalty provisions under East Ridge City Code § 12-204.

(7) Section 305.4.1 is amended by deleting said section in its entirety and substituting in lieu thereof the following:

Section 305.4.1. Sewer Depth, is amended by substituting the words "Twelve (12) inches" for the phrase "[NUMBER] inches (mm)" wherever such phrase appears within the subsection.

(8) Section 903.1 is deleted in its entirety and substituting in lieu thereof the following:

Section 903.1. Roof Extension, is amended by substituting the words "Six (6) inches" for the phrase "[NUMBER] inches (mm)" wherever such phrase appears within this subsection.

(9) Section 918 is amended as follows:

Section 918. Air Admittance Valves for Venting Plumbing Fixtures and Fixture Branches, is amended by adding a new Section 918.9 which shall read as follows:

"918.9 - Any use of air admittance valves on fixture branches is subject to the discretion and approval of the Chief Plumbing Official."

(10) Section 919. Engineering Vent Systems, is amended by deleting said section and all of its subsections in their entirety.

(11) Wherever the plumbing code refers to the "Chief Appointing Authority," the "Administrative Authority," it shall be deemed to be a reference to the city manager. Wherever "City Engineer," "Engineering Department," "Plumbing Official," or "Inspector" is named or referred to, it shall mean the person appointed by the city manager to administer and enforce the provisions of the plumbing code.

(12) Any reference to the International Sewage Disposal Code, and/or the International Electrical Code shall be deleted from the reference standards in chapter 13 of the International Plumbing Code and all such references shall be construed to reference the appropriate official codes adopted by the City of East Ridge. (Ord. #642, Oct. 1997, as replaced by Ord. #847, July 2008, and Ord. #951, Dec. 2013)

**12-203. Available in city hall.** Pursuant to the requirements of Tennessee Code Annotated, § 6-54-502 one (1) copy of the plumbing code has been placed on file in the city hall and shall be kept there for the use and inspection of the public. (Ord. #642, Oct. 1997, modified)

**12-204. Violations and penalty.** It shall be unlawful for any person to violate or fail to comply with any provision of the plumbing code as herein adopted by reference and modified. The violation of any section of this chapter shall be punishable by a penalty of up to five hundred dollars (\$500) for each offense. Each day a violation is allowed to continue shall constitute a separate offense. (1993 Code, § 4-204, modified)

**12-205. Appendices to the code adopted.** The following appendices to the International Plumbing Code, 2012 edition, and as further amended in this chapter, are hereby adopted as part of the official plumbing code of the city.

Appendix B - Rates of Rainfall.

Appendix C - Vacuum Drainage System.

Appendix D - Degree Day Temperature.

Appendix E - Sizing of Water Piping.

Appendix F - Structural Safety. (as added by Ord. #847, July 2008, and replaced by Ord. #951, Dec. 2013)

**CHAPTER 3****ELECTRICAL CODE**<sup>1</sup>**SECTION**

- 12-301. Electrical code adopted.
- 12-302. Available in city hall.
- 12-303. Permit required for doing electrical work.
- 12-304. Violations and penalty.
- 12-305. Enforcement.
- 12-306. Fees.
- 12-307. Amendments to the code adopted.

**12-301. Electrical code adopted.** The National Electrical Code of 2011 (NFPA 70: National Electrical Code, International Electrical Code<sup>2</sup> Series) is hereby adopted as the official electrical code of the city. Such code is adopted by reference pursuant to the provisions of Tennessee Code Annotated, §§ 6-54-501 through §6-54-506. All tables and examples included in the National Electrical Code of 2011 are adopted by the City of East Ridge except as amended by § 12-307. The provisions of such National Electrical Code shall be in full force and effect to the same extent as if such provisions were copied verbatim herein. (Ord. #642, Oct. 1997, as replaced by Ord. #873, April 2010, and Ord. #950, Dec. 2013)

**12-302. Available in city hall.** Pursuant to the requirements of Tennessee Code Annotated, § 6-54-502, one (1) copy of the electrical code has been placed on file in city hall and shall be kept there for the use and inspection of the public. (Ord. #642, Oct. 1997, modified)

**12-303. Permit required for doing electrical work.** No electrical work shall be done within the city until a permit therefor has been issued by the city. The term "electrical work" shall not be deemed to include minor repairs that do not involve the installation of new wire, conduits, machinery, apparatus, or other electrical devices generally requiring the services of an electrician. (1993 Code, § 4-303)

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<sup>1</sup>Municipal code reference

Fire protection, fireworks and explosives: title 7.

<sup>2</sup>Copies of this code (and any amendments) may be purchased from the National Fire Protection Association, Inc., Batterymarch Park, Quincy, Massachusetts 02269-9101.



**12-304. Violations and penalty.** It shall be unlawful for any person to do or authorize any electrical work or to use any electricity in such manner or under such circumstances as not to comply with this chapter and/or the requirements and standards prescribed by the electrical code. The violation of any section of this chapter shall be punishable by a penalty of up to five hundred dollars (\$500) for each offense. Each day a violation is allowed to continue shall constitute a separate offense. (1993 Code, § 4-304, modified)

**12-305. Enforcement.** The electrical inspector shall be such person as the city manager shall appoint or designate. It shall be his duty to enforce compliance with this chapter and the electrical code as herein adopted by reference. He is authorized and directed to make such inspections of electrical equipment and wiring, etc., as are necessary to insure compliance with the applicable regulations, and may enter any premises or building at any reasonable time for the purpose of discharging his duties. He is authorized to refuse or discontinue electrical service to any person or place not complying with this chapter and/or the electrical code. (1993 Code, § 4-305, modified)

**12-306. Fees.** Fees to be determined from time to time by resolution of East Ridge City Council. (Ord. #642, Oct. 1997, modified, as amended by Ord. #721, July 2001, and replaced by Ord. #873, April 2010, and Ord. #950, Dec. 2013)

**12-307. Amendments to the code adopted.** The following sections of the National Electrical Code, 2011 edition, are hereby amended, as hereinafter approved:

- (1) Sections 110.24(B) is deleted in their entirety;
- (2) Sections 210.12 is amended to delete said section in its entirety and substitute in lieu thereof.  
AFCI outlets shall be required in all bedrooms in any dwelling unit and shall be optional in all other rooms of a dwelling unit as previously required in section 210.2 of the National Electrical Code, 2005 Edition.
- (3) Section 210.19(A)(3) is amended to delete said section in its entirety and substitute in lieu thereof the requirement that all range taps shall be on separate wired circuits;
- (4) Sections 210.52.C(2) and (3) are deleted in their entirety;
- (5) Sections 210.52.C(5), all references to the paragraph entitled "Exception" is deleted in its entirety; and
- (6) Section 338.10(B) (4) (a) is deleted in their entirety. (as added by Ord. #873, April 2010, and replaced by Ord. #950, Dec. 2013)

## CHAPTER 4

### GAS CODE<sup>1</sup>

#### SECTION

- 12-401. Title and definitions.
- 12-402. Gas code adopted.
- 12-403. Appendices to the code adopted.
- 12-404. Amendments to code adopted.
- 12-405. Gas inspector and assistants.
- 12-406. License required.
- 12-407. [Deleted.]
- 12-408. [Deleted.]
- 12-409. Certificates.
- 12-410. [Deleted.]
- 12-411. Violations and penalty.

**12-401. Title and definitions.** This chapter and the code herein adopted by reference shall be known as the gas code of the city. The following definitions are provided for the purpose of interpretation and administration of the gas code.

(1) "Inspector" means the person appointed as inspector, and shall include each assistant inspector, if any, from time to time acting as such under this chapter by appointment of the city manager.

(2) "Person" means any individual, partnership, firm, corporation, or any other organized group of individuals.

(3) "Gas company" means any person distributing gas within the corporate limits or authorized and proposing to so engage.

(4) "Certificate of approval" means a document or tag issued and/or attached by the inspector to the inspected material, piping, or appliance installation, filled out, together with date, address of the premises, and signed by the inspector.

(5) "Certain appliances" means conversion burners, floor furnaces, central heating plants, vented wall furnaces, water heaters, and boilers.

**12-402. Gas code adopted.** The International Fuel Gas Code,<sup>2</sup> 2012 edition, one (1) copy of the gas code shall be kept on file in the office of the city

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<sup>1</sup>Municipal code reference

Gas system administration: title 19, chapter 2.

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

recorder for the use and inspection of the public, is hereby adopted as the official gas code of the city. (Ord. #642, Oct. 1997, as replaced by Ord. #846, July 2008, and Ord. #949, Dec. 2013)

**12-403. Appendices to the code adopted.** The following appendices to the International Fuel Gas Code, 2012 edition, and as further amended in this chapter, are hereby adopted as part of the official gas code of the city.

Appendix A - Sizing and capacities of gas piping.

Appendix B - Sizing of venting systems.

Appendix C - Exit Terminals, et al. (as replaced by Ord. #846, July 2008, and Ord. #949, Dec. 2013)

**12-404. Amendments to code adopted.** The following sections and appendices of the International Fuel Gas Code, 2012 edition, are hereby amended, as hereinafter provided:

(1) Section 101.1 and 101.2 are deleted in their entirety and the following language is substituted in lieu thereof:

Section 101.1 Title. These regulations shall be known as the International Fuel Gas Code hereinafter to as "this code."

Section 101.2 Scope. This code shall apply to the installation of fuel-gas piping systems, fuel-gas utilization equipment and related accessories in accordance with Sections 101.2.1 through 101.2.5.

Exceptions: Detached one- and two-family dwellings and multiple single-family dwellings (townhouses) not more than three stories high with separate means of egress and their accessory structures shall comply with the International Residential Code.

(2) Section 106.1 is deleted in its entirety and the following language is substituted in lieu thereof:

Section 106.1 When required. Any properly licensed contractor who desires to erect, install, enlarge, alter, repair, remove, convert or replace an installation regulated by this code, or to cause such work to be done, shall first make application to the code official and obtain the required permit for the work.

Exception: Where equipment replacements and repairs are required to be performed in an emergency situation, the permit application shall be submitted within the next working business day of the department of inspections.

(3) Section 106.3 is deleted in its entirety and the following language is substituted in lieu thereof:

Section 106.3. Application for permit. Each application for a permit, with the required fee, shall be filed with the code official on a form furnished for that purpose and shall contain a general description of the proposed work and its

location. The application shall be signed by the properly licensed contractor. The application shall indicate the proposed occupancy of all parts of the building and of that portion of the site or lot, if any, not covered by the building or structure and shall contain such other information required by the code official.

(4) Sections 106.5.3 and 106.5.4 are deleted in their entirety and the following is substituted in lieu thereof:

Section 106.5.3 Expiration. Every permit issued by the code official under the provisions of this code shall expire by limitation and become null and void if the work authorized by such permit is not commenced within 180 days from the date of such permit, or if the work authorized by such permit is suspended or abandoned at any time after the work is commenced for a period of 180 days. Before such work can be recommenced, a new permit shall be first obtained.

Section 106.5.4 Extensions. Any permittee holding an unexpired permit shall have the right to apply for an extension of the time within which the permittee will commence work under that permit when work is unable to commence within the time required by this section for good and satisfactory reasons. The code official shall extend the time for action by the permittee for a period not exceeding 180 days if there is reasonable cause. No permit shall be extended more than once.

(5) Section 106.5.2 is deleted in its entirety and the following language is substituted in lieu thereof:

Section 106.5.2 Fees. All fees are set forth in Gas Permit Fee Schedule below and shall be non-refundable.

**GAS PERMIT FEE SCHEDULE:**

Administration fee	\$5.00
Issuance fee	\$20.00
Items less than 125,000 BTU	\$ 3.00
125,000 -- less than 250,000 BTU	\$ 4.00
250,000--less than 400,000 BTU	\$ 5.00
400,000--less than 1,000,000 BTU	\$ 6.00
1,000,000--less than 5,000,000 BTU	\$10.00
Over 5,000,000 BTU	\$20.00

Permit fee is based on BTU input per object. If more than 5 objects per category, additional objects will be at the rate of \$2.00 each.

(6) Sections 106.6.3 Fee Refunds is deleted in its entirety.

(7) Sections 108.4 and 108.5 are amended by deleted said sections in their entirety and substituting in lieu thereof the following:

Section 108.4 Violation penalties. Any person who shall violate a provision of this code or shall fail to comply with any of the requirements thereof or who shall erect, install, alter or repair plumbing work in violation of the approved construction documents or directive of the code official, or of a permit or certificate issued under the provisions of this code, shall be guilty of a municipal offense subject to a fine assessed as a general penalty under East Ridge City Code § 12-411. Each day that a violation continues after due notice has been served shall be deemed a separate offense.

Section 108.5 Stop work orders. Upon notice from the code official, work on any gas/plumbing system that is being done contrary to the provisions of this code or in a dangerous or unsafe manner shall immediately cease. Such notice shall be in writing and shall be given to the owner of the property, or to the owner's agent, or to the person doing the work. The notice shall state the conditions under which work is authorized to resume. Where an emergency exists, the code official shall not be required to give a written notice prior to stopping the work. Any person who shall continue any work in or about the structure after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be liable to a fine assessed as a general penalty under East Ridge City Code § 12-411.

(8) Any reference to the International Sewage Disposal Code, and/or the International Electrical Code shall be deleted from the reference standards in chapter 8 of the International Fuel Gas Code and all such references shall be construed to reference the appropriate official codes adopted by the City of East Ridge. (as replaced by Ord. #846, July 2008, and Ord. #949, Dec. 2013)

**12-405. Gas inspector and assistants.** To provide for the administration and enforcement of the gas code, the office of gas inspector is hereby created. The inspector, and such assistants as may be necessary in the proper performance of the duties of the office, shall be appointed or designated by the city manager.

**12-406. License required.** In order to protect the public safety, no permit shall be issued for the installation of any gas appliance except to a master gas fitter licensed by Hamilton County and/or the City of Chattanooga who has paid the privilege taxes required by the laws of the state, the county, and the City of Chattanooga, is in good standing with the Board of Gas Examiners for the County and/or City of Chattanooga, and other applicable ordinances of East Ridge. (as replaced by Ord. #846, July 2008, and Ord. #949, Dec. 2013)

**12-407. [Deleted].** (1993 Code, § 4-403, as deleted by Ord. #846, July 2008, and Ord. #949, Dec. 2013)

**12-408. [Deleted].** (as deleted by Ord. #846, July 2008)

**12-409. Certificates.** The inspector shall issue a certificate of approval at the completion of the work for which a permit for consumer piping has been issued if after inspection it is found that such work complies with the provisions of the gas code. A duplicate of each certificate issued covering consumer's gas piping shall be delivered to the gas company and used as its authority to render gas service.

**12-410. [Deleted].** (Ord. #642, Oct. 1997, modified, as deleted by Ord. #846, July 2008)

**12-411. Violations and penalty.** Any person who shall violate or fail to comply with any of the provisions of the gas code shall be subject to a penalty of up to five hundred dollars (\$500) for each offense, or the license of such person may be revoked, or both fine and revocation of license may be imposed. (1993 Code, § 4-404, modified)

**CHAPTER 5**

**PROPERTY MAINTENANCE CODE**

**SECTION**

- 12-501. Property maintenance code adopted.
- 12-502. Amendments to code adopted.
- 12-503. Available in city hall.
- 12-504. Violations and penalty.
- 12-505. Supplemental provisions.

**12-501. Property maintenance code adopted.** Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506, and for the purpose of securing the public safety, health, and general welfare through structural strength, sanitation, adequate light, and ventilation in dwellings, apartment houses, rooming houses, and buildings, structures, or premises used as such, the International Property Maintenance Code,<sup>1</sup> 2012 edition, as prepared and adopted by the International Code Congress, is hereby adopted and incorporated by reference as a part of this code and is hereinafter referred to as the International Property Maintenance Code. (as replaced by Ord. #893, July 2011, and Ord. #953, Dec. 2013)

**12-502. Amendments to code adopted.** The following sections of the International Maintenance Code, 2012 edition, are hereby amended, as hereinafter provided:

(1) Section 101.1 is deleted in its entirety and the following language is substituted in lieu thereof;

Section 101.1 Title. These regulations shall be known as the International Property Maintenance Code hereinafter referred to as "this code."

(2) Section 103.5 is deleted in its entirety.

(3) Section 304.14 insert March 15 to October 15 where it says [DATE].

(4) Section 602.3 insert September 15 to April 15 where it says [DATE].

(5) Section 602.4 insert September 15 to April 15 where it says [DATE].

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

(6) Section 202 general definitions, wherever the International Property Maintenance Code refers to the Code Official it shall mean the person appointed or designated by the City Council to administer and enforce the provisions of the International Property Maintenance Code. Whenever the Department of Law is referred to it shall mean the city attorney. Whenever the Chief Appointing Authority is referred to it shall mean the city manager.

(7) Section 304.2 Weeds. Insert 12 inches where it says [Jurisdiction to insert height in inches].

(8) New Section Added 302.10 Care of Premises  
It shall be unlawful for the owner or occupant of a residential building, structure, or property to utilize the premises of such residential property for the open storage of any ice box, refrigerator, stove, glass, building material, building rubbish, dead trees or similar items. It shall be the duty and responsibility of every such owner or occupant to keep the premises of such residential property clean and to remove from the premises all such items listed above, including but not limited to weeds, dead trees, trash, garbage, etc., upon notice from the code official. (as replaced by Ord. #893, July 2011, and Ord. #953, Dec. 2013)

**12-503. Available in city hall.** Pursuant to the requirements of Tennessee Code Annotated, § 6-54-502, one (1) copy of the International Property Maintenance Code, 2012 edition, has been placed on file in city hall and shall be kept there for the use and inspection of the public. (as replaced by Ord. #893, July 2011, and Ord. #953, Dec. 2013)

**12-504. Violations and penalty.** Any person who shall violate a provision of the property maintenance code of the city, or fail to comply therewith, or with any of the requirements thereof, shall be prosecuted within the limits provided by state or local laws. Such fines shall be a fifty dollar (\$50.00) per day penal fine and five hundred dollars (\$500.00) in remedial fines for each violation, and shall hereafter be cited as the City of East Ridge general violations and penalty clause. Each day that a violation continues after due notice has been served shall be deemed a separate offense. (as replaced by Ord. #893, July 2011, and Ord. #953, Dec. 2013)

**12-505. Supplemental provisions.** The provisions of this chapter are supplemental to other ordinances of the City of East Ridge. The code official is authorized to use whichever ordinance provisions he/she deems appropriate to obtain compliance with property standards. (as added by Ord. #893, July 2011, and replaced by Ord. #953, Dec. 2013)



**CHAPTER 6**

**ENERGY CONSERVATION CODE**<sup>1</sup>

**SECTION**

12-601. Energy code adopted.

12-602.–12-604. Deleted.

**12-601. Energy code adopted.** The International Energy Conservation Code,<sup>2</sup> 2009 edition, one (1) copy of which is, and has been on file in the office of city hall for more than fifteen (15) days, is hereby adopted as the official energy code of the city. (as replaced by Ord. #947, Dec. 2013)

**12-602. – 12-604. [Deleted.]** (as deleted by Ord. #947, Dec. 2013)

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<sup>1</sup>Municipal code references

Fire protection, fireworks, and explosives: title 7.

Planning and zoning: title 14.

Streets and other public ways and places: title 16.

Utilities and services: titles 18 and 19.

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

## CHAPTER 7

### SWIMMING POOL CODE<sup>1</sup>

#### SECTION

12-701. Swimming pool code adopted.

12-702. Modifications.

12-703. Available in city hall.

12-704. Violations.

**12-701. Swimming pool code adopted.** Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-516, and for the purpose of setting standards for the design, construction, or installation, alteration, repair or alterations of swimming pools, public or private and equipment related thereto. The Standard Swimming Pool Code,<sup>2</sup> 1997 edition, as prepared and adopted by the Southern Building Code Congress International, Inc., is hereby adopted and incorporated by reference as a part of this code, and is hereinafter referred to as the swimming pool code. (Ord. #642, Oct. 1997, modified)

**12-702. Modifications. Definitions.** Whenever the swimming pool code refers to the "Administrative Authority," it shall be deemed to be a reference to the Building Official or his authorized representative. When the "Building Official" is named it shall, for the purposes of the swimming pool code, mean such person as the city manager has appointed or designated to administer and enforce the provisions of the swimming pool code.

**12-703. Available in city hall.** Pursuant to the requirements of the Tennessee Code Annotated, § 6-54-502, one (1) copy of the swimming pool code has been placed on file in city hall and shall be kept there for the use and inspection of the public.

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<sup>1</sup>Municipal code references

Fire protection, fireworks, and explosives: title 7.

Planning and zoning: title 14.

Streets and other public ways and places: title 16.

Utilities and services: titles 18 and 19.

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

**12-704. Violations.** It shall be unlawful for any person to violate or fail to comply with any provision of the swimming pool code as herein adopted by reference and modified.

## CHAPTER 8

### MECHANICAL CODE<sup>1</sup>

#### SECTION

- 12-801. Mechanical code adopted.
- 12-802. Modifications.
- 12-803. Available in city hall.
- 12-804. Violations.
- 12-805. Appendices to code adopted.
- 12-806. Amendments to code adopted.

**12-801. Mechanical code adopted.** The International Mechanical Code,<sup>2</sup> 2012 edition, is hereby adopted as the official mechanical code of the city. (Ord. #642, Oct. 1997, as replaced by Ord. #854, Oct. 2008, and Ord. #952, Dec. 2013)

**12-802. Modifications. Definitions.** Wherever the mechanical code refers to the "Building Department," "Mechanical Official," or "Building Official," or "Inspector" it shall mean the person appointed or designated by the city manager to administer and enforce the provisions of the mechanical code.

**12-803. Available in city hall.** Pursuant to the requirements of Tennessee Code Annotated, § 6-54-502, one (1) copy of the mechanical code has been placed on file in city hall and shall be kept there for the use and inspection of the public.

**12-804. Violations.** It shall be unlawful for any person to violate or fail to comply with any provision of the mechanical code as herein adopted by reference and modified.

**12-805. Appendices to code adopted.** The following appendices to the International Mechanical Code, 2012 edition, and as further amended in this chapter, are hereby adopted as part of the official mechanical code of the city.

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<sup>1</sup>Municipal code references

Street excavations: title 16.

Wastewater treatment: title 18.

Water and sewer system administration: title 18.

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

Appendix A--Combustion Air Openings. (as added by Ord. #854, Oct. 2008, and replaced by Ord. #952, Dec. 2013)

**12-806. Amendments to code adopted.** The following sections and appendices of the International Mechanical Code, 2012 edition, are hereby amended, as hereinafter provided:

(1) Section 101.1 as follows:

Section 101.1 Title. These regulations shall be known as the International Mechanical Code hereinafter referred to as "this code."

(2) Section 101.2 is amended as follows:

Section 101.2 Scope. This code shall regulate the design, installation, maintenance, alteration and inspection of mechanical systems that are permanently installed and utilized to provide control of environmental conditions and related processes within buildings. This code shall also regulate those mechanical systems, system components, equipment and appliances specifically addressed herein. The installation of fuel gas distribution piping and equipment, fuel gas-fired appliances and fuel gas-fired appliance venting systems shall be regulated by the International Fuel Gas Code.

Exceptions: Detached one- and two-family dwellings and multiple single-family dwellings (townhouses) not more than three stories high with separate means of egress and their accessory structures shall comply with the International Residential Code.

(3) Section 106.1 is amended as follows:

Section 106.1.1 When required. Any properly licensed contractor who desires to erect, install, enlarge, alter, repair, remove, convert or replace a mechanical system, the installation of which is regulated by this code, or to cause such work to be done, shall first make application to the code official and obtain the required permit for work.

Exception: Where equipment and appliance replacements or repairs must be performed in an emergency situation, the permit application shall be submitted within the next working business day of the department or mechanical inspection.

(4) Section 106.3 is amended as follows:

Section 106.3 Application for permit. Each application for a permit, with the required fee, shall be filed with the code official on a form furnished for that purpose and shall contain a general description of the proposed work and its location. The application shall be signed by the properly licensed contractor. The application shall indicate the proposed occupancy of all parts of the building and of that portion of the site or lot,

if any, not covered by the building or structure and shall contain such other information required by the code official.

(5) Section 106.5.2 is amended as follows:

Section 106.5.2 Fee Schedule. The fees for all mechanical work shall be as indicated in the following schedule:

**PERMIT FEES**

Administration Fee	\$ 5.00
Issuance Fee	\$10.00

Additional fees

Fee for inspecting heating, ventilating, ductwork, and air conditioning and refrigeration systems shall be \$20.00 for the first \$1,000.00, or fraction thereof, of valuation of the installation plus \$2.00 for each additional \$1,000.00 or fraction thereof.

Fee for inspecting repairs, alterations and additions to an existing system shall be \$5.00 plus \$2.00 for each \$1,000.00 or fraction thereof.

Fee for inspecting boilers (based upon BTU input):

33,000 BTU (1 BHp) to 165,000 (5 BHp)	\$ 5.00
165,001 BTU (5 BHp) to 330,000 (10 BHp)	\$10.00
330,001 BTU (10 BHp) to 1,165,000 (52 BHp)	\$15.00
1,165,001 BTU (52 BHp) to 3,300,000 (98 BHp)	\$25.00
Over 3,300,000 BTU (98 BHp)	\$35.00

Note: 1 KJ=1.055 BTU, 1 Bhp=33,475 Btuh

Fee for reinspection

In case it becomes necessary to make a reinspection of a heating, ventilation, air conditioning or refrigeration system, or boiler installation, the installer of such requirement shall pay a reinspection fee of \$25.00.

Temporary operation inspection fee

When preliminary inspection is requested for purposes of permitting temporary operation of a heating, ventilating, refrigeration, or air conditioning system, or portion thereof, a fee of \$5.00 shall be paid by the contractor requesting such preliminary inspection. If the system is not approved for temporary operation on the first preliminary inspection, the

usual reinspection fee shall be charged for each subsequent preliminary inspection for such purpose.

Self-contained units less than two tons

In all buildings, except one and two family dwellings, where self-contained air conditioning units of less than two tons are to be installed, the fee charged shall be that for the total cost of all units combined as listed under "additional fees" above.

All of the fees under Section 106.5.2 shall be nonrefundable. Any refund of fees shall be in the sole discretion of the Director of Public Safety.

(6) Section 106.4.3 and 106.4.4 are deleted in their entirety and the following language is substituted in lieu thereof:

Section 106.4.3 Expiration. Every permit issued by the code official under the provisions of this code shall expire by limitation and become null and void if the work authorized by such permit is not commenced within 180 days from the date of such permit, or if the work authorized by such permit is suspended or abandoned at any time after the work is commenced for a period of 180 days. Before such work can be recommenced, a new permit shall be first obtained.

Section 106.4.4 Extensions. Any permittee holding an unexpired permit shall have the right to apply for an extension of the time within which the permittee will commence work under that permit when work is unable to commence within the time required by this section for good and satisfactory reasons. The code official shall extend the time for action by the permittee for a period not exceeding 180 days if there is reasonable cause. No permit shall be extended more than once.

(7) Section 106.5.3 is deleted in its entirety.

(8) Sections 108.4 and 108.5 are amended as follows:

Section 108.4 Violation penalties. Any person who shall violate a provision of this code or shall fail to comply with any of the requirements thereof or who shall erect, install, alter or repair mechanical work in violation of the approved construction documents or directive of the code official, or of a permit or certificate issued under the provisions of this code, shall be guilty of a municipal offense subject to a fine assessed as a general penalty under East Ridge City Code § 12-804. Each day that a violation continues after due notice has been served shall be deemed a separate offense.

Section 108.5 Stop work orders. Upon notice from the code official, work on any mechanical system that is being done contrary to the

provisions of this code or in a dangerous or unsafe manner shall immediately cease. Such notice shall be in writing and shall be given to the owner of the property, or the owner's agent, or to the person doing the work. The notice shall state the conditions under which work is authorized to resume. Where an emergency exists, the code official shall not be required to give a written notice prior to stopping the work. Any person who shall continue any work in or about the structure after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be liable to a fine assessed as a general penalty under East Ridge City Code § 12-804.

(9) Any reference to the International Sewage Disposal Code, and/or the International Electrical Code shall be deleted from the reference standards in chapter 15 of the International Mechanical Code and all such references shall be construed to reference the appropriate official codes adopted by the City of East Ridge. (as added by Ord. #854, Oct. 2008, and replaced by Ord. #952, Dec. 2013)



## CHAPTER 9

### EXISTING BUILDING CODE<sup>1</sup>

#### SECTION

- 12-901. Existing building code adopted.
- 12-902. Amendments to code adopted.
- 12-903. Available in city hall.
- 12-904. Violations.
- 12-905. Appendices to the code adopted.
- 12-906. Modifications.

**12-901. Existing building code adopted.** Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-516, and for the purpose of providing a concise set of regulations and procedures to effect safety in occupancy, the International Existing Building Code,<sup>2</sup> 2006 edition, as prepared by the International Code Council, is adopted and the same is incorporated herein by reference, subject to modifications and amendments as hereinafter provided, and shall be known and referred to as the International Existing Building Code. (Ord. #642, Oct. 1997, modified, as replaced by Ord. #853, Oct. 2008)

**12-902. Amendments to code adopted.** The following sections of the International Existing Building Code, 2006 edition, are hereby amended as hereinafter provided:

(1) Section 101.1 is deleted in its entirety and the following language is substituted in lieu thereof:

Section 101.1 Title. These regulations shall be known as the International Existing Building Code hereinafter referred to as "this code."

(2) 1301.2 shall be amended by inserting 1973 where it says [Date to be inserted by jurisdiction]. (as replaced by Ord. #853, Oct. 2008)

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<sup>1</sup>Municipal code references

Fire protection, fireworks, and explosives: title 7.

Planning and zoning: title 14.

Streets and other public ways and places: title 16.

Utilities and services: titles 18 and 19.

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

**12-903. Available in city hall.** Pursuant to the requirements of the Tennessee Code Annotated, § 6-54-502, one (1) copy of the International Existing Building Code shall be placed on file in city hall and the same shall be kept there for the use and inspection of the public. (as replaced by Ord. #853, Oct. 2008)

**12-904. Violations.** It shall be unlawful for any person to violate or fail to comply with any provision of the International Existing Building Code, 2006 edition, or any final order made pursuant thereto. Such violation is declared an offense against the city and for which punishment shall be a fine of not more than fifty dollars (\$50.00) for each such violation. Each day that a violation occurs shall be deemed a separate offense. The building official or his or her deputy or assistant is empowered to issue citations to answer in the municipal court of the city by any person, firm or corporation found to be in such violation. (as replaced by Ord. #853, Oct. 2008)

**12-905. Appendices to code adopted.** The following appendices to the International Existing Building Code, 2006 edition, and as further amended in this chapter, are hereby adopted as part of the official existing buildings code of the city.

Appendix A -- Referenced Standards

Appendix B -- Supplementary Accessibility Requirements for Existing Buildings and Facilities. (as added by Ord. #853, Oct. 2008)

**12-906. Modifications.** Whenever the International Existing Building Code, 2006 edition, refers to the "Chief Appointing Authority" it shall be deemed to be a reference to the city manager of the city and whenever the same refers to the "Chief Administrator" it shall be deemed to be a reference to the mayor and city council. Whenever the International Existing Building Code shall refer to the "Building/Code Official" it shall mean such person designated by the city manager to administer and enforce the provisions of the various codes of the city. (as added by Ord. #853, Oct. 2008)

**CHAPTER 10**

**LANDSCAPE MANUAL**

**SECTION**

12-1001. Landscape manual adopted.

**12-1001. Landscape manual adopted.** The Landscape Ordinance Manual is adopted by reference as a part of this municipal code, and is available for review in the office of the city recorder. (as added by Ord. #874, April 2010)

## TITLE 13

### PROPERTY MAINTENANCE REGULATIONS<sup>1</sup>

#### CHAPTER

1. MISCELLANEOUS.
2. MOVING BUILDINGS.
3. SUB-STANDARD BUILDINGS OR STRUCTURES.

#### CHAPTER 1

#### MISCELLANEOUS

#### SECTION

- 13-101. Health officer.
- 13-102. Stagnant water.
- 13-103. Weeds.
- 13-104. Overgrown and dirty lots.
- 13-105. Dead animals.
- 13-106. Health and sanitation nuisances.
- 13-107. Violations and penalty.

**13-101. Health officer.** The "health officer" shall be such municipal, county, or state officer as the governing body shall appoint or designate to administer and enforce health and sanitation regulations within the municipality. (1993 Code, § 8-401)

**13-102. Stagnant water.** It shall be unlawful for any person to knowingly allow any pool of stagnant water to accumulate and stand on his property. (1993 Code, § 8-406)

**13-103. Weeds.** Every owner or tenant of property shall periodically cut the grass and other vegetation commonly recognized as weeds on his property, and it shall be unlawful for any person to fail to comply with an order by the city manager or chief of police to cut such vegetation when it has reached a height of over one (1) foot. (1993 Code, § 8-407)

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<sup>1</sup>Municipal code references

Animal control: title 10.

Air pollution control: appendix 2.

Littering streets, etc.: § 16-107.

Toilet facilities in beer places: § 8-211(10).

**13-104. Overgrown and dirty lots.**<sup>1</sup> (1) Prohibition. Pursuant to the authority granted to municipalities under Tennessee Code Annotated, § 6-54-113, it shall be unlawful for any owner of record of real property to create, maintain, or permit to be maintained on such property the growth of trees, vines, grass, underbrush and/or the accumulations of debris, trash, litter, or garbage or any combination of the preceding elements so as to endanger the health, safety, or welfare of other citizens or to encourage the infestation of rats and other harmful animals.

(2) Limitation on application. The provisions of this section shall not apply to any parcel of property upon which an owner-occupied residence is located.

(3) Designation of public officer or department. The board of mayor and aldermen shall designate an appropriate department or person to enforce the provisions of this section.

(4) Notice to property owner. It shall be the duty of the department or person designated by the city manager to enforce this section to serve notice upon the owner of record in violation of subsection (1) above, a notice in plain language to remedy the condition within ten (10) days (or twenty (20) days if the owner of record is a carrier engaged in the transportation of property or is a utility transmitting communications, electricity, gas, liquids, steam, sewage, or other materials), excluding Saturdays, Sundays, and legal holidays. The notice shall be sent by registered or certified United States Mail, addressed to the last known address of the owner of record. The notice shall state that the owner of the property is entitled to a hearing, and shall, at the minimum, contain the following additional information:

(a) A brief statement that the owner is in violation of § 13-104 of the East Ridge Municipal Code, which has been enacted under the authority of Tennessee Code Annotated, § 6-54-113, and that the property of such owner may be cleaned up at the expense of the owner and a lien placed against the property to secure the cost of the clean-up;

(b) The person, office, address, and telephone number of the department or person giving the notice;

(c) A cost estimate for remedying the noted condition, which shall be in conformity with the standards of cost in the city; and

(d) A place wherein the notified party may return a copy of the notice, indicating the desire for a hearing.

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<sup>1</sup>Municipal code reference

Section 13-103 applies to cases where the city wishes to prosecute the offender in city court. Section 13-104 can be used when the city seeks to clean up the lot at the owner's expense and place a lien against the property for the cost of the clean-up but not to prosecute the owner in city court.

(5) Clean-up at property owner's expense. If the property owner of record fails or refuses to remedy the condition within ten (10) days after receiving the notice (twenty (20) days if the owner is a carrier engaged in the transportation of property or is a utility transmitting communications, electricity, gas, liquids, steam, sewage, or other materials), the department or person designated by the board of mayor and aldermen to enforce the provisions of this section shall immediately cause the condition to be remedied or removed at a cost in conformity with reasonable standards, and the cost thereof shall be assessed against the owner of the property. Upon the filing of the notice with the office of the register of deeds in Hamilton County, the costs shall be a lien on the property in favor of the municipality, second only to liens of the state, county, and municipality for taxes, any lien of the municipality for special assessments, and any valid lien, right, or interest in such property duly recorded or duly perfected by filing, prior to the filing of such notice. These costs shall be placed on the tax rolls of the municipality as a lien and shall be added to property tax bills to be collected at the same time and in the same manner as property taxes are collected. If the owner fails to pay the costs, they may be collected at the same time and in the same manner as delinquent property taxes are collected and shall be subject to the same penalty and interest as delinquent property taxes.

(6) Appeal. The owner of record who is aggrieved by the determination and order of the public officer may appeal the determination and order to the board of mayor and aldermen. The appeal shall be filed with the city recorder within ten (10) days following the receipt of the notice issued pursuant to subsection (3) above. The failure to appeal within this time shall, without exception, constitute a waiver of the right to a hearing.

(7) Judicial review. Any person aggrieved by an order or act of the board of mayor and aldermen under subsection (5) above may seek judicial review of the order or act. The time period established in subsection (4) above shall be stayed during the pendency of judicial review.

(8) Supplemental nature of this section. The provisions of this section are in addition and supplemental to, and not in substitution for, any other provision in the municipal charter, this municipal code of ordinances or other applicable law which permits the city to proceed against an owner, tenant or occupant of property who has created, maintained, or permitted to be maintained on such property the growth of trees, vines, grass, weeds, underbrush and/or the accumulation of the debris, trash, litter, or garbage or any combination of the preceding elements, under its charter, any other provisions of this municipal code of ordinances or any other applicable law.

**13-105. Dead animals.** Any person owning or having possession of any dead animal not intended for use as food shall promptly bury the same or notify the health officer and dispose of such animal in such manner as the health officer shall direct. (1993 Code, § 8-408)

**13-106. Health and sanitation nuisances.** It shall be unlawful for any person to permit any premises owned, occupied, or controlled by him to become or remain in a filthy condition, or permit the use or occupation of same in such a manner as to create noxious or offensive smells and odors in connection therewith, or to allow the accumulation or creation of unwholesome and offensive matter or the breeding of flies, rodents, or other vermin on the premises to the menace of the public health or the annoyance of people residing within the vicinity. (1993 Code, § 8-409)

**13-107. Violations and penalty.** Violations of this chapter shall be punishable under the general penalty provision of this code. (1993 Code, § 8-412, modified)

## CHAPTER 2

### MOVING BUILDINGS

#### SECTION

13-201. Permit required.

13-202. Council to determine conditions of the move.

13-203. Bond required.

**13-201. Permit required.** A house moving permit shall be required before the relocation of a previously constructed building. Application for such permit shall be made to the city council and said council shall conduct a full and open hearing prior to issuance. The city council shall conduct an investigation into the impact of the proposed move and if it is determined that the move would constitute a significant and detrimental effect on the neighborhood in which the structure is to be moved the council shall refuse to issue such permit.

**13-202. Council to determine conditions of the move.** If the proposed move is found not to be detrimental to the existing neighborhood the council is empowered to impose such conditions it may deem appropriate including, but not limited to, a set time schedule for the completion of the work, set back requirements and times at which the move may take place.

**13-203. Bond required.** Parties that are granted a permit shall post a performance bond with the town of a form and type sufficient to guarantee the completion of the project within six (6) months, said bond not to be less than the appraised value of the structure.



## CHAPTER 3

### SUB-STANDARD BUILDINGS OR STRUCTURES

#### SECTION

- 13-301. Definition of terms.
- 13-302. Unlawful to rent certain buildings, etc.
- 13-303. Housing commission created.
- 13-304. Structural standard-defects enumerated.
- 13-305. Occupancy standards.
- 13-306. Rooming house standards.
- 13-307. Unfit structures declared public nuisances--repair or demolition.
- 13-308. Powers and duties of inspector.
- 13-309. Authority of commission.
- 13-310. Emergency demolition or repairs.
- 13-311. Mailing of notices.
- 13-312. Reports by police, fire and health employees.
- 13-313. Appeals from orders of the commission.
- 13-314. Certain insanitary practices prohibited.
- 13-315. Powers of inspector supplementary--applicability of article.
- 13-316. Penalties for violations.

**13-301. Definition of terms.** The following terms whenever used or referred to in this chapter shall have the following respective meanings, unless a different meaning clearly appears from the context:

- (1) "City," shall mean the City of East Ridge.
- (2) "Board," shall mean the City Council of the City of East Ridge.
- (3) "Inspector," shall mean the Housing Inspector of the City of East Ridge.
- (4) "Commission," shall mean the Housing Commission of the City of East Ridge elected to direct the inspector, and to hear and determine questions of fact, and to issue orders based upon facts determined after a hearing.
- (5) "Owner," shall mean the holder of a fee simple title and every trustee or mortgagee of record.
- (6) "Parties in interest," shall mean all individuals, associations and corporations who have an interest of record to a dwelling or building or who are in possession thereof.
- (7) "Dwelling," shall mean any building or structure or part thereof used and occupied for human habitation or intended to be so used, and includes any outhouses and appurtenances belonging thereto or usually enjoyed therewith.
- (8) "Dwelling unit," shall mean any room or group of rooms located within a dwelling and forming a single habitable unit with facilities which are used or intended to be used for living, sleeping, cooking or eating.

(9) "Rooming house," shall mean any dwelling or that part of any dwelling containing one or more rooming units, in which space is let by the owner or occupant to three or more persons who are not husband or wife, son or daughter, mother or father, sister or brother, of the occupant.

(10) "Rooming unit," shall mean any room or group of rooms forming a single habitable unit used or intended to be used for living and sleeping, but not for cooking or eating purposes.

(11) "Building," shall mean any structure or part thereof not a dwelling as above defined.

(12) "Structural alterations," shall mean any change, except for repair or replacement, in the supporting members of a building, such as bearing walls, columns, beams or girders.

(13) "Public record," shall mean deeds, deeds of trust, and other instruments of record in the Register's Office of Hamilton County, Tennessee.

(14) "Occupant," shall mean any person over eight (8) years of age living, sleeping, cooking, or eating in, or having actual possession of, a dwelling unit or rooming unit. (1993 Code, § 8-601, modified)

**13-302. Unlawful to rent certain building, etc.** It shall be unlawful for any owner or party in interest of a dwelling or of a building to rent or offer for rent any dwelling or building or rooming unit which is unfit for human habitation due to dilapidation, defects increasing the hazard of fire, accident or other calamities, lack of ventilation, light or sanitary facilities, and due to other conditions rendering such dwelling or building or rooming unit unsafe or insanitary or dangerous or detrimental to the health, safety or morals otherwise inimical to the welfare of the residents of the city. (1993 Code, § 8-602)

**13-303. Housing commission created.** There is hereby created and established a housing commission, to consist of five (5) residents of the city, to be appointed by the city council. The initial members of the board shall have staggered terms with two (2) having terms of one (1) year, two having terms of two (2) years and one having a term of three (3) years. The board members shall draw lots to determine their terms at the first meeting of the newly appointed board. Thereafter, as their terms expire, new members of the board shall be appointed for three (3) year terms. Said commission shall direct the inspector in the enforcement of the provisions of this chapter, and perform such other duties as are imposed upon them as hereinafter provided. Said members shall serve without compensation. Three (3) members shall constitute a quorum for the transaction of business. They shall meet in the assembly room at the city hall or at other convenient places of such times as may be necessary. Meetings may be called by the chairman or by two (2) members upon giving notice to all members. At the initial meeting for each year of the board's existence, the board shall nominate and elect a chairman and shall nominate and elect a secretary.

They shall keep a record of their proceedings and shall transmit copies of said record to the city council on a monthly basis. (1993 Code, § 8-603, modified)

**13-304. Structural standard-defects enumerated.** All dwellings or buildings, which have any or all of the following defects shall be deemed unfit for human habitation or dangerous buildings:

(1) Those whose walls or other vertical members list, lean or buckle to such an extent that a plumb line suspended from the top edge of such member shall fall outside of a distance of its base equal to one-third (1/3) the thickness of such member.

(2) Those which, exclusive of the foundation, have support member or members which have deteriorated to such an extent as to be unable to safely support the applied loads, or which have forty percent (40%) damage or deterioration of the non-supporting enclosing or outside walls or covering.

(3) Those which have improperly distributed loads upon the floors or roofs or in which the same are overloaded, or which have insufficient strength to be reasonably safe for the purpose used.

(4) Those which have been damaged by fire, wind or other causes so as to have become dangerous to life, safety, morals, or the general health and welfare of the occupants or the people of the city.

(5) Those which have parts thereof which are so attached that they may fall and injure persons or property.

(6) Those which do not have an unobstructed means of egress leading to an open space at ground level.

(7) Those which do not have the window area for each habitable room equal to at least ten percent (10%) of the total floor area of such room.

(8) Those which do not have ventilation provided by openable doors or windows equal to 4.5 percent of total floor area of each room, except where there is supplied some other device affording adequate ventilation, and approved by the inspector.

(9) Those which do not have screens to effectively cover all openable windows and doors provided under (8) of this section. These screens must have mesh with a maximum gauge of 14 x 18 and removable frames.

(10) Those having habitable rooms with a ceiling height less than seven (7) feet throughout one-half of the area of such room. Any portion of a room having a ceiling height less than five (5) feet high shall not be considered in computing the total floor area for such room.

(11) Those which do not have an installed kitchen sink in each dwelling unit properly connected to the hot and cold potable water supply pipes and the sewer system.

(12) Those which do not have an installed tub or shower and lavatory properly connected with a hot and cold water supply pipes and sewer system. This tub or shower and lavatory may be shared by two (2) dwelling units if:

(a) It is enclosed in a separate room affording privacy to the occupant;

(b) The habitable area of such dwelling unit shall not exceed more than two hundred (200) square feet of floor area.

(c) The fixtures are placed in a room used solely for toilet purposes and accessible without passing through the other dwelling unit or outside the dwelling.

(d) Those which do not have a flush type water closet located in a room affording privacy and properly connected to the water supply pipes and sewer system. This water closet may be shared by two (2) dwelling units if items (a), (b) and (c) of this section are complied with.

(13) Those which do not have installed electric lighting facilities consisting of at least two (2) separate wall type convenience outlets, or one (1) ceiling type fixture and one (1) wall type outlet for every habitable room, to be installed in accordance with the electrical code of the City of East Ridge.

(14) Those which, where heat is not furnished from a central heating plant, do not have fire-proof chimney flues so that heating equipment capable of adequately and safely heating habitable rooms can be operated. Heating equipment, whether installed by owner or occupant, must be properly vented and maintained in good order and repair.

(15) Those dwellings or buildings or rooming houses existing in violation of any provisions of the building code, health, plumbing, or other code sections or ordinances of the city. (1993 Code, § 8-604)

**13-305. Occupancy standards.** The number of persons occupying any dwelling unit shall be limited by the following requirements:

(1) Every sleeping room shall have at least seventy (70) square feet of floor space for the first occupant thereof and not less than thirty (30) square feet of floor space for each additional occupant.

(2) The total of all habitable rooms in a dwelling unit shall be such as to provide at least one hundred and fifty (150) square feet of floor space for the first occupant thereof and at least (50) additional square feet of floor space for each additional occupant thereof. Floor space shall be calculated in relation to ceiling heights as specified in § 13-304(10). (1993 Code, § 8-605)

**13-306. Rooming house standards.** No person shall operate a rooming house or shall let to another for occupancy any room unless such rooming house or room complies with the following requirements:

(1) Every rooming house and room shall be in compliance with the minimum standards set forth in § 13-304 (1), (2), (3), (4), (5), (7), (8) (9), (10), (14), (16), and § 13-305 (1).

(2) Every rooming house shall be equipped with at least one flush water closet, one lavatory and one tub or shower for each ten persons or fraction thereof within the rooming house, including members of the family if they are

to share the use of the facilities. In rooming houses in which rooms are let only to males, flush urinals may be substituted for not more than one-half of the required number of water closets. All such facilities shall be properly connected to the water supply and sewer system.

(3) Every flush water closet, flush urinal, lavatory, tub or shower required above shall be located within the rooming house in a room, or rooms, which:

- (a) Affords privacy;
- (b) Is accessible by a common hall without going outside of the rooming house;
- (c) Is accessible from a common hall without going through sleeping quarters of others;
- (d) Is not more than one story removed from the room of an occupant intended to share the facilities. (1993 Code, § 8-606)

**13-307. Unfit structures declared public nuisances--repair or demolition.** All dwellings or rooming houses unfit for human habitation and all dangerous buildings within the terms of § 13-304 of this chapter are hereby declared to be public nuisances, and shall be repaired or demolished and debris removed from site as hereinbefore and hereinafter provided. The following criteria shall be used by the housing inspector and the housing commissions in ordering repair or demolition:

(1) If the dwelling or rooming house unfit for human habitation or dangerous building can reasonably be repaired so that it will no longer exist in violation of the terms of this chapter, or other chapters of this code, it shall be ordered repaired.

(2) In any case where a dwelling or rooming house unfit for human habitation or a dangerous building is fifty percent (50%) damaged, or decayed, or deteriorated, it shall be demolished, and in all cases where a dwelling or a building or a rooming house cannot be repaired so that it will no longer exist in violation of the terms of this chapter, it shall be demolished. In all cases where a dwelling or a dangerous building or rooming house is a fire hazard--existing or erected in violation of the provisions of this chapter or any other chapter of this code or statute of the State of Tennessee--it shall be demolished. (1993 Code, § 8-607)

**13-308. Powers and duties of inspector.** The inspector shall:

(1) Have the right, upon showing proper identification, to enter, examine and survey at any reasonable time all dwellings, dwelling units, rooming houses or rooming units located within the city. The occupant of every dwelling, dwelling unit, rooming house or rooming unit, or the person in charge thereof, shall give the inspector free access to such dwelling, dwelling unit, rooming house or rooming unit, and its premises at all reasonable times for the purpose of such inspection, examination, and survey.

(2) Inspect any dwelling, building, rooming house, wall or structure about which complaints are filed by any person to the effect that a dwelling, building, rooming house, wall or structure is or may be existing in violation of this chapter.

(3) Inspect any dwelling, building, rooming house, wall or structure reported (as hereinafter provided for) by the fire or police department or department of health as probably existing in violation of the provisions of this chapter.

(4) Notify (in writing) the owner, occupant, lessee, mortgagee, agents, and all other persons having an interest in said dwelling, building, or rooming house, as shown by the public records, of any dwelling, building or rooming house found by him to be a dwelling unfit for human habitation or a dangerous building within the standards set forth in § 13-304 of this chapter, that:

(a) The owner must repair or demolish said dwelling, rooming house or building in accordance with the terms of the notice and this chapter;

(b) The occupant or lessee must vacate said dwelling, rooming house or building, or must have it repaired in accordance with the notice and remain in possession;

(c) The mortgagee, agent or other person having an interest in said dwelling, rooming house or building as shown by the public records, may, at his own risk, repair or demolish said dwelling, rooming house or building or have such work or act done; provided, that any person notified under this subsection to repair or demolish any dwelling, rooming house or building shall commence within a reasonable time, not exceeding thirty (30) days, and complete such work within a reasonable length of time as may be necessary to do, or have done, as required by the notice provided herein. The above time limits may be extended at the discretion of the housing commission.

(5) Set forth in the notice provided for in sub-section (4) of this section a description of the dwelling or building or rooming house deemed unsafe, a statement of the particulars which make the dwelling or rooming house unfit for human habitation or the building a dangerous building, and an order requiring the same to be put in such condition as to comply with the terms of this chapter.

(6) Report to the housing commissioners any noncompliance with the notice provided for in sub-sections (d) and (e) of this section.

(7) Appear at all hearing conducted by the housing commissioners and testify as to the condition of the dwellings or rooming houses unfit for human habitation and dangerous buildings.

(8) Place a notice on all dwellings or rooming houses unfit for human habitation and all dangerous buildings as follows:

**"THIS BUILDING HAS BEEN FOUND TO BE UNFIT FOR HUMAN HABITATION AND A DANGEROUS BUILDING BY THE INSPECTOR. THIS NOTICE IS TO REMAIN ON THIS BUILDING UNTIL IT IS**

REPAIRED OR DEMOLISHED IN ACCORDANCE WITH THE NOTICE WHICH HAS BEEN GIVEN THE OWNER, OCCUPANT, LESSEE, MORTGAGEE OR AGENT OF THIS BUILDING. IT IS UNLAWFUL TO REMOVE THIS NOTICE UNTIL SUCH NOTICE IS COMPLIED WITH. (1993 Code, § 8-608)

**13-309. Authority of commission.** The housing commission shall:

(1) Upon receipt of a report of the inspector, as provided in § 13-308(4) hereof, give written notice to the owner, occupant, mortgagee, lessee, agent, and all other persons having an interest in said dwelling or building, as shown by the public records, ordering them to appear before them on the date specified in the notice to show cause why the dwelling or building reported to be unfit for human habitation or a dangerous building should not be repaired or demolished in accordance with the statement of particulars set forth in the inspector's notice provided for herein in § 13-308(5). If a person notified fails to appear in person or through a representative, the commissioners shall hear testimony and notify such person of its decision. The commissioners, through their chairman or vice-chairman, shall have authority to issue subpoenas for witnesses and administer oaths. Any person duly served with a subpoena failing to appear shall be guilty of a misdemeanor, and punishable as such.

(2) Hold a hearing and hear such testimony as the inspector or the owner, occupant, mortgagee, lessee, or any other person having an interest in said building as shown by the public records, shall offer relative to the dwelling or rooming house being unfit for human habitation or dangerous building.

(3) Make written findings of fact from the testimony offered pursuant to sub-section (2) hereof as to whether or not the dwelling or rooming house is unfit for human habitation or the building in question is a dangerous building within the terms and provisions of § 13-304 hereof.

(4) Issue an order, based upon the findings of fact made pursuant to sub-section (3) of this section, commanding the owner, occupant, mortgagee, lessee, agent, and all other persons having an interest in said dwelling, rooming house or building, as shown by the public records, to repair or demolish any dwelling or rooming house found to be unfit for human habitation or any building found to be a dangerous building within the terms and provisions of this chapter, and provided that any person so notified shall have the privilege of either repairing dwelling, rooming house or building, or may demolish said dwelling or rooming house or building at his own risk to prevent the acquiring of a lien by the city against the land upon which said dwelling or rooming house or building stands, as provided in sub-section (5) hereof.

(5) If the owner, occupant, mortgagee, lessee or agent fails to comply with the order provided for in sub-section (4) hereof within ten (10) days, the housing commission shall cause such dwelling or rooming house or building to be repaired or demolished, as the facts may warrant, under the criteria hereinbefore provided for in § 13-308 of this chapter, and shall, with the

assistance of the city attorney, cause the cost of such repair or demolition to be charged against the land on which the building existed as a municipal lien, which lien shall be superior to all liens except liens for state, county and municipal taxes and municipal specific assessment, or to be recovered in a suit at law against the owner.

(6) Report to the city attorney the names of all persons not complying with the order provided for in sub-section (4) of this section.

(7) In addition to the powers granted above the housing commission shall also have the ability, at the option of inspector for the City of East Ridge, to send notices to those property owners and occupants that are violating any other section of this chapter.

(a) The housing commission members shall call attention to the inspector any properties in the City of East Ridge that appear to be violating the provisions of this chapter.

(b) The inspector shall notify the owner/occupant that they shall appear before the housing commission to address the violation.

(c) The housing commission shall hear proof and if they determine that a violation has occurred allow the owner/occupant a reasonable time in which to remedy any violations of this chapter.

(d) The housing commission shall monitor the progress of the owner/occupant in correcting the violation.

(e) Any owner/occupant that fails to remedy the violation within the time allowed by the commission shall be cited to the Municipal Court of the City of East Ridge by the inspector for said violation.

(f) At no time shall any member of the housing commission approach any owner/occupant directly regarding the condition of their property until such time as they are in a duly convened meeting of the commission and the property owner has been cited to appear before such board.

(g) Nothing in this subsection shall be construed to limit the inspectors ability to deal with violations of this chapter as provided elsewhere in this chapter. (1993 Code, § 8-609, as amended by Ord. #747, May 2003)

**13-310. Emergency demolition or repairs.** In cases where it reasonably appears that there is immediate danger to the life or safety or any person unless a dwelling, or rooming house, unfit for human habitation or a dangerous building, as defined in this chapter, is immediately repaired or demolished the inspector shall place a condemnation sign in the form prescribed by § 13-308(8) hereof upon said building and shall immediately report such facts to the housing commissioners, and the housing commissioners shall cause the immediate repair or demolition of such dwelling or rooming house or building, the cost of such emergency repair or emergency demolition of such dwelling or



rooming house or building shall be a lien upon the land, and be collected in the same manner as provided in § 13-309(5) of this chapter. (1993 Code, § 8-610)

**13-311. Mailing of notices.** In cases, except emergency cases, where the owner, occupant, lessee or mortgagee is absent from the city, all notices or orders provided for herein shall be sent by registered mail to the owner, occupant, mortgagee, lessee, and all other persons having an interest in said dwelling or rooming house or building as shown by the public records, to the last known address of each, and a copy of such notice shall be posted in a conspicuous place on the dwelling or rooming house or building to which it relates. (1993 Code, § 8-611)

**13-312. Reports by police, fire and health employees.** All employees of the police department, fire department, and health department of the city shall make a report in writing to the inspector of all dwellings or rooming houses or buildings which are, may be, or are probably unfit for human habitation or dangerous buildings within the provisions of this chapter. Such reports must be delivered to the inspector within twenty-four (24) hours of the discovery of such dwellings or rooming houses or buildings by the employees of said departments. (1993 Code, § 8-612)

**13-313. Appeals from orders of the commission.** The inspector, owner, occupant, mortgagee, lessee, and all other persons having an interest in any dwelling or rooming house or building as shown by the public records, may appeal from any final order of the housing commissioners to the city council by petition filed with the city manager within ten (10) days after the filing of the final order. Provided, that in the event no petition is filed with the city manager within ten (10) days, the order of the housing commissioners shall become final. In event of an appeal the city council shall hear the matter de novo. (1993 Code, § 8-613)

**13-314. Certain insanitary practices prohibited.** It shall be the duty of the inhabitant of any dwelling or rooming house or occupant of any building to keep that portion of the property which he occupies or over which he has exclusive control clean and free from any accumulation of dirt, filth, rubbish, garbage, or similar matter, and free from rodent or vermin infestation. All yards, lawns, and courts shall be similarly kept clear and free from rodent infestation. If the occupant shall fail to keep his portion of the property clean, the inspector shall send a written notice to the occupant to abate such nuisance within the time specified in said notice. Failure of occupant to comply with such notice shall be deemed a violation of this chapter, and upon conviction the occupant shall be subject to the penalties herein provided.

It shall be unlawful for any person willfully or maliciously to deposit any material in any toilet or bath tub or sink, or other plumbing fixture, which may

result in the obstruction of any sanitary sewer. This liability on the part of the occupant shall not relieve the owner of the responsibility of cleaning any resultant chokage, but shall subject the occupant to the penalties of this chapter upon proper proof of such willful or malicious act.

It shall be the duty of the owner to keep all dwellings and buildings painted at reasonable intervals, and no dwelling or building shall be allowed to become badly in need of paint.

No dwelling or building shall hereafter be constructed, or structurally altered without providing an enclosed foundation, and such foundation shall be of masonry construction. (1993 Code, § 8-614)

**13-315. Powers of inspector supplementary--applicability of article.** The powers conferred upon the inspector by the provisions of this chapter shall be in addition and supplemental to the powers conferred upon the inspector by any other ordinance or code provision. Nothing in this chapter shall be construed to impair or limit, in any way, the power of the city to define and declare nuisances and to cause their removal or abatement by summary proceedings or otherwise. The measures and procedures herein provided do not supersede, and this chapter does not repeal any other measures or procedures which are provided by the city code for the elimination, repair or correction of the conditions referred to in this chapter, but the measures and procedures herein provided for shall be in addition to all other powers and authority of the city or inspector. (1993 Code, § 8-615)

**13-316. Penalties for violations.** Any person, firm, or corporation, whether owner, occupant, lessee or mortgagee, violating or failing to comply with the provisions of this chapter or any notice or order issued pursuant to its provisions shall be deemed guilty of a misdemeanor, punishable in accordance with the general penalty clause in this code. (1993 Code, § 8-616)

**TITLE 14**

**ZONING AND LAND USE CONTROL**

**CHAPTER**

1. MUNICIPAL PLANNING COMMISSION.
2. ZONING ORDINANCE.
3. BOARD OF ZONING APPEALS.

**CHAPTER 1**

**MUNICIPAL PLANNING COMMISSION**

**SECTION**

- 14-101. Creation and membership.
- 14-102. Organization, powers, duties, etc.

**14-101. Creation and membership.** Pursuant to the provisions of Tennessee Code Annotated, § 13-4-101 there is hereby created a municipal planning commission, hereinafter referred to as the planning commission. The planning commission shall consist of five (5) members; two (2) of these shall be the mayor and another member of the city council selected by the city council; the other three (3) members shall be appointed by the mayor. All members of the planning commission shall serve as such without compensation. Except for the initial appointments, the terms of the three (3) members appointed by the mayor shall be for three (3) years each. The three (3) members first appointed shall be appointed for terms of one (1), two (2), and three (3) years respectively so that the term of one (1) member expires each year. The terms of the mayor and the member selected by the city council shall run concurrently with their terms of office. Any vacancy in an appointive membership shall be filled for the unexpired term by the mayor, who shall also have the authority to remove any appointive member at his will and pleasure. (1993 Code, § 11-101, as replaced by Ord. #900, Aug. 2011)

**14-102. Organization, powers, duties, etc.** The planning commission shall be organized and shall carry out its powers, functions, and duties in accordance with all applicable provisions of Tennessee Code Annotated, title 13. (as added by Ord. #900, Aug. 2011)

**CHAPTER 2**

**ZONING ORDINANCE**

**SECTION**

14-201. Land use to be governed by zoning ordinance.

**14-201. Land use to be governed by zoning ordinance.** Land use within the City of East Ridge shall be governed by Ordinance #481, titled "Zoning Ordinance, East Ridge, Tennessee," and any amendments thereto.<sup>1</sup>

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<sup>1</sup>Ordinance #481, and any amendments thereto, are published as separate documents and are of record in city hall.

Amendments to the zoning map are of record in city hall.

**CHAPTER 3****BOARD OF ZONING APPEALS****SECTION**

14-301. Board of zoning appeals.

**14-301. Board of zoning appeals.** There is hereby created and established a board of zoning appeals to consist of five (5) residents of the city, to be approved by the city council. Members of the board shall be appointed for three (3) year terms. The city council shall have power to remove any member of the board of zoning appeals for cause after public hearing. The powers and duties of the board of zoning appeals shall be as set forth in the East Ridge Zoning Regulations adopted in § 14-201. (1993 Code, § 11-202)

## TITLE 15

### MOTOR VEHICLES, TRAFFIC AND PARKING<sup>1</sup>

#### CHAPTER

1. MISCELLANEOUS.
2. EMERGENCY VEHICLES.
3. SPEED LIMITS.
4. TURNING MOVEMENTS.
5. STOPPING AND YIELDING.
6. PARKING.
7. ENFORCEMENT.

#### CHAPTER 1

#### MISCELLANEOUS<sup>2</sup>

#### SECTION

- 15-101. Motor vehicle requirements.
- 15-102. Driving on streets closed for repairs, etc.
- 15-103. Reckless driving.
- 15-104. One-way streets.
- 15-105. Unlaned streets.
- 15-106. Laned streets.
- 15-107. Yellow lines.
- 15-108. Miscellaneous traffic-control signs, etc.
- 15-109. General requirements for traffic-control signs, etc.
- 15-110. Unauthorized traffic-control signs, etc.
- 15-111. Presumption with respect to traffic-control signs, etc.
- 15-112. School safety patrols.
- 15-113. Driving through funerals or other processions.

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<sup>1</sup>Municipal code reference

Excavations and obstructions in streets, etc.: title 16.

<sup>2</sup>State law references

Under Tennessee Code Annotated, § 55-10-307, the following offenses are exclusively state offenses and must be tried in a state court or a court having state jurisdiction: driving while intoxicated or drugged, as prohibited by Tennessee Code Annotated, § 55-10-401; failing to stop after a traffic accident, as prohibited by Tennessee Code Annotated, § 55-10-101, et seq.; driving while license is suspended or revoked, as prohibited by Tennessee Code Annotated, § 55-7-116; and drag racing, as prohibited by Tennessee Code Annotated, § 55-10-501.

- 15-114. Clinging to vehicles in motion.
- 15-115. Riding on outside of vehicles.
- 15-116. Backing vehicles.
- 15-117. Projections from the rear of vehicles.
- 15-118. Causing unnecessary noise.
- 15-119. Vehicles and operators to be licensed.
- 15-120. Passing.
- 15-121. Abandoned and discarded vehicles.
- 15-122. Damaging pavements.
- 15-123. Motorcycles, motor driven cycles, motorized bicycles, bicycles, etc.
- 15-124. Delivery of vehicle to unlicensed driver, etc.
- 15-125. Prohibition of charitable roadblocks.
- 15-126. Compliance with financial responsibility law required.

**15-101. Motor vehicle requirements.** It shall be unlawful for any person to operate any motor vehicle within the corporate limits unless such vehicle is equipped with properly operating muffler, lights, brakes, horn, and such other equipment as is prescribed and required by Tennessee Code Annotated, title 55, chapter 9. (1993 Code, § 9-101)

**15-102. Driving on streets closed for repairs, etc.** Except for necessary access to property abutting thereon, no motor vehicle shall be driven upon any street that is barricaded or closed for repairs or other lawful purpose. (1993 Code, § 9-106)

**15-103. Reckless driving.** Irrespective of the posted speed limit, no person, including operators of emergency vehicles, shall drive any vehicle in willful or wanton disregard for the safety of persons or property. (1993 Code, § 9-107)

**15-104. One-way streets.** On any street for one-way traffic with posted signs indicating the authorized direction of travel at all intersections offering access thereto, no person shall operate any vehicle except in the indicated direction. (1993 Code, § 9-109)

**15-105. Unlaned streets.** (1) Upon all unlaned streets of sufficient width, a vehicle shall be driven upon the right half of the street except:

- (a) When lawfully overtaking and passing another vehicle proceeding in the same direction.
- (b) When the right half of a roadway is closed to traffic while under construction or repair.
- (c) Upon a roadway designated and signposted by the city for one-way traffic.

(2) All vehicles proceeding at less than the normal speed of traffic at the time and place and under the conditions then existing shall be driven as close as practicable to the right hand curb or edge of the roadway, except when overtaking and passing another vehicle proceeding in the same direction or when preparing for a left turn. (1993 Code, § 9-110)

**15-106. Laned streets.** On streets marked with traffic lanes, it shall be unlawful for the operator of any vehicle to fail or refuse to keep his vehicle within the boundaries of the proper lane for his direction of travel except when lawfully passing another vehicle or preparatory to making a lawful turning movement.

On two (2) lane and three (3) lane streets, the proper lane for travel shall be the right hand lane unless otherwise clearly marked. On streets with four (4) or more lanes, either of the right hand lanes shall be available for use except that traffic moving at less than the normal rate of speed shall use the extreme right hand lane. On one-way streets either lane may be lawfully used in the absence of markings to the contrary. (1993 Code, § 9-111)

**15-107. Yellow lines.** On streets with a yellow line placed to the right of any lane line or center line, such yellow line shall designate a no-passing zone, and no operator shall drive his vehicle or any part thereof across or to the left of such yellow line except when necessary to make a lawful left turn from such street. (1993 Code, § 9-112)

**15-108. Miscellaneous traffic-control signs, etc.**<sup>1</sup> It shall be unlawful for any pedestrian or the operator of any vehicle to violate or fail to comply with any traffic-control sign, signal, marking, or device placed or erected by the state or the city unless otherwise directed by a police officer.

It shall be unlawful for any pedestrian or the operator of any vehicle willfully to violate or fail to comply with the reasonable directions of any police officer. (1993 Code, § 9-113, modified)

**15-109. General requirements for traffic-control signs, etc.** All traffic-control signs, signals, markings, and devices shall conform to the latest

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<sup>1</sup>Municipal code references

Stop signs, yield signs, flashing signals, pedestrian control signs, traffic control signals generally: §§ 15-505--15-509.



revision of the Manual on Uniform Traffic Control Devices for Streets and Highways,<sup>1</sup> published by the U. S. Bureau of Public Roads, and shall, so far as practicable, be uniform as to type and location throughout the municipality. (1993 Code, § 9-114)

**15-110. Unauthorized traffic-control signs, etc.** No person shall place, maintain, or display upon or in view of any street, any unauthorized sign, signal, marking, or device which purports to be or is an imitation of or resembles an official traffic-control sign, signal, marking, or device or railroad sign or signal, or which attempts to control the movement of traffic or parking of vehicles, or which hides from view or interferes with the effectiveness of any official traffic-control sign, signal, marking, or device or any railroad sign or signal. (1993 Code, § 9-115)

**15-111. Presumption with respect to traffic-control signs, etc.** When a traffic-control sign, signal, marking, or device has been placed, the presumption shall be that it is official and that it has been lawfully placed by the proper authority. (1993 Code, § 9-116)

**15-112. School safety patrols.** All motorists and pedestrians shall obey the directions or signals of school safety patrols when such patrols are assigned under the authority of the city council and are acting in accordance with instructions; provided, that such persons giving any order, signal, or direction shall at the time be wearing some insignia and/or using authorized flags for giving signals. (1993 Code, § 9-117, modified)

**15-113. Driving through funerals or other processions.** Except when otherwise directed by a police officer, no driver of a vehicle shall drive between the vehicles comprising a funeral or other authorized procession while they are in motion and when such vehicles are conspicuously designated. (1993 Code, § 9-118)

**15-114. Clinging to vehicles in motion.** It shall be unlawful for any person traveling upon any bicycle, motorcycle, coaster, sled, roller skates, or any other vehicle to cling to, or attach himself or his vehicle to any other moving vehicle upon any street, alley, or other public way or place. (1993 Code, § 9-120)

**15-115. Riding on outside of vehicles.** It shall be unlawful for any person to ride, or for the owner or operator of any motor vehicle being operated

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<sup>1</sup>This manual may be obtained from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. or from the Tennessee Department of Transportation.

on a street, alley, or other public way or place, to permit any person to ride on any portion of such vehicle not designed or intended for the use of passengers. This section shall not apply to persons engaged in the necessary discharge of lawful duties nor to persons riding in the load-carrying space of trucks. (1993 Code, § 9-121)

**15-116. Backing vehicles.** The driver of a vehicle shall not back the same unless such movement can be made with reasonable safety and without interfering with other traffic. (1993 Code, § 9-122)

**15-117. Projections from the rear of vehicles.** Whenever the load or any projecting portion of any vehicle shall extend beyond the rear of the bed or body thereof, the operator shall display at the end of such load or projection, in such position as to be clearly visible from the rear of such vehicle, a red flag being not less than twelve (12) inches square. Between one-half ( $\frac{1}{2}$ ) hour after sunset and one-half ( $\frac{1}{2}$ ) hour before sunrise, there shall be displayed in place of the flag a red light plainly visible under normal atmospheric conditions at least two hundred (200) feet from the rear of such vehicle. (1993 Code, § 9-123)

**15-118. Causing unnecessary noise.** It shall be unlawful for any person to cause unnecessary noise by unnecessarily sounding the horn, "racing" the motor, or causing the "screeching" or "squealing" of the tires on any motor vehicle. (1993 Code, § 9-124)

**15-119. Vehicles and operators to be licensed.** It shall be unlawful for any person to operate a motor vehicle in violation of the "Tennessee Motor Vehicle Title and Registration Law" or the "Uniform Motor Vehicle Operators' and Chauffeurs' License Law." (1993 Code, § 9-125)

**15-120. Passing.** Except when overtaking and passing on the right is permitted, the driver of a vehicle passing another vehicle proceeding in the same direction shall pass to the left thereof at a safe distance and shall not again drive to the right side of the street until safely clear of the overtaken vehicle. The driver of the overtaken vehicle shall give way to the right in favor of the overtaking vehicle on audible signal and shall not increase the speed of his vehicle until completely passed by the overtaking vehicle.

When the street is wide enough, the driver of a vehicle may overtake and pass upon the right of another vehicle which is making or about to make a left turn.

The driver of a vehicle may overtake and pass another vehicle proceeding in the same direction either upon the left or upon the right on a street of sufficient width for four (4) or more lanes of moving traffic when such movement can be made in safety.

No person shall drive off the pavement or upon the shoulder of the street in overtaking or passing on the right.

When any vehicle has stopped at a marked crosswalk or at an intersection to permit a pedestrian to cross the street, the operator of any other vehicle approaching from the rear shall not overtake and pass such stopped vehicle.

No vehicle operator shall attempt to pass another vehicle proceeding in the same direction unless he can see that the way ahead is sufficiently clear and unobstructed to enable him to make the movement in safety.

No vehicle operator shall pass, in either direction, any school bus which has stopped for the purpose of loading or unloading passengers. (1993 Code, § 9-126)

**15-121. Abandoned and discarded vehicles.** (1) Definitions. The following definitions shall apply to the interpretation and enforcement of this section:

(a) "Property" shall mean any real property within the city which is not a street or highway or public right-of-way.

(b) "Vehicle" shall mean a machine propelled by power other than human power, designed to travel along the ground by use of wheels, treads, runners, or slides and transports persons or property or pulls machinery and shall include, without limitation, automobile, truck, trailer, motorcycle, tractor, buggy and wagon.

(2) Abandoning prohibited. No person shall abandon any vehicle within the city and no person shall leave any vehicle at any place within the city for such time and under such circumstances as to cause such vehicle reasonably to appear to have been abandoned.

(3) Leaving non-operating or junked vehicle on street prohibited. No person shall leave any partially dismantled, non-operating, wrecked, or junked vehicle on any street, alley or highway within the city, or on any public right-of-way.

(4) Allowing such vehicle on property. No person in charge or control of any property within the city, whether owner, tenant, occupant, lessee, or otherwise, shall allow any partially or wholly dismantled, non-operating, wrecked, junked, or discarded vehicle to remain on such property longer than seventy-two (72) hours; except that this section shall not apply with regard to a vehicle in an enclosed building; a vehicle on the premises of a business enterprise operated in a lawful place and manner when necessary to the operation of such business enterprise; or a vehicle in an appropriate storage place or depository maintained in a lawful place and manner by the city or other governmental authority.

(5) Removal of such vehicles. The chief of the police department, or any member of his department designated by him; or the superintendent of the department of public works or streets, or any member of his department designated by him, are hereby authorized to remove or have removed any

vehicle left at any place within the city which reasonably appears to be in violation of this section or is lost, stolen or unclaimed. Such vehicle shall be impounded at the cost of the owner until lawfully claimed or disposed of, with fees and storage costs as provided in § 15-102 of this code.

(6) Violations--penalties. Any person violating any of the provisions of this section shall be punished in accordance with the provisions of the general penalty clause in this code. (1993 Code, § 9-127)

**15-122. Damaging pavements.** No person shall operate upon any street of the municipality any vehicle, motor propelled or otherwise, which by reason of its weight or the character of its wheels or track is likely to damage the surface or foundation of the street. (1993 Code, § 9-119)

**15-123. Motorcycles, motor driven cycles, motorized bicycles, bicycles, etc.** (1) Definitions. For the purpose of the application of this section, the following words shall have the definitions indicated:

(a) "Motorcycle." Every motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three (3) wheels in contact with the ground, but excluding a tractor or motorized bicycle.

(b) "Motor-driven cycle." Every motorcycle, including every motor scooter, with a motor capacity that does not exceed five (5) brake horsepower, or with a motor with a cylinder capacity not exceeding one hundred and twenty-five cubic centimeters (125cc);

(c) "Motorized bicycle." A vehicle with two (2) or three (3) wheels, an automatic transmission, and a motor with a cylinder capacity not exceeding fifty (50) cubic centimeters which produces no more than two (2) brake horsepower and is capable of propelling the vehicle at a maximum design speed of no more than thirty (30) miles per hour on level ground.

(2) Every person riding or operating a bicycle, motor cycle, motor driven cycle or motorized bicycle shall be subject to the provisions of all traffic ordinances, rules, and regulations of the city applicable to the driver or operator of other vehicles except as to those provisions which by their nature can have no application to bicycles, motorcycles, motor driven cycles, or motorized bicycles.

(3) No person operating or riding a bicycle, motorcycle, motor driven cycle or motorized bicycle shall ride other than upon or astride the permanent and regular seat attached thereto, nor shall the operator carry any other person upon such vehicle other than upon a firmly attached and regular seat thereon.

(4) No bicycle, motorcycle, motor driven cycle or motorized bicycle shall be used to carry more persons at one time than the number for which it is designed and equipped.

(5) No person operating a bicycle, motorcycle, motor driven cycle or motorized bicycle shall carry any package, bundle, or article which prevents the rider from keeping both hands upon the handlebars.

(6) No person under the age of sixteen (16) years shall operate any motorcycle, motor driven cycle or motorized bicycle while any other person is a passenger upon said motor vehicle.

(7) Each driver of a motorcycle, motor driven cycle, or motorized bicycle and any passenger thereon shall be required to wear on his head a crash helmet of a type approved by the state's commissioner of safety.

(8) Every motorcycle, motor driven cycle, or motorized bicycle operated upon any public way within the corporate limits shall be equipped with a windshield or, in the alternative, the operator and any passenger on any such motorcycle, motor driven cycle or motorized bicycle shall be required to wear safety goggles, faceshield or glasses containing impact resistant lens for the purpose of preventing any flying object from striking the operator or any passenger in the eyes.

(9) It shall be unlawful for any person to operate or ride on any vehicle in violation of this section, and it shall also be unlawful for any parent or guardian knowingly to permit any minor to operate a motorcycle, motor driven cycle or motorized bicycle in violation of this section. (1993 Code, § 9-128, modified)

**15-124. Delivery of vehicle to unlicensed driver, etc.**

(1) Definitions. (a) "Adult" shall mean any person eighteen years of age or older.

(b) "Automobile" shall mean any motor driven automobile, car, truck, tractor, motorcycle, motor driven cycle, motorized bicycle, or vehicle driven by mechanical power.

(c) "Custody" means the control of the actual, physical care of the juvenile, and includes the right and responsibility to provide for the physical, mental, moral and emotional well being of the juvenile. "Custody" as herein defined, relates to those rights and responsibilities as exercised either by the juvenile's parent or parents or a person granted custody by a court of competent jurisdiction.

(d) "Drivers license" shall mean a motor vehicle operators license or chauffeurs license issued by the State of Tennessee.

(e) "Juvenile" as used in this chapter shall mean a person less than eighteen years of age, and no exception shall be made for a juvenile who has been emancipated by marriage or otherwise.

(2) It shall be unlawful for any adult to deliver the possession of or the control of any automobile or other motor vehicle to any person, whether an adult or a juvenile, who does not have in his possession a valid motor vehicle operators or chauffeurs license issued by the Department of Safety of the State of Tennessee, or for any adult to permit any person, whether an adult or a juvenile,

to drive any motor vehicle upon the streets, highways, roads, avenues, parkways, alleys or public thoroughfares in the City of East Ridge unless such person has a valid motor vehicle operators or chauffeurs license as issued by the Department of Safety of the State of Tennessee.

(3) It shall be unlawful for any parent or person having custody of a juvenile to permit any such juvenile to drive a motor vehicle upon the streets, highways, roads, parkways, avenues or public ways in the city in a reckless, careless, or unlawful manner, or in such a manner as to violate the ordinances of the city.

**15-125. Prohibition of charitable roadblocks.** It shall be unlawful for any person or organization to undertake to make solicitation for a charitable, or any other, purpose by soliciting funds or making sales on any street or highway of the City of East Ridge which involves persons standing or walking in the street and which involves slowing or impeding traffic upon any street. Such so-called "roadblocks" shall not be permitted under any circumstances in the City of East Ridge, Tennessee. (1993 Code, § 9-129)

**15-126. Compliance with financial responsibility law required.**

(1) (a) Every vehicle operated within the corporate limits must be in compliance with the financial responsibility law.

(b) At the time the driver of a motor vehicle is charged with any moving violation under title 55, chapters 8 and 10, parts 1-5, chapter 50; any provision in this title of this municipal code; or at the time of an accident for which notice is required under Tennessee Code Annotated, § 55-10-106, the officer shall request evidence of financial responsibility as required by this section. In case of an accident for which notice is required under Tennessee Code Annotated, § 55-10-106, the officer shall request such evidence from all drivers involved in the accident, without regard to apparent or actual fault.

(c) For the purposes of this section, "financial responsibility" means:

(i) Documentation, such as the declaration page of an insurance policy, an insurance binder, or an insurance card from an insurance company authorized to do business in Tennessee, stating that a policy of insurance meeting the requirements of the Tennessee Financial Responsibility Law of 1977, compiled in Tennessee Code Annotated, chapter 12, title 55, has been issued;

(ii) A certificate, valid for one (1) year, issued by the commissioner of safety, stating that a cash deposit or bond in the amount required by the Tennessee Financial Responsibility Law of 1977, compiled in Tennessee Code Annotated, chapter 12, title 55, has been paid or filed with the commissioner, or has qualified as a self-insurer under Tennessee Code Annotated, § 55-12-111, or

(iii) The motor vehicle being operated at the time of the violation was owned by a carrier subject to the jurisdiction of the department of safety or the interstate commerce commission, or was owned by the United States, the State of Tennessee or any political subdivision thereof, and that such motor vehicle was being operated with the owner's consent.

(2) Civil offense. It is a civil offense to fail to provide evidence of financial responsibility pursuant to this section. Any violation of this section is punishable by a civil penalty of up to fifty dollars (\$50.00). The civil penalty prescribed by this section shall be in addition to any other penalty prescribed by the laws of this state or by the city's municipal code of ordinances.

(3) Evidence of compliance after violation. On or before the court date, the person charged with a violation of this section may submit evidence of compliance with this section in effect at the time of the violation. If the court is satisfied that compliance was in effect at the time of the violation, the charge of failure to provide evidence of financial responsibility may be dismissed. (as added by Ord. #742, Feb. 2003, and replaced by Ord. #763, Jan. 2004)

**CHAPTER 2****EMERGENCY VEHICLES****SECTION**

- 15-201. Authorized emergency vehicles defined.
- 15-202. Operation of authorized emergency vehicles.
- 15-203. Following emergency vehicles.
- 15-204. Running over fire hoses, etc.

**15-201. Authorized emergency vehicles defined.** Authorized emergency vehicles shall be fire department vehicles, police vehicles, and such ambulances and other emergency vehicles as are designated by the chief of police. (1993 Code, § 9-102)

**15-202. Operation of authorized emergency vehicles.**<sup>1</sup> (1) The driver of an authorized emergency vehicle, when responding to an emergency call, or when in the pursuit of an actual or suspected violator of the law, or when responding to but not upon returning from a fire alarm, may exercise the privileges set forth in this section, subject to the conditions herein stated.

(2) The driver of an authorized emergency vehicle may park or stand, irrespective of the provisions of this title; proceed past a red or stop signal or stop sign, but only after slowing down to ascertain that the intersection is clear; exceed the maximum speed limit and disregard regulations governing direction of movement or turning in specified directions so long as he does not endanger life or property.

(3) The exemptions herein granted for an authorized emergency vehicle shall apply only when the driver of any such vehicle while in motion sounds an audible signal by bell, siren, or exhaust whistle and when the vehicle is equipped with at least one (1) lighted lamp displaying a red light visible under normal atmospheric conditions from a distance of 500 feet to the front of such vehicle, except that an authorized emergency vehicle operated as a police vehicle need not be equipped with or display a red light visible from in front of the vehicle.

(4) The foregoing provisions shall not relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons, nor shall such provisions protect the driver from the consequences of his reckless disregard for the safety of others. (1993 Code, § 9-103, modified)

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<sup>1</sup>Municipal code reference

Operation of other vehicle upon the approach of emergency vehicles:  
§ 15-501.



**15-203. Following emergency vehicles.** No driver of any vehicle shall follow any authorized emergency vehicle apparently travelling in response to an emergency call closer than five hundred (500) feet or drive or park such vehicle within the block where fire apparatus has stopped in answer to a fire alarm. (1993 Code, § 9-104)

**15-204. Running over fire hoses, etc.** It shall be unlawful for any person to drive over any hose lines or other equipment of the fire department except in obedience to the direction of a fireman or policeman. (1993 Code, § 9-105)

**CHAPTER 3**

**SPEED LIMITS**

**SECTION**

15-301. In general.

15-302. At intersections.

15-303. In school zones and near playgrounds.

**15-301. In general.** It shall be unlawful for any person to operate or drive a motor vehicle upon any highway or street at a rate in excess of twenty-five (25) miles per hour except where official signs have been posted indicating other speed limits, in which cases the posted speed limit shall apply. (1993 Code, § 9-201, as replaced by Ord. #884, Oct. 2010)

**15-302. At intersections.** It shall be unlawful for any person to operate or drive a motor vehicle through any intersection at a rate of speed in excess of fifteen (15) miles per hour unless such person is driving on a street regulated by traffic-control signals or signs which require traffic to stop or yield on the intersecting streets. (1993 Code, § 9-202)

**15-303. In school zones and near playgrounds.** It shall be unlawful for any person to operate or drive a motor vehicle through any school zone or near any playground at a rate of speed in excess of fifteen (15) miles per hour when official signs indicating such speed limit have been posted by authority of the municipality. This section shall not apply at times when children are not in the vicinity of a school and such posted signs have been covered by direction of the city manager or chief of police. (1993 Code, § 9-203)

## CHAPTER 4

**TURNING MOVEMENTS****SECTION**

15-401. Generally.

15-402. Right turns.

15-403. Left turns on two-way roadways.

15-404. Left turns on other than two-way roadways.

15-405. U-turns.

**15-401. Generally.** No person operating a motor vehicle shall make any turning movement which might affect any pedestrian or the operation of any other vehicle without first ascertaining that such movement can be made in safety and signaling his intention in accordance with the requirements of the state law.<sup>1</sup> (1993 Code, § 9-301)

**15-402. Right turns.** Both the approach for a right turn and a right turn shall be made as close as practicable to the right hand curb or edge of the roadway. (1993 Code, § 9-302)

**15-403. Left turns on two-way roadways.** At any intersection where traffic is permitted to move in both directions on each roadway entering the intersection, an approach for a left turn shall be made in that portion of the right half of the roadway nearest the center line thereof and by passing to the right of the intersection of the center line of the two roadways. (1993 Code, § 9-303)

**15-404. Left turns on other than two-way roadways.** At any intersection where traffic is restricted to one direction on one or more of the roadways, the driver of a vehicle intending to turn left at any such intersection shall approach the intersection in the extreme left hand lane lawfully available to traffic moving in the direction of travel of such vehicle and after entering the intersection the left turn shall be made so as to leave the intersection, as nearly as practicable, in the left hand lane lawfully available to traffic moving in such direction upon the roadway being entered. (1993 Code, § 9-304)

**15-405. U-turns.** U-turns are prohibited. (1993 Code, § 9-305)

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<sup>1</sup>State law reference

Tennessee Code Annotated, § 55-8-143.

## CHAPTER 5

### STOPPING AND YIELDING

#### SECTION

- 15-501. Upon approach of authorized emergency vehicles.
- 15-502. When emerging from alleys, etc.
- 15-503. To prevent obstructing an intersection.
- 15-504. At "stop" signs.
- 15-505. At "yield" signs.
- 15-506. At traffic-control signals generally.
- 15-507. At flashing traffic-control signals.
- 15-508. At pedestrian control signals.
- 15-509. Stops to be signaled.

**15-501. Upon approach of authorized emergency vehicles.**<sup>1</sup> Upon the immediate approach of an authorized emergency vehicle making use of audible and/or visual signals meeting the requirements of the laws of this state, or of a police vehicle properly and lawfully making use of an audible signal only, the driver of every other vehicle shall immediately drive to a position parallel to, and as close as possible to, the right hand edge or curb of the roadway clear of any intersection and shall stop and remain in such position until the authorized emergency vehicle has passed, except when otherwise directed by a police officer. (1993 Code, § 9-401)

**15-502. When emerging from alleys, etc.** The drivers of all vehicles emerging from alleys, parking lots, driveways, or buildings shall stop such vehicles immediately prior to driving onto any sidewalk or street. They shall not proceed to drive onto the sidewalk or street until they can safely do so without colliding or interfering with approaching pedestrians or vehicles. (1993 Code, § 9-402)

**15-503. To prevent obstructing an intersection.** No driver shall enter any intersection or marked crosswalk unless there is sufficient space on the other side of such intersection or crosswalk to accommodate the vehicle he is operating without obstructing the passage of traffic in or on the intersecting street or crosswalk. This provision shall be effective notwithstanding any traffic-control signal indication to proceed. (1993 Code, § 9-403)

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<sup>1</sup>Municipal code reference

Special privileges of emergency vehicles: title 15, chapter 2.

**15-504. At "stop" signs.** The driver of a vehicle facing a "stop" sign shall bring his vehicle to a complete stop immediately before entering the crosswalk on the near side of the intersection or, if there is no crosswalk, then immediately before entering the intersection, and shall remain standing until he can proceed through the intersection in safety. (1993 Code, § 9-404)

**15-505. At "yield" signs.** The drivers of all vehicles shall yield the right of way to approaching vehicles before proceeding at all places where "yield" signs have been posted. (1993 Code, § 9-405)

**15-506. At traffic-control signals generally.** Traffic-control signals exhibiting the words "Go," "Caution," or "Stop," or exhibiting different colored lights successively one at a time, or with arrows, shall show the following colors only and shall apply to drivers of vehicles and pedestrians as follows:

(1) Green alone, or "Go":

(a) Vehicular traffic facing the signal may proceed straight through or turn right or left unless a sign at such place prohibits such turn. But vehicular traffic, including vehicles turning right or left, shall yield the right-of-way to other vehicles and to pedestrians lawfully within the intersection or an adjacent crosswalk at the time such signal is exhibited.

(b) Pedestrians facing the signal may proceed across the roadway within any marked or unmarked crosswalk.

(2) Steady yellow alone, or "Caution":

(a) Vehicular traffic facing the signal is thereby warned that the red or "Stop" signal will be exhibited immediately thereafter, and such vehicular traffic shall not enter or be crossing the intersection when the red or "Stop" signal is exhibited.

(b) Pedestrians facing such signal shall not enter the roadway unless authorized so to do by a pedestrian "Walk" signal.

(3) Steady red alone, or "Stop":

(a) Vehicular traffic facing the signal shall stop before entering the crosswalk on the near side of the intersection or, if none, then before entering the intersection and shall remain standing until green or "Go" is shown alone. Provided, however, that generally a right turn on a red signal shall be permitted at all intersections within the city, provided that the prospective turning car comes to a full and complete stop before turning and that the turning car yields the right of way to pedestrians and cross traffic traveling in accordance with their traffic signal. However, said turn will not endanger other traffic lawfully using said intersection. A right turn on red shall be permitted at all intersections except those clearly marked by a "No Turns On Red" sign, which may be erected by the city at intersections which the city decides require no right turns on red in the interest of traffic safety.

(b) Pedestrians facing such signal shall not enter the roadway unless authorized so to do by a pedestrian "Walk" signal.

(4) Steady red with green arrow:

(a) Vehicular traffic facing such signal may cautiously enter the intersection only to make the movement indicated by such arrow but shall yield the right-of-way to pedestrians lawfully within a crosswalk and to other traffic lawfully using the intersection.

(b) Pedestrians facing such signal shall not enter the roadway unless authorized so to do by a pedestrian "Walk" signal.

(5) In the event an official traffic-control signal is erected and maintained at a place other than an intersection, the provisions of this section shall be applicable except as to those provisions which by their nature can have no application. Any stop required shall be made at a sign or marking on the pavement indicating where the stop shall be made, but in the absence of any such sign or marking the stop shall be made a vehicle length short of the signal. (1993 Code, § 9-406, modified)

**15-507. At flashing traffic-control signals.** Whenever an illuminated flashing red or yellow signal is used in a traffic sign or signal placed or erected by the municipality it shall require obedience by vehicular traffic as follows:

(1) Flashing red (stop signal). When a red lens is illuminated with intermittent flashes, drivers of vehicles shall stop before entering the nearest crosswalk at an intersection or at a limit line when marked, or if none, then before entering the intersection, and the right to proceed shall be subject to the rules applicable after making a stop at a stop sign.

(2) Flashing yellow (caution signal). When a yellow lens is illuminated with intermittent flashes, drivers of vehicles may proceed through the intersection or past such signal only with caution. (1993 Code, § 9-407)

**15-508. At pedestrian control signals.** Wherever special pedestrian control signals exhibiting the words "Walk" or "Wait" or "Don't Walk" have been placed or erected by the municipality, such signals shall apply as follows:

(1) "Walk." Pedestrians facing such signal may proceed across the roadway in the direction of the signal and shall be given the right-of-way by the drivers of all vehicles.

(2) "Wait or Don't Walk." No pedestrian shall start to cross the roadway in the direction of such signal, but any pedestrian who has partially completed his crossing on the walk signal shall proceed to the nearest sidewalk or safety zone while the wait signal is showing. (1993 Code, § 9-408)

**15-509. Stops to be signaled.** No person operating a motor vehicle shall stop such vehicle, whether in obedience to a traffic sign or signal or

otherwise, without first signaling his intention in accordance with the requirements of the state law,<sup>1</sup> except in an emergency. (1993 Code, § 9-409)

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<sup>1</sup>State law reference  
Tennessee Code Annotated, § 55-8-143.

## CHAPTER 6

### PARKING

#### SECTION

- 15-601. Generally.
- 15-602. Angle parking.
- 15-603. Occupancy of more than one space.
- 15-604. Where prohibited.
- 15-605. Loading and unloading zones.
- 15-606. Presumption with respect to illegal parking.
- 15-607. No parking on Germantown Interstate connector.
- 15-608. Parking of personal recreational vehicles prohibited in commercial parking lots.
- 15-609. Designation of no parking zones.

**15-601. Generally.** No person shall leave any motor vehicle unattended on any street without first setting the brakes thereon, stopping the motor, removing the ignition key, and turning the front wheels of such vehicle toward the curb or gutter of the street.

Except as hereinafter provided, every vehicle parked upon a street within this municipality shall be so parked that its right wheels are approximately parallel to and within eighteen (18) inches of the right edge or curb of the street. On one-way streets where the municipality has not placed signs prohibiting the same, vehicles may be permitted to park on the left side of the street, and in such cases the left wheels shall be required to be within eighteen (18) inches of the left edge or curb of the street.

Notwithstanding anything else in this code to the contrary, no person shall park or leave a vehicle parked on any public street or alley within the fire limits between the hours of 1:00 A.M. and 5:00 A.M. or on any other public street or alley for more than seventy-two (72) consecutive hours without the prior approval of the city manager or chief of police.

Furthermore, no person shall wash, grease, or work on any vehicle, except to make repairs necessitated by an emergency, while such vehicle is parked on a public street. (1993 Code, § 9-501)

**15-602. Angle parking.** On those streets which have been signed or marked by the municipality for angle parking, no person shall park or stand a vehicle other than at the angle indicated by such signs or markings. No person shall angle park any vehicle which has a trailer attached thereto or which has a length in excess of twenty-four (24) feet. (1993 Code, § 9-502)

**15-603. Occupancy of more than one space.** No person shall park a vehicle in any designated parking space so that any part of such vehicle occupies



more than one such space or protrudes beyond the official markings on the street or curb designating such space unless the vehicle is too large to be parked within a single designated space. (1993 Code, § 9-503)

**15-604. Where prohibited.** No person shall park a vehicle in violation of any sign placed or erected by the state or city, nor:

(1) On a sidewalk; provided, however, a bicycle may be parked on a sidewalk if it does not impede the normal and reasonable movement of pedestrian or other traffic.

(2) In front of a public or private driveway;

(3) Within an intersection;

(4) Within fifteen feet (15') of a fire hydrant;

(5) Within a pedestrian crosswalk;

(6) Within twenty feet (20') of a crosswalk at an intersection;

(7) Within thirty feet (30') upon the approach of any flashing beacon, stop sign or traffic control signal located at the side of a roadway;

(8) Within fifty feet (50') of the nearest rail of a railroad crossing;

(9) Within twenty feet (20') of the driveway entrance to any fire station, and on the side of the street opposite the entrance to any fire station within seventy-five feet (75') of such entrance when properly signposted;

(10) Alongside or opposite any street excavation or obstruction when stopping, standing or parking would obstruct traffic;

(11) On the roadway side of any vehicle stopped or parked at the edge or curb of a street;

(12) Upon any bridge or other elevated structure upon a highway or within a highway tunnel;

(13) In a parking space clearly identified by an official sign as being reserved for the physically handicapped, unless, however, the person driving the vehicle is (a) physically handicapped, or (b) parking such vehicle for the benefit of a physically handicapped person. A vehicle parking in such a space shall display a certificate of identification or a disabled veteran's license plate issued under Tennessee Code Annotated, title 55, chapter 21. (1993 Code, § 9-504, modified)

**15-605. Loading and unloading zones.** No person shall park a vehicle for any purpose or period of time other than for the expeditious loading or unloading of passengers or merchandise in any place marked by the municipality as a loading and unloading zone. (1993 Code, § 9-505)

**15-606. Presumption with respect to illegal parking.** When any unoccupied vehicle is found parked in violation of any provision of this chapter, there shall be a prima facie presumption that the registered owner of the vehicle is responsible for such illegal parking. (1993 Code, § 9-506)

**15-607. No parking on Germantown Interstate connector.** No person shall park any vehicle for any purpose or period of time upon the Germantown Interstate connector from Ringgold Road northwardly to Interstate 24. (1993 Code, § 9-507)

**15-608. Parking of personal recreational vehicles prohibited in commercial parking lots.** No person, business or other entity shall park any personal recreational vehicle in any commercial parking lot in the city for more than three (3) consecutive days without prior approval of the East Ridge City Manager. This section shall not apply to a person, business or other entity that regularly sells, cleans, rents or services personal recreational vehicles. (as added by Ord. #1005, Feb. 2016)

**15-609. Designation of no parking zones.** The city council shall from time to time designate no parking zones within the municipality by and through directing the placement of no parking signs along the streets and alleyways. The location of no parking signs shall be determined by action of the city council by motion and vote after consultation with, advice from and recommendation by the East Ridge City Traffic Engineer. Violation of the no parking zones placed by and within the municipality shall be a violation of the city code of East Ridge and enforcement thereof shall be in accordance therewith. Existing no parking zones, having heretofore been designated by and within the municipality prior to the passage of this section, are hereby determined to be in compliance with the provisions of this chapter. (Ord. #560, Aug. 1993, as renumbered by Ord. #1005, Feb. 2016)

**CHAPTER 7****ENFORCEMENT****SECTION**

- 15-701. Issuance of traffic citations.
- 15-702. Failure to obey citation.
- 15-703. Illegal parking.
- 15-704. Impoundment of vehicles.
- 15-705. Disposal of abandoned motor vehicles.
- 15-706. Deposit of driver's license in lieu of bail.
- 15-707. Violation and penalty.

**15-701. Issuance of traffic citations.**<sup>1</sup> When a police officer halts a traffic violator other than for the purpose of giving a warning, and does not take such person into custody under arrest, he shall take the name, address, and operator's license number of said person, the license number of the motor vehicle involved, and such other pertinent information as may be necessary, and shall issue to him a written traffic citation containing a notice to answer to the charge against him in the city court at a specified time. The officer, upon receiving the written promise of the alleged violator to answer as specified in the citation, shall release such person from custody. It shall be unlawful for any alleged violator to give false or misleading information as to his name or address. (1993 Code, § 9-602, modified)

**15-702. Failure to obey citation.** It shall be unlawful for any person to violate his written promise to appear in court after giving said promise to an officer upon the issuance of a traffic citation, regardless of the disposition of the charge for which the citation was originally issued. (1993 Code, § 9-603)

**15-703. Illegal parking.** Whenever any motor vehicle without a driver is found parked or stopped in violation of any of the restrictions imposed by this code, the officer finding such vehicle shall take its license number and may take any other information displayed on the vehicle which may identify its user, and shall conspicuously affix to such vehicle a citation for the driver and/or owner to answer for the violation within thirty (30) days during the hours and at a place specified in the citation. (1993 Code, § 9-604, modified)

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<sup>1</sup>Municipal code reference

Issuance of citations in lieu of arrest and ordinance summonses in non-traffic related offenses: title 6, chapter 3.

State law reference

Tennessee Code Annotated, § 7-63-101, et seq.

**15-704. Impoundment of vehicles.** Members of the police department are hereby authorized, when reasonably necessary for the security of the vehicle or to prevent obstruction of traffic, to remove from the streets and impound any vehicle whose operator is arrested or any unattended vehicle which is parked so as to constitute an obstruction or hazard to normal traffic, or which has been parked for more than one (1) hour in excess of the time allowed for parking in any place, or which has been involved in two (2) or more violations of this title for which citation tags have been affixed to the vehicle and the vehicle not removed. Any impounded vehicle shall be stored until the owner or other person entitled thereto claims it, gives satisfactory evidence of ownership or right to possession, and pays all applicable fees and costs of impoundment and storage, or until it is otherwise lawfully disposed of. (1993 Code, § 9-601, modified)

**15-705. Disposal of abandoned motor vehicles.** "Abandoned motor vehicles," as defined in Tennessee Code Annotated, § 55-16-103, shall be impounded and disposed of by the police department in accordance with the provisions of Tennessee Code Annotated, §§ 55-16-103 through 55-16-109.

**15-706. Deposit of driver's license in lieu of bail.** (1) Deposit allowed. Whenever any person lawfully possessing a chauffeur's or operator's license theretofore issued to him by the Tennessee Department of Safety, or under the driver licensing laws of any other state or territory or the District of Columbia, is issued a citation or arrested and charged with the violation of any city ordinance or state statute regulating traffic, except those ordinances and statutes, the violation of which call for the mandatory revocation of a operator's or chauffeur's license for any period of time, such person shall have the option of depositing his chauffeur's or operator's license with the officer or court demanding bail in lieu of any other security required for his appearance in the city court of this city in answer to such charge before said court.

(2) Receipt to be issued. Whenever any person deposits his chauffeur's or operator's license as provided, either the officer or the court demanding bail as described above, shall issue the person a receipt for the license upon a form approved or provided by the department of safety, and thereafter the person shall be permitted to operate a motor vehicle upon the public highways of this state during the pendency of the case in which the license was deposited. The receipt shall be valid as a temporary driving permit for a period not less than the time necessary for an appropriate adjudication of the matter in the city court, and shall state such period of validity on its face.

(3) Failure to appear - disposition of license. In the event that any driver who has deposited his chauffeur's or operator's license in lieu of bail fails to appear in answer to the charges filed against him, the clerk or judge of the city court accepting the license shall forward the same to the Tennessee Department of Safety for disposition by said department in accordance with the

provisions of Tennessee Code Annotated, § 55-50-801, et seq. (1993 Code, § 9-607, modified)

**15-707. Violation and penalty.** Any violation of this title shall be a civil offense punishable as follows:

(1) Traffic citations. Traffic citations shall be punishable by a civil penalty up to fifty dollars (\$50.00) for each separate offense.

(2) Parking violations excluding handicapped parking. For other parking violations, excluding handicapped parking violations, the offender may, within thirty (30) days, have the charge against him disposed of by paying to the city court clerk a fine of ten dollars (\$10.00) provided he waives his right to a judicial hearing. If he appears and waives his right to a judicial hearing after thirty (30) days but before a warrant is issued for his arrest, his civil penalty shall be twenty-five dollars (\$25.00).

## TITLE 16

### STREETS AND SIDEWALKS, ETC<sup>1</sup>

#### CHAPTER

1. MISCELLANEOUS.
2. EXCAVATIONS AND CUTS.
3. REGULATING CONSTRUCTION, EXCAVATING, AND GRADING ON PRIVATE PROPERTY.

#### CHAPTER 1

### MISCELLANEOUS

#### SECTION

- 16-101. Obstructing streets, alleys, or sidewalks prohibited.
- 16-102. Trees projecting over streets, etc., regulated.
- 16-103. Trees, etc., obstructing view at intersections prohibited.
- 16-104. Projecting signs and awnings, etc., restricted.
- 16-105. Banners and signs across streets and alleys restricted.
- 16-106. Gates or doors opening over streets, alleys, or sidewalks prohibited.
- 16-107. Littering streets, alleys, or sidewalks prohibited.
- 16-108. Obstruction of drainage ditches.
- 16-109. Abutting occupants to keep sidewalks clean, etc.
- 16-110. Parades, etc., regulated.
- 16-111. Animals and vehicles on sidewalks.

**16-101. Obstructing streets, alleys, or sidewalks prohibited.** No person shall use or occupy any portion of any public street, alley, sidewalk, or right of way for the purpose of storing, selling, or exhibiting any goods, wares, merchandise, or materials. (1993 Code, § 12-201)

**16-102. Trees projecting over streets, etc., regulated.** It shall be unlawful for any property owner or occupant to allow any limbs of trees on his property to project out over any street, alley or sidewalk at a height of less than fourteen (14) feet. (1993 Code, § 12-202)

**16-103. Trees, etc., obstructing view at intersections prohibited.** It shall be unlawful for any property owner or occupant to have or maintain on his property any tree, hedge, billboard or other obstruction which prevents

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<sup>1</sup>Municipal code reference

Related motor vehicle and traffic regulations: title 15.

persons driving vehicles on public streets or alleys from obtaining a clear view of traffic when approaching an intersection. (1993 Code, § 12-203)

**16-104. Projecting signs and awnings, etc., restricted.** Signs, awnings, or other structures which project over any street or other public way shall be erected subject to the requirements of the building code.<sup>1</sup> (1993 Code, § 12-204)

**16-105. Banners and signs across streets and alleys restricted.** It shall be unlawful for any person to place or have placed any banner or sign across any public street or alley except when expressly authorized by the city council. (1993 Code, § 12-205)

**16-106. Gates or doors opening over streets, alleys, or sidewalks prohibited.** It shall be unlawful for any person owning or occupying property to allow any gate or door to swing open upon or over any street, alley, or sidewalk. (1993 Code, § 12-206)

**16-107. Littering streets, alleys, or sidewalks prohibited.** It shall be unlawful for any person to litter, place, throw, or allow to fall on any street, alley, or sidewalk any refuse, glass, tacks, or other objects or materials which are unsightly or which obstruct or tend to limit or interfere with the use of such public ways and places for their intended purposes. (1993 Code, § 12-207)

**16-108. Obstruction of drainage ditches.** It shall be unlawful for any person to permit or cause the obstruction of any drainage ditch in any public right of way. (1993 Code, § 12-208)

**16-109. Abutting occupants to keep sidewalks clean, etc.** The occupants of property abutting on a sidewalk are required to keep the sidewalk clean. Also, immediately after a snow or sleet, such occupants are required to remove all accumulated snow and ice from the abutting sidewalk. (1993 Code, § 12-209)

**16-110. Parades, etc., regulated.** It shall be unlawful for any club, organization, or similar group to hold any meeting, parade, demonstration, or exhibition on the public streets without some responsible representative first securing a permit from the city manager. No permit shall be issued by the city manager unless such activity will not unreasonably interfere with traffic and unless such representative shall agree to see to the immediate cleaning up of all

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<sup>1</sup>Municipal code reference  
Building code: title 12, chapter 1.

litter which shall be left on the streets as a result of the activity. Furthermore, it shall be unlawful for any person obtaining such a permit to fail to carry out his agreement to clean up the resulting litter. (1993 Code, § 12-210)

**16-111. Animals and vehicles on sidewalks.** It shall be unlawful for any person to ride, lead, or tie any animal, or ride, push, pull, or place any vehicle across or upon any sidewalk in such manner as to unreasonably interfere with or inconvenience pedestrians using the sidewalk. It shall also be unlawful for any person to knowingly allow any minor under his control to violate this section. (1993 Code, § 12-211)



## CHAPTER 2

### EXCAVATIONS AND CUTS<sup>1</sup>

#### SECTION

- 16-201. Definitions.
- 16-202. Permit required.
- 16-203. Applications.
- 16-204. Fee.
- 16-205. Deposit or bond.
- 16-206. Insurance.
- 16-207. Manner of excavating--barricades and lights.
- 16-208. Manner of excavating street.
- 16-209. Restoration/repair.
- 16-210. Restoration/repair.
- 16-211. Supervision.
- 16-212. Liability and responsibility for repair.
- 16-213. Inspection.
- 16-214. Standards specification packet.
- 16-215. Pipe boring, tunneling and encasement.

**16-201. Definitions.** (1) "Building official." The person who shall serve as the supervisor for the inspection department or, in his absence, the person assigned or delegated direct responsibility for the administration of this chapter.

(2) "City engineer." The person then holding the position of city engineer or the person assigned or delegated direct responsibility for the administration of this chapter.

(3) "City inspector." A person employed by the city to physically inspect any excavation for conformity with the permit and other provisions of this chapter.

(4) "Emergency." A sudden or unexpected occurrence or condition calling for immediate action. The repair of a broken or malfunctioning utility line or services shall be deemed an emergency if a repair is reasonably warranted under existing circumstances prior to the next working day.

(5) "Excavation." Any excavation or tunneling of any public street right-of-way including, but not limited to, excavation in, cutting of, or tunneling of any street, sidewalk or curb for purposes of constructing or maintaining pipes,

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<sup>1</sup>State law reference

This chapter was patterned substantially after the ordinance upheld by the Tennessee Supreme Court in the case of City of Paris, Tennessee v. Paris-Henry County Public Utility District, 207 Tenn. 388, 340 S.W.2d 885 (1960).

lines, driveways, or private streets, poles, guy wires, signs, or other utility or private structure or facility.

(6) "M.U.T.C.D." State of Tennessee Manual on Uniform Traffic Control Devices for streets and highways. Available in the building official's office.

(7) "Traffic control supervisor." The person then holding the position of traffic control supervisor or such person as shall be assigned or delegated direct responsibility for the administration of this chapter.

(8) "Working days." Any day when the city hall is open for the transaction of normal business. (1993 Code, § 12-101, as replaced by Ord. #925, Aug. 2012)

**16-202. Permit required.** It shall be unlawful for any person to make any excavation in any street, curb, alley, or public right-of-way, or to tunnel under any street, curb, or public right-of-way in the city without first having obtained a permit from the building official and complying with the provisions of this section. It shall be unlawful to violate, or to vary from, the terms of any such permit; provided, however, any person maintaining pipes, lines, driveways, or other facilities in or under the surface of any public right-of-way may proceed with an excavation without a permit when emergency circumstances demand the work to be done immediately and provided further that the person shall apply for a permit thereafter on the next working day. (1993 Code, § 12-102, as replaced by Ord. #925, Aug. 2012)

**16-203. Applications.** Applications for such permits shall be made to the building official and shall state thereon the location of the intended excavation or tunnel, the size thereof, the purpose thereof, the name of the person doing the actual excavating, and the name of the person for whom the work is being done. The applicant shall disclose any foreseeable lane or sidewalk closures or detours during excavation. As a condition of issuing a permit, all applicants must agree in writing as part of the application to comply with all ordinances and laws relating to the work to be done. The building official may refer such application to the city engineer or traffic control supervisor for review and comment when a professional opinion on the propriety of issuing a permit or condition to attach thereto is needed. The action of the building official in granting or refusing a permit shall be final, except as it may be subject to review at law. A permit may be refused for the following reasons:

(1) The proposed excavation should be redesigned to mitigate a potential safety hazard;

(2) The proposed excavation should be redesigned to mitigate damage within the right-of-way;

(3) The proposed excavation cannot be safely made in the street right-of-way;

(4) The proposed restoration plan does not meet the minimum standards for restoration;

(5) The applicant has willfully failed to comply with conditions of prior permits issued to the applicant; provided that such disqualification shall be removed upon correction of any such defects. (1993 Code, § 12-103, as replaced by Ord. #925, Aug. 2012)

**16-204. Fee.** (1) The fee for such permits shall be two hundred dollars (\$200.00). This fee is to cover the costs of inspection of backfill, and asphalt or concrete patch of up to forty eight (48) square feet. Any excavation larger than forty-eight (48) square feet shall require an additional fee, to be determined by the traffic control supervisor based on the size of the excavation.

(2) In addition to the fee(s) set forth in subsection (1), there shall be an additional fee imposed when any street cut results in any section of a city street having street cut(s) that comprise twenty percent (20%) or more of any five hundred foot (500') section of that street.

(a) This additional fee will be equal to the city's cost of repaving that five hundred foot (500') section of that city street.

(b) This additional fee will be paid by the entity making the street cut. When more than one (1) entity is responsible for the street cuts within a particular five hundred foot (500') section, the additional fee shall be prorated between the entities making the street cuts on a percentage basis. The percentage assessed to each entity will be equal to their percentage of the total street cuts that exist within a particular five hundred foot (500') section. This assessment is illustrated by the following example: Assume Entity A makes a street cut in a particular city street that results in twenty percent (20%) or more of a five hundred foot (500') section of that city street having street cuts. Assume further that after this last street cut is made there are a total of fifteen (15) street cuts within that five hundred foot (500') section of that city street. Assume further that one (1) entity made ten (10) of those street cuts and another entity made five (5). The first entity would pay the city an amount equal to two-thirds (2/3) of the city's costs of repaving that five hundred foot (500') section of the city street, and the second entity would pay the remaining one-third (1/3). (1993 Code, § 12-104, modified, as amended by Ord. #721, July 2001, Ord. #749, June 2003, and replaced by Ord. #925, Aug. 2012)

**16-205. Deposit or bond.** No such permit shall be issued unless and until the applicant therefore has deposited with the city manager a cash deposit. The deposit shall be in the sum of five hundred dollars (\$500.00) if no pavement is involved or one thousand dollars (\$1,000.00) if the excavation is in a paved area and shall insure the proper restoration of the ground and, laying of the pavement, if any. Where the amount of the deposit is clearly inadequate to cover

the cost of restoration, the city manager may increase the amount of the deposit to an amount considered by him to be adequate to cover the cost. From this deposit shall be deducted the expense to the city of relaying the surface of the ground or pavement, and of making the refill if this is done by the city or at its expense. The balance shall be returned to the applicant without interest after the tunnel or excavation is completely refilled and the surface or pavement is restored.

In lieu of a deposit the applicant may deposit with the city manager a surety bond in such form and amount as the city manager shall deem adequate to cover the costs to the city if the applicant fails to make proper restoration. (1993 Code, § 12-105, modified, as replaced by Ord. #925, Aug. 2012)

**16-206. Insurance.** Each person applying for a permit shall file a certificate of insurance (or provide other proof in form and substance to be approved by the city attorney) indicating that he is insured, or the applicant shall provide an indemnity agreement with security satisfactory to the city attorney, against claims of personal injury or property damage which may arise from or out of the work, whether such performance be by the applicant, a contractor or subcontractor, or anyone employed by him. Such insurance or indemnity agreement shall cover collapse, explosive hazards, and underground work by equipment on the street, and shall include protection against liability arising from completed operations. The minimum amount of the liability insurance for bodily injury shall not be in an amount less than one hundred fifty dollars (\$150,000.00) for each person and three hundred fifty thousand dollars (\$350,000.00) for each accident and for property damages in an amount not less than fifty thousand dollars (\$50,000.00) for any one (1) accident and an aggregate of one hundred thousand dollars (\$100,000.00). (1993 Code, § 12-106, modified, as replaced by Ord. #925, Aug. 2012)

**16-207. Manner of excavating—barricades and lights.** Any person making an excavation or tunnel shall do so according to Manual on Uniform Traffic Control Devices requirements and the specifications and standards issued by the city. Sufficient and proper barricades, lights and other traffic control devices shall be maintained to prevent accidents and injury to persons or property. If any sidewalk is blocked, a temporary sidewalk shall be provided which shall be safe for travel and convenient for users. No work shall be done which deviates from the plans approved unless change of plan has been secured from the building official. All expenses of such safety measures and temporary sidewalks shall be borne by the applicant or owner. (1993 Code, § 12-107, as replaced by Ord. #925, Aug. 2012)

**16-208. Manner of excavating street.** (1) In excavating any street, all material for paving or ballasting must be removed with the least possible injury or loss of the same and, together with the excavated materials from the

trenches, must be placed where they will cause the least possible inconvenience to the public.

(2) The permittee shall carry on the work authorized by the permit in such manner as to cause a minimum of interference with traffic. The permittee shall provide adequate warning signs and devices to warn and guide traffic, and shall place the signs and warning devices in a position of maximum effectiveness. The latest editions of the Manual on Uniform Traffic Control Devices shall be used as a guideline for proper positioning of signs and devices.

(3) Where difficult or potentially hazardous conditions exist, competent Flagman shall be provided to effect a safe and orderly movement of traffic. Where insufficient traffic lanes exist because of street openings, adequate bridging shall be supplied by the permittee. When traffic congestion occurs in spite of all precaution, the permittee shall be responsible for providing a flagman. In the event the building official, traffic control supervisor or city engineer shall discover any hazardous excavation or unwarranted traffic congestion where flagmen have not been provided, he shall direct the permittee to immediately post flagmen. A failure to post flagmen following a directive shall be a violation of this section.

(4) On main thoroughfares and congested districts, sufficient traffic lanes shall be kept open at all times to permit substantially normal traffic flow. Unless this can be accomplished, work shall be done only during the period between 9:00 A.M. and 4:00 P.M. or between 7:00 P.M. and 7:00 A.M., as the city traffic control supervisor may designate. The permittee shall notify the city police and fire department prior to any lane closure occurrence.

(a) In excavating any street, all material for paving or ballasting must be removed with the least possible injury or loss of the same and, together with the excavated materials from the trenches, must be placed where they will cause the least possible inconvenience to the public. All pavements, where trench excavations are to be made, shall be saw cut. Cutting the street with a jackhammer or a hoe-ram is not permitted.

(b) The permittee shall carry on the work authorized by the permit in such manner as to cause a minimum of interference with traffic. He shall provide adequate warning signs and devices to warn and guide traffic, and shall place the signs and warning devices in a position of maximum effectiveness. The latest editions of the Manual on Uniform Traffic Control Devices, copies of which are on file in the traffic control department, and may be used as a guideline for proper positioning of signs and devices.

(c) Where difficult or potentially hazardous conditions exist, competent flagmen shall be provided to effect a safe and orderly movement of traffic. Where insufficient traffic lanes exists because of street openings, adequate bridging shall be supplied by the permittee. When traffic congestion occurs in spite of all precaution, the permittee

shall be responsible for providing a flagman. In the event the building official or traffic control supervisor shall discover any hazardous excavation or unwarranted traffic congestion where flagmen have not been provided, he shall direct the permittee to immediately post flagmen. A failure to post flagmen following a directive shall be a violation of this chapter.

(d) For backfill in roadway areas, the contractor shall provide six inches (6") of graded aggregate base above the utility's main line. From top of graded aggregate base backfill to bottom of paving, the backfill materials shall be flowable fill with a compressive strength of 200-250 psi in forty-eight (48) hours. Flowable fill shall be placed a minimum of forty-eight (48) hours prior to the placing of the asphalt or concrete topping. Where it is impractical to use flowable fill because of terrain, slope, width of trench, or other situations, the materials for the backfill in the roadway areas may be approved for cement treated aggregate base at the sole discretion of the city building official. Each eight inch (8") layer of backfill shall be thoroughly compacted by means of a mechanical tamp. Other backfill materials may be acceptable, but prior approval for the substitution shall be determined by the city building official or his designee.

(e) Backfill for trenches within the sidewalk areas shall be compacted graded aggregate base instead of loose washed stone. Each eight inch (8") layer of graded aggregate base shall be thoroughly compacted by means of mechanical tamp.

(f) If a perpendicular cut reaches the centerline of the roadway, the asphalt must be replaced from curb to curb and a minimum of ten feet (10') on each side of the centerline of the excavation. (1993 Code, § 12-108, as replaced by Ord. #925, Aug. 2012)

**16-209. Restoration/repair.** Upon issuance of each permit, the building official shall specify minimum restoration standards applicable to the manner of excavating the street. (1993 Code, § 12-109, as replaced by Ord. #925, Aug. 2012)

**16-210. Maintenance.** Any person who shall properly make any excavation or other change to the street right-of-way, and shall have same inspected by the building official or his designee and shall be relieved from any liability for any defects due to inadequate workmanship or defective materials provided the excavation shall remain free from defects for twelve (12) months following installation. This is subject at all times during this twelve (12) month period to the approval of building official. In the event the permittee fails to maintain such restoration, after having received written notice from the building official, the building official will instruct the permittee's bonding agent

to cause the proper restoration to be performed for the period required herein. (1993 Code, § 12-110, as replaced by Ord. #925, Aug. 2012)

**16-211. Supervision.** The traffic control supervisor or his designees shall inspect all excavations and tunnels being made in or under any public street, alley, sidewalk or other public place in the city, and shall be responsible for the enforcement of the provisions of this chapter. Notice shall be given to him or his designees at least two (2) hours before the work of refilling any such excavation or tunnel commences. The traffic control supervisor or his designees are hereby authorized to issue stop work orders on any job where the excavation or refilling is not being carried out safely, or in compliance with this chapter.

The city engineer and/or traffic control supervisor shall prepare and provide standard specifications for routine circumstances, which may be specifically referenced in the permit. Provided that where the work involved is greater in scope than provided for standard specifications as determined by the building official, the city engineer or the traffic control supervisor, the permittee shall be required to submit suitable plans of installation and street restoration for approval prior to the issuance of a permit.

The permittee shall replace or repair any portion of the right-of-way, embankment, pavement, shoulders, highway bridges and drainage structures, guardrail, private driveways, access roads or ramps or any other part of said street which may be disturbed or damaged.

All debris, refuse and waste of any kind, which have accumulated upon the right-of-way as a result of construction, shall be removed immediately upon completion of construction operations. (1993 Code, § 12-111, as replaced by Ord. #925, Aug. 2012)

**16-212. Liability and responsibility for repair.** Any person who shall make any excavation or other change to the street right-of-way shall be responsible for any defects which shall occur to any public facility due to inadequate workmanship or defective materials for as long as the public facility exists. Where excavating is done in the streets for the purpose, at the insistence of and for the benefit of the abutting owner, said abutting property owner and the person doing said work shall be jointly, severally and strictly liable and responsible for the proper and sufficient repair of said street. The building official, or his designees shall notify the applicant or owner of the need for repairs, except in the case of an emergency, and shall direct that such defect be corrected within a reasonable time. If the applicant or owner fails to make such repairs, fails to complete the work within the time limits of the permit, or in the event of an emergency requiring prompt action to protect the public health, safety or welfare, then the city shall make the repairs or corrections at the expense of the applicant or owner. (as added by Ord. #925, Aug. 2012)

**16-213. Inspection.** It shall be the responsibility of any person granted a permit to schedule an inspection of the permitted work by the city's inspector upon such conditions as may be specified in the permit. The utility or contractor making any changes to a city right-of-way, shall, at a minimum, have the following inspections performed by the city's inspector:

(a) After the repairs or installation of the new conduit or piping and before the graded aggregate base fill over the pipe has been placed;

(b) During the placement of the flowable fill or other approved fill is the sole discretion of the city engineer; and

Final completion:

(c) Should inspections be required after normal working hours or on weekends, the contractor or utility making the changes to the city right-of-way, shall reimburse the city for the inspector's time at a rate to be determined in accordance with the personnel policies in effect at the time the repairs are performed.

(d) When it is determined that improper work has been performed in the city's right-of-way, the contractor or utility responsible for the work shall remove improper work and reinstall the work in accordance with the city standards. If a permit was not obtained, the contractor or utility shall purchase a permit and the fee shall be double the normal fee. No future permits will be issued to the violating contractor or utility until the improper work has been corrected. (as added by Ord. #925, Aug. 2012)

**16-214. Standard Specifications Packet.** The Standard Specifications Packet can be obtained in the codes enforcement and inspection office, located at East Ridge City Hall. (as added by Ord. #925, Aug. 2012)

**16-215. Pipe boring, tunneling and encasement.** Boring across roadways:

(1) Boring under and across roadways shall be the preferred method for installing utility lines across city owned or maintained streets.

(2) Roadway bores of two-inches and less in diameter shall be installed at a minimum depth of twenty-four inches (24") below the pavement surface.

(3) Roadway bores of greater than two-inches in diameter shall be installed at a minimum depth of thirty-six inches (36") below the pavement surfaced.

(4) The utility shall submit a list of all proposed roadway boring locations to the traffic control supervisor for approval at least three (3) days prior to installation. In emergency or service calls the utility must notify the traffic control supervisor as soon as possible.

(5) Roadway borings shall not be performed without prior written approval of the traffic control supervisor, except in emergencies or service work as outlined in subsection (4) above. (as added by Ord. #925, Aug. 2012)



**CHAPTER 3****REGULATING CONSTRUCTION, EXCAVATING, AND GRADING  
ON PRIVATE PROPERTY****SECTION**

- 16-301. Care of building sites.
- 16-302. Care of excavated materials.
- 16-303. Damage to streets or ditches.
- 16-304. Protection of drainage ditches, drainage facilities, and water courses.
- 16-305. Protection of adjacent streets.
- 16-306. Penalties.
- 16-307. Action over by the city for any judgment against it.

**16-301. Care of building sites.** Every owner or contractor to whom a building permit has been issued for the construction of, the addition to, or the repair of, any structure in the City of East Ridge, Tennessee, and every owner or contractor doing any type of excavation or grading on any property in East Ridge, Tennessee, shall maintain the construction site in a clean and orderly manner so as to prevent debris, rubbish, or excavated earth from being blown, washed, or carried in any manner from the building site to adjoining properties or to adjoining streets or roads of the City of East Ridge, Tennessee. (1993 Code, § 12-501)

**16-302. Care of excavated materials.** All materials excavated or graded from building or other sites and all construction debris and rubbish shall be piled and maintained in such manner as not to endanger any person properly using a street adjacent to the building site and so as to prevent washing, falling or silting of such materials into drainage ditches or water courses adjacent to the construction site and so as to prevent the washing, falling or sitting of such materials onto the surface of any adjacent road or street. (1993 Code, § 12-502)

**16-303. Damage to streets or ditches.** All damage done to adjacent streets or ditches or drainage facilities during the progress of the construction shall be repaired by the permittee, owner or contractor. Either the city manager or the city building inspector shall have the authority to order the correction of any such damage done to streets, ditches or drainage facilities. If the permittee, owner or contractor shall fail to comply with the order within twenty-four (24) hours, the city manager shall have the authority to cause all necessary labor and materials to be furnished by the city for the correction of such damage and the costs thereof shall be charged against the permittee, the property owner, and contractor. (1993 Code, § 12-503, modified)

**16-304. Protection of drainage ditches, drainage facilities, and water courses.** The permittee, owner, or contractor shall take measures to insure that neither the flow of drainage water in ditches and drainage facilities, or the flow of water in natural water courses shall be interrupted during the construction work by the washing, falling or silting of any material from the construction site into such ditches, facilities, or water courses. In the event any such stoppage of water shall occur, either the building inspector or the city manager shall have the authority to order such obstruction to be removed and the same shall be removed within twenty-four (24) hours after such notification. If such remedial action is not taken by the permittee, owner or contractor, then the city manager is authorized to take such remedial action and the cost shall be charged against the contractor, the permittee, or owner. (1993 Code, § 12-504, modified)

**16-305. Protection of adjacent streets.** The permittee shall take all necessary action to protect adjacent streets from washing, falling, silting, tracking, or blowing of rubbish, dirt, or any other material from the construction site upon any adjacent street or roadway. In the event the permittee shall not take such necessary protective action and such materials should become a hazard upon an adjacent street or roadway, the city building inspector or the city manager shall have the authority to order the removal of the same and if it is not removed within twenty-four (24) hours, then the city manager shall accomplish the removal and the cost shall be charged against the permittee, contractor, or owner, as the case may be. (1993 Code, § 12-505)

**16-306. Penalties.** The violation of any part of this chapter by a permittee, contractor, or owner, shall be deemed a violation of this code and punishable as such. Each day's continuation of the offense shall be deemed a new offense. (1993 Code, § 12-506)

**16-307. Action over by the city for any judgment against it.** In the event any owner, contractor or permittee should fail to remove or clean streets, roads, drainage ditches, drainage facilities, or water courses in accordance with the provisions of any section of this chapter after notice from the city as provided in this chapter, and as a result of such condition, any person obtains a judgment against the city by reason of the existence of such condition, the city attorney shall institute proper legal proceedings against the owner, the contractor, or permittee for the recovery over of the amount of any such judgment. (1993 Code, § 12-507)

**TITLE 17**

**REFUSE AND TRASH DISPOSAL**<sup>1</sup>

**CHAPTER**

**1. GARBAGE AND TRASH.**

**CHAPTER 1**

**GARBAGE AND TRASH**

**SECTION**

- 17-101. Definitions.
- 17-102. Jurisdiction.
- 17-103. General discharge prohibitions.
- 17-104. Rules and regulations to implement chapter.
- 17-105. Collection and disposal of industrial waste, hazardous waste, pathogenic waste, radioactive waste and salvageable materials for reclamation.
- 17-106. Container provided.
- 17-107. Safe premises for collection; location of containers.
- 17-108. Garbage wrapped; mixing with ashes, rubbish.
- 17-109. Dumps and fills, other places of disposal.
- 17-110. Collectible rubbish: leaves, grass, trimmings, trees and paper.
- 17-111. Collection schedules and requirements.
- 17-112. Removal of contractor's materials, debris, tree trimmings, etc. by contractor.
- 17-113. Exclusive collection.
- 17-114. Building debris; responsibility for removal.
- 17-115. Nuisances prohibited.
- 17-116. Interference with containers.
- 17-117. Place for disposal of waste materials.
- 17-118. Littering prohibited.
- 17-119. Open burning of garbage prohibited.
- 17-120. Premises to be kept clean.
- 17-121. Removal after emptying.
- 17-122. Sanitation fee special assessment.
- 17-123. Rebate.
- 17-124. Penalty.
- 17-125. Bulk item fee.

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<sup>1</sup>Municipal code reference

Property maintenance regulations: title 13.

- 17-126. Permit fee for private waste disposal company.
- 17-127. Commercial operations.
- 17-128. Additional cans.
- 17-129. Unimproved property.

**17-101. Definitions.** For the purpose of this chapter the following words and phrases shall have the meanings herein:

(1) "Commercial refuse" shall mean all waste products not otherwise defined as industrial waste, generated by retail, wholesale, office business, institutional, or industrial businesses not producing industrial waste.

(2) "Garbage" shall include every accumulation of both animal and vegetable matter, liquid or otherwise, that attends the preparation use, cooking, dealing in or storage of meat, fish, fowl, fruits or vegetables, and tin cans or other containers originally used for food stuffs.

(3) "Hazardous waste" means any chemical, compound, mixture, substance or article which may constitute a hazard to health or may cause damage to property by reason of being explosive, flammable, poisonous, corrosive, unstable, irritating, radioactive or otherwise harmful. Hazardous waste includes but is not limited to any material classified as "hazardous" under state or federal law.

(4) "Industrial waste" shall mean all such waste produced by industrial, manufacturing or processing plants, including hazardous waste and not eligible for any of the other classifications.

(5) "Pathogenic waste" shall mean all or parts of organs, bones, muscles, other tissues and organic waste of human or animal origin, laboratory cultures, and infective dressings and other similar material.

(6) "Public place" shall include parks, water or open spaces adjacent thereto, public yards, grounds and areas and all open spaces between buildings and streets and in view of such streets.

(7) "Rubbish" includes all nonputrescible solid waste consisting of both combustible and non-combustible waste such as paper, cardboard, plastic, glass, crockery, excelsior, sloth and similar materials. It shall not include:

(a) Bulky items such as stoves, refrigerators, water tanks, television sets, washing machines, or discarded items of furniture;

(b) Tires, automobile or truck parts;

(c) Discarded lawn items such as gym-playground equipment, lawnmowers, grills, or lawn furniture; and

(d) Similar bulky materials having a weight greater than fifty

(50) pounds and/or a volume greater than thirty-two (32) gallons.

(8) "Yard refuse" shall include leaves, small shrubs, lawn clippings, branches and trees cut down by property owners or occupants and cut into pieces no longer than eighteen inches (18"), and weighing no more than thirty (30) pounds, and being no greater than two inches (2") in diameter. (Ord. #591, June 1995, as replaced by Ord. #914, June 2012)

**17-102. Jurisdiction.** (1) The removal and disposition of all garbage, rubbish, yard refuse, commercial refuse, pathogenic waste and industrial waste from premises in the city shall be under the jurisdiction of the city manager or his designee.

(2) Each single family, duplex and triplex dwelling unit in East Ridge shall be required to use the city sanitation service for garbage removal. In no case shall any such residential units be combined into a single customer.

(3) Commercial customers shall use containers provided by the city, and each business, like residential customers, shall be considered a separate customer. Commercial customers, unless contracting for dumpster service from a permitted waste collector, shall be required to use the city's service. Multi-family dwellings (four (4) or more residential units per building) shall be considered a commercial customer and may either contract for private dumpster service or have the city provide containers at the commercial rate.

(4) The city manager or his designee may provide for the collection and removal of wastes subject to this chapter from any place or premises at times in addition to those when regular collection service is provided. He shall also have the authority to provide for the collection and removal of such wastes above and beyond the extent of any regularly scheduled collection in time of emergency. (Ord. #591, June 1995, as replaced by Ord. #914, June 2012)

**17-103. General discharge prohibitions.** No residential, commercial, industrial, office, institutional, or non-profit land user shall dispose of refuse, rubbish, garbage, yard refuse, pathogenic waste, industrial or hazardous waste other than as provided in this chapter. Any person, business, or organization found disposing of garbage, rubbish, or other wastes subject to this chapter except as herein provided shall be cited for violation of this chapter. (Ord. #591, June 1995, as replaced by Ord. #914, June 2012)

**17-104. Rules and regulations to implement chapter.** The city manager may make such rules and regulations as are not inconsistent with the provisions of this chapter as may be necessary or desirable to aid in the administration of and obtaining compliance with the provisions of this chapter. The city manager shall, in the administration of this chapter, cause all persons to fully comply with all state and federal statutes and regulations which may be applicable to the disposal of all types of waste material subject to this chapter. The city manager shall have no power to make any regulation inconsistent with any such state or federal statute or regulation. (Ord. #591, June 1995, as replaced by Ord. #914, June 2012)

**17-105. Collection and disposal of industrial waste, hazardous waste, pathogenic waste, radioactive waste and salvageable materials for reclamation.** (1) Industrial and hazardous waste. All industrial and hazardous wastes shall be disposed of by the industry, generator, manufacturer

or processing plant generating such waste under such methods and conditions as shall be approved by the city manager. Such industries may apply for a special permit as a private collector or may dispose of industrial waste by license private collectors. The disposal of industrial and hazardous waste subject to this chapter excludes, by definition, any waste subject to the terms of title 18 (Sewer Use Ordinance). Garbage and rubbish not consisting of industrial, pathogenic or hazardous waste will be collected by the city.

(2) Pathogenic and radioactive waste. All pathogenic and radioactive wastes shall be disposed of by the hospital, institution or office generating such waste under such conditions as shall be approved by the city manager and shall be in compliance with all applicable ordinances, and state and federal laws and regulations.

(3) Salvageable materials for reclamation. Persons engaged in collecting or purchasing for resale paper, cardboard, rags and scrap metals or other materials for reclamation purposes shall be exempted from the provisions of this chapter except as to those provisions and regulations of the city manager and ordinances which pertain to maintaining standards of health and cleanliness, preventing nuisances, preventing interference with trash containers and preventing littering. (Ord. #591, June 1995, as replaced by Ord. #914, June 2012)

**17-106. Container provided.** (1) Duty to have containers. It shall be the duty of every person in possession, charge or control of any premise where garbage or rubbish is created or accumulated, and in the case of multiple dwellings or multiple occupancy; the owner or renter of such premises, at all times to keep or cause to be kept a sufficient number of containers or disposal containers as described in § 17-110(3) for the deposit of garbage and rubbish generated on the premises.

(2) Container requirements. Containers use for the deposit of garbage or rubbish for collection by the city shall be in good condition and equipped with secure lids so that collection thereof shall not injure the person collecting the contents. Containers having ragged or sharp edges or other defects must be promptly replaced. Individual (can type) containers shall not be larger than twenty-five inches (25") in diameter and thirty inches (30") in height nor smaller than fourteen inches (14") in diameter and sixteen inches (16") in height commonly known as thirty (30) gallon and twenty (20) gallon containers). Lids and covers of such containers shall be kept tightly closed at all times other than when garbage or rubbish is being deposited therein or removed therefrom.

(3) Commercial containers. Commercial containers, other than dumpsters provided by permitted collectors, shall be approximately ninety-five (95) gallons in size and shall only be required from the city at a cost determined from time to time by the city council.

(4) All individual (can type, non-commercial) containers shall be made of plastic or galvanized metal materials and shall be kept watertight at all

times. Sufficient additional containers shall be provided within the premises for receiving and holding, without leakage and spillage, all ashes, rubbish and waste matter other than garbage except as set forth in § 17-110.

(5) Commercial and industrial customers shall place all eligible refuse in dumpsters provided by permitted collectors, or in containers owned by the city. Failure to do so could result in such commercial customer having to make arrangements for private refuse collection. (Ord. #591, June 1995, as amended by Ord. #606, Feb. 1996, Ord. #837, March 2008, and replaced by Ord. #914, June 2012)

**17-107. Safe premises for collection; location of containers.** (1) It shall be incumbent upon tenants, lessees, occupants and owners of premises to provide a safe, convenient and accessible location near the edge of city rights-of-way for the purpose of collecting garbage and not closer than three feet (3') to any other object, such as mailbox, planter or otherwise. All containers to be emptied shall be placed within five feet (5') of paved streets. Containers shall be placed where collectors may pick up and empty them without attack from animals. The city manager may by appropriate regulations provide for the location of containers. City garbage collectors shall not enter houses or stores for the collection of garbage or rubbish.

(2) Garbage and refuse shall not be stored in close proximity to other personal effects which are not desired to be collected, but shall be reasonably separated in order that the collectors can clearly distinguish between what is to be collected and what is not. (Ord. #591, June 1995, as replaced by Ord. #914, June 2012)

**17-108. Garbage wrapped; mixing with ashes, rubbish.** There shall be no ashes, hazardous materials or toxic materials as may from time to time be defined by applicable state and/or federal law. All garbage shall be kept in a separate container conforming to the requirements of this chapter. (Ord. #591, June 1995, as replaced by Ord. #914, June 2012)

**17-109. Dumps and fills, other places of disposal.** The city may establish or designate, through contract with other public or private agencies, sanitary landfills, transfer stations, incinerators or other places of disposal as may be necessary, and no person or entity shall use any other place of disposal except with the approval of the city manager after advice and consent of the mayor and council. (Ord. #591, June 1995, as replaced by Ord. #914, June 2012)

**17-110. Collectible rubbish: leaves, grass, trimmings, trees and paper.** (1) Leaves, grass cuttings, garden trimmings, weeds and roots from which all dirt has been removed shall be deposited within five feet (5') of the street line where garbage and rubbish service is normally provided. The city manager may grant waivers of this section in cases of hardship. Leaves are not

to be bagged and shall be placed adjacent to the property line from which collections are normally made.

(2) Leaves, grass cuttings, shrubs, branches, weeds and roots shall not be placed in containers along with residential or commercial waste.

(3) Disposal containers for such rubbish or leaves shall be cardboard cartons or plastic bags or moisture resistant paper bags, and such containers shall have tops, ties or other means of preventing spillage, scattering or blowing away of the rubbish and be moisture proof or kept dry, and be of sufficient strength to contain the refuse without spillage during handling. The containers shall not exceed in size the approximate capacity of a thirty (30) gallon regulation garbage container, which is considered the maximum size for manual lifting by a collector.

(4) Magazines and newspapers shall be bundled and securely tied.

(5) Shrubs and tree trimmings shall be separated from other refuse and neatly piled adjacent to the front property line.

(6) Limbs or logs in excess of two inches (2") in diameter will not be collected by the city.

(7) Christmas trees placed adjacent to the front property line will be picked up during the Christmas season and through the first day of February. (Ord. #591, June 1995, as replaced by Ord. #914, June 2012)

**17-111. Collection schedules and requirements.** The city reserves the right to establish collection schedules and requirements as may be necessary. The city shall establish separate schedules for the collection of recycling, leaves, grass cuttings, shrubs, branches, and sticks less than two inches (2") in diameter.

In no case shall any user of the city's garbage collection service place their refuse for collection at the appropriate location prior to 4:00 P.M. on the day immediately before the day of scheduled service. (Ord. #591, June 1995, as amended by Ord. #606, Feb. 1996, and replaced by Ord. #914, June 2012)

**17-112. Removal of contractor's materials, debris, tree trimmings, etc. by contractor.** All contractor's materials including, but not limited to, trimmings from trees, cuttings, shrubbery, wallpaper, plaster or other debris from building operations, package, etc., shall be hauled away from the premises where work has been performed by said contractor and shall be properly disposed of by the contractor. For purposes of this section, a contractor shall include, but is not limited to, a person who performs what is commonly referred to as "yard work" or "landscaping" services which results in the generation of trimmings from trees, cuttings and shrubbery. (Ord. #591, June 1995, as replaced by Ord. #914, June 2012)

**17-113. Exclusive collection.** It shall be unlawful for any person other than the city to engage in the business of collecting, removing or disposing of



garbage and rubbish in the city except when specifically authorized by a city contract or permit. (Ord. #591, June 1995, as replaced by Ord. #914, June 2012)

**17-114. Building debris; responsibility for removal.** Building debris such as scrap lumber, carpet, plaster, roofing, concrete, brickbats, and sanding dust resulting from the construction, repair, remodeling or demolition of any building or appurtenances on private property will not be removed by the city, and the owner must privately move or cause to be moved such materials and waste. (Ord. #591, June 1995, as replaced by Ord. #914, June 2012)

**17-115. Nuisances prohibited.** It shall be unlawful for any person in possession, charge of or control of any premises to keep, cause to be kept, or allow the keeping on any premises within the corporate limits of the city of garbage, rubbish, or other waste subject to this chapter in such a manner that it becomes offensive or deleterious to health or likely to cause disease, and such keeping is hereby declared a public nuisance. (Ord. #591, June 1995, as replaced by Ord. #914, June 2012)

**17-116. Interference with containers.** No person other than the owner of person lawfully in control of any premises, or any authorized employee of the city or an authorized employee of a person licensed by the city for the collection or removal of garbage, rubbish, or other wastes subject to this chapter, shall interfere in any manner with a container used for the accumulation or handling of garbage, rubbish, or other such waste, or remove any such container from the location where it shall have been placed by the owner or person lawfully in control of the premises; nor shall any such person remove the contents from any such container. (Ord. #591, June 1995, as replaced by Ord. #914, June 2012)

**17-117. Place for disposal of waste materials.** (1) It shall be unlawful for any person to dispose of or cause to be disposed of any garbage, rubbish, or other waste subject to this chapter upon any property other than a garbage dump or sanitary landfill or as otherwise provided by the provisions of this chapter.

(2) It shall be unlawful for any person to deposit or permit or suffer his agents, servants or employees to deposit garbage, yard refuse or other waste subject to this chapter in or about the anti-litter cans or like receptacles provided by the city in various public places in the community. (Ord. #591, June 1995, as replaced by Ord. #914, June 2012)

**17-118. Littering prohibited.** It shall be unlawful for any person to place any garbage, straw, dirt, chips, shells, nails, iron, glass, fruit peelings, melon rinds, paper shavings, rags or other rubbish, limbs, leaves, trimmings, stumps, or obnoxious substance from any street, sidewalk, alley, public park, parkway, drainage ditch, sewer easement, other utility easements, square or

other place in the city or on the property of another person, or to violate any of the requirements of this chapter. The violation of any of the requirements of this chapter shall be punishable as provided in this city code. (Ord. #591, June 1995, as replaced by Ord. #914, June 2012)

**17-119. Open burning of garbage prohibited.** It is hereby declared to be a misdemeanor for any person to start or maintain, or cause to be started or maintained, any open ground fire or any fire in an open can, barrel or other open container for the purpose of burning or consuming refuse or garbage, upon any property, either public or private, within the city, except as provided in the fire prevention code of the city, and permitted under local and state air pollution control ordinances and regulations. (Ord. #591, June 1995, as replaced by Ord. #914, June 2012)

**17-120. Premises to be kept clean.** All persons within the city are required to keep their premises in a clean and sanitary condition, free from accumulations of refuse except when stored as provided in this chapter. (Ord. #591, June 1995, as replaced by Ord. #914, June 2012)

**17-121. Removal after emptying.** After the garbage, brush, limbs or other refuse has been emptied out of a receptacle by employees or contractors of the city, the person owning such receptacle shall remove same from the streets or sidewalk as soon as possible and within twenty-four (24) hours after such emptying. (Ord. #591, June 1995, as replaced by Ord. #914, June 2012)

**17-122. Sanitation fee special assessment.** In accordance with the East Ridge City Charter, section 2, Corporate powers (chapter dated December 23, 2008), there shall be a sanitation fee assessment billed annually as an aggregate annual assessment to the property owners of the City of East Ridge at the same time and on the same billing as the real estate property taxes are billed to property owners and shall be paid at the time and in the manner that all real property taxes are paid and collected in the City of East Ridge pursuant to such procedures and requirements as may exist from time to time as follows:

(1) On every property in the City of East Ridge which has residential assessment for purposes of property tax an annual special assessment of one hundred eighty dollars (\$180.00) shall be levied plus sixty dollars (\$60.00) for each additional garbage cans which have been previously requested for the property as of July 1, 2012 up to a maximum of four (4) cans.

(2) On every property in the City of East Ridge, which has a commercial assessment for purposes of property tax an annual special assessment of two hundred forty dollars (\$240.00) shall be levied plus sixty dollars (\$60.00) for each additional garbage cans which have been previously requested for the property as of July 1, 2012 up to a maximum of four (4) cans.

(3) The Hamilton County Tax Assessors' Office shall collect from the property owners all sanitation fee assessments due, including any interest or other charges due thereon, until such assessments, charges and interest are paid in full. (as added by Ord. #760, Nov. 2003, replaced by Ord. #865, July 2009, and Ord. #914, June 2012, and amended by Ord. #954, Sept. 2013)

**17-123. Rebate.** The City of East Ridge, may in the discretion of the city manager, rebate up to forty percent (40%) of the sanitation service fee collected for any resident that provides financial documentation relating to their inability to pay, including but not limited to documentation showing an annual household gross income in an amount less than eighteen thousand dollars (\$18,000.00) per year. The rebate section would not apply to business owners. (as added by Ord. #760, Nov. 2003, and replaced by Ord. #865, July 2009, and Ord. #914, June 2012)

**17-124. Penalty.** Delinquent fees owed by any property owner will incur interest at the rate of one point five percent (1.5%), or such higher rate as the Hamilton County Tax Assessor may impose from time to time against delinquent taxes. Any property owner who fails to pay the sanitation service fee in a timely manner or provides inaccurate information as required in § 17-122(3) above shall be punished to the maximum extent allowed by law for a violation of an East Ridge city ordinance. (as added by Ord. #914, June 2012, and replaced by Ord. #954, Sept. 2013)

**17-125. Bulk item fee.** A fee will be assessed on multi-dwelling/rental property--bulk item pickup based on time/services/personnel required, to be determined by the city manager and/or sanitation supervisor. (as added by Ord. #914, June 2012)

**17-126. Permit fee for private waste disposal company.** (1) Permit. Effective October 1, 2009, every private waste disposal company must have a permit to operate in the City of East Ridge, Tennessee. In the event a private waste disposal company does not obtain such permit, said company shall not be allowed to operate in the City of East Ridge, Tennessee.

(2) Permit fee. Effective October 1, 2009, an annual permit fee shall be assessed to all private waste disposal companies operating in the City of East Ridge, Tennessee. The permit fee shall be thirty dollars (\$30.00) per year for each vehicle operating in the City of East Ridge, Tennessee. The permit fee shall be payable upon application by any such private waste disposal company operating in the City of East Ridge, Tennessee on such application form as shall be prescribed by the city manager or the city manager's designee.

(3) Penalties. Penalties for the first violation of failure to obtain said permit shall be an amount equal to two (2) times the permit fee together with all other penalties provided by the East Ridge City Code.

The penalty for all additional failures to obtain said permit shall be three (3) times the permit fee together with all other penalties provided by the East Ridge City Code. (as added by Ord. #914, June 2012)

**17-127. Commercial operations.** Commercial operations shall have no more than four (4) trash containers. Commercial operations requiring more than four (4) trash containers shall be required to have dumpster services but shall still be subject to the minimum special assessment in § 17-122(2) herein. All additional trash containers for commercial operations shall be an additional five dollars (\$5.00) per month charge. All solid waste shall be contained in a closed-lid city approved trash container. (as added by Ord. #914, June 2012)

**17-128. Additional cans.** Notwithstanding anything to the contrary in this chapter of the of the East Ridge City Code, both residentially assessed and commercially assessed properties as those terms are used in § 17-101 of this chapter may have trash containers in excess of the amount set forth in § 17-106 of this chapter not to exceed a total of ten (10) cans provided, however, that the cost for such additional can shall be paid one (1) year in advance at the time such cans are requested. Such applicant for residentially assessed or commercially assessed property shall complete such paperwork and/or application as shall be required by the city manager or the city manager's designee and the cost for such additional can shall be determined from time to time by the city manager or the city manager's designee, but in any event not to be less than one hundred dollars (\$100.00) per can with such amount to be paid one (1) year in advance. The cost for these additional cans shall not be part of the special assessment but must always be paid for at city hall or such other places designated by the city manager and shall always be paid at least one (1) year in advance on the anniversary date of the request of such can or cans. (as added by Ord. #928, Sept. 2012)

**17-129. Unimproved property.** All unimproved property shall be exempt from the sanitation special assessment. Such unimproved property shall not be entitled to garbage service, brush pick-up or recycle services. (as added by Ord. #936, Nov. 2012)

**TITLE 18**

**WATER AND SEWERS<sup>1</sup>**

**CHAPTER**

1. SEWER USER RULES AND REGULATIONS FOR WASTEWATER COLLECTION SYSTEMS IN THE CITY OF EAST RIDGE, TENNESSEE.
2. [DELETED.]
3. [DELETED.]
4. CROSS CONNECTIONS, AUXILIARY INTAKES, ETC.
5. STORM WATER MANAGEMENT.
6. HAMILTON COUNTY STORM WATER POLLUTION PROGRAM.

**CHAPTER 1**

**SEWER USER RULES AND REGULATIONS FOR  
WASTEWATER COLLECTION SYSTEMS IN THE CITY  
OF EAST RIDGE, TENNESSEE**

**SECTION**

- 18-101. General provisions.
- 18-102. Prohibitions and limitations on discharge into the publicly owned collection system.
- 18-103. Exception to wastewater strength standard.
- 18-104. Permits for the connection to the publicly owned collection system.
- 18-105. Industrial wastewater discharge permit, discharge reports and administration.
- 18-106. Fees.
- 18-107. Construction of connections to the publicly owned collection system.
- 18-108. Inspections, monitoring, and entry.
- 18-109. Dangerous discharge notification requirements.
- 18-110. Enforcement and abatement.
- 18-111. WWTA Board.
- 18-112. Superintendent.
- 18-113. Wastewater regulation board hearing procedure; judicial review.
- 18-114. Penalties for violation of section permit conditions or order.

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<sup>1</sup>Municipal code references

Building, utility and housing codes: title 12.

Refuse disposal: title 17.

**18-101. General provisions.** (1) Purpose and policy. (a) The purpose of this section is to set uniform requirements for users of the Hamilton County Water and Wastewater Treatment Authority ("WWTA") wastewater collection system to enable the WWTA to comply with the provisions of the Clean Water Act and other applicable federal, state, and local laws and regulations, and to provide for the public health and welfare by regulating the quality of wastewater discharged into the wastewater collection system and treatment works and by regulating the quality of construction of extensions to the system.

(b) These regulations provide a means for determining wastewater volumes, constituents and characteristics, the setting of charges and fees, and the issuance of permits, among other things. These regulations establish effluent limitations and other discharge criteria and provides that certain users shall pretreat waste to prevent the introduction of pollutants into the publicly owned collection system (hereinafter referred to as POCS) and the Regional Wastewater Treatment Facility (hereinafter referred to as RWTF) which will interfere with the operation of the POCS and RWTF or contaminate the sewage sludge; and to prevent the introduction of pollutants into the POCS which will pass through the RWTF into the receiving waters or the atmosphere, or otherwise be incompatible with the RWTF; and to improve opportunities to recycle and reclaim wastewaters and the sludges resulting from wastewater treatment.

(c) These regulations provide measures for the enforcement of its provisions and abatement of violations thereof.

(2) Permitted use of the publicly owned collection system. Any premise on a lot contiguous to property with a WWTA public sewer may be granted permission to connect with such sewer and convey into the same drainage from all plumbing fixtures on the premises. Connection to a public sewer may be required by the Chattanooga-Hamilton County Health Department for health and environmental reasons. All permitted or required connections and use of the POCS shall be in accordance with the provisions of these regulations.

(3) Definitions. For purposes of these regulations the following phrases and words shall have the meaning assigned below, except in those instances where the content clearly indicates a different meaning:

(a) "Act" or "the Act." The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended by 33 U.S.C. 1251, et seq.

(b) "Approval authority." The director in an NPDES state with an approved state pretreatment program and the administrator of the EPA in a non-NPDES state or NPDES state without an approved state pretreatment program.

- (c) "Authorized representative of industrial user." An authorized representative of an industrial user may be:
- (i) A principal executive officer of at least the level of vice president, if the industrial user is a corporation;
  - (ii) A general or proprietor if the industrial user is a partnership or proprietorship, respectively;
  - (iii) A duly authorized representative of the individual designated above if such representative is responsible for the overall operation of the facility from which the indirect discharge originates.
- (d) "Board." Hamilton County WWTA Board of Commissioners.
- (e) "Categorical standards." National pretreatment standards.
- (f) "County." Hamilton County, Tennessee, a political subdivision of the State of Tennessee.
- (g) "Compatible pollutant." Biochemical oxygen demand, suspended solids, pH and fecal coliform bacteria; plus any additional pollutants identified in the publicly-owned treatment work's NPDES permit, for which the publicly-owned treatment works is designed to treat such pollutants and in fact does remove such pollutants to a substantial degree.
- (h) "Control authority." The term "control authority" shall refer to any designee of the WWTA board.
- (i) "Contractor." Any class of user of the POCS.
- (j) "Developer." One who advances or furthers the extension of the existing Hamilton County sewer system for his/her own purposes.
- (k) "Direct discharge." The discharge of treated or untreated wastewater directly to the waters of the State of Tennessee.
- (l) "Environmental Protection Agency," or "EPA." The Environmental Protection Agency, an agency of the United States, or where appropriate the term may also be used as a designation for the administrator or other duly authorized official of said agency.
- (m) "Garden meter." A meter installed by a utility district to measure flows that do not enter a POCS.
- (n) "Grab sample." A sample which is taken from a waste stream on a one-time basis with no regard to the flow in the waste stream and without consideration of time.
- (o) "Holding tank waste." Any waste from holding tanks such as vessels, chemical toilets, campers, trailers, septic tanks, and vacuum-pump tank trucks.
- (p) "Incompatible pollutant." All pollutants other than compatible pollutants as defined in (g) of this section.
- (q) "Indirect discharge." The discharge or the introduction of non-domestic pollutants from any source regulated under section 307(b) or (c) of the Act (33 U.S.C. 1317), into the POCS (including holding tank

waste discharged into the system) for treatment before a direct discharge to the waters of the state.

(r) "Industrial user." A source of indirect discharge which does not constitute a "discharge of pollutants" under regulations issued pursuant to section 402, of the Act.

(s) "Interference." Inhibition or disruption of the sewer system treatment processes or operations or which contributes to a violation of any requirement of the WWTA's or the RWTF's NPDES permits. The term includes prevention of sewage sludge use or disposal by the POCS in accordance with section 405 of the Act (33 U.S.C. 1345) or any criteria, guidelines or regulations developed pursuant to the Solid Waste Disposal Act (SWDA), the Clean Air Act, the Toxic Substance Control Act, or more stringent state or local criteria (including those contained in any state sludge management plan prepared pursuant to Title IV of SWDA) applicable to the method of disposal or use employed by the POCS.

(t) "Mass emission rate." The weight of material discharged to the public sewer system during a given time interval. Unless otherwise specified, the mass emission rate shall mean pounds per day of the particular constituent or combination of constituents.

(u) "Maximum concentration." The maximum amount of a specified pollutant in a volume of water or waste water.

(v) "National pretreatment standard" or "pretreatment standard." Any regulation containing pollutant discharge limits promulgated by the EPA in accordance with section 307(b) and (c) of the Act (33 U.S.C. 1347) which applies to industrial users.

(w) "New source." Any source, the construction of which is commenced after the publication of proposed regulations prescribing a section 307(c) (33 U.S.C. 1317) categorical pretreatment standard which will be applicable to such source, if such standard is thereafter promulgated within 120 days of proposal in the Federal Register. Where the standard is promulgated later than 120 days after proposal, a new source means any source, the construction of which is commenced after the permission to connected with such sewer and convey into the same drainage from all plumbing fixtures on the date of promulgation of the standard.

(x) "National Pollution Discharge Elimination System" or "NPDES permit." A permit issued to a POCS pursuant to section 402 of the Act (33 U.S.C. 1342).

(y) "Off-site." Describes a location as being off of the developer's property.

(z) "On-site." Describes a location as being on or part of the developer's property.

(aa) "Person." Any individual partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate,



governmental entity or any other legal entity, or their legal representatives, agents or assigns. The masculine gender shall include the feminine, the singular shall include the plural where indicated by the context.

(bb) "Pollution." The man-made or man-induced alteration of the chemical physical, biological, and radiological integrity of water.

(cc) "Premises." A parcel of real estate or portion thereof including any improvements thereon which is determined by the WWTA to be a single user for purposes of receiving, using, and paying for services.

(dd) "Pretreatment." The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into the POCS. The reduction or alteration can be obtained by physical, chemical or biological processes, process changes or by other means, except as prohibited by 40 C.F.R. section S4036(d).

(ee) "Pretreatment requirements." Any substantive or procedural requirement related to pretreatment, other than a national pretreatment standard imposed on an industrial user.

(ff) "Public sewer." Any sewer and its appurtenances which are part of the POCS.

(gg) "Public sewer extension." Any sewer and its appurtenances which are being constructed with the intention of being connected to and dedicated as a part of the publicly owned collection system.

(hh) "Publicly owned collection system" or "POCS." A collection system as defined by section 212 of the Act (33 U.S.C. 1292) and by number (qq) of this section which is owned in this instance by the WWTA. This definition includes any sewers that convey wastewater to the RWTF, but does not include pipes, sewers or other conveyances not connected to a facility providing treatment.

(ii) "Reclaimed water." Water which, as a result of treatment of waste, is suitable for direct beneficial uses or controlled use that would not occur otherwise.

(jj) "Regional Wastewater Treatment Facility (RWTF). The operator and staff of the facility used to treat the wastewater from the POCS. Presently the Moccasin Bend Wastewater Treatment Plant.

(kk) "Registered engineer." A person registered with the State of Tennessee as an engineer, and meeting all requirements for such designation as specified by the Board of Architectural and Engineering Examiners.

(ll) "Service lateral." A sewer service line located between the public sewer and the property line of a premises.

(mm) "Service tee (or service junction)." A pipe fitting installed in the public sewer for the purpose of connection of a sewer service line.

(nn) "Sewer service line." A sewer conveying wastewater from the premise of a user to a public sewer.

(oo) "Standard industrial classification." A classification pursuant to the standard Industrial Classification Manual issued by the Executive Office of the President, Office of Management and Budget, 1972.

(pp) "Superintendent." The person designated by the WWTA board in accordance with the WWTA law.

(qq) "Toxic pollutant." Any pollutant or combination of pollutants listed as toxic in regulations promulgated by the Administrator of the Environmental Protection Agency under the provisions of 33 U.S.C. 1317.

(rr) "Collection system." Any devices and systems used in the storage, treatment, and conveyance of domestic sewage or industrial wastes of a liquid nature, including interceptor sewers, outfall sewers, sewage collection systems, pumping stations, and other equipment and appurtenances; and extensions, improvements, remodeling, additions and alterations thereof.

(ss) "Twenty-four hour, flow proportional composite sample." A sample consisting of several effluent portions collected during a twenty-four (24) hour period in which the portions of sample are proportionate to the flow and combined to form a representative sample.

(tt) "Unpolluted water." Water to which no constituent has been added, either intentionally or accidentally, which would render such water unacceptable to the State of Tennessee or the Environmental Protection Agency having jurisdiction thereof for disposal to storm or natural drainage, or directly to surface waters.

(uu) "User." Any person, firm, corporation or governmental entity that discharges, causes or permits the discharge of wastewater into a public sewer.

(vv) "Waste." Includes sewage and any and all other waste substances, liquid, solid, gaseous or radioactive, associated with human habitation, or of human or animal origin, or from any producing, manufacturing or processing operation of whatever nature, including such waste placed within containers of whatever nature prior to, and for purposes of, disposal.

(ww) "Wastewater." Waste and water, whether treated or untreated, discharged into or permitted to enter a public sewer.

(xx) "Water and Wastewater Treatment Authority (the WWTA)." The entity established by Hamilton County pursuant to the WWTA law.

(yy) "WWTA Board of Commissioners." The governing body of the WWTA, the powers and duties of which are defined in the WWTA law.

(zz) "WWTA law." Tennessee Code Annotated, § 68-221-601, et seq.

(aaa) "Wastewater constituents and characteristics." The individual chemical, physical, bacteriological and radiological parameters, including volume and flow rate and such other parameters that serve to define, classify or measure the contents, quality, quantity and strength of wastewater.

(bbb) "Waters of the State of Tennessee." Any water, surface or underground, within the boundaries of the state.

(ccc) "Wheelage and treatment rate." Applicable fees paid by the WWTA to the RWTF, City of Chattanooga, or other governing entity for the conveyance or treatment of wastewater.

(4) Abbreviations. The following abbreviations shall have the following meanings:

- (a) BOD - Biochemical oxygen demand.
- (b) CFR - Code of Federal Regulations.
- (c) COD - Chemical oxygen demand.
- (d) EPA - Environmental Protection Agency.
- (e) GMP - Good Management Practices.
- (f) l - Liter.
- (g) MBAS - Methylene-blue-active-substances.
- (h) mg - Milligrams.
- (i) mg/l - Milligrams per liter.
- (j) NPDES - National Pollutant Discharge Elimination System.
- (k) POCS - Publicly owned collection system.
- (l) RWTF - Regional Wastewater Treatment Facility.
- (m) SIC - Standard Industrial Classification.
- (n) SWDA - Solid Waste Disposal Act 42 U.S.C. 6901. et seq.
- (o) USC - United States Code.
- (p) WWTA - Water and Wastewater Treatment Authority.

(1993 Code, § 8-201, modified, as replaced by Ord. #719, June 2001, and Ord. #733, April 2002)

**18-102. Prohibitions and limitations on discharge into the publicly owned collection system.** (1) Purpose and policy. (a) This section

establishes limitations and prohibitions on the quantity and quality of wastewater which may be lawfully discharged into the publicly owned treatment works. Pretreatment of some wastewater discharge will be required by the WWTA or the RWTF to achieve the goals established by this section and the Clean Water Act. Pretreatment permits will be issued by the RWTF.

(b) The specific prohibitions and limitations of this section are subject to change as necessary to enable the WWTA and the RWTF to provide efficient wastewater treatment, to protect the public health and the environment, and to enable the WWTA to meet requirements contained in its NPDES permit.

(c) The WWTA board and the RWTF shall review said limitations from time to time to insure that they are sufficient to protect the operation of the collection system treatment facility, that they are sufficient to comply with NPDES permit, that they are sufficient to provide for a cost effective means of operation, and that they are sufficient to protect the public health and the environment.

(d) The WWTA board shall recommend changes or modifications to the RWTF, as necessary.

(2) Prohibited pollutants. No person shall introduce into the POCS any of the following pollutants which acting either alone or in conjunction with other substances present in the POCS or the RWTF interfere with the operation of the POCS or the RWTF as follows:

(a) Pollutants which create a fire or explosion hazard.

(b) Pollutants which cause corrosive structural damage, but in no case discharges with a pH lower than 5.0 or higher than 10.5;

(c) Solid or viscous substances which cause obstruction in the flow of the sewers, or other interference with the operation of the POCS or damage to POCS, including waxy or other materials which tend to coat and clog a sewer line or other appurtenances;

(d) Any waters or wastes containing toxic or poisonous substances in sufficient quantity to injure or interfere with the POCS or RWTF, constitute a health hazard, or create a public nuisance.

(e) Any pollutant, including oxygen demanding pollutants (BOD, etc.), released in a discharge of such volume or strength as to cause interference in the POCS or RWTF;

(f) Heat in amounts which will inhibit biological activity in the RWTF, but in no case heat in such quantities that the temperature at the RWTF influent exceeds 40 degrees Centigrade (104 degrees Fahrenheit). Unless a higher temperature is allowed in the user's wastewater discharge permit, no user shall discharge into any sewer line or other appurtenance of the WWTA, wastewater with a temperature exceeding 65.5 degrees Centigrade (150 degrees Fahrenheit).

(3) Wastewater constituent evaluation. (a) The wastewater of every industrial user shall be evaluated upon the following criteria:

(i) Wastewater containing any element or compound which is not adequately removed by the RWTF which is known to be an environmental hazard.

(ii) Wastewater causing a discoloration or any other condition in the quality of the RWTF's effluent such that receiving water quality requirements established by law cannot be met.

(iii) Wastewater causing conditions at or near the RWTF, which violate any statute, rule, or regulation of any public agency of this state or the United States.

(iv) Wastewater containing any element or compound acting as a lacrimator known to cause nausea or odors which constitute a public nuisance.

(v) Wastewater causing interference with the effluent or any other product of the RWTF treatment process' residues, sludges, or scums causing them to be unsuitable for reclamation and reuse or causing interference with the reclamation process.

(vi) Wastewater having constituents and concentrations in excess of those listed in § 18-102(13), or cause a violation of the limits in § 18-102(14).

(b) The RWTF or the WWTA board shall establish reasonable limitations or prohibitions in the wastewater discharge permit of any user that discharges wastewater violating any of the above criteria as shall be reasonably necessary to achieve the purpose and policy of this section.

(4) National pretreatment standards. (a) Certain industrial users are now or hereafter shall become subject to National Pretreatment Standards promulgated by the Environmental Protection Agency specifying quantities of concentrations of pollutants or pollutant properties which may be discharged into the POCS. All industrial users subject to a National Pretreatment Standard shall comply with all requirements of such standard, and shall also comply with any additional or more stringent limitations contained in this section.

(b) Compliance with National Pretreatment Standards for existing sources subject to such standards, or for existing sources which hereafter become subject to such standards, shall be within three (3) years following promulgation of the standards, unless a shorter compliance time is specified in the standard. Compliance with National Pretreatment Standards for new sources shall be required upon promulgation of the standard.

(c) Except where expressly authorized by an applicable National Pretreatment Standard, no industrial user shall increase the use of process water or in any way attempt to dilute a discharge as a partial or complete substitution for adequate treatment to achieve compliance with such standard.

(5) Prohibitions on storm drainage and ground water. Storm water, ground water, rain water, street drainage, roof top drainage, basement

drainage, subsurface drainage, or yard drainage shall not be discharged through direct or indirect connections to a public sewer.

(6) Swimming pool drainage. Drainage from swimming pools or swimming pool filters shall not be discharged through direct or indirect connections to a public sewer.

(7) Unpolluted water. Unpolluted water, including but not limited to cooling water or process water, shall not be discharged through direct or indirect connections to a public sewer. If no other reasonable alternative for removal of such drainage exists, such discharge may be permitted by the user's wastewater discharge permit and an appropriate fee shall be paid by the user for the volume thereof.

(8) Limitation on radioactive waste. No person shall discharge or permit to be discharged any radioactive waste into a public sewer except:

(a) When the person is authorized to use radioactive materials by the Tennessee Department of Public Health or the Nuclear Regulatory Commission; and,

(b) When the waste is discharged in strict conformity with applicable laws and regulations of the aforementioned agencies, or any other agency having jurisdiction; and,

(c) When a copy of permits received from said regulatory agencies have been filed with the superintendent; and,

(d) A special permit therefor has been granted by the WWTA board.

(9) Limitations on the use of garbage grinders. Waste from garbage grinders shall not be discharged into a public sewer except where generated in preparation of food consumed on the premises, and then only where applicable fees therefore are paid. Such grinders must shred the waste to a degree that all particles will be carried freely under normal flow conditions prevailing in the public sewers. Garbage grinders shall not be used for the grinding of plastic, paper products, inert materials, or garden refuse. This provision shall not apply to domestic residences.

(10) Limitations on point of discharge. No person shall discharge any substance directly into a manhole or other opening in a public sewer other than through an approved sewer service line, unless issued a temporary permit by the superintendent. The superintendent shall incorporate in such temporary permit such conditions as deemed reasonably necessary to insure compliance with the provisions of this section and the user shall be required to pay applicable charges and fees therefore.

(11) Septic tank pumping, hauling, and discharge. (a) No person owning vacuum or "cesspool" pump trucks or other liquid waste transport trucks shall discharge directly or indirectly such sewage into the POCS, unless such person shall first have applied for and received a truck discharge operation permit from the superintendent.

(b) All applicants for a truck discharge operation permit shall complete such forms as required by the superintendent, pay appropriate fees, and agree in writing to abide by the provisions of this section and any special conditions or regulations established by the WWTA.

(c) The owners of such vehicles shall affix and display the permit number on the side of each vehicle used for such purposes. Such permits shall be valid for a period of one (1) year from date of issuance, provided that such permit shall be subject to revocation by the superintendent for violation of the provision of this section or reasonable regulation established by the superintendent. Such permits shall be limited to the discharge of domestic sewage waste containing no industrial waste.

(d) The superintendent shall designate the locations and times where such trucks may be discharged, and may refuse to accept any truckload or waste in his absolute discretion where it appears that the waste could interfere with the effective operation of the treatment works or any sewer line or appurtenance thereto.

(12) Other holding tank waste. (a) No person shall discharge any other holding tank waste into the POCS unless issued a permit by the superintendent. Unless otherwise allowed under the terms and conditions of the permit, a separate permit must be secured for each separate discharge.

(b) The permit shall state the specific location of discharge, the time of day the discharge is to occur, the volume of the discharge, and shall limit the wastewater constituents and characteristics of the discharge. Such user shall pay any applicable charges or fees therefore, and shall comply with the conditions of the permit issued by the superintendent.

(c) No permit will be required to discharge domestic waste from a recreational vehicle holding tank provided such discharge is made at a designated location.

(13) Limitations on wastewater strength. No person or user shall discharge wastewater in excess of the concentration set forth in Table I unless an exception has been granted the user under the provisions of § 18-103 or the wastewater discharge permit of the user provides as a special permit condition a higher interim concentration level in conjunction with a requirement that the user construct a pretreatment facility or institute changes in operation and maintenance procedures to reduce the concentration of pollutants to levels not exceeding the standards set forth in the table within a fixed period of time.

TABLE I

<u>Parameter</u>	Maximum Concentration (24 hr Flow, Proportional Composite Sample) <u>mg/l</u>	Maximum Instantaneous Concentration (Grab Sample) <u>mg/l</u>
Biochemical Oxygen Demand	*	--
Chemical Oxygen Demand	*	--
Suspended Solids	*	--
Arsenic (As)	1.0	2.0
Cadmium (Cd)	1.0	2.0
Chromium-Total (Cr)	5.0	10.0
Chromium-Hexavalent (Cr+6)	0.05	0.10
Copper (Cu)	5.0	10.0
Cyanide (CN)	2.0	4.0
Lead (Pb)	1.5	3.0
Mercury (Hg)	0.1	0.2
Nickel (Ni)	5.0	10.0
Selenium (Se)	1.0	2.0
Silver (Ag)	1.0	2.0
Zinc (Zn)	5.0	10.0
Oil and Grease (Petroleum and/or Mineral)	100.00	200.00

\*Limited by design capacity.

(14) Criteria to protect the RWTF. (a) The RWTF influent will be monitored for each parameter in Table II. The industrial users shall be subject to the reporting and monitoring requirements set forth in § 18-105 and § 18-108 as to these parameters.

(b) In the event that the influent reaches or exceeds the levels established by Table II, the RWTF and the superintendent shall initiate technical studies to determine the cause of the influent violation, and shall recommend to the board such remedial measures as are necessary, including but not limited to recommending the establishment of new or revised pretreatment levels for these parameters.

(c) The superintendent shall also recommend changes to any of these criteria in the event the RWTF effluent standards are changed or in the event that there are changes in any applicable law or regulation



affecting same or in the event changes are needed for more effective operation of the POCS.

TABLE II

<u>Parameter</u>	Maximum Concentration (24 hr Flow, Proportional Composite Sample) <u>mg/l</u>	Maximum Instantaneous Concentration (Grab Sample) <u>mg/l</u>
Aluminum dissolved (Al)	15.00	30.00
Antimony (Sb)	0.50	1.0
Arsenic (As)	0.05	0.1
Barium (Ba)	2.50	5.0
Boron (B)	1.00	2.0
Cadmium (Cd)	0.01	0.02
Chromium-Total (Cr)	1.50	3.0
Cobalt 5.00	5.00	10.00
Copper (Cu)	0.40	0.8
Cyanide (CN)	0.05	0.1
Fluoride (F)	10.00	20.00
Iron (Fe)	5.00	10.0
Lead (Pb)	0.10	0.2
Manganese (Mn)	0.50	1.0
Mercury (Hg)	0.015	0.03
Nickle (Ni)	0.50	1.0
Phenols	1.00	2.0
Selenium (Se)	0.005	0.01
Silver (Ag)	0.05	0.1
Titanium-dissolved (Ti)	1.00	2.0
Zinc (Zn)	2.00	4.0
Total Kjeldahl Nitrogen (TKN)	45.00	90.0
Oil & Grease	25.00	50.0
MBAS 5.00	5.00	10.0
Total Dissolved Solids	1,875.00	3,750.00
BOD	*	

<u>Parameter</u>	Maximum Concentration (24 hr Flow, Proportional Composite Sample) <u>mg/l</u>	Maximum Instantaneous Concentration (Grab Sample) <u>mg/l</u>
COD	*	
Suspended Solids	*	

\*Not to exceed the design capacity of treatment works.

(15) Pretreatment requirements. Users of the POCS shall design, construct, operate, and maintain wastewater pretreatment facilities whenever necessary to reduce or modify the user's wastewater constituency to achieve compliance with the limitations in wastewater strength set forth in paragraph (13) of this section, to meet applicable National Pretreatment Standards, or to meet any other wastewater condition or limitation contained in the user's wastewater discharge permit.

(16) Plans and specifications. (a) Plans, specifications, and operating procedures for such wastewater pretreatment facilities shall be prepared by a registered engineer, and shall be submitted to the superintendent for review in accordance with accepted engineering practices. The superintendent shall review said plans within 45 days and shall recommend to the user any appropriate changes.

(b) Prior to beginning construction of said pretreatment facility, the user shall submit a set of construction plans and specifications to be maintained by the superintendent. Prior to beginning construction the user shall also secure such building, plumbing, or other permits that may be required.

(c) The user shall construct said pretreatment facility within the time provided in the user's wastewater discharge permit. Following completion of construction the user shall provide the superintendent with "as built" drawings to be maintained by the superintendent.

(17) Prevention of accidental discharges. (a) All industrial users shall provide such facilities and institute such procedures as are reasonably necessary to prevent or minimize the potential for accidental discharge into the POCS of waste regulated by this section from liquid or raw material storage areas, from truck and rail car loading and unloading areas, from in plant transfer or processing and materials handling areas, and from diked areas or holding ponds of any waste regulated by this section.

(b) The wastewater discharge permit of any user who has a history of significant leaks, spills, or other accidental discharge of waste regulated by this section shall be subject on a case-by-case basis to a

special permit condition or requirement for the construction of facilities or establishment of procedures which will prevent or minimize the potential for such accidental discharge.

(c) Plans, specifications, and operating procedures for such special permit conditions shall be developed by the user and submitted to the superintendent for review under the provisions of paragraph (16) of this section. (1993 Code, § 8-202, as amended by Ord. #503, Feb. 1991, and replaced by Ord. #719, June 2001; and Ord. #733, April 2002)

**18-103. Exception to wastewater strength standard.**

(1) Applicability. This section provides a method for non-residential users subject to the limitation on wastewater strength parameters listed in § 18-102 to apply for and receive a temporary exception to the discharge level for one or more parameters.

(2) Time of application. Applicants for a temporary exception shall apply for same at the time they are required to apply for a wastewater discharge permit or a renewal thereof, provided, however, that the superintendent shall allow applications at any time unless the applicant shall have submitted the same or substantially similar application within the preceding year and the same shall have been denied by the board.

(3) Written applications. All applications for an exception shall be in writing, and shall contain sufficient information for evaluation of each of the factors to be considered by the board pursuant to paragraph (5) hereof.

(4) Review by superintendent. All applications for an exception shall be reviewed by the superintendent. If the application does not contain sufficient information for complete evaluation, the superintendent shall notify the applicant of the deficiencies and request additional information. The applicant shall have thirty (30) days following notification by the superintendent to correct such deficiencies. This thirty (30) day period may be extended by the board upon application and for just cause shown. Upon receipt of a complete application the superintendent shall evaluate same within thirty (30) days and shall submit recommendations to the board at its next regularly scheduled meeting.

(5) Review by WWTA. The board shall review and evaluate all applications for an exception and shall take into account the following factors:

(a) The board shall consider whether or not the applicant is subject to a National Pretreatment Standard containing discharge limitations more stringent than those in § 18-102 and grant an exception only if such exception may be granted within limitations of applicable federal regulations.

(b) The board shall consider whether or not the exception would apply to discharge of a substance classified as a toxic substance under regulations promulgated by the Environmental Protection Agency under the provisions of Section 307(a) of the Act (33 U.S.C. 1317), or similar

state regulations and then grant an exception only if such exception may be granted with the limitations of applicable federal or state regulations.

(c) The board shall consult with the RWTF to determine whether or not granting the exception would:

(i) Create conditions that would reduce the effectiveness of the RWTF, taking into consideration the concentration of said pollutant in the RWTF's influent and the design capability.

(ii) Cause the RWTF to violate the limitations in its NPDES permit, taking into consideration the concentration of the pollutant in the RWTF's influent and the demonstrated ability of the RWTF to consistently remove such pollutant.

(iii) Cause elements or compounds to be present in the sludge of the RWTF which would prevent sludge use or disposal or which would cause the RWTF to violate any regulation promulgated by EPA under the provisions of section 405 of the Act (33 U.S.C. 1345).

(d) The board may consider the cost of pretreatment or other types of control techniques which would be necessary for the user to achieve effluent reduction, but prohibitive cost alone shall not be the basis for granting an exception.

(e) The board may consider the age of equipment and industrial facilities involved to the extent that such factors affect the quality of wastewater discharge.

(f) The board may consider the process employed by the user and process changes available which would affect the quality or quantity of wastewater discharge.

(g) The board may consider the engineering aspects of various types of pretreatment or other control techniques available to the user to improve the quality or quantity of wastewater discharge.

(h) The board may consider an application for an exception based upon the fact that water conservation measures instituted by the user or proposed by the user result in a higher concentration of particular pollutants in the wastewater discharge of the user without increasing the amount of mass of pollutants discharged. To be eligible for an exception under this subparagraph, the applicant must show that, except for water conservation measures, the applicant's discharge has been or would be in compliance with the limitations on wastewater strength set forth in § 18-102(13). Provided, however, no such exception shall be granted if the increased concentration of pollutants in the applicant's wastewater would have a significant adverse impact upon the operation of the POCS or RWTF.

(6) Good management practices required. The board shall not grant an exception unless the applicant shall demonstrate to the board "good management practices" (GMP) to prevent or reduce the contribution of

pollutants to the POCS. GMP's include but are not limited to preventative operating maintenance procedures, schedule of activities, process changes, prohibiting activities, and other management practices to reduce the quality of quantity of effluent discharged and to control plant site runoff, spillage, leaks, and drainage from raw material storage.

(7) Exception may be granted following review. The board shall review the application for an exception at the first regularly scheduled meeting following recommendation of the superintendent. It may grant the application for exception with such conditions or limitations as may have been recommended by the superintendent without a hearing provided that no person, including the applicant, shall object thereto, and provided further that the board finds that the granting of the exception with such conditions as have been recommended by the superintendent will be in compliance with the provisions of this section.

(8) Hearing. (a) In the event that the applicant objects to recommendations of the superintendent concerning conditions to be imposed upon the applicant and the board desires a hearing to further investigate the matter, or any interested party granted permission by the board to intervene objects to the granting of the exception, then in such event the board shall schedule a hearing within ninety (90) days following presentation of the matter by the superintendent to resolve such matters.

(b) At such hearing, the applicant, the superintendent, and any intervening party shall have the right to present relevant proof by oral or documentary evidence. The procedure set forth in § 18-108 hereof shall be applicable to such a hearing. The applicant shall bear the burden of proof in such hearing. (1993 Code, § 8-203, as amended by Ord. #503, Feb. 1991, modified, and replaced by Ord. #719, June 2001; and Ord. #733, April 2002)

**18-104. Permits for the connection to the publicly owned collection system.** (1) Application and permit requirements. Any person who desires to connect with, extend, alter, uncover, excavate, move or in any way change any part of the publicly owned collection system or cause any such work to be done is first required to obtain a permit to do so. Application for a permit and the payment of required fees shall be made at the office of the superintendent. Detailed drawings may be required (see paragraph (3) of this section).

(2) Types of permits. The following are the types of permits that apply to the POCS:

(a) Sewer service line connection permit. For the connection of any premises to the public sewer.

(b) Public sewer extension permit. For the construction of new public sewers.

(c) Industrial wastewater discharge permit. Applicable to industrial users of the POCS. (Refer to § 18-105 for permit requirements and administration.)

(d) Truck discharge operation permit. Refer to § 18-102(11) and (12).

(3) Drawings and specifications. When required by the superintendent, three (3) copies of specifications and of drawings drawn to scale with sufficient clarity and detail to indicate the nature and character of the work shall accompany the application for permit as outlined in § 18-107. Drawings indicating the structural plumbing plan and sources of wastewater within the structure may also be required. Drawings and specifications for extensions to the public sewer shall be designed by a registered engineer and shall bear his official seal.

(4) Permit conditions. (a) A permit issued shall be considered to be a license to proceed with the approved work and shall not be interpreted as authority to alter, violate, cancel, or set aside any of the provisions of this section. A permit issued shall not prevent the superintendent from requiring a correction of errors in plans, or in construction, or in violations of this section. Every permit issued shall become invalid unless the work authorized by such permit is begun within one (1) year after its issuance.

(b) Failure to obtain the necessary permit prior to beginning any work on a Hamilton County POCS shall subject the violator to the provisions of § 18-108 and/or five times the normal tapping privilege fees in § 18-106(1). (1993 Code, § 8-204, modified, as replaced by Ord. #719, June 2001; and Ord. #733, April 2002)

**18-105. Industrial wastewater discharge permit, discharge reports and administration.** (1) Applicability. The provisions of this section are applicable to all industrial users of the POCS. The RWTF (City of Chattanooga) has an "approved pretreatment program" as that term is defined in 40 CFR Section 403.3(d), and any permits issued hereunder to industrial users who are subject to or who become subject to a "National Categorical Pretreatment Standard" as that term is defined in 40 CFR 403.3(j) shall be conditioned upon the industrial user also complying with all applicable substantive and procedural requirements promulgated by the Environmental Protection Agency or the State of Tennessee in regard to such "categorical standards" unless an exception for the city's program or for specific industrial categories has been authorized.

(2) Application and permit requirements for industrial users. All industrial users of the POCS prior to discharging non-domestic waste into the POCS shall apply for and obtain a wastewater discharge permit in the manner hereinafter set forth. Prior to discharge of non-domestic wastewater into the POCS, an industrial user shall request the superintendent to determine if the

proposed discharge is significant and requires pretreatment. All requests shall include a site plan, floor plan, mechanical and plumbing plans with sufficient detail to show all sewers and appurtenances in the user's premises by size, location, and elevation; and the user shall submit to the superintendent revised plans whenever alterations or additions to the user's premises affect said plans. If the discharge is determined not to be significant, then the superintendent may still establish appropriate discharge conditions for the user. Any noncategorical industrial user designated as significant may petition the board to be deleted from the list of significant industrial users on the grounds that it has no potential for adversely effecting the POCS' operation or violating any pretreatment standard or requirement. All significant industrial users shall obtain an industrial wastewater discharge permit and shall complete such forms as required by the RWTF, pay appropriate fees, and agree to abide by the provisions of Article III, Industrial Waste, in the Sewer Use and Industrial Wastewater Discharge Regulations of the City of Chattanooga and any specific conditions or regulations established by the superintendent. (1993 Code, § 8-205, as replaced by Ord. #719, June 2001; and Ord. #733, April 2002)

**18-106. Fees.** (1) Tapping privilege fees. (a) A permit for a sewer service line connection or for a public sewer extension shall not be issued until the fees prescribed in this section have been paid. The minimum tapping privilege fee for each connection shall be computed in two (2) ways: (i) Based on water meter size, and (ii) B a s e d o n t y p e o f establishment. The larger of the two fees shall be the one that applies.

(i) Based on the size of the water meter:

<u>WATER METER SIZE</u>	<u>SEWER TAPPING FEE</u>
Less than 1"	\$ 600
1"	750
Between 1" & 2"	800
2"	1,500
3"	2,500
4"	3,000
6"	5,000
Larger than 6"	See paragraph below

The schedule above is not applicable to the tapping privilege fee for water meters larger than 6", process water or

wastewater for an industrial plant, any establishment with commercial garbage or commercial food waste grinders, or other special services. Such fee will be determined at the time application for service is made.

(ii) Based on the type of establishment:

<u>ESTABLISHMENT</u>	<u>SEWER TAPPING PRIVILEGE FEE</u>
Motel and Hotel	\$150 per unit
Restaurant	\$30 per employee plus \$30 per seat \$1,200.00 Minimum
Self-Service Laundry	\$1,000 for first 3 washing or cleaning units, \$200 each unit thereafter
Service Station	\$150 per vehicle that can pump at a given time
Theater and Church	\$3 per seat
Business under 10,000 sq. ft.	\$600 plus \$30 for each employee
Business over 10,000 sq. ft.	\$60 per 1,000 sq. ft. plus \$30 per employee
School and Day Care	\$10 per student, ultimate enrollment
Car Wash	\$1,000 minimum up to 6 bays \$200 each bay over 6
Doctors, Dentist, Veterinary Office, or Funeral Home	\$1,200 plus \$30 per employee
Trailer Park	\$300 per unit
Buildings with multiple units on one water meter	\$300 per unit
Buildings with multiple units with a single meter for each unit	\$600 per unit
Nursing Home and Hospital	\$200 per licensed bed
Multiple Use Facilities	Calculate using the present tap-on fee schedule and combining the fee for all of the uses, with the highest minimum on any use to be the minimum for the multiple use.

(b) The minimum tapping privilege fee does not include the cost of service assembly; i.e., making taps, furnishing and installing service line, pavement repair, or other restorative work, all of which is to be borne by the purchaser.



(c) Letters of credit that have been issued prior to the effective date of this subparagraph shall not be honored after January 1, 1998.

(d) A tapping privilege fee shall not be charged for the connection of buildings owned by political subdivisions, that are members of the WWTA.

(e) When an easement is required for the construction of a project, the WWTA will waive one residential tap-on fee for the property if the easement is donated, however, if the property owner requests payment for the easement, the tap-on fee will be the normal fee plus the cost of the easement.

(f) When a developer/builder builds a residence in a subdivision where the same developer/builder has paid for the installation of the sanitary sewer, the tapping privilege fee will be \$100. The tapping privilege fee is non transferable.

(2) Monthly rates and minimum bills. (a) The owner/occupant of land within the jurisdiction of the WWTA that abuts a street, public way, or easement containing a publicly-owned gravity sewer and upon which there is a residential, industrial or commercial building, and which can be connected by gravity to the sewer, shall pay a sewer fee based on water usage as if the structure were tied to the sewer, whether or not there is an actual connection made.

(b) Each customer shall pay monthly according to the following rates:

<u>Gallons/month</u>	<u>Cost/1,000 gallons</u>
First 100,000	\$3.43
Next 650,000	\$2.52
Next 1,250,000	\$2.03
Over 2,000,000	\$1.45

(c) The minimum monthly bill, based on water meter size, shall be as follows:

<u>WATER METER SIZE</u>	<u>SEWER MINIMUM BILL</u>
5/8"	\$ 7.12
3/4"	\$ 7.12
1"	\$44.41

<u>WATER METER SIZE</u>	<u>SEWER MINIMUM BILL</u>
1 ½"	\$99.40
2"	\$176.00
3"	\$412.56
4"	\$762.42
6"	\$1,815.97
8"	\$3,212.12

(d) The schedule above is not applicable to the minimum monthly bill for water meters larger than 6", process water or wastewater for an industrial plant, any establishment with commercial garbage or commercial food waste grinders, or other special services. Such bill will be determined at the time the application for service is made.

(3) Multi-unit complexes. (a) To provide equality between single-family and multi-family dwellings which have one or less number of water meters than the total number of dwelling units in the complex, the monthly sewer service charge to multi-unit complexes served by a master meter or any combination of meters totaling less than the number of units served shall be calculated by the following formula:

$$\text{Monthly Service Charge} = U_{\text{tot}} \times R$$

$U_{\text{tot}}$  = Usage measurement of master meter or combination of meters.

$R$  = The sewer service rate, as detailed in § 18-106(2)(b), using  $U_{\text{adj}}$

$$U_{\text{adj}} = U_{\text{tot}} \div N$$

$N$  = Ninety percent of the number of units for multi-unit dwellings, of the total number of units for a trailer park or apartment complex.

(b) In addition to the above rates the WWTA may determine a monthly surcharge to amortize any indebtedness associated with the sewage system.

(c) State law requires that a state fee be added to every sewer bill, which amount must be sufficient to repay the state to cover the funds advanced by the state to provide the local share of federally-assisted (Environmental Protection Agency) and mandated water pollution abatement projects.

(4) Billing adjustments. (a) Adjustments in the monthly sewer use bill as a result of a water leak at the premises will be made in accordance with any agreements and/or policies of the water company providing sewer billing services for WWTA. If such agreements and/or policies are not applicable, the following will apply.

(i) Upon notification to the superintendent of a water leak occurrence and/or an unusually high water meter reading indicating a leak, a determination will be made as to whether or not the leaking water entered the sanitary sewer system.

(ii) If the leaking water did not enter the sanitary sewer system, the monthly sewer use fee will be adjusted to equal the average of the three previous monthly sewer use fees.

(iii) If the leaking water did enter the sanitary sewer system, the monthly sewer use fee will be equal to the average three previous monthly sewer use fees plus the current wheelage and treatment rate paid by the WWTA for the excess water.

(b) Upon determination that a sewer customer is permitting extraneous flow (storm water run-off, storm drainage, groundwater, etc.) to enter the WWTA's wastewater treatment facilities, the WWTA will make a measurement of such flow during wet weather and thereafter the charge for sewer services will be based upon the flow measured at that time or upon any subsequent measurement indicating a greater demand. A monthly sewer charge determined upon this basis will be in addition to the monthly sewer charge set forth above, and can be reduced upon and to the extent of satisfactory demonstration to the WWTA that the sources of the extraneous flow into the customer's sewer service lines have been eliminated.

(c) A yearly adjustment shall be made to the monthly sewer use bill for the volume of water used in the initial filling of swimming pools upon submittal of a WWTA "swimming pool form." This adjustment is valid only when the pool does not discharge into a POCS.

(d) An adjustment will be made to the monthly sewer use bills for the previous four summer months if the user installs a garden meter to determine the average monthly usage.

(5) Grinder pumps. (a) The tapping privilege fee for a grinder pump shall be the same as the fees listed in § 18-106(1).

(b) All grinder pumps used in conjunction with the interceptor sewer system which will discharge into the system owned and operated by the Hamilton County Water and Wastewater Treatment Authority must conform to the specifications of the authority or purchased from either the authority or from an approved manufacturer.

Beginning March 15, 2000 the selling price for the grinder pumps will be based on a ten percent markup based on the selling price (cost divided by 0.9) rounded up to the nearest \$10 if purchased from the

authority. Those wishing to purchase a grinder pump, or who seek to purchase the same from an approved manufacturer, or are interested in obtaining a copy of the specifications should contact the Hamilton County Engineering Department at 300 Newell Towers, 117 East 7<sup>th</sup> Street, Chattanooga, TN 37402 or by phone at 423-209-6410.

(c) Each grinder pump customer shall pay monthly according to the rates listed in § 18-106(2)(b) multiplied by a factor of 1.10.

(d) The owner/operator of land within the jurisdiction of the WWTA that abuts a street, public way, or easement containing a publicly-owned sewer and upon which there is a residential, industrial, or commercial building, and which can only be connected to the sewer by using a grinder pump, will not be required to pay a sewer fee until the structure is tied to the sewer. The owner/operator of said land may be required to pay a sewer fee based on water usage as if the structure were tied to the sewer, whether or not there is an actual connection made to the sewer, if the city which has jurisdiction over said property passes an ordinance, resolution, or law requiring said payment. (1993 Code, § 8-206, as replaced by Ord. #719, June 2001, and Ord. #733, April 2002)

**18-107. Construction of connections to the publicly owned collection system.** (1) Construction of sewer service line connections. The construction of all sewer service line connections to the POCS shall conform to the following requirements.

(a) Service line connections shall not be permitted for public sewers or public sewer extensions that are incomplete and not accepted by the WWTA unless approved by the superintendent and all documents determined to be necessary by the superintendent for the purpose of indemnifying the WWTA for all costs, losses, damages, etc. caused by the connection to the incomplete sewer are executed.

(b) All sewer service line connection, sewer taps, repairs, excavations or other work required and approved by the service line connection permit shall be carried out only by a plumber having a license to do such work, or by an employee working directly under the personal supervision of one holding such license.

(c) A separate and independent sewer service line connection shall be provided for every premise or property owner or individual building site.

(d) The use of existing sewer service lines for the connection of new buildings shall only be used if they are found, on inspection by the superintendent or authorized representative, to meet all requirements of this section.

(e) All costs and expenses incidental to the installation and connection of the sewer service line shall be borne by the applicant.

(f) All excavations for service line installation shall be adequately guarded and marked to protect the public from hazard.

(g) The size, slope, location, alignment and materials of construction of a sewer service line, and the methods to be used in excavating, placing of the pipe, jointing, testing, and backfilling the trench, shall all conform to the requirements of the currently adopted building and plumbing code or other applicable rules and regulations of the Hamilton County Building Inspection Office and shall also be approved by the superintendent or authorized representative.

(h) When required by the currently adopted building and plumbing code, or by the superintendent or authorized representative, a grease trap or oil/water separator tank shall be provided to prevent prohibited grease and other similar pollutants from entering the public sewer.

(i) Where grease traps, oil/water separator tanks, or other appurtenances are provided by the property owner, it shall be the responsibility of the property owner or user of the sewer to provide regular maintenance and repair of such appurtenances to assure proper functioning.

(ii) If prohibited grease and other pollutants enter the public sewer, the superintendent will perform such maintenance and repair to the sewer, and charge the cost thereof to the property owner.

(i) All service line connections made to the public sewer at a location where a service junction or tee has not been provided shall only be made under the inspection of the superintendent or authorized representative.

(j) All sewer service connections shall be made airtight and watertight.

(k) A clean-out shall be provided on the sewer service line at the property line between the public sewer and the structure being connected. Other clean-outs shall be provided in accordance with the governing plumbing code.

(l) Where pavement cuts and installation in public right-of-ways are required, the following shall be applied:

(i) State highways and right-of-ways: Where excavations are required in state right-of-ways, permission shall be obtained from the Tennessee Department of Transportation (TDOT). All work shall be in accordance with the requirements of TDOT and the WWTAA.

(ii) County roads and right-of-ways. Where excavations are required in county right-of-ways, permission shall be obtained from the Hamilton County Engineer's Office. All work shall be in

accordance with the requirements of the county engineer and the WWTA.

(m) Sewer service connections made which do not meet the requirements of this section shall be uncovered and/or repaired at the expense of the applicant.

(n) All repair and maintenance of sewer service lines shall be the responsibility of the property owner or user of the sewer and shall include, upon connection, any portions of the sewer service line installed by the WWTA or the developer between the property line and the public sewer.

(2) Construction of public sewer extensions. The construction of public sewer extensions to the POCS shall conform to the following requirements:

(a) All public sewer extensions shall be designed by a registered engineer licensed to practice in the State of Tennessee. All extensions shall be designed and constructed in accordance with the WWTA's standard details and specifications for sanitary sewers, and State of Tennessee Design Criteria for Sewage Works, and in accordance with all applicable federal, state and local laws and regulations. The location of all sewer extensions will be required to be located according to current master planning for Hamilton County.

(b) No construction shall begin until a public sewer extension permit is obtained from the office of the superintendent, final written approval of plans and specifications are obtained from the superintendent, and the applicant has scheduled a pre-construction meeting with the superintendent.

(c) Three copies of preliminary plans, profiles, details, and specifications shall be submitted to the superintendent for review. Plans may be submitted along with preliminary subdivision plats, if applicable. Plans and specifications must also be submitted to the Tennessee Department of Environment and Conservation, Division of Water Pollution Control for approval, unless the approval authority has been delegated to the WWTA by the Tennessee Department of Environment and Conservation. Maintenance bonds and/or maintenance agreements may be required.

(d) Public sewer extensions that are not to be located totally within dedicated county or state public road right-of-ways shall deed to the WWTA a minimum twenty (20) feet wide permanent maintenance easement with access from a public road right-of-way. Wider easements may be required for sewers over 15 feet deep. Easements are to be acquired on forms approved by the superintendent. Easements shall be made a part of subdivision plats, if applicable. Additional on-site easements may be required by the superintendent for future extensions of the sewer system. Sewer easements must be free of all obstructions, including other utilities.

(e) All public sewer extrusions shall be located within the edges of the pavement of the roadway with the manholes located in the center of the roadway or the center of a driving lane. Any variance shall be approved by the superintendent.

(f) Three copies of final plans, profiles, flow calculations, details, and specifications, and a copy of the final or corrective plat, if applicable, shall be submitted to the superintendent for review. These plans shall incorporate all changes required by Hamilton County, WWTA, the Tennessee Department of Environment and Conservation, and any other federal, state and local entities having jurisdiction. One copy of the approving letter and stamped, approved plans from the Tennessee Department of Environment and Conservation shall be filed with the office of the superintendent before a public sewer extension permit will be issued, unless the approval authority has been delegated to the WWTA by the Tennessee Department of Environment and Conservation.

(g) The applicant for service shall be responsible for obtaining the necessary permits for the permanent location and construction of the sewer extension in public or private right-of-ways and easements.

(h) In accordance with Section 207.3.3 and Section 208 of the Hamilton County Subdivision Regulations, public sewer extensions shall have been installed and accepted by WWTA prior to the signing and recording of the "cronaflex" copy of the final plat of the subdivisions. If the improvements have not been installed or completed, a performance bond sufficient to secure the installation shall be required prior to the signing and recording of the "cronaflex."

(i) The superintendent will arrange for the inspection of public sewer extension construction. The applicant for a public sewer extension permit shall request inspection from the superintendent 30 days before beginning any construction of the extension and the applicant shall pay the WWTA the exact cost of inspection. The applicant shall provide a contractor's written certification of the fair market cost of the extension.

(j) Public sewer extension permits issued shall become invalid if construction of the extension has not begun within one (1) year after the date of issuance. Plans and specifications must be re-submitted for approval.

(k) All construction of public sewer extensions shall be performed by contractors licensed in the State of Tennessee for municipal and utility construction of underground piping (Classification MU-A)

(l) No connection to the existing public sewer shall be made until the sewer extension lines have been tested and cleaned, and approved in writing by the superintendent.

(i) No debris of any nature that would obstruct the flow in sewers or interfere with the proper operation of the sewage works shall be permitted to enter the existing public sewer.

(ii) No surface water, storm water, or ground water during the construction of the sewer extension or water or other fluids used to flush and clean the sewer extension shall be permitted to enter the existing public sewer.

(iii) No interruption of the operation of any existing sewage works shall be permitted without the approval of the superintendent.

(m) No sewer service line connections to the public sewer extension shall be permitted until the extension is complete and accepted by the superintendent in writing, unless approved by the superintendent in accordance with (1)(a) of this section. In accordance with the provisions of this section, a permit for such connections at the time of approval is required.

(n) No changes or variations to the approved sewer extensions plans and specifications shall be made during construction without the approval of the superintendent.

(o) One complete set of reproducible drawings and digital CAD files, indicating the actual as-built plans, profiles, and details of the public sewer extension, including the location of all service tees and laterals, shall be submitted to the superintendent upon completion of the construction.

(p) The applicant for a public sewer extension shall provide the superintendent in writing, on forms approved by the superintendent, an agreement to immediately repair or cause to be repaired, at no cost to the WWTA, all breaks, leaks, or defects of any type whatsoever arising from any cause whatsoever occurring within one (1) year from the date the extension is accepted in writing by the WWTA board of commissioners.

(q) The construction of public sewer extensions shall include the provision of either service tees and laterals or stub-outs for each tract and/or structure abutting both on-site and off-site portions of the extension as shown by plat and/or property records. The WWTA may, at its option, elect to pay the developer of the sewer extension the exact cost of the provision of service laterals to off-site tracts and/or structures, not to exceed \$600.00 per lateral.

The developer shall provide the superintendent with a contractor's written certification of the exact cost of these service laterals. In cases where the average cost of the service laterals exceeds \$600.00 each, the developer may petition the WWTA board for additional funds. Such petitions shall be accompanied by a construction cost breakdown.

(r) The WWTA may, at its option, elect to pay for any design modifications, i.e., increases in size, depth, location, pump capacity, etc., required to meet the future needs of the WWTA. The WWTA may, at its option, elect to contract the construction of off-site public sewer extensions for the developer. In such cases, the developer will pay the



WWTA for the cost of construction, excluding the cost of service laterals on the extension, before construction begins.

(s) Final acceptance of public sewer extensions shall be made by the WWTA board of commissioners upon the satisfactory completion of the requirements of this section.

(t) Public sewer extensions which do not comply with the requirements of this section shall not be accepted as the WWTA public sewers and no service line connection permits will be issued for premises served by the extension. A waiver of any of these requirements must be obtained in writing from the WWTA board.

(3) Construction of public sewer extensions by the WWTA. The construction of public sewer extensions to the POCS by the WWTA shall be governed by the following policies:

(a) The WWTA may construct sewers to alleviate potential health hazards as outlined in the following:

(i) Property owners of an area request sewers to be installed in their area because of septic tank problems that could create health hazards. These areas shall be verified to have potential health hazards by a study/report from the regional health department.

(ii) Property owners in the areas identified above by the health department will be asked to participate in the remediation of the potential health hazard by contributing toward the estimated project cost. At least 70 percent of the property owners in the area must agree to contribute toward the estimated project cost. The property owners shall designate a representative among themselves who will be the contact between the property owners and the WWTA. The WWTA will not be responsible for contacting individual property owners.

(iii) Prior to design and construction of the sewer extension by the WWTA, the property owners shall contribute 60% of the estimated project cost or the sum total of the property owners' tapping privilege fees, whichever is greater. The estimated project cost shall be an estimate of the cost of construction, inspection, and easement acquisition (see paragraph (v) below).

(iv) If the actual cost is different from the estimated cost, the residents will not be charged more if the cost is higher and they will not be rebated costs back if the actual cost is lower.

(v) At the discretion of the superintendent, the WWTA may enter into a contract with a registered engineer, licensed to practice in the State of Tennessee, to design the public sewer extension. The cost of said design contract shall be included in the estimated project cost. The WWTA will be responsible for the

design and construction administration of the sewer extension project. The remainder of the project cost will be funded by the WWTA.

(vi) The participants' tapping privilege fee, which is required before a property owner can connect to the sewer, is included in the property owner's payment. Upon completion of the project, a tapping fee certificate shall be issued to the property owner by the WWTA. The certificate should be presented when applying for a tapping permit (see § 18-104 of these regulations).

(vii) When applying for a tapping privilege permit, any property owner located along the proposed project, that did not participate in the payment of the 60 percent cost, will be required to pay a tapping privilege fee equal to the participating property owners' cost plus the cost of a normal tapping privilege fee.

(viii) Any property owner in the designated area, who has been identified by the health department as having problems with their sewerage disposal system, will be required to connect to the sewer within sixty (60) days of its completion. (See paragraph (vi) above.)

(ix) See § 18-106 Fees, for tapping permit fees, monthly rates, minimum bills, and payment policies.

(x) The property owners shall be individually responsible for connecting to the sewer extension at their own cost. Construction of sewer service line connections shall comply with paragraph (1) of this section in its entirety. No sewer service line connections to the public sewer extension shall be permitted until the extension is complete and accepted by the superintendent in writing, unless approved by the superintendent in accordance with paragraph (1) of this section.

(xi) Projects shall be prioritized and approved by the WWTA board and the superintendent, and shall be constructed as allowed by the yearly budget.

(b) The WWTA may construct sewers to extend the interceptor infrastructure in accordance with current master planning for the WWTA.

(i) The region will be continuously studied and main sewer interceptors be constructed to encourage development growth: residential, commercial and industrial.

(ii) Projects shall be prioritized and approved by the WWTA board and shall be constructed as allowed by the yearly budget.

(c) The WWTA may assist developers and existing businesses in extending sewers to their property. This policy may be applied

anywhere in the WWTA coverage region as long as all of the following criteria are met:

(i) The WWTA receives the revenue from all users who tie to the proposed sewerline.

(ii) The projected cost of the sewerline located outside of the developers/owners property is more than the potential amount of tap-on fees. If the projected cost is less than the potential amount of tap-on fees, the developer/owner would be required to pay the cost to extend the sewers, and the WWTA would issue tap-on certificates for the construction costs according to the existing WWTA regulations.

(iii) The WWTA board approves the project and funds available to the WWTA.

(d) A developer/owner may select one of the following options for the construction of the sewerline:

(i) Option 1 - Certificates for off-site construction. The WWTA may assist developers with the construction of sanitary sewers by issuing tapping privilege fee certificates equal to all or part of the design and construction cost of any off-site sewer line to be dedicated to the WWTA.

(A) The number of certificates will be determined by dividing the design and construction cost of the off-site sewer line by the applicable tap fee less \$50.00. The number of certificates shall not exceed the number of establishments and/or building lots to be served by the sewers inside of the developer's property (on-site) and constructed at the same time the off-site sewers are constructed. The constructed and design cost of pump stations and force mains will only be included when the design matches the requirements of the master sewer plan.

(B) The certificates are assigned to individual establishments and/or building lots and may be redeemed when applying for a tapping permit. Certificates can only be applied towards the tapping permit fee and cannot reduce the tapping permit fee below fifty dollars (\$50.00). The certificates are non-transferable and can only be used for the establishment and/or building lots listed on the certificates. Certificates must be redeemed within five (5) years from the date on the certificate.

(C) Tapping privilege fee certificates will be issued when the sewer system is accepted by the WWTA.

(ii) Option 2 - WWTA contribution. The WWTA will contribute the following amount to the construction costs:

(A) The projected net sewer revenue from the project for the first 3 years. The net revenue is the WWTA sewer charge less the amount charged by the accepting authority (City of Chattanooga or Collegedale); plus

(B) The amount of the known tap-on fees. This does not include tap-on fees for future or proposed construction.

The developer/owner would be responsible for the remaining costs. These remaining costs could be obtained from the developer/owner, other property owners along the proposed sewerline, loans, grants, municipalities, or county governments.

(iii) Option 3 -- WWTA financing. The WWTA will assist in the construction of the sewerline construction by financing the construction. The developer/owner must agree to the following items before the WWTA will finance the project.

(A) A lien will be placed on the developers/owners property to assure repayment of the loan.

(B) Before the project will be financed, the developer/owner must pay at least an amount equal to 60% of the tap-on fees of the ultimate development.

(C) Collection of funds from other adjacent property owners or potential developers, to help reduce the amount of the loan, is the responsibility of the developers/owner and not the WWTA.

Once the developer/owner agrees to the above items, the WWTA will finance the project costs in excess of item (B) above. The developer/owner must agree to repay the WWTA in equally monthly payments with the loan amortized over 5 years at a rate equal to 2% over the rate at which the WWTA borrowed the funds or, if the funds are not borrowed, 2% over the prevailing interest rate if the WWTA had borrowed the funds. The monthly payment would be divided by the minimum sewer rate to determine the number of minimum bills the monthly payment represents. The initial payment would be reduced by the number of residents that would have to pay a minimum payment due to being located adjacent to the sewerline. As other property owners tie to the sewerline, the monthly payment by the developer/owner would be reduced by that number of minimum bills. Adjustments to the payments would be made on January 1 and July 1, of each year.

(4) Private sewer system. (a) There shall be no new construction of a private sanitary sewer system that connects to or could connect to a public sewer system or to another private sewer system.

(b) Any private non-traditional sanitary sewer system that is not covered by part (a) above and serves more than one user must post

with the WWTa a performance bond equal to the total cost of the design and construction of the sewer system a maintenance bond equal to the cost of five (5) years maintenance as determined by the WWTa. The bonds must be cash, cashier's check, or a surety bond and the amount of the bonds must be approved by the WWTa before building permits are issued to structures connecting to the system.

(5) Construction of a grinder pump system. The construction of a grinder pump system shall be governed by the following policies:

(a) Grinder pump systems shall only be used at locations approved by the WWTa.

(b) The construction of a grinder pump system shall meet the requirements of section (2). Construction of public sewer extensions, with the following exceptions:

(i) The grinder pump forcemain may be located in the right-of-way of a roadway if approved by the superintendent.

(ii) The connection of the grinder pump to the building service shall be made by a plumber licensed to do such work. The installation of the grinder pump and the line to the collector forcemain of gravity line may be made by a plumber licensed to do such work and trained by the WWTa to install such systems. The control panel, disconnect, and connection to the electrical power at the structure must be made by a licensed electrician.

(c) The grinder pump system must be designed to use grinder pumps approved by the WWTa and the system must be constructed using grinder pumps purchased from the WWTa.

(d) The applicant must fill out an "application for sewer service (pressure sewers)" and a "pressure sewer easement" before installation of the grinder pump and be responsible for all items listed therein.

(e) The tapping privilege fee, monthly rate, and minimum bill shall be the same as listed in § 18-106 Fees. The cost of the grinder pump shall be paid when the tapping privilege fee is paid. (1993 Code, § 8-207, modified, as replaced by Ord. #719, June 2001, and Ord. #733, April 2002)

**18-108. Inspections, monitoring, and entry.** (1) Applicability. The provisions of this section shall apply as required to carry out the objectives of this section, including but not limited to the regulation and enforcement of any permit conditions or construction procedures in accordance with this section; developing or assisting in the development of any effluent limitation, or other limitation prohibition, or effluent standard, pretreatment standard, or standard of performance under this section; determining whether any person is in violation of any permit condition, effluent limitation, or other limitation, prohibition or effluent standard, pretreatment standard, or standard of performance; and any requirement established under this section.

(2) Inspection of sewer service line. (a) The applicant for a sewer service line connection permit shall notify the office of the superintendent at least 24 hours prior to the connection being complete and ready for inspection.

(b) No connection to the public sewer or the sewer service line shall be covered before it is inspected and approved. An applicant failing to secure such an inspection shall be required, at his/her own expense, to uncover the line for inspection. Notification of at least 24 hours shall also be required for connections that must be re-inspected for approval.

(c) The superintendent or authorized representative shall have the right of entry upon the premises from which a connection is being made to the public sewer in order to determine compliance with sewer use and connection regulations.

(d) No connection to the public sewer shall be made at any point except where a service junction or tee has been installed and left for that purpose without prior approval of the superintendent. When a service junction or tee is not available, the applicant shall notify the superintendent at least 24 hours in advance of when the connection needs to be made. In all cases, connections of this type shall be done under the inspection of the superintendent or authorized representative, at the risk and expense of the party making the connection.

(3) Inspection of public sewer extensions. (a) The applicant for a public sewer extension permit shall request inspection from the office of the superintendent 30 days before beginning any construction of the extension. The applicant shall pay the WWTA through the office of the superintendent the exact cost of inspection of the extension as billed to the WWTA. The applicant shall provide a contractor's written certification of the fair market cost of the extension.

(b) Sewer extensions that are not inspected and approved shall not be accepted as WWTA public sewers and no service line connection permits will be issued for premises served by the extension.

(4) Inspections and monitoring of industrial wastewater discharge permits. (a) Inspections and monitoring shall be by RWTF (City of Chattanooga) personnel according to the provisions of Article III, Industrial Waste, in the Sewer Use and Industrial Wastewater Discharge Regulations of the City of Chattanooga.

(b) The superintendent or authorized representative, upon presentation of credentials:

(i) Shall have a right of entry to, upon, or through any premises in which an effluent source is located for which records are required to be maintained according to paragraph (a) above, and,

(ii) May at reasonable times have access to and copy any records, inspect any monitoring equipment or method required

under paragraph (a) above, and sample any effluents which the owner or operator of such source is required to sample. (1993 Code, § 8-208, modified, as replaced by Ord. #719, June 2001, and Ord. #733, April 2002)

**18-109. Dangerous discharge notification requirements.**

(1) Telephone notification. Any person causing or suffering any discharge whether accidental or not, which presents or may present an imminent or substantial endangerment to the health and welfare of persons, to the environment, or which is likely to cause interference with the POCS, shall notify the superintendent immediately by telephone.

(2) Written report. Within five (5) days following such occurrence, the user shall provide the superintendent with a detailed written report describing the cause of the dangerous discharge and measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability which may be incurred as a result of damage to the POCS, RWTF, fish kills, or any other damage to person or property; nor shall such notification relieve the user of any fines, civil penalties, or other liability which may be imposed by the RWTF, or other applicable federal, state and local laws.

(3) Notice to employees. A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees whom to call in the event of a dangerous discharge. Employers shall insure that all employees who may cause or suffer such a dangerous discharge to occur area are advised of the emergency notification procedure. (1993 Code, § 8-209, as replaced by Ord. #719, June 2001, and Ord. #733, April 2002)

**18-110. Enforcement and abatement.** (1) Public nuisance. Discharge of wastewater in any manner in violation of this section, or of any condition of a wastewater discharge permit is hereby declared a public nuisance and shall be corrected or abated as provided herein.

(2) Superintendent to notify user of violation. Whenever the superintendent determines or has reasonable cause to believe that a discharge of wastewater has occurred in violation of the provisions of this section, the user's wastewater discharge permit, or any other applicable law or regulation, the superintendent shall notify the user of such violation. Failure of the superintendent to provide notice to the user shall not in any way relieve the user from any consequences of a wrongful or illegal discharge.

(3) Conciliation meetings. (a) The superintendent may, but shall not be required, to invite representatives of the user to a conciliation meeting to discuss the violation and methods of correcting the cause of violation. Such additional meetings as the superintendent and the user deem advisable may be held to resolve the problem.

(b) If the user and the superintendent can agree to appropriate remedial and preventative measures, they shall commit such agreement to writing with provisions for a reasonable compliance schedule and the same shall be incorporated as a supplemental condition of the user's wastewater discharge permit.

(c) If an agreement is not reached through the conciliation process within sixty (60) days, the superintendent shall institute such other actions as he deems advisable to insure the user's compliance with the provision of this section or other law or regulation.

(4) Show cause hearing. (a) The superintendent may issue a show cause notice to the user directing the user to appear before the WWTA or RWTF at a specified date and time to show cause why the user's wastewater discharge permit should not be modified, suspended, or revoked for causing or suffering violation of this section, or other applicable law or regulation, or conditions in the wastewater discharge permit of the user.

(b) If the superintendent seeks to modify the user's wastewater discharge permit to establish wastewater strength limitations or other control techniques to prevent future violations, the superintendent shall notify the user of the nature of the violation for which revocation or suspension is sought with sufficient specificity as to the character of the violation and the dates at which such violation occurred to enable the user to prepare a defense.

(c) Such notice shall be mailed to the user by certified mail, return receipt requested, or shall be personally delivered to the user at least twenty (20) days prior to the scheduled hearing date.

(5) Injunctive relief. (a) The superintendent shall, in the name of the WWTA, file in Circuit or Chancery Court of Hamilton County, Tennessee, or such other courts as may have jurisdiction, a suit seeking the issuance of an injunction, damages, or other appropriate relief to enforce the provisions of this section or other applicable law or regulation.

(b) Suit may be brought to recover any and all damages suffered by the WWTA and/or RWTF as a result of any action or inaction of any user or other person who causes or suffers damage to occur to the POCS or RWTF or for any other expense, loss or damage of any kind or nature suffered.

(6) Assessment of damages to users. (a) When a discharge of waste causes an obstruction, damage, or any other impairment to the facilities, or any expense of whatever character or nature to the WWTA or RWTF, the superintendent shall assess the expenses incurred by the WWTA or RWTF to clear the obstruction, repair damage to the facility, and any other expenses or damages incurred which may include, without limit, damage to the public right-of-way.



(b) The superintendent shall file a claim with the user or any other person causing or meaning said damages to incur seeking reimbursement for any and all expenses or damages suffered by the WWTA or RWTF. If the claim is ignored or denied, the superintendent shall notify the WWTA counsel to take such measures as shall be appropriate to recover for any expense or other damages suffered.

(7) Superintendent may petition for federal or state enforcement. In addition to other remedies for enforcement provided herein, the superintendent may petition the State of Tennessee or the United States Environmental Protection Agency, as appropriate to exercise such methods or remedies as shall be available to such government entities to seek criminal or civil penalties, injunction relief, or such other remedies as may be provided by applicable federal or state laws to insure compliance by industrial users of applicable pretreatment standards, to prevent the introduction of toxic pollutants or other regulated pollutants into the POCS or RWTF, or to prevent such other water pollution as may be regulated by local, state or federal law.

(8) Emergency termination of service. (a) In the event of an actual or threatened discharge to the POCS of any pollutant which, in the opinion of the superintendent, presents or may present an imminent and substantial endangerment to the health or welfare of persons, or cause interference with the POCS, the superintendent, shall immediately notify the WWTA chairperson and counsel of the nature of the emergency.

(b) The superintendent shall also attempt to notify the industrial user or other person causing the emergency and request their assistance in abating same. Following consultation the superintendent shall temporarily terminate the service of such user or users as are necessary to abate the condition when such action appears reasonably necessary. Such service shall be restored by the superintendent as soon as the emergency situation has been abated or corrected.

(9) Reporting by superintendent. The superintendent shall report to the board any intent to institute any action under the provisions of subsections (5) and (7) hereof and seek the advice of the board in regard thereto, unless he shall determine that immediate action is available. (1993 Code, § 8-210, as replaced by Ord. #719, June 2001, and Ord. #733, April 2002)

**18-111. WWTA board.** The WWTA board shall consist of such persons as specified in the WWTA law. The WWTA board shall have such powers and duties as specified in the WWTA law.

(1) General duties of the board. In addition to any other duty or responsibility otherwise conferred upon the board the WWTA law, the board shall have the duty and power as follows:

(a) To grant exceptions pursuant to the provisions hereof, and to determine such issues of law and fact as are necessary to perform this duty;

(b) To hold hearings upon appeals from orders or actions of the superintendent as may be provided under any provision of this section;

(c) To hold hearings relating to the suspension, revocation, or modification of a wastewater discharge permit as it is provided in this section and issue appropriate orders relating thereto;

(d) To hold such other hearings relating to any aspect or matter in the administration of these regulations and to make such determinations and issue such orders as may be necessary to effectuate the purposes of these regulations.

(e) To request assistance from any officer, agent, or employee of the Chattanooga-Hamilton County Regional Planning Commission, or other public agencies, to obtain such information or other assistance as the board might need;

(f) The board, acting through its chairperson, shall have the power to issue subpoenas requiring attendance testimony and of witnesses and the production of documentary evidence relevant to any matter properly heard by the board to the extent authorized by law;

(g) The chairperson or vice-chairperson shall be authorized to administer oaths to those persons giving testimony before the board;

(h) The board shall hold regular meetings and such special meetings the board may find necessary;

(i) Three (3) members of the board shall constitute a quorum, but a lesser number may adjourn the meeting from day to day. A majority vote of those members of the board present at any meeting is required to make determination or to act on issues that are under the authority of the board.

(j) The board may adopt rules of order and by laws to govern its affairs. (1993 Code, § 8-211, as replaced by Ord. #719, June 2001, and Ord. #733, April 2002)

**18-112. Superintendent.** (1) Superintendent and staff. The superintendent and staff shall be responsible for the administration of these regulations and such duties as may be required, from time to time, by the board.

(2) Authority of superintendent. The superintendent shall have the authority to enforce these regulations. The superintendent shall be responsible and have the authority to operate the various treatment works. The superintendent shall be responsible for the preparation of operating budgets and recommendations to the board, concerning activities within the superintendent's responsibility and authority.

(3) Records. The superintendent shall keep in office all applications required under these regulations, a complete record thereof, including a record of all wastewater discharge permits. The superintendent shall also maintain other records of the WWTAA, as directed by the board.

(4) Superintendent's responsibilities. (a) The superintendent shall attend all meetings of the WWTA board. Whenever necessary to be absent, the superintendent shall send a designated representative.

(b) The superintendent shall notify industrial users identified in 40 CFR 403.8(f)(2) and (i) of any applicable pretreatment standards or other applicable requirements promulgated by the Environmental Protection Agency under the provisions of section 204(b) of the Act (33 U.S.C. 1284), section 405 of the Act (33 U.S.C. 1345), or under the provisions of sections 3001 (42 U.S.C. 6921), 3004 (42 U.S.C. 6924) or 4004 (42 U.S.C. 6944) of the Solid Waste Disposal Act.

(c) Failure of the superintendent to so notify industrial users shall not relieve said users from the responsibility of complying with said requirements.

(d) The superintendent shall comply with all applicable public participation requirements of section 101(e) of the Act (33 U.S.C. 1251(e) and 40 CFR Part 105 in the enforcement of National Pretreatment Standards).

(e) The superintendent shall at least annually provide public notification, in a daily newspaper published in Hamilton County, of industrial users during the previous twelve (12) months which at least once were not in compliance with the applicable pretreatment standards or other pretreatment requirements.

(f) The notification shall summarize enforcement actions taken by the control authorities during the same twelve (12) months. An industrial user shall be deemed to be in compliance with applicable pretreatment standards or other pretreatment requirements if the user has completed applicable increments of progress under the provisions of any compliance schedule in the user's wastewater discharge permit or if the user has been granted an exception under the provision of § 18-103. (as added by Ord. #733, April 2002)

**18-113. Wastewater regulations board hearing procedure: judicial review.** (1) Adjudicatory hearing. (a) The WWTA board shall schedule an adjudicatory hearing to resolve disputed questions of fact and law whenever provided by any provision of this section.

(b) At any such hearing, all testimony presented shall be under oath or upon solemn affirmation in lieu of oath. The board shall make a record of such hearing, but the same need not be a verbatim record.

(c) Any party coming before the board shall have the right to have said hearing recorded stenographically, but in such event the record need not be transcribed unless any party seeks judicial review of the order or action of the board by common law writ of certiorari, and in such event the parties seeking such judicial review shall pay for the

transcription and provide the board with the original of the transcript so that it may be certified to the court.

(d) The chairperson may issue subpoenas requiring attendance and testimony of witnesses or the production of evidence, or both. A request for issuance of a subpoena shall be made by lodging with the chairperson at least ten (10) days prior to the scheduled hearing date a written request for a subpoena setting forth the name and address of the party to be subpoenaed, and identifying any evidence to be produced.

(e) Upon endorsement of a subpoena by the chairperson, the same shall be delivered to the sheriff for service by any police officer of the county. If the witness does not reside in the county, the chairperson shall issue a written request that the witness attend the hearing.

(f) Upon agreement of all parties, the testimony of any person may be taken by deposition or written interrogatories. Unless otherwise agreed, the deposition shall be taken in manner consistent with the Tennessee Rules of Civil Procedure, with the chairperson to rule on such matters as would require a ruling by the court under said rules.

(g) The party at such hearing bearing the affirmative burden of proof shall first call witnesses, to be followed by witnesses called by other parties to be followed by any witnesses which the board may desire to call.

(h) Rebuttal witnesses shall be called in the same order. The chairperson shall rule on any evidentiary questions arising during such hearing, and shall make such other rulings as shall be necessary or advisable to facilitate an orderly hearing subject to approval of the board.

(i) The board, the superintendent, or representative, and all parties shall have the right to examine any witness. The board shall not be bound by or limited to rules of evidence applicable to legal proceedings.

(2) Appeals. (a) Any person aggrieved by an order or determination of the superintendent or by any provision of this section may appeal said order, determination or provision and have such reviewed by the board under the provisions of this section.

(b) A written notice of appeal shall be filed with the superintendent and with the chairperson, and said notice shall set forth with particularity the provision being appealed and the reasons therefore or the action or inaction of the superintendent complained of and the relief being sought by the person filing said appeal.

(c) Such an appeal shall be filed within 30 days of written notification by the superintendent of a violation of the provisions of this section in order to be considered by the board. Appeals shall be considered by the board at the next regularly scheduled board meeting following receipt or within 40 days after receipt, provided however, that nothing in this section shall require the board to consider any one particular appeal more than once.

(d) A special meeting of the board may be called by the chairperson upon the filing of such appeal, and the board may in its discretion suspend the operation of an order or determination of the superintendent appealed from until such time as the board has acted upon the appeal. Provided, however, that actions and determinations of the superintendent under the provisions of § 18-110(5) through (8) inclusive shall not be subject to review under this section.

(3) Delegation of authority. The vice-chairperson shall possess all the authority delegated to the chairperson by this section when acting in the chairperson's absence.

(4) Judicial review. Any person aggrieved by an final order or determination of the board hereunder shall have judicial review by common law writ of certiorari. (as added by Ord. #733, April 2002)

**18-114. Penalties for violations of section permit conditions or order.** (1) Any person who violates any provision of these regulations shall be guilty of a misdemeanor and, upon conviction, is punishable by a fine. This includes but is not limited to the following violations:

- (a) Violates an effluent standard or limitation;
- (b) Violates the terms or conditions of a wastewater discharge permit;
- (c) Fails to complete a filing or report requirement;
- (d) Fails to perform or properly report any required monitoring;
- (e) Violates a final order or determination of the WWTA board or the superintendent; or
- (f) Fails to pay any established sewer service charge or industrial cost recovery charge.

(2) Each separate violation shall constitute a separate offense and upon conviction, each day of violation shall constitute a separate offense, for which prosecution is authorized, in the manner provided by law.

(3) If any part, section, subsection, sentence, clause or phrase of this resolution is for any reason declared to be unconstitutional or otherwise invalid by any court of competent jurisdiction, such decisions shall not affect the validity of the remaining portions of this resolution. (as added by Ord. #733, April 2002)

**CHAPTER 2**

**[DELETED]**

This chapter was deleted by Ord. #733, April 2002.

**CHAPTER 3**

**[DELETED]**

This chapter was deleted by Ord. #733, April 2002.

## CHAPTER 4

### CROSS CONNECTIONS, AUXILIARY INTAKES, ETC.<sup>1</sup>

#### SECTION

- 18-401. Definitions.
- 18-402. Regulated.
- 18-403. Statement required.
- 18-404. Violations.

**18-401. Definitions.** The following definitions and terms shall apply in the interpretation and enforcement of this chapter:

(1) "Public water supply." The waterworks system furnishing water to the municipality for general use and which supply is recognized as the public water supply by the Tennessee Department of Public Health.

(2) "Cross connection." Any physical connection whereby the public water supply is connected with any other water supply system, whether public or private, either inside of any building or buildings, in such manner that a flow of water into the public water supply is possible either through the manipulation of valves or because of ineffective check or back-pressure valves, or because of any other arrangement.

(3) "Auxiliary intake." Any piping connection or other device whereby water may be secured from a source other than that normally used.

(4) "Bypass." Any system of piping or other arrangement whereby the water may be diverted around any part or portion of a water purification plant.

(5) "Interconnection." Any system of piping or other arrangement whereby the public water supply is connected directly with a sewer, drain, conduit, pool, storage reservoir, or other device which normally contains sewage or other waste or liquid which would be capable of imparting contamination to the public water supply.

(6) "Person." Any and all persons, natural or artificial, including any individual, firm, or association, and any municipal or private corporation organized or existing under the laws of this or any other state or county. (1993 Code, § 8-301, as replaced by Ord. #719, June 2001)

**18-402. Regulated.** It shall be unlawful for any person to cause a cross-connection, auxiliary intake, by-pass or interconnection to be made, or allow one to exist for any purpose whatsoever unless the construction and operation of same have been approved by the Tennessee Department of Public Health, and the operation of such cross-connection, auxiliary intake, by-pass or

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<sup>1</sup>Municipal code reference  
Plumbing code: title 12.



interconnection is at all times under the direct supervision of the superintendent of the water works supplying water at that location. (1993 Code, § 8-302, as replaced by Ord. #719, June 2001)

**18-403. Statement required.** Any person whose premises are supplied with water from the public water supply and who also has on the same premises a separate source of water supply, or stores water in an uncovered or unsanitary storage reservoir from which the water stored therein is circulated through a piping system, shall file with the superintendent of the water works a statement of the non-existence of unapproved or unauthorized cross connections, auxiliary intakes, bypasses, or interconnections. Such statement shall also contain an agreement that no cross connection, auxiliary intake, bypass, or interconnection will be permitted upon the premises until the construction and operation of same have received the approval of the Tennessee Department of Public Health, and the operation and maintenance of same have been placed under the direct supervision of the superintendent of the water works supplying water at that location. (1993 Code, § 8-303, as replaced by Ord. #719, June 2001)

**18-404. Violations.** Any person who now has cross-connections, auxiliary intakes, by-passes or interconnections in violation of the provisions of this chapter shall be allowed a reasonable time within which to comply with such provisions. After a thorough investigation of existing conditions and an appraisal of the time required to complete the work, the amount of time to be allowed shall be designated by the superintendent of the water works. In addition to, or in lieu of any fines and penalties that may be judicially assessed for violations of this chapter, the superintendent of the water works shall discontinue the public water supply service at any premises upon which there is found to be a cross-connection, auxiliary intake, by-pass, or interconnection, and service shall not be restored until such cross-connection, auxiliary intake, by-pass, or interconnection has been discontinued. (1993 Code, § 8-304, as replaced by Ord. #719, June 2001)

## CHAPTER 5

### STORM WATER MANAGEMENT

#### SECTION

- 18-501. Storm water management.
- 18-502. Construction activities and erosion and sediment control.
- 18-503. Monitoring and inspecting.
- 18-504. Enforcement and abatement.

**18-501. Storm water management.** (1) Purpose. It is the purpose of this chapter to protect, maintain, and enhance the environment of the City of East Ridge and the short-term and long-term public health, safety, and general welfare of the citizens of East Ridge by controlling discharges of pollutants to the East Ridge Storm Water System and to maintain and improve the quality of the community waters into which the storm water outlets discharge, including without limitation, the streams, ponds, wetlands, sinkholes, and groundwater of East Ridge.

(2) Definitions. For the purpose of this chapter the following terms, phrases and words and their derivatives, shall have the meaning given herein:

(a) "Accidental discharge," means a discharge prohibited by this chapter into the "community waters" or the "waters of the state" which occur by chance and without planning or consideration prior to occurrence.

(b) "Best management practices" or "BMPs," means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of storm water runoff. BMPs also include treatment requirements, operating procedures, and practices to control site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

(c) "Clear Water Act," means the Federal Water Pollution Control Act, as amended, codified at 33 U.S.C. § 1251 *et. seq.*

(d) "Commercial," means property devoted in whole or in part to the commerce, that is, the exchange and buying and selling of commodities or services. The term shall include, by way of example but not of limitation, the following businesses: amusement establishments, animal clinics or hospitals, automobile service stations, new or used automobile dealerships, automobile car washes, automobile and vehicular repair shops, banking establishments, beauty and barber shops, bowling alleys, bus terminals and repair shops, camera shops, dental offices or clinics, day care centers, department stores, drug stores, funeral homes, furniture stores, gift shops, grocery stores, hardware stores, hotels, jewelry stores, laboratories, laundries and dry cleaning establishments, liquor stores, medical offices and clinics, motels, movie theaters, office

buildings, paint stores or shops, parking lots, produce markets, professional offices, radio stations, repair establishments, retail stores, restaurants and similar establishments serving prepared food and beverages, rooming houses, shopping centers, stationary stores, television stations and production facilities, theaters, or other establishments selling goods or services.

(e) "Community waters," means any and all rivers, streams, creeks, branches, lakes, reservoirs, ponds, drainage systems, springs, wetlands, wells and other bodies of surface or subsurface water, natural or artificial, lying within or forming a part of the boundaries of the City of East Ridge the waters into which the East Ridge Storm Water System outfall flow.

(f) "Erosion and sediment control plan," means a written plan, including drawings or other graphic representations, for the control of soil erosion and sedimentation resulting from a construction activity.

(g) "Impervious," means not allowing the passage of water through the surface of the ground or ground covering or a substantial reduction in the capacity for water to pass through the surface of the ground or ground covering.

(h) "Industrial," means a business engaged in industrial production or service, that is a business characterized by manufacturing or productive enterprise or a related service business. This term shall include, by way of example but not of limitation, the following: apparel and fabric finishers, blast furnace, blueprint and related shops, boiler works, cold storage plants, contractors plants and storage facilities, foundries, furniture and household good manufacturing, forge plants, foundries, greenhouses, junk yards, manufacturing plants, metal fabricating shops, ore reduction facilities, planing mills, rock crushers, rolling mills, saw mills, smelting operations, stockyards, stone mills or quarries, textile production, utility transmission or storage facilities, warehousing, and wholesaling facilities.

(i) "Institutional," means an established organization, especially of a public or charitable character. This term shall include, by way of example but not of limitation, the following: churches, community buildings, colleges, day care facilities, dormitories, drug or alcohol rehabilitation facilities, fire halls, fraternal organizations, golf courses and driving ranges, government buildings, hospitals, libraries, kindergartens or preschools, nursing homes, mortuaries, schools, social agencies, synagogues, parks and playgrounds.

(j) "Director," means the person designated by the city manager to supervise the operation of the storm water management program and who is charged with certain duties and responsibilities by this chapter, or a duly authorized representative.

(k) "Multi-family residential," means an apartment building or other residential structure built for three or more family units, mobile home parks with three or more units or lots under common ownership, and condominiums of three or more units.

(l) "National Pollution Discharge Elimination System" or "NPDES" permit, means a permit issued pursuant to Section 402 of the Act (33 U.S.C. § 1342).

(m) "Notice of intent," (NOI) is a permit application referred to as a notice of intent to be covered under the general NPDES permit to discharge storm water associated with construction activity. This application serves as a written notice by a discharger to the Commissioner of the Tennessee Department of Environment and Conservation, or his designated agent, that the person wishes his discharge to be authorized under a general permit authorized by state law or regulation, particularly Rule 1200-4-10-04 or Rule 1200-4-10-05, Rules and Regulations of the State of Tennessee.

(n) "Person," means any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, or any other legal entity, or their legal representatives, agents or assigns other than a governmental entity. The masculine gender shall include the feminine, the singular shall include the plural where indicated by the context.

(o) "Pollution prevention plans," means a written site specific plan to eliminate or reduce and control the pollution of water through designed facilities, sedimentation ponds, natural or constructed wetlands, and best management practices.

(p) "Significant spills," includes, but is not limited to releases of oil or hazardous substances in excess of reportable quantities under section 311 of the Clean Water Act (see 40 CFR 110.10 and CFR 117.21) or section 102 of CERCLA (see 40 CFR 302.4).

(q) "Storm water," means storm water runoff, snow melt runoff, and surface runoff and drainage.

(r) "Storm water management," means the collection, conveyance, storage, treatment and disposal of storm water runoff in a manner to meet the objectives of this chapter and its terms, including, but not limited to measures that control the increased volume and rate of storm water runoff and water quality impacts caused by manmade changes to the land.

(s) "Storm water management plan" or "SWMP," means the set of drawings and other documents that comprise all of the information and specifications for the programs, drainage systems, structures, BMPs, concepts, and techniques for the control of storm water and which is incorporated as part of the NPDES permit for East Ridge and as part of this chapter.

(t) "Toxic pollutant," means any pollutant or combination of pollutants listed as toxic in 40 FR Part 401 promulgated by the Administrator of the Environmental Protection Agency under the provisions of 33 U.S.C. § 1317.

(u) "Variance," means the modification of the minimum storm water management requirements contained in this chapter and the storm water management plan for specific circumstances where strict adherence of the requirements would result in unnecessary hardship and not fulfill the intent of this chapter.

(v) "Water quality," means those characteristics of storm water runoff that relate to the physical, chemical, biological, or radiological integrity of water.

(w) "Water quantity," means those characteristics of storm water runoff that relate to the rate and volume of the storm water runoff.

(x) "Waters of the State of Tennessee" or "waters of the state," means any water, surface or underground, within the boundaries of the state, which the Department of Environment and Conservation exercises primary control over with respect to storm water permits.

(3) Abbreviations. (a) "BMP," means best management practices.

(b) "CFR," means Code of Federal Regulations.

(c) "NOI," means notice of intent to be covered under the general NPDES permit to discharge storm water associated with construction activity.

(d) "NPDES," means National Pollutant Discharge Elimination System.

(e) "T.C.A.," means Tennessee Code Annotated.

(f) "U.S.C.," means United States Code. (Ord. #689, July 1999, as replaced by Ord. #719, June 2001)

**18-502. Construction activities and erosion and sediment control.**

(1) Construction activities. All construction activities shall be in compliance with and permitted under this division of this chapter. If the construction activity requires a general NPDES permit for storm water discharges from construction activities, a notice of intent (NOI) to be covered under the general NPDES permit to discharge storm water associated with construction activity should be sent to the appropriate Environmental Assistance Center (EAC). For more information call 1-888-891-TDEC.

(2) Construction activities regulated. (a) It shall be unlawful for any person to conduct or permit to be conducted any construction activity upon land owned or controlled by them without a permit issued under this chapter. If coverage under the general NPDES permit to discharge storm water associated with construction activity is required, a copy of the completed NOI form is necessary before an East Ridge Construction Activities Permit can be issued.

(b) For purposes of this chapter the phrase construction activities are defined as follows:

(i) "Construction activities." Any land change which may result in soil erosion from water and wind and the movement of sediments into community waters or onto lands and roadways within the community, including, but not limited to, clearing, dredging, grading, excavating, transporting, and filling of land, except that the term shall not include the following:

(A) "Surface mining" as the same as defined in Tennessee Code Annotated, § 59-8-202;

(B) Such minor land disturbing activities as home gardens and individual home landscaping, home repairs, home maintenance work, and other related activities which could result in minor soil erosion;

(C) The construction of single-family residences when built separately on lots within subdivisions which have been approved and recorded on the office of the Hamilton County Register, and when applicable for subdivisions of ten or more lots have been issued a permit under this chapter: provided that excavation is limited to trenches for the foundation, basement, services and sewer connections, and minor grading for driveways, yard areas and sidewalks;

(D) Individual service and sewer connections for single- or two-family residences;

(E) Agriculture practices involving the establishment, cultivation or harvesting of products of the field or orchard, preparing and planting of pasture land, forestry land management practices including harvesting, farm ponds, dairy operations, and livestock and poultry management practices, and the construction of farm buildings;

(F) Any project carried out under the technical supervision of the Soil Conservation Service of the United States Department of Agriculture.

(G) Construction, installation or maintenance of electrical telephone and cable television lines and poles;

(H) Installation, maintenance and repair of any underground public utility lines when such activity occurs on an existing hard-surface road, street, or sidewalk, provided the activity is confined to the area of the road, street, or sidewalk that is hard;

(I) Construction, repair or rebuilding of tracks or related other facilities of a railroad company;

(ii) The above activities listed in A-I may be undertaken without a permit; however, the persons conducting these excluded activities shall remain responsible for otherwise conducting those activities in accordance with the provisions of this chapter and other applicable law including responsibility for controlling sedimentation and runoff.

(iii) Best management practices for construction activities. The minimum standards for controlling erosion and sedimentation from construction activities shall be set forth in the "Best Management Practices Manual," as adopted and amended from time to time by resolution approval by the city council. A copy of the BMP manual shall be maintained on file in the offices of the director, building inspector, the city finance officer and the city manager.

(3) Construction activities permit required. (a) No construction activity, whether temporary or permanent, shall be conducted within the City of East Ridge until either a construction activities permit shall have been issued by the city manager or his designated agent allowing such activity pursuant to the provisions of this chapter or pursuant to a general NPDES permit for storm water discharges associated with construction activity issued by the Department of Environment and Conservation. Such permit shall be available for inspection by the city manager or his designated agent on the job site at all time during which land disturbing activities are in progress. Such permit shall be required in addition to any building permit or other permit required upon the site.

(i) Any application for the issuance of a construction activities permit under this chapter shall include the following:

(A) Name of applicant;

(B) Business or residence address of applicant;

(C) Name and address of owner of subject property;

(D) Address and legal description of subject property;

(E) Name and address of the contractor and any subcontractor(s) who shall perform the construction activity and who shall implement the erosion control plan;

(F) A statement setting forth the nature, extent and purpose of the construction activity including the size of the area for which the permit shall be applicable and a schedule for the starting and completion dates of the construction activity.

(ii) Each application for a construction activities permit shall be accompanied by a map or plat of the premises showing the present contour lines and the proposed contour lines resulting from the construction activity in relation to all parts of the premises and

the properties immediately adjacent thereto and in relation to all abutting street grades and elevations; such map or plat shall show all existing drainage facilities and the proposed permanent disposition of surface waters upon completion of the construction activity.

(iii) Each application for a construction activities permit shall be accompanied by an erosion and sediment control plan that shall accurately describe the potential for soil erosion and sedimentation problems resulting from the construction activity. It shall explain and illustrate the measures that are to be taken to control these problems. The length and complexity of the plan is to be commensurate with the size of the project, severity of the site condition, and potential for off-site damage; the plan shall contain a description of the existing site conditions, a description of adjacent topographical features, a description of soil types and characteristics in the area, potential problems of soil erosion and sedimentation, stabilization, a time schedule for completion of the construction activity and for maintenance after completion of the project, clearing and grading limits, and all other information needed to accurately depict solutions to potential soil erosion and sedimentation problems. Any erosion and sediment control plan shall meet guidelines of the Best Management Practices Manual and shall be approved by the city manager or his designated agent prior to the issuance of the construction activities permit. The construction activities permit shall be issued promptly upon approval of the plan.

(iv) At any time the city manager or his designated agent determines that an erosion and sediment control plan does not comply with the provisions of this chapter, he shall notify the applicant in writing of all deficiencies within said plan.

(v) Each application for a construction activities permit shall demonstrate how the owner or developer will insure that the post-development off-site discharge rates shall not exceed the predevelopment discharge rates.

(4) General requirements. No construction activity shall be conducted within the city except in such manner that:

(a) The post-development off-site discharge rate does not exceed the pre-development discharge rates.

(b) The off-site discharges for the existing and developed conditions shall be computed using the 2-5-10 year frequency and 2-hour duration storm based on the following scheme:

Up to 10 acre controlled basin:	2-year frequency storm event
10-50 acre controlled basin:	5-year frequency storm event



Over 50 acre controlled basins: 10-year frequency storm event

Frequency of storm in years	Duration in Hours	Depth of Rainfall (inches)
2	2	2.0*
5	2	2.5*
10	2	2.8*

\*According to 1995 Report by Piedmont Olsen Hensley

(c) Stripping of vegetation, regrading and other development activities shall be conducted to minimize erosion. Clearing and grubbing must be held to the minimum necessary for grading and equipment operation. Pre-construction vegetative ground cover shall not be destroyed, removed or disturbed more than twenty (20) calendar days prior to grading or earth moving. Construction must be sequenced to minimize the exposure time of cleared surface area.

(d) Property owners shall be responsible upon completion of land disturbing activities to leave slopes so that they will not erode. Such methods could include revegetation, mulching, riprapping, or gunniting. Regardless of the method used, the objective will be to leave the site as erosion-free and maintenance-free as practicable.

(e) Whenever feasible, natural vegetation shall be retained, protected and supplement.

(f) Permanent or temporary soil stabilization must be applied to disturbed areas to the extent feasible within seven days on areas that will remain unfinished for more than thirty (30) calendar days. Permanent soil stabilization with perennial vegetation shall be applied as soon as practicable after final grading is reached on any portion of the site. Soil stabilization refers to measures which protect soil from the erosive forces of wind, raindrop impact and flowing water, and includes the growing of grass, sod, application of straw, mulch, fabric mats, and the early application of gravel base on areas to be paved.

(g) A permanent vegetative cover shall be established on disturbed areas not otherwise permanently stabilized.

(h) To the extent necessary, sediment in runoff water must be trapped by the use of check dams, brush barriers, sediment basins, silt traps, settling ponds or similar measures until the disturbed area is stabilized.

(i) Neighboring persons and property shall be protected from damage or loss resulting from excessive storm water runoff, soil erosion

or sediment deposition upon private property or public streets of water transported silt and debris. Adjacent property owners shall be protected from land devaluation due to exposed bare soil or banks.

(j) Erosion and sediment control measures must be in place and functional before earth moving operations begin, and must be constructed and maintained throughout the construction period. Temporary measures may be removed at the beginning of the workday, but must be replaced at the end of the workday.

(k) Structural controls shall be designed and maintained as required to prevent pollution. Using berms, channels, pipes or other method of diversion as necessary shall to the extent practicable divert all surface water flowing toward the construction area. Erosion and sediment control measures shall be designed according to the size and slope of disturbed or drainage areas, to detain runoff and trap sediment. Discharges from sediment basins and traps must be through a pipe or channel that is lined with non-erodible material so that the discharge does not cause erosion. Muddy water to be pumped from excavation and work areas must be held in settling basins or treated by filtration prior to its discharge into surface waters where practicable. Waters must be discharged through a pipe or lined channel so that the discharge does not cause erosion and sedimentation.

(l) All control measures shall be checked, and repaired as necessary, weekly in dry periods and within 24 hours after any rainfall of 0.5 inches with a 24-hour period. During prolonged rainfall, daily checking and repairing is necessary. The permittee shall maintain record of such checks and repairs.

(m) A specific individuals shall be designated to be responsible for erosion and sediment controls on each site.

(n) There shall be no distinctly visible floating scum, oil or other matter contained in the storm water discharge. The storm water discharge must not cause an objectionable color contrast in the receiving water. The storm water discharge must result in no materials in concentrations sufficient to be hazardous or otherwise detrimental to humans, livestock, wildlife, plant life, or fish and aquatic life in the receiving stream.

(o) When the construction activity is finished and stable perennial vegetation has been established on all remaining exposed soil, the developer shall notify the city manager or designated agent of these facts and request termination of the permit issued under this section. The city manager or his designated agent shall then inspect the site within twenty (20) days after receipt of such notice, and when advisable may require additional measures to stabilize the soil and prevent erosion. If such requirements are given by letter, the owner or developer shall continue to be covered by the provisions of this section, until a request for

termination of the permit has been accepted by the city manager or his designated agent.

(p) Appropriate proof and records of compliance with the provisions of the East Ridge Construction Activities Permit will be maintained in the office of the designated contact person and be made available for review at any time by the director or designated agent.

(q) Any applicant that identifies a project with a nominal discharge rate, a discharge location that is unfeasible or other circumstances that prevent adherence to the aforementioned discharge limitations shall propose alternative methods of runoff control. Alternative methods of runoff control will be accepted only by city council approval.

(5) Land filling requirements in certain residential areas. (a) It shall be unlawful for any person to fill any unimproved land in any property which is within one hundred feet of any R-1 Residential Zone or R-2 Residential Zone or which itself is zoned in one of these zone categories without first obtaining a construction activities permit which shall be subject to the following additional restrictions:

(i) Fill material must be comprised only of suitable dirt, bricks, concrete without exposed rebar, stones or other similar inert materials;

(ii) For land within the one hundred (100) year flood plain, no net increase in fill may result from the fill activity except by council approval.

(iii) Maximum height of fill shall be two (2) feet above the adjacent roads or two (2) feet above the one hundred (100) year flood elevation, whichever is higher;

(iv) Fill must not interfere with the free drainage of the adjacent properties;

(v) Except where existing storm water conveyances are adequate for any increase in drainage, appropriately sized on-site retention facilities shall be provided;

(vi) Filling of the property must be completed, including capping the fill with stable perennial vegetation, within one (1) year of permit issue date, at which time the permit shall become null and void; and

(vii) A second construction activities permit may be issued only in conjunction with building on the property but only after ninety (90) days from the termination or completion of the proceeding construction activities permit on the same property.

(b) Each application for permit, with the required fee therefore, shall be filed with the city manager or his designated agent and in addition to the general requirements, shall contain the following information:

- (i) Written approval of the request for a permit from the owner of the property;
- (ii) The character and description of the fill material to be deposited;
- (iii) The rate at which the fill materials are expected to be deposited on a weekly or monthly basis;
- (iv) Equipment to be used; and
- (v) The date upon which the applicant desires the permit to be issued.

(c) The city manager or his designated agent may impose conditions upon the issuance of a permit which are reasonably calculated to eliminate excessive noise, scattering of dust or dirt, scattering of materials, to prevent nuisances and to prevent obstruction of public streets or interference with traffic.

(d) Where any filling work for which a permit is required is started prior to obtaining said permit, the fee herein shall be doubled but the payment of such doubled fee shall not relieve any person from fully complying with the requirements of this code in the execution of the work nor from any other penalties prescribed herein.

(e) Any person filling property at the time of the enactment of this provision shall obtain a permit within ten (10) days and shall to the extent practical comply with all provisions in this section.

(6) Permit application fee. (a) Each application for the issuance of a construction activities permit under this chapter shall be (\$100.00) per acre developed or a minimum fee of one hundred dollars (\$100.00).

(b) Each application for the issuance of a construction activities permit that includes fill activity will include an additional fee of fifty dollars (\$50.00) per acre or part thereof.

(7) Transfer of permit. An East Ridge Construction Activities Permit may be transferred only upon the filing of an amendment to the permit application or an amended or restated application containing all changes from the original application providing there are no charges in the overall plan for the construction activity which may affect the quantity or quality of the storm water runoff. If there are any changes in the construction activity which may effect the quantity or quality of storm water runoff, then the new owner or operator shall re-apply for an East Ridge Construction Activities Permit prior to the beginning of operation of the new construction activity. Filing an amendment to transfer an East Ridge Construction Activities Permit shall be treated as an interim permit allowing the continued operation of the facility pending review of the application by the city manager or his designated agent, which shall remain in force until the application shall be approved or denied by the city manager or his designated agent.

(8) Signatory requirement. (a) All applications and reports required by this chapter to be submitted shall be signed as follows:

(i) Corporation: a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function or any other person who performs similar policy or decision-making functions for the corporation.

(ii) Partnership or sole proprietorship: by a general partner or the proprietor.

(iii) Municipality, state, federal, or other public facility: by either a principal executive officer or the chief executive officer of the agency, or a senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency.

(iv) Private property owner(s) all persons listed as owner(s) on the property deed.

(b) Any person signing any document above shall make the following certification:

"I certify under the penalty of law that I have personally examined and am familiar with the information submitted in the attached document; and based on my inquiry of those individuals immediately responsible for obtaining the information. I believe the submitted information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and civil penalty." (Ord. #689, July 1999, as replaced by Ord. #719, June 2001, and amended by Ord. #725, Oct. 2001)

**18-503. Monitoring and inspecting.** (1) Monitoring. The city manager or his designated agent shall periodically monitor the quantity and quality of the storm water discharging from areas covered under an East Ridge Construction Activities Permit.

(2) Detection of illicit connections and improper disposal. (a) The city manager or his designated agent shall take appropriate steps to detect and eliminate illicit connections to the East Ridge Storm Water System, including the adoption of a program to screen illicit discharges and identify their source or sources.

(b) The city manager or his designated agent shall take appropriate steps to detect and eliminate improper discharges, including programs to screen for improper disposal and programs to provide for public education, public information, and other appropriate activities to facilitate the proper management and disposal of used oil, toxic materials and household hazardous waste.

(3) Inspections. (a) The city manager or his designated agent, bearing proper credentials and identification, may enter and inspect all properties for regular periodic inspections, investigations, monitoring, observation, measurement enforcement, sampling and testing, to effectuate the provisions of this chapter and the storm water management program.

The city manager or designated agent shall duly notify the owner of said property or the representative on site and the inspection shall be conducted at reasonable times.

(b) Upon refusal by any property owner to permit an inspector to enter or continue an inspection, the inspector shall terminate the inspection or confine the inspection to areas concerning which no objection is raised. The inspector shall immediately report the refusal and the grounds to the city manager or designated agent. The city manager or designated agent may seek appropriate compulsory process.

(c) In the event the city manager or designated agent reasonably believes that discharges from the property into the East Ridge Storm Water System may cause an imminent and substantial threat to human health or the environment, the inspection may take place at any time and without notice to the owner of the property or a representative on site. The inspector shall present proper credentials upon reasonable request by the owner or representative.

(d) At any time during an inspection or at such other times as the city manager or designated agent may request information from an owner or representative, the owner or representative may identify areas of its facility or establishment, material or processes which contains or which might reveal a trade secret. If the director or designated agent has no clear and convincing reason to question such identification, the inspection report shall note that trade secret information has been omitted. To the extent practicable, the city manager or designated agent shall protect all information that is designated as a trade secret by the owner or their representative. (Ord. #689, July 1999, as replaced by Ord. #719, June 2001)

**18-504. Enforcement and abatement.** (1) Unauthorized discharge a nuisance. Discharge of storm water in any manner in violation of this chapter or of any condition of a permit issued pursuant to this chapter or storm water discharge permit issued by the State of Tennessee is hereby declared a public nuisance and shall be corrected or abated.

(2) Illicit discharge and illegal dumping. (a) The following direct or indirect discharges into "community waters" or "waters of the State of Tennessee" are prohibited and shall be unlawful:

- (i) Sewage dumping or dumping of sewage sludge;
- (ii) Chlorinated swimming pool discharge;
- (iii) Discharge of any polluted household wastewater, such as but not limited to laundry wash water and dishwater, except to a sanitary sewer or septic system;
- (iv) Leaking sanitary sewers and connections, which shall have remained uncorrected for seven days or more;

(v) Leaking water lines shall have remained uncorrected for seven days or more;

(vi) Commercial, industrial or public vehicle wash discharge;

(vii) Garbage or sanitary waste disposal;

(viii) No dead animals or animal fecal waste shall be directly discharged or discarded into the "community waters;"

(ix) No non-storm water discharges shall be discharged into the "community waters," except pursuant to a permit issued by the State of Tennessee;

(x) No dredged or spoil material shall be directly or indirectly discharged or discarded into "community waters;"

(xi) No solid waste shall be directly or indirectly discharged or discarded into "community waters;"

(xii) No chemical waste shall be directly or indirectly discharged or discarded into "community waters;"

(xiii) No wrecked or discarded vehicles or equipment shall be discharged or discarded into "community waters."

(b) Prohibition of pollutant discharge not covered by the NPDES program.

(i) A permit is a license to conduct an activity that is regulated by the Clean Water Act, the Water Pollution Control Act (Tennessee Code Annotated, § 69-3-101, et seq.) or this chapter.

(ii) Every person who is or who is planning to carry out any of the activities that require a permit shall obtain such a permit prior to the start-up of activities.

(iii) It shall be a violation of this chapter for any person to carry out any of the following activities, except in accordance with the conditions of a valid permit:

(A) The alteration of the physical, chemical, radiological, biological, or bacteriological properties of any waters of the state or community waters;

(B) The construction, installation, modification, or operation of any treatments works or part thereof or any extension or addition thereto;

(C) The increase in volume or strength of any wastes in excess of permissive discharges specified under any exiting permit;

(D) The development of a natural resource or the construction, installation, or operation of any establishment or any extension or modification thereof or addition thereto; the operation of which will or is likely to cause an increase in the discharge of wastes into the waters of the waters of the state, or would otherwise alter the physical, chemical,

radiological, biological or bacteriological properties of any waters of the state in any manner not already lawfully authorized;

(E) The construction or use of any new outlet for the discharge of any wastes into the waters of the state;

(F) The discharge of sewage, industrial wastes or other wastes into waters, or a location from which it is likely that the discharged substance will move into waters;

(G) The discharge of sewage, industrial wastes, or other wastes into a well or a location that is likely that the discharged substance will move into a well, or the underground placement of fluids and other substances which do or may affect the waters of the state.

(3) Accidental discharges. (a) In the event of any discharge of a hazardous substance in amounts which could cause a threat to public drinking supplies, a "significant spill," or any other discharge which could constitute a threat to human health or the environment, the owner or operator of the facility shall give notice to the city manager or his designated agent and the Chattanooga Environmental Assistance Center as soon as practicable. The report must be made no later than the close of business on the day following the accidental discharge or within 24 hours of the time the owner or operator becomes aware of the circumstances. If an emergency response by governmental agencies is needed, the owner or operator should also call 911 immediately to report the discharge. A written report must be provided within five days of the time that the owner or operator becomes aware of the circumstances, unless this requirement is waived by the director for good cause shown on a case-by-case basis, containing the following particulars:

(i) A description of the discharge;

(ii) The exact dates and times of discharge; and

(iii) Steps being taken to eliminate and prevent recurrence of the discharge.

(b) The owner or operator shall take all reasonable steps to minimize any adverse impact to the "community waters" or the "waters of the State of Tennessee," including such accelerated or additional monitoring as necessary to determine the nature and impact of the discharge. It shall not be a defense for the owner or operator in an enforcement action that it would have been necessary to halt or reduce the business or activity of the facility in order to maintain water quality and minimize any adverse impact that the discharge may cause.

(c) It shall be unlawful for any person to fail to comply with the provisions of this section.

(4) Administrative enforcement remedies. (a) Notification of violation. Whenever the city manager or his designated agent finds that



any permittee or any person discharging storm water has violated or is violating this chapter, or a construction activities permit or order issued hereunder, the city manager or his designated agent may serve upon said user written notice of the violation. Within 10 days of the receipt date of this notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted to the director or designated agent. Submission of this plan in no way relieves the owner or operator of liability for any violations occurring before or after receipt of the notice of violation.

(b) Consent order. The city manager or designated agent is hereby empowered to enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with the person responsible for the noncompliance. Such orders will include specific action to be taken by the discharge user to correct the noncompliance within a time period also specified by the order. Consent orders shall have the same force and effect as administrative orders issued pursuant to paragraph (d) below.

(c) Show cause hearing. The city manager or designated agent may order any person who uses or contributes to violation of this chapter or storm water permit or order issued hereunder, to show cause why a proposed enforcement action should not be taken. Notice shall be served specifying the time and place for the meeting, the proposed enforcement action and the reasons for such action, and a request that the violator show cause why this proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least 10 days prior to the hearing. Such notice may be served on any principal executive, general partner, corporate officer or property owners.

(d) Compliance order. When the city manager or designated agent finds that any person has violated or continues to violate this chapter or a permit or order issued thereunder, he may issue an order to the violator directing that, following a specified time period, adequate structures, devices be installed or procedures implemented and properly operated. Orders may also contain such other requirements as might be reasonably necessary and appropriate to address the noncompliance, including the construction of appropriate structures, installation of devices, self-monitoring, and management practices.

(e) Cease and desist orders. When the city manager or designated agent finds that any person has violated or continues to violate this chapter or any permit or order issued hereunder, the city manager or designated agent may issue an order to cease and desist all such violations and direct those persons in noncompliance to:

- (i) Comply forthwith; or

(ii) Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and terminating the discharge.

(5) Violations. (a) It shall be a violation of this chapter for any person to:

(i) Violate any provision of this chapter;

(ii) Violate the provisions of any permit issued pursuant to this chapter;

(iii) Fail or refuse to comply with any lawful notice to abate issued by the city manager or his designated agent, which has not been timely appealed to the city council, within the time specified by such notice; or

(b) Any person who does any of the following acts or omissions shall be subject to a fine of up to five hundred dollars (\$500.00) per day for each day during which the act or omission continues or occurs:

(i) Who fails to obtain any permit required;

(ii) Violates any provisions of a permit;

(iii) Violates any provisions of this chapter.

(6) Judicial proceedings and relief. (a) The city manager or his designated agent, with the assistance of the city attorney, and approval of the city council may initiate proceedings in any court of competent jurisdiction against any person who has or is about to:

(i) Violate the provisions of this chapter;

(ii) Violate the provisions of any permit issued pursuant to this chapter;

(iii) Fail or refuse to comply with any lawful order issued by the city manager, which has not been timely appealed to the city council, within ten days of the issuance of the order.

(b) Any person who shall commit any act or fail to perform any act required under this chapter shall be fined a maximum of \$500.00 and up to 30 days in jail. Each day of such violation or failure shall be deemed a separate offense and punishable accordingly.

(c) The city manager with consent of the council may also initiate civil proceedings in any court of competent jurisdiction seeking monetary damages for any damages caused to publicly owned storm water facilities by any person, and to seek injunctive or other equitable relief to enforce compliance with the provisions of this chapter or to enforce compliance with any lawful orders of the city manager or his designated agent. (Ord. #689, July 1999, as replaced by Ord. #719, June 2001)

**CHAPTER 6****HAMILTON COUNTY STORM WATER POLLUTION PROGRAM****SECTION**

- 18-601. General provisions.
- 18-602. Definitions.
- 18-603. Best Management Practices (BMP) manual.
- 18-604. Land disturbance permits required.
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- 18-607. Program remedies for permittee's failure to perform.
- 18-608. Existing locations and developments.
- 18-609. Illicit discharges.
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- 18-611. Program fees.
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- 18-613. Appeals.
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- 18-615. Overlapping jurisdiction.

**18-601. General provisions.** (1) Program area. This chapter is applicable and uniformly enforceable within the Tennessee municipalities of Collegedale, East Ridge, Lakeside, Lookout Mountain, Red Bank, Ridge side, Soddy-Daisy, designated unincorporated areas within Hamilton County, and other eligible communities which may join the Hamilton County Storm Water Control Program (hereinafter called the Program) and enact this chapter from time to time. All such participating communities are hereinafter collectively identified as "the parties."

(2) Authorization. The Program is authorized under an Interlocal Agreement dated April 16, 2004, adopted by all of the parties pursuant to Tennessee Code Annotated (TCA), §§ 5-1-113 and 12-9-101. Said interlocal agreement specifies that the Program shall be enforced by Hamilton County under applicable County Rules pursuant to Tennessee Code Annotated, §§ 5-1-121 and 123. Applicable terms and provisions of said Interlocal Agreement and the Standard Operating Procedures for the Hamilton County Storm Water Pollution Control Program, adopted by the parties subsequent to the Interlocal Agreement, are hereby incorporated into and made a part of this chapter by reference and shall be as binding as if reprinted in full herein.

(3) Purpose. It is the purpose of this chapter to:

- (a) Protect, maintain, and enhance the environment of the program service area and the health, safety, and general welfare of its citizens by controlling discharges of pollutants to the program's storm water systems.

(b) Maintain and improve the quality of the receiving waters into which the storm water outfalls flow, including, without limitation, lakes, rivers, streams, ponds, wetlands, and ground water.

(c) Enable the parties to comply with the National Pollution Discharge Elimination System (NPDES) permit and applicable regulations (40 C.F.R. § 122.26) for storm water discharges. Compliance shall include the following six (6) minimum storm water pollution controls as defined by EPA:

- (i) Public education and outreach;
- (ii) Public participation;
- (iii) Illicit discharge detection and elimination;
- (iv) Construction site runoff control for new development and redevelopment;
- (v) Post-construction runoff control for new development and redevelopment;
- (vi) Pollution prevention/good housekeeping for municipal operations.

(d) Allow the parties to exercise the powers granted in Tennessee Code Annotated, § 68-221-1105; to:

- (i) Exercise general regulation over the planning, location, construction, operation, and maintenance of storm water facilities in the municipalities, whether or not the facilities are owned and operated by the municipalities.
- (ii) Adopt any rules and regulations deemed necessary to accomplish the purposes of this statute, including the adoption of a system of fees for services and permits.
- (iii) Establish standards to regulate storm water contaminants as may be necessary to protect water quality.
- (iv) Review and approve plans and plats for storm water management in proposed subdivisions or commercial developments.
- (v) Issue permits for storm water discharges or for the construction, alteration, extension, or repair of storm water facilities.
- (vi) Suspend or revoke permits when it is determined that the permittee has violated any applicable ordinance, resolution, or condition of the permit.
- (vii) Regulate and prohibit discharges into storm water facilities of sanitary, industrial, or commercial sewage or waters that have otherwise been contaminated. This regulation and prohibition shall be enforceable on facilities and operations which are in existence at the time of the initial adoption of the ordinance comprising this chapter or which may come into existence after the adoption of the ordinance comprising this chapter.

- (4) Goals of the program. The primary goals of the Program are to:
- (a) Raise public awareness of storm water issues.
  - (b) Generate public support for the Program.
  - (c) Teach good storm water practices to the public.
  - (d) Involve the public to provide an extension of the Program's enforcement staff.
  - (e) Support public storm water pollution control initiatives.
  - (f) Increase public use of good storm water practices.
  - (g) Detect and eliminate illicit discharges into the Program Service Area.
  - (h) Reduce pollutants from construction sites.
  - (i) Treat the "first flush" pollutant load to remove not less than seventy-five percent (75%) Total Suspended Solids (TSS).
  - (j) Remove oil and grit from industrial/commercial site runoff.
  - (k) Protect downstream channels from erosion.
  - (l) Encourage the design of developments that reduce runoff.
  - (m) Reduce or eliminate pollutants from municipal operations.
  - (n) Provide a model for good storm water practices to the public through municipal operations impacting storm water (i.e., municipalities should "lead by example").

(5) Administering entity. The Program staff shall administer the provisions of this chapter under the direction of the management committee, composed of representatives of the parties. The operating mechanism for the Program is defined by an interlocal agreement among the parties and the standard operating procedures adopted by same. The management committee is authorized to enforce this ordinance and to use its judgment in interpreting the various provisions of this ordinance, the interlocal agreement, and the standard operating procedures to ensure that the Program's goals are accomplished. If any management committee member is concerned about the appropriateness of any action of the committee, he should report his concerns to the county attorney, who shall review the situation and issue an opinion within ninety (90) calendar days. Should the county attorney find that the committee has, in his judgment, acted inappropriately, but a majority of the committee, after due deliberation, disagree with said finding, the committee shall bring the matter before the county commission for consideration. The determination of the county commission with regard to the issue shall be final. (as added by Ord. #802, Oct. 2005)

**18-602. Definitions.** Program-specific terminology. As used herein certain words and abbreviations have specific meanings related to the Program. The definition of some, but not necessarily all, such Program-specific terms are, for the purposes of this chapter, to be interpreted as described herein below:

(1) "Best Management Practices (BMPs)" means schedules of activities, prohibitions of practices, maintenance procedures, and other

management practices to prevent or reduce the pollution of storm water runoff. BMPs also include treatment requirements, operating procedures, and practices to control runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

(2) "BMP Manual" is a book of reference which includes additional policies, criteria, and information for the proper implementation of the requirements of the Program.

(3) "First flush" is defined as the initial storm water runoff from a contributing drainage area which carries the majority of the contributed pollutants.

(4) "Hot spot" means an area where land use or activities generate highly contaminated runoff, with concentrations of pollutants in excess of those typically found in storm water. Examples might include operations producing concrete or asphalt, auto repair shops, auto supply shops, large commercial parking areas, and restaurants.

(5) "Land disturbance activity" means any land change which may result in increased soil erosion from water and wind and the movement of sediments into community waters or onto lands and roadways within the community, including but not limited to clearing, dredging, grading, excavating, transporting, and filling of land, except that the term shall not include agricultural activities, exempted under the Clean Water Act, and certain other activities as identified in the Program's BMP manual.

(6) "Maintenance agreement" means a legally recorded document which acts as a property deed restriction and which provides for a long-term maintenance of storm water management practices.

(7) "Management committee" is a group of people composed of one (1) representative of the county and one (1) representative of each of the cities participating in the Program.

(8) "Municipality" as used herein refers to Hamilton County, Tennessee, a county and political subdivision of the State of Tennessee; the Cities of Collegedale, East Ridge, Lakeside, Red Bank, Ridgeside, and Soddy-Daisy, Tennessee, and the Town of Lookout Mountain, Tennessee, all of which are chartered municipalities of the State of Tennessee; and/or any other participating governmental entity which may join the Program in the future.

(9) "Organization" means a corporation, government, government subdivision or agency business trust, estate, trust, partnership, association, two (2) or more persons having a joint or common interest, or any other legal or commercial entity.

(10) "Person" means an individual or organization.

(11) "Program" refers to a comprehensive program to manage the quality of storm water discharged in or from the Program area's separate storm sewer system (MS4).

(12) "Program cost" refers to any monetary cost incurred by the Program in order to fulfill the responsibilities and duties assigned to the

Program under this chapter. Program costs specifically include costs incurred by any participating municipality for actions performed on behalf of or at the request of the Program.

(13) "Program service area" shall consist of the entire physical area within the corporate limits of each participating city together with the urbanized unincorporated area of the county.

(14) "Program manager." See Storm water manager.

(15) "Program staff" is a group of people hired to assist the program manager in carrying out the duties of the Program.

(16) "Responsible party" means owner and/or occupants of property within the Program area who are subject to penalty in case of default.

(17) "Runoff." See Storm water runoff.

(18) "Runoff quality objectives" refer to the "performance criteria for runoff management" adopted by the management committee in conformance with applicable provisions of § 18-605(5) hereinafter in accordance with the "goals of the Program" as outlined under § 18-601(4) herein above.

(19) "Redevelopment" means any construction, alteration, or improvement exceeding one (1) acre in areas where existing land use is high density commercial, industrial, institutional, or multi-family residential.

(20) "Storm water" means storm water runoff, snow melt runoff, and surface runoff and discharge resulting from precipitation.

(21) "Storm water manager" is the person selected by the management committee, assigned to the Office of the Hamilton County Engineer, and designated to supervise the operation of the Program.

(22) "Storm water runoff" means flow on the surface of the ground, resulting from precipitation. (as added by Ord. #802, Oct. 2005)

**18-603. Best Management Practices (BMP) Manual.** Storm water design or BMP manual. (1) The Program will adopt a storm water design and Best Management Practices (BMP) manual (hereinafter referred to as the BMP manual), which is incorporated by reference in this chapter as if fully set out herein.

(2) This manual will include a list of acceptable BMPs including the specific design performance criteria and operation and maintenance requirements for each storm water practice. The manual may be updated and expanded from time to time at the discretion of the management committee upon the recommendation of the Program staff, based on improvements in engineering, science, and monitoring and local maintenance experience. Storm water facilities that are designed, constructed, and maintained in accordance with these BMP criteria will be presumed to meet the minimum water quality performance standards. (as added by Ord. #802, Oct. 2005)

**18-604. Land disturbance permits required.** (1) Mandatory. A land disturbance permit from the Program will be required in the following cases:

(a) Land disturbing activity that disturbs one (1) or more acres of land.

(b) Land disturbing activity that disturbs less than one (1) acre of land if such activity is part of a larger common plan of development that affects one (1) or more acres of land as determined by the program manager.

(c) Land disturbing activity that disturbs less than one (1) acre of land if, in the discretion of the Program staff, such activity poses a unique threat to the water environment or to public health or safety.

(2) Application requirements. (a) Unless specifically excluded by this chapter, any landowner or operator desiring a permit for a land disturbance activity shall submit to the Program staff a permit application on a form provided by the Program.

(b) A permit application must be accompanied by the following:

(i) A sediment and erosion control plan which addresses the requirements of the BMP manual; and

(ii) A non-refundable land disturbance permit fee as described in Appendix A<sup>1</sup> to the ordinance comprising this chapter.

(iii) The land disturbance permit application fee shall be as established for the Program under the provisions of the standard operating procedures.

(3) General requirements. All land disturbing activities undertaken within the Program service area shall be conducted in a manner that controls the release of sediments and other pollutants to the storm water collection and transportation system in accordance with the requirements of the Program's BMP manual.

(4) Review and approval of application. (a) The Program staff will review each application for a land disturbance permit to determine its conformance with the provisions of this chapter. The Program staff shall complete the review of an application within thirty (30) calendar days of its submission. Should an application be rejected, an additional thirty (30) calendar days will be allowed for staff review of each subsequent submission of a revised application. If the Program staff fails to act within the time limit established hereinbefore, an application shall be presumed to be approved by default. No development shall commence until the land disturbance permit has been approved by the Program staff or until the time limit allowed for review has expired.

(b) Each land disturbance permit shall be issued for a specific project and shall expire twelve (12) months after its issuance. The applicant is solely responsible for the renewal of a permit if work is to

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<sup>1</sup>Appendix A to Ord. #802 is available for review in the office of the city recorder.



continue after the expiration of the permit. Renewal will require payment of an additional land disturbance permit fee.

(5) Transfer of a permit. Land disturbance permits are transferable from the initial applicant to another party. A notice of transfer, on a form acceptable to the Program and signed by both parties, shall be filed with the Program staff. Such transfer shall not automatically extend the life of the existing permit or in any other way alter the provisions of the existing permit. (as added by Ord. #802, Oct. 2005)

**18-605. Runoff management permits.** (1) Mandatory.

(a) A runoff management permit will be required in the following cases:

(i) Development, redevelopment, and/or land disturbing activity that disturbs one (1) or more acres of land;

(ii) Development, redevelopment, and/or land disturbing activity that disturbs less than one (1) acre of land if such activity is part of a larger common plan of development that affects one (1) or more acres of land as determined by the Program manager.

(2) Runoff management. Site requirements, as fully described in the BMP manual, shall include the following items;

(a) Record drawings;

(b) Implementation of landscaped and stabilization requirements;

(c) Inspection of runoff management facilities;

(d) Maintenance of records of installation and maintenance activities; and

(e) Identification of person responsible for operation of maintenance of runoff management facilities.

(3) Application requirements. (a) Unless specifically excluded by this chapter, any landowner or operator desiring a runoff management permit for a development, redevelopment, and/or land disturbance activity shall submit a permit application on a form provided by the Program.

(b) A permit application must be accompanied by:

(i) Storm water management plan which addresses specific items as described in the BMP manual;

(ii) Maintenance agreement for any pollution control facilities included in the plan; and

(iii) Non-refundable runoff management permit fee as described in Appendix A to the ordinance comprising this chapter.<sup>1</sup>

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<sup>1</sup>Appendix A to Ord. #802 is available for review in the office of the city recorder.

(c) The application fees for the runoff management permit shall be as established by the Program under the provisions of the standard operating procedures.

(4) Building permit. No building permit shall be issued by a participating municipality until a runoff management permit, where the same is required by this chapter, has been obtained.

(5) General performance criteria for runoff management. Unless a waiver is granted or exempt certification is issued, all sites, including those exempted under § 18-605(7) below are required to satisfy the following criteria as specified in the BMP manual (whether permitted or not):

(a) Through the selection, design, and maintenance of temporary and permanent BMPs, provide pollution control for sources of contaminants and pollutants that could enter storm water.

(b) Protect the downstream water environment from degradation including specific channel protection criteria and the control of the peak flow rates of storm water discharge associated with design storms shall be as prescribed in the BMP manual.

(c) Implement additional performance criteria or utilize certain storm water management practices to enhance storm water discharges to critical areas with sensitive resources (e.g., cold water fisheries, shellfish beds, swimming beaches, recharge areas, water supply reservoirs).

(d) Implement specific Stormwater Treatment Practices (STP) and pollution prevention practices for storm water discharges from land uses or activities with higher-than-typical potential pollutant loadings, known as "hot spots."

(e) Prepare and implement a Storm Water Pollution Prevention Plan (SWPPP) and file a Notice of Intent (NOI) under the provisions of the NPDES general permit for certain industrial sites which are required to comply with NPDES requirements. The SWPPP requirement applies to both existing and new industrial sites. The owner or developer shall obtain the general permit and shall submit copies to the storm water manager.

(f) Prior to or during the site design process, consult with the Program staff to determine if a planned development is subject to additional storm water design requirements.

(g) Use the calculation procedures as found in the BMP manual for determining peak flows to use in sizing all storm water facilities.

(6) Review and approval of application. (a) The Program staff will review each application for a runoff management permit to determine its conformance with the provisions of this chapter. The Program staff shall complete the review of an application within thirty (30) calendar days of its submission. Should an application be rejected, an additional thirty (30) calendar days will be allowed for staff review of each subsequent

submission of a revised application. If the Program staff fails to act within the time limit established hereinbefore, an application shall be presumed to be approved by default.

(b) No development shall commence until the runoff management permit has been approved by the Program staff or until the time limit allowed for review has expired.

(7) Waivers. (a) General. Every applicant shall provide for stormwater management; unless a written request to waive this requirement is filed with and approved by the Program.

(b) Downstream damage, etc. prohibited. In order to receive a waiver, the applicant must demonstrate to the satisfaction of the management committee that the waiver will not lead to any of the following conditions downstream:

- (i) Deterioration of existing culverts, bridges, dams, and other structures;
- (ii) Degradation of biological functions or habitat;
- (iii) Accelerated streambank or streambed erosion or siltation;
- (iv) Increased threat of flood damage to public health, life, or property.

(c) Runoff management permit not to be issued where waiver granted. No runoff management permit shall be issued where a waiver has been granted pursuant to this section. If no waiver is granted, the plans must be resubmitted with a runoff management plan. All waivers must be adopted by a majority of the management committee meeting in open session pursuant to the Program's standard operating procedures. The applicant shall prepare an agreement which shall formalize the applicant's commitment to implement all actions proposed by the applicant and relied on by the management committee in granting the waiver. Said agreement, once determined to be acceptable to the management committee, shall be executed by an authorized representative of the applicant and the chairman of the management committee. The executed agreement shall form a binding contract between the applicant and the Program, and the terms of said contract shall be fully enforceable by the Program staff. The Program staff's authority to enforce the terms of the waiver agreement shall be identical to those typically exercised by the staff with regard to the implementation of runoff management plans. No construction activities shall commence at a site covered by a waiver until the waiver agreement is fully executed. (as added by Ord. #802, Oct. 2005)

**18-606. Non-storm water discharge permits.** (1) Commercial and industrial facilities. Commercial and industrial facilities located within the Program service area may in certain situations be allowed to discharge non-

polluting non-storm water into the storm water collection system. As allowed by Tennessee Department of Environment and Conservation (TDEC) regulations, certain non-storm water discharges may be released without a permit. A listing of such allowed discharges are included in § 18-609 which follows. Except for these discharges, a permit for all non-polluting non-storm water discharges shall be required in addition to any permits required by the State of Tennessee for storm water discharges associated with industrial or construction activity.

(2) New facilities. The permit application for a new facility requesting non-storm water discharges shall include the following:

(a) If the facilities are to be covered under the TDEC General NPDES Permit for Storm Water Discharges Associated with Industrial Activity, a General NPDES Permit for Storm Water Discharges Associated with Construction Activity, or an individual NPDES permit, the owner or developer shall timely obtain such permits or file the NOI and shall submit copies to the Program.

(b) Any application for the issuance of a non-storm water discharge under this section shall include the specific items listed in the Program's BMP manual.

(c) Each application for a non-storm water discharge permit fee as described in Appendix A<sup>1</sup> to the ordinance comprising this chapter. Said fee shall be established under the provisions of the standard operating procedures for the Program.

(3) Review and approval of application. (a) The Program staff will review each application for a non-storm water discharge permit to determine its conformance with the provisions of this chapter. Within thirty (30) calendar days after receiving an application, the Program staff shall provide one of the following responses in writing:

(i) Approval of the permit application;

(ii) Approval of the permit application, subject to such reasonable conditions as may be necessary to secure substantially the objectives of this chapter, and issuance of the permit subject to these conditions; or

(iii) Denial of the permit application, indicating the reason(s) for the denial.

(4) Permit duration. Every non-storm water discharge permit shall expire within three (3) years of issuance subject to immediate revocation if it is determined that the permittee has violated any of the terms of the permit or if applicable regulations are revised to no longer allow the specific non-storm water discharge covered by the permit. (as added by Ord. #802, Oct. 2005)

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<sup>1</sup>Appendix A to Ord. #802 is available for review in the office of the city recorder.

**18-607. Program remedies for permittee's failure to perform.**

(1) Failure to properly install or maintain sediment and erosion control measures. (a) If a responsible party fails to properly install or maintain sediment and/or erosion control measures as shown on a sediment and erosion control plan used to secure a land disturbance permit under the Program, the Program staff is authorized to act to correct the deficiency or deficiencies.

(b) The Program manager is hereby authorized to issue a "stop work order" to the responsible party in any situation where the Program manager believes that continued work at a site will result in an increased risk to the public safety or welfare or the downstream water environment. Upon receipt of such a "stop work order," the responsible party shall immediately cease all operations at the site except those specifically directed toward correcting the deficiency or deficiencies in the sediment and/or erosion control measures.

(c) Where the deficiency or deficiencies described hereinbefore do not, in the opinion of the storm water manager, pose an imminent threat to the public safety or welfare or the downstream water environment, the Program staff shall notify in writing the responsible party of the deficiency or deficiencies. The responsible party shall then have forty-eight (48) hours to correct the deficiency or deficiencies, unless exigent or other unusual circumstances dictate a longer time. In the event that corrective action is not completed within that time, the Program staff may take necessary corrective action.

(d) Where, in the opinion of the storm water manager, the deficiency or deficiencies described hereinbefore do pose an imminent threat to the public safety or welfare or the downstream water environment, the Program staff may immediately act to correct the deficiency or deficiencies by performing or having a third party perform all work necessary to restore the proper function of the sediment and erosion control system. The responsible party will be informed, in writing, as to the actions of the Program staff as soon as practicable following implementation of the corrective action. The Program staff may request assistance from the staff of any community participating in the Program to perform the "third party" corrective work described in this subsection.

(e) The cost of any action to the Program incurred under this section shall be charged to the responsible party. In addition, the responsible party's failure to properly install and/or maintain sediment and erosion control measures in accordance with a land disturbance permit may subject the responsible party to a civil penalty from the Program as described in a subsequent section of this chapter.

(2) Failure to meet or maintain design or maintenance standards for runoff management facilities. (a) If a responsible party fails or refuses to meet the design or maintenance standards required for runoff

management facilities under this chapter, the Program staff, after reasonable notice, may correct a violation of the design standards or maintenance needs by performing all necessary work to place the facility in proper working condition.

(b) In the event that the runoff management facility is determined to be improperly operated or maintained, the Program staff shall notify in writing the party responsible for maintenance of the storm water management facility. Upon receipt of that notice, the responsible party shall have fourteen (14) days to effect maintenance and repair of the facility in an approved manner. In the event that corrective action is not undertaken within that time, the Program staff may take necessary corrective action.

(c) The cost of any action to the Program incurred under this section shall be charged to the responsible party. In addition, the responsible party's failure to meet the design or maintenance standards of an approved runoff management plan may subject the responsible party to a civil penalty from the Program as described in a subsequent section of this chapter. (as added by Ord. #802, Oct. 2005)

**18-608. Existing locations and developments.** (1) Requirements for all existing locations and developments. Requirements applying to all locations and developments at which land disturbing activities occurred prior to the enactment of this chapter are described in the BMP manual.

(2) Inspection of existing facilities. The Program may, to the extent authorized by state and federal law, establish inspection programs to verify that all storm water management facilities, including those built both before and after the adoption of this ordinance, are functioning within design limits as established within the Program BMP manual. These inspection programs may include but are not limited to routine inspections; random inspections; inspections based upon complaints or other notice of possible violations; inspection of drainage basins or areas identified as sources of increased sediment or other contaminants or pollutants; inspections of businesses or industries of a type associated with increased discharges of contaminants or pollutants or with discharges of a type more likely than the typical discharge to cause violations of the municipality's NPDES storm water permit; and joint inspections with other agencies inspecting under environmental or safety laws. Inspections may include but are not limited to reviewing maintenance and repair records; sampling discharges, surface water, ground water, and material or water in drainage control facilities; and evaluating the condition of drainage control facilities and other BMPs.

(3) Requirements for existing problem locations. (a) The Program shall provide written notification to the owners of existing locations and developments of specific drainage, erosion, or sediment problems

originating from such locations and developments and the specific actions required to correct those problem.

(b) The notice shall also specify a reasonable time for compliance.

(c) Should the property owner fail to act within the time established for compliance, the Program may act directly to implement the required corrective actions.

(d) The cost of any action to the Program incurred under this section shall be charged to the responsible party. In addition, the responsible party shall be responsible for the proper maintenance and operation of any facility or facilities installed as a part of the corrective action. Failure of the responsible party to properly install, operate, and/or maintain the facility or facilities installed as part of the corrective action may subject the responsible party to a civil penalty from the Program as described in a subsequent section of this chapter.

(4) Corrections of problems subject to appeal. Corrective measures imposed by the storm water utility under this section are subject to appear under § 18-613. (as added by Ord. #802, Oct. 2005)

**18-609. Illicit discharges.** (1) Scope. This section shall apply to all water generated on developed or undeveloped land entering any separate storm sewer system within the Program service area.

(2) Prohibition of illicit discharges. No person shall introduce or cause to be introduced into the municipal separate storm sewer system any discharge that is not composed entirely of storm water except as permitted under § 18-606 of this chapter or allowed as described below. The commencement, conduct, or continuance of any non-storm water discharge to the municipal separate storm sewer system is prohibited except as described as follows:

- (a) Uncontaminated discharges from the following sources:
  - (i) Water line flushing;
  - (ii) Landscape irrigation;
  - (iii) Diverted stream flows;
  - (iv) Rising ground water;
  - (v) Uncontaminated ground water entering the storm water collection system as infiltration (infiltration is defined as water, other than wastewater, that enters the storm sewer system from the ground through such means as defective pipes, pipe joints, connections, or manholes. Infiltration does not include, and is distinguished from, inflow);
  - (vi) Pumped ground water determined by analysis to be uncontaminated;
  - (vii) Discharges from potable water sources;
  - (viii) Foundation drains;
  - (ix) Air conditioning condensate;

- (x) Irrigation water;
- (xi) Springs;
- (xii) Water from crawl space pumps;
- (xiii) Footing drains;
- (xiv) Lawn watering;
- (xv) Individual residential car washing;
- (xvi) Flows from riparian habitats and wetlands;
- (xvii) Dechlorinated swimming pool discharges;
- (xviii) Street washwater.

(b) Discharges specified in writing by the Program as being necessary to protect public health and safety.

(c) Dye testing, if the Program has so specified in writing.

(3) Prohibition of illicit connections. (a) The construction, use, maintenance, or continued existence of illicit connections to the separate municipal storm sewer system is prohibited.

(b) This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

(4) Reduction of storm water pollutants by the use of BMPs. Any person or party responsible for the source of an illicit discharge may be required to implement, at the person's or party's expense, the BMPs necessary to prevent the further discharge of pollutants to the municipal separate storm sewer system. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of storm water associated with industrial activity, to the extent practicable, shall be deemed compliance with the provisions of this section.

(5) Notification of spills. Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation, has information on any known or suspected release which has resulted, or may result, in illicit discharges of non-allowed pollutants into the storm water conveyances of the municipal separate storm sewer system, the person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event that such a release involves hazardous materials, the person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of non-hazardous materials, the person shall notify the Program staff in person or by telephone or facsimile no later than the next business day. Notifications in person or by telephone shall be confirmed by written notice addressed and mailed to the Program staff within three (3) business days of the telephone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge



and the actions taken to prevent its recurrence. Such records shall be retained for at least three (3) years.

(5) Enforcement. (a) Enforcement authority. The storm water manager or his designee shall have the authority to issue notices of violation and citations and to impose the civil penalties provided in this section.

(b) Notification of violation. (i) Written notice. Whenever the storm water manager finds that any permittee or any other person discharging non-storm water has violated or is violating this chapter or a permit or order issued hereunder, the storm water manager may serve upon such person written notice of the violation. A copy of any such notice shall be sent to the management committee member representing the municipality in which the discharger is located and other administrative official as designated by each participating community. Within ten (10) days of this notice, an explanation of the violation and a plan for the correction and prevention thereof, to include specific required actions, shall be prepared by the discharger and submitted to the storm water manager. Submission of this plan and/or acceptance of the plan by the Program staff in no way relieves the discharger of liability for any violations occurring before or after receipt of the notice of violation.

(ii) Consent orders. The storm water manager is empowered to enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with the person responsible for the noncompliance. Such orders will include specific action to be taken by the person to correct the noncompliance within a time period also specified by the order. Consent orders shall have the same force and effect as administrative orders issued pursuant to subsections (iv) and (v) below.

(iii) Show cause hearing. The storm water manager may order any person who violates this chapter or permit or order issued hereunder to show cause why a proposed enforcement action should not be taken. Notice shall be served on the person specifying the time and place for the meeting, the proposed enforcement action, the reasons for such action, and a request that the violator show cause why this proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least ten (10) days prior to the hearing.

(iv) Compliance order. When the storm water manager finds that any person has violated or continues to violate this chapter or a permit or order issued thereunder, he may issue an order to the violator directing that, following a specific time period,

adequate structures and devices be installed or procedures implemented and properly operated. Orders may also contain such other requirements as might be reasonably necessary and appropriate to address the noncompliance, including the construction of appropriate structures, installation of devices, self-monitoring, and management practices.

(v) Cease and desist order. When the storm water manager finds that any person has violated or continues to violate this chapter or any permit or order issued hereunder, the storm water manager may issue an order to cease and desist all such violations and direct those persons in noncompliance to:

(A) Comply forthwith;

(B) Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and terminating the discharge.

(c) Civil penalties. (i) Assessment of penalties. In addition to the authority granted to the storm water manager in the preceding subsections to address illicit discharge violations, the storm water manager may, in accordance with the provisions of § 18-612 of this chapter, impose a civil penalty on the party responsible for an illicit discharge.

(ii) Appeals. All penalties assessed under this section may be appealed in accordance with the provisions of § 18-613 of this chapter. (as added by Ord. #802, Oct. 2005)

**18-610. Conflicting standards.** (1) Conflicting standards. Whenever there is a conflict between any standard contained in this chapter, any BMP manual adopted by the Program under this chapter, or any applicable state or federal regulation, the strictest standard shall prevail. (as added by Ord. #802, Oct. 2005)

**18-611. Program fees.** (1) Annual program fees. The program shall be financed primarily through an annual fee charged to all residential, commercial, and industrial storm water dischargers located within the program service area.

(a) Initial annual Program fees. (i) Residential properties. A single residential fee of nine dollars (\$9.00) shall be adopted initially for all households in the Program service area. Property used for agriculture or residential purposes and shown with a structure or structures of some positive value on the records of the Hamilton County Assessor of Property shall be charged a residential annual Program fee as described above. Multi-family residential complexes shall be charged one (1) residential annual Program fee for each unit in the complex regardless of the actual

occupancy of a given unit. Manufactured home parks and developments shall be charged one (1) residential annual Program fee for each space in the development regardless of the actual occupancy of a given space.

(ii) Commercial and industrial properties. Property used for commercial or industrial purposes within the Program service area and shown with a structure or structures of some positive value on the records of the Hamilton County Assessor of Property shall initially be charged an annual fee of one hundred eight dollars (\$108.00) per impervious acre of development on the property but not less than the annual residential Program fee. Annual storm water fees for commercial and industrial properties shall be rounded to the nearest dollar. Such rounding shall be applied to all annual storm water program fees collected by the County Trustee and shall be accomplished by rounding amounts ending in one cent (\$0.01) to forty-nine cents (\$0.49) down to the nearest dollar and amounts ending in fifty cents (\$0.50) to ninety-nine cents (\$0.99) up to the nearest dollar. Such rounding only applies to the base storm water fee, and not to any interest or penalty added to delinquent fee.

(iii) Governmental, institutional, other tax-exempt properties, and properties exempted by statute or action of the management committee shall not be charged an annual Program fee.

(b) Annual fee revision procedures. The annual Program fee shall only be changed through the following multi-step procedure:

(i) During the first quarter of each calendar year, the storm water manager shall perform a review of the programmer's financial condition, including an estimate of probably income and expenses for the upcoming year. Should the annual review indicate that the Program will experience a significant budget imbalance in the coming year, the storm water manager shall present to the management committee a request to revise the annual fee structure to correct the imbalance.

(ii) The management committee shall, at the next meeting following the receipt of the storm water manager's recommendation, examine the annual financial review and the storm water manager's recommendation for the adjustment in the annual fees. If no regular meeting of the management committee is scheduled within thirty (30) calendar days of the issuance of the storm water manager's recommendation, the chair of the committee shall call a special meeting. The management committee shall be free to adjust the proposed revisions, if any, in the amounts of the annual fees to any amounts which are

supported by three-fourths (3/4) of the members of the management committee.

(iii) Once the management committee adopts an annual fee revision recommendation, the storm water manager shall prepare a draft resolution incorporating the recommendation for action by the Hamilton County Commission. The storm water manager shall submit the draft resolution for consideration at an upcoming meeting of the county Commission, as allowed by the rules and procedures of the county commission. The county commission may adopt the recommendation, reject the recommendation, or adopt a different annual fee revision based on their own assessment of the Program's financial situation, subject to the limitations described in the interlocal agreement establishing the Program. The action of the county commission shall be final.

(c) Annual fee incorporation in municipal storm water fee. Nothing contained herein shall prohibit or restrict any participating municipality from enacting and collecting an annual storm water fee within its own jurisdictional boundaries which is higher than the Program's annual fee. The Program's annual fee shall be incorporated in the municipality's annual fee. The municipality may collect and utilize the excess funds derived from a higher annual storm water fee to address storm water issues within its boundaries as the municipality judges to be in its own best interest.

(d) Collection of delinquent annual fee payments. When any owner of property subject to the annual Program fee, fails to pay the annual Program fee on or before the date when such Program fee is required to be paid, interest and penalty shall be added to the amount of the Program fee due, at the same rate and in the same amount as that set by state law for delinquent property tax.<sup>1</sup> Should the owner of any property subject to the annual Program fee fail to remit payment for said fee within the time period adopted by the management committee for such payments, the Program is authorized to take any and all actions which the management committee deems appropriate to try to collect the delinquent fee.

(2) Special program fees. The Program shall be allowed to charge special Program fees to individuals and organizations for specific activities which require input from the Program staff. Because of the service-related nature of the special Program fees, they shall be applicable to all storm water dischargers located within the Program service area, including dischargers who

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<sup>1</sup>State law reference

Tennessee Code Annotated, § 67-1-801.

may be exempt from the annual Program fee. Special Program fees shall comply with the following provisions:

(a) Types. Special Program fees may be charged for the following types of services:

(i) Development plans review. Any person or organization with planned construction that will disturb one (1) acre or more shall submit development plans to the Program staff which describe in detail the planned construction's conformance with Program requirements for storm water pollution control at the site of the development. "Disturb" as used in this section shall identify any activity which covers, removes, or otherwise reduces the area of existing vegetation at a site, even on a temporary basis.

(ii) Erosion control plans review. Any person or organization with planned construction that will disturb one (1) acre or more shall submit erosion control plans to the Program staff which describe in detail the planned construction's conformance with Program requirements for erosion control at construction sites. It is understood that the erosion control plans review fee shall include on-site inspections by qualified member(s) of the Program staff of the installed erosion control measures as defined by the approved erosion control plans.

(iii) Erosion control non-compliance re-inspection. Should any on-site inspection of installed erosion control measures reveal that the measures have been improperly installed, prematurely removed, damaged, or have otherwise failed and that such deficiency does not pose an imminent threat to the public safety or welfare or the downstream water environment, the Program shall inform the responsible party of the deficiency, the responsible party's obligation to bring the installation into compliance with the approved plan, and the assessment of a re-inspection fee. The re-inspection fee shall reimburse the Program for the costs associated with an inspector's returning to a specific site out of the normal inspection sequence.

(iv) Non-storm water discharge permit review. Commercial and industrial facilities located within the Program service area may be allowed to discharge non-polluting wastewater into the storm water collection system. All such discharges, unless covered by a permit issued directly by TDEC or successor agency, must be covered by a discharge permit issued by the Program staff and renewed annually. Fees charged by the Program for such non-storm water discharge permits will include the costs of the periodic sampling and testing of the discharge, determination of the amount of the discharge, and any costs associated with reviewing

and issuing the permit and maintaining necessary records pertaining to the permit.

(v) Residential development retention/detention basin lifetime operation and maintenance fee. The ownership of the property containing a dry detention basin constructed as a part of an approved runoff management plan for a residential development composed of multiple, individually owned lots shall be permanently transferred to Hamilton County, Tennessee, in accordance with the property transfer procedures of the county. In addition, the developer of the residential development shall pay a lifetime operation and maintenance fee to the Program for each retention/detention basin. All such fees received by the Program shall be deposited in an investment account and the earnings of the account shall be used to pay for the maintenance, repair, and operation of the retention/detention basins transferred to the ownership of the county.

(vi) Other. The management committee may from time to time identify other specific activities which warrant a special program fee. No such fee shall be enacted unless it is endorsed by the county mayor and approved by the county commission. Procedures for establishing a special program fee other than those identified above shall generally comply with the procedures for making revisions to the annual program fee as described in the preceding section.

(b) Initial special program fees. The initial amounts of the various special program fees shall be as noted in Appendix A<sup>1</sup> to the ordinance comprising this chapter.

(c) Special program fee revision procedures. Special Program fees shall be changed only through the following multi-step procedure:

The storm water manager shall review the special Program fees during the annual program financial review required under the "annual fee revision procedures" described in a previous section. The storm water manager shall determine the financial viability of each special program fee and present to the management committee requests for revision of those fees, if any, which the storm water manager believes should be adjusted.

(i) Once the storm water manager has submitted his or her recommendations, revisions of the special program fees shall comply with the procedures for management committee review and county commission action identified under the "annual fee revision

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<sup>1</sup>Appendix A to Ord. #802 is available for review in the office of the city recorder.

procedures" described hereinbefore. (as added by Ord. #802, Oct. 2005)

**18-612. Penalties.** (1) Violations. Any person who shall commit any act declared unlawful under this chapter, who violates any provision of this chapter, who violates the provisions of any permit issued pursuant to this chapter, or who fails or refuses to comply with any lawful communication or notice to abate or take corrective action required by the Program, shall be guilty of a civil offense.

(2) Penalties. Under the authority provided in Tennessee Code Annotated, § 68-221-1106, the Program declares that any person violating the provisions of this chapter may be assessed a civil penalty by the Program of not less than fifty dollars (\$50.00) and not more than five thousand dollars (\$5,000.00) per day for each day of violation. Each day of violation shall constitute a separate violation. Applicable penalties for some specific violations are outlined in the enforcement protocol described in Appendix B<sup>1</sup> of the ordinance comprising this chapter.

(3) Measuring civil penalties. In assessing a civil penalty, the storm water manager may consider:

- (a) The harm done to the public health or the environment;
- (b) Whether the civil penalty imposed will be a substantial economic deterrent to the illegal activity;
- (c) The economic benefit gained by the violator;
- (d) The amount of effort put forth by the violator to remedy this violation;
- (e) Any unusual or extraordinary remedial or enforcement costs incurred by the Program or any participating municipality;
- (f) The amount of penalty established by ordinance or resolution for specific categories of violations; and
- (g) Any equities of the situation which outweigh the benefit of imposing any penalty or damage assessment.

(4) Recovery of damages and costs. In addition to the civil penalty in subsection (2) above, the Program may recover:

- (a) All damages proximately caused by the violator, which may include any reasonable expenses incurred in investigating violations of and enforcing compliance with this chapter, or any other actual damages caused by the violation.
- (b) The costs of maintenance of storm water facilities when the user of such facilities fails to maintain them as required by this chapter.

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<sup>1</sup>Appendix B to Ord. #802 is available for review in the office of the city recorder.

(5) Other remedies. The Program or any participating municipality may bring legal action to enjoin the continuing violation of this chapter, and the existence of any other remedy, at law or equity, shall be no defense to any such actions.

(6) Remedies cumulative. The remedies set forth in this section shall be cumulative, not exclusive, and it shall not be a defense to any action, civil or criminal, that one (1) or more of the remedies set forth herein has been sought or granted. (as added by Ord. #802, Oct. 2005)

**18-613. Appeals.** All actions of the Program staff, except for possible criminal violations which the staff has reported to the appropriate enforcement agency, shall be subject to an appeals process under the initial jurisdiction of the management committee. Appealable staff actions specifically include the assessment of civil penalties. Following receipt of a written "notice of appeal" from an appellant, the appeals process shall function as follows:

(1) Administrative review. An administrative review of all appeals and/or requests for review shall initially be conducted by the storm water manager. The storm water manager shall review the record of the situation and, if the storm water manager is not satisfied that both the following conditions have been met, the storm water manager shall notify the appellant of the finding and grant the relief or a portion of the relief, as determined by the storm water manager, sought by the appellant:

(a) The matter under dispute has been handled correctly by the Program staff under the applicable rules and procedures of the Program.

(b) The matter under dispute has been handled fairly by the Program staff and the appellant has not, in any way, been treated differently than other dischargers with similar circumstances.

If the storm water manager determines that both items (a) and (b) immediately above have been satisfied, the storm water manager shall notify the appellant in writing that no relief can be granted at the Program staff level and that the appellant is free to pursue the appeal with the management committee. Such notification shall include instructions as to the proper procedure for bringing the matter before the committee. Notification shall be made by hand-delivery; verifiable facsimile transmission; or certified mail, return receipt requested. A copy of the notification shall be provided to the management committee member representing the municipality in which the discharger is located and other administrative official as designated by each participating community. The storm water manager shall complete the review and issue an opinion within twenty (20) calendar days of the receipt of the appeal.

(2) Committee hearing. Appeals rejected by the storm water manager, in accordance with the procedure outlined immediately above, may be brought before the management committee. Within thirty (30) calendar days of receipt of a notification of an appeal, the committee shall determine if the appeal is to



be heard by the committee as a whole, if the matter is to be referred to a standing subcommittee, or if a new subcommittee is to be appointed specifically to hear the appeal. If a special committee is appointed, the officer presiding at the meeting of the management committee at which the special subcommittee is appointed shall name a chair and vice chair for said subcommittee. Once the appropriate forum for the appeal is decided, a date and time for hearing the appeal shall be set. Such date and time shall be within fifteen (15) calendar days following the date of the management committee's initial considerations regarding the appeal.

(3) Hearing procedures. Appeal hearings shall be conducted in a formal and orderly manner. However, the hearing is not a "court of law" and the rules of evidence, testimony, and procedures for such courts shall not apply. The storm water manager or his designee shall first brief the committee or subcommittee on the history of the situation, including the actions of the Program staff leading up to the appeal. The appellant shall then present his or her arguments as to why the relief sought should be granted. The storm water manager or his designee shall then have the opportunity to rebut or refute the appellant's arguments. The committee or subcommittee shall then conduct deliberations concerning the appeal in an open session. During such deliberations, the members may ask questions of and/or seek additional input from the appellant or the Program staff to clarify the situation. At the close of these deliberations the committee or subcommittee shall vote to accept or reject the appeal or to adopt a modified position regarding the matter in question. The outcome of this vote shall be considered the final action of the Program with regard to the appeal. The chair of the committee or subcommittee hearing the appeal shall prepare a written order reflecting the committee's or subcommittee's determination regarding the appeal. A tape recording, minutes, or other record of the hearing shall be made and maintained by the Program staff.

(4) Appealing decisions of the management committee. Any appellant dissatisfied with the decision of the management committee, as described in the preceding subsection, may appeal the management committee's decision by filing an appropriate request for judicial review to the Chancery Court of Hamilton County. (as added by Ord. #802, Oct. 2005)

**18-614. Implementation schedule.** (1) Discharge permit. The Program is authorized under National Pollutant Discharge Elimination System (NPDES) Permit No. TNS075566 issued by the Tennessee Department of Environment and Conservation (TDEC), Division of Water Pollution Control, which expires February 26, 2008. It is anticipated that subsequent permits will be issued to the Program under the same permitting authority. All applicable provisions of the current or any subsequent permit shall be enforceable by the Program as if fully spelled out herein. Implementation of certain aspects of the Program shall comply with the specific schedule included in the permit.

(2) Implementation schedule.

<u>Description</u>	<u>Effective Date</u>
Prohibition of Illicit Discharges § 18-609	January 1, 2006
Prohibition of the Release of Sediments and Erosion Products from a Land Disturbance Site § 18-604(3)	January 1, 2006
Implementation of the Land Disturbance Permit Program § 18-604	January 1, 2008
Implementation of the Runoff Management Permit Program § 18-605	January 1, 2008
Implementation of the Non-Storm Water Discharge Permit Program § 18-606	January 1, 2008

(as added by Ord. #802, Oct. 2005)

**18-615. Overlapping jurisdiction.** The State of Tennessee, working through the Tennessee Department of Environment and Conservation (TDEC), is or may be required by federal regulations to address storm water pollution issues in ways which appear to overlap the goals and requirements of the Program described by this chapter. Where such overlaps occur and where TDEC's regulations and determinations are more restrictive, the TDEC regulations and determinations shall control. A requirement to comply with TDEC regulations and determinations shall not, in any way, relieve any party from complying with the provisions of this chapter. (as added by Ord. #802, Oct. 2005)

**TITLE 19**

**ELECTRICITY AND GAS**

**CHAPTER**

**1. ELECTRICITY.**

**CHAPTER 1**

**ELECTRICITY<sup>1</sup>**

**SECTION**

19-101. To be furnished under franchise.

**19-101. To be furnished under franchise.** Electricity shall be furnished for the municipality and its inhabitants under such franchise as the city council shall grant. The rights, powers, duties, and obligations of the municipality, its inhabitants, and the grantee of the franchise shall be clearly stated in the written franchise agreement which shall be binding on all parties concerned. (1993 Code, § 13-201)

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<sup>1</sup>Municipal code reference  
Electrical code: title 12.

**TITLE 20**

**MISCELLANEOUS**

**CHAPTER**

1. CONDUCT IN PUBLIC PARKS AND PLAYGROUNDS.
2. AIR POLLUTION CONTROL.
3. PANHANDLING.
4. POLITICAL SIGNS.
5. ADMINISTRATIVE HEARING OFFICER.
6. USE OF ELECTRONIC CIGARETTES PROHIBITED.

**CHAPTER 1**

**CONDUCT IN PUBLIC PARKS AND PLAYGROUNDS**

**SECTION**

- 20-101. Short title.
- 20-102. Park property.
- 20-103. Sanitation.
- 20-104. Traffic.
- 20-105. Recreational activities.
- 20-106. Behavior.
- 20-107. Merchandising, advertising and signs.
- 20-108. Park operating policy.
- 20-109. Enforcement.

**20-101. Short title.** This chapter shall be known and may be cited as the East Ridge chapter regulating conduct in public parks and playgrounds. (Ord. #678, March 1999)

**20-102. Park property.** (1) Buildings and other property. No person in a park shall:

(a) Wilfully mark, deface, disfigure, injure, tamper with, or displace or remove, any building, bridges, tables, benches, fireplaces, railings, paving or paving material, water lines or other public utilities or parts or appurtenances thereof, signs, notices or placards whether temporary or permanent, monuments, stakes, posts, or other boundary markers, or other structures or equipment, facilities or park property or appurtenances whatsoever, either real or personal;

(b) Fail to cooperate in maintaining restrooms and washrooms in a neat and sanitary condition nor shall any person over the age of six years use the restrooms and washrooms designated for the opposite sex;

(c) Dig, or remove any soil, rock, stones, trees, shrubs, or plants, down timber or other wood or materials, or make any excavation by tools equipment, blasting, or other means or agency. It is not intended as a violation for removing rocks and stones from playing fields;

(d) Construct or erect any building or structure of whatever kind that is permanent in nature, or run or string any public service utility into, upon, or across such lands, except on special written permit issued hereunder.

(2) Trees, shrubbery, lawns. No person shall:

(a) Damage, cut, carve, transplant or remove any trees or plant or injure the bark, or pick the flowers or seeds, of any tree or plant. Nor shall any person attach any rope, wire, or other contrivance to any tree or plant. A person shall not dig in or otherwise disturb grass areas, or any other way injure or impair the natural beauty or usefulness of any area unless permitted to by the city;

(b) Climb any tree, or walk, stand or sit upon monuments, vases, fountains, railing, fences or upon any other property not designated or customarily used for such purposes;

(3) Wild animals, birds, etc. No person shall:

(a) Hunt, molest, harm, frighten, kill, trap, chase, tease, shoot or throw missiles at any animal, reptile or bird; nor shall he remove or have in his possession the young of any reptile or bird. Exception to the foregoing is made in that snakes known to be deadly poisonous may be killed on sight. This provision does not apply to fishing in designated areas.

(b) Give, offer, or attempt to give to any animal or bird any tobacco, alcohol or other known noxious substances. (Ord. #678, March 1999)

**20-103. Sanitation.** (1) No person shall throw, discharge, or otherwise place or cause to be placed in the waters of any fountain, pond, lake or stream in or adjacent to any park or any tributary, stream, storm sewer, or drain flowing into such waters, any substance, matter or thing, liquid or solid, which will or may result in the pollution of said waters.

(2) No person shall have brought in or shall dump, deposit or leave any bottles, broken glass, ashes, paper, boxes, cans, dirt, rubbish, waste, garbage, or refuse, or other trash unless authorized by the city manager. No such refuse or trash shall be placed in any waters in, or contiguous to, any park, or left any where on the grounds thereof, but shall be placed in the proper receptacles where these are provided; where receptacles are not so provided, all such rubbish or waste shall be carried away from the park by the person responsible for its presence and properly disposed of elsewhere. (Ord. #678, March 1999)

**20-104. Traffic.** No person shall:

(1) Fail to comply with all applicable provisions of the motor vehicles traffic laws of the city in regard to equipment and operations of vehicles.

(2) Fail to obey all traffic officers and park employees, such persons being hereby authorized and instructed to direct traffic whenever and wherever needed in the parks and on the highways, streets or roads immediately adjacent thereto in accordance with the provisions of these regulations and such supplementary regulations as may be issued subsequently by the recreation director and approved by the council.

(3) Fail to observe carefully all traffic signs indicating speed, direction, caution, stopping, or parking, and all others posted for proper control and to safeguard life and property.

(4) Ride or drive a vehicle at a rate of speed exceeding the posted speed limit.

(5) Drive any vehicles on any area except the paved park roads or parking areas, or such other areas as may on occasion be specifically designated as temporary parking areas by the city. Special exception is made to the above section for public service vehicles.

(6) Park a vehicle in other than an established or designated parking area, and such use shall be in accordance with the posted directions there at and with the instructions of any attendant who may be present.

(7) Ride any wheeled vehicle on other than a paved street or parking lot or leave any such vehicle unattended other than in designated racks or areas and shall not leave bicycles in any area where someone may trip over them and be injured. Bicyclists may wheel or push such vehicle by hand over any grassy area or on any paved area reserved for pedestrian or vehicle use. (Ord. #678, March 1999, as amended by Ord. #716, May 2001)

**20-105. Recreational activities.** (1) Hunting and firearms. No person shall hunt, trap or pursue wildlife at any time. No person shall use, carry, or possess firearms of any description, or air-rifles, spring-guns, bow and arrows, slings or any other forms of weapons potentially inimical to wild life and dangerous to human safety, or any instrument that can be loaded with and fire blank cartridges, or any kind of trapping device.

(2) Picnic areas and use. (a) Regulated. No person shall picnic or lunch in a place other than those designated for that purpose is prohibited. Attendants shall have the authority to regulate the activities in such areas when necessary to prevent congestion and to secure the maximum use for comfort and convenience of all.

(b) Availability. No person shall violate the regulation that use of the individual fireplaces together with tables and benches follows generally the rule of "first come first serve" except for city reserved events.

(c) Non-exclusive. No person shall use any portion of the picnic areas or any of the buildings or structures therein for the purpose of

holding picnics to the exclusion of other persons, nor shall any person use such area and facilities for an unreasonable time if the facilities except for city reserved events.

(d) Duty of picnicker. No person shall leave a picnic area before the fire is completely extinguished and before all trash in the nature of boxes, papers, cans, bottles, garbage and other refuse is placed in the disposal receptacles where provided. If no such trash receptacles are available, then refuse and trash shall be carried away from the park area by the person to be properly disposed of elsewhere.

(3) Games. No person shall take part in or play any games involving thrown or otherwise propelled objects such as balls, stones, arrows, javelins or model airplanes except in areas set apart for such forms of recreation. The areas immediately surrounding the games of play may be used for players to warm up as long as they are sufficiently away from any spectators so as to avoid injury. Roller skating or roller blading shall be allowed on any paved areas away from automobiles and pedestrians. Such play is allowed in only designated areas. (Ord. #678, March 1999, as amended by Ord. #716, May 2001)

**20-106. Behavior.** (1) Intoxicating beverages. Intoxicating beverages are not allowed in any park or building of the city except by approval of the city council. It is a violation of this chapter and state law for any person to be intoxicated in public.

(2) Fireworks. No person shall bring, or have in their possession, or set off or otherwise cause to explode or discharge or burn, any firecracker, torpedo, rocket, or other fireworks or explosives of flammable material, or discharge or throw any such item into any such area from land or highway adjacent thereto. This prohibition includes any substance, compound, mixture, or article that in conjunction with other substance or compound would be dangerous from any of the foregoing standpoints except as permitted and supervised by the city.

(3) Fires. No person shall build or attempt to build a fire except in such area and under such regulations as may be designated by the city manager. No person shall drop, throw, or otherwise scatter lighted matches, burning cigarettes or cigars, tobacco paper or other flammable material, within any park area or on any highway, road or street abutting or contiguous thereto.

(5) Games of chance. No person shall gamble, or participate in any game of chance.

(6) Boisterousness. No person shall sleep or lounge on the seats, or benches, or other areas, or engage in loud, boisterous, threatening, abusive, insulting or indecent language, or engage in any disorderly conduct or behavior tending to breach the public peace. (Ord. #678, March 1999)

**20-107. Merchandising, advertising and signs.** (1) Vending and peddling. No person in a park shall expose or offer for sale any particle or thing,

nor shall he station or place any stand, cart, or vehicle for the transportation, sale or display of any such article or thing. Exception is hereby made as to any regularly licensed concessionaire acting by and under the authority and regulation of the rules of the recreation director, the city, or a leaseholder of the city, or any sales to promote the organized activities at the park.

(2) Advertising. No person in a park shall announce, advertise, or call the public attention in any way to any article or service or hire unless specifically permitted by the city or rules promulgated by the recreation director and adopted by the city council.

(3) Signs. Notwithstanding the provisions of § 20-107(2) titled "advertising" exception to that section is hereby made wherein signs advertising sponsors of various baseball and softball teams and other sponsors of baseball and softball operating in Camp Jordan Park, shall be allowed, subject to restrictions by the East Ridge City Council, and control and placement of the signs shall be approved by the executive board of baseball-softball. All signs shall be limited to placement on the outfield portion of the baseball and softball fields. Signs shall not be allowed on any side or backstop fences. All signs shall be constructed of a uniform canvas type material, uniform size and contain no sharp edges. Such size and material shall be determined by the executive board. All signs shall be removed within one week of the end of each season of play. No person, other than mentioned above shall be allowed to place or construct any sign or placard on any other portion of Camp Jordan Park or any roadways or right of ways within the park except by permission of the East Ridge City Council. (Ord. #678, March 1999, as amended by Ord. #716, May 2001)

**20-108. Park operating policy.** (1) Hours. Except for unusual and unforeseen emergencies, parks shall be open to the public every day of the year during designated hours. The opening and closing hours for each individual park shall be posted therein for public information.

(2) Closed areas. Any section or part of any park or building may be declared closed to the public by the city manager or his designee at any time and for any interval of time, either temporarily or at regular and stated intervals (daily or otherwise) and either entirely or merely to certain uses, as the city manager shall find reasonably necessary.

(3) Permit. A permit shall be obtained from the city manager or his designee before participating in any non city sponsored organized group activity.

(a) Application. A person seeking issuance of a permit hereunder must file an application with the city manager or his designee. The application must state:

- (i) The name and address of the applicant;
- (ii) The name and address of the person, persons, corporation or association sponsoring the activity, if any;
- (iii) The day and hours for which the permit is desired;



(iv) The park or portion thereof for which such permit is desired;

(v) An estimate of the anticipated attendance;

(vi) Any other information which the city manager or his designee shall find reasonably necessary for a fair determination as to whether a permit should be issued hereunder.

(b) Standards for issuance. The city manager or his designee shall issue a permit hereunder when he finds:

(i) That the proposed activity or use of the park will not unreasonably interfere with or detract from the general public enjoyment of the park;

(ii) That the proposed activity and use will not unreasonably interfere with or detract from the promotion of public health, welfare, safety and recreation;

(iii) That the proposed activity or use is not reasonably anticipated to incite violence, crime or disorderly conduct;

(iv) That the proposed activity will not entail unusual, extraordinary or burdensome expense or police operation by the city;

(v) That the facilities desired have not been reserved for other use at the day and hour required in the application.

(vi) Fees charge shall be pursuant to policies set out and adopted by the city council.

(vii) All security arrangements/personnel must have final approval of the East Ridge Police Chief and all fire/rescue/medical personnel arrangements must have final approval of the East Ridge Fire Chief.

(viii) Lessee shall not discriminate against any person or class by reason of age, sex, handicap, color, race, creed, religion or national origin and will in all ways comply with the provisions of the Americans with Disabilities Act.

(c) Effect of permit. A permittee shall be bound by all park rules and regulations and all applicable ordinances fully as though the same were inserted in said permits.

(d) Liability of permittee. The person or persons to whom a permit is issued shall be liable for any loss, damage or injury sustained by any person whatever by reason of the negligence of the person or persons to whom such permit shall be issued.

(e) Revocation. The city manager or his designee shall have the authority to revoke a permit upon a finding of violation of any rule or ordinance, or upon good cause shown. (Ord. #678, March 1999)

**20-109. Enforcement.** (1) Officials. The city manager or his designees shall, in connection with their duties imposed by law, diligently enforce the provisions of this chapter.

(2) Ejectment. The city manager or his designee or any park attendant shall have the authority to eject from the park any person acting in violation of this chapter. (Ord. #678, March 1999)

**CHAPTER 2**  
**AIR POLLUTION CONTROL**<sup>1</sup>

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<sup>1</sup>The Air Pollution Control Policy for the City of East Ridge, with all revisions through Ord. #703, May 2000, is included as part of the East Ridge Municipal Code as Appendix 2.

**CHAPTER 3****PANHANDLING****SECTION****20-301. Panhandling**

**20-301. Panhandling.** (1) Definitions. (a) "Panhandling" means any solicitation made in person requesting an immediate donation of money or other thing of value for oneself or another person or entity. Purchase of an item for an amount far exceeding its value, under circumstances in which a reasonable person would understand that the purchase is, in substance, a donation for the purpose of this section. Panhandling shall not include the act of passively standing or sitting while performing music, or singing with a sign or other indication that a donation is being sought but without any vocal request other than a response to an inquiry by another person nor shall panhandling include fund raising efforts by not-for-profit groups such as churches, athletic teams, civic groups and other such similar groups or organizations with a sign or other indication that a donation is being sought without any vocal request other than a response to an inquiry by another person.

(b) "Prohibited zone" means any of the following designated areas of rights-of-way (including sidewalks):

(i) Within a five hundred foot (500') radius of the intersection of Ringgold Road with I-75 as determined by the chief building official for the city;

(ii) Anywhere within Camp Jordan;

(iii) Within five hundred feet (500') of East Ridge City Hall as determined by the chief building official for the city;

(iv) Within five hundred feet (500') of East Ridge Youth Foundation Pool located at 4150 Monroe Street, East Ridge, Tennessee as determined by the chief building official for the city;

(v) Within a five hundred foot (500') radius of the end of the Missionary Ridge Tunnel on Ringgold Road as determined by the chief building official for the city;

(vi) Within a five hundred foot (500') radius of the center of any intersection on Ringgold Road which has a traffic light as determined by the chief building official of the city;

(vii) Anywhere along Monroe Road;

(viii) Within five hundred feet (500') of South Terrace Road as determined by the chief building official of the city.

(c) "Aggressive panhandling" means:

- (i) To approach or speak to a person in such a manner as would cause a reasonable person to believe that the person is being threatened with:
    - (A) Imminent bodily injury; or
    - (B) The commission of a criminal act upon the person or another person, or upon property in the person's immediate possession.
  - (ii) To persist in panhandling after the person solicited has given a negative response;
  - (iii) To block, either individually or as a part of a group of persons, the passage of a solicited person;
  - (iv) To touch a solicited person without the person's consent;
  - (v) To render any service to a motor vehicle, including but not limited to any cleaning, washing, protecting, guarding or repairing of said vehicle or any portion thereof, without the prior consent of the owner, operator or occupant of such vehicle, and thereafter asking, begging or soliciting alms or payment for the performance of such service, regardless of whether such vehicle is stopped, standing or parked on a public street or upon other public or private property; or
  - (vi) To engage in conduct that would reasonably be construed as intended to intimidate, compel or force a solicited person to make a donation.
- (2) It shall be unlawful for any person to engage in an act of panhandling when either the panhandler or the person being solicited is located in, on, or at any of the following locations:
- (a) Any right-of-way, sidewalk or other location within the prohibited zone;
  - (b) Any bus stop;
  - (c) Any sidewalk café;
  - (d) Any area within twenty-five feet (25') (in any direction) of an automatic teller machine or entrance to a bank; or
  - (e) Any public or private school.
- (3) It shall be unlawful to engage in an act of panhandling on any day after sunset or before sunrise.
- (4) It shall be unlawful for any person to engage in an act of aggressive panhandling. (as added by Ord. #859, March 2009)

## CHAPTER 4

### POLITICAL SIGNS

#### SECTION

20-401. Scope of chapter--definition of political sign.

20-402. Political signs regulated on city property.

20-403. Political signs regulated on private property.

#### **20-401. Scope of chapter--definition of political sign.**

Notwithstanding anything in the East Ridge City Code to the contrary, the provisions of this chapter shall govern the use and placement of political signs. "Political signs" shall mean any sign which supports or opposes the candidacy of any candidate for public office or urges action on any other issue on the ballot of a primary, general or special election. (as added by Ord. #867, Sept. 2009, and replaced by Ord. #1016, Sept. 2016)

**20-402. Political signs regulated on city property.** No political signs shall be placed on City property, subject to the following exceptions and restrictions:

(1) Political signs may be placed on city property designated as official poll locations for a primary, general or special election, but no more than twenty-four (24) hours in advance of the election date.

(2) Political signs must be removed promptly following a primary, general or special election, but in no instance may political signs remain placed at a designated poll location more than twenty-four (24) hours following the election date.

(3) A lottery shall be conducted to determine the locations of candidates' tents on city property designated as official poll location(s). The rules and regulations of such lottery are to be determined and approved by the city council. (as added by Ord. #867, Sept. 2009, and replaced by Ord. #1016, Sept. 2016)

**20-403. Political signs regulated on private property.** Political signs with a sign area of more than thirty-two (32) square feet shall be subject to the provisions of the East Ridge City Code governing off-premise signs, provided that any political signs at a campaign headquarters shall be governed as on-premise signs. Political signs with a sign area of thirty-two (32) square feet or less shall be subject to the following restrictions:

(1) No political sign less than ten (10) square feet may be placed closer than five feet (5') to the closest edge of the pavement or curb of any public or private street.

(2) No such political sign between ten (10) square feet and thirty-two (32) square feet may be placed closer than ten feet (10') to the closest edge of the pavement or curb of any public or private street.

(3) No such political sign may be placed closer than twenty-five feet (25') to the closest edge of the pavement or curb of two (2) public or private streets.

(4) No person shall paste, paint, rope, bill, nail or pin any sign or any advertisement or notice of any kind whatsoever or cause the same to be done, or any curbstone, or in any portion of part of any sidewalk or street, tree, lamppost, telephone or telegraph pole, awning, porch or balcony or upon any other structure in the limits of any street or public right-of-way in the city including but not limited to any divided roadway median, traffic island and/or traffic circle/roundabout, except such as may be required by this code or other city ordinance.

(5) No such political sign may be placed upon or attached in any way to any tree, utility pole, light pole or rock; provided that no such sign shall be placed on any fence or fence post which presents any safety or line of sight issues for drivers as determined by the chief building official for the city.

(6) No political sign shall be posted more than sixty (60) days in advance of the date voting begins in the election to which it refers.

(7) All such political signs shall be removed within fifteen (15) days after the election to which they refer has been held. Such signs erected for a primary election may remain only if they continue to be valid for the next general election.

(8) The office of the building official or the traffic engineer may order the removal or relocation of any such sign which may constitute a hazard to the public traveling on public streets.

(9) No such sign may be placed upon a public sidewalk.

(10) Any person or organization planning to erect any political signs shall first file with the office of the building official the name, address and telephone number of the person or persons who shall be responsible for the proper erection and timely removal of such signs. (as added by Ord. #1016, Sept. 2016)

**CHAPTER 5**

**ADMINISTRATIVE HEARING OFFICER**

**SECTION**

- 20-501. Municipal administrative hearing officer.
- 20-502. Communication by administrative hearing officer and parties.
- 20-503. Appearance by parties and/or counsel.
- 20-504. Pre-hearing conference and orders.
- 20-505. Appointment of administrative hearing officer/administrative law judge.
- 20-506. Training and continuing education.
- 20-507. Citations for violations--written notice.
- 20-508. Review of citation--levy of fines.
- 20-509. Party in default.
- 20-510. Petitions for interventions.
- 20-511. Regulating course of proceedings--hearing open to public.
- 20-512. Evidence and affidavits.
- 20-513. Rendering of final order.
- 20-514. Final order effective date.
- 20-515. Collection of fines, judgments and debts.
- 20-516. Judicial review of final order.
- 20-517. Appeal to court of appeals.

**20-501. Municipal administrative hearing officer.** (1) In accordance with Tennessee Code Annotated, title 6, chapter 54, section 1001, et seq., there is hereby created the East Ridge Municipal Office of Administrative Hearing Officer to hear violations of any of the provisions codified in the East Ridge Municipal Code relating to building and property maintenance including:

- (a) Building codes adopted by the City of East Ridge;
- (b) All residential codes adopted by the City of East Ridge;
- (c) All plumbing codes adopted by the City of East Ridge;
- (d) All electrical codes adopted by the City of East Ridge;
- (e) All gas codes adopted by the City of East Ridge;
- (f) All mechanical codes adopted by the City of East Ridge;
- (g) All energy codes adopted by the City of East Ridge;
- (h) All property maintenance codes adopted by the City of East Ridge; and
- (i) All ordinances regulating any subject matter commonly found in the above-described codes.

The administrative hearing officer is not authorized to hear violation of codes adopted by the state fire marshal pursuant to Tennessee Code Annotated, § 69-120-101(a) enforced by deputy building inspector pursuant to Tennessee Code Annotated, § 68-120-101(f).



The utilization of the administrative hearing officer shall be at the discretion of the city manager and/or the city manager's designee, the chief building official of the City of East Ridge, and shall be an alternative to the enforcement included in the East Ridge Municipal Code.

(2) There is hereby created one (1) administrative hearing officer position to be appointed by the city council pursuant to § 20-505 below.

(3) The amount of compensation for the administrative hearing officer shall be approved by the city council.

(4) Clerical and administrative support for the office of administrative hearing officer shall be provided as determined by the city manager.

(5) The administrative hearing officer shall perform all of the duties and abide by all of the requirements provided in Tennessee Code Annotated, title 6, chapter 54, section 1001, et seq. (as added by Ord. #891, June 2011)

**20-502. Communication by administrative hearing officer and parties.** (1) Unless required for the disposition of ex parte matters specifically authorized by statute, an administrative hearing officer presiding over a contested case proceeding may not communicate, directly or indirectly, regarding any issue in the proceeding, while the proceeding is pending, with an person without notice and opportunity for all parties to participate in the communication.

(2) Notwithstanding subsection (1), an administrative hearing officer may communicate with municipal employees or officials regarding a matter pending before the administrative body or may receive aid from staff assistants, members of the staff of the city attorney or a licensed attorney, if such persons do not receive ex parte communications of a type that the administrative hearing officer would be prohibited from receiving, and do not furnish, augment, diminish or modify the evidence in the record.

(3) Unless required for the disposition of ex parte matters specifically authorized by statute, no party to a contested case, and no other person may communicate, directly or indirectly, in connection with any issue in that proceeding, while the proceeding is pending, with any person serving as an administrative hearing officer without notice and opportunity for all parties to participate in the communication.

(4) If, before serving as an administrative hearing officer in a contested case, a person receives an ex parte communication of a type that may not properly be received while serving, the person, promptly after starting to serve, shall disclose the communication in the manner prescribed in subsection (5).

(5) An administrative hearing officer who receives an ex parte communication in violation of this section shall place on the record of the pending matter all written communications received, all written responses to the communications, and a memorandum stating the substance of all oral communications received, all responses made, and the identity of each person from whom the person received an ex parte communication, and shall advise all

parties that these matters have been placed on the record. Any party desiring to rebut the ex parte communication shall be allowed to do so, upon requesting the opportunity for rebuttal within ten (10) business days after notice of the communication. (as added by Ord. #891, June 2011)

**20-503. Appearance by parties and/or counsel.** (1) Any party may participate in the hearing in person or, if the party is a corporation or other artificial person, by a duly authorized representative.

(2) Whether or not participating in person, any party may be advised and represented at the party's own expense by counsel or, unless prohibited by any provision of law, or other representative. (as added by Ord. #891, June 2011)

**20-504. Pre-hearing conference and orders.** (1)(a) In any action set for hearing, the administrative hearing officer, upon the administrative hearing officer's own motion, or upon motion of one (1) of the parties or such party's qualified representatives, may direct the parties or the attorneys for the parties, or both, to appear before the administrative hearing officer for a conference to consider:

- (i) The simplification of issues;
- (ii) The possibility of obtaining admissions of fact and of documents that will avoid unnecessary proof;
- (iii) The limitation of the number of witnesses; and
- (iv) Such other matters as may aid in the disposition of the action.

(b) The administrative hearing officer shall make an order that recites the action taken at the conference, and the agreements made by the parties as to any of the matters considered, and that limits the issues for hearing to those not disposed of by admissions or agreements of the parties. Such order when entered controls the subsequent course of the action, unless modified at the hearing to prevent manifest injustice.

(2) Upon reasonable notice to all parties, the administrative hearing officer may convene a hearing or convert a pre-hearing conference to a hearing, to be conducted by the administrative hearing officer sitting alone, to consider argument or evidence, or both, or any question of law.

(3) In the discretion of the administrative hearing officer, all or part of the pre-hearing conference may be conducted by telephone, television or other electronic means, if each participant in the conference has an opportunity to participate in, to hear, and, if technically feasible, to see the entire proceeding while it is taking place.

(4) If a pre-hearing conference is not held the administrative hearing officer may issue a pre-hearing order, based on the pleadings, to regulate the conduct of the proceedings. (as added by Ord. #891, June 2011)

**20-505. Appointment of administrative hearing officer/administrative law judge.** (1) The administrative hearing officer shall be appointed by the city council for a four (4) year term and serve at the pleasure of the city council. Such administrative hearing officer may be reappointed.

(2) An administrative hearing officer shall be one (1) of the following:

- (a) Licensed building inspector;
- (b) Licensed plumbing inspector;
- (c) Licensed electrical inspector;
- (d) Licensed attorney;
- (e) Licensed architect; or
- (f) Licensed engineer.

(3) The city may also contract with the administrative procedures division, office of the Tennessee Secretary of State to employ an administrative law judge on a temporary basis to serve as an administrative hearing officer. Such administrative law judge shall not be subject to the requirements of subsections 6-54-1007 (a) and (b). (as added by Ord. #891, June 2011)

**20-506. Training and continuing education.** (1) Each person appointed to serve as an administrative hearing officer shall, within the six-month period immediately following the date of such appointment, participate in a program of training conducted by the University of Tennessee's Municipal Technical Advisory Service, referred to in this part as MTAS. MTAS shall issue a certificate of participation to each person whose attendance is satisfactory. The curricula for the initial training shall be developed by MTAS with input from the administrative procedures division, office of the Tennessee Secretary of State. MTAS shall offer this program of training no less than twice per calendar year.

(2) Each person actively serving as an administrative hearing officer shall complete six (6) hours of continuing education every calendar year. MTAS develops the continuing education curricula and offer that curricula for credit no less than twice per calendar year. The education required by this section shall be in addition to any other continuing education requirements required for other professional licenses held by the individuals licensed under this subsection. No continuing education hours from one (1) calendar year may be carried over to a subsequent calendar year.

(3) MTAS has the authority to set and enact appropriate fees for the requirements of this section. The city shall bear the cost of the fees for administrative hearing officer serving the city.

(4) Costs pursuant to this section shall be offset by fees enacted. (as added by Ord. #891, June 2011)

**20-507. Citations for violations--written notice.** (1) Upon the issuance of a citation for violation of a municipal ordinance referenced in the city's administrative hearing ordinance, the issuing officer shall provide written notice of:

(a) A short and plain statement of the matters asserted. If the issuing officer is unable to state the matters in detail at the time the citation is served, the initial notice may be limited to a statement of the issues involved and the ordinance violations alleged. Thereafter, upon timely, written application a more definite and detailed statement shall be furnished ten (10) business days prior to the time set for the hearing;

(b) A short and plain description of the city's administrative hearing process including references to state and local statutory authority;

(c) Contact information for the city's administrative hearing office; and

(d) Time frame in which the hearing officer will review the citation and determine the fine and remedial period, if any.

(2) Citations issued for violations of ordinances referenced in the city's administrative hearing ordinance shall be signed by the alleged violator at the time of issuance. If an alleged violator refuses to sign, the issuing officer shall note the refusal and attest to the alleged violator's receipt of the citation. An alleged violator's signature on a citation is not admission of guilt.

(3) Citations issued upon absentee property owners may be served via certified mail sent to the last known address of the recorded owner of the property.

(4) Citations issued for violations of ordinances referenced in the city's administrative hearing ordinance shall be transmitted to an administrative hearing officer within two (2) business days of issuance. (as added by Ord. #891, June 2011)

**20-508. Review of citation--levy of fines.** (1) Upon receipt of a citation issued pursuant to § 20-507, an administrative hearing officer shall, within seven (7) business days of receipt, review the appropriateness of an alleged violation. Upon determining that a violation does exist, the hearing officer has the authority to levy a fine upon the alleged violator in accordance with this section. Any fine levied by a hearing officer must be reasonable based upon the totality of the circumstances.

(a) For violations occurring upon residential property a hearing officer has the authority to levy a fine upon the violator not to exceed five hundred dollars (\$500.00) per violation. For purposes of this section, "residential property" means a single family dwelling principally used as the property owner's primary residence and the real property upon which it sits.

(b) For violations occurring upon non-residential property a hearing officer has the authority to levy a fine upon the violator not to exceed five hundred dollars (\$500.00) per violation per day. For purposes of this section, "non-residential property" means all real property, structures, buildings and dwellings that re not residential property.

(2) If a fine is levied pursuant to subsection (1), the hearing officer shall set a reasonable period of time to allow the alleged violator to remedy the violation alleged in the citation before the fine is imposed. The remedial period shall be no less than ten (10) nor greater than one hundred twenty (120) calendar days, except where failure to remedy the alleged violation is less than ten (10) calendar days would pose an imminent threat to the health, safety or welfare of persons or property in the adjacent area.

(3) Upon the levy of a fine pursuant to subsection (1), the hearing officer shall within seven (7) business days, provide via certified mail notice to the alleged violator of:

(a) The fine and remedial period established pursuant to subsections (1) and (2);

(b) A statement of the time, place, nature of the hearing, and the right to be represented by counsel; and

(c) A statement of the legal authority and jurisdiction under which the hearing is to be held, including a reference to the particular sections of the statutes and rules involved.

(4) The date of the hearing shall be no less than thirty (30) calendar days following the issuance of the citation. To confirm the hearing, the alleged violator must make a written request for the hearing to the hearing officer within seven (7) business days of receipt of the notice required in subsection (3).

(5) If an alleged violator demonstrates to the issuing officer's satisfaction that the allegations contained in the citation have been remedied to the issuing officer's satisfaction, the fine levied pursuant to subsection (1) shall not be imposed or if already imposed cease; and the hearing date, if the hearing date has not yet occurred, shall be cancelled. (as added by Ord. #891, June 2011)

**20-509. Party in default.** (1) If a party fails to attend or participate in a pre-hearing conference, hearing or other stage of a contested case, the administrative hearing officer may hold the party in default and either adjourn the proceedings or conduct them without the participation of that party, having due regard for the interests of justice and the orderly and prompt conduct of the proceedings.

(2) If the proceedings are conducted without the participation of the party in default, the administrative hearing officer shall include in the final order a written notice of default and a written statement of the grounds for the default. (as added by Ord. #891, June 2011)

**20-510. Petitions for intervention.** (1) The administrative hearing officer shall grant one (1) or more petitions for intervention if:

(a) The petition is submitted in writing to the administrative hearing officer, with copies mailed to all parties named in the notice of the hearing, at least seven (7) business days before the hearing;

(b) The petition states facts demonstrating that the petitioner's legal rights, duties, privileges, immunities or other legal interest may be determined in the proceeding or that the petitioner qualifies as an intervener under any provision of law; and

(c) The administrative hearing officer determines that the interests of justice and the orderly and prompt conduct of the proceedings shall not be impaired by allowing the intervention.

(2) If a petitioner qualifies for intervention, the administrative hearing officer may impose conditions upon the intervener's participation in the proceedings, either at the time that intervention is granted or at any subsequent time. Conditions may include:

(a) Limiting the intervener's participation to designated issues in which the intervener has a particular interest demonstrated by petition;

(b) Limiting the intervener's participation so as to promote the orderly and prompt conduct of the proceedings; and

(c) Requiring two (2) or more interveners to combine their participation in the proceedings.

(3) The administrative hearing officer, at least twenty-four (24) hours before the hearing, shall render an order granting or denying each pending petition for intervention, specifying any conditions, and briefly stating the reasons for the order. The administrative hearing officer may modify the order at any time, stating the reasons for the modification. The administrative hearing officer shall promptly give notice of an order granting, denying or modifying intervention to the petitioner for intervention and to all parties. (as added by Ord. #891, June 2011)

**20-511. Regulating course proceedings--hearing open to public.**

(1) The administrative hearing officer shall regulate the course of the proceedings, in conformity with the pre-hearing order, if any.

(2) To the extent necessary for full disclosure of all relevant facts and issues, the administrative hearing officer shall afford to all parties the opportunity to respond, present evidence and argument, conduct cross examination, and submit rebuttal evidence, except as restricted by a limited grant of intervention or by the pre-hearing order.

(3) In the discretion of the administrative hearing officer and by agreement of the parties, all or part of the hearing may be conducted by telephone, television or other electronic means, if each participant in the hearing has an opportunity to participate in, to hear, and, if technically feasible, to see the entire proceedings while taking place.

(4) The hearing shall be open to public observation pursuant to Tennessee Code Annotated, title 8, chapter 44, unless otherwise provided by state or federal law. To the extent that a hearing is conducted by telephone, television or other electronic means, the availability of public observation shall

be satisfied by giving members of the public an opportunity, at reasonable times, to hear the tape recording and to inspect any transcript produced, if any. (as added by Ord. #891, June 2011)

**20-512. Evidence and affidavits.** (1) In administrative hearings.

(a) The administrative hearing officer shall admit and give probative effect to evidence admissible in a court, and when necessary to ascertain facts not reasonably susceptible to proof under the rules of the court, evidence not admissible thereunder may be admitted if it is of a type commonly relied upon by reasonably prudent men in the conduct of their affairs. The administrative hearing officer shall give effect to the rules of privilege recognized by law and to statutes protecting the confidentiality of certain records, and shall exclude evidence which in his or her judgment is irrelevant, immaterial or unduly repetitious;

(b) At any time not less than ten (10) business days prior to a hearing or a continued hearing, any party shall deliver to the opposing party a copy of any affidavit such party proposes to introduce in evidence, together with a notice in the form provided in subsection (2). Unless the opposing party, within seven (7) business days after delivery, delivers to the proponent a request to cross-examine an affidavit, if introduced in evidence, shall be given the same effect as if the affiant had testified orally. If an opportunity to cross-examine an affiant is not afforded after a proper request is made as provided in this subsection (b), the affidavit shall not be admitted into evidence. "Delivery," for purposes of this section, means actual receipt;

(c) The administrative hearing officer may admit affidavits not submitted in accordance with this section where necessary to prevent injustice;

(d) Documentary evidence otherwise admissible may be received in the form of copies or excerpts, or by incorporation by reference to material already on file with the municipality. Upon request, parties shall be given an opportunity to compare the copy with the original, if reasonably available; and

(e) (i) Official notice may be taken of:

(A) Any fact that could be judicially noticed in the courts of this state;

(B) The record of other proceedings before the agency; or

(C) Technical or scientific matters within the administrative hearing officer's specialized knowledge; and

(ii) Parties must be notified before or during the hearing, or before the issuance of any final order that is based in whole or in part on facts or material notice, of the specific facts or material noticed and the

source thereof, including any staff memoranda and data, and be afforded an opportunity to contest and rebut the facts or material so noticed.

(2) The notice referred to in subsection (1)(b) shall contain the following information and be substantially in the following form:

The accompanying affidavit of \_\_\_\_\_ (here insert name of affiant) will be introduced as evidence at the hearing in \_\_\_\_\_ (here insert title of proceeding). \_\_\_\_\_ (here insert name of affiant) will not be called to testify orally and you will not be entitled to question such affiant unless you notify \_\_\_\_\_ (here insert name of the proponent or the proponent's attorney) at \_\_\_\_\_ (here insert address) that you wish to cross-examine such affiant. To be effective, your request must be mailed or delivered to \_\_\_\_\_ (here insert name of proponent or the proponent's attorney) on or before (here insert a date seven (7) business days after the date of mailing or delivering the affidavit to the opposing party). (as added by Ord. #891, June 2011)

**20-513. Rendering of final order.** (1) An administrative hearing officer shall render a final order in all cases brought before his or her body.

(2) A final order shall include conclusions of law, the policy reasons therefor, and findings of fact for all aspects of the order, including the remedy prescribed. Findings of fact, if set forth in language that is no more than mere repetition or paraphrase of the relevant provision of law, shall be accomplished by a concise and explicit statement of the underlying facts of record to support the findings. The final order must also include a statement of the available procedures and time limits for seeking reconsideration or other administrative relief and the time limits for seeking judicial review of the final order.

(3) Findings of fact shall be based exclusively upon the evidence of record in the adjudicative proceeding and on matters officially noticed in that proceeding. The administrative hearing, officer's experience, technical competence and specialized knowledge may be utilized in the evaluation of evidence.

(4) If an individual serving or designated to serve as an administrative hearing officer becomes unavailable, for any reason, before rendition of the final order, a qualified substitute shall be appointed. The substitute shall use any existing record and may conduct any further proceedings as is appropriate in the interest of justice.

(5) The administrative hearing officer may allow the parties a designated amount of time after conclusion of the hearing for the submission of proposed findings.

(6) A final order rendered pursuant to subsection (1) shall be rendered in writing within seven (7) business days after conclusion of the hearing or after submission of proposed findings unless such period is waived or extended with the written consent of all parties or for good cause shown.



(7) The administrative hearing officer shall cause copies of the final order under subsection (1) to be delivered to each party. (as added by Ord. #891, June 2011)

**20-514. Final order effective date.** (1) All final orders shall state when the order is entered and effective.

(2) A party may not be required to comply with a final order unless the final order has been mailed to the last known address of the party or unless the party has actual knowledge of the final order. (as added by Ord. #891, June 2011)

**20-515. Collection of fines, judgments and debts.** The city may collect a fine levied pursuant to this section by any legal means available to a municipality to collect any other fine, judgment or debt. (as added by Ord. #891, June 2011)

**20-516. Judicial review of final order.** (1) A person who is aggrieved by a final decision in a contested case is entitled to judicial review under this chapter, which shall be the only available method of judicial review.

(2) Proceedings for judicial review of a final order are instituted by filing a petition for review in the chancery court in the county where the municipality lies. Such petition must be filed within sixty (60) calendar days after the entry of the final order that is the subject of the review.

(3) The filing of the petition for review does not itself stay enforcement of the final order. The reviewing court may order a stay on appropriate terms, but if it is shown to the satisfaction of the reviewing court, in a hearing that shall be held within ten (10) business days of a request for hearing by either party, that any party or the public at large may suffer injury by reason of the granting of a stay, then no stay shall be granted until a good and sufficient bond, in an amount fixed and approved by the court, shall be given by the petitioner conditioned to indemnify the other persons who might be so injured and if no bond amount is sufficient, the stay shall be denied.

(4) Within forty-five (45) calendar days after service of the petition, or within further time allowed by the court, the administrative hearing officer shall transmit to the reviewing court the original or a certified copy of the entire record of the proceeding under review. By stipulation of all the parties of the review proceedings, the record may be shortened. A party unreasonably refusing to stipulate to limit the record may be taxed by the court for the additional cost. The court may require or permit subsequent corrections or additions to the record.

(5) If, before the date set for hearing, application is made to the court for leave to present additional evidence, and it is shown to the satisfaction of the court that the additional evidence is material and that there were good reasons for failure to present it in the administrative proceeding, the court may order

that the additional evidence be taken before the administrative hearing officer upon conditions determined by the court. The administrative hearing officer may modify its findings and decision by reason of the additional evidence and shall file that evidence and any modifications, new findings or decisions with the reviewing court.

(6) The procedure ordinarily followed in the reviewing court will be followed in the review of contested cases decided by the administrative hearing officer, except as otherwise provided in this chapter. The administrative hearing officer that issued the decision to be reviewed is not required to file a responsive pleading.

(7) The review shall be conducted by the court without a jury and shall be confined to the record. In cases of alleged irregularities in procedure before the administrative hearing officer, not shown in the record, proof thereon may be taken in the court.

(8) The court may affirm the decision of the administrative hearing officer or remand the case for further proceedings. The court may reverse or modify the decision if the rights of the petitioner have been prejudiced because the administrative findings, inferences, conclusions or decisions are:

- (a) In violation of constitutional or statutory provisions;
- (b) In excess of the statutory authority of the administrative hearing officer;
- (c) Made upon unlawful procedure;
- (d) Arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion; or
- (e) Unsupported by evidence that is both substantial and material in the light of the entire record. In determining the substantiality of evidence, the court shall take into account whatever in the record fairly detracts from its weight, but the court shall not substitute its judgment for that of the administrative hearing officer as to the weight of the evidence on questions of fact.

(9) No administrative hearing decision pursuant to a hearing shall be reversed, remanded or modified by the reviewing court unless for errors that affect the merits of such decision.

(10) The reviewing court shall reduce its findings of fact and conclusions of law to writing and make them parts of the record. (as added by Ord. #891, June 2011)

**20-517. Appeal to court of appeals.** (1) An aggrieved party may obtain a review of any final judgment of the chancery court under this chapter by appeal to the Court of Appeals of Tennessee.

(2) The record certified to the chancery court and the record in the chancery court shall constitute the record in an appeal. Evidence taken in court pursuant to title 24 shall become a part of the record.

(3) The procedure on appeal shall be governed by the Tennessee Rules of Appellate Procedure. (as added by Ord. #891, June 2011)

## CHAPTER 6

### USE OF ELECTRONIC CIGARETTES PROHIBITED

#### SECTION

20-601. Electronic cigarettes prohibited.

**20-601. Electronic cigarettes prohibited.** The use of electronic cigarettes, also known as e-cigarettes, nicotine vaporizers, or similar products, shall be prohibited in all buildings or facilities owned, or leased by, the city. Any individual found to be in violation of this chapter shall first be asked to immediately terminate the use of such products, and, if such individual refuses to immediately comply, shall be escorted from the premises. (as added by Ord. #972, June 2014)

**THE EAST RIDGE AIR POLLUTION CONTROL ORDINANCE****SECTION**

- 8-701. Declaration of policy and purpose; title.
- 8-702. Definitions.
- 8-703. Regulations cumulative; compliance with one provision no defense to noncompliance with another; sampling and testing methods.
- 8-704. Penalties for violation of ordinance, permit or order.
- 8-705. Limitations of chapter.
- 8-706. Air pollution control board; bureau of air pollution control; persons required to comply with chapter.
- 8-707. Powers and duties of the board; delegation.
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- 8-709. Technical reports, research and computer time; charges.
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- 8-763. Judicial review of terms and conditions of permit.
- 8-764. Hearings and review.
- 8-765. Enforcement.
- 8-766.--8-767. Reserved.
- 8-768. Incorporation of documents by reference.

**8-701. Declaration of policy and purpose; title.** (a) It is hereby declared to be the public policy of this city and the purpose of this chapter to achieve and maintain such levels of air quality as will protect human health and safety and to the greatest degree practicable, prevent injury to plant and animal life and property, foster the comfort and convenience of the people.

(b) To these ends it is the purpose of this chapter to provide a program of air pollution prevention, abatement, and control.

(c) This chapter shall be known and cited as "The East Ridge Air Pollution Control Ordinance." (1993 Code, § 8-701)

**8-702. Definitions.** In the interpretation and enforcement of this chapter, the following definitions shall apply:

"Actual emissions." The calculated rate of emissions of a pollutant from an emissions unit, as determined in accordance with paragraphs (1), (2) and (3) below:

(1) Actual emissions calculated as of a particular date shall equal the average rate, in tons per year, at which the unit emitted the pollutant during a two-year period which precedes the particular date and which is representative of normal source operation. The director may allow the use of a different time period upon a determination that it is more representative of normal source operation. Actual emissions shall be calculated using the unit's actual operating hours, production rates, and types of materials processed, stored, or combusted during the selected time period. For a new source, actual emissions shall be calculated on the projected operating hours submitted on the installation permit application as representative of normal source operation. If the projected hours are less than 8760 hours per year, then the operating hours shall be specified as a federally enforceable permit condition. The calculation of actual emissions shall include fugitive emissions except where fugitive emissions are expressly excluded by a provision of this ordinance.

(2) However, unless the source is in compliance with legally enforceable limits which restrict the operating rate, or hours of operation, or both, the director shall deem actual emissions of the unit to be those calculated using the maximum rated capacity of the source, based on 8760 hours per year, and the most stringent of the following:

- a. The applicable standards as set forth in § 8-741, Rule 15 and Rule 16; or
- b. The applicable emissions limitation in this chapter, including those with a future compliance date; or

c. The emissions rate specified as an enforceable permit condition under local, state or federal law.

(3) If there is an emissions unit in place and subject to a permit or certificate of operation which has not begun normal operations on the particular date that an additional unit is to be issued a permit or certificate of operation, then actual emissions of the unit in place shall be calculated as being the potential to emit of the unit on that date.

"Air contaminant." Any smoke, soot, fly ash, dust, cinders, dirt, noxious or obnoxious acids, fumes, oxides, gases, vapors, odors, toxic or radioactive substance, waste, particulate, solid, liquid or gaseous matter, or any other materials in the outdoor atmosphere, but excluding uncombined water.

"Air flow permeability." The volumetric rate of air flow in cfm, produced by a pressure decrease of 0.5 in. w.g. across a new, clean filtering fabric, divided by the area of the fabric in ft<sup>2</sup>. The test air stream is maintained at nominal atmospheric pressure and temperature.

"Air pollution." The presence in the outdoor atmosphere of one or more air contaminants or combinations thereof in such quantities and of such duration that they are or may tend to be injurious to human, plant, or animal life, or property, or that interfere with the comfortable enjoyment of life or property, or the conduct of business.

"Air pollution control equipment." Any item of equipment which has as its primary function the elimination or reduction of the emissions of an air pollutant.

"Allowable emissions." The emissions rate of a stationary source calculated using the maximum rated capacity of the source (unless the source is subject to legally enforceable limits which restrict the operating rate, or hours of operations, or both) and the most stringent of the following:

- (1) The applicable standards under this chapter or in an applicable state implementation plan, including those with a future compliance date; or
- (2) The emissions rate specified as a legally enforceable permit or certificate condition established pursuant to this chapter, including those with a future compliance date.

"Asbestos." Any of six (6) naturally occurring, hydrated mineral silicates: Actinolite, amosite, anthophyllite, chrysolite, crocidolite and tremolite.

"Begin actual construction." Initiation of physical on-site construction activities on an emissions unit which are of a permanent nature. Such activities include, but are not limited to, installation of building supports and foundations, laying of underground pipework, and construction of permanent storage structures. With respect to a change in method of operation, this term refers to those on-site activities, other than preparatory activities, which mark the initiation of the change.

"Best available control technology (BACT) for § 8(e) and § 41, Rule 25." An emissions limitation (including a visible emissions limitation), based on the maximum degree of reduction for each pollutant subject to regulation under this

ordinance which would be emitted from any stationary source or modification which the director, on a case-by-case basis, taking into account energy, environmental, and economic impacts and other costs, determines is achievable for such source or modification through application of production processes or available methods, systems and techniques, including fuel cleaning or treatment or innovative fuel combination techniques for control of each such pollutant. In no event shall the application of "best available control technology" result in emissions of any pollutant which would exceed the emissions allowed by any applicable limitation established under Rules 15 and 16. If a source demonstrates to the director that technological or economic limitations on the application of measurement methodology to a particular emissions unit would make the imposition of an emissions limitation infeasible, a design, equipment, work practice, operations standard or combination thereof, submitted by the source and approved by the director, may be prescribed instead to satisfy the requirement for the application of best available control technology. Such standards shall, to the degree possible, set forth the emissions reduction achievable by implementation of such design, equipment, work practice or operation, and shall provide for compliance by means which achieve equivalent results.

"Board." The Chattanooga-Hamilton County Air Pollution Control Board.

"Building, structure, facility or installation." All of the pollutant-emitting activities which belong in the same industrial grouping, are located on one (1) or more contiguous or adjacent properties, and are under the control of the same person (or persons under common control). Pollutant-emitting activities shall be considered as part of the same industrial grouping if they belong to the same major group (i.e., described by the first two (2) digits in the code which is specified in Standard Industrial Classification Manual 1987).

"Bureau." The Chattanooga-Hamilton County Air Pollution Control Bureau.

"Calendar day." A 24-hour period of time between 12:01 A.M. and midnight on a numbered day in the Gregorian calendar.

"Certificate of operation." Any certificate of operation issued pursuant to the provisions of this including a federally enforceable certificate of operation.

"Commence." As applied to construction of a major stationary source or major modification, means that the owner or operator has all necessary preconstruction approvals or permits and either has:

(1) Begun, or caused to begin, a continuous program of actual on-site construction of the source, to be completed within a reasonable time as determined by the director; or

(2) Entered into binding agreements or contractual obligations, which cannot be cancelled or modified without substantial loss to the owner or operator, to undertake a program of actual construction of the source to be completed within a reasonable time.



"Construction." Any physical change or change in the method of operation (including fabrication, erection, installation, demolition, or modification of an emissions unit) which would result in a change in actual emissions.

"Controlled burning." Open burning conducted in such manner or with the aid of such special equipment that emissions are reduced.

"Director." The director of the bureau.

"Dwelling unit." Any room or group of rooms located within a dwelling and forming a single habitable unit with facilities which are used or intended to be used for living, cooking, sleeping and eating.

"Emission." A release into the outdoor atmosphere of air contaminants.

"Emission limitation." A requirement established which limits the quantity, rate or concentration of emissions of air pollutants, including any requirement relating to the operation or maintenance of a source to ensure continuous emission reductions or a legally enforceable emissions cap that the source has assumed to avoid an applicable requirement to which the source would otherwise be subject, without exception for startup or shutdown.

"Emission point." That place where emission occurs.

"Emission unit." Any part or activity of a stationary source which emits or would have the potential to emit any pollutant subject to regulation under this ordinance.

"Excess air." Air entering a combustion chamber in excess of the amount theoretically required to complete combustion of materials in the combustion chamber.

"Existing source." A source whose installation, modification, alteration or reconstruction commenced on or before the effective date of any provision of this ordinance applicable to it is deemed to be an "existing source" for such provision. If any existing source is subsequently altered, repaired or rebuilt so that its potential to emit any air pollutant is increased, or so that it emits any air pollutant it did not previously emit, it shall be reclassified as a "new source," as defined in this ordinance.

"Federal Clean Air Act." Title 42 United States Code Sections 7401 through 7671q, as amended by Public Law 101-549, November 15, 1990.

"Fixed capital cost." The capital needed to provide all the depreciable components.

"Fly ash." Particulate matter capable of being airborne, resulting from combustion of fuel or refuse.

"Fossil fuel." Coal, coke and liquid petroleum fuels other than gasoline, diesel fuels and kerosene.

"Fuel-burning equipment." Any equipment, device or contrivance used for the burning of any fuel (except refuse) and all appurtenances thereto, including ducts, breechings, fly ash collecting equipment, fuel feeding equipment, ash removal equipment, combustion controls, stacks, chimneys, etc., used for indirect heating in which the material being heated is not contacted by, and adds no substance to the products of combustion. Such equipment includes,

but is not limited to, that used for heating water to boiling; raising steam or super-heating steam; heating air as in warm air furnaces; furnishing process heat that is conducted through process vessel walls; and furnishing process heat indirectly through its transfer by fluids.

"Fugitive dust." Particulate matter emitted from any source other than a flue or stack.

"Fugitive emissions." Those emissions which could not reasonably pass through a stack, chimney, vent or other functionally-equivalent opening.

"Hand-fired fuel burning equipment." Fuel-burning equipment in which fresh fuel is manually introduced directly into the combustion chamber.

"Hazardous air pollutant." Any air pollutant listed in Title 42 U.S.C. 7412(b), as amended by Public Law 102-187, except for caprolactam (CAS number 105602) which has been deleted from that list at Title 40 CFR Section 63.60 (Revised as of July 1, 1996).

"Implementation plan." A plan devised by a governmental unit to provide for the attainment, maintenance and enforcement of any ambient air quality standard.

"Incinerator." Refuse-burning equipment as is hereinafter defined.

"Internal combustion engine." Any engine of ten (10) horsepower as rated by S. A. E. methods, or larger, in which the combustion of gaseous, liquid or pulverized solid fuel takes place.

"Legally enforceable." All limitations and conditions which are enforceable under local, state, or federal law, including those under this ordinance or an implementation plan, and any permit or certificate of operation requirements established pursuant to this ordinance.

"Lowest achievable emission rate (LAER)." For any source, that rate of emission which reflects the more stringent rate of emissions based on the following:

(1) The most stringent emissions limitation which is contained in the applicable provisions of this ordinance for such class or category of stationary source, unless the owner or operator of the proposed source demonstrates that such limitations are not achievable; or

(2) The most stringent emission limitation which is achieved in practice by such class or category of stationary source. This limitation, when applied to a modification, means the lowest achievable emissions rate for the new or modified emissions units within the stationary source. In no event shall a new or modified source emit any pollutant in excess of the amount allowable under applicable provisions of § 8-741, Rule 15 (New Source Performance Standards), of this ordinance. This rate will be determined by the director prior to the issuance of the installation permit.

"Malfunction." Any exceedance arising from sudden and not reasonably foreseeable events beyond the control of the source, including acts of God or force majeure, which exceedance requires immediate corrective action to restore normal operation, and that causes the source to exceed an applicable emission

limitation provision of this chapter, or of any installation permit or certificate of operation issued thereunder, due to unavoidable increases in emissions attributable to the situation. To the extent the situation is caused by improperly designed equipment, lack of preventative maintenance, careless or improper operation, operator error or any other preventable upset condition or preventable equipment breakdown, it shall not be considered a malfunction.

"Minor pollution source." Any fuel-burning, refuse-burning or process equipment which, without control equipment, would emit less than one thousand (1,000) pounds per year and less than ten (10) pounds per day of air pollutants, and which can otherwise be operated in compliance with this chapter; provided, that this definition shall not be applicable to sources of hazardous air pollutant emissions.

"Modification, alteration, reconstruction." Any physical change in, or change in the method of operation of, an air pollutant source which increases the actual emissions of any air pollutant to which an emission standard or limitation applies emitted by such source or its potential to emit any air pollutant to which an emission standard or limitation applies, or which results in the emission of any air pollutant to which an emission standard or limitation applies that was not previously emitted, except that:

(1) Routine maintenance, repair, and replacement shall not be considered physical changes; and

(2) The following shall not be considered a change in the method of operation:

a. An increase in the production rate that exceeds neither the operating design capacity nor the applicable maximum production rate stated in the installation permit or certificate of operation for the source.

b. An increase in hours of operation that does not exceed any limitation on operating hours stipulated as a legally enforceable permit condition of the source;

c. The use of an alternative fuel if the source is designed to accommodate such alternative fuel; or

d. Required alterations to equipment for the use of an alternative fuel or raw material by reason of an order under § 8-702(a) and (b) of the federal Energy Supply and Environmental Coordination Act of 1974 (or any superseding legislation) or by reason of a natural gas curtailment plan in effect pursuant to the Federal Power Act.

(3) The burden of proof establishing that a change is expected under parts a. and b. is on the owner or operator. The director shall rule in a timely fashion on whether a reported change is excepted. Further expansions or restrictions of the definition may be listed in this ordinance. In the event of a conflict, the most stringent requirement shall apply.

"Multiple chamber incinerator." Any article, machine, equipment, contrivance, structure or part of a structure used to dispose of combustible refuse by burning, consisting of three (3) or more refractory lined combustion

furnaces in series, physically separated by refractory walls, interconnected by gas passage ports or ducts and employing adequate design parameters necessary for maximum combustion of the material to be burned.

"New source." A source whose installation, modification, alteration or reconstruction is commenced after the effective date of any provision of this chapter to which the source is subject is deemed to be a "new source" for such provision.

"Odor producing equipment." Any equipment, container, device or contrivance which is not process equipment, fuel-burning equipment, refuse-burning equipment or control equipment as defined by this section, that releases substances that produce or may tend to produce odors in the ambient air.

"Opacity." The degree to which emissions reduce the transmission of light and obscure the view of an object in the background.

"Open burning." Unconfined burning of combustible material where no equipment has been provided and used for control of air.

"Owner or operator." Any person who owns, leases, operates, controls, or supervises a source.

"Owner or operator of a demolition or renovation activity" means any person who owns, leases, operates, controls, or supervises the facility being demolished or renovated or any person who owns, leases, operates, controls or supervises the demolition or renovation, or both.

"Particulate matter." Material other than uncombined water, which is suspended in air or other gases, in a finely divided form, as a liquid or solid.

"Pathological waste." All or parts of organs, bones, muscles, other tissues and organic wastes of human or animal origin, laboratory cultures, and infective dressings and other similar material.

"Pathological waste incinerator." Refuse-burning equipment being used for disposal of pathological waste.

"Person." Any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or any other legal entity, or their legal representatives, agents or assigns. The masculine gender shall include the feminine, the singular shall include the plural where indicated by the context.

"Plant." Means any building, structure, installation, activity, or combination thereof which contains any stationary source of air contaminants.

"PM<sub>10</sub>." Particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers as measured by a reference method based on Appendix J of Title 40, Code of Federal Regulations, Part 50, or by an equivalent method designated in accordance with Part 53 of Title 40, Code of Federal Regulations.

"PM<sub>10</sub> emissions." Finely divided solid or liquid material with an aerodynamic diameter less than or equal to a nominal 10 micrometers emitted into the ambient air as measured by an applicable reference method.

"Pollutant." Any air contaminant as defined in § 8-702 or combination of such air contaminants, including any physical, chemical, biological, or radioactive (including source material, special nuclear material, and byproduct material) air contaminant which is emitted into or otherwise enters the ambient air. Such term includes any precursors to the formation of any such air contaminant, to the extent the U.S. Environmental Protection Agency has identified such precursor or precursors for the particular purposes for which the term "pollutant" is used.

"Potential to emit." The maximum capacity of a stationary source to emit a pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the source to emit a pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design if the limitation or the effect it would have on emissions is legally enforceable. Secondary emissions do not count in determining the potential to emit of a stationary source.

"Ppm." Parts per million by volume at a temperature of twenty (20) degrees Celsius and at a pressure of seven hundred sixty (760) millimeters of mercury.

"Primary Air Quality Standards." Primary ambient air quality standards define levels of air quality believed adequate, with an appropriate margin of safety, to protect public health.

"Process air." Air used principally as a function of the process.

"Process emission." Any emission of an air contaminant to the ambient air other than that from fuel-burning equipment, incinerator or open burning.

"Process equipment." Any equipment, device or contrivance for changing any materials whatever or for storage or handling of any materials, the use or existence of which may cause any discharge of air pollutants into the open air, but not including that equipment specifically defined as "fuel-burning equipment" or "refuse-burning equipment" in this chapter.

"Process weight." The total weight of all materials introduced into any specific process, which process may cause any discharge of air contaminant. Solid fuels discharged will be considered as part of process weight, but liquid and gaseous fuels and combustion and process air will not. For a cyclical or batch operation, the process weight per hour will be derived by dividing the total process weight by the number of hours in one complete operation from the beginning of any given process to the completion thereof, excluding any time during which the equipment is idle. For a continuous operation, the process weight per hour will be derived by dividing the process weight for a twenty-four hour period by twenty-four (24).

"Reasonable Further Progress (RFP)." Annual incremental reductions in emissions of the applicable pollutant which are sufficient to provide for attainment of the applicable ambient air quality standards by December 31, 1982, or in the case of the primary ambient air quality standard for

photochemical oxidants or carbon monoxide (or both) by December 31, 1987, if attainment is not possible by December 31, 1982.

"Reasonably Available Control Technology (RACT)." The lowest emission limit that a particular source is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility.

"Reconstruction." Reconstruction will be presumed to have taken place where the fixed capital cost of the new components exceeds fifty (50) percent of the fixed capital cost of a comparable entirely new facility. Any final decisions as to whether reconstruction has occurred shall be based on:

(1) The fixed capital cost of the replacements in comparison to the fixed capital cost that would be required to construct a comparable entirely new facility;

(2) The estimated life of the facility after the replacements compared to the life of a comparable entirely new facility; and

(3) The extent to which the components being replaced cause or contribute to the emissions from the facility.

A reconstructed facility will be treated as a new stationary source. In determining lowest achievable emission rate for a reconstructed facility any economic or technical limitations on compliance with applicable standards of performance which are inherent in the proposed replacements shall be taken into account in assessing whether a new source performance standard is applicable to such facility.

"Refuse-burning equipment." Any equipment, device or contrivance used for the destruction of garbage and/or other combustible wastes by burning, and all appurtenances thereto.

"Salvage operation." Any operation conducted in whole or in part for the salvage or reclaiming of any product or material.

"Secondary Air Quality Standards." Secondary ambient air quality standards define levels of air quality believed adequate, with an appropriate margin of safety, to protect the public welfare from any known anticipated adverse effects of the pollutant.

"Secondary emissions." Emissions which would occur as a result of the construction or operation of a major stationary source or major modification, but do not come from the major stationary source or major modification itself. Secondary emissions must be specific, well defined, quantifiable, and impact the same general area as the stationary source or modification which causes the secondary emissions. Secondary emissions include emissions from any off-site support facility which would not be constructed or increase its emissions except as a result of the construction or operation of the major stationary source or major modification. Secondary emissions do not include any emissions which come directly from a mobile source, such as emissions from the tailpipe of a motor vehicle, from a train, or from a vessel.

"Shutdown." The removal of equipment from operation.

"Source." Any activity, equipment, process or operation which causes or contributes to cause emission or has the potential to emit one or more air pollutants at an emission point or as fugitive emissions, or any combination of items of equipment, processes or operations which when combined cause emission of one or more air pollutant(s) at one or more emission points or as fugitive emissions.

"Standard conditions." 14.7 psia and a temperature of seventy (70) degrees Fahrenheit.

"Start-up." The placing into operation of new, down or off-line equipment.

"Stationary source." Any source of an air pollutant except those resulting directly from an internal combustion engine for transportation purposes or from nonroad engines or nonroad vehicles as defined in Title 42 U.S.C. § 7550.

"Suspended particulate." Particulate matter which will remain suspended in air for an appreciable period of time.

"Synthetic minor source." A source that would otherwise be considered a "Part 70 source," as defined in § 8-753, due to its potential to emit, if it were not for a mutually agreed upon, more restrictive, federally enforceable limitation, contained in an installation permit or certificate of operation issued pursuant to § 8-708, upon the potential to emit of that source under its physical and operational design. All emissions limitations, controls, and other requirements imposed by such permit or certificate of operation shall be at least as stringent as any other applicable limitations and requirements contained in this ordinance and enforceable thereunder.

"Test." Any monitoring or sampling relied on by a source to demonstrate or certify compliance with this ordinance.

"Total suspended particulate." Particulate matter as measured by the method described in Appendix B of Title 40, Code of Federal Regulations, Part 50.

"Uncontrolled emissions." Means the maximum capacity to emit a pollutant absent air pollution control equipment. "Air pollution control equipment" includes control equipment which is not, aside from air pollution control laws and regulations, vital to production of the normal operation. Annual uncontrolled emissions shall be based on the maximum annual rated capacity of the source, unless the source is subject to enforceable permit conditions which limit the operating rate or hours of operation, or both. Enforceable permit conditions on the type or amount of materials combusted or processed may be used in determining the uncontrolled emission rate of a source.

"Volatile organic compounds (VOCs)." Any compound of carbon, excluding carbon monoxide, carbon dioxide, carbonic acid, metallic carbides or carbonates, and ammonium carbonate, which participates in atmospheric photochemical reactions.

(1) This includes any such organic compound other than the following, which have been determined to have negligible photochemical reactivity:

methane; ethane; methylene chloride (dichloromethane); 1,1,1-trichloroethane (methyl chloroform); 1,1,2-trichloro 1,2,2-trifluoroethane (CFC-113); trichlorofluoromethane (CFC-11); dichlorodifluoromethane (CFC-12); chlorodifluoromethane (HCFC-22); trifluoromethane (HFC-23); 1,2-dichloro 1,1,2,2-tetrafluoroethane (CFC-114); chloropentafluoroethane (CFC-115); 1,1,1-trifluoro 2,2-dichloroethane (HCFC-123); 1,1,1,2-tetrafluoroethane (HCFC-134a); 1,1-dichloro 1,fluoroethane (HCFC-141b); 1-chloro 1,1-difluoroethane (HCFC-142b); 2-chloro-1,1,1,2-tetrafluoroethane (HCFC-124); pentafluoroethane (HFC-125); 1,1,2,2-tetrafluoroethane (HFC-134); 1,1,1-trifluoroethane (HFC-143a); 1,1-difluoroethane (HCFC-152a); parachlorobenzotrifluoride (PCBTF); cyclic, branched, or linear completely methylated siloxanes; acetone; perchloroethylene (tetrachloroethylene); 3,3-dichloro-1,1,1,2,2-pentafluoropropane (HCFC-225ca); 1,3-dichloro-1,1,2,2,3-pentafluoropropane (HCFC-225cb); 1,1,1,2,3,4,4,5,5,5-decafluoropentane (HFC 43-10mee); difluoromethane (HFC-32); ethylfluoride (HFC-161); 1,1,1,3,3,3-hexafluoropropane (HFC-236fa); 1,1,2,2,3-pentafluoropentane (HFC-245ca); 1,1,2,3,3-pentafluoropropane (HFC-245ea); 1,1,1,3,4-pentafluoropentane (HFC-245eb); 1,1,1,3,3-pentafluoropentane (HFC-245fa); 1,1,1,2,3,3-hexafluoropropane (HFC-236ea); 1,1,1,3,3-pentafluorobutane (HFC-365mfc); chlorofluoromethane (HCFC-31); 1 chloro- 1-fluoroethane (HCFC-151a); 1,2-dichloro-1,1,2-trifluoroethane (HCFC-123a); 1,1,1,2,2,3,3,4,4-nonafluoro-4-methoxy-butane ( $C_4F_9OCH_3$ ); 2-(difluoromethoxymethyl)-1,1,1,2,3,3,3-heptafluoropropane [ $(CF_2)_2CFCH_2OCH_3$ ]; 1-ethoxy-1,1,2,2,3,3,4,4,4-nonafluorobutane ( $C_4F_9OC_2H_5$ ); 2-(ethoxydifluoromethyl)-1,1,1,2,3,3,3-heptafluoropropane [ $(CF_2)_2CFCH_2OC_2H_5$ ] and perfluorocarbon compounds which fall into these classes:

- a. Cyclic, branched, or linear, completely fluorinated alkanes;
- b. Cyclic, branched, or linear, completely fluorinated ethers with no unsaturations;
- c. Cyclic, branched, or linear, completely fluorinated tertiary amines with no unsaturations; and
- d. Sulfur containing perfluorocarbons with no unsaturations and with sulfur bonds only to carbon and fluorine.

(2) For purposes of determining compliance with emissions limits, VOC will be measured by the test methods in this chapter or Title 4y0 Code of Federal Regulations Part 60, Appendix A, which has been incorporated by reference in Chapter 7, as applicable. Where such a method also measures compounds with negligible photochemical reactivity, these negligibly-reactive compounds may be excluded as VOC if the amount of such compounds is accurately quantified, and such exclusion is approved by the director.

(3) As a precondition to excluding these compounds as VOC or at any time thereafter, the director shall require an owner or operator to provide monitoring or testing methods and results demonstrating the amount of negligibly-reactive compounds in the source's emissions. (1993 Code, § 8-702,



as amended by Ord. #540, \_\_\_\_\_, Ord. #599, Sept. 1995, and Ord. #671, Dec. 1998)

**8-703. Regulations cumulative; compliance with one provision no defense to noncompliance with another; sampling and testing methods.**

(a) Regulations, methods generally. The provision of this regulation, as previously adopted and as amended, shall be construed to be cumulative in effect, and it is declared to be the legislative intent that compliance with any one (1) or more provisions of the ordinance or rules thereof shall not be construed as a defense for noncompliance with any other applicable provisions of those ordinances or rules or regulations thereof or with any other applicable provisions of the regulation or rules thereof. In addition to and consistent with specific methods of sampling and analysis described herein, samples shall be taken in such number, duration and location so as to be statistically significant and representative of the condition which the samples purport to evaluate. Where specific materials, equipment, methods or procedures are specified, it shall be permissible to use other materials, equipment or procedures where it has been reliably demonstrated that their use produces results comparable to that which would have been obtained by use of the specified materials, equipment, methods or procedures, including any federally enforceable monitoring or testing method promulgated in Title 40 Code of Federal Regulations Part 51, Appendix M--Recommended Test Methods for State Implementation Plans, Appendix P--Minimum Emission Monitoring Requirements, and Appendix W--Guideline on Air Quality Models (Revised); Part 60, Appendix A--Test Methods, Appendix B--Performance Specifications, Appendix C--Determination of Emission Rate Change, and Appendix F--Quality Assurance; Part 61, Appendix A--National Emission Standards for Hazardous Air Pollutants, Compliance Status Information, Appendix B--Test Methods, Appendix C--Quality Assurance Procedures, Appendix D--Methods for Estimating Radionuclide Emissions, and Appendix E--Compliance Procedures Methods for Determining Compliance with Subpart I; or Part 75 including Appendices A through I--Continuous Emission Monitoring which is incorporated by reference under Ordinance No. 598.

Any method of sampling or analysis permissible under § 8-703 of this ordinance may be used for the purpose of submission of a compliance certification by a source or for the purpose of establishing whether a person has violated any provision of this ordinance or of a compliance plan.

In addition, nothing in this chapter precludes the use, even the exclusive use, of any credible evidence or information, relevant to whether a source would have been in compliance with applicable requirements if the appropriate performance or compliance test or procedure is performed for the purpose of submitting compliance certifications or establishing whether or not a person has violated or is in violation of any provision of this chapter or of a compliance plan.

(b) Procedures for ambient sampling and analysis. Sampling and analytical procedures required for sulfur dioxide, total suspended particulates, photochemical oxidants, carbon monoxide, lead, nitrogen dioxide, PM<sub>10</sub>, and nonmethane hydrocarbons may be found in Title 40 Code of Federal Regulations Part 50, Appendices A through K--Reference Methods for the Determination of National Primary and Secondary Ambient Air Quality Standards, which is incorporated by reference under Ordinance No. 598. The procedure for sampling and analyzing atmospheric fluorides shall conform with the method adopted by the American Society for Testing Materials (ASTM) and found in the Annual Book of ASTM Standards published in the most recent year prior to enactment of this ordinance year by the American Society for testing materials bearing ASTM designation D3266 "Standard Test Method for Automated Separation and Collection of Particulate and Acidic Fluoride in the Atmosphere (Double Paper Tape Sampler Method)." The director may, in advance, approve the use of equivalent or alternative sampling procedures. Each ambient monitor sited in the field for the purpose of generating data for the monitoring procedures listed in § 8-703(b) must have a valid data recovery of at least seventy-five (75) percent. Information which documents the cause of missing data shall be required to be submitted in writing to the director regarding any missing data.

(c) Source sampling analysis. The methods set forth in this section shall be applicable for determining compliance with emission limitations contained in this ordinance, except where otherwise specifically provided.

(1) Sample and velocity traverses. Sample and velocity traverses shall be determined by Method 1 or 1A as set forth in Title 40 CFR Part 60, Appendix A, which is incorporated by reference under Ordinance No. 598.

(2) Stack gas velocity determination. Stack gas velocity shall be determined by Method 2, 2A, 2B, 2C, 2D, or 2E as set forth in Title 40 CFR Part 60, Appendix A, which is incorporated by reference under Ordinance No. 598.

(3) Gas analysis for carbon dioxide, oxygen, excess air, and dry molecular weight shall be determined by Method 3, 3A, 3B or 3C as set forth in Title 40 CFR Part 60, Appendix A, which is incorporated by reference under Ordinance No. 598.

(4) Determination of moisture content in stack gases. Moisture content shall be determined by Method 4 as set forth in Title 40 CFR Part 60 Appendix A, which is incorporated by reference under Ordinance No. 598.

(5) Determination of particulate emissions. Particulate emissions shall be determined by Method 5, 5A, 5B, 5C, 5D, 5E, 5F, 5G, 5H or Method 17 as set forth in Title 40 CFR Part 60, Appendix A, which is incorporated by reference under Ordinance No. 598. PM<sub>10</sub> emissions shall be determined by Method 201, 201A and 202 as set forth in Title 40 Part 51, Appendix M, which is incorporated by reference under Ordinance

No. 598. Determination of particulate and gaseous mercury emissions from stationary sources shall be made by Method 101, Method 101A, and Method 102 set forth in Title 40 CFR Part 61, Appendix B, which has been incorporated by reference in Chapter 7.

(6) Measurement of sulfur dioxide in stack gases. The approved procedure for measuring sulfur dioxide in stack gases is Method 6, 6A, 6B, or 6C set forth in Title 40 CFR Part 60, Appendix A, which is incorporated by reference under Ordinance No. 598.

(7) Determination of nitrogen oxides in stack gases. Nitrogen oxides in stack gases shall be determined by Method 7, 7A, 7B, 7C, 7D, or 7E set forth in Title 40 CFR Part 60, Appendix A, which is incorporated by reference under Ordinance No. 598.

(8) Determination of sulfuric acid ( $H_2SO_4$ ) in stack gases. Sulfuric acid in stack gases shall be determined by Method 8 set forth in Title 40 CFR Part 60, Appendix A, which is incorporated by reference under Ordinance No. 598.

(9) Visible emissions evaluation procedures. The procedure for evaluating visible emissions shall be Method 9 as set forth in Title 40 CFR Part 60, Appendix A, which is incorporated by reference under Ordinance No. 598, provided, however, that the provisions of Rule 3, § 20-241, of this ordinance shall supplant the averaging provisions of Method 9, except where otherwise provided. The procedure for evaluating visible emissions resulting from roads and parking areas shall be Tennessee Visible Emission Evaluation Method 1, Visible Emissions Evaluation Instruction Manual, August 1988 Revised 1995, issued by the Tennessee Department of Health and Environment Division of Air Pollution Control, which has been incorporated by reference in Chapter 7.

(10) Determination of carbon monoxide emissions. Carbon monoxide emissions shall be determined by Method 10, 10A, or 10B set forth in Title 40 CFR Part 60, Appendix A, which is incorporated by reference under Ordinance No. 598.

(11) Determination of hydrogen sulfide content of fuel gas streams. Hydrogen sulfide content of fuel gas streams shall be determined by Method 11 set forth in Title 40 CFR Part 60, Appendix A, which is incorporated by reference under Ordinance No. 598.

(12) Determination of inorganic lead emissions. Inorganic lead emissions shall be determined by Method 12 set forth in Title 40 CFR Part 60, Appendix A, which is incorporated by reference under Ordinance No. 598.

(13) Determination of total fluoride emissions. Total fluoride emissions shall be determined by Method 13A or 13B set forth in Title 40 CFR Part 60, Appendix A, which is incorporated by reference under Ordinance No. 598.

(14) Determination of fluoride emissions from potroom roof monitors. Fluoride emissions from potroom roof monitors shall be determined by Method 14 set forth in Title 40 CFR Part 60, Appendix A, which is incorporated by reference under Ordinance No. 598.

(15) Determination of hydrogen sulfide, carbonyl sulfide, and carbon disulfide emissions. Hydrogen sulfide, carbonyl sulfide and carbon disulfide emissions shall be determined by Method 15 set forth in Title 40 CFR Part 60, Appendix A, which is incorporated by reference under Ordinance No. 598.

a. Total reduced sulfur emissions from sulfur recovery plants in petroleum refineries shall be determined by Method 15A set forth in Title 40 CFR Part 60, Appendix A, which is incorporated by reference under Ordinance No. 598.

(16) Semicontinuous determinations of sulfur emissions shall be made by Method 16, 16A or 16B set forth in Title 40 CFR Part 60, Appendix A, which is incorporated by reference under Ordinance No. 598.

(17) Determination of gaseous organic compound emissions. Gaseous organic compound emissions shall be made by Method 18 set forth in Title 40 CFR Part 60, Appendix A, which is incorporated by reference under Ordinance No. 598.

(18) Determination of sulfur dioxide removal efficiency. Sulfur dioxide removal efficiency shall be determined by Method 19 set forth in Title 40 Part 60, Appendix A, which is incorporated by reference under Ordinance No. 598.

(19) Determination of emissions from stationary gas turbines. Nitrogen oxides, sulfur dioxide, and diluent emissions from stationary gas turbines shall be determined by Method 20 set forth in Title 40 CFR Part 60, Appendix A, which is incorporated by reference under Ordinance No. 598.

(20) Determination of volatile organic compound leaks shall be made by Method 21 set forth in Title 40 CFR Part 60, Appendix A, which is incorporated by reference under Ordinance No. 598.

(21) Visual determination of fugitive emissions from material sources and smoke emissions from flares shall be made by Method 22 set forth in Title 40 CFR Part 60, Appendix A, which is incorporated by reference under Ordinance No. 598.

(22) Determination of polychlorinated dibenzo-p-dioxins and polychlorinated dibenzofurans from stationary sources shall be made by Method 23 set forth in Title 40 CFR Part 60, Appendix A, which is incorporated by reference under Ordinance No. 598.

(23) Determination of volatile matter content, water content, density, volume solids, and weight solids of surface coatings shall be made by Method 24 set forth in Title 40 CFR Part 60, Appendix A, which is incorporated by reference under Ordinance No. 598.

(24) Determination of volatile matter content and density of printing inks and related coatings shall be made by Method 24A set forth in Title 40 CFR Part 60, Appendix A, which is incorporated by reference under Ordinance No. 598. Volatile hazardous air pollutant content of a liquid coating shall be determined by Method 311 set forth in Title 40 CFR Part 63, Appendix A, which has been incorporated by reference in Chapter 7, in conjunction with formulation data.

(25) Determination of total gaseous nonmethane organic emissions as carbon shall be made by Method 25, 25A, 25B, or 25C set forth in Title 40 CFR Part 60, Appendix A, which is incorporated by reference under Ordinance No. 598.

(26) Determination of hydrogen chloride emissions from stationary sources shall be made by Method 26 set forth in Title 40 CFR Part 60, Appendix A, which is incorporated by reference under Ordinance No. 598.

(27) Determination of vapor tightness of gasoline delivery tank shall be made using the pressure vacuum-test described in Method 27 set forth in Title 40 CFR Part 60, Appendix A, which is incorporated by reference under Ordinance No. 598.

(28) Certification and auditing of wood heaters shall be determined using Method 28 set forth in Title 40 CFR Part 60, Appendix A, which is incorporated by reference under Ordinance No. 598.

(29) Determination of air-to-fuel ratio and minimum achievable burn rates for wood-fired appliances shall be made using Method 28A set forth in Title 40 CFR Part 60, Appendix A, which is incorporated by reference under Ordinance No. 598.

(30) Determination of metals emissions. Metals emissions from stationary sources shall be determined using Method 29 set forth in Title 40 CFR Part 60, Appendix A, which is incorporated by reference in Chapter 7.

(31) Determination of capture efficiency of volatile organic compounds. Capture efficiency of volatile organic compounds shall be determined using Method 204, 204A, 204B, 204C, 204D, 204E, or 204F set forth in Title 40 CFR Part 51, Appendix M, which has been incorporated by reference in Chapter 7.

(32) Determination of chromium emissions. Chromium emissions and surface tension measurements and recordkeeping in conjunction with Title 40 CFR Part 63, Subpart N--National Emission Standards for Chromium Emissions From Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks shall be made using Method 306, 306A, and 306B set forth in Title 40 CFR Part 63, Appendix A, which have been incorporated by reference in Chapter 7.

(33) Determination of residual amounts of hazardous air pollutants. Residual amounts of hazardous air pollutants in conjunction

with Title 40 CFR Part 63, Subpart U--National Emission Standards for Hazardous Air Pollutants for the Manufacture of Major Elastomers (Polymers and Resins I) shall be made using Methods 310 A, B and C; Methods 312 A, B and C; and Methods 313 A and B set forth in Title 40 CFR Part 63, Appendix A, which have been incorporated by reference in Chapter 7.

(34) Determination of halogenated solvent cleaning emissions. Emissions in conjunction with Title 40 Part 63, Subpart T--National Emission Standards for Halogenated Solvent Cleaning shall be determined using Method 307 set forth in Title 40 CFR Part 63, Appendix A, which has been incorporated by reference in Chapter 7.

(35) Determination of emissions from waste media. Emissions from waste media shall be determined using Method 301, Method 304A, Method 304B, or Method 305 set forth in Title 40 CFR Part 63, Appendix A, which have been incorporated by reference in Chapter 7.

(36) Determination of beryllium emissions. Beryllium emissions shall be determined using Method 103 and Method 104 set forth in Title 40 CFR Part 61, Appendix B, which have been incorporated by reference in Chapter 7.

(37) Determination of vinyl chloride emissions. Vinyl chloride emissions shall be determined using Method 106, Method 107, and Method 107A set forth in Title 40 CFR Part 61, Appendix B, which have been incorporated by reference in Chapter 7.

(38) Determination of arsenic emissions. Arsenic emissions shall be determined using Method 108, 108A, 108B, and 108C set forth in Title 40 CFR Part 61, Appendix B, which have been incorporated by reference in Chapter 7.

(39) Determination of polonium emissions. Polonium-210 emissions from stationary sources shall be determined by Method 111 set forth in Title 40 CFR Part 61, Appendix B, which has been incorporated by reference in Chapter 7.

(40) Any method of stack sampling in accordance with good professional practice approved by the director may be used. Stack sampling methods promulgated before the effective date of this ordinance by the U.S. Environmental Protection Agency for specified air contaminant sources are considered to be acceptable equivalent methods.

(d) Where any specific test method requires quality assurance audit samples and the audit result does not validate the source's sample within the specified parameters, the source must retest the stack test until such time as the audit result does validate the sample within the specified parameters; except that the director may waive retesting if the source's stack test sample is in compliance with this ordinance even if not validated within the specified quality assurance parameters.

(e) Each owner or operator of an air monitoring network required by the director shall submit in writing to the director a Quality Control/Quality Assurance Plan for approval prior to commencing air monitoring. This plan shall be reviewed and approved prior to start-up of new monitoring networks or whenever any significant change is made to an existing network.

(f) All ambient air monitoring data generated by continuous operating monitors shall be submitted on magnetic media in a format acceptable to the director. All ambient air monitoring data generated by intermittent sampling techniques shall be submitted in a format acceptable to the director.

(g) Sampling, recording and reporting required for Part 70 sources.

(1) For any Part 70 source, as defined in § 8-753, the provisions of this § 8-703(g) shall also apply.

(2) The director is authorized to require by permit condition and periodic or enhanced monitoring, recording and reporting that the director deems necessary for the verification of the source's compliance with the applicable requirements, as defined in § 8-753.

a. Monitoring may include, but is not limited to: source testing, in-stack monitoring; process parameter monitoring of material feed rates, temperature, pressure differentials, power consumption or fuel consumption; chemical analysis of feed stocks, coatings or solvents; ambient monitoring; visible emissions evaluations; control equipment performance parameters of pressure differentials, power consumption, air or liquid flow rates or amount of air contaminants collected for disposal; air contaminant leak detection tests from process or control equipment; and any other such monitoring that the director may prescribe.

1. The monitoring must be conducted in a manner acceptable to the director. This includes, but is not limited to: sampling methods, analytical methods, sensor locations and frequency of sampling.

2. The monitoring method must have at least a 95% operational availability rate to prove compliance directly or indirectly with the applicable requirements unless otherwise stipulated by the director. Ambient air monitors shall have their minimum operational availability rates prescribed by § 8-703. Missing data in excess of these levels shall be grounds for enforcement action.

b. Recordkeeping may include handwritten or computerized records and shall be kept in accordance with the manner approved by the director. The director, or an employee of the bureau authorized by the director, shall have the authority to inspect the records during reasonable hours at the place where such records are kept. The owner or operator of the Part 70 source

must provide copies of the records to the director upon request. If the records are computerized, the source may provide them to the director in an electronic format compatible with the bureau's electronic data processing equipment for initial review. Upon discovery of electronic data that may reveal noncompliance, the director shall request hard copy excerpts documenting the noncompliance, and the owner or operator shall comply with the request. All electronic submittals shall be in "read only" format such that the integrity of the recorded submittal will be maintained and cannot be written over with different electronic data.

1. In the absence of a specific recordkeeping procedure, it is the general duty of a person required to keep the records required under this § 8-703(g) in such order that compliance with the applicable requirement can be readily ascertained.

(3) Reporting shall be in the manner prescribed by the director in the Part 70 permit.

(4) Any report submitted to the director shall be signed by a responsible official consistent with the provision of the additional regulations for Part 70 Source Regulation and Permits. (Ord. #599, Sept. 1995, as amended by Ord. #601, Oct. 1995, Ord. #603, Dec. 1995, and Ord. #671, Dec. 1998)

**8-704. Penalties for violation of ordinance, permit or order.**

(a) Any person who violates or fails to comply with any provision of this regulation, any order of the board or of the director; or who makes any false material statement, representation, or certification in, or omits material information from, any record, report, plan or other document required either to be filed or submitted or maintained pursuant to this ordinance; or who falsifies, tampers with, renders inaccurate, or fails to install any monitoring device or method required to be maintained or followed under this ordinance; or fails to pay a fee established under this ordinance; commits a misdemeanor and, upon conviction, is punishable by a fine in an amount as provided in Tennessee Code Annotated. For the prosecution of criminal action, the Chattanooga-Hamilton County Air Pollution Control Board and the director shall follow and comply with the provisions of Tennessee Code Annotated, § 68-201-112 and shall notify the district attorney general of the violation.

(b) Each separate violation shall constitute a separate offense and upon a continuing violation each calendar day or portion thereof of violation shall constitute a separate offense.

(c) In addition to the fines provided in paragraph (a) of this section, any person who violates or fails to comply with any provision of this ordinance, including any fee or filing requirement; or any duty to allow or carry out



inspection, entry, or monitoring activities; or who violates the terms and conditions of any permit or certificate of operation issued pursuant to the provisions of this ordinance; or who violates any order of the board or of the director, shall be subject to a civil penalty of up to twenty-five thousand dollars (\$25,000) per separate violation, as hereinafter provided, to be imposed by the board after hearing, or opportunity for hearing. Provided, however, that the board may, in its discretion and for good cause shown, reduce the amount of a civil penalty or suspend the payment of all or part of the civil penalty imposed. Upon a civil penalty assessed by the board or other order of the board becoming final, the board may institute in the name of the board a civil action in either circuit or chancery court to enforce the order of the board and/or to recover the amount of the civil penalty, plus interest, from the date of the assessment of the penalty. In imposing such civil penalty, the board shall give due consideration to all pertinent factors as justice may require, including, but not necessarily limited to:

- (1) The character and degree of injury to, or interference with, the protection of the health, general welfare and physical property of people;
- (2) The social and economic value of the air pollutant source;
- (3) The technical practicability and economic reasonableness of reducing or eliminating the emission of air pollutants;
- (4) The economic benefit gained by the air pollutant source through any failure to comply with the provisions of this ordinance or any permit, certificate, or order issued pursuant to the provisions of this ordinance;
- (5) The amount or degree of effort put forth by the air pollutant source to attain compliance;
- (6) Any prior violations of this ordinance, violations of orders of the board or director, or violations of conditions imposed upon any permit, certificate, or variance and payment by the violator of penalties previously assessed for the same violation;
- (7) The type and character of a violation, including the duration of the violation as established by any credible evidence, and the extent to which the same is in excess of the permissible limits or permissible activity or action;
- (8) The past history of pollution control efforts in regard to the taking of appropriate action to control emissions or abate pollution on the part of the person found to be in violation or others subject to entry of any order of the board; and
- (9) The size of the business and the economic impact of the penalty on the business.

The plea of financial inability to prevent, abate or control air pollution by any person shall not be a valid defense to liability for a violation of any provision of this ordinance.

(d) In addition to the fines provided for in paragraph (a) of this section and the civil penalties provided for in paragraph (c) of this section, any person who violates or fails to comply with any provision of this ordinance, who violates or fails to comply with the terms and conditions of any permit or certificate of operation issued pursuant to the provisions of this ordinance, or who violates any order of the board or of the director, shall be liable for any damages to the board or any unit of local government resulting therefrom. Damages to the board or any unit of local government may include any expenses incurred in investigating or enforcing this ordinance; in removing, correcting, or terminating the effects of air pollution as well as government-incurred damages or clean-up expenses caused by the pollution or by the violation. These damages shall be in addition to, not in lieu of, the civil penalty provided for above.

(e) The amount of the civil penalty to be imposed by the board, pursuant to subsection (c) and subsection (d) of this section, shall in no event exceed the amount of twenty-five thousand dollars (\$25,000.00) for each separate violation occurring. In determining the amount of a penalty to be imposed or the type and character of any other order to be entered by the board, the board may give due consideration to pertinent facts including, but not necessarily limited to, the factors listed in § 8-704(c).

(f) In addition to the civil penalties provided in subsections (c) and (d) of this section, the board may order that any person who violates any provision of this ordinance, who violates the terms and conditions of any permit or certificate of operation issued pursuant to the provisions of this ordinance, or who violates any order of the board, shall cease and desist the operation, use or activity which resulted in such violation.

(g) In addition to the civil penalties provided for in subsections (c) and (d) of this section, the board may order that such person cease and desist from the use of the equipment, activity or other source of air contaminant; or the board may enter a conditional cease and desist order; and such order may include a reasonable delay during which to correct the source of violation.

(h) The liabilities which shall be imposed upon violation of any provision of this ordinance, upon violation of the terms and conditions of any permit or certificate of operation issued pursuant to the provision of this ordinance, or upon violations of the provision of this ordinance, or upon violations of any order of the board, may not be imposed on account of any violation caused by an act of God, war, strike, riot or other force majeure.

(i) Action pursuant to this section shall not be a bar to enforcement of this ordinance, or enforcement of orders made by the director or the board pursuant to this ordinance, by injunction to enjoin any violation of any requirement of this ordinance, including conditions of a permit or certificate of operation, without the necessity of a prior revocation of the permit or certificate of operation, or other appropriate remedy, and the board shall have power to institute and maintain in the name of the board any and all enforcement proceedings.

The engaging in any activity in violation of a permit or certificate of operation where that activity is presenting an imminent and substantial endangerment to the public health, welfare or environment may be restrained and enjoined by an action of the appropriate court of record.

(j) The burden of proof requirement on any enforcement hearing or action before the board shall be that which is applicable to civil, and not criminal, proceedings. (Ord. #599, Sept. 1995)

**8-705. Limitations of chapter.** This chapter shall not:

(1) Abridge, limit, impair, create, enlarge, or otherwise affect substantively or procedurally the right of any person to damages or other relief on account of injury to persons or property and to maintain any action or other appropriate proceeding therefor.

(2) Grant to the board any jurisdiction or authority with respect to air contamination existing solely within commercial and industrial plants, works, or shops.

(3) Affect the relations between employers and employees with respect to or arising out of any condition of air contamination or air pollution.

(4) Supersede or limit the applicability of any law or ordinance relating to sanitation, industrial health, or safety.

(5) Apply to locomotive engines or steamboat engines operated solely for recreational, educational or historical purposes; provided, however, that the limitation of this subsection (5) shall not apply to nuisance and enforcement of nuisance provisions of this chapter. (1993 Code, § 8-705)

**8-706. Air pollution control board; bureau of air pollution control; persons required to comply with chapter.**

(a) Air pollution control board.

(1) There is hereby created and/or recognized and adopted as the controlling authority for the city, the Chattanooga-Hamilton County Air Pollution Control Board, hereinafter referred to as "the board," to be composed of ten (10) members, three (3) of whom are to be appointed by the county executive and confirmed by the county board of commissioners; three (3) of whom are to be appointed by the Mayor of the City of Chattanooga, and confirmed by the Chattanooga City Board of Commissioners; three (3) of whom are to be appointed jointly by the County Executive and the Mayor of the City of Chattanooga and confirmed by both the county board of commissioners and the Chattanooga City Board of Commissioners. The terms of members shall be four (4) years. Whenever a vacancy occurs, the vacancy shall be filled for the unexpired term of the same member as the original appointment. In the event a member of the board unjustifiably fails to attend three (3) consecutive regular meetings during any twelve (12) month period, the chairman of the board shall notify in writing the Chattanooga mayor and

board of commissioners if appointed by the Chattanooga mayor, or county executive and county board of commissioners if appointed by the county executive, or both if appointed jointly. The Chattanooga mayor or county executive or both shall immediately request the resignation of said board member and a new board member shall be appointed promptly to fill the vacancy.

The administrator of the Chattanooga-Hamilton County Health Department or his designated representative shall be an ex officio voting member; provided, however, that if the administrator of the Chattanooga-Hamilton County Health Department desires to designate a representative such designation shall be made on an annual basis and in writing prior to June thirtieth of each year, and such designated representative shall serve as the ex officio member in the place of the administrator of the Chattanooga-Hamilton County Health Department during the year for which he has been designated by the administrator of the Chattanooga-Hamilton County Health Department. Provided further, that should the designated representative resign or otherwise terminate his employment with the Chattanooga-Hamilton County Health Department such shall terminate his appointment to, and service upon, the board.

(2) The members of the board shall have the following qualifications: They shall be residents of the county. Industry may have no more than three (3) members active or retired, of whom no more than one (1) shall be from the same major two-digit grouping as defined by the Standard Industrial Classification Manual (1987) of the United States Department of Commerce. The chairman of the board shall have the right to vote on all matters. Members shall be selected for merit without regard to political affiliation; the mayor and county executive in their appointments shall select persons for their ability and all appointments shall be of such nature as to aid the work of the board, to inspire the highest degree of confidence and cooperation in furthering the policy of this ordinance. The appointing authority (or authorities) shall, in making an appointment, assure that the membership of the board shall have at least a majority of members who represent the public interest and do not derive any significant portion of their income from persons subject to permits or enforcement orders under this ordinance. Any member of the board who has any conflict of interest or potential conflict of interest shall make adequate disclosure of it and abstain from voting on matters related to it.

(3) The board shall select annually a chairman, vice-chairman and secretary from among its members as officers; each officer shall have the right to vote on all matters and shall hold office until the expiration of the term for which elected and thereafter until a successor has been elected. The board shall hold at least four (4) regular meetings each year

and such additional meetings as the chairman deems desirable, at a place within this county and time to be set by the chairman upon written request of any four (4) members. Six (6) members shall constitute a quorum.

(4) All members of the board shall serve without compensation but shall receive their actual expenses incurred in attending meetings of the board and the performance of any duties as members or by direction of the board.

(5) The board may employ and discharge such employees and consultants as may be necessary for the administration of this chapter with the approval of the Mayor of Chattanooga, county executive and chairman of the board or with the approval of any two (2) of said officials. Subject to any applicable restrictions contained in law, all departments and agencies of the county shall, upon request, assist the board in the performance of its duties, with or without charge. The board may compensate such other agencies for services.

(b) Bureau of air pollution control. The bureau of air pollution control, hereinafter referred to as "the bureau," shall be headed by a director appointed by the board, subject to the approval of the Mayor of Chattanooga, county executive and chairman of the board or with the approval of any two (2) of said officials. The bureau shall administer this ordinance under the overall supervision of the board and shall provide, by rules consistent with law, for the performance by the employees of any act or duty necessary or incidental to the administration of this ordinance. No employee shall engage in any business, transaction, or professional activity which is a conflict of interest or a potential conflict of interest on behalf of the board. Any applicant for employment shall, in submitting the application for employment and prior to employment, make a full disclosure of any conflicts or potential conflicts of interest with the work of the bureau which the applicant may have.

(c) Persons required to comply with chapter. Persons responsible for compliance with this chapter and who are liable for violation of this chapter shall include, but not necessarily be limited to, all persons owning, occupying, operating, in charge of or in control of any premises, equipment, installations or operations from which or as a result of which any violation of this chapter shall occur whether such persons be proprietor, owner, lessee, tenant, manager, operator or in charge of such premises, equipment, installations or operations, and further any of the foregoing who having a reasonable opportunity to do so should fail to take all reasonable and necessary steps to terminate or abate any condition or operation which causes or from which arises a violation of this chapter shall be deemed to be in violation of this chapter. Any one (1) or more of the foregoing persons shall be held individually and jointly responsible for compliance herewith and shall be jointly and severally liable for violation hereof. (1993 Code, § 8-706, as amended by Ord. #599, Sept. 1995)

**8-707. Powers and duties of the board; delegation.** (a) In addition to any other powers otherwise conferred upon it by law, the board shall have the power to:

(1) Recommend from time to time to the board of commissioners that it adopt, promulgate, amend, and repeal provisions of this chapter; provided, however, that prior to making such recommendations a public hearing shall be held on such proposed changes with adequate advance public notice of such hearing.

(2) Hold hearings relating to any aspect of or matter in the administration of this chapter.

(3) Make such determinations and issue such orders as may be necessary to effectuate the purposes of this chapter and enforce the same by all appropriate administrative and judicial proceedings.

(4) Retain, employ, provide for, and compensate, within appropriations available therefor, such consultants, assistants, deputies, clerks and other employees including legal counsel, on a full-time basis as may be necessary to carry out the provisions of this chapter and prescribe the times at which they shall be appointed and their powers and duties consistent with § 8-706 of this chapter.

(5) Through its bureau, determine by means of field studies and sampling the degree of air contamination and air pollution in the city and various areas therein.

(6) Recommend ambient air quality standards for the city.

(7) Hold hearings upon appeals from orders of the director, or from the grant or denial by the director, of permits, or from any other actions or determinations of the director hereunder for which provision is made for appeal.

(8) Institute in the name of the city in the circuit court or the chancery court of the county legal proceedings to compel compliance with any final order or determination entered by the board or the director.

(9) Settle or compromise in its discretion, with the approval of the city attorney, as it may deem advantageous to the city and in keeping with the purpose and spirit of this chapter, any suit for recovery of any penalty or for compelling compliance with the provisions of any rule or regulation issued hereunder or for compelling compliance with any order or determination entered by the board or the director.

(10) Require access to records relating to emissions which cause or contribute to air contamination.

(11) Issue, suspend and revoke installation permits, temporary operating permits and certificates of operation and other permits and licenses provided for in this chapter, and in accordance with the provisions of this chapter place conditions of installation and operation upon the permits issued by the board.

(12) To provide for forfeitures and penalties for any breach of this chapter, such forfeitures and penalties to be imposed upon a violator only after hearing, or opportunity for hearing, before the board and to provide for forfeitures and penalties upon failure of a violator of this chapter to comply with any order of the board, and to bring legal actions in the name of the city in the appropriate court for the collection of such penalty or forfeiture.

(13) Promulgate techniques for the sampling of emissions from any source of air contaminants and promulgate techniques for predicting the concentration of air pollution at any point.

(b) The board shall have the following duties with respect to the prevention, abatement, and control of air pollution:

(1) Prepare and develop a comprehensive plan or plans for the prevention, abatement, and control of air pollution in this city and report annually to the mayor and board of commissioners in this city on progress being made toward the prevention, abatement, and control of air pollution.

(2) Encourage voluntary cooperation by persons and affected groups to achieve the purposes of this chapter.

(3) Encourage and conduct studies, investigations, and research relating to air contamination and air pollution and their cause, effects, prevention, abatement, and control.

(4) Collect and disseminate information and conduct educational and training programs relating to air contamination and air pollution.

(5) Advise, consult, contract, and cooperate with other agencies of the state and this city, other local government, industries, other states, interstate or interlocal agencies, and the federal government, and with interested persons or groups.

(6) Accept, receive, and administer grants or other funds or gifts from public or private agencies, including the state and federal governments, for the purpose of carrying out any of the functions of this chapter. Such funds received by the board pursuant to this subdivision shall be deposited with the fiscal agent of the board and held and disbursed by him in accordance with regulations of the board. The board is authorized to promulgate such rules for the conduct of its business as it may deem necessary for carrying out the provisions of this chapter.

(c) The board may delegate to the director, and through him to the personnel of the bureau, any powers conferred upon the board by this section with the exception of those enumerated in subdivisions (1), (4), (6), (7), and (9) of subsection (a) of this section. The board may request the assistance of the director and the bureau in the discharge of the duties enumerated in subsection (b) of this section but shall not be relieved thereby of the ultimate responsibility for their fulfillment. The director shall report to the board at the next board

meeting any penalties imposed, upon whom imposed and the amount of such penalty. (1993 Code, § 8-707)

**8-708. Installation permit and certificate of operation.**

(a) Installation permit. (1) No person shall construct, install, or begin any modification, alteration or reconstruction of any fuel-burning, refuse-burning, process or air pollution control equipment or any other source, as defined in § 8-702, until a complete application, together with plans and specifications applicable to the work on the equipment and structures or buildings used in connection therewith, has been filed by the person or his agent in the office of, and has been approved by, the director and an installation permit has been issued for such construction, installation or alteration.

a. For the purposes of § 8-708(a), any activities listed in § 8-756(c)(11) due to de minimis emissions level are deemed to be insignificant activities that need not be included in the permit application. Any activities listed in § 8-756(c)(12) due to size or production rate are deemed to be insignificant activities that must be included in the permit application. These de minimis activities exemptions from permit application requirements shall not be used to avoid any emission limitations, standards, prohibitions or other requirements of Chapter 7; nor shall they be used to ylower the "potential to emit," as defined in § 8-753, below "major source" thresholds, as defined in § 8-753.

(2) The plans and specifications, submitted pursuant to paragraph (a)(1) of this section, shall show the form and dimensions of the process, fuel burning, refuse burning, air pollution control or other equipment, together with the description and dimensions of the building or part thereof in which such process, fuel-burning, refuse-burning, air pollution control or other equipment is to be located; identification and description of compliance monitoring devices or activities; the character of the fuel to be used; the maximum quantity of such fuel to be burned per hour; the kind and amount of raw or basic materials processed; the expected air pollutant emission rate; production rates and the operating requirements, including operating schedules; air pollutant concentration; gas volume and gas temperature at each emission point; the location and elevation of each emission point relative to nearby structures and window openings; a flow diagram showing the equipment under consideration and its relationship to other processes, if any, and a general description of these processes; and any other reasonable and pertinent information that may be required by the director. The plans and specifications shall show that the room or premises in which fuel-burning, refuse-burning or process equipment is to be located is provided with adequate ventilation to provide sufficient air for the proper operation of the equipment.



(3) Maintenance or repair or physical transfer of any installed equipment within the premises of the original installation which does not change the capacity of such process or control equipment and which does not involve any change in the method of processing or increase the amount or alter the characteristics of the emission of air pollutants therefrom may be made without an installation permit. The physical transfer of any installed equipment to a location other than within the premises of the original installation shall cause said equipment to be reclassified as new equipment.

(4) The requirement for filing plans and specifications involving the installation, erection, construction, reconstruction, modification, alteration, or repair of, or addition to, any source, including any fuel- or refuse-burning equipment or process equipment or the building of a pilot plant or process, to be used in or to become part of a confidential formula, process or method used in any manufacturing operation is subject to § 8-719, upon the filing with the director of a written request for confidentiality by an owner or operator for such formula, equipment, method or process. Provided, however, that the type and emission rate of each air pollutant shall in no event be deemed to be confidential information subject to the protection of the provisions of this paragraph and must be disclosed under all circumstances; and provided further that the person claiming the protection of this paragraph shall institute and conduct a self-monitoring system and shall report the results thereof when and as required by the director. The confidentiality of such formula, equipment, method or process shall in no way relieve the person or persons responsible for the confidential formula, equipment, method or process from complying with all other provisions of this ordinance.

(5) No construction, installation, modification, alteration or reconstruction shall be made which is not in accordance with the plans, specifications, and other pertinent information upon which the installation permit was issued unless prior written approval of the director is obtained.

(6) Violation of the installation permit shall be sufficient cause for the director to stop all work, and the director is hereby authorized to seal the installation. No further work shall be done until the director is assured that the condition in question will be corrected and that the work will proceed in accordance with the installation permit.

(7) Failure to obtain installation permit. If work which requires an installation permit is begun without having obtained an installation permit, or if work is performed other than in accordance with the plans and specifications filed with and approved by the director to obtain the installation permit, the director may grant such permit; provided, however, that the installation permit fee is doubled in all such cases. If work upon equipment which requires an installation permit under this

ordinance is begun without having obtained such permit, or if faulty work has been performed, the director may grant such permit, conditioned upon the removal of all faulty work; provided, however, that this provision shall not be construed as authorizing such violation.

(8) If the work authorized under the installation permit is not commenced and continued within one (1) year after the date of issuance of the installation permit, the permit shall become void and all fees shall be forfeited, unless an extension of time is warranted and granted by the director. An installation permit shall be valid for twelve (12) months after the date of its issuance. An extension of time may be granted by the director to a source that notifies the director, in writing not later than thirty (30) days before expiration of its installation permit, of the request for an extension, the reason for extension, and the duration of the requested extension.

(9) Emergency repair. An emergency repair other than as specified in paragraph (a)(3) of this section may be made prior to the application for an installation permit if serious consequences may result if the repair were deferred. When such repair is made, the owner or operator concerned shall notify the director on the first business day after the emergency commenced and file an application for an installation permit if such permit is otherwise required by this ordinance.

(10) Upon review of the required plans and specifications, an application shall be approved or rejected within a reasonable time after it is filed in the office of the director. Upon the approval of the application and upon the payment of the prescribed fees, the director shall issue an installation permit. Issuance of an installation permit will not be construed to indicate compliance with the requirements of the building code of the county or any other ordinance of the county or of the air pollution control regulation of this municipality.

(11) An installation permit is not transferable from one person to another person, nor from one air pollutant source to another air pollutant source, nor from one location to another location. An application for an installation permit by the new owner or operator of the new air pollutant source, or by the owner or operator of the air pollutant source at the new location, shall be required as if there had been no previous permit issued. An existing source would retain its status as an existing source. The permits contemplated by this section shall be for the control of air pollutants. This section shall apply to fuel-burning equipment, refuse-burning equipment, process equipment which causes air emissions, or any other source or equipment that has the potential to emit air pollutants and to air pollution control equipment, but nothing contained herein shall require application for, or issuance of, a permit for any overall manufacturing process provided permits are applied for, and obtained, for the foregoing items of equipment in the overall process.

(12) The director shall reject any application for an installation permit and shall require resubmission of an application and further tests or information if:

a. The proposed construction, installation or modification, alteration or reconstruction or the anticipated emission of air pollutants does not meet the provisions of this ordinance; or

b. The proposed emission control equipment is of a type reasonably anticipated by the director, based upon tests or other available evidence, not to be adequate for its intended usage; or

c. The proposed construction, installation or modification, alteration, or reconstruction will interfere with the attainment or maintenance of an ambient air quality standard contained in § 8-741, Rule 21.

(13) The director or a designated representative shall have the right to enter the premises and inspect the installation in progress at any reasonable time. For the purposes of this paragraph, “any reasonable time” shall mean any time construction or installation activity is being conducted at the source.

(14) The following fee schedule shall apply to the issuance of all installation permits. A source shall be required to pay the required fee prior to issuance of an installation permit to that source. Said fees shall be collected by the director and remitted to the City of Chattanooga treasurer as fiscal agent for the board who shall accumulate such fees in an account dedicated to the board for air pollution control activities.

SCHEDULE 8-A-I. FUEL-BURNING EQUIPMENT

<u>Million Btu Per Hour</u>	<u>Fee</u>
0.5 to 4.99 . . . . .	\$350.00
5 to 14.99 . . . . .	\$415.00
15 to 99.99 . . . . .	\$480.00
100 or greater . . . . .	\$640.00

(NOTE: One boiler horsepower is equivalent to 33,472 BTU per hour)

### SCHEDULE 8-708-A-II. INCINERATORS

Fees shall be assessed based upon the manufacturers rated input as expressed in pounds per hour.

Input in Pounds Per Hour	Fee
Up to 200 .....	\$ 65.00
200 to 599 .....	130.00
500 to 999 .....	195.00
1,000 to 1,999 .....	255.00
2,000 to 4,999 .....	320.00
5,000 to 9,999 .....	385.00
10,000 or greater .....	450.00
+ \$60.00 for each additional 100 lbs/hr over 10,000 lbs/hour.	

### SCHEDULE 8-708-A-III. PROCESS EQUIPMENT

Fees shall be assessed and based upon the process weight per hour as expressed in pounds per hour.

Input Process Weight (Pounds Per Hour)	Fee
Up to 999 .....	\$ 130.00
1,000 to 9,999 .....	225.00
10,000 to 49,999 .....	320.00
50,000 to 149,000 .....	415.00
150,000 to 499,999 .....	510.00
500,000 to 999,999 .....	605.00
1,000,000 or greater .....	640.00

(NOTE: Examples of this type of equipment include chemical processing equipment; crushing, grinding or milling equipment; metal forming equipment.)

### SCHEDULE 8-708-A-IV. ODOR PRODUCING EQUIPMENT

A fee of two hundred fifty-five dollars (\$255.00) per unit shall be assessed.

(NOTE: Examples of this type include: tar and asphalt kettles, varnish and paint heating kettles, rendering kettles.)

## SCHEDULE 8-708-A-V. MISCELLANEOUS

Any article, machine, equipment or other contrivance which is not included in the preceding schedules shall be assessed a fee of two hundred fifty-five dollars (\$255.00) per unit.

(b) (Reserved).

(c) Certificate of operation.

(1) No person shall cause, suffer, allow or permit the operation of any new or modified, altered, or reconstructed fuel-burning, refuse-burning, process, or air pollution control equipment, or any equipment pertaining thereto, or any other source as defined in § 8-702 for which an installation permit was required or was issued until a certificate of operation has been issued for the source by the director. A certificate of operation is not transferable from one person to another person, nor from one air pollutant source to another air pollutant source, nor from one location to another location. An application for a certificate of operation by the new owner or operator of the air pollutant source, shall be submitted to the director prior to a transfer of ownership identifying the new owner and any other anticipated changes in operation. An existing source would retain its status as an existing source, except where the source has been shutdown for more than two years. The director is hereby authorized to seal equipment in operation for which a certificate of operation was not obtained as required in this ordinance.

(2) The owner or operator of any source for which an installation permit is required shall give notification to the director when the work is completed and ready for final inspection. This notification to the director shall include a description of:

a. The equipment or air pollution control equipment or activity in consideration;

b. Any air pollution control equipment connected or attached to, or serving, or served by the emission unit unless up to date information is on file with the director; and

c. Any reasonable additional information, evidence or documentation to show that the completed work is in accord with the original plans as stipulated in § 8-708(a).

(3) Not later than sixty (60) days after achieving the maximum production rate at which the source will be operated, and not later than 150 days after initial startup of such source, and not later than 150 days after issuance of the initial certificate of operation for such source, the owner or operator of such source shall complete any required performance test(s) and deliver to the director a written report of the results of such performance test(s). An extension of time may be granted by the director to a source that notifies the director, in writing not later than one

hundred twenty (120) days after issuance of the initial certificate of operation for such source, of the request for an extension, the reason for extension, and the duration of the requested extension, except not to any source subject to § 8-741, Rule 15. Failure to operate successfully under test within the limitations and requirements of this ordinance shall constitute sufficient grounds for the director to require that changes in the source be made; to reopen the certificate of operation for the revision of its terms and conditions or the addition of new terms and conditions; or to revoke or suspend the certificate of operation, as appropriate. Responsibility for proof and all expenses incurred in conducting the tests shall be borne by the owner or operator of such equipment, or the agent(s) of that person. The director may, if in the opinion of the director the nature of the source in consideration or the use to which it is to be put so justifies, waive the demonstration or test operation, but such waiver shall in no manner provide immunity from prosecution for violations of the other requirements of any applicable law.

(4) The director or a designated representative shall have the right to enter source premises to inspect the source and observe any performance test or operation of the equipment for which a certificate of operation is issued, as provided in § 8-716.

(5) Prior to operating any source subject to § 8-708, the owner or operator shall obtain a certificate of operation issued by the director. Each owner and operator of a source that has been issued a certificate of operation shall adhere to the terms and limitations of such certificate of operation throughout its term. All emissions limitations, controls and other requirements imposed by a certificate of operation will be at least as stringent as those contained in this ordinance or enforceable under this ordinance. Said certificate(s) of operation shall be kept on file at the source premises and made available to bureau representatives upon request.

(6) Each certificate of operation shall properly identify the equipment to which it pertains and shall specify the class of fuel, type of raw or intermediary material used, if any, for which the equipment and appurtenances have been designed or which have been successfully used in the operating test. The owner or operator or the agent of the owner or operator shall be responsible for notifying the director that equipment for which an initial certificate of operation has been issued has completed any required testing and is ready for permanent operation. With such notification the owner or operator or agent shall submit to the director test and operation data as required by the director for use as evidence that the equipment or source will operate in compliance with all provisions of this ordinance.

(7) Term of a Certificate of Operation. Each initial certificate of operation shall be issued for up to a one year period. Each renewal

certificate of operation shall be issued for a period of up to five years. Application for renewal of a certificate of operation for a source shall be made in writing upon forms furnished by the bureau not less than sixty (60) days prior to expiration of the certificate for which renewal is sought. Disclosures of information, tests and other prerequisites to the issuance of an installation permit or initial certificate of operation may be required by the director prior to the issuance of a renewal certificate of operation. The director may refuse to renew a certificate of operation or may require further tests or information if the director determines that the equipment is not in compliance with all the provisions of this ordinance. The director may renew a certificate of operation and impose special conditions upon a source that is not in full compliance with this ordinance but is subject to a legally enforceable compliance schedule, or upon a source that has appealed other special conditions to the board if that source has filed a timely appeal pursuant to § 8-718. Expiration of any certificate of operation terminates the source's right to operate any equipment or process previously covered by that certificate of operation, except where expiration has occurred due to delay on the part of the bureau.

(8) Sampling and testing. a. Authorization. Whenever the director has reason to believe that the emission limits required by this ordinance are being violated by an existing source, the director may require the owner to conduct or to have conducted at the owner's expense tests to determine the emission level of specific air pollutants. The director may require the applicant for an installation permit or a certificate of operation or a federally enforceable certificate of operation, at either a new or an existing source, to conduct, or to have conducted, such tests as are necessary to establish the amount of air pollutants emitted from such source. Such tests shall be conducted in a manner approved by the director. The director shall be notified in writing of any testing at least thirty (30) days prior to such testing, and the director or a representative of the director shall be permitted to witness any testing. The director may conduct tests of air pollution emissions from any source.

b. Test openings and access, scaffolding and facilities.

1. Existing sources. When tests of existing equipment are deemed necessary by the director and the director elects to conduct such testing himself or have his representative conduct such testing the owner shall provide, at no expense to the bureau, reasonable and necessary openings in stacks, vents, and ducts along with safe and easy access thereto including a suitable power source to the point of testing for proper determination of

the level of air pollutant emissions and other pertinent facilities as requested by the director. Such facilities may be either permanent or temporary, at the discretion of the owner subject to these provisions; and shall be suitable for determination consistent with the emission limits established in this ordinance; and shall comply with all laws and regulations concerning safe construction of, and safe practice in connection with such facilities; provided, however, that if the owner elects to provide temporary facilities then in the event future tests are desired by the director the permittee shall, at no expense to the bureau, provide further facilities when requested to do so by the director.

2. New facilities. when tests of new equipment or sources are deemed necessary by the director and the director elects to conduct such testing himself or have his representative conduct such testing the owner shall provide, at no expense to the bureau, reasonable and necessary openings in stacks, vents, and ducts along with safe and easy access thereto including a suitable power source to the point of testing for proper determination of the level of air pollutant emissions and other pertinent facilities as requested by the director. Such facilities may be either permanent or temporary, at the discretion of the owner subject to these provisions; and shall be suitable for determination consistent with the emission limits established in this ordinance; and shall comply with all laws and regulations concerning safe construction of, and safe practice in connection with such facilities; provided, however, that if the owner elects to provide temporary facilities then in the event future tests are desired by the director the permittee shall, at no expense to the bureau, provide further facilities when requested to do so by the director. The owner or operator shall provide, for any stack or duct at a new source, adequate sampling facilities as follows:

- (i) Sampling ports of a size, number, and location as the director may require;
- (ii) Safe access to each port; and
- (iii) A suitable power source to the point of testing for proper determination of the level of air pollutant emissions.

3. Periodic testing. The director may require the owner to conduct or to have conducted periodic tests



as are necessary to establish the amount of air pollutants emitted from the source. The nature, extent, and frequency of such required testing shall be specified in the certificate of operation. Such tests shall be made at the expense of the owner and shall be conducted in a manner approved by the director. The director shall be supplied with such data as stipulated in the certificate of operation or federally enforceable operating permit.

c. Bureau test. Nothing in this ordinance concerning tests conducted by and paid for by any owner or authorized agent of the owner shall be deemed to abridge the rights of the director or a representative of the director to conduct separate or additional tests if the director so requires on behalf of the board or the bureau of air pollution control at the bureau's expense, except regarding test opening as discussed in paragraph (c) (8)b. of this section, covering test openings and access.

d. Cost of tests other than § 8-708 (c) (8)b.3. Periodic testing. The owner or operator is liable for the cost of initial tests of any equipment and tests resulting from any change in the activity, equipment, methods or conditions of operation of the source. Initial tests will include all testing performed for the purpose of demonstrating compliance with this ordinance for installation permits and for any certificate of operation. The data obtained during any such testing shall be made available to the director and to the owner.

e. Methods and procedures. Sampling and analytical determinations to ascertain compliance with this ordinance shall be made in accordance with methods and procedures specified in § 8-703.

(9) When a certificate of operation is refused, suspended, revoked, or has expired, the director is authorized to seal the process or control equipment until the owner or operator complies with the provisions of this ordinance, and no person shall operate any equipment which requires a certificate of operation until such certificate is obtained.

(10) The director shall have authority to require owners and operators of stationary sources to install, maintain and use emission monitoring devices and to make periodic reports to the director on the nature and amounts of emissions from such stationary sources. The director shall have authority to make such data available to the public as reported and as correlated with any applicable emission standards or limitations.

(11) Federally enforceable certificates of operation. All requirements and provisions of this ordinance which are applicable to

sources issued certificates of operation are also applicable to sources issued federally enforceable certificates of operation, and such requirements are cumulative. A federally enforceable certificate of operation may be applied for and issued under the requirements of § 8-708(c) (11) only after § 8-708(c) (11) has been approved by U.S. EPA into the State Implementation Plan. This municipality retains the authority to designate from time to time which sources or source categories, in addition to those Part 70 sources seeking to qualify themselves for synthetic minor source status, shall be allowed or required to obtain federally enforceable certificates of operation under § 8-708 (c) (11). In addition:

a. The owner and operator of a source that has been issued a federally enforceable certificate of operation shall adhere to its terms and limitations throughout the term of the certificate of operation and any renewal or revision of it. This requirement of adherence shall be legally enforceable, and a violation of same shall constitute a violation of this ordinance.

b. Nothing in § 8-708 (c) (11) shall be construed to require that a certificate of operation be federally enforced. Nothing in § 8-708 (c) (11) shall be construed to impede or impair enforcement of a federally enforceable certificate of operation under other provisions of this ordinance or state or federal law. It is the declared legislative intent of this municipality to recognize that any part of this municipality's air pollution control ordinance that is an EPA-approved part of the state implementation plan is also federally enforceable, subject to the provisions and limitations of the federal Clean Air Act; and that any permit or certificate of operation issued under any other part of the air pollution control ordinance of this municipality and any requirement or limitation contained in such ordinance may be enforced federally to the extent that federal law provides for such enforcement. A permit issued under this § 8-708 (c) (11) does not authorize or allow a relaxation of any otherwise applicable federal requirements.

c. The director or the board, in issuing a federally enforceable certificate of operation, shall assure that all emissions limitations, controls and other requirements imposed by such certificate of operation are at least as stringent as any other applicable limitations and requirements contained in, or enforceable under, the State Implementation Plan. The director or the board shall not issue a federally enforceable certificate of operation that waives or makes less stringent any limitations or requirements contained in or issued pursuant to the State

Implementation Plan or that are otherwise federally enforceable under it.

d. The limitations, controls and requirements in a federally enforceable certificate of operation shall be permanent, quantifiable and otherwise enforceable as a practical matter.

e. Any federally enforceable certificate of operation issued to a synthetic minor source shall also contain a statement of basis comparing the source's potential to emit with the synthetic limit to emit and a description of the procedures to be followed that will ensure that the limit on which the director or the board bases a determination that a source is a synthetic minor source and not a major source, as those terms are defined in § 8-753, is not exceeded.

f. Nothing in § 8-708 (c) (11) shall be construed to prohibit enforcement of a federally enforceable certificate of operation under the general enforcement provisions of this ordinance or of state or federal law.

g. The director shall give notice to the U.S. EPA and the general public at least thirty (30) days in advance of a public hearing on the issuance of a proposed federally enforceable certificate of operation and shall provide at least thirty (30) days for public comment. A proposed change to the potential to emit air pollutants or hazardous air pollutants of any source previously determined by the board to be a synthetic minor source and issued one or more federally enforceable certificates of operation that have not yet expired, is not subject to subsequent public participation requirements regarding the proposed change so long as the proposed change would not result in a net increase in the potential-to-emit of any air pollutant or any hazardous air pollutant, as determined by the director. The director shall provide U.S. EPA with a copy of a proposed certificate of operation intended to be federally enforceable at the same time notice is provided. Such notice shall be given by publication in a newspaper of general circulation in Hamilton County, Tennessee. Such advance notice must be given and a public hearing must be held prior to issuance of any federally enforceable certificate of operation to any source. The director shall, in a timely manner, provide U.S. EPA a copy of the final certificate of operation intended to be federally enforceable.

h. If U.S. EPA deems such a proposed certificate of operation to fail to qualify as a federally enforceable certificate of operation, then the director shall notify the applicant of the position taken by U.S. EPA and either (1) the applicant may

resubmit the application in amended or modified form for further processing under this § 8-708 (c)(11) or (2) the director may issue a certificate of operation stating on its face that it is deemed not be federally enforceable.

i. A source that has submitted a written request for synthetic minor source status to the director by September 1, 1995, with apparently approvable proposed physical or operational limitations on its potential to emit, or both, including a statement of basis comparing the source's potential to emit with its proposed synthetic limit to emit and a description of the procedures to be followed that will ensure its proposed limitations are not exceeded, will remain subject to the fees set forth in § 8 and not to the Part 70 Operating Permit Program fees set forth in § 60. If the board or the director determines after November 1, 1995, that such source is not eligible for synthetic minor source status, such source shall be liable for Part 70 Operating Permit Program fees set forth in § 60 retroactive to November 1, 1995, with interest pursuant to Tennessee Code Annotated, § 47-14-121.

(12) Fees for certificate(s) of operation.

a. Fees. A source shall be required to pay the required fee prior to issuance of any certificate of operation to that source and to maintain the certificate of operation, once issued.

b. The following fee schedule shall apply to the initial issuance of any certificate of operation. Said fees shall be collected by the director and remitted to the City of Chattanooga treasurer as fiscal agent for the board, who shall accumulate such fees in an account dedicated to the board for air pollution control activities.

INITIAL CERTIFICATES OF OPERATION

SCHEDULE 8-708-C-I. FUEL-BURNING EQUIPMENT

Million BTU Per Hour	Fee
0.5 to 4.99 .....	\$ 480.00
5 to 14.99 .....	545.00
15 to 99.99 .....	640.00
100 or greater .....	735.00

## SCHEDULE 8-708-C-II. INCINERATORS

Input in Pounds Per Hour	Fee
Up to 200 .....	\$ 225.00
200 to 599 .....	255.00
600 to 999 .....	290.00
1,000 to 1,999 .....	320.00
2,000 to 4,999 .....	350.00
5,000 to 9,999 .....	385.00
10,000 or greater .....	415.00
+ \$30.00 for each additional 100 lbs./hr. over 10,000 lbs./hour.	

## SCHEDULE 8-708-C-III. PROCESS EQUIPMENT

Input Process Weight (Pounds Per Hour)	Fee
Up to 999 .....	\$ 290.00
1,000 to 9,999 .....	385.00
10,000 to 49,999 .....	480.00
50,000 to 149,999 .....	575.00
150,000 and greater .....	640.00

## SCHEDULE 8-708-C-IV. ODOR PRODUCING EQUIPMENT

Each unit shall be assessed a fee of \$320.00.

## SCHEDULE 8-708-C-V. MISCELLANEOUS

Each unit shall be assessed a fee of \$320.00.

c. Renewal certificate of operation annual fees. A source that has applied for renewal of one or more certificates of operation shall pay the required annual fee prior to issuance of any renewal certificate(s) of operation to it. Subsequent to issuance of any renewal certificate(s) of operation to a source, the source shall pay the required annual fee throughout the term of the permit, not later than the anniversary of issuance of any renewal certificate(s) of operation. Said fees shall be collected by the bureau director and remitted to the treasurer of the City of Chattanooga as the fiscal agent of the board, who shall accumulate such fees in an account dedicated to the board for air pollution control activities.

SCHEDULE 8-708-C-VI. FUEL-BURNING EQUIPMENT

Million BTU Per Hour	Fee
0.5 to 4.99 . . . . .	\$ 225.00
5 to 14.99 . . . . .	255.00
15 to 99.99 . . . . .	290.00
100 or greater . . . . .	330.00

SCHEDULE 8-708-C-VII. INCINERATORS

Input in Pounds Per Hour	Fee
Up to 200 . . . . .	\$ 50.00
200 to 599 . . . . .	65.00
600 to 999 . . . . .	95.00
1,000 to 1,999 . . . . .	130.00
2,000 to 4,999 . . . . .	160.00
5,000 to 9,999 . . . . .	195.00
10,000 or greater . . . . .	225.00

SCHEDULE 8-708-C-VIII. PROCESS EQUIPMENT

Input Process Weight (Pounds Per Hour)	Fee
Up to 999 . . . . .	\$ 160.00
1,000 to 9,999 . . . . .	225.00
10,000 to 49,999 . . . . .	290.00
50,000 to 149,999 . . . . .	350.00
150,000 to 499,999 . . . . .	415.00
500,000 to 999,999 . . . . .	480.00
1,000,000 or greater . . . . .	545.00

SCHEDULE 8-708-C-IX. ODOR PRODUCING EQUIPMENT

Each unit shall be assessed a fee of \$130.00.

SCHEDULE 8-708-C-X. MISCELLANEOUS

Each unit shall be assessed a fee of \$130.00.

(d) General provisions.

(1) The issuance by the director or board of any installation permit or certificate of operation shall not be held to exempt the person to whom the permit or certificate of operation was issued, or any other person subject to this ordinance, from prosecution for any violation of

any provisions of this ordinance, or from action under any other provisions of this ordinance or any other provisions of law.

(2) No person shall cause, suffer, allow or permit the operation of any equipment or installation subject to the provisions of this ordinance in violation of an authorized seal of said equipment or installation.

(3) The provisions of this section shall not apply to fuel-burning equipment used exclusively for heating the dwellings of less than three(3) families; nor to equipment for burning gas, or number 1 or number 2 fuel oil, with a design heat input capacity of less than 5 million Btu per hour (Btu/hr).

(4) Duplicate permits. Duplicate permits or certificates of operation may be issued by the director if requested by the owner or operator. A fee of thirty dollars (\$30.00) shall be charged for issuing a duplicate permit or certificate.

(5) The schedules of fees for certificates of operation for fuel-burning equipment, incinerators, and process equipment are to be based upon rated design input of said equipment. Whenever legally enforceable limitations on operating hours or production rate are included in a certificate of operation for a source, then the schedule of fees imposed on the source is to be based on the legally enforceable limitations.

(6) Any equipment which can be classified as a minor pollution source and which is not subject to § 8-708 (e) Installation permit for construction or modification and nonattainment areas, shall be exempted from the requirements of § 8-708(a) and § 8-708(b) but must have a certificate of operation. No person shall operate any such equipment until an application for a certificate of operation, together with plans and specifications of the equipment, has been filed by such person and a certificate of operation has been issued by the director. An annual fee of forty-five dollars (\$45.00) shall be assessed for the issuance of a certificate of operation upon such equipment.

(7) Administrative amendments to a certificate of operation or an installation permit.

a. An administrative amendment is a revision of a certificate of operation or an installation permit that:

1. Corrects typographical errors;
2. Identifies a change in the legal name, address, or telephone number of any person initially identified in the permit (but not transfer of ownership to a different party), or provides a similar minor administrative change at the source; or
3. Incorporates into the certificate of operation all applicable provisions of the installation permit.

b. The director shall take no more than sixty (60) days after receipt of a request for an administrative amendment to take final action on such request, and may incorporate such changes without giving public notice or opportunity for public comment.

(e) Construction or modification permit.

(1) Except as provided in paragraph (e) (2) of this section, the director shall not grant a permit for the construction or modification of any air contaminant source in any attainment area or unclassified area if such construction or modification will interfere with the maintenance of the air quality standard in an area where the construction or modification has a significant impact on air quality standards or will violate any provisions of these regulations or will violate any provisions of the Tennessee Air Quality Act. If an attainment area is redesignated to nonattainment status, the terms and conditions of the installation permits and certificates of operation issued in accordance with § 8-708 of the East Ridge Air Pollution Control Ordinance immediately preceding the effective date of the redesignation shall remain in full force and effect for those sources to which § 8-708 had applicability prior to the effective date of the redesignation, until such time as revised or additional installation permits or certificates of operation are issued to those sources with revised or additional terms and conditions that are applicable to sources in nonattainment areas.

(2) Nonattainment areas. If a nonattainment area is redesignated to attainment or unclassifiable or nonattainment status is otherwise eliminated, the requirements contained in this § 8-708 (e) (2) shall remain in full force and effect for those sources to which this § 8-708 had applicability prior to the effective date of the redesignation. The director shall not grant a permit for construction or modification of any air contaminant source in a nonattainment area nor to any source that significantly impacts on a nonattainment area if such construction or modification will interfere with reasonable further progress in attainment of the specific air quality standards or will violate provisions of this chapter except in accordance with the following:

a. All new or modified sources shall utilize good engineering practice, as determined by the director, in designing stacks. The director will consider only stack heights that represent good engineering practice in determining whether emission control measures are sufficient.

b. All new or modified sources of criteria pollutants constructed or modified after the effective date of this provision which are not classified as major sources or major modifications



shall utilize best available control technology (BACT) as determined by the director at the time of the permit application.

1. For the purposes of § 8-708(e), "major modification" is defined as follows:

(i) "Major modification" means any physical change in or change in the method of operation of a major stationary source that would result in a significant net emissions increase for any pollutant subject to regulations under this chapter.

(ii) Any net emissions increase that is considered significant for volatile organic compounds or nitrogen oxides shall be considered significant for ozone.

(iii) A physical change or change in the method of operation shall not include:

(A) Routine maintenance, repair, and replacement;

(B) Use of an alternative fuel or raw material by reason of any order under section 2(a) and (b) of the Energy Supply and Environmental Coordination Act of 1974 (or any superseding legislation) or by reason of a natural gas curtailment plan pursuant to an applicable federal statute;

(C) Use of an alternative fuel by reason of an order or rule under section 125 of the Federal Clean Air Act;

(D) Use of an alternative fuel at a steam generating unit (burning equipment of 250 million BTUs per hour or larger) to the extent that the fuel is generated from municipal solid waste as determined by the Tennessee Division of Solid Waste Management;

(E) Use of an alternative fuel or raw material by a stationary source which the source was capable of accommodating before January 6, 1975, unless such change would be prohibited under a legally enforceable permit or certificate condition which was established after January 6, 1975, pursuant to Title 40 CFR Part 52.21 or under regulations approved pursuant to Title 40 CFR Part 51 Subpart I or Subpart 51.166, which is incorporated by reference under Ordinance No. 598 or the source is approved to use under any permit or certificate issued pursuant to this paragraph;

(F) An increase in the hours of operation or in the production rate, unless such change would be prohibited under a legally enforceable permit or certificate of condition which was established after January 6, 1975, pursuant to Title 40 CFR Part 52.21 or regulations approved pursuant to Title 40 CFR Part 51 Subpart I or Subpart 51.166, which is incorporated by reference under Ordinance No. 598; or

(G) Any change in ownership at a stationary source.

2. For the purposes of § 8-708(e), "net emissions increase" shall have the following meaning:

(i) "Net emissions increase" means the amount by which the sum of the following exceeds zero:

(A) Any increase in actual emissions from a particular physical change or change in the method of operation at a stationary source; and

(B) Any other increases and decreases in actual emissions at the stationary source that are contemporaneous with the particular change and are otherwise creditable.

(ii) An increase or decrease in actual emissions is creditable only if it occurs between:

(A) The date five (5) years before a completed application for the particular change is submitted; and

(B) The date that the increase from the particular change occurs.

(iii) An increase or decrease in actual emissions is creditable only if the board or director has not relied on it in issuing a permit or certificate of operation for the source, under regulations approved pursuant to Title 40 CFR Part 51, Subpart I, which is incorporated by reference under Ordinance No. 598 which is in effect when the increase in actual emissions from the particular change occurs.

(iv) An increase in actual emissions is creditable only to the extent that the new level of actual emissions exceeds the old level.

(v) A decrease in actual emissions is creditable only to the extent that:

(A) The old level of actual emissions or the old level of allowable emissions, whichever is lower, exceeds the new level of actual emissions;

(B) It is legally enforceable at and after the time that actual construction on the particular change begins;

(C) The board or director has not relied on it in issuing any permit or certificate of operation to a new or modified air pollutant source under regulations approved pursuant to Title 40 CFR Part 51, Subpart I, which is incorporated by reference under Ordinance No. 598 or the board or the director have not relied on it in demonstrating attainment or reasonable further progress; and

(D) It has approximately the same qualitative significance for public health and welfare as that attributed to the increase from the particular change, considering the nature of the air pollutants to be released into the ambient air from the particular change.

3. For the purposes of § 8-708(e), "significant" means, in reference to a net emissions increase or the potential of a source to emit any of the following air pollutants, a rate of emissions that would equal or exceed any of the following rates:

- (i) Carbon monoxide: 100 tons per year (tpy)
- (ii) Nitrogen oxides: 40 tpy
- (iii) Sulfur dioxide: 40 tpy
- (iv) Ozone: 40 tpy of an ozone precursor
- (v) Lead: 0.6 tpy
- (vi) PM<sub>10</sub>: 15 tpy

4. For the purposes of section 8 (e), "ozone precursor" means volatile organic compounds and/or nitrogen oxides. A proposed new source or a net emissions increase at an existing source in an ozone nonattainment area can be classified as major based on either VOC or NO<sub>x</sub> emissions or both (but not in combination). That is, the determination of major must be made individually for each pollutant, since VOC and NO<sub>x</sub> emissions cannot be added to meet the minimum level required for such a demonstration. Notwithstanding the above, NO<sub>x</sub> shall not be considered an ozone precursor when:

- (a) Additional NO<sub>x</sub> emissions reductions would not be expected to decrease ozone; and
- (b) The EPA administrator determines for certain classes or categories of sources, when approving a

revision of the State Implementation Plan for Tennessee, that net air quality benefits would be greater in the absence of further nitrogen oxides reductions from sources concerned.

c. A new major source or major modification shall meet the lowest achievable emission rate (LAER) as determined by the director at the time of the permit application.

d. A major source or major modification shall also show that it will not interfere with reasonable further progress in attaining the ambient air quality standards by one of the following methods:

1. Banked credits.

(i) By agreeing to control the nonattainment emissions to a rate lower than the nonattainment emissions specified as reasonably available control technology (RACT), the owner or operator of an air contaminant source has reserved the right to utilize the incremental reduction between RACT and the banked credit agreed rate (BCAR) to provide for future growth in the nonattainment area.

(ii) The banked credit agreed rate is an emission rate more restrictive than RACT which is mutually agreed to by the director and an air contaminant source for the purpose of establishing a banked credit. This emission level is in no way related to BACT or LAER. Only sources in existence at the time of a nonattainment state implementation plan revision for an area are eligible to establish a banked credit agreed rate.

(iii) The following limitations shall apply to the issuance of a permit for construction or modification for sources using banked credit agreed rate:

(A) All banked credits in a given nonattainment area shall become void upon official reclassification of that area as an attainment area.

(B) An increase in pounds per hour shall be offset by a banked credit of that amount. The banked credit account will be reduced by that amount.

(C) The owner or operator shall demonstrate by air quality modelling that there is a net air quality benefit in the nonattainment area, taking into account emissions credits used to offset them.

(D) A banked credit shall not be used until the banked credit agreed rate level of control is

attained by the source involved and demonstrated through a source test or through another method acceptable to the director.

(E) The banked credit agreed rate shall be contained in the state implementation plan as the legally enforceable standard for the air contaminant source. If the source electing to use banked credits must reduce emissions to achieve the banked credit agreed rate level approved, a compliance schedule shall be included in the state implementation plan revision.

(2) Emission offsets.

(i) For major sources, a larger than one-to-one offset of emissions of the nonattainment pollutant, based on both allowable and actual emissions, shall be employed. This offset must result in a net improvement in predicted air quality for the pollutant in the area under the influence of emissions from the new or modified major sources and insure that reasonable further progress shall not be hindered.

(ii) All or any portion of the offsets shall be consummated at the time new source operation commences and demonstrated through a source test or through another method acceptable to the director.

(iii) The reductions shall come from sources in the emission inventory used in the approved control strategy for the nonattainment area state implementation plan revision.

(iv) The amount of the proposed reduction shall be sufficient to offset both the emission increases directly associated with the proposed source construction or modification and those emissions attributed to permitted minor sources that have come into the area since the last reasonable further progress milestone was met.

3. Construction of new major sources or major modifications that have insufficient emission offsets or banked credits to meet the requirements of paragraphs (e)(2) d.1. and (e)(2) d.2. The director may issue a construction permit to proposed new or modified sources provided the sources' emissions will not prevent reasonable further progress in the nonattainment area or will not prevent the ambient air quality standards from being met. Completed applications from sources qualifying for this provision will be processed in the order received by the bureau. (Existing sources will not be required to offset any emissions resulting from permitting of a source for which no emission offsets or banked credits were provided.)

4. Combination of the provisions of paragraphs (e)(2)d.1., (e)(2)d.2., and (e)(2)d.3. of this section.

e. A source is identified as a major source for each pollutant as indicated below:

1. A major source for SO<sub>2</sub> is a source with uncontrolled emissions of more than 100 tons per year and allowable emissions (based on BACT) greater than any of the following:

Fifty (50) tons per year;

One thousand (1,000) pounds per day;

One hundred (100) pounds per hour.

2. A major source for carbon monoxide is a source with uncontrolled emissions of greater than one thousand (1,000) tons per year and allowable emissions (based on BACT) greater than any of the following:

Fifty (50) tons per year;

One thousand (1,000) pounds per day;

One hundred (100) pounds per hour.

3. A major source for particulate matter is any source with uncontrolled emissions of more than one hundred (100) tons per year and allowable emissions of greater than five (5) tons per year, one thousand (1,000) pounds per day, or one hundred (100) pounds per hour (based on BACT).

Piecemeal construction is cumulative.

When an air contaminant source's new or modified allowable emissions equal or exceed the above levels, it becomes a major source.

"Uncontrolled emissions" as used above means the capability at maximum capacity to emit a pollutant in the absence of air pollution control equipment. "Air pollution control equipment" includes control equipment which is not, aside from air pollution control laws and regulations, vital to production of the normal product of the source or to its normal operation. Annual uncontrolled emissions shall be based on the maximum annual rated capacity of the source, unless the source is subject to enforceable permit conditions which limit the annual hours of operation. Enforceable permit conditions on the type or amount of materials combusted or processed may be used in determining the uncontrolled emission rate of a source.

f. An increase in emissions from a new or modified air contaminant source (all sources at a given plant location) is deemed to significantly impact on air quality within the nonattainment area when it contributes to air quality in the following amounts or more:

<u>Pollutant</u>	<u>Annual</u>	<u>24-Hour</u>	<u>3-Hour</u>	<u>8-Hour</u>	<u>1-Hour</u>
Sulfur Dioxide	1 ug/m <sup>3</sup>	5 ug/m <sup>3</sup>	25 ug/m <sup>3</sup>		
Particulate matter	1 ug/m <sup>3</sup>	5 ug/m <sup>3</sup>			
Carbon Monoxide				0.5mg/m <sup>3</sup>	2mg/m <sup>3</sup>

g. The director shall not issue a permit to any major source in or significantly impacting a nonattainment area unless all other sources owned or operated by the applicant anywhere in the state are in compliance or on an approved compliance schedule.

h. Regardless of the specific emission limitations contained in this rule, all sources identified in § 8-741, Rule 18.2 of this chapter shall comply with the standards set pursuant to § 8-741, Rule 18.2.

i. For existing fuel-burning equipment, credit shall be based on the allowable emissions under the applicable state implementation plan for the type of fuel being burned at the time the application for an installation permit for the proposed construction or modification is filed. If the existing source commits to switch to a cleaner fuel at some future date, emissions offset credit based on the allowable (or actual) emissions for the fuels involved is not acceptable, unless the permit and subsequent permits and certificates of operation are conditioned to require the use of a specified alternative control measure which would achieve the same degree of emissions reduction should the source switch back to a dirtier fuel at some later date. The director, or the board where appropriate, should ensure that adequate long-term supplies of the new fuel are available before granting emissions offset credit for fuel switches.

j. Emissions reductions achieved by shutting down an existing source or permanently curtailing production or operating hours below baseline levels may be credited, provided that the work force to be affected has been notified of the proposed shutdown or curtailment. Source shutdowns and curtailments in production or operating hours occurring prior to the date the new source application is filed generally may not be used for emissions offset credit. However, where an applicant can establish that it shut down or curtailed production after August 7, 1977, or less than one year prior to the date of permit application, whichever is earlier, and the proposed new source is a replacement for the shutdown or curtailment, credit for such shutdown or curtailment may be applied to offset emissions from the new source.

k. All emission reductions claimed as offset credit shall be legally enforceable.

l. Procedures relating to the permissible location of offsetting emissions shall be followed which are at least as stringent as those set out in 40 CFR Part 51 Appendix S, section IV.D.

m. Credit for an emissions reduction can be claimed to the extent that the bureau, or the board where appropriate, has not relied on it in issuing any permit under regulations approved or has not relied on it in demonstrating attainment or reasonable further progress.

n. Approval to construct shall not relieve any owner or operator of the responsibility to comply fully with applicable provisions of the plan and any other requirements under local, state or federal law. At such time that a particular source or modification becomes a major stationary source or major modification solely by virtue of a relaxation in any enforcement limitation which was established after August 7, 1980, on the capacity of the source or modification otherwise to emit a pollutant, such as a restriction on hours of operation, then the requirements of this section shall apply to the source or modification as though construction had not yet commenced on the source or modification.

(f) Building demolition or renovation permit.

(1) No person shall cause, suffer, allow or permit the renovation of any facility involving the removal or disturbance of friable asbestos-containing material subject to § 8-741, Rule 17.5, of this chapter, until an application, together with the plans and specifications required by said rule, has been filed by the person or his agent in the office of, and has been approved by, the director and a permit issued for such renovation. For the purposes of this rule, the terms "renovation" and "facility" shall have the same meaning given them in § 8-741, Rule 17.1, of this chapter.

(2) No person shall cause, suffer, allow or permit the demolition of any facility until an application together with the plans and specifications required by § 8-741, Rule 17, of this chapter, has been filed by the person or his agent in the office of, and has been approved by, the director and a permit issued for such demolition. For the purposes of this rule, the terms "demolition" and "facility" shall have the same meaning given them in § 8-741, Rule 17.1, of this chapter.

(3) The plans and specifications, filed pursuant to paragraphs (f) (1) and (2) of this section, shall be submitted on forms approved by the director. Such application shall be filed in accordance with the time requirements set forth in § 8-741, Rule 17.5, of this chapter. In addition, Rule 17.5 contains the standard for demolition and renovation, including notification requirements applicable to all demolition projects and to certain renovation projects.



(4) Fees. The following fee schedules shall apply to the issuance of permits for all demolitions or for those renovations involving friable asbestos-containing materials (ACM) subject to Rule 17.5, except in paragraphs (f) (6) and (f) (7) of this section. Fees shall be collected by the bureau and remitted to the city treasurer who shall accumulate such fees in an account dedicated to the board for air pollution control activities. Only one initial fee shall be assessed for any renovation or demolition project occurring at an installation on one contiguous site owned by the same owner within six months after receipt of the initial application where the ACM is calculated (as set forth in § 8-741, Rule 17.5 of this Ordinance) in both linear feet and square feet. When ACM is to be removed and involved calculating in both linear and square feet, the ACM footage will be summed to determine the appropriate fee from Schedule 8-F-2 or Schedule 8-F-3:

**SCHEDULE 4-8-F-1. DEMOLITIONS WHERE NO ASBESTOS IS PRESENT.**

Fee \$50.00

**SCHEDULE 4-8-F-2. DEMOLITIONS WHERE ASBESTOS IS PRESENT**

For ACM used to fireproof or insulate pipes, or to insulate any duct, boiler, tank, reactor, turbine, furnace, or structural member, including interior and exterior walls, floors, ceilings, and roofs:

<u>Linear/square feet of ACM</u>	<u>Fee</u>
0 - 159 (square feet)	\$100.00
0 - 259 (linear feet)	100.00
160 - 299 (square feet)	200.00
260 - 299 (linear feet)	200.00
300 - 499	300.00
500 - 999	400.00
1,000 - 1,499	500.00
1,500 - 4,999	625.00
5,000 and up	750.00

**SCHEDULE 4-8-F-3. RENOVATIONS WHERE ASBESTOS IS PRESENT**

For ACM used to fireproof or insulate pipes, or to insulate any duct, boiler, tank, reactor, turbine, furnace, or structural member, including interior and exterior walls, floors, ceilings, and roofs:

<u>Linear\</u> square feet of ACM	<u>Fee</u>
0 - 159 (square feet)	\$ 50.00
0 - 259 (linear feet)	50.00
160 - 299 (square feet)	100.00
260 - 299 (linear feet)	100.00
300 - 499	200.00
500 - 999	300.00
1,000 - 1,499	500.00
1,500 - 4,999	625.00
5,000 and up	750.00

(5) Schedule 4-8-F-1 shall apply only to a demolition project in which at least twenty-five percent (25%) of one building is razed. If less than twenty-five percent (25%) of one building is being demolished, the notice required by § 8-741, Rule 17.5 shall be required, but the fee established in Schedule 4-8-F-1 shall be waived.

(6) These fee schedules shall not apply to an owner or operator who has previously certified to the bureau that all asbestos-containing materials have been removed from a building, which was confirmed by the bureau at that time, that is the subject of a subsequent notification of a demolition subject to Rule 17.5 if the owner or operator certifies, at the time of notification to the bureau, that no asbestos-containing materials were added to or placed in the building after the date of (1993 Code, § 8-708, as amended by Ord. #540, \_\_\_\_, Ord. #599, Sept. 1995, Ord. #671, Dec. 1998, and Ord. #703, May 2000)

**8-709. Technical reports, research and computer time; charges.** Information, circulars, reports of technical work, other reports, research and computer time prepared by, performed, or utilized by the air pollution control bureau, when supplied to other governmental agencies or individuals or groups requesting of the same or when performed in conjunction with a permit or certificate application or renewal, may be charged for by the bureau in a sum not to exceed the costs of preparation and distribution of such documents or the cost of research or computer time. (1993 Code, § 8-709)

**8-710. Records.** (a) The director shall keep in the office of the bureau all applications required under the chapter, and a complete record thereof, including a record of all permits and certificates issued. The director shall keep a record on all official business of the bureau and complaints and generally of the work done by the bureau. All such records shall be open for inspection by the public at all reasonable times; provided, however, that such records or other information of a confidential nature voluntarily furnished pursuant to § 8-719 shall receive the protection provided by § 8-719.

(b) The director may, at any time, require the person responsible for a source of emission subject to the provisions of this chapter to record, maintain and keep records relative to the operation of the source and emissions from the source, and may further request from such person such information, analyses or specifications as will disclose the nature, extent, quantity and degree of air contaminants as may be emitted by such source. (1993 Code, § 8-710, as amended by Ord. #599, Sept. 1995)

**8-711. General requirements.** (a) Any owner, operator or other person responsible for any permanently discontinued or dismantled equipment coming under the jurisdiction of this chapter shall report to the bureau within thirty (30) days the permanent discontinuance or dismantlement of such equipment, and to surrender any outstanding permit or the certificate of operation thereon.

(b) Separation of emissions. If air contaminants from a single source are emitted through two (2) or more emission points, the total emitted quantity of any contaminant, limited in this chapter, cannot exceed the quantity which would be the allowable emission through a single emission point, and the total emitted quantity of any such air contaminant shall be taken as the product of the highest concentration measured in any of the emission points and the exhaust gas volume through all emission points, unless the person responsible for the source proves the correct total emitted quantity to be within the limits established by this chapter.

(c) Combination of contaminants prior to emission. If air contaminants from two (2) or more sources are combined prior to emission and there are adequate and reliable means reasonably susceptible to confirmation and use by the director for establishing a separation of the components of the combined emission to indicate the nature, extent, quantity and degree of emission arising from each such source, this chapter shall apply to each source separately.

(d) Inseparable combination of contaminants prior to emission. If air contaminants from two (2) or more sources are combined prior to emission and combined emissions cannot be separated according to the requirements of subsection (c) of this section shall be applied to the combined emission as if it originated in a single source subject to the most stringent limitations and requirements placed by this chapter on any of the sources whose air contaminants are so combined. (1993 Code, § 8-711)

**8-712. Exceedances of limitations on emissions.**

(a) Purpose. The purpose of this section is to place reasonable limits on the amount of emissions an air pollutant source can emit due to a "malfunction" as defined in § 8-702, or during start-up or shutdown of said source. Without such limits air quality standards may not be met or public health and welfare may be endangered.

(b) Reasonable measures required. Air pollutant sources must take all reasonable measures to keep emissions to a minimum during start-ups, shutdowns, operation, and malfunctions. These measures may include installation and use of alternate control systems, changes in operating methods or procedures, cessation of operation until the process equipment or air pollution control equipment is repaired, maintaining sufficient spare parts, use of overtime labor, use of outside consultants and contractors, and other appropriate means. Exceedances of limitations on emissions that are caused by poor maintenance, careless operation, or any other preventable upset condition or preventable equipment breakdown shall not be considered malfunctions, and shall be considered in violation of the emission standard exceeded and this section.

(c) Report required to preclude the issuance of a notice of violation.

(1) When emissions in excess of any applicable provision of this chapter or of any installation permit or certificate of operation issued thereunder occur from any air pollutant source subject to this chapter, a notice of violation shall automatically be issued, unless the source owner or operator in the written report required by § 8-712(e) presents, within the deadlines stated in § 8-712(e), adequate justification for not issuing a notice except for visible emission levels included as a startup or shutdown permit condition under § 8-741, Rule 3.2.

(2) Failure to submit this report within the seven (7) day period specified in § 8-712(e)(2) shall preclude the admissibility of the report for consideration as an affirmative defense of malfunction for any operation, failure to operate, start-up, or shutdown resulting in emissions in excess of any applicable provision of this chapter or of any installation permit or certificate of operation issued thereunder.

(d) Effect of a malfunction. A malfunction constitutes an affirmative defense to an action brought for noncompliance with any emission limitations if the conditions of § 8-712 are met. The affirmative defense of malfunction shall be demonstrated through properly signed, contemporaneous operating logs, or other relevant evidence that:

(1) A malfunction occurred requiring emergency measures and that the source can identify the probably cause(s) of the malfunction. The probably cause identified by the source must be supported by a credible investigation into the incident that seeks to identify the causes and results in an explanation supported by generally accepted engineering or scientific principles;

(2) The source was, at the time of onset, being properly operated. In determining whether or not a source was being properly operated, the director or board may examine the source's written standard operating procedures which were in effect at the time of the noncompliance and any other code that would be relevant to

preventing the noncompliance. The source's failure to follow recognized standards of practice to the extent that adherence to such a standard would have prevented noncompliance will disqualify the source from any affirmative defense of malfunction;

(3) During the period of the malfunction the source took all reasonable steps to minimize levels of emissions that exceeded the emission standards, or other requirements in the installation permit or certificate of operation; and

(4) The source submitted the notices of the malfunction required in § 8-712 to the director by the deadlines set forth in § 8-712(e).

(e) Notice required when an emission limitation is exceeded.

(1) When any air pollutant emission source, air pollution control equipment or related emissions unit operates, or fails to operate, in such a manner as to cause the emission of air pollutants in excess of any applicable emission standard contained in this chapter or under any installation permit or certificate of operation issued thereunder, or of sufficient duration to cause damage to property or public health, the owner or operator of such source, air pollution control equipment, or related emissions unit shall promptly notify the director of such excess emissions, specifying that it is a malfunction if that is the case, and provide a statement giving all pertinent facts sufficient for the director to determine whether the exceedance is a malfunction, including the estimated duration of the excess emissions.

(2) Prompt notification shall mean an initial telephone report to the bureau within twenty-four (24) hours after the onset of the excess emissions, followed up by a written report submitted to the bureau within seven (7) days after the onset of the excess emissions. The written report shall include the information described in § 8-712(f)(1)a.1 through a.8. The director shall be notified when the condition causing the excess emissions has been corrected and the source or equipment is again in operation. Any excess emissions that create an imminent hazard requiring immediate action to protect health or safety must be reported by telephone immediately to the bureau and to the appropriate local emergency response agency and to the Tennessee Emergency Management Agency.

(f) Logs and reports.

(1) a. A log of any operation or failure to operate, start-up, or shutdown resulting in air pollutant emissions in excess of any applicable standard in this chapter, or of any installation permit or certificate of operation issued thereunder, by any source must be kept at the source. This log must record at least the following:

1. Stack, air pollution control equipment, or emission point involved.;

2. Time excess emissions, start-up, or shutdown began or when excess emissions were first discovered by the source;

3. Type of exceedance qualifying as a malfunction, or reason for shutdown;

4. Time start-up or shutdown was complete or time the air pollutant source returned to normal operation after an emissions exceedance;

5. Documentation that the source was or was not, at the time of the onset of the exceedance, being properly operated;

6. Documentation of any preventative maintenance of the air pollution control equipment or process equipment or processes that had been completed prior to the emissions exceedance, start-up, or shutdown;

7. The steps taken by the source during the period of the emissions exceedance, start-up, or shutdown to minimize levels of emissions that exceeded the emission standards, or other requirements in the installation permit or certificate of operation; and

8. The magnitude and identify of the excess emissions, expressed in pounds per hour and the units of the applicable emission limitation, and the operating data and calculations used in determining the magnitude of the excess emissions.

9. The employee of the owner or operator making entry on the log must sign, date and indicate the time of each log entry.

- b. The information under items (f)(1)a.1. and 2. of this subsection must be entered into the log by the end of the shift during which the emissions exceedance, start-up or shutdown began.

- c. All information shall be entered in the log no later than twenty-four (24) hours after the start-up or shutdown is complete, or the emissions exceedance has ceased or has been corrected.

- d. Any later discovered corrections may be added in the log as footnotes with the reason given for the change. There shall be no erasures, obliterations, modifications, or revisions of the log entry except by single line-through and identification of corrections.

(2) The owner or operator of a source located in a nonattainment area or having a significant impact on the air quality in a nonattainment area (for the nonattainment pollutant) in a calendar quarter must submit a report to the director within thirty (30) days after the end of such calendar quarter listing the times and dates at which any emissions exceedance, start-up, or shutdown resulted in emissions greater than any applicable emission limits under this chapter, or under any installation permit or certificate of operation issued thereunder, and the estimated amount of emissions discharged during such times. This report should also include total emissions during the quarter and be reported in a format specified by the director. If these emissions are required to be reported and are reported as required under § 8-741, Rule 15, then the report required by this paragraph is waived.

(g) Copies of log required. The director may require the owner or operator of any air pollutant source to submit a copy of the emissions exceedance, start-up and shutdown log required under subsection (e) of this section to the director ten (10) days after the request is received. The director can require submission of copies of the entire log.

(h) Special reports required. The director may require any air pollutant source to submit a report within thirty (30) days after the end of each calendar quarter in a format he specifies containing as a minimum the following information:

(1) The dates on which emissions exceedances, start-ups, and shutdowns resulted in emissions greater than those allowed by the emission standards in this chapter or any installation permit or certificate of operation issued thereunder;

(2) The estimated amount of air pollutants emitted in excess of the emission standards in units of pounds of air pollutant per hour and pounds of air pollutant per day;

(3) Other emission characteristics such as stack exit temperature, stack height and diameter, stack exit velocities, and other similar information;

(4) Information needed to evaluate the possibility of instituting measures to eliminate or reduce the number of emission exceedances or the amount of emissions from emission exceedances, start-ups, and shutdowns;

(5) Information to determine if the excess emissions truly resulted from a malfunction; and

(6) Information to evaluate the impact of the emissions on the surrounding area. (Ord. #599, Sept. 1995)

**8-713. Certificate of alternate control.** (a) In lieu of satisfying otherwise applicable standards and requirements of this chapter, an air

pollutant source may apply for and be issued a certificate of alternate control. No source with a certificate of alternate control shall emit particulate matter, sulfur dioxide, carbon monoxide, nitrogen dioxide or volatile organic compounds in excess of the respective limits on such certificate. No source applying for a certificate or alternate control shall be considered as modifying a source under the definition of "modification, alteration, reconstruction" in § 8-702, provided the rated capacity in terms of heat input, charging rate or process weight does not change for any fuel-burning, refuse-burning, incinerator, process or air pollution control equipment, respectively.

(b) The owner or operator of any source that discharges particulate matter, sulfur dioxide, carbon monoxide, nitrogen dioxide or volatile organic compounds regulated by this chapter can apply to the director for a certificate of alternate control for the source or any portion of the source. The director may grant the request if the following conditions are met:

(1) The source or portion thereof is reducing, or will be after a specific date taking actions to reduce, emissions of particulate matter, sulfur dioxide, carbon monoxide, nitrogen dioxide or volatile organic compounds to a level at least as stringent as required under other provisions of this chapter, even though affected emissions units at the source may not be meeting the mass emission limitation specified in any other provision of this chapter. Calculations to determine equivalence to standards limiting the pounds of volatile organic compounds per gallon of material shall be on the basis of equivalent solids applied. The total final emission limitation specified in the certificate of alternate control for the source for each given pollutant must be equivalent to or more stringent than would otherwise be applicable under this chapter. These limitations shall include limitations specified in other provisions of this chapter in pounds per hour, or if hourly emissions cannot be determined per the shortest period over which emissions can be determined, and tons per year, for the entire source.

(2) If a schedule for compliance is required, it must be as expeditious as is practicable and be specified as a condition on the certificate of alternate control. In no case shall the final compliance date be beyond a date that would cause interference with the attainment of the reasonable further progress line specified for a specific nonattainment area in the applicable state implementation plan.

(3) The source shall verify through modelling, consistent with Title 40 CFR Part 51, Appendix W--Guideline on Air Quality Models (Revised), which is incorporated by reference under Ordinance No. 598, that this alternate emission limitation will yield equivalent or improved air quality for the pollutant involved. For volatile organic compound emissions, modelling for ozone impacts may be required.



Air quality need not improve or stay the same at every location affected by the alternate emission standard, but on balance the air quality of the affected area must not be adversely affected. This will be demonstrated by modelling all included emission points at the proposed alternative levels and at the applicable allowable emission levels for the pollutant involved. The lower of either the allowable emissions under other rules in this chapter or actual emissions shall be used in all other modelling. In addition, the source shall demonstrate that the use of the alternate emission limitation will not interfere with the attainment or maintenance of any ambient air quality standard nor violate any applicable ambient air increment under § 8-741, Rule 18.

(4) Interpollutant trades are not allowed. Plants subject to the standards in § 8-741, Rule 16 (Emission Standards for Hazardous Air Contaminants), cannot apply the alternate emission limitation to hazardous air contaminants. The sources at a plant subject to emission standards in § 8-741, Rule 15 (New Source Performance Standards), or § 8-708(e)(2) b. and c. cannot use an alternate emission limitation except for reductions in actual emissions below the level required in these sections.

(5) Each emission point identified in the alternate control limitation shall be subject to a specific emission limit expressed in measurable units of the emission limitation. The director shall require an initial compliance test in order to demonstrate that the required emission limitations are being met for each emission point where actual emissions are estimated to exceed ten (10) tons per year or where allowable emissions are in excess of five (5) pounds per hour. Subsequent compliance tests may be required in accordance with the requirements of § 8-708(c).

(6) A fee of one thousand dollars (\$1,000.00) for each pollutant emitted at each emission point to be covered by a certificate of alternate control has been paid to the bureau at the time the application is made to cover the cost of review of the request for the certificate of alternate control.

(7) Sources utilizing the alternate emission limitation (1) must be in compliance with all applicable emission limits; or (2) if not in compliance, must be meeting the requirements in an approved compliance schedule; or (3) if not in compliance, must be subject to a court order which includes a compliance schedule and allows for timely modification of the decree without delaying the final compliance date. Under no circumstances can the alternate emission limitation delay or defer a specified compliance date nor shall the certificate of alternate control insulate the source from any penalties or sanctions for

noncompliance or affect the source's liability for failure to comply with any regulation, order or compliance plan.

(c) The alternate emission limitations and certificate conditions must be subjected to a public hearing and submitted to the United States Environmental Protection Agency for approval as a revision to the state implementation plan. The owner or operator requesting this alternate emission control limitation shall be responsible for all costs associated with publishing the required legal notices.

(d) Good engineering practice stack heights shall be utilized on all stack changes associated with the alternate control limitations for particulate matter, sulfur dioxide, carbon monoxide, and nitrogen dioxide.

(e) The owner or operator of the plant must:

(1) Post or file on the operating premises a copy of the certificate of alternate control; and

(2) Keep all pollution control equipment in good operating condition and utilize such equipment at all times.

(f) The certificate of alternate control shall be revoked after a hearing by the board if it is found that any of the requirements of subsection (b) of this section have been violated or if any of the requirements of subsection (e) have been frequently and flagrantly violated after the certificate was issued or if violation of the requirements of subsection (d) or conditions placed on their certificate under subsection (i) are not corrected promptly on written notice.

(g) The certificate of alternate control does not relieve the owner or operator of the duty of meeting all emission requirements in other rules for new sources whose installation, modification, alteration or reconstruction is commenced after the effective date of the rule.

(h) Upon revocation of the certificate of alternate control, the sources at the plant must comply with other provisions in this chapter that would have been applicable had the certificate not been issued. The board may specify a time period for the source to come into compliance with the more restrictive emission limitations.

(i) The director shall specify the new emission limits for each emission point as conditions of the certificate of alternate control. If methods other than reference test methods are to be used to determine compliance, they should be specified on the certificate. Other conditions needed to insure and to verify compliance may be placed on the certificate as conditions.

(j) Notice is hereby given that any certificate granted pursuant to this section shall become void should the board find it proper to amend the regulations covering any source listed on the certificate if the effect of the amendment is to reduce the allowable emissions of the source. The certificate in this instance shall be deemed void ninety (90) days after the source's receipt of notice from the director of the effective date of the revised regulations. (Ord. #599, Sept. 1995)

**8-714. Court determination of invalidity of having two sets of limitations for process or fuel-burning equipment; effect.** If a court of competent jurisdiction should ever rule that having two (2) sets of limitations for process or fuel-burning equipment is invalid, then in which event, the most stringent emission limitation for process or fuel-burning equipment shall be the limitation for all such equipment. (1993 Code, § 8-714)

**8-715. Right to file abatement suits.** Nothing in this chapter shall be construed to impair the right of the board of commissioners or the city attorney to file appropriate suits to abate a nuisance involving air pollution or to prosecute anyone for creating a nuisance or allowing a nuisance to continue or permitting a nuisance to exist. The board, with the approval of the city attorney, may in the name of the city institute action to abate a nuisance. (1993 Code, § 8-715)

**8-716. Right of entry of employees of the bureau, search warrants.** (a) In the performance of their duties, the director and other employees of the bureau are hereby authorized to enter upon and into premises or buildings with permission of the owner or occupant thereof to make inspection of the premises or building, to collect and preserve evidence of all facts of violation of this chapter or to perform any duty imposed upon them by this chapter. For the purposes of the preceding sentence, "reasonable times" shall be considered to be during normal business hours, unless reasonable cause exists to suspect noncompliance with this chapter or with any installation permit, certificate of operation, issued by the bureau, and the director specifically authorizes a bureau employee to inspect a source at any other time.

Alternatively, the director or other employees of the bureau or any other law enforcement officer may obtain a search warrant from the city court of the municipality if the premises lie within a municipality which has a city court, or from the state court of the county, as other search warrants are issued upon a showing of probable cause to believe that the provisions of this chapter or the rules and regulations thereof have been or are being violated, and may thereafter enter upon or into the premises or buildings and obtain, collect and preserve evidence or perform any duty imposed upon them by this chapter. (1993 Code, § 8-716, as amended by Ord. #599, Sept. 1995)

**8-717. Enforcement of regulation; procedure for adjudicatory hearings for violations.** (a) Whenever the board or director has reason to believe that a violation of any provision of this chapter or rule or regulation pursuant thereto has occurred, the board or director may cause written notice to be served upon the alleged violator or violators. The notice shall specify the provision of this chapter or rule or regulation alleged to be violated and the date, time, place and general nature of the alleged violation or violations

thereof and may include an order that necessary action be taken within a reasonable time. The notice provided for in this subsection may be served by the sheriff or a deputy sheriff of the county; or by a police officer of this city; or by a special police officer of this city; or by a special deputy sheriff; or may be served in any other manner prescribed for the service of a writ of summons by the statutes of the state or by the Tennessee Rules of Civil Procedure. Any such order shall become final unless, no later than thirty (30) days after the date the notice and order are served, the person or persons named therein request in writing a hearing before the board and file a notice of appeal and a bond pursuant to § 8-718(e). Upon such request, the board shall hold a hearing. In lieu of an order, the board may require that the alleged violator or violators appear before the board for a hearing at a time and place specified in the notice and answer the charges complained of, or the board may initiate action pursuant to § 8-715 or § 8-704 of this chapter, or the board may initiate action pursuant to any applicable provisions of the statutes of the state, or the acts of Congress of the United States, or the board may initiate action pursuant to any provisions or doctrines of the law of this state.

(b) If, after a hearing held pursuant to subsection (a) of this section, the board finds that a violation or violations have occurred, it shall affirm or modify the order previously issued, or issue an appropriate order or orders for the prevention, abatement, or control of the emissions involved or for the taking of such other corrective action as may be appropriate and the board may assess a civil penalty or enter any other appropriate order. If, after a hearing on an order contained in a notice, the board finds that no violation has occurred, it shall rescind the director's order. Any order issued as part of a notice or after a hearing may prescribe the date or dates by which the violation or violations shall cease and may prescribe timetables for necessary actions in preventing, abating or controlling the emissions. Any action taken by the board under this chapter shall be in writing and signed by the chairman, vice-chairman or chairman pro tempore of the board.

(c) Nothing in this chapter shall prevent the board or director from making efforts to obtain voluntary compliance through warning, conference or any other appropriate means. Nothing in this chapter, or in this section of this chapter, shall be construed as requiring the board to hold a hearing pursuant to this section of this chapter prior to or as prerequisite to its institution of action in court pursuant to this or any other section of this chapter or pursuant to the statutes of the state, the acts of the Congress of the United States, or any applicable doctrine of the law of this state; and nothing in this chapter or this section of this chapter shall prevent the board or director from suspending or revoking an installation permit or a certificate of operation or any other permit or license issued pursuant to the provisions of this chapter, but notice shall be served pursuant to this section of this

chapter prior to revocation of a valid and outstanding certificate of operation. (Ord. #599, Sept. 1995)

**8-718. Hearings, appeals and judicial review.** (a) At any public hearing, all testimony taken before the board shall be under oath and recorded stenographically, but the record shall not be transcribed unless any party seeks judicial review by writ or certiorari pursuant to Tennessee Code Annotated, § 27-9-101 et. seq. from any order or determination of the board, and in such event the party seeking such judicial review shall pay for the transcription and reimburse the board its stenographic expense incident to the hearing and shall furnish the original transcript to the board.

(b) The chairman, vice-chairman or chairman pro tempore of the board or the director may issue notice for the hearing and may issue subpoenas requiring attendance and testimony of witnesses or the production of evidence relevant to any matter involved in such hearing, or both. Such subpoena shall be served in the same manner as is provided for service of notice in § 8-717. The director shall issue subpoenas requested by a person upon whom notice has been served to appear for a hearing or who otherwise has a real and substantial interest in the hearing. The chairman, the vice-chairman, the chairman pro tempore or the director is authorized to administer oaths and to examine witnesses. Witnesses may likewise be examined by any member of the board, the attorney representing this county, the attorney representing the board, the attorney presenting proof from the bureau, the interested party or their attorney, or any other person determined by the board to have a real and substantial interest in the hearing or his attorney. In case of a refusal to obey a subpoena under this chapter, upon approval of a majority of the members of the board conducting the hearing, application may be made to any state court of record of such necessary subpoenas, orders or other proceedings to compel the attendance and testimony of such witness or witnesses and to compel the production of such evidence. Upon application to a state court of record the court may issue such order, and failure to appear before the board or to produce evidence will be deemed to be contempt of the court from which such order has issued. Failure to obey the order shall be punishable as provided by ordinances, state statutes or the common law for failure to obey a subpoena issued for appearance of a witness before such court.

(c) All hearings shall be held before not less than a majority of the board.

(d) Nothing in this section shall be construed to require a hearing prior to the issuance of an emergency order pursuant to § 8-720 of this chapter or prior to the institution by the board of action in court pursuant to any other section or provision of this chapter or the statutes of the state, the acts of the Congress of the United States, or any applicable doctrine of the law of this state.

(e) Any person aggrieved by any order or determination of the director may appeal such order or determination to the board for a public hearing before the board pursuant to the provisions of this section. Notice of appeal and a bond in the amount of five hundred dollars (\$500.00) to secure costs of the hearing shall be filed in the bureau within thirty (30) days after the date of the order or determination from which appeal is sought, otherwise the director's order or determination becomes final and nonappealable. Failure to file such appeal within the time provided herein regarding any terms, limitations, or special conditions in any permit or certificate of operation issued under this chapter, including but not limited to determinations of best available control technology, particulate matter best available control technology, and lowest achievable emissions rate, consummates the final determination of those terms, limitations and special conditions and constitutes a conclusive presumption that they are valid and enforceable under this chapter and that a violation of the same constitutes a violation of the regulation. The filing of the notice of appeal and bond herein provided for within the time herein prescribed shall perfect the appeal to the board.

Upon receipt of the notice of appeal and bond, the director shall immediately notify the chairman, vice-chairman or chairman pro tempore of the board of the appeal. The hearing on appeal to the board may be had at a special meeting of the board called by the chairman, vice-chairman or chairman pro tempore or at a regular meeting. The perfecting of the appeal as herein provided shall suspend only the operation of that portion of the order or determination appealed from and only until such time as the board has acted upon the appeal; provided, however, that the continuation of a special condition carried over from the immediately preceding certificate of operation and reimposed on the renewal certificate of operation shall not be suspended pending final action on the appeal. Any person aggrieved by any final order or determination of the board hereunder shall have judicial review thereof exclusively by writ of certiorari pursuant to Tennessee Code Annotated, § 27-9-101 *et. seq.* No judicial review shall be available to any person so aggrieved until and after all administrative remedies have been exhausted. (Ord. #599, Sept. 1995)

**8-719. Confidentiality of certain records.** (a) Upon the filing with the director of a written request for confidentiality by an owner or operator for any formulae, processes or methods used in any manufacturing operation at an air pollutant source carried on by such owner or operator that is certified by the owner or operator as secret, the board shall conduct a review for confidentiality. No owner or operator shall be required to disclose any secret formulae, processes or methods used in any manufacturing operation carried on by such owner or operator or under the direction of such owner or operator. The board shall have the power to issue protection orders to

prevent public dissemination. If the board determines that the information should not be protected as confidential, the director shall so notify the source in writing.

(b) Upon the filing with the director of a written request for confidentiality by an owner or operator for any records or other information of a confidential nature voluntarily furnished to the board or director by the owner or operator, such voluntarily submitted records or information is subject to a review for confidentiality. Records or other information concerning one (1) or more air pollutant sources, which are certified by the owner or operator as related to confidential production techniques, production rates, or trade secrets or sales figures or to processes or productions sufficiently unique to the owner or operator or which would affect adversely the competitive position of such owner or operator if made available to the general public, are eligible for confidential status. If the board determines that the information should not be protected as confidential, the director shall so notify the source in writing. If the board determines that the information should be protected as confidential, then the information shall be reserved only for the confidential use of the board and bureau in the administration of this chapter or the Administrator of the United States Environmental Protection Agency in the administration of the Federal Clean Air Act, unless such owner or operator shall expressly agree to their publication or availability to the general public; provided, however that no such records or information shall be considered as of a confidential nature unless accepted in writing by the board as confidential. Nothing herein shall be construed to prevent the use of such records or information by the board in compiling or publishing analysis or summaries relating to the general conditions of the outdoor atmosphere provided that such analyses or summaries do not identify the owner or operator or reveal any information considered confidential under this section.

(c) Notwithstanding the foregoing, the following information shall not be considered confidential:

- (1) The composition of air pollutants and emission data;
- (2) The applicable provisions under this chapter that a source must fulfill and the source's compliance status with respect to each provision; and
- (3) The business name, address, location of the source, and the name of the source's owner or operator. (Ord. #599, Sept. 1995)

**8-720. Air pollution emergencies.** (a) It is the purpose of this section to establish criteria so as to prevent air pollutants from reaching levels that would cause imminent and substantial endangerment to the health of persons, especially during adverse meteorological conditions. Any other provisions of law to the contrary notwithstanding, if the director or the Administrator of the Chattanooga-Hamilton County Health Department

finds that a condition of air pollution exists or is likely to exist, and that it creates any emergency requiring immediate action to protect human health or safety, the mayor with the concurrence of the director or the Administrator of the Chattanooga-Hamilton County Health Department shall order persons causing or contributing to the air pollution to reduce or discontinue immediately the emission of air pollutants. Upon issuance of any such order, the director shall fix a place and time, not later than twenty-four (24) hours thereafter, for a hearing to be held before the board. No more than twenty-four (24) hours after commencement of such hearing, and without adjournment thereat the board shall affirm, modify, or recommend to the mayor that the order be affirmed, modified or set aside.

(b) Episode criteria. Conditions justifying the order of an air pollution alert, air pollution warning, or air pollution emergency shall be deemed to exist when the director or Administrator of the Chattanooga-Hamilton County Health Department determines, in concurrence with the mayor, that the accumulation of air pollutants is attaining or has attained levels which could, if such levels are sustained or exceeded, lead to a substantial threat to the health of persons. In making this determination, the director or administrator will be guided by the criteria described below.

(1) Air pollution forecast. An internal watch by the Chattanooga-Hamilton County Air Pollution Control Bureau shall be activated by a National Weather Service advisory that an atmospheric stagnation advisory is in effect or the equivalent local forecast of stagnant atmospheric conditions.

(2) Air pollution alert. The alert level is that concentration of air pollutants at which emissions reductions must begin. An alert will be declared when any of the following levels is reached at any monitoring site, and when meteorological conditions are such that air pollutant concentrations can be expected to remain at these levels or to increase for twelve (12) or more hours, or in the case of ozone this level is likely to recur within the next twenty-four (24) hours unless control actions are taken:

- a. SO<sub>2</sub>: 800 µg/m<sup>3</sup> (0.3 parts per million), 24-hour average
- b. PM<sub>10</sub>: 350 µg/m<sup>3</sup>, 24-hour average
- c. (Reserved)
- d. CO: 17 mg/m<sup>3</sup> (15 ppm), 8-hour average
- e. Ozone (O<sub>3</sub>): 400 µg/m<sup>3</sup> (0.2 ppm), 1-hour average
- f. NO<sub>2</sub>: 1130 µg/m<sup>3</sup> (0.6 ppm), 1-hour average;  
282 µg/m<sup>3</sup> (0.15 ppm), 24-hour average.

(3) Air pollution warning. The warning level indicates that air quality is continuing to degrade and that additional control actions are necessary. A warning will be declared when any one of the following levels is reached at any monitoring site, and when meteorological conditions are such that air pollutant concentrations



can be expected to remain at these levels or to increase for twelve (12) or more hours, or in the case of ozone this level is likely to recur within the next twenty-four (24) hours unless control actions are taken:

- a. SO<sub>2</sub>: 1600 µg/m<sup>3</sup> (0.6 ppm), 24-hour average
- b. PM<sub>10</sub>: 420 µg/m<sup>3</sup>, 24-hour average
- c. (Reserved)
- d. CO: 34 mg/m<sup>3</sup> (30 ppm), 8-hour average
- e. Ozone (O<sub>3</sub>): 800 µg/m<sup>3</sup> (0.4 ppm), 1-hour average
- f. NO<sub>2</sub>: 2260 µg/m<sup>3</sup> (1.2 ppm), 1-hour average;  
565 µg/m<sup>3</sup> (0.3 ppm), 24-hour average.

(4) Air pollution emergency. The emergency level indicates that air quality is continuing to degrade toward a level that would cause an unreasonable risk to public health and that the most stringent control actions are necessary. An emergency will be declared when any one of the following levels is reached at any monitoring site, and when meteorological conditions are such that air pollutant concentrations can be expected to remain at these levels or to increase for twelve (12) or more hours, or in the case of ozone this level is likely to recur within the next twenty-four (24) hours unless control actions are taken:

- a. SO<sub>2</sub>: 2100 µg/m<sup>3</sup> (0.8 ppm), 24-hour average
- b. PM<sub>10</sub>: 500 µg/m<sup>3</sup>, 24-hour average
- c. (Reserved)
- d. CO: 46 mg/m<sup>3</sup> (40 ppm), 8-hour average
- e. Ozone (O<sub>3</sub>): 1000 µg/m<sup>3</sup> (0.5 ppm), 1-hour average
- f. NO<sub>2</sub>: 3000 µg/m<sup>3</sup> (1.6 ppm), 1-hour average;  
750 µg/m<sup>3</sup> (0.4 ppm), 24-hour average.

(5) Termination. Once declared, any status reached by application of these criteria will remain in effect until the criteria for that level are no longer met. At that time, the next higher or the next lower status will become effective upon declaration of the concurrence of the mayor and the director or Administrator of the Chattanooga-Hamilton County Health department.

(c) Required emissions reductions. (1) When an air pollution alert, an air pollution warning, or an air pollution emergency has been declared, all sources must follow the requirements for that episode level as outlined in Tables 1, 2, or 3 or in the air pollution episode emissions reduction plan approved in accordance with § 8-720 Title 40 CFR Part 51, Subpart H-Prevention of Air Pollution Emergency Episodes, requires episode plans for Priority I, IA, and II areas. Priority III areas are not required to develop episode plans. If a plan has been approved by the director, emissions must be reduced to that level or lower during a declared episode.

(2) Preplanned abatement strategies. Major sources in or significantly impacting a nonattainment area must submit to the director an acceptable air pollution episode emissions reduction plan to be followed during the alert, warning and emergency levels of an air pollution episode. The term "major source" as used in § 8-720 means any of the following types of stationary sources of air pollutants which emit, or have the potential to emit, one hundred (100) tons per year or more of any air pollutant; fossil fuel fired steam electric plants of more than two hundred fifty million British thermal units per hour heat input; coal cleaning plants (thermal dryers); draft pulp mills; Portland Cement plants; primary zinc smelters; iron and steel mill plants; primary copper smelters; municipal incinerators capable of charging more than two hundred and fifty tons of refuse per day; hydrofluoric, sulfuric, and nitric acid plants; petroleum refineries; lime plants; coke oven batteries; sulfur plants; phosphate rock processing plants; sulfur recovery plants; carbon black plants (furniture process); primary lead smelters; fuel conversion plants; sintering plants; secondary metal production facilities; chemical process plants; fossil-fuel boilers of more than two hundred and fifty million British thermal units per hour heat input; petroleum storage and transfer facilities with a capacity exceeding three hundred thousand barrels; taconite ore processing facilities; glass fiber processing plants; and charcoal production facilities. The term "major source" also includes, for the purpose of § 8-720, any other source with the potential to emit two hundred and fifty tons per year or more of any air pollutant. Only the pollutants for which the air quality planning area is designated nonattainment are considered in determining whether a source is a major source, for the purposes of § 8-720.

(3) Any source subject to the preceding paragraph (2) must submit a revised air pollution episode emissions reduction plan at the request of the director should the nature and quantity of the source's emissions change or the original plan be deemed inadequate.

(4) The owner or operator of any other air pollutant source, having a potential to emit less than one hundred tons per year of any air pollutant, may file an air pollution episode emissions reduction plan for use during an air pollution episode if the owner or operator anticipates achievement of comparable or greater reduction of the health hazard in the area at a much lower cost than can be achieved by a major source.

(5) Where specific actions may be necessary to relieve a health hazard by sources emitting air pollutants at lower levels than that indicated in paragraph (2) above, the director may require the submittal of an acceptable air pollution episode emissions reduction plan from the owners or operators of those sources. The owner or

operator must submit such plan within thirty (30) days after the director so requires.

(6) If the owner or operator of any source required to have an approved air pollution episode emissions reduction plan on file with the director fails to submit an approvable plan to the director, the director may schedule a hearing to set an approved air pollution episode emissions reduction plan for that air pollutant source.

**Table 1****EMISSION REDUCTION PLANS****ALERT LEVEL****Part A. GENERAL**

1. There shall be no open burning by any persons of tree waste, vegetation, refuse, or debris in any form.
2. The use of incinerators for the disposal of any form of solid waste shall be limited to the hours between 12:00 Noon and 4:00 P.M.
3. Persons operating fuel-burning equipment which requires boiler lancing or soot blowing shall perform such operations only between the hours of 12:00 Noon and 4:00 P.M.
4. The Chattanooga-Hamilton County Air Pollution Control Board encourages persons operating motor vehicles to eliminate all unnecessary operation.

**Part B. SOURCE CURTAILMENT**

Any owner or operator of a source of air pollutants listed below shall take all required control actions specified below for this Alert Level and the preplanned abatement strategies submitted to and approved by the director for that source.

<u>Source of Air Pollution</u>	<u>Control Action</u>
1. Coal or oil-fired electric power reduction by generating facilities	<ol style="list-style-type: none"> <li>a. Substantial utilization of fuels having low ash and sulfur content.</li> <li>b. Maximum utilization of mid-day (12:00 P.M. to 4:00 P.M.) atmospheric turbulence for boiler lancing and soot blowing.</li> <li>c. Substantial reduction by diverting electric power generation to facilities outside of Alert Area.</li> </ol>

Table 1  
(continued)

<u>Source of Air Pollution</u>	<u>Control Action</u>
2. Coal and oil-fired process steam generating facilities	a. Substantial reduction by utilization of fuels having low ash and sulfur content. b. Maximum utilization of mid-day (12:00 Noon to 4:00 P.M.) atmospheric turbulence for boiler lancing and soot blowing. c. Substantial reduction of steam load demands consistent with continuing plant operations.
3. Manufacturing industries of the following classifications:  Primary Metals Industry  Petroleum Refining Operations  Chemical Industries  Paper and Allied Products  Grain Industry	a. Substantial reduction of air contaminants from manufacturing operations by curtailing, postponing, or deferring production and all operations. b. Maximum reduction by deferring trade (industry) waste disposal operations which emit solid gases, vapors, or malodorous substances. c. Maximum reduction of heat load demands for processing. d. Maximum utilization of mid-day (12:00 Noon to 4:00 P.M.) atmospheric turbulence for boiler lancing or soot blowing.

**TABLE 2****EMISSION REDUCTION PLANS****WARNING LEVEL****Part A. GENERAL**

1. There shall be no open burning by any persons of tree waste, vegetation, refuse, or debris in any form.
2. The use of incinerators for the disposal of any form of solid waste or liquid waste shall be prohibited.
3. Persons operating fuel-burning equipment which requires boiler lancing or soot blowing shall perform such operations only between the hours of 12:00 Noon and 4:00 P.M.
4. The Chattanooga-Hamilton County Air Pollution Control Board encourages persons operating motor vehicles to reduce operations by the use of car pools and increase use of public transportation and the elimination of unnecessary operation.

**Part B. SOURCE CURTAILMENT**

Any owner or operator of a source of air pollutants listed below shall take all required control actions specified below for this Warning Level and the preplanned abatement strategies submitted to and approved by the director for that source.

Source of Air PollutionControl Level

- |   |   |
|---|---|
| 1. Coal or oil-fired electric power generating facilities | <ol style="list-style-type: none"> <li>a. Maximum reduction by utilization of fuels having lowest ash and sulfur content.</li> <li>b. Maximum utilization of mid-day (12:00 Noon to 4:00 P.M.) atmospheric turbulence for boiler lancing and soot blowing.</li> <li>c. Maximum reduction by diverting electric power generation to facilities outside of Warning Area.</li> </ol> |
|---|---|

**Table 2  
(continued)**

<u>Source of Air Pollution</u>	<u>Control Level</u>
2. Coal and oil-fired process steam generating facilities	<ul style="list-style-type: none"> <li>a. Maximum reduction by utilization of fuels having the lowest ash and sulfur content.</li> <li>b. Maximum utilization of mid-day (12:00 Noon to 4:00 P.M.) atmospheric turbulence for boiler lancing and soot blowing.</li> <li>c. Making ready for use a plan of action to be taken if an emergency develops.</li> </ul>
3. Manufacturing industries which require considerable lead time for shut-down including the following classifications:	
Petroleum Refining	
Chemical Industries	<ul style="list-style-type: none"> <li>a. Maximum reduction of air contaminants from manufacturing operations if necessary, assuming reasonable economic hardship by postponing production and allied operation.</li> <li>b. Maximum reduction by deferring trade (industry) waste disposal operations which emit solid particles, gases, vapors, or malodorous substances.</li> </ul>
Primary Metal Industries	
Glass Industry	
Paper and Allied Products	<ul style="list-style-type: none"> <li>c. Maximum reduction of heat load demands for processing.</li> <li>d. Maximum utilization of mid-day (12:00 Noon to 4:00 P.M.) atmospheric turbulence for boiler lancing and soot blowing.</li> </ul>

**Table 2  
(continued)**

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<u>Source of Air Pollution</u>	<u>Control Level</u>
4. Manufacturing industries which require relatively short lead time for shut-down including the following classifications:	
Primary Metal Industries	a. Elimination of air contaminants from manufacturing operations by ceasing, curtailing, postponing, or deferring production and allied operations to the extent possible without causing injury to persons or damage to equipment.
Chemical Industries	b. Elimination of air contaminants from trade (industry) waste disposal processes which emit solid particulates, gases, vapors, or malodorous substances.
Mineral Processing Industries	c. Maximum reduction of heat load demands for processing.
Grain Industry	d. Maximum utilization of mid-day (12:00 Noon to 4:00 P.M.) atmospheric turbulence for boiler lancing and soot blowing.



**TABLE 3****EMISSION REDUCTION PLANS****EMERGENCY LEVEL****Part A. GENERAL**

1. There shall be no open burning by any persons of tree waste, vegetation, refuse, or debris in any form.
2. The use of incinerators for the disposal of any form of solid or liquid waste shall be prohibited.
3. All places of employment described below shall immediately cease operations:
  - a. Mining and quarrying of non-metallic minerals.
  - b. All construction work except that which must proceed to avoid emergent physical harm.
  - c. All air contaminant sources except those required to have in force an air pollution emergency plan.
4. Any commercial or manufacturing establishments not included in these Tables shall institute such actions as will result in maximum reduction of air pollutants from their operations by ceasing, curtailing, or postponing operations which emit air pollutants to the extent possible without causing injury to person or damage to equipment.
5. The Chattanooga-Hamilton County Air Pollution Control Board encourages the users of motor vehicles to cease usage except in emergencies.

**Part B. SOURCE CURTAILMENT**

Any owner or operator of a source of air pollutants listed below shall take all required control actions specified below for this Emergency Level and the preplanned abatement strategies submitted to and approved by the director for that source.

Table 3  
(continued)

<u>Source of Air Pollution</u>	<u>Control Action</u>
1. Coal or oil-fired electric power generating facilities	a. Maximum reduction by utilization of fuels having lowest sulfur and ash content. b. Maximum utilization of mid-day (12:00 Noon to 4:00 P.M.) atmospheric turbulence for boiler lancing and soot blowing. c. Maximum reduction by diverting electric power generation to facilities outside of Emergency Area.
2. Coal and oil-fired process steam generating facilities	a. Maximum reduction, by reducing heat and steam demands to absolute necessities, consistent with preventing equipment damage. b. Maximum utilization of mid-day (12:00 Noon to 4:00 P.M.) atmospheric turbulence for boiler lancing and soot blowing. c. Taking the action called for in the emergency plan.
3. Manufacturing industries of the following classifications:  Primary Metal Industries  Petroleum Refining  Chemical Industries	a. Elimination of air contaminants from manufacturing operations by ceasing, curtailing, postponing or deferring production and allied operations to the extent possible without causing injury to persons or damage to equipment.

Table 3  
(continued)

<u>Source of Air Pollution</u>	<u>Control Action</u>
Grain Industry	b. Elimination of air contaminants from trade (industry) waste disposal processes which emit solid particles, gases, vapors, or malodorous substances.
Paper and Allied Products	c. Maximum reduction of heat load demands for processing. d. Maximum utilization of mid-day (12:00 Noon to 4:00 P.M.) atmospheric turbulence for boiler lancing or soot blowing.

(Ord. #671, Dec. 1998)

**8-721. Variances.** (a) Any person who owns or is in control of any plant, building structure, process, or equipment may apply to the board for a variance from rules or regulations. Each applicant to the board for variance shall pay a fee of one hundred dollars (\$100.00) to cover the cost of handling such application, no part of which fee is returnable. The board may grant such variance if it finds that:

(1) The emissions occurring or proposed to occur do not endanger or are not likely to endanger human health or safety; and

(2) Compliance with the rules or regulations from which variance is sought would produce serious hardship without equal or greater benefits to the public.

(b) No variance or renewal thereof shall be granted pursuant to this section except after public hearing on due notice by publication in a newspaper of general circulation and until the board has considered the relative interests of the applicant, other owners of property likely to be affected by the discharges, and the general public.

(c) Any variance or renewal thereof may be granted within the requirements of subsection (a) and for the time periods and under conditions consistent with the reasons therefor and with the following limitations:

(1) If the variance is granted on the ground that there is not practicable means known or available for the adequate prevention, abatement, or control of the air pollution involved, it shall be only until the necessary means for prevention, abatement, or control becomes known and available and subject to the taking of any substitute or alternate measures that the board may prescribe.

(2) If the variance is granted on the ground that compliance with the particular requirement or requirements from which variance is sought will necessitate the taking of measures which, because of their extent or cost, must be spread over a considerable period of time, it shall be for a period not to exceed such reasonable time as, in the view of the board is requisite for the taking of the necessary measures. A variance granted on the ground specified herein shall contain a timetable for the taking of action in an expeditious manner and shall be conditioned on adherence to such timetable.

(3) If the variance is granted on the ground that it is justified to relieve or prevent hardship of any kind other than provided for in items (1) and (2) of this subsection, it shall be for not more than one (1) year.

(d) Any variance granted pursuant to this section may be renewed on terms and conditions and for periods which would be appropriate on initial granting of a variance. If complaint is made to the board on account of the variance, no renewal thereof shall be granted, unless, following public hearing on the complaint notice, the board finds that renewal is justified. No renewal shall be granted except on application therefor. Any such application shall be made at least thirty (30) days prior to the expiration of the variance. Immediately upon receipt of an application for renewal, the bureau shall provide for public notice in a newspaper of general circulation at the expense of the applicant prior to the public hearing upon said application.

(e) A variance or renewal shall not be a right of the applicant or holder thereof but shall be in the discretion of the board. However, any person adversely affected by a variance or renewal granted by the board may obtain judicial review thereof by a proceeding in the chancery court. Judicial review of the denial of a variance may be had only on common law writ of certiorari on the ground that the denial is arbitrary or capricious.

(f) Nothing in this section and no variance or renewal granted pursuant hereto shall be construed to prevent or limit the application of the emergency provisions and procedures of § 8-720 of this chapter to any person or his property.

(g) Any hearing held under the provisions of this section shall conform with the relevant requirements set out in § 8-718 of this chapter. (1993 Code, § 8-721)

**8-722--8-740. Reserved.** (1993 Code, §§ 8-722--8-740)

**8-741. Rules adopted.** The following rules, regulations, criteria, and standards for air pollution control are hereby adopted:

Rule 1. Title. These regulations shall be known and referred to as the "Chattanooga-Hamilton County Air Pollution Control Regulations."

Rule 2. Regulation of nitrogen oxides.

Rule 2.1. No person shall cause, suffer, allow or permit the emission of nitrogen oxides, expressed as nitrogen dioxide, from fuel-burning equipment which has design capacity of or in excess of two hundred fifty million (250,000,000) BTU's per hour, built or installed on and after January 1, 1973, in excess of the following:

(1) One hundred sixty-five (165) ppm corrected to fifteen (15) percent excess air when gaseous fossil fuel is fired (equivalent to 0.20 pounds of nitrogen oxides, expressed as nitrogen dioxide, per million BTU heat input).

(2) Two hundred twenty-seven (227) ppm corrected to fifteen (15) percent excess air when liquid fossil fuel is fired (equivalent to 0.30 pounds of nitrogen oxides, expressed as nitrogen dioxide, per million BTU heat input).

(3) Five hundred twenty-five (525) ppm corrected to fifteen (15) percent excess air when solid fossil fuel is fired (equivalent to 0.70 pounds of nitrogen oxides, expressed as nitrogen dioxide, per million BTU heat input).

When different fossil fuels are burned simultaneously in any combination, the applicable standard shall be determined by proration (i.e. the allowable emission, expressed as nitrogen dioxide, shall be equal to the value obtained from the equation:

$$A = S \times (525) + L \times (227) + G \times (165)$$

Where:

S = fraction of total heat input derived from solid fossil fuel.

L = fraction of total heat input derived from liquid fossil fuel.

G = fraction of total heat input derived from gaseous fossil fuel.

A = the emission limit in ppm.

Rule 2.2. Reserved

Rule 2.3. No person shall cause, suffer, allow or permit the emission of nitrogen oxides from any nitric acid plant built or installed on and after January 1, 1973, in excess of three (3) pounds (calculated as nitrogen dioxide) per ton of acid produced.

Rule 2.4. No person shall cause, suffer, allow or permit the emission of nitrogen oxides in excess of three hundred (300) ppm from any source except fuel-burning equipment, which is regulated by Rule 2.1; nitric acid plants, which are regulated by Rule 2.2 and Rule 2.3; portland cement plants, which are regulated by Rule 2.6; and emergency generators, which are regulated by Rule 2.7.

Rule 2.5. All sampling of emissions from any source of nitrogen oxides and all analyses of samples to determine the amount of nitrogen oxides in such samples shall be conducted as specified by techniques promulgated by the board.

Rule 2.6. No portland cement plant shall cause, suffer, allow or permit the emission of nitrogen oxides in excess of one thousand five hundred (1500) ppm produced when averaged over any three consecutive hour period.

Rule 2.7. For the purposes of this rule, "emergency generator" is defined as a generator used when loss of primary electrical power occurs for reasons beyond the control of the source. In no event shall an emergency generator emitting in excess of one thousand five hundred (1500) parts per million be operated for a period of time longer than five (5) consecutive days or more than a total of twenty (20) days in any calendar year, unless a source demonstrates to the director with clear and convincing evidence that reasonably unforeseeable events beyond the control of the source require use of the emergency generator for an additional period of time. The source shall maintain a written record of each loss of primary electrical power, including a record of the cause and a record of the duration of the loss. Such written record shall be retained for a period of not less than two (2) years and shall be available to the director upon request. Periodic start-up of an emergency generator to test proper functioning shall not be subject to these recordkeeping requirements.

Rule 3. Visible emission regulations.

Rule 3.1. No person shall cause, suffer, allow or permit visible emissions from any air contaminant source with an opacity in excess of twenty (20) percent for an aggregate of more than five (5) minutes in any one (1) hour or more than twenty (20) minutes in any twenty-four (24) hour period; provided, however, that the time limitations as set forth in Rule 7.1 apply to incinerators, but all other provisions of Rule 3 shall apply to incinerators.

Rule 3.2. Consistent with requirements of § 8-712, due allowance may be made for visible emissions in excess of that permitted in this rule which are necessary or unavoidable due to routine start-up and shutdown conditions provided the owner or operator shall maintain a continuous, current log of all start-up and shutdown conditions showing a time at which such conditions began and ended and that such record shall be available to the director or his representative upon request.

Rule 3.3. It is expressly intended that in testing compliance with Rule 3.1 that visible emissions will be evaluated in terms of equivalent opacity and expressed as percent opacity.

Rule 3.4. Visible emissions from fuel-burning equipment used exclusively to provide space heating in a building not containing more than two (2) dwelling units shall not be subject to the provisions of this Rule 3.

Rule 3.5. Regardless of the visible emission limitation contained in this Rule 3, all sources identified in Rule 15, Rule 16, Rule 18, Rule 26, and Rule 27 in this section and in § 8-708(e) (Construction and modification permit, nonattainment areas) of this chapter shall comply with the visible emission limitations set pursuant to those rules or that section.

Rule 4. Regulation of the importation, sale, transportation, use or consumption of certain fuels.

Rule 4.1. It shall be unlawful for any persons to import, sell, offer for sale, expose for sale, exchange, deliver or transport for use and consumption in the city, or to use or consume in the city, any fuel containing in excess of four (4) percent sulfur content by weight for fuel-burning equipment regulated under Rule 8 and Table 1. Fuels with sulfur contents greater than allowed in this rule may be burned, used, and consumed, and may be delivered by any person to any user, provided said user utilizes methods or processes or a combination of methods or processes approved in writing by the director which will limit the emission of sulfur dioxide from the source to a quantity or rate not greater than that which would result from the use of a low sulfur fuel as specified in the first part of this rule. Any person who desires to sell, offer for sale, expose for sale, exchange, deliver, or transport for use and consumption any fuel with sulfur content greater than allowed as hereinabove set forth upon the basis that the user utilizes methods or processes approved in writing by the director as hereinabove set forth must have in his possession at the time of sale, offer for sale, exposure for sale, exchange, delivery or transport an exact reproduced copy of the approval by the director as hereinabove provided for, which approval must at that time be valid, effective and unrevoked. Sale, offer for sale, exposure for sale, exchange, delivery or transport for use and consumption in the absence of such copy of such valid, effective and unrevoked written approval shall be prima facie a violation of this rule and the burden shall be upon the person charged to establish that written and effective approval had been extended by the director as hereinabove provided.

Rule 4.2. To determine compliance with Rule 4.1 above, the board is authorized under this chapter to make, or obtain tests of fuel when it deems necessary to determine compliance.

(1) An adequate supply of the fuel, ready for use, must be made available to the director to conduct whatever tests in accordance with A.S.M.E., P.T.C. 3.2-1954 he deems necessary.

(2) Any person whose fuel is submitted to such tests must pay all expenses necessary to conduct the tests when found to be in violation.

(3) Tests certified by a competent person approved by the director may be accepted by the director as the tests required by this rule.

Rule 4.3. The provisions of Rule 4 shall become effective on and after October 14, 1970.

Rule 4.4. The director or his representative may examine the weigh bills for all fuels delivered to and by all fossil fuel dealers by any means of transportation.

Rule 5. Prohibition of hand-fired fuel-burning equipment.

Rule 5.1. All operation or use of hand-fired fuel-burning equipment with solid fuels is prohibited.

Rule 5.2. Rule 5.1 shall not apply to fuel-burning equipment used exclusively for heating a dwelling designed and used for occupancy of less than three (3) families.

Rule 6. Prohibition of open burning.

Rule 6.1. No person shall cause, suffer, allow or permit open burning except as provided in Rule 6.3, 6.4, and 6.5. No person shall cause, suffer, allow or permit controlled burning except as provided in Rule 6.6. No person shall fail or refuse to take all reasonable and necessary steps and precautions to prevent open or controlled burning upon any premises owned, occupied or under the control of such person. No person shall fail or refuse to take all reasonable and necessary steps and precautions to extinguish or otherwise terminate and abate any open or controlled burning which has originated through any cause whatsoever upon any premises owned, occupied or under the control of such person or upon premises upon which such person is carrying out any operation or activity.

Rule 6.2. No person shall conduct a salvage operation by open burning.

Rule 6.3. Open Burning. Open burning of vegetation and raw, untreated, non-manufactured wood materials, thoroughly dried to facilitate efficient combustion while minimizing smoke caused by naturally occurring moisture contained in vegetative materials ("clean wood materials") may be permitted only in the months of October, November, December, January, February, March and April, provided that the following conditions are met:

(1) An application shall be submitted to the director stating the reason why there is no other method of disposal, the amount of material to be burned, and the location of material to be burned;

(2) A non-refundable application fee of fifty dollars (\$50.00) shall be included with the application, which fee shall be collected by the Bureau and remitted to the fiscal agent of the Board;

(3) No burning shall occur until such inspection of the material as may be required by the Bureau is conducted, a permit has been issued and the permit has been received by the applicant;

(4) The size of the piles of material to be burned shall not exceed 12' by 12' by 12';

(5) Burning shall be conducted only on days of low air pollution potential as determined by the Bureau;

(6) Only clean fuel not containing garbage, rubber, tires, plastics, roofing materials, tar paper or other refuse shall be allowed for the startup of fires;

(7) Burning will only be allowed during the following hours on days approved under (5) above. The burning shall be completed by, and extinguished by, the end of the time period set forth below:

October 1 through November 15            9 A.M. - 4 pm.

November 16 through December 31    9 A.M. - 3:30 P.M.



January 1 through February 15	9 A.M. - 4 P.M.
February 16 through April 3	9 A.M. - 5 P.M.
April 4 through April 30	9 A.M. - 6 P.M.

- (8) The burning must be attended at all times;
- (9) The permit may be revoked or suspended at any time at the site where there is a violation of the permit or of this Rule, with the right to a hearing before the Director or the Air Pollution Control Board;
- (10) The permit must be kept at or near the burn site and be readily available for inspection;
- (11) The permit is not valid until signed by the applicant signifying that the permit conditions have been read and understood;
- (12) Contact the local fire agency before burning;
- (13) Any permit issued will remain valid until the expiration date of the permit, unless revoked or suspended.
- (14) Burning is allowed only at the location set forth in the application.

Rule 6.4. Open Burning Exemptions. Open burning shall be allowed without compliance with Rule 6.3 only in the following specifically listed instances:

- (1) Fires used only for cooking of food or for ceremonial or recreational purposes, including barbecues and outdoor fireplaces, but only if such fires are fueled for that particular purpose;
- (2) Fires set by or at the direction of responsible fire control agencies for the prevention, elimination or reduction of the spread of existing fires;
- (3) Safety flares and smokeless flares; except those for the combustion of waste gases. Flares for the combustion of waste gases shall comply with the permitting provisions of section 4-8 of this chapter;
- (4) Open burning used solely for the purpose of warming persons who are in the out-of-doors performing work and conducting lawful activities, provided such fires use only clean, raw, untreated, non-manufactured wood, not containing garbage, rubber, plastics, roofing materials, tar paper, cardboard, paperboard or other refuse;
- (5) Operation of devices using open flames such as tar kettles, blow torches, cutting torches, portable heaters and other flame-producing equipment.

Rule 6.5. Open Burning Exceptions. Open burning may be allowed without a permit in the following instances provided a written statement, such as is required in Rule 6.3(1), is filed with the director and written approval is given by the director.

- (1) Fires set for the training and instruction of public or private fire fighting personnel, including those in civil defense;

(2) Carrying out recognized Best Management Practices for Agriculture necessary for production of crops;

(3) The director may allow open burning prohibited during the months of May, June, July, August and September upon a determination that such open burning is necessary to protect public health, safety or welfare of the people, or there are no reasonable alternatives, e.g. disposal of vegetative debris from storm damage. The action of the Director shall be in writing.

Rule 6.6. Controlled Burning. Clearing and burning of vegetation at a site of two acres or more within a one-year period, burning for silvicultural purposes, and burning of clean wood material require controlled burning and compliance with the following enumerated conditions. Controlled burning of vegetation and clean wood material may be permitted by the director only in the months of October, November, December, January, February, March and April and requires an air curtain destructor and pit. Burning for silvicultural purposes requires special equipment.

(1) Controlled burning (other than burning for silvicultural purposes) requires the continuous use of a pit and an effective air curtain destructor to maintain the necessary air velocity to minimize to the absolute extent practical any emission of fly and ash and/or smoke;

(2) To obtain a controlled burning permit, a signed application shall be submitted to the director including the following:

a. Complete plans and details of the method and equipment to be used for the control of such burning must be approved by the director before the permit shall be issued;

b. The names of those in charge of the equipment and those in charge of the site and how they may be contacted must be furnished;

(3) A fee of four hundred dollars (\$400.00) shall be included with the application, which fee shall be collected by the Bureau and remitted to the fiscal agent of the Board;

(4) Written approval is received from the director in the form of a controlled burning permit with conditions;

(5) The pit shall be cleaned of ash on a daily basis;

(6) Brush in the pit shall not be piled above the pit surface;

(7) The persons in charge of the equipment shall notify the fire department serving the area in which the burning occurs at the beginning of each day's burn and the completion of each day's burn;

(8) The person in charge of the equipment must have an operating telephone at the site at all times during operation of the equipment;

(9) There shall be enough fuel at the site to maintain operation of the air curtain destructor without interruption;

(10) Any modification to the pit design or location must be approved by the director prior to the modification;

(11) The permit may be revoked or suspended at any time at the site where there is a violation of the permit or of this Rule, with the right to a hearing before the Director or the Air Pollution Control Board;

(12) Burning will only be allowed during the following hours on days of low air pollution potential as determined by the Bureau, and completed by, and extinguished by, the end of the time period set forth below:

October 1 through November 15	9 A.M. - 4 P.M.
November 16 through December 31	9 A.M. - 3:30 P.M.
January 1 through February 15	9 A.M. - 4 P.M.
February 16 through April 3	9 A.M. - 5 P.M.
April 4 through April 30	9 A.M. - 6 P.M.

(13) The burning must be attended at all times;

(14) The permit must be kept at or near the burn site and be readily available for inspection;

(15) The permit is not valid until signed by the applicant signifying that the permit conditions have been read and understood;

(16) Any permit issued will remain valid until the expiration date of the permit, unless revoked or suspended.

(17) Applicant shall review the permit conditions with all parties that will be involved with the controlled burning process. (Rule 6. replaced by Ord. #777, Dec. 2004)

Rule 7. Incinerator regulation.

Rule 7.1. No person shall cause, suffer, allow or permit discharge of a visible emission from any incinerator with an opacity equal to or in excess of twenty (20) percent for an aggregate of more than three (3) minutes in any one hour or more than twelve (12) minutes in any twenty-four-hour period.

Rule 7.2. No person shall cause, suffer, allow or permit particulate emission from any incinerator in excess of 0.1 pounds per one hundred (100) pounds charge or in excess of the following:

<u>Input</u> (Lbs. Per Hour)	<u>Maximum Allowable Emissions</u> (Grains Per Std. Dry Cu. Ft.)
0-5000	0.20
5001 & above	0.15

Test results shall be calculated (1) to twelve (12) percent carbon dioxide for products of combustion, (2) to standard conditions. This limitation shall be met when the incinerator is operating at full load. In measuring emissions from incinerators the carbon dioxide produced by combustion of any liquid or gaseous fuels shall be excluded from the calculation to a maximum of twelve (12) percent carbon dioxide.

Tests to determine compliance with this rule shall be conducted as provided in §§ 8-703, 8-708, and 8-711 of this chapter.

Rule 7.3. All incinerators constructed after October 14, 1969, shall be of the multiple chamber design consisting of three or more refractory lined combustion furnaces connected in series and when operating shall (1) create a preignition temperature of eight hundred (800) degrees Fahrenheit in the primary furnace and (2) maintain a temperature of fifteen hundred (1500) degrees Fahrenheit in the secondary furnace.

Designs other than those outlined above shall be considered on an individual basis and will be exempt from these provisions, if said design results in performance which meets the standards set forth in Rules 7.1 and 7.2 above.

Rule 7.4. [Reserved.]

Rule 7.5. On and after March 1, 1973, the person in responsible charge of the operation of an incinerator must be licensed by the bureau. Such license shall be issued only after a passing score is received on a standardized test to be devised and administered by the bureau. The bureau shall test persons on their knowledge of the principles of incineration, including but not necessarily limited to the subjects of preignition, firing and cleaning. The bureau shall have the power to collect a one-time fee of twenty dollars (\$20.00) pursuant to the issuance of such license. Said fee shall be remitted to the fiscal agent of the board. The director shall have authority to suspend or revoke such license if the person holding such license willfully or by reason of incompetence violates any provision of this chapter. No license issued in accordance with the provisions of this rule shall be assignable or transferable. The failure to issue a license, or suspension or revocation of such license shall be an order or determination of the director within the meaning of § 8-718(e) of this chapter.

Rule 8. Fuel-burning equipment regulations.

Rule 8.1. No person shall cause, suffer, allow or permit the emission of air contaminants from fuel-burning equipment built or installed before January 1, 1973, in excess of that provided in Schedule 1 of Table 1 and the provisions of Rule 8.3.

Rule 8.2. No person shall cause, suffer, allow or permit the emission of air contaminants from fuel-burning equipment built or installed on and after January 1, 1973, in excess of that provided in Schedule 2 of Table 1.

Rule 8.3. The emission or escape into the open air of fly ash, particulate matter or other air contaminants, resulting from the combustion of fuel, from any fuel-burning equipment or from any stack connected thereto, in quantities exceeding the limits specified in Table 1 for the size of equipment involved is prohibited. The emission limitations specified in Table 1 are the maximum allowable emission in any consecutive sixty-minute period. The limitations, subject to linear interpolation, are to be conformed to when the fuel-burning equipment is operating at the maximum design heat input rating. The heat input rating of any unit discharging to a single stack shall be the maximum design input rating, including both heat available

from burning of fuel and any sensible heat from materials introduced into the combustion zone at temperatures above the ambient air temperature. When two (2) or more fuel-burning units are connected to a single stack, the combined fuel-burning capacity of all units connected to the stack denotes the size of equipment in terms of BTU input for establishing the maximum allowable emissions. When one (1) fuel-burning unit is connected to two (2) or more stacks, the heat input of the equipment shall be the criterion for the maximum allowable total emission from all stacks combined.

Tests to determine compliance with this rule shall be conducted as provided in §§ 8-703, 8-708 and 8-711 of this chapter.

Rule 8.4. Fuel-burning equipment located in dwellings designed for not more than two (2) families are exempt from the operation of Rule 8.

**TABLE 1**  
**EMISSION LIMITATIONS FOR FUEL-BURNING EQUIPMENT**

Use the following formulas:

Equipment Rating (10 <sup>6</sup> BTU/hr.)	<u>Maximum Allowable Particulate</u> <u>Emissions (lbs./10<sup>6</sup> BTU/hr.)</u>	
	<u>Schedule 1</u>	<u>Schedule 2</u>
Below 10	Q=0.6 x B	Q=0.6 x B
10 to 250	Q=1.09 x B <sup>0</sup> .7406	Q=2.16 x B <sup>0</sup> .4434
250 and above	Q=1.09 x B <sup>0</sup> .7406	Q=0.1 x B

Where Q = maximum allowable particulate emission in pounds per hour.

Where B = the burning rate in 10<sup>6</sup> BTU/hr.

Determine intermediate values by linear interpolation.

Rule 9. Regulation of visible emissions from internal combustion engines.

Rule 9.1. No person shall cause, suffer, allow or permit the emission of visible air contaminants from any spark ignition engine of ten (10) brake horsepower or more:

- (1) For a period of time exceeding ten (10) seconds; or
- (2) After the vehicle has moved one hundred (100) yards or more from its initial starting point.

Rule 9.2. No person shall cause, suffer, allow or permit the visible emission of air contaminants from a diesel type engine for a period of more than sixty (60) consecutive seconds in excess of twenty (20) percent opacity.

Rule 9.3. Responsibility for compliance with Rules 9.1 and 9.2 applies to the owner, the registered owner, the lessee and the operator, individually, and each shall be jointly or severally liable for violation of these rules and subject to the fines and penalties of this chapter.

Rule 9.4. Reserved.

Rule 9.5. Testing in the outdoor atmosphere of internal combustion engines which have been or are to be repaired will be allowed if such tests are performed on the premises of the repairing facility.

Rule 9.6. No motor vehicle which is equipped with a pollution control device shall be modified or altered in any manner which will decrease its efficiency or effectiveness in the control of air pollution.

Rule 9.7. No diesel engine which supplies motive power to a vehicle shall be allowed to idle more than five (5) consecutive minutes when the vehicle is not in motion, except when the vehicle is forced to remain motionless because of traffic conditions over which the operator has no control; provided, however, that any diesel engine which supplies motive power to a truck or locomotive shall be allowed to idle for more than five (5) consecutive minutes when it is at a distance in excess of five hundred (500) feet from the nearest residential, recreational, institutional, retail sales, hotel or educational premises.

Rule 10. Process emissions regulations.

Rule 10.1. All installations, operations or equipment, except fuel-burning equipment and incinerators, from which any air contaminant is, or may be, emitted or permitted to escape into the open air, shall comply with the provisions of this rule. The emission limitations specified in Table 2 are the maximum allowable emissions in any consecutive sixty-minute period.

Rule 10.2. No person shall cause, suffer, allow or permit emission from any air contaminant source built or installed before the first day of January, 1973, in excess of that provided in Schedule 2 of Table 2.

Rule 10.3. No person shall cause, suffer, allow or permit emission from any air contaminant source built or installed on and after January 1, 1973, in excess of that provided in Schedule 2 of Table 2.

Rule 10.4. Tests to determine compliance with this Rule 10 shall be conducted as provided in §§ 8-703, 8-708 and 8-711 of this chapter; provided, however, that compliance with this Rule 10 does not exempt such persons from compliance with any other rule or section of this chapter applicable to emissions.

Rule 10.5. Reserved.

Rule 10.6. Any other provision of this chapter notwithstanding, no person shall cause, suffer, allow or permit the discharge of particulate emissions from any asphalt plant with an input process weight rate greater than two hundred thousand (200,000) pounds per hour in excess of 51.2 pounds per hour.

Rule 10.7. Irrespective of the maximum allowable particulate emission limitations contained in Table 2 of this Rule 10, no person shall cause, suffer, allow or permit the discharge of particulate emissions from process equipment in excess of 0.25 grains per cubic foot of stack gases corrected to seventy (70) degrees Fahrenheit and one (1) atmosphere. This Rule 10.7 shall not apply to vents from storage tanks for liquids.

TABLE 2  
PARTICULATE MATTER EMISSION LIMITATIONS FOR PROCESS EQUIPMENT

Input Process Weight Lbs./hour	Input Process Weight Tons/hour	Maximum Allowable Emission Rate Schedule 1 <sup>1</sup>	Maximum Allowable Emission Rate Schedule 2 <sup>2</sup>
50	0.025	0.346	0.36
100	0.05	0.551	0.55
200	0.10	0.877	0.86
400	0.20	1.40	1.32
600	0.30	1.83	1.70
800	0.40	2.22	2.03
1,000	0.50	2.58	2.34
1,500	0.75	3.38	3.00
2,000	1.00	4.10	3.59
2,500	1.25	4.76	4.12
3,000	1.50	5.38	4.62
3,500	1.75	5.96	5.08
4,000	2.00	6.52	5.52
5,000	2.50	7.58	6.34
6,000	3.00	8.56	7.09
7,000	3.50	9.49	7.81
8,000	4.00	10.4	8.50
9,000	4.50	11.2	9.10
10,000	5.00	12.0	9.70
12,000	6.00	13.6	10.9
16,000	8.00	16.5	13.0
18,000	9.00	17.9	14.0
20,000	10.00	19.2	15.0
30,000	15.00	25.2	19.2
40,000	20.00	30.5	23.0

TABLE 2  
PARTICULATE MATTER EMISSION LIMITATIONS FOR PROCESS EQUIPMENT

50,000	25.00	35.4	26.4
60,000	30.00	40.0	29.6
70,000	35.00	41.3	30.6
80,000	40.00	42.5	31.2
90,000	45.00	43.6	31.8
100,000	50.00	44.6	32.4
120,000	60.00	46.3	33.3
140,000	70.00	47.8	34.2
160,000	80.00	49.0	34.9
200,000	100.00	51.2	36.1
1,000,000	500.00	69.0	46.7
2,000,000	1,000.00	77.6	52.3
6,000,000	3,000.00	92.7	62.3

<sup>1</sup>Interpolation of the data in Schedule 1 for process weight rates up to 60,000 lbs/hour shall be accomplished by using the following equation:  $E=4.10 P^{0.67}$ .

Interpolation and extrapolation of the data for process weight rates in excess of 60,000 lbs/hour shall be accomplished by using the following equation:

$$E=55.0 P^{0.11} - 40$$

Where: E= Maximum allowable emission rate in lbs/hour

P = Process weight rate in tons/hour

<sup>2</sup>Interpolation of the data in Schedule 2 for process weight rates up to 60,000 lbs/hour shall be accomplished by the use of the following equation:

$$E=3.59 P^{0.62}$$

Interpolation and extrapolation of the data for process weight rates in excess of 60,000 lbs/hour shall be accomplished by the use of the following equation:

$$E=17.31 P^{0.16}$$

Where: E=Maximum allowable emission rate in lbs/hour, and

P=Process weight rate in tons per hour

**Rule 11. Regulation of transporting and material handling in open air.**

**Rule 11.1.** No person shall cause or permit the handling, processing, or storage of any material in the open air in a manner which allows or may



allow particulate matter to become airborne which exceeds twenty (20) percent opacity for more than three (3) minutes in any consecutive sixty-minute period, or more than twenty (20) minutes in any twenty-four hour period.

Rule 11.2. No person shall cause or permit a building or its appurtenances, a road, a driveway, a parking area, or an open area to be constructed, used, repaired or demolished without applying all such reasonable measures as may be required to prevent particulate matter from becoming airborne. The director may require such reasonable measures as may be necessary to prevent particulate matter from becoming airborne including but not limited to paving or cleaning of roads, driveways and parking areas; by the application of dust-free surfaces; by the application of water; and by the planting and maintenance of vegetative ground cover.

Rule 11.3. No person shall transport any material in the open air in a manner which allows or may allow particulate matter to become airborne beyond the boundary line of the property of the person doing the transporting.

Rule 12. Regulation of odors in the ambient air.

Rule 12.1. An odor will be deemed "objectionable" when fifteen (15) percent or more of the people exposed to it believe it to be objectionable in usual places of occupancy based on a sample size of at least twenty (20) people or if fewer than twenty (20) people are exposed, when a minimum of three (3) people exposed to it believe it to be objectionable.

Rule 12.2. No person shall cause, suffer, allow or permit emission such as to cause an "objectionable" odor on or adjacent to residential, recreational, institutional, retail sales, hotel or educational premises.

Rule 12.3. No person shall cause, suffer, allow or permit emission such as to cause an "objectionable" odor on or adjacent to premises other than those listed in Rule 12.2, unless the odor is not detectable where air containing such odorous matter is diluted with a maximum of four (4) equal volumes of odor-free air.

Rule 13. Regulation of sulfur oxides.

Rule 13.1. No person shall cause, suffer, allow or permit the emission of gas containing sulfur dioxide from any source, except fuel-burning equipment, in excess of five hundred (500) ppm.

Rule 13.2. No person shall cause, suffer, allow or permit the emission from fuel-burning equipment of sulfur dioxide gas in excess of four (4) pounds per million BTU of fuel consumed in the equipment.

Rule 13.3. All sampling of exhaust gases from any source of sulfur dioxide, and all analyses of samples to determine the amount of sulfur dioxide in exhaust gases, shall be conducted as specified by techniques promulgated by the board.

Rule 13.4. For the purposes of this Rule 13, all sulfur present in gaseous compounds and containing oxygen shall be deemed to be present as sulfur dioxide.

Rule 13.5. Compliance with this Rule 13 shall not relieve a person from the requirements of Rule 12 or from the requirements of any other rules or provisions of this chapter.

Rule 14. Nuisances.

Rule 14.1. No person shall cause, suffer, allow or permit or fail to take reasonable steps to abate or terminate the discharge from any source whatsoever of air contaminants or other material which shall cause injury, detriment, nuisance, or annoyance of the public or which endanger the comfort, repose, health or safety of the public or which cause or have a tendency to cause injury or damage to business or property.

Rule 14.2. No person shall cause, suffer, allow or permit or fail to take reasonable steps to abate or terminate the discharge from any source whatsoever of air contaminants or water or steam or a combination of such which cause, or combine with natural elements to cause, the reduction of visibility across any road or thoroughfare to such an extent as to cause a hazard.

14.3. Nothing in any other section of this chapter relating to regulation of emission or pollutants shall in any manner be construed as authorizing or legalizing the creation or maintenance of a nuisance as described in this Rule 14 or as may otherwise be deemed by law to be a nuisance.

Rule 15. New source performance standards.

Rule 15.1. The emissions standards, limitations, prohibitions, and requirements for new sources contained in Title 40 Code of Federal Regulations Part 60--Standards of Performances for New Stationary Sources and its included appendices (Revised as of July 1, 1996), except for Subpart B--Adoption and Submittal of State Plans for Designated Facilities, and 62 FR 48383-48391, September 15, 1997, are hereby incorporated by reference in Chapter 7 as requirements of this municipality.

Subpart A	--	General Provisions
Subpart C	--	Emission Guidelines and Compliance Times
Subpart Ca	--	Emissions Guidelines and Compliance Times for Municipal Waste Combustors
Subpart Cb	--	Emission Guidelines and Compliance Times for Sulfuric Acid Production Units
Subpart D	--	Standards of Performance for Fossil-Fuel Fired Steam Generators for Which Construction is Commenced After August 17, 1971
Subpart Da	--	Standards of Performance for Electric Utility Steam Generating Units for Which Construction is Commenced After September 18, 1978

Subpart Db	--	Standards of Performance for Industrial-Commercial-Institutional Steam Generating Units
Subpart Dc	--	Standards of Performance for Small Industrial-Commercial-Institutional Steam Generating Units
Subpart E	--	Standards of Performance for Incinerators
Subpart Ea	--	Standards of Performance for Municipal Waste Combustors
Subpart F	--	Standards of Performance for Portland Cement Plants
Subpart G	--	Standards of Performance for Nitric Acid Plants
Subpart H	--	Standards of Performance for Sulfuric Acid Plants
Subpart I	--	Standards of Performance for Asphalt Concrete Plants
Subpart J	--	Standards of Performance for Petroleum Refineries
Subpart K	--	Standards of Performance for Storage Vessels for Petroleum Liquids for Which Construction, Reconstruction, or Modification Commenced After June 11, 1973, and Prior to May 19, 1978
Subpart Ka	--	Standards of Performance for Storage Vessels for Petroleum Liquids for Which Construction, Reconstruction, or Modification Commenced After May 18, 1978, and Prior to July 23, 1984
Subpart Kb	--	Standards of Performance for Volatile Organic Liquid Storage Vessels (Including Petroleum Liquid Storage Vessels) for Which Construction, Reconstruction, or Modification Commenced after July 23, 1984
Subpart L	--	Standards of Performance for Secondary Lead Smelters
Subpart M	--	Standards of Performance for Secondary Brass and Bronze Production Plants
Subpart N	--	Standards of Performance for Primary Emissions from Basic Oxygen Process Furnaces (sic) for Which Construction is Commenced After June 11, 1973
Subpart Na	--	Standards of Performance for Secondary Emissions from Basic Oxygen Process Steelmaking Facilities for Which Construction is Commenced After January 20, 1983
Subpart O	--	Standards of Performance for Sewage Treatment Plants
Subpart P	--	Standards of Performance for Primary Copper Smelters
Subpart Q	--	Standards of Performance for Primary Zinc Smelters
Subpart R	--	Standards of Performance for Primary Lead Smelters
Subpart S	--	Standards of Performance for Primary Aluminum Reduction Plants
Subpart T	--	Standards of Performance for the Phosphate Fertilizer Industry: Wet-Process Phosphoric Acid Plants
Subpart U	--	Standards of Performance for the Phosphate Fertilizer Industry: Superphosphoric Acid Plants

Subpart V	--	Standards of Performance for the Phosphate Fertilizer Industry: Diammonium Phosphate Plants
Subpart W	--	Standards of Performance for the Phosphate Fertilizer Industry: Triple Superphosphate Plants
Subpart Y	--	Standards of Performance for Coal Preparation Plants
Subpart Z	--	Standards of Performance for Ferroalloy Production Facilities
Subpart AA	--	Standards of Performance for Steel Plants: Electric Arc Furnaces Constructed After October 21, 1974 and on or Before August 17, 1983
Subpart AAa	--	Standards of Performance for Steel Plants: Electric Arc Furnaces and Argon-Oxygen Decarburization Vessels Constructed After August 7, 1983
Subpart BB	--	Standards of Performance for Kraft Pulp Mills
Subpart CC	--	Standards of Performance for Glass Manufacturing Plants
Subpart DD	--	Standards of Performance fo (sic) Grain Elevators
Subpart EE	--	Standards of Performance for Surface Coating of Metal Furniture
Subpart FF	--	(Reserved)
Subpart GG	--	Standards of Performance for Stationary Gas Turbines
Subpart HH	--	Standards of Performance for Lime Manufacturing Plants
Subpart KK	--	Standards of Performance for Lead-Acid Battery Manufacturing Plants
Subpart LL	--	Standards of Performance for Metallic Mineral Processing Plants
Subpart MM	--	Standards of Performance for Automobile and Light-Duty Truck Surface Coating Operations
Subpart NN	--	Standards of Performance for Phosphate Rock Plants
Subpart PP	--	Standards of Performance for Ammonium Sulfate Manufacture
Subpart QQ	--	Standards of Performance for the Graphic Arts Industry: Publication Rotogravure Printing
Subpart RR	--	Standards of Performance for Pressure Sensitive Tape and Label Surface Coating Operations
Subpart SS	--	Standards of Performance for Industrial Coating: Large Appliances
Subpart TT	--	Standards of Performance for Metal Coil Surface Coating
Subpart UU	--	Standards of Performance for Asphalt Processing and Asphalt Roofing Manufacture
Subpart VV	--	Standards of Performance for Equipment Leaks of VOC in the Synthetic Organic Chemicals Manufacturing Industry
Subpart WW	--	Standards of Performance for the Beverage Can Surface Coating Industry

Subpart XX	--	Standards of Performance for Bulk Gasoline Terminals
Subpart AAA	--	Standards of Performance for New Residential Wood Heaters
Subpart BBB	--	Standards of Performance for the Rubber Tire Manufacturing Industry
Subpart CCC	--	(Reserved)
Subpart DDD	--	Standards of Performance for Volatile Organic Compound (VOC) Emissions from the Polymer Manufacturing Industry
Subpart EEE	--	(Reserved)
Subpart FFF	--	Standards of Performance for Flexible Vinyl and Urethane Coating and Printing
Subpart GGG	--	Standards of Performance for Equipment Leaks of VOC in Petroleum Refineries
Subpart HHH	--	Standards of Performance for Synthetic Fiber Production Facilities
Subpart III	--	Standards of Performance for Volatile Organic Compound (VOC) Emissions from the Synthetic Organic Chemical Manufacturing Industry (SOCMI) Air Oxidation Unit Processes
Subpart JJJ	--	Standards of Performance for Petroleum Dry Cleaners
Subpart KKK	--	Standards of Performance for Equipment Leaks of VOC from Onshore Natural Gas Processing Plants
Subpart LLL	--	Standards of Performance for Onshore Natural Gas Processing; SO <sub>2</sub> Emissions
Subpart MMM	--	(Reserved)
Subpart NNN	--	Standards of Performance for Volatile Organic Compound (VOC) Emissions from Synthetic Organic Chemical Manufacturing Industry (SOCMI) Distillation Operations
Subpart OOO	--	Standards of Performance for Nonmetallic Mineral Processing Plants
Subpart PPP	--	Standards of Performance for Wool Fiberglass Insulation Manufacturing Plants
Subpart QQQ	--	Standards of Performance for VOC Emissions From Petroleum Refinery Wastewater Systems
Subpart RRR	--	(Reserved)
Subpart SSS	--	Standards of Performance for Magnetic Tape Coating Facilities
Subpart TTT	--	Standards of Performance for Industrial Surface Coating: Surface Coating of Plastic Parts for Business Machines
Subpart VVV	--	Standards of Performance for Polymeric Coating of Supporting Substrates Facilities

- Subpart X -- Standards of Performance for the Phosphate Fertilizer Industry: Granular Triple Superphosphate Storage Facilities
- Subpart UUU -- Standards of Performance for Calciners and Dryers in Mineral Industries
- Subpart Ec -- Standards of Performance for Hospital/Medical/ Infectious Waste Incinerators for Which Construction Is Commenced After June 20, 1996

Appendices A through I

Rule 15.2. Wherever the term "Administrator" is used in the new source performance standards, the term "Chattanooga-Hamilton County Air Pollution Control Board or director of the Chattanooga-Hamilton County Air Pollution Control Bureau" shall be substituted, where appropriate, for the purposes of Rule 15.

Rule 15.3. Emissions Standards for Municipal Solid Waste Landfills.

(a) Definitions. All terms in this rule shall have the meaning given them herein, and all terms not defined herein shall have the meaning given them in § 8-702.

(1) "Existing municipal solid waste (MSW) landfill or existing MSW landfill" means an entire disposal facility in a contiguous geographical space where household waste is placed in or on land for which construction, reconstruction or modification was commenced before the effective date of this ordinance. (It should be noted that federal regulations control for sources where construction, reconstruction or modification was commenced before the effective date of this ordinance.) An existing MSW landfill may also receive other types of wastes described in Subtitle D of the Resource Conservation and Recovery Act of 1976 (RCRA), as amended, (Title 42 U.S.C. § 6901 et seq.) such as commercial solid waste, nonhazardous sludge, conditionally exempt small quantity generator waste, and industrial solid waste. Portions of an existing MSW landfill may be separated by access roads. An existing MSW landfill may be publicly or privately owned. Physical or operational changes made to an existing MSW landfill solely to comply with these emission guidelines are not considered a modification or reconstruction and would not subject an existing MSW landfill to the requirements for a new MSW landfill. Activities required by or conducted pursuant to a remedial action pursuant to Title 42 U.S.C. § 9601 et seq. (CERCLA), Title 42 U.S.C. § 6901 et seq. (RCRA), or State remedial action are not considered construction, reconstruction, or modification for purposes of Rule 15.3. For purposes of obtaining an operating permit under Article III. of Chapter 7, Part 70 Source Regulation and Permits, the owner or operator of a MSW landfill subject to Rule 15.3 with a design capacity less than 2.5 million megagrams or 2.5 million cubic meters is not

subject to the requirement to obtain an operating permit for the landfill under Article III unless the landfill is otherwise subject to Article III. For purposes of submitting a timely application for an operating permit under Article III. Part 70 Source Regulation and Permits, the owner or operator of a MSW landfill subject to Rule 15.3 with a design capacity greater than or equal to 2.5 million megagrams and 2.5 million cubic meters on the effective date of approval by U.S. EPA of Rule 15.3, and not otherwise subject to Article III, becomes subject to the requirements of § 8-756(a)(i) or Title 40 CFR § 71.5(a)(1)(I) 90 days after the effective date of such approval, even if the design capacity report is submitted earlier.

(2) "New municipal solid waste (MSW) landfill or new MSW landfill" means an entire disposal facility in a contiguous geographical space where household waste is placed in or on land for which construction, reconstruction or modification was commenced on or after the effective date of this ordinance. Physical or operational changes made to an existing MSW landfill solely to comply with the provisions of Rule 15.3 that apply to an existing MSW landfill are not considered a modification or reconstruction and would not subject an existing MSW landfill to the requirements in Rule 15.3 for a new MSW landfill. Activities required by or conducted pursuant to a remedial action pursuant to Title 42 U.S.C. § 9601 et seq. (CERCLA), Title 42 U.S.C. § 6901 et seq. (RCRA), or State remedial action are not considered construction, reconstruction, or modification for purposes of Rule 15.3. For purposes of obtaining an operating permit under Article III. Part 70 Source Regulation and Permits, the owner or operator of a MSW landfill subject to Rule 15.3 with a design capacity less than 2.5 million megagrams or 2.5 million cubic meters is not subject to the requirement to obtain an operating permit for the landfill under Article III., unless the landfill is otherwise subject to Article III. For purposes of submitting a timely application for an operating permit under Article III. Part 70 Source Regulation and Permits, the owner or operator of a MSW landfill subject to Rule 15.3 with a design capacity greater than or equal to 2.5 megagrams and 2.5 million cubic meters on the effective date of approval by U.S. EPA of Rule 15.3, and not otherwise subject to Article III., becomes subject to the requirements of § 8-756(a)(1)(i) 90 days after the effective date of such approval, even if the design capacity report is submitted earlier.

(3) "Active Collection System" means a gas collection system that uses gas mover equipment.

(4) "Active Landfill" means a landfill in which solid waste is being placed or a landfill that is planned to accept waste in the future.

(5) "Closed Landfill" means a landfill in which solid waste is no longer being placed, and in which no additional solid wastes will be

placed without first filing a notification of modification as prescribed under Title 40 CFR § 60.7(a)(4), which has been incorporated by reference in Chapter 7. Once a notification of modification has been filed, and additional solid waste is placed in the landfill, the landfill is no longer closed. When a MSW landfill subject to Rule 15.3 is closed, the owner or operator is no longer subject to the requirement of maintaining a Part 70 operating permit under Article III of this ordinance for the landfill if the landfill is not otherwise subject to the requirements of Article III and if either of the following conditions are met:

a. The landfill was never subject to the requirements for a control system under Title 40 CFR § 60.33c(c), which has been incorporated by reference in Chapter 7; or

b. The owner or operator meets the conditions for control system removal specified in Rule 15.3(b)(2)b.5.

(6) "Closure" means that point in time when a landfill becomes a closed landfill.

(7) "Commercial Solid Waste" means all types of solid waste generated by stores, offices, restaurants, warehouses, and other nonmanufacturing activities, excluding residential and industrial wastes.

(8) "Controlled Landfill" means any landfill at which collection and control systems are required under Rule 15.3 as a result of the nonmethane organic compounds emission rate. The landfill is considered controlled at the time a collection and control system design plan is submitted in compliance with Rule 15.3(b)(2)b.

(9) "Design Capacity" means the maximum amount of solid waste a landfill can accept, as indicated in terms of volume or mass in the most recent construction or operating permit issued by the State or local agency responsible for regulating the landfill plus any in-place waste not accounted for in the most recent permit. If the owner or operator chooses to convert the design capacity from volume to mass or from mass to volume to demonstrate its design capacity is less than 2.5 million Mg. or 2.5 million cubic meters, the calculation must include a site specific density, which must be recalculated annually.

(10) "Disposal Facility" means all contiguous land and structures, other appurtenances, and improvements on the land used for the disposal of solid waste.

(11) "Emission Rate Cutoff" means the threshold annual emission rate to which a landfill compares its estimated emission rate to determine if control under the regulation is required.

(12) "Enclosed Combustor" means an enclosed firebox which maintains a relatively constant limited peak temperature generally



using a limited supply of combustion air. An enclosed flare is considered an enclosed combustor.

(13) "Flare" means an open combustor without enclosure or shroud.

(14) "Gas Mover Equipment" means the equipment (i.e., fan, blower, compressor) used to transport landfill gas through the header system.

(15) "Household Waste" means any solid waste (including garbage, trash, and sanitary waste in septic tanks) derived from households (including, but not limited to, single and multiple residences, hotels and motels, bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds, and day-use recreation areas).

(17) "Industrial Solid Waste" means solid waste generated by manufacturing or industrial processes that is not a hazardous waste regulated under Subtitle C of the Resource Conservation and Recovery Act, Title 40 CFR Part 264 and Part 265. Such waste may include, but is not limited to, waste resulting from the following manufacturing processes: electric power generation; fertilizer/agricultural chemical; food and related products/by-products; inorganic chemicals; iron and steel manufacturing; leather and leather products; nonferrous metals manufacturing/foundries; organic chemicals; plastics and resins manufacturing; pulp and paper industry; rubber and miscellaneous plastic products; stone, glass, clay, and concrete products; textile manufacturing; transportation equipment; and water treatment. This term does not include mining waste or oil and gas waste.

(18) "Interior Well" means any well or similar collection component located inside the perimeter of the landfill waste. A perimeter well located outside the landfill waste is not an interior well.

(19) "Landfill" means an area of land or an excavation in which wastes are placed for permanent disposal, and that is not a land application unit, surface impoundment, injection well, or waste pile as those terms are defined under Title 40 CFR § 257.2, which has been incorporated by reference in Chapter 7.

(20) "Lateral Expansion" means a horizontal expansion of the waste boundaries of an existing MSW landfill. A lateral expansion is not a modification unless it results in an increase in the design capacity of the landfill.

(21) "Modification" means an increase in the permitted volume design capacity of the landfill by either horizontal or vertical expansion.

(22) "Municipal Solid Waste (MSW) Landfill or MSW Landfill" means an entire disposal facility in a contiguous geographical space where household waste is placed in or on land. An MSW landfill may also receive other types of RCRA Subtitle D wastes (as defined in Title

40 CFR § 257.2, which has been incorporated by reference in Chapter 7) such as commercial solid waste, nonhazardous sludge, conditionally exempt small quantity generator waste, and industrial solid waste. Portions of an MSW landfill may be separated by access roads. An MSW landfill may be publicly or privately owned. An MSW landfill may be a new MSW landfill, an existing MSW landfill, or a lateral expansion.

(23) "Municipal Solid Waste Landfill Emissions or MSW Landfill Emissions" means gas generated by the decomposition of organic waste deposited in an MSW landfill or derived from the evolution of organic compounds in the waste.

(24) "NMOC" means nonmethane organic compounds, as measured according to the provisions of Rule 15.3(d).

(25) "Nondegradable Waste" means any waste that does not decompose through chemical breakdown or microbiological activity. Examples are, but are not limited to, concrete, municipal waste combustor ash, and metals.

(26) "Passive Collection System" means a gas collection system that solely uses positive pressure within the landfill to move the gas rather than using gas mover equipment.

(27) "Sludge" means any solid, semisolid, or liquid waste generated from a municipal, commercial, or industrial wastewater treatment plant, water supply treatment plant, or air pollution control facility, exclusive of the treated effluent from a wastewater treatment plant.

(28) "Solid waste" means any garbage, sludge from a wastewater treatment plant, water supply treatment plant, or air pollution control facility and other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from industrial, commercial, mining, and agricultural operations, and from community activities, but does not include solid or dissolved material in domestic sewage, or solid or dissolved materials in irrigation return flows or industrial discharges that are point sources subject to permits under Title 33 U.S.C. § 1342, or source, special nuclear, or by-product material as defined by the Atomic Energy Act of 1954, as amended (Title 42 U.S.C. § 2011 *et seq.*)

(29) "Sufficient density" means any number, spacing, and combination of collection system components, including vertical wells, horizontal collectors, and surface collectors, necessary to maintain emission and migration control as determined by measures of performance set forth in Rule 15.3.

(30) "Sufficient extraction rate" means a rate sufficient to maintain a negative pressure at all wellheads in the collection system without causing air infiltration, including any wellheads connected to

the system as a result of expansion or excess surface emissions, for the life of the blower.

(b) Emission Standards.

(1) Each owner or operator of an existing MSW landfill or a new MSW landfill having a design capacity less than 2.5 million megagrams by mass or 2.5 million cubic meters by volume shall submit an initial design capacity report to the director as provided in Rule 15.3(g)(1). The landfill may calculate design capacity in either megagrams or cubic meters for comparison with the exemption values. Any density conversions shall be documented and submitted with the report. Submittal of the initial design capacity report shall fulfill the requirements of Rule 15.3 except as provided for in Rule 15.3(b)(1) and (2).

a. The owner or operator shall submit to the director an amended design capacity report, as provided for in Rule 15.3(g)(1)c.

b. When an increase in the maximum design capacity of a landfill exempted from the provisions of Rule 15.3(b)(2) through Rule 15.3(i) on the basis of the design capacity exemption in Rule 15.3(b)(1) results in a revised maximum design capacity equal to or greater than 2.5 million megagrams and 2.5 million cubic meters, the owner or operator shall comply with the provision of Rule 15.3(b)(2).

(2) Each owner or operator of an MSW landfill having a design capacity equal to or greater than 2.5 million megagrams and 2.5 million cubic meters, shall either comply with Rule 15.3(b)(2)b. or calculate an NMOC emission rate for the landfill using the procedures specified in Rule 15.3(d). The NMOC emission rate shall be recalculated annually, except as provided in Rule 15.3(g). The owner or operator of an MSW landfill subject to Rule 15.3 with a design capacity greater than or equal to 2.5 million megagrams and 2.5 million cubic meters is subject to Article III. of Chapter 7 entitled Part 70 Source Regulation Permits.

a. If the calculated NMOC emission rate is less than 50 megagrams per year, the owner or operator shall:

1. Submit an annual emission report to the director, except as provided for in Rule 15.3(g)(2)a.2.; and

2. Recalculate the NMOC emission rate annually using the procedures specified in Rule 15.3(d)(1)a. until such time as the calculated NMOC emission rate is equal to or greater than 50 megagrams per year, or the landfill is closed.

(i) If the NMOC emission rate, upon recalculation required in Rule 15.3(b)(2)a.2., is

equal to or greater than 50 megagrams per year, the owner or operator shall install a collection and control system in compliance with Rule 15.3(b)(2)b.

(ii) If the landfill is permanently closed, a closure notification shall be submitted to the director and the administrator as provided for in Rule 15.3(g)(4).

b. If the calculated NMOC emission rate is equal to or greater than 50 megagrams per year, the owner or operator shall:

1. Submit a collection and control system design plan prepared by a professional engineer to the director within 1 year after the submittal of an initial or annual NMOC report pursuant to Rule 15.3(g)(2) reporting this NMOC emission rate:

(i) The collection and control system as described in the plan shall meet the design requirements of Rule 15.3(b)(2)b.2.

(ii) The collection and control system design plan shall include any alternatives proposed by the owner or operator to the operational standards, test methods, procedures, compliance measures, monitoring, recordkeeping or reporting provisions of Rule 15.3(c) through (h).

(iii) The collection and control system design plan shall either conform with specifications for active collection systems outlined in Rule 15.3(i) or include a demonstration to the director's satisfaction of the sufficiency of the alternative positions to Rule 15.3(i).

(iv) The director shall review the information submitted under Rule 15.3(b)(2)b.1.(i), (ii) and (iii) and either approve it, disapprove it, or request that additional information be submitted. Because of the many site-specific factors involved with landfill gas system design, alternative systems may be necessary. A wide variety of system designs are possible, such as vertical wells, combination horizontal and vertical collection systems, or horizontal trenches only, leachate collection components, and passive systems.

2. Install a collection and control system that captures the gas generated within the landfill as required under Rule 15.3(b)(2)b.2.(i) or b.2.(ii) and (b)(2)b.3. within

30 months after the first annual report in which the emission rate equals or exceeds 50 megagrams per year, unless Tier 2 or Tier 3 sampling demonstrates that the emission rate is less than 50 megagrams per year, as specified in Rule 15.3(g)(3)a. or b.

(i) An active collection system shall:

(A) Be designed to handle the maximum expected gas flow rate from the entire area of the landfill that warrants control over the intended use period of the gas control or treatment system equipment;

(B) Collect gas from each area, cell, or group of cells in the landfill in which the initial solid waste has been placed for a period of:

(aa) 5 years or more if active;

or

(bb) 2 years or more if closed or at final grade;

(C) Collect gas at a sufficient extraction rate;

(D) Be designed to minimize off-site migration of subsurface gas.

(ii) A passive collection system shall:

(A) Comply with the provisions specified in Rule 15.3(b)(2)b.2.(i)(A), (B), and (D).

(B) Be installed with liners on the bottom and all sides in all areas in which gas is to be collected. The liners shall be installed as required under Title 40 CFR § 258.40, which has been incorporated by reference in Chapter 7.

3. Route all the collected gas to a control system that complies with the requirements in either Rule 15.3(b)(2)b.3.(i), (ii) or (iii).

(i) An open flare designed and operated in accordance with Title 40 CFR § 60.18, which has been incorporated by reference in Chapter 7;

(ii) A control system designed and operated to reduce NMOC by 98 weight percent, or, when an enclosed combustion device is used for control, to either reduce NMOC by 98 weight percent or reduce the outlet NMOC concentration

to less than 20 parts per million by volume, dry basis as hexane at 3 percent oxygen. The reduction efficiency or parts per million by volume shall be established by an initial performance test to be completed no later than 180 days after the initial startup of this approved control system using the test methods specified in Rule 15.3(d)(4).

(A) If a boiler or process heater is used as the control device, the landfill gas stream shall be introduced into the flame zone.

(B) The control device shall be operated within the parameter ranges established during the initial or most recent performance test. The operating parameters to be monitored are specified in Rule 15.3(f).

(iii) Route the collected gas to a treatment system that processes the collected gas for subsequent sale or use. All emissions from any atmospheric vent from the gas treatment system shall be subject to the requirements of Rule 15.3(b)(2)b.3.(i) or (ii).

4. Operate the collection and control device installed to comply with Rule 15.3 in accordance with the provisions of Rule 15.3(c), (e) and (f).

5. The collection and control system may be capped or removed provided that all the conditions of Rule 15.3(b)(2)b.5.(i), (ii), and (iii) are met:

(i) The landfill shall be a closed landfill as defined in Rule 15.3(a)(5). A closure report shall be submitted to the director and administrator as provided in Rule 15.3(g)(4).

(ii) The collection and control system shall have been in operation a minimum of 15 years; and

(iii) Following the procedures specified in Rule 15.3(d)(2), the calculated NMOC gas produced by the landfill shall be less than 50 megagrams per year on three successive test dates. The test dates shall be no less than 90 days apart, and no more than 180 days apart.

(3) Control of emissions from an existing MSW landfill is required and compliance with permitting requirements for Part 70 sources, contained in Article III of Chapter 7 of the East Ridge City Code, is required if the existing landfill meets the following three conditions:

a. The landfill has accepted waste at any time since November 8, 1987, or had additional design capacity available for future waste deposition;

b. The landfill has a design capacity greater than or equal to 2.5 million megagrams and 2.5 cubic meters. The landfill may calculate design capacity in either megagrams or cubic meters for comparison with the exemption values. Any density conversions shall be documented and submitted with the report; and

c. The landfill has a nonmethane organic compound emission rate of 50 megagrams per year or more.

(4) For the purposes of obtaining an operating permit under Article III. of Chapter 7, Part 70 Source Regulation and Permits, the owner or operator of a MSW landfill subject to Rule 15.3 with a design capacity less than 2.5 million megagrams or 2.5 million cubic meters is not subject to the requirement to obtain an operating permit for the landfill under Article III, unless the landfill is otherwise subject to Article III. For purposes of submitting a timely application for an operating permit under Article III., the owner or operator of a MSW landfill subject to Rule 15.3 with a design capacity greater than or equal to 2.5 million megagrams and 2.5 million cubic meters, and not otherwise subject to Article III., becomes subject to the requirements of § 8-756(a)(1), regardless of when the design capacity report is actually submitted, no later than:

a. Ninety days after [the effective date of this ordinance] for MSW landfills that commenced construction, modification or reconstruction before [the effective date of this ordinance];

b. Ninety days after the date of commenced construction, modification, or reconstruction for MSW landfills that commence construction, modification, or reconstruction on or after [the effective date of this ordinance].

(5) When a MSW landfill subject to Rule 15.3 is closed, the owner or operator is no longer subject to the requirement to maintain an operating permit under Article III. for the landfill if the landfill is not otherwise subject to the requirements of Article III. and if either of the following conditions are met:

a. The landfill was never subject to the requirement for a control system under Rule 15.3; or

b. The owner or operator meets the conditions for control system removal specified in Rule 15.3(b)(2)b.5.

c. Operational Standards for Collection and Control Systems.

Each owner or operator of an MSW landfill gas collection system used to comply with the provisions of Rule 15.3(b)(2)b.2. shall:

(1) Operate the collection system such that gas is collected from each area, cell, or group of cells in the MSW landfill in which solid waste has been in place for:

- a. 5 years or more if active; or
- b. 2 years or more if closed or at final grade;

(2) Operate the collection system with negative pressure at each wellhead except under the following conditions:

a. A fire or increased well temperature. The owner or operator shall record instances when positive pressure occurs in efforts to avoid a fire. These records shall be submitted with the annual reports as provided in Rule 15.3(g)(6)a.;

b. Use of a geomembrane or synthetic cover. The owner or operator shall develop acceptable pressure limits in the design plan;

c. A decommissioned well. A well may experience a static positive pressure after shutdown to accommodate for declining flows. All design changes shall be approved by the director.

(3) Operate each interior wellhead in the collection system with a landfill gas temperature less than 55° C and with either nitrogen level less than 20 percent or an oxygen level less than 5 percent. The owner or operator may establish a higher operating temperature, nitrogen, or oxygen value at a particular well. A higher operating value demonstration shall show supporting data that the elevated parameter does not cause fires or significantly inhibit anaerobic decomposition by killing methanogens.

a. The nitrogen level shall be determined using Method 3C as described in § 8-703(c)(3) of Chapter 7, unless an alternative test method is established as allowed by Rule 15.3(b)(2)b.1.

b. Unless an alternative test method is established as allowed by Rule 15.3(b)(2)b.1., the oxygen shall be determined by an oxygen meter using Method 3A as described in § 8-703(c)(3) except that:

1. The span shall be set so that the regulatory limit is between 20 and 50 percent of the span;
2. A data recorder is not required;
3. Only two calibration gases are required, a zero and span, and ambient air may be used as the span;
4. A calibration error check is not required;
5. The allowable sample bias, zero drift, and calibration drift are  $\pm 10$  percent.



(4) Operate the collection system so that the methane concentration is less than 500 parts per million above background at the surface of the landfill. To determine if this level is exceeded, the owner or operator shall conduct surface testing around the perimeter of the collection area and along a pattern that traverses the landfill at 30 meter intervals and where visual observations indicate elevated concentrations of landfill gas, such as distressed vegetation and cracks or seeps in the cover. The owner or operator may establish an alternative traversing pattern that ensures equivalent coverage. A surface monitoring design plan shall be developed that includes a topographical map with the monitoring route and the rationale for any site-specific deviations from the 30 meter intervals. Areas with steep slopes or other dangerous areas may be excluded from the surface testing.

(5) Operate the system such that all collected gases are vented to a control system designed and operated in compliance with Rule 15.3(b)(2)b.3. In the event the collection or control system is inoperable, the gas mover system shall be shut down and all valves in the collection and control system contributing to venting of the gas to the atmosphere shall be closed within 1 hour.

(6) Operate the control or treatment system at all times when the collected gas is routed to the system.

(7) If monitoring demonstrates that the operational requirements in Rule 15.3(c)(2), (3) or (4) are not met, corrective action shall be taken as specified in Rule 15.3(e)(1)c., d. and e. or Rule 15.3(e)(3). If corrective actions are taken as specified in Rule 15.3(e), the monitored exceedance is not a violation of the operational requirements of Rule 15.3(c).

(d) Test methods and procedures.

(1) a. The landfill owner or operator shall calculate the NMOC emission rate using either the equation provided in Rule 15.3(d)(1)a.1. or the equation provided in Rule 15.3(d)(1)a.2. Both equations may be used if the actual year-to-year solid waste acceptance rate is known, as specified in Rule 15.3(d)(1)a.1., for part of the life of the landfill and the actual year-to-year solid waste acceptance rate is unknown, as specified in Rule 15.3(d)(1)a.2., for part of the life of the landfill. The values to be used in both equations are 0.05 per year for  $k$ , 170 cubic meters per megagram for  $L_0$ , and 4,000 parts per million by volume as hexane for the  $C_{\text{NMOC}}$ . For landfills located in geographical areas with a thirty year annual average precipitation of less than 25 inches, as measured at the nearest representative official meteorologic site, the  $k$  value to be used is 0.02 per year.

1. The following equation shall be used if the actual year-to-year solid waste acceptance rate is known.

$$M_{\text{NMOC}} = \sum_{i=1}^n 2 k L_0 M_i (e^{-kt_i}) (C_{\text{NMOC}}) (3.6 \times 10^{-9})$$

where,

$$M_{\text{NMOC}} = \text{Total NMOC emission rate from the landfill, megagrams per year}$$

$$k = \text{Methane generation rate constant, year}^{-1}$$

$$L_0 = \text{Methane generation potential, cubic meters per megagram solid waste}$$

$$M_i = \text{Mass of solid waste in the } i^{\text{th}} \text{ section, megagrams}$$

$$t_i = \text{Age of the } i^{\text{th}} \text{ section, years}$$

$$C_{\text{NMOC}} = \text{Concentration of NMOC, parts per million by volume as hexane}$$

$$3.6 \times 10^{-9} = \text{Conversion factor}$$

The mass of nondegradable solid waste may be subtracted from the total mass of solid waste in a particular section of the landfill when calculating the value for  $M_i$  if the documentation of the nature and amount of such wastes is maintained.

2. The following equation shall be used if the actual year-to-year solid waste acceptance rate is unknown.

$$M_{\text{NMOC}} = 2L_0 R (e^{-ke} - e^{-kt}) (C_{\text{NMOC}}) (3.6 \times 10^{-9})$$

where,

$$M_{\text{NMOC}} = \text{Mass emission rate of NMOC, megagrams per year}$$

$$L_0 = \text{Methane generation potential, cubic meters per megagram solid waste}$$

$$R = \text{Average annual acceptance rate, megagrams per year}$$

$$k = \text{Methane generation rate constant, year}^{-1}$$

$$t = \text{Age of landfill, years}$$

$$C_{\text{NMOC}} = \text{Concentration of NMOC, parts per million by volume as hexane}$$

$$c = \text{Time since closure, years. For active landfill } c = 0 \text{ and } e^{-kc} = 1$$

$$3.6 \times 10^{-9} = \text{Conversion factor}$$

The mass of nondegradable solid waste may be subtracted from the total mass of solid waste in a particular

section of the landfill when calculating a value for R, if documentation of the nature and amount of such wastes is maintained.

b. Tier 1. The owner or operator shall compare the calculated NMOC mass emission rate to the standard of 50 megagrams per year.

1. If the NMOC emission rate calculated in Rule 15.3(d)(1)a. is less than 50 megagrams per year, then the landfill owner shall submit an emission rate report as provided in Rule 15.3(g)(2)a. and shall recalculate the NMOC mass emission rate annually as required by Rule 15.3(b)(2)a.

2. If the calculated NMOC emission rate is equal to or greater than 50 megagrams per year, then the landfill owner shall either comply with Rule 15.3(b)(2)b. or determine a site-specific NMOC concentration and recalculate the NMOC emission rate using the procedures provided in Rule 15.3(d)(1)c.

c. Tier 2. The landfill owner or operator shall determine the NMOC concentration using the following sampling procedure. The landfill owner or operator shall install at least two sample probes per hectare of landfill surface that has retained waste for at least 2 years. If the landfill is larger than 25 hectares in area, only 50 samples are required. The sample probes should be located to avoid known areas of nondegradable solid waste. The owner or operator shall collect and analyze one sample of landfill gas from each probe to determine the NMOC concentration using Title 40 CFR Part 60, Appendix A, Method 25C or Method 18, which have been incorporated by reference in Chapter 7 and are described in § 8-703(c)(3). If using Method 18 of Appendix A, the minimum list of compounds to be tested shall be those published in the Fifth Edition January, 1995 U.S. Environmental Protection Agency Compilation of Air Pollutant Emission Factors (AP-42). If composite sampling is used, equal volumes shall be taken from each sample probe. If more than the required number of samples are taken, all samples shall be used in the analysis. The landfill owner or operator shall divide the NMOC concentration from Method 25C of Appendix A of Title 40 CFR Part 60 by six to convert from  $C_{\text{NMOC}}$  as carbon to  $C_{\text{NMOC}}$  as hexane.

1. The landfill owner or operator shall recalculate the NMOC mass emission rate using the equations provided in Rule 15.3(d)(1)a.1. or a.2. and using the average NMOC concentration from the collected samples instead of the default value in the equation provided in Rule 15.3(d)(1)a.

2. If the resulting mass emission rate calculated using the site-specific NMOC concentration is equal to or greater than 50 megagrams per year, then the landfill owner or operator shall either comply with Rule 15.3(b)(2)b., or determine the site-specific methane generation rate constant and recalculate the NMOC emission rate

using the site-specific methane generation rate using the procedure specified in Rule 15.3(d)(1)d.

3. If the resulting NMOC mass emission rate is less than 50 megagrams per year, the owner or operator shall submit a periodic estimate of the emission rate report as provided in Rule 15.3(g)(2)a. and retest the site-specific NMOC concentration every 5 years using the methods specified in Rule 15.3(d).

d. Tier 3. The site-specific methane generation rate constant shall be determined using the procedures provided in Method 2E of Appendix A of Title 40 CFR Part 60, which has been incorporated by reference in Chapter 7 and is described in § 8-703(c)(3). The landfill owner or operator shall estimate the NMOC mass emission rate using equations in Rule 15.3(d)(1)a.1. or a.2. and using a site-specific methane generation rate constant  $k$ , and the site-specific NMOC concentration as determined in Rule 15.3(d)(1)c. instead of the default values provided in Rule 15.3(d)(1)a. The landfill owner or operator shall compare the resulting NMOC mass emission rate to the standard of 50 megagrams per year.

1. If the NMOC mass emission rate as calculated using the site-specific methane generation rate and concentration of NMOC is equal to or greater than 50 megagrams per year, the owner or operator shall comply with Rule 15.3(b)(2)b.

2. If the NMOC mass emission rate is less than 50 megagrams per year, then the owner or operator shall submit a periodic emission rate report as provided in Rule 15.3(g)(2) and shall recalculate the NMOC mass emission rate annually, as provided in Rule 15.3(g)(2) using the equations in Rule 15.3(d)(1)a. and using the site-specific methane generation rate constant and NMOC concentration obtained in Rule 15.3(d)(1)c. The calculation of the methane generation rate constant is performed only once, and the value obtained from this test shall be used in all subsequent annual NMOC emission rate calculations.

e. The owner or operator may use other methods to determine the NMOC concentration or a site-specific  $k$  as an alternative to the methods required in Rule 15.3(d)(1)c. and d. if the method has been approved by the administrator.

(2) After the installation of a collection and control system in compliance with Rule 15.3(e), the owner or operator shall calculate the NMOC emission rate for purposes of determining when the system can be removed as provided in Rule 15.3(b)(2)b.5. using the following equation:

$$M_{\text{NMOC}} = 1.89 \times 10^{-3} Q_{\text{LFG}} C_{\text{NMOC}}$$

where,

$$M_{\text{NMOC}} = \text{mass emission rate of NMOC, megagrams per year}$$

$$Q_{\text{LFG}} = \text{flow rate of landfill gas, cubic meters per minute}$$

$C_{\text{NMOC}}$  = NMOC concentration, parts per million by volume as hexane

a. The flow rate of landfill gas,  $Q_{\text{LFG}}$ , shall be determined by measuring the total landfill gas flow rate at the common header pipe that leads to the control device using a gas flow measuring device calibrated according to the provisions of Section 4 of Method 2E of Appendix A of Title 40 CFR Part 60, which has been incorporated by reference in Chapter 7 and is described at § 8-703(c)(3).

b. The average NMOC concentration,  $C_{\text{NMOC}}$ , shall be determined by collecting and analyzing landfill gas sampled from the common header pipe before the gas moving or condensate removal equipment using the procedures in Method 25C or Method 18 of Appendix A of Title 40 CFR Part 60, which has been incorporated by reference in Chapter 7 and is described at § 8-73(c)(3). If using Method 18, the minimum list of compounds to be tested shall be those published in the Fifth Edition January 1995 U.S. Environmental Protection Agency Compilation of Air Pollutant Emission Factors (AP-42). The sample location on the common header pipe shall be before any condensate removal or other gas refining units. The landfill owner or operator shall divide the NMOC concentration from Method 25C by six to convert from  $C_{\text{NMOC}}$  as carbon to  $C_{\text{NMOC}}$  as hexane.

c. The owner or operator may use another method to determine landfill gas flow rate and NMOC concentration if the method has been approved by the administrator.

(3) When calculating emissions for PSD purposes, the owner or operator of each MSW landfill subject to the provisions of Rule 15.3 shall estimate the NMOC emission rate for comparison to the PSD major source and significance levels in § 8-741, Rule 18 using AP-42 or other measurement procedures approved in advance by the director.

(4) For the performance test required in Rule 15.3(b)(2)b.3.(ii), Method 25C or Method 18 of Appendix A of Title 40 CFR Part 60, which have been incorporated by reference herein and are described at § 8-703(c)(3), shall be used to determine compliance with the 98 weight-percent efficiency or the 20 ppmv outlet concentration level, unless another method to demonstrate compliance has been approved by the administrator. If using Method 18 of Appendix A of Title 40 CFR Part 60, the minimum list of compounds to be tested shall be those published in the Fifth Edition January 1995 U.S. Environmental Protection Agency Compilation of Air Pollutant Emission Factors (AP-42). The following equation shall be used to calculate efficiency:

$$\text{Control Efficiency} = \frac{(\text{NMOC}_{\text{in}} - \text{NMOC}_{\text{out}})}{(\text{NMOC}_{\text{in}})}$$

where,

$$\text{NMOC}_{\text{in}} = \text{Mass of NMOC entering control device}$$

$$\text{NMOC}_{\text{out}} = \text{Mass of NMOC exiting control device}$$

(e) Compliance provisions.

(1) Except as provided in Rule 15.3(b)(2)b.1.(ii), the specified methods in Rule 15.3(e)(1)a. through f. shall be used to determine whether the gas collection system is in compliance with Rule 15.3(b)(2)b.2.

a. For the purposes of calculating the maximum expected gas generation flow rate from the landfill to determine compliance with Rule 15.3(b)(2)b.2.(i)(A), one of the following equations shall be used. The  $k$  and  $L_0$  kinetic factors should be those published in the Fifth Edition January, 1995 U.S. Environmental Protection Agency Compilation of Air Pollutant Emission Factors (AP-42) or other site-specific values demonstrated to be appropriate and approved by the director. If  $k$  has been determined as specified in Rule 15.3(d)(1)d., the value of  $k$  determined from the test shall be used. A value of no more than 15 years shall be used for the intended use period of the gas mover equipment. The active life of the landfill is the age of the landfill plus the estimated number of years until closure.

1. For sites with unknown year-to-year solid waste acceptance rate:

$$Q_M = 2L_0R (e^{-kc} - e^{-kt})$$

where,

$Q_M$  = Maximum expected gas generation flow rate, cubic meters per year

$L_0$  = Methane generation potential, cubic meters per megagram solid waste

$R$  = Average annual acceptance rate, megagrams per year

$k$  = Methane generation rate constant, year<sup>-1</sup>

$t$  = Age of the landfill at equipment installation plus the time the owner or operator intends to use the gas mover equipment or active life of the landfill, whichever is less. If the equipment is installed after closure,  $t$  is the age of the landfill at installation, years

$c$  = Time since closure, years (for an active landfill  $c = 0$  and  $e^{-kc}=1$ )

2. For sites with known year-to-year solid waste acceptance rate:

$$Q_M = \sum_{i=1}^n 2 k L_0 M_i (e^{-kt_i})$$

where,

- $Q_M$  = Maximum expected gas generation flow rate, cubic meters per year
- $k$  = Methane generation rate constant, year<sup>-1</sup>
- $L_0$  = Methane generation potential, cubic meters per megagram solid waste
- $M_i$  = Mass of solid waste in the  $i^{\text{th}}$  section, megagrams
- $t_i$  = Age of the  $i^{\text{th}}$  section, years

3. If a collection and control system has been installed, actual flow data may be used to project the maximum expected gas generation flow rate instead of, or in conjunction with, the equations in Rule 15.3(e)(1)a.1. and a.2. If the landfill is still accepting waste, the actual measured flow data will not equal the maximum expected gas generation rate, so calculations using the equations in Rule 15.3(e)(1)a.1. and a.2. or other methods shall be used to predict the maximum expected gas generation rate over the intended period of use of the gas control system equipment.

b. For the purposes of determining sufficient density of gas collectors for compliance with Rule 15.3(b)(2)b.2.(i)(B), the owner or operator shall design a system of vertical wells, horizontal collectors, or other collection devices, satisfactory to the director, capable of controlling and extracting gas from all portions of the landfill sufficient to meet all operational and performance standards.

c. For the purpose of demonstrating whether the gas collection system flow rate is sufficient to determine compliance with Rule 15.3(b)(2)b.2.(i)(C), the owner or operator shall measure gauge pressure in the gas collection header at each individual well monthly. If a positive pressure exists, action shall be initiated to correct the exceedance within 5 calendar days, except for the three conditions allowed under Rule 15.3(c)(2). If negative pressure cannot be achieved without excess air infiltration within 15 calendar days of the first measurement, the gas collection system shall be expanded to correct the exceedance within 120 days of the initial measurement of positive pressure. Any attempted corrective measure shall not cause exceedances of other operational or performance standards. An alternative timeline for correcting the exceedance may be submitted to the director for approval.

d. Owners or operators are not required to expand the system as required in Rule 15.3(e)(1)c. during the first 180 days after gas collection system start-up.

e. For the purpose of identifying whether excess air infiltration into the landfill is occurring, the owner or operator shall monitor each well monthly for temperature and nitrogen or oxygen as provided in Rule 15.3(c)(3). If a well exceeds one of these operating parameters, action shall be initiated to correct the exceedance within 5 calendar days. If correction of the exceedance cannot be achieved within 15 calendar days of the first measurement, the gas collection system shall be expanded to correct the exceedance within 120 days of the initial exceedance. Any attempted corrective measure shall not cause exceedances of other operational or performance standards. An alternative timeline for correcting the exceedance may be submitted to the director for approval.

f. An owner or operator seeking to demonstrate compliance with Rule 15.3(b)(2)b.2.(i)(D) through the use of a collection system not conforming to the specifications provided in Rule 15.3(i) shall provide information satisfactory to the director as specified in Rule 15.3(b)(2)b.1.(iii) demonstrating that offsite migration is being controlled.

(2) For purposes of compliance with Rule 15.3(c)(1), each owner or operator of a controlled landfill shall place each well or design component as specified in the approved design plan as provided in Rule 15.3(b)(2)b.1. Each well shall be installed no later than 60 days after the date on which the initial solid waste has been in place for a period of:

- a. 5 years or more if active; or
- b. 2 years or more if closed or at final grade.

(3) The following procedures shall be used for compliance with the surface methane operational standard as provided in Rule 15.3(c)(4).

a. After installation of the collection system, the owner or operator shall monitor surface concentrations of methane along the entire perimeter of the collection area and along a pattern that traverses the landfill at 30 meter intervals (or a site-specific established spacing) for each collection area on a quarterly basis using an organic vapor analyzer, flame ionization detector, or other portable monitor meeting the specifications provided in Rule 15.3(e)(4).

b. The background concentration shall be determined by moving the probe inlet upwind and downwind outside the boundary of the landfill at a distance of at least 30 meters from the perimeter wells.

c. Surface emission monitoring shall be performed in accordance with Section 4.3.1 of Method 21 of Appendix A of Title 40 CFR Part 60, which has been incorporated by reference in Chapter 7



and is described in § 8-703(c)(3) except that the probe inlet shall be placed within 5 to 10 centimeters of the ground. Monitoring shall be performed during typical meteorological conditions.

d. Any reading of 500 parts per million or more above background at any location shall be recorded as a monitored exceedance and the actions specified in Rule 15.3(e)(3)d.1. through 5. shall be taken. As long as the specified actions are taken, the exceedance is not a violation of the operational requirements of Rule 15.3(c)(4).

1. The location of each monitored exceedance shall be marked and the location recorded.

2. Cover maintenance or adjustments to the vacuum of the adjacent wells to increase the gas collection in the vicinity of each exceedance shall be made and the location shall be re-monitored within 10 calendar days of detecting the exceedance.

3. If the re-monitoring of the location shows a second exceedance, additional corrective action shall be taken and the location shall be monitored again within 10 days of the second exceedance. If the re-monitoring shows a third exceedance for the same location, the action specified in Rule 15.3(e)(3)d.5. shall be taken, and no further monitoring of that location is required until the action specified in Rule 15.3(e)(3)d.5 has been taken.

4. Any location that initially showed an exceedance but has a methane concentration less than 500 ppm methane above background at the 10-day re-monitoring specified in Rule 15.3(e)(3)d.2. or d.3. shall be re-monitored 1 month from the initial exceedance. If the 1-month re-monitoring shows a concentration less than 500 parts per million above background, no further monitoring of that location is required until the next quarterly monitoring period. If the 1-month re-monitoring shows an exceedance, the actions specified in Rule 15.3(e)(3)d.3. or d.5. shall be taken.

5. For any location where monitored methane concentration equals or exceeds 500 parts per million above background three times within a quarterly period, a new well or other collection device shall be installed within 120 calendar days of the initial exceedance. An alternative remedy to the exceedance, such as upgrading the blower, header pipes or control device, and a corresponding timeline for installation may be submitted to the director for approval.

e. The owner or operator shall implement a program to monitor for cover integrity and implement cover repairs as necessary on a monthly basis.

(4) Each owner or operator seeking to comply with the provisions in Rule 15.3(e)(3) shall comply with the following instrumentation specifications and procedures for surface emission monitoring devices:

a. The portable analyzer shall meet the instrument specifications provided in Section 3 of Method 21 of Appendix A of Title 40 CFR Part 60, which has been incorporated by reference in Chapter 7 and is described at § 8-703(c)(3), except that "methane" shall replace all references to VOC.

b. The calibration gas shall be methane, diluted to a nominal concentration of 500 parts per million in air.

c. To meet the performance evaluation requirements in Section 3.1.3 of Method 21 of Appendix A of Title 40 CFR Part 60, the instrument evaluation procedures of Section 4.4 of Method 21 of Appendix A shall be used.

d. The calibration procedures provided in Section 4.2 of Method 21 of Appendix A of Title 40 Part 60 shall be followed immediately before commencing a surface monitoring survey.

(5) The provisions of Rule 15.3 apply at all times, except during periods of start-up, shutdown or malfunction, provided that the duration of start-up, shutdown or malfunction shall not exceed 5 days for collection systems and shall not exceed 1 hour for treatment or control devices. A log of all start-ups, shutdowns and malfunctions must be maintained on site.

(f) Monitoring of operations. Except as provided in Rule 15.3(b)(2)b.1.(ii):

(1) Each owner or operator seeking to comply with Rule 15.3(b)(2)b.2.(i)(A) for an active gas collection system shall install a sampling port and a thermometer, other temperature measuring device, or an access port for temperature measurements at each wellhead and:

a. Measure the gauge pressure in the gas collection header on a monthly basis as provided in Rule 15.3(e)(1)c.; and

b. Monitor nitrogen or oxygen concentration in the landfill gas on a monthly basis as provided in Rule 15.3(e)(1)e.; and

c. Monitor temperature of the landfill gas on a monthly basis as provided in Rule 15.3(e)(1)e.

(2) Each owner or operator seeking to comply with Rule 15.3(b)(2)b.3. by using an enclosed combustor shall calibrate, maintain, and operate according to the manufacturer's specifications, the following equipment:

a. A temperature monitoring device equipped with a continuous recorder and having a minimum accuracy of  $\pm 1$  percent of the temperature being measured expressed in degrees Celsius or  $\pm 0.5^\circ$  C, whichever is greater. A temperature monitoring device is not required for boilers or process heaters with design heat input capacity greater than 44 megawatts.

b. A device that records flow to or bypass of the control device. The owner or operator shall either:

1. Install, calibrate, and maintain a gas flow rate measuring device that shall record the flow to the control device at least every 15 minutes; or

2. Secure the bypass line valve in the closed position with a car-seal or a lock-and-key type configuration. A visual inspection of the seal or closure mechanism shall be performed at least once every month to ensure that the valve is maintained in the closed position and that the gas flow is not diverted through the bypass line.

(3) Each owner or operator seeking to comply with Rule 15.3(b)(2)b.3. by using an open flare shall install, calibrate, maintain, and operate according to the manufacturer's specifications the following equipment:

a. A heat sensing device, such as an ultraviolet beam sensor or thermocouple, at the pilot light or the flame itself to indicate the continuous presence of a flame.

b. A device that records flow to or bypass of the flare. The owner or operator shall either:

1. Install, calibrate, and maintain a gas flow rate measuring device that shall record the flow to the control device at least 15 minutes; or

2. Secure the bypass line valve in the closed position with a car-seal or a lock-and-key type configuration. A visual inspection of the seal or closure mechanism shall be performed at least once every month to ensure that the valve is maintained in the closed position and that the gas flow is not diverted through the bypass line.

(4) Each owner or operator seeking to demonstrate compliance with Rule 15.3(b)(2)b.3. by using a device other than an open flare or an enclosed combustor shall provide information satisfactory to the director as provided in Rule 15.3(b)(2)b.1.(ii) describing the operation of the control device, the operating parameters that would indicate proper performance, and appropriate monitoring procedures. The director shall review the information and either approve it, or request that additional information be submitted. The director may specify additional appropriate monitoring procedures.

(5) Each owner or operator seeking to install a collection system that does not meet the specifications in Rule 15.3(i) or seeking to monitor alternative parameters to those required by Rule 15.3(c) through (f) shall provide information satisfactory to the director as provided in Rule 15.3(b)(2)b.1.(ii) and (iii) describing the design and operation of the collection system, the operating parameters that would indicate proper performance,

and appropriate monitoring procedures. The director may specify additional appropriate monitoring procedures.

(6) Each owner or operator seeking to demonstrate compliance with Rule 15.3(e)(3) shall monitor surface concentrations of methane according to the instrument specifications and procedures provided in Rule 15.3(e)(4). Any closed landfill that has no monitored exceedances of the operational standard in three consecutive quarterly monitoring periods may skip to annual monitoring. Any methane reading of 500 ppm or more above background detected during the annual monitoring returns the frequency for that landfill to quarterly monitoring.

(g) Reporting requirements. Except as provided in Rule 15.3(b)(2)b.1.(ii):

(1) Each owner or operator subject to the requirements of Rule 15.3 shall submit an initial design capacity report to the director.

a. The initial design capacity report shall fulfill the requirements of the notification of the date construction is commenced as required under Title 40 CFR § 60.7(a)(1), which has been incorporated by reference in Chapter 7, and shall be submitted no later than 90 days after [the effective date of Rule 15.3] by each existing MSW landfill. The initial design capacity report for a new MSW landfill shall be submitted no later than 90 days after the date of commencement of construction, reconstruction, or modification as defined in Rule 15.3(a)(21), for landfills that commence construction, modification, or reconstruction on or after [the effective date of this ordinance].

b. The initial design capacity report shall contain the following information:

1. A map or plot of the landfill, providing the size and location of the landfill, and identifying all areas where solid waste may be landfilled according to the permit issued by the State or local agency responsible for regulating the landfill;

2. The maximum design capacity of the landfill. Where the maximum design capacity is specified in the permit issued by the State or local agency responsible for regulating the landfill, a copy of the permit specifying the maximum design capacity may be submitted as part of the report. If the maximum design capacity of the landfill is not specified in the permit, the maximum design capacity shall be calculated using good engineering practices. The calculations shall be provided, along with the relevant parameters as part of the report. The director may request other reasonable information as may be necessary to verify the maximum design capacity of the landfill.

c. An amended design capacity report shall be submitted to the director providing notification of an increase in the design capacity

of the landfill, within 90 days of an increase in the maximum design capacity of the landfill to or above 2.5 million megagrams and 2.5 million cubic meters. This increase in design capacity may result from an increase in the permitted volume of the landfill or an increase in the density as documented in the annual recalculation required in Rule 15.3(h)(6).

(2) Each owner or operator subject to the requirements of Rule 15.3 shall submit an NMOC emission rate report to the director initially and annually thereafter, except as provided for in Rule 15.3(g)(2)a.2. or c. The director may request such additional information as may be necessary to verify the reported NMOC emission rate.

a. The NMOC emission rate report shall contain an annual or 5-year estimate of the NMOC emission rate calculated using the formula and procedures provided in Rule 15.3(d)(1) or (2) as applicable.

1. The initial NMOC emission rate report shall be submitted within 90 days after [the effective date of Rule 15.3] by each existing MSW landfill, and within 90 days after the commencement of construction, modification, or reconstruction by each new MSW landfill may be combined with the initial design capacity report required in Rule 15.3(g)(1) and shall be submitted no later than indicated in Rule 15.3(g)(2)a.1. Subsequent NMOC emission rate reports shall be submitted annually thereafter, except as provided for in Rule 15.3(g)(2)a.2. and Rule 15.3(g)(2)c.

2. If the estimated NMOC emission rate as reported in the annual report to the director is less than 50 megagrams per year in each of the next 5 consecutive years, the owner or operator may elect to submit an estimate of the NMOC emission rate for the next 5-year period in lieu of the annual report. This estimate shall include the current amount of solid waste-in-place and the estimated waste acceptance rate for each year of the 5 years for which an NMOC emission rate is estimated. All data and calculations upon which this estimate is based shall be provided to the director. This estimate shall be revised at least once every 5 years. If the actual waste acceptance rate exceeds the estimated waste acceptance rate in any year reported in the 5-year estimate, a revised 5-year estimate shall be submitted to the director. The revised estimate shall cover the 5-year period beginning with the year in which the actual waste acceptance rate exceeded the estimated waste acceptance rate.

b. The NMOC emission rate report shall include all the data, calculations, sample reports and measurements used to estimate the annual or 5-year emissions.

c. Each owner or operator subject to the requirements of Rule 15.3 is exempted from the requirements of Rule 15.3(g)(2)a. and b., after the installation of a collection and control system in compliance with Rule 15.3(b)(2)b., during such time as the collection and control system is in operation and in compliance with Rule 15.3(c) and (e).

(3) Each owner or operator subject to the provisions of Rule 15.3(b)(2)b.1. shall submit a collection and control system design plan to the director within 1 year of the first report, required under Rule 15.3(g)(2), in which the emission rate equals or exceeds 50 megagrams per year, except as follows:

a. If the owner or operator elects to recalculate the NMOC emission rate after Tier 2 NMOC sampling and analysis as provided in Rule 15.3(d)(1)c. and the resulting rate is less than 50 megagrams per year, annual periodic reporting shall be resumed, using the Tier 2 determined site-specific NMOC concentration, until the calculated emission rate is equal to or greater than 50 megagrams per year or the landfill is closed. The revised NMOC emission rate report, with the recalculated emission rate based on NMOC sampling and analysis, shall be submitted within 180 days of the first calculated exceedance of 50 megagrams per year.

b. If the owner or operator elects to recalculate the NMOC emission rate after determining a site-specific methane generation rate constant (k) as provided in Tier 3 in Rule 15.3(d)(1)d., and the resulting NMOC emission rate is less than 50 megagrams per year, annual periodic reporting shall be resumed. The resulting site-specific methane generation rate constant (k) shall be used in the emission rate calculation until such time as the emissions rate calculation results in an exceedance. The revised NMOC emission rate report based on the provisions of Rule 15.3(d)(1)d. and the resulting site-specific methane generation rate constant (k) shall be submitted to the director within 1 year of the first calculated emission rate exceeding 50 megagrams per year.

(4) Each owner or operator of a controlled landfill shall submit a closure report to the director and the administrator within 30 days of waste acceptance cessation. The director or the administrator may request additional information as may be necessary to verify that permanent closure has taken place in accordance with the requirements of Title 40 CFR § 258.60, which has been incorporated by reference in Chapter 7. If a closure report has been submitted to the director and the administrator, no additional wastes may be placed in the landfill without filing a notification of modification as described under Title 40 CFR § 60.7(a)(4), which has been incorporated by reference in Chapter 7.

(5) Each owner or operator of a controlled landfill shall submit an equipment removal report to the director 30 days prior to removal or cessation of operation of the control equipment.

a. The equipment removal report shall contain all of the following items:

1. A copy of the closure report submitted in accordance with Rule 15.3(g)(4);

2. A copy of the initial performance test report demonstrating that the 15 year minimum control period has expired; and

3. Dated copies of three successive NMOC emission rate reports demonstrating that the landfill is no longer producing 50 megagrams or greater of NMOC per year.

b. The director may request such additional information as may be necessary to verify that all of the conditions for removal in Rule 15.3(b)(2)b.5. have been met.

(6) Each owner or operator of a landfill seeking to comply with Rule 15.3(b)(2)b. using an active collection system designed in accordance with Rule 15.3(b)(2)b.2. shall submit to the director annual reports of the recorded information required by Rule 15.3(g)(6)a. through f. The initial annual report shall be submitted within 180 days of installation and start-up of the collection and control system or within 180 days of the date of adoption of Rule 15.3 for existing collection systems, and shall include the initial performance test report required under Title 40 CFR § 60.8, which has been incorporated by reference in Chapter 7. For enclosed combustion devices and flares, reportable exceedances are defined under Rule 15.3(h)(3).

a. Value and length of time for exceedance of applicable parameters monitored under Rule 15.3(f)(1), (2), (3), and (4).

b. Description and duration of all periods when the gas stream is diverted from the control device through a bypass line or the indication of bypass flow as specified under Rule 15.3(f).

c. Description and duration of all periods when the control device was not operating for a period exceeding 1 hour and length of time the control device was not operating.

d. All periods when the collection system was not operating in excess of 5 days.

e. The location of each exceedance of the 500 parts per million methane concentration as provided in Rule 15.3(c)(4) and the concentration recorded at each location for which an exceedance was recorded in the previous month.

f. The date of installation and the location of each well or collection system expansion added pursuant to Rule 15.3(e)(1)c., (e)(2), and (e)(3)d.

(7) Each owner or operator seeking to comply with Rule 15.3(b)(2)b.3. shall include the following information with the initial performance test report required under Title 40 CFR §60.8, which has been incorporated by reference in Chapter 7:

a. A diagram of the collection system showing collection system positioning including all wells, horizontal collectors, surface collectors, or other gas extraction devices, including the locations of any areas excluded from collection and the proposed sites for the future collection system expansion;

b. The data upon which the sufficient density of wells, horizontal collectors, surface collectors, or other gas extraction devices and the gas mover equipment sizing are based;

c. The documentation of the presence of asbestos or nondegradable material for each area from which collection wells have been excluded based on the presence of asbestos or nondegradable material;

d. The sum of the gas generation flow rates for all areas from which collection wells have been excluded based on nonproductivity and the calculations of gas generation flow rate for each excluded area;

e. The provisions for increasing gas mover equipment capacity with increased gas generation flow rate, if the present gas mover equipment is inadequate to move the maximum flow rate expected over the life of the landfill; and

f. The provisions for the control of off-site migration.

(h) Recordkeeping requirements.

(1) Except as provided in Rule 15.3(b)(2)b.1., each owner or operator of an MSW landfill subject to the provisions of Rule 15.3(b)(2) shall keep for at least 5 years up-to-date, readily accessible, on-site records of the design capacity report which triggered Rule 15.3(b)(2), the current amount of solid waste in-place, and the year-by-year waste acceptance rate. Off-site records may be maintained if they are retrievable within 4 hours. Either paper copy or electronic formats are acceptable.

(2) Except as provided in Rule 15.3(b)(2)b.1.(ii), each owner or operator of a controlled landfill shall keep up-to-date, readily accessible records for the life of the control equipment of the data listed in Rule 15.3(h)(2)a. through d. as measured during the initial performance test or compliance determination. Records of subsequent tests or monitoring shall be maintained for a minimum of 5 years. Records of the control device vendor specifications shall be maintained until removal.

a. Where an owner or operator subject to the provisions of Rule 15.3 seeks to demonstrate compliance with Rule 15.3(b)(2)b.2.:

1. The maximum expected gas generation flow rate as calculated in Rule 15.3(e)(1)a. The owner or operator may use



another method to determine the maximum gas generation flow rate, if the method has been approved by the director.

2. The density of wells, horizontal collectors, surface collectors, or other gas extraction devices determined using the procedures specified in Rule 15.3(i)(1)a.

b. Where an owner or operator subject to the provisions of Rule 15.3 seeks to demonstrate compliance with Rule 15.3(b)(2)b.3. through use of an enclosed combustion device other than a boiler or process heater with a design heat input capacity greater than 44 megawatts:

1. The average combustion temperature measured at least every 15 minutes and averaged over the same time period of the performance test.

2. The percent reduction of NMOC determined as specified in Rule 15.3(b)(2)b.3. achieved by the control device.

c. Where an owner or operator subject to the provisions of Rule 15.3 seeks to demonstrate compliance with Rule 15.3(b)(2)b.3.(ii)(A) through use of a boiler or process heater of any size: a description of the location at which the collected gas vent stream is introduced into the boiler or process heater over the same time period of the performance testing.

d. Where an owner or operator subject to the provisions of Rule 15.3 seeks to demonstrate compliance with Rule 15.3(b)(2)b.3.(ii)(A) through use of an open flare: the flare type (i.e., steam-assisted, air-assisted, or nonassisted), all visible emission readings, heat content determination, flow rate or bypass flow rate measurements, and exit velocity determinations made during the performance test as specified in Title 40 CFR § 60.18, which has been incorporated by reference in Chapter 7, continuous records of the flare pilot flame or flare flame monitoring, and records of all periods of operations during which the pilot flame of the flare flame is absent.

(3) Except as provided in Rule 15.3(b)(2)b.1.(ii), each owner or operator of a controlled landfill subject to the provisions of Rule 15.3 shall keep for 5 years up-to-date, readily accessible continuous records of the equipment operating parameters specified to be monitored in Rule 15.3(f) as well as up-to-date, readily accessible records for periods of operation during which the parameter boundaries established during the most recent performance test are exceeded.

a. The following constitute exceedances that shall be recorded and reported under Rule 15.3(g)(6):

1. For enclosed combustors except for boilers and process heaters with design heat input capacity of 44 megawatts (150 million British thermal unit per hour) or greater, all 3-hour periods of operation during which the average combustion

temperature was more than 28° C below the average combustion temperature during the most recent performance test at which compliance with Rule 15.3(b)(2)b.3. was determined.

2. For boilers or process heaters, whenever there is a change in the location at which the vent stream is introduced into the flame zone as required under Rule 15.3(b)(2)b.3.(ii)(A).

b. Each owner or operator subject to the provisions of Rule 15.3 shall keep up-to date, readily accessible continuous records of the indication of flow to the control device or the indication of bypass flow or records of monthly inspections of car-seals or lock-and-key configurations used to seal bypass lines, specified under Rule 15.3(f).

c. Each owner or operator subject to the provisions of Rule 15.3 who uses a boiler or process heater with a design heat input capacity of 44 megawatts or greater to comply with Rule 15.3(b)(2)b.3. shall keep an up-to-date, readily accessible record of all periods of operation of the boiler or process heater. (Examples of such records could include records of steam use, fuel use, or monitoring data collected pursuant to other state, local, or federal regulatory requirements.)

d. Each owner or operator seeking to comply with the provisions of Rule 15.3 by use of an open flare shall keep up-to-date, readily accessible continuous records of the flame or flare pilot flame monitoring specified under Rule 15.3(f), and up-to-date, readily accessible records of all periods of operation in which the flame or flare pilot flame is absent.

(4) Except as provided in Rule 15.3(b)(2)b.1.(ii), each owner or operator subject to the provisions of Rule 15.3 shall keep for the life of the collection system an up-to-date, readily accessible plot map showing each existing and planned collector in the system and providing a unique identification location label for each collector.

a. Each owner or operator subject to the provisions of Rule 15.3 shall keep up-to-date, readily accessible records of the installation date and location of all newly installed collectors as specified under Rule 15.3(e)(2).

b. Each owner or operator subject to the provisions of Rule 15.3 shall keep readily accessible documentation of the nature, date of deposition, amount, and location of asbestos-containing or nondegradable waste excluded from collection as provided in Rule 15.3(i)(1)c.1. as well as any nonproductive areas excluded from collection as provided in Rule 15.3(i)(1)c.2.

(5) Except as provided in Rule 15.3(b)(2)b.1.(ii), each owner or operator subject to the provisions of Rule 15.3 shall keep for at least 5 years up-to-date, readily accessible records of all collection and control system

exceedances of the operational standards outlined in Rule 15.3(c), the reading in the subsequent month whether or not the second reading is an exceedance, and the location of each exceedance.

(6) Landfill owners or operators who convert design capacity from volume to mass or mass to volume to demonstrate that landfill design capacity is less than 2.5 million megagrams or 2.5 million cubic meters, as provided in the definition of "design capacity" in Rule 15.3(a), shall keep readily accessible, on-site records of the annual recalculation of site-specific density, design capacity, and the supporting documentation. Off-site records may be maintained if they are retrievable within 4 hours. Either paper copy or electronic formats are acceptable.

(i) Specifications for active collection systems.

(1) Each owner or operator seeking to comply with Rule 15.3(b)(2)b.1. shall site active collection wells, horizontal collectors, surface collectors, or other extraction devices at a sufficient density throughout all gas producing areas using the following procedures unless alternative procedures have been approved by the director as provided in Rule 15.3(b)(2)b.1.(iii) and (iv):

a. The collection devices within the interior and along the perimeter areas shall be certified to achieve comprehensive control of surface gas emissions by a professional engineer. The following issues shall be addressed in the design: depths of refuse, refuse gas generation rates and flow characteristics, cover properties, gas system expandability, leachate and condensate management, accessibility, compatibility with filling operations, integration with closure end use, air intrusion control, corrosion resistance, fill settlement, and resistance to the refuse decomposition heat.

b. The sufficient density of gas collection devices determined in Rule 15.3(i)(1)a. shall address landfill gas migration issues and augmentation of the collection system through the use of active or passive systems at the landfill perimeter or exterior.

c. The placement of gas collection devices determined in Rule 15.3(i)(1)a. shall control all gas producing areas, except as provided by Rule 15.3(i)(1)c.1. and c.2.

1. Any segregated area of asbestos or nondegradable material may be excluded from collection if documented as provided under Rule 15.3(h)(4). The documentation shall provide the nature, date of deposition, location and amount of asbestos or nondegradable material deposited in the area, and shall be provided to the director upon request.

2. Any nonproductive area of the landfill may be excluded from control, provided that the total of all excluded areas can be shown to contribute less than 1 percent of the total amount of NMOC emissions from the landfill. The amount,

location, and age of the material shall be documented and provided to the director upon request. A separate NMOC emissions estimate shall be made for each section proposed for exclusion, and the sum of all such sections shall be compared to the NMOC emissions estimate for the entire landfill. Emissions from each section shall be computed using the following equation:

$$Q_i = 2 k L_0 M_i (e^{-kt_i}) (C_{\text{NMOC}}) (3.6 \times 10^{-9})$$

where,

$Q_i$	=	NMOC emission rate from the $i^{\text{th}}$ section, megagrams per year
$k$	=	Methane generation rate constant, $\text{year}^{-1}$
$L_0$	=	Methane generation potential, cubic meters per megagram solid waste
$M_i$	=	Mass of the degradable solid waste in the $i^{\text{th}}$ section, megagrams
$t_i$	=	Age of the solid waste in the $i^{\text{th}}$ section, years
$C_{\text{NMOC}}$	=	Concentration of nonmethane organic compounds, parts per million by volume
$3.6 \times 10^{-9}$	=	Conversion factor

3. The values for  $k$  and  $C_{\text{NMOC}}$  determined in field testing shall be used, if field testing has been performed in determining the NMOC emission rate or the radii of influence (the distance from the well center to a point in the landfill where the pressure gradient applied by the blower or compressor approaches zero). If field testing has not been performed, the default values for  $k$ ,  $L_0$  and  $C_{\text{NMOC}}$  provided in Rule 15.3(d)(1)a. or the alternative values from Rule 15.3(d)(1)e. shall be used. The mass of nondegradable solid waste contained within the given section may be subtracted from the total mass of the section when estimating emissions provided the nature, location, age, and amount of the nondegradable material is documented as provided in Rule 15.3(i)(1)c.1.

(2) Each owner or operator seeking to comply with Rule 15.3(b)(2)b.1.(i) shall construct the gas collection devices using the following equipment or procedures:

a. The landfill gas extraction components shall be constructed of polyvinyl chloride (PVC), high density polyethylene (HDPE) pipe, fiberglass, stainless steel, or other nonporous corrosion resistant material of suitable dimensions to: convey projected amounts

of gases; withstand installation, static, and settlement forces; and withstand planned overburden or traffic loads. The collection system shall extend as necessary to comply with emission and migration standards. Collection devices such as wells and horizontal collectors shall be perforated to allow gas entry without head loss sufficient to impair performance across the intended extent of control. Perforations shall be situated with regard to the need to prevent excessive air infiltration.

b. Vertical wells shall be placed so as not to endanger underlying liners and shall address the occurrence of water within the landfill. Holes and trenches constructed for piped wells and horizontal collectors shall be of sufficient cross-section so as to allow for their proper construction and completion including, for example, centering of pipes and placement of gravel backfill. Collection devices shall be designed so as not to allow indirect short circuiting of air into the cover or refuse into the collection system or gas into the air. Any gravel used around pipe perforations should be of a dimension so as not to penetrate or block perforations.

c. Collection devices may be connected to the collection header pipes below or above the landfill surface. The connector assembly shall include a positive closing throttle valve, any necessary seals and couplings, access couplings and at least one sampling port. The collection devices shall be constructed of PVC, HDPE, fiberglass, stainless steel, or other nonporous material of suitable thickness.

(3) Each owner or operator seeking to comply with Rule 15.3(b)(2)b.1.(i) shall convey the landfill gas to a control system in compliance with Rule 15.3(b)(2)b.3. through the collection header pipe(s). The gas mover equipment shall be sized to handle the maximum gas generation flow rate expected over the intended use period of the gas moving equipment using the following procedures:

a. For existing collection systems, the flow data shall be used to project the maximum flow rate. If no flow data exists, the procedures in Rule 15.3(i)(3)b. shall be used.

b. For new collection systems, the maximum flow rate shall be determined in accordance with Rule 15.3(e)(1)a.

Rule 16. Emission standards for hazardous air pollutants other than asbestos.

Rule 16.1. The emissions standards, prohibitions, and requirements for hazardous air pollutants other than asbestos, contained in Title 40 Code of Federal Regulations Part 61, Subparts A, C, E, F, I, J, K, N, O, P, R, V, Y, BB and FF and Appendices A through E to Part 61 (Revised as of July 1, 1996) are hereby incorporated by reference in Chapter 7 pursuant to Tennessee Code Annotated, § 68-201-115 as official emissions standards, prohibitions, and requirements for the control of air pollution.

The following subparts are included:

- Subpart A-- General Provisions
- Subpart C-- National Emission Standard for Beryllium
- Subpart E-- National Emission Standard for Mercury
- Subpart F-- National Emission Standard for Vinyl Chloride
- Subpart I-- National Emission Standard for Radionuclide Emissions From Facilities Licensed by the Nuclear Regulatory Commission and Federal Facilities Not Covered by subpart H
- Subpart J-- National Emission Standard for Equipment Leaks (Fugitive Emission Sources) of Benzene
- Subpart K-- National Emission Standard for Radionuclide Emissions From Elemental Phosphorus Plants
- Subpart N-- National Emission Standard for Inorganic Arsenic Emissions from Glass Manufacturing Plants
- Subpart O-- National Emission Standard for Inorganic Emissions from Primary Copper Smelters
- Subpart P-- National Emission Standard for Inorganic Arsenic Emissions from Arsenic Trioxide and Metallic Arsenic Production Facilities
- Subpart R-- National Emission Standard for Radon Emissions from Phosphogypsum Stacks
- Subpart V-- National Emission Standard for Equipment Leaks (Fugitive Emission Sources)
- Subpart Y-- National Emission Standard for Benzene Emissions from Benzene Storage Vessels
- Subpart BB-- National Emission Standard for Benzene Emissions from Benzene Transfer Operations
- Subpart FF-- National Emission Standard for Benzene Waste Operations

Rule 16.2. Wherever the term "administrator" is used in the national emission standards for hazardous air pollutants, the term "Chattanooga-Hamilton County Air Pollution Control Board or director of the Chattanooga-Hamilton County Air Pollution Control Bureau" shall be substituted, where appropriate, for the purposes of Rule 16.

Rule 16.3. Where the term "construction permit" is used, the term "installation permit" shall be substituted for the purposes of Rule 16.1.

Rule 16.4. Where the term "commenced" is used, it shall have the meaning of the word "commence" in § 8-702 of said chapter 7.

Rule 16.5. Emission standards for source categories of area sources.

(a) The definition of an "area source" for the purposes of Rule 16.5 is any stationary source that is not a "major source" as that term is defined in Title 40 CFR Part 63, which is incorporated by reference under Ordinance No. 598.

(b) No emission standard or other requirement in Rule 16 shall be interpreted, construed, or applied to diminish or replace the requirements of a more stringent emission limitation or other applicable requirement in this chapter for an area source.

(c) The emissions limitations, standards, prohibitions and requirements for hazardous air pollutants for source categories contained in Title 40 Code of Federal Regulations Part 63, Subparts A, D, F, G, H, I, L, M, N, O, Q, R, T, U, W, X, Y, CC, DD, EE, GG, II, JJ, KK, OO, PP, QQ, RR, VV, JJJ and Appendices A, C, and D, (Revised as of July 1, 1996) are hereby incorporated by reference in Chapter 7 pursuant to the provisions of Tennessee Code Annotated, § 68-201-115 as the official emissions limitations, standards, prohibitions, and requirements for the control of hazardous air pollutants for source categories of area sources.

(d) If the owner or operator of an area source has executed an enforceable agreement with the administrator pursuant to the Title 42 U.S.C. Section 7412(i) (5) [Early Reductions Program] that contains more stringent requirements or more stringent emissions limitations than would otherwise be applicable under this chapter, any certificate of operation issued to the source shall include the requirements and emissions limitations contained in that agreement, unless the source is subsequently released from said enforceable agreement and such release is confirmed in a writing signed by the administrator, or designee, and submitted to the director.

(e) No source shall emit any hazardous air pollutant in excess of any emissions limitation or contrary to any standard, prohibition or requirement contained in a certificate of operation, effective for new area sources beginning with initial operation and effective for existing area sources as expeditiously as practicable, but not later than the date determined by the administrator in a standard promulgated in Title 40 Code of Federal Regulations Part 63, which is incorporated by reference under Ordinance No. 598, or such other compliance date as would apply under Title 42 U.S.C. 7412(i) [Early Reductions Program].

Rule 16.6. The emissions standards, limitations, prohibitions, and requirements for hazardous air pollutants for source categories to be codified in Title 40 Code of Federal Regulations Part 63 and Appendices and presently published in the Federal Register volumes noted below are hereby incorporated by reference in Chapter 7 pursuant to the provisions of Tennessee Code Annotated, § 68-201-115 as official emissions standards, limitations, prohibitions and requirements for the control of hazardous air pollutants for source categories in this municipality:

(1) Title 40 CFR Part 63, Amendments to Subpart F--National Emission Standards for Organic Hazardous Air Pollutants From the Synthetic Organic Chemical Manufacturing Industry including Tables 1, 2 and 3 at 61 FR 64574-75, December 5, 1996; and Amendments to Title 40

Code of Federal Regulations Part 63, Subpart F at 62 FR 2729-2742, January 17, 1997; and

(2) Title 40 CFR Part 63, Amendments to Subpart G--National Emission Standards for Organic Hazardous Air Pollutants From the Synthetic Organic Chemical Manufacturing Industry for Process Vents, Storage Vessels, Transfer Operations, and Wastewater and Appendix at 61 FR 64575-78, December 5, 1996; and Amendments to Title 40 Code of Federal Regulations Part 63, Subpart G at 62 FR 2742-2771, January 17, 1997; and

(3) Title 40 CFR Part 63, Amendments to Subpart M--National Perchloroethylene Air Emission Standards for Dry Cleaning Facilities at 61 FR 49265, September 19, 1996; and

(4) Title 40 CFR Part 63, Subpart S--National Emission Standards for Hazardous Air Pollutants from the Pulp and Paper Industry at 63 FR 18616-18751, April 15, 1998; and

(5) Title 40 CFR Part 63, Amendments to Subpart R--National Emission Standards for Gasoline Distribution Facilities (Bulk Gasoline Terminals and Pipeline Breakout Stations) and Table 1 to Subpart R at 62 FR 9092-9093, February 28, 1997; and

(6) Title 40 CFR Part 63, Amendments to Subpart U--National Emission Standards for Hazardous Air Pollutant Emissions Group IV Polymers and Resins at 61 FR 46924-46985, September 12, 1996 and at 62 FR 1837-38, January 14, 1997 and at 62 FR 37722, July 15, 1997 and related Test Methods 310 A, B, C; Test Methods 312 A, B, C; and Test Methods 313A and B at 62 FR 12549-12564, March 17, 1997; and

(7) Title 40 CFR Part 63, Amendments to Subpart Y--National Emission Standards for Marine Tank Vessel Landing Operations at 61 FR 66226, December 17, 1996; and

(8) Title 40 CFR Part 63, Amendments to Subpart CC--National Emission Standards for Hazardous Air Pollutants for Petroleum Refineries and Appendix to Subpart CC at 62 FR 7938-39, February 21, 1997; and

(9) Title 40 CFR Part 63, Amendments to Subpart GG--National Emission Standards for Hazardous Air Pollutants for Aerospace Manufacturing and Rework Facilities at 61 FR 66227-28, December 17, 1996; and

(10) Title 40 CFR Part 63, Amendments to Subpart II--National Emission Standards for Shipbuilding and Ship Repair (Surface Coating) at 61 FR 66227-28, December 17, 1996; and

(11) Title 40 CFR Part 63, Amendments to Subpart JJ--National Emissions Standards for Wood Furniture Manufacturing Operations including Tables to Subpart JJ at 62 FR 31363, June 9, 1997; and

(12) Title 40 CFR Part 63, Amendments to Subpart JJJ--National Emission Standards for Hazardous Air Pollutant Emissions: Group IV Polymers and Resins at 61 FR 48229-48288, September 12, 1996 and at 62 FR 30995, June 6, 1997 and at 62 FR 37722; July 15, 1997.



(13) Title 40 CFR Part 63, Amendments to Subpart A--General Provisions at 63 FR 53996, October 7, 1998 and 64 FR 17562-17563, April 12, 1999, and Amendments to Appendix A to Part 63--Test Methods at 64 FR 31937-31962, June 14, 1999; and

(14) Title 40 CFR Part 63, Amendments to Subpart F--National Emission Standards for Organic Hazardous Air Pollutants from the Synthetic Organic Chemical Manufacturing Industry at 63 FR 26081-82, May 12, 1998 and at 64 FR 20191, April 26, 1999; and

(15) Title 40 CFR Part 63, Amendments to Subpart G--National Emission Standards for Organic Hazardous Air Pollutants from the Synthetic Organic Chemical Manufacturing Industry for Process Vents, Storage Vessels, Transfer Operations, and Wastewater and Appendix at 64 FR 20191-20198, April 26, 1999; and

(16) Title 40 CFR Part 63, Amendments to Subpart H--National Emission Standards for Organic Hazardous Air Pollutants for Equipment Leaks at 64 FR 20198, April 26, 1999; and

(17) Title 40 CFR Part 63, Amendments to Subpart Q--National Emission Standards for Hazardous Air Pollutants for Industrial Process Cooling Towers at 63 FR 39519, July 23, 1998; and

(18) Title 40 CFR Part 63, Amendments to Subpart S--National Emission Standards for Hazardous Air Pollutants from the Pulp and Paper Industry at 63 FR 49459, September 16, 1998, and at 63 FR 71389, December 28, 1998, and at 64 FR 17563-17564, April 12, 1999; and

(19) Title 40 CFR Part 63, Amendments to Subpart T--National Emission Standards for Halogenated Solvent Cleaning at 63 FR 24751, May 5, 1998 and at 63 FR 68400, December 11, 1998 and at 64 FR 37687, July 13, 1999; and

(20) Title 40 CFR Part 63, Amendments to Subpart U--National Emission Standards for Hazardous Air Pollutant Emissions: Group I Polymers and Resins at 64 FR 11542-11547, March 9, 1999 and at 64 FR 24511-12, May 7, 1999 and at 64 FR 35028, June 30, 1999; and

(21) Title 40 CFR Part 63, Amendments to Subpart CC--National Emission Standards for Hazardous Air Pollutants from Petroleum Refineries at 63 FR 13537-13541, March 20, 1998, and at 63 FR 31361, June 9, 1998) and at 63 FR 44140-44143, August 18, 1998; and

(22) Title 40 CFR Part 63, Amendments to Subpart DD--National Emission Standards for Hazardous Air Pollutants from Off-Site Waste and Recovery Operations at 64 FR 38963-38985, July 20, 1999; and

(23) Title 40 CFR Part 63, Amendments to Subpart EE--National Emission Standards for Magnetic Tape Manufacturing Operations at 63 FR 17464, April 9, 1999; and

(24) Title 40 CFR Part 63, Amendments to Subpart GG--National Emission Standards for Hazardous Air Pollutants: Aerospace Manufacturing and Rework Facilities at 63 FR 46532-46535, September 1, 1998; and

(25) Title 40 CFR Part 63, Subpart HH--National Emission Standards for Hazardous Air Pollutants from Oil and Natural Gas Production Facilities and Appendix at 64 FR 32628-32647, June 17, 1999; and

(26) Title 40 CFR Part 63, Amendments to Subpart JJ--National Emissions Standards for Wood Furniture Manufacturing Operations at 63 FR 71380-71385, December 28, 1998; and

(27) Title 40 CFR Part 63, Amendments to Subpart OO--National Emission Standards for Tanks--Level 1 at 64 FR 38985-38987, July 20, 1999; and

(28) Title 40 CFR Part 63, Amendments to Subpart PP--National Emission Standards for Containers at 64 FR 38987-38988, July 20, 1999; and

(29) Title 40 CFR Part 63, Amendments to Subpart QQ--National Emission Standards for Surface Impoundments at 64 FR 38988-38989, July 20, 1999; and

(30) Title 40 CFR, Amendments to Subpart RR--National Emission Standards for Individual Drain Systems at 64 FR 38989-91, July 20, 1999; and

(31) Title 40 CFR Part 63, Subpart SS--National Emission Standards for Closed Vent Systems, Control Devices, Recovery Devices and Routing to a Fuel Gas System or a Process at 64 FR 34866-34886, June 29, 1999; and

(32) Title 40 CFR Part 63, Subpart TT--National Emission Standards for Equipment Leaks--Control Level 1 at 64 FR 34886-34898, June 29, 1999; and

(33) Title 40 CFR Part 63, Subpart UU--National Emission Standards for Equipment Leaks--Control Level 2 Standards and Table 1 at 64 FR 34899-34918, June 29, 1999; and

(34) Title 40 CFR Part 63, Amendments to Subpart VV--National Emission Standards for Oil-Water Separators and Organic-Water Separators at 64 FR 38991-38992, July 20, 1999; and

(35) Title 40 CFR Part 63, Subpart WW--National Emission Standards for Storage Vessels (Tanks)--Control Level 2 at 64 FR 34918-34921, June 29, 1999; and

(36) Title 40 CFR Part 63, Subpart YY--National Emission Standards for Hazardous Air Pollutants for Source Categories: Generic Maximum Achievable Control Technology Standards at 64 FR 34921-34949, June 29, 1999; and

(37) Title 40 CFR Part 63, Subpart CCC--National Emission Standards for Hazardous Air Pollutants for Steel Pickling--HCI Process Facilities and Hydrochloric Acid Regeneration Plants and Table 1 at 64 FR 33218-33223, June 22, 1999; and

(38) Title 40 CFR Part 63, Subpart DDD--National Emission Standards for Hazardous Air Pollutants for Mineral Wool Production and Table 1 and Appendix A at 64 FR 29503-29510, June 1, 1999; and

(39) Title 40 CFR Part 63, Subpart GGG--National Emission Standards for Pharmaceuticals Production and Tables 1 through 9 at 63 FR 50 326-50386, September 21, 1998; and

(40) Title 40 CFR Part 63, Subpart HHH--National Emission Standards for Hazardous Air Pollutants From Natural Gas Transmission and Storage Facilities and Appendix at 64 FR 32647-32664, June 17, 1999; and

(41) Title 40 CFR Part 63, Subpart III--National Emission Standards for Hazardous Air Pollutants for Flexible Polyurethane Foam Production and Appendix at 63 FR 53996-54014, October 7, 1998; and

(42) Title 40 CFR Part 63, Amendments to Subpart JJJ--National Emission Standards for Hazardous Air Pollutant Emissions: Group IV Polymers and Resins at 64 FR 11547-11554, March 9, 1999, and at 64 FR 30409, June 8, 1999 and at 64 FR 35028-29, June 30, 1999; and

(43) Title 40 CFR Part 63, Subpart LLL--National Emission Standards for Hazardous Air Pollutants from the Portland Cement Manufacturing Industry and Table 1 at 64 FR 31925-31937, June 14, 1999; and

(44) Title 40 CFR Part 63, Subpart MMM--National Emissions Standards for Hazardous Air Pollutants for Pesticide Active Ingredient Production and Tables 1, 2, 3, and 4 at 64 FR 33589-33633, June 23, 1999; and

(45) Title 40 CFR, Subpart NNN--National Emission Standards for Hazardous Air Pollutants for Wool Fiberglass Manufacturing and Table 1 and Appendices A, B and C at 64 FR 31708-31731, June 14, 1999; and

(46) Title 40 CFR Subpart PPP--National Emission Standards for Hazardous Air Pollutant Emissions for Polyether Polyols Production and Tables 1 through 8 at 64 FR 29439-29487, June 1, 1999; and

(47) Title 40 CFR Subpart TTT--National Emission Standards for Hazardous Air Pollutants for Primary Lead Smelting at 64 FR 30204-30208, June 4, 1999.

Rule 16.7. The words, phrases and terms defined in Title 40 Code of Federal Regulations Part 63, its subparts, and its appendices shall be used only for the purpose of interpreting and administering Rule 16 and shall not be used to otherwise alter or vary in any way the definitions provided in § 8-702 of said Chapter 7.

Rule 16.8. Where the term "administrator" is used in the national emission standards for hazardous air pollutants for source categories, the term "Director of the Chattanooga-Hamilton County Air Pollution Control Bureau" shall be substituted for the purposes of Chapter 7, where appropriate, except at Title 40 Code of Federal Regulations Part 63.325(c), except at Title 40 Code of Federal Regulations Part 61.102(b); 61.104(a)(1)(xv); and 61.107(b)(3)(iv).

Rule 16.10. Maximum achievable control technology pollution control determinations.

(a) Applicability. This rule applies to any owner or operator who constructs or reconstructs a major source of hazardous air pollutants unless the major source in question has been specifically regulated or exempted from regulation under a standard issued pursuant to Section 112(d), Section 112(h), or Section 112(j) of the Clean Air Act and promulgated in Title 40 Code of Federal Regulations Part 63, or unless the owner or operator of such major source has been issued all required air pollution control permits for such construction or reconstruction project before the effective date of this ordinance. Rule 16.10 does not apply to electric utility steam generating units. Rule 16.10 does not apply to stationary sources that are within the following source categories, which have been deleted from the source category list by promulgations pursuant to Section 112(c)(9) of the Clean Air Act: (1) asbestos processing area source category; 60 FR 61550-551 November 30, 1995 (2) Chromium chemicals manufacturing, lead acid battery manufacturing, non-stainless steel manufacturing--electric arc furnace operation; stainless steel manufacturing--electric arc furnace operation; and wood treatment; 61 FR 28200-02 June 4, 1996. Rule 16.10 does not apply to research and development activities, as defined in Rule 16.10(b).

(b) Definitions. Terms used in Rule 16.10 that are not defined in Rule 16.10(b) have the meaning given to them in § 8-702.

(1) "Affected source" means the stationary source or group of stationary sources fabricated (on site), erected, or installed meets the definition of "construct a major source" or the definition of "reconstruct a major source" contained in Rule 16.10(b).

(2) "Affected states" are all states (1) Whose air quality may be affected and that are contiguous to Hamilton County, Tennessee, where a determination is made in accordance with Rule 16.10; or (2) Whose air quality may be affected and that are within 50 miles of the major source for which a determination is made in accordance with Rule 16.10.

(3) "Available information" means, for purposes of identifying control technology options for the affected source, information contained in the following information sources as of the date of approval of the determination made in accordance with Rule 16.10:

a. A relevant proposed regulation, including all supporting information;

b. Background information documents for a draft or proposed regulation;

c. Data and information available for the Control Technology Center developed pursuant to Section 113 of the Clean Air Act;

d. Data and information contained in the Aerometric Informational Retrieval System including information in the MACT data base;

e. Any additional information that can be expeditiously provided by the administrator; and

f. For the purpose of determinations in accordance with Rule 16.10, any additional information provided by the applicant or others, and any additional information considered available by the director.

(4) "Construct a major source" means:

a. To fabricate, erect, or install at any greenfield site a stationary source, or group of stationary sources, which is located within a contiguous area and under common control and which emits or has the potential to emit 10 tons per year of any individual hazardous air pollutant or 25 tons per year or more of any combination of hazardous air pollutants, or

b. To fabricate, erect or install at any developed site a new process or production unit which in and of itself emits or has the potential to emit 10 tons per year of any individual hazardous air pollutant or 25 tons per year or more of any combination of hazardous air pollutants, unless the process or production unit satisfies criteria in paragraphs b.1. through b.6. of this definition.

1. All hazardous air pollutants emitted by the process or production unit that would otherwise be controlled under the requirements of Rule 16.10 will be controlled by emission control equipment which was previously installed at the same site as the process or production unit; and

2. (i) The director has determined within a period of 5 years prior to the fabrication, erection, or installation of the process or production unit that the existing emission control equipment represented best available control technology (BACT), lowest achievable emission rate (LAER) pursuant to Title 40 CFR Part 51 or Part 52, BACT for hazardous air pollutants based on the air pollution control ordinance for the category of pollutants which includes those hazardous air pollutants to be emitted by the process or production unit; or

(ii) The director determines that the control of hazardous air pollutant emissions provided by the existing equipment will be equivalent to that level of control currently achieved by other well-controlled similar sources (i.e., equivalent to the level of control that would be provided by a current BACT, LAER, or BACT for hazardous air pollutants determination); and

3. The director determines that the percent control efficiency for emissions of hazardous air pollutants from all sources to be controlled by the existing control equipment will be equivalent to the percent control efficiency provided by the control equipment prior to the inclusion of the new process or production unit; and

4. The director has provided notice and an opportunity for public comment concerning the determination that criteria described in Rule 16.10(b) definition of "construct a major source" described above apply and concerning the continued adequacy of any prior BACT, LAER, or BACT for hazardous air pollutants determination; and

5. If any commenter has asserted that a prior BACT, LAER, or BACT for hazardous air pollutants determination is no longer adequate, the director has determined that the level of control required by that prior determination remains adequate; and

6. Any emission limitations, work practice requirements, or other terms and conditions upon which the above determinations by the director are applicable requirements in accordance with Section 504(a) of the Clean Air Act and either have been incorporated into any existing Part 70 permit for the affected source or will be incorporated into any existing Part 70 permit for the affected source or will be incorporated into such permit upon issuance.

(5) "Control technology" means measures, processes, methods, systems, or techniques to limit the emission of hazardous air pollutants through process changes, substitution of materials or other modifications that:

a. Reduce the quantity of, or eliminate emissions of, such pollutants through process changes, substitution of materials or other modifications;

b. Enclose systems or processes to eliminate emissions;

c. Collect, capture or treat such pollutants when released from a process, stack, storage or fugitive emissions point;

d. Are design, equipment, work practice, or operational standards (including requirements for operator training or certification) as provided in Section 112(h) of the Clean Air Act; or

e. Are a combination of paragraphs a. through d. of this definition.

(6) "Electric utility steam generating unit" means any fossil fuel fired combustion unit of more than 25 megawatts that serves a generator that produces electricity for sale. A unit that cogenerates steam and electricity and supplies more than one-third of its potential electric output capacity and more than 25 megawatts electric output to any utility power distribution system for sale shall be considered an electric utility steam generating unit.

(7) "Greenfield site" means a contiguous area under common control that is an undeveloped site.

(8) "List of source categories" means the Source Category List required by Section 112(c) of the Clean Air Act.

(9) "Maximum achievable control technology (MACT) emission limitation for new sources" means the emission limitation which is not less stringent than the emission limitation achieved in practice by the best controlled similar source, and which reflects the maximum degree of reduction in emissions that the director or the board, taking into consideration the cost of achieving such emission reduction, and any non-air quality health and environmental impacts and energy requirements, determines is achievable by the constructed or reconstructed major source.

(10) "Notice of MACT approval" means a document issued by the director containing all federally enforceable conditions necessary to enforce the application and operation of MACT or other control technologies such that the MACT emission limitation is met.

(11) "Process or production unit" means any collection of structures and/or equipment, that processes assembles, applies, or otherwise uses material inputs to produce or store an intermediate or final product. A single facility may contain more than one process or production unit.

(12) "Reconstruct a major source" means the replacement of components at an existing process or production unit that in and of itself emits or has the potential to emit 10 tons per year of any individual hazardous air pollutant or 25 tons per year of any combination of hazardous air pollutants, whenever:

a. The fixed capital cost of the new components exceeds 50 percent of the fixed capital cost that would be required to construct a comparable process or production unit; and

b. It is technically and economically feasible for the reconstructed major source to meet the applicable maximum achievable control technology emission limitation for new sources established under Rule 16.10.

(13) "Research and development activities means" activities conducted at a research or laboratory facility whose primary purpose is to conduct research and development into new processes and products, where such source is operated under the close supervision of technically trained personnel and is not engaged in the manufacture of products for sale or exchange for commercial profit, except where such sales do not exceed 2% of the gross receipts of the source for which it is conducting the research and development.

(14) "Similar source" means a stationary source or process that has comparable emissions and is structurally similar in design and capacity to a constructed or reconstructed major source such that the source could be controlled using the same control technology.

(c) Prohibition. After the effective date of this ordinance, no person may begin actual construction or reconstruction of a major source of hazardous air pollutants in this municipality unless:

(1) The major source in question has been specifically regulated or exempted from regulation under a standard issued pursuant to Section 112(d), Section 112(h), or Section 112(j) promulgated in Title 40 Code of Federal Regulations Part 63, which has been incorporated by reference in Chapter 7, and the owner and operator has fully complied with all procedures and requirements for preconstruction review established by that standard, including any applicable requirements set forth in Subpart A-General Provisions of Part 63; or

(2) The director or the board has made a final and effective case-by-case determination pursuant to Rule 16.10 such that emissions from the constructed or reconstructed major source will be controlled to a level no less stringent than the maximum achievable control technology emission limitation for new sources.

(d) Maximum achievable control technology (MACT) determinations for constructed and reconstructed major sources.

(1) Applicability. The requirements of Rule 16.10 apply to an owner or operator who constructs or reconstructs a major source of one or more hazardous air pollutants subject to a case-by-case determination of maximum achievable control technology pursuant to Rule 16.10(c).

(2) Requirements for constructed and reconstructed major sources. When a case-by-case determination of MACT is required by Rule 16.10(c), the owner and operator shall obtain from the director an approved MACT determination according to one of the review options contained in Rule 16.10(d)(3).

(3) Review options.

a. When the director requires the owner or operator to obtain, or revise, a permit issued pursuant to Article III. of Chapter 7 entitled Part 70 Source Regulation and Permits before construction or reconstruction of the major source, or when the director allows the owner or operator at its discretion to obtain or revise such a permit before construction or reconstruction, and the owner or operator elects that option, the owner or operator shall follow the administrative procedures in Article III. Part 70 Source Regulation and Permits.

b. When an owner or operator is not required to obtain or revise a Part 70 Source Permit before construction or reconstruction, the owner or operator (unless the owner or operator voluntarily follows the



process to obtain a Part 70 Permit) shall either, at the discretion of the director:

1. Apply for and obtain a Notice of MACT Approval according to the procedures outlined in Rule 16.10(d)(6)-(8); or

2. Apply for a MACT determination under any other administrative procedures for preconstruction review and approval established by the director or the board which provide for public participation in the determination, and ensure that no person may begin actual construction or reconstruction of a major source in the City of East Ridge unless the MACT emission limitation for new sources will be met.

- c. When applying for a Part 70 Permit, an owner or operator may request approval of case-by-case MACT determinations for alternative operating scenarios. Approval of such determinations satisfies the requirements of Section 112(g) of the Clean Air Act of each such scenario.

- d. Regardless of the review process, the MACT emission limitation and requirements established shall be effective as required by Rule 16.10(d)(10) consistent with the principles established in Rule 16.10(d)(4), and supported by the information listed in Rule 16.10(d)(5). The owner or operator shall comply with the requirements in Rule 16.10(d)(5) and with all applicable requirements in Title 40 CFR Part 63, Subpart A, which has been incorporated by reference in Chapter 7.

(4) Principles of MACT determinations. The following general principles shall govern preparation by the owner or operator of each permit application or other application requiring a case-by-case MACT determination concerning construction or reconstruction of a major source, and all subsequent review of and actions taken concerning such an application by the board or director:

- a. The MACT emission limitation or MACT requirements recommended by the applicant and approved by the board or director shall not be less stringent than the emission control which is achieved in practice by the best controlled similar source, as determined by the board or director.

- b. Based upon available information, as defined in Rule 16.10, the MACT emission limitation and control technology (including any requirements under Rule 16.10(d)(4)c. recommended by the applicant and approved by the board and director shall achieve the

maximum degree of reduction in emissions of hazardous air pollutants which can be achieved by utilizing those control technologies that can be identified from the available information, taking into consideration the costs of achieving such emission reduction and any non-air quality health and environmental impacts and energy requirements associated with the emission reduction.

c. The applicant may recommend a specific design, equipment, work practice, or operational standard, or a combination thereof, and the director may approve such a standard if the director specifically determines that it is not feasible to prescribe or enforce an emission limitation under the criteria set forth in Section 112(h) of the Clean Air Act.

d. If the administrator has either proposed a relevant emission standard pursuant to Section 112(d) or Section 112(h) of the Clean Air Act or adopted a presumptive MACT determination for the source category which includes the constructed or reconstructed major source, then the MACT requirements applied to the constructed or reconstructed major source shall take into consideration those MACT emission limitations and requirements of the proposed standard or presumptive MACT determination.

(5) Application requirements for a case-by-case MACT determination.

a. An application for a MACT determination [whether a Part 70 permit application, an application for a Notice of MACT Approval, or other document specified by the board or director under Rule 16.10(d)(3)b.2.] shall specify a control technology selected by the owner or operator that, if properly operated and maintained, will meet the MACT emission limitation or standard as determined according to the principles set forth in Rule 16.10(d)(4).

b. In each instance where a constructed or reconstructed major source would require additional control technology or a change in control technology, the application for a MACT determination shall contain the following information:

1. The name and address (physical location) of the major source to be constructed or reconstructed;
2. A brief description of the major source to be constructed or reconstructed and identification of any listed source category or categories in which it is included;
3. The expected commencement date for the construction or reconstruction of the major source;
4. The expected completion date for construction or reconstruction of the major source;
5. The anticipated date of start-up for the constructed or reconstructed major source;

6. The hazardous air pollutants emitted by the constructed or reconstructed major source, and the estimated emission rate for each such hazardous air pollutant, to the extent this information is needed by the board or the director to determine MACT;

7. Any federally enforceable emission limitations applicable to the constructed or reconstructed major source;

8. The maximum and expected utilization of capacity of the constructed or reconstructed major source, and the associated uncontrolled emission rates for that source, to the extent this information is needed by the board or the director to determine MACT;

9. The controlled emissions for the constructed or reconstructed major source in tons/year at expected and maximum utilization of capacity, to the extent this information is needed by the board or director to determine MACT;

10. A recommended emission limitation for the constructed or reconstructed major source consistent with the principles set forth in Rule 16.10(d)(4);

11. The selected control technology to meet the recommended MACT emission limitation, including technical information on the design, operation, size, estimated control efficiency of the control technology (and the manufacturer's name, address, telephone number, and relevant specifications and drawings, if requested by the board or the director);

12. Supporting documentation including documentation of alternative control technologies considered by the applicant to meet the emission limitation, and analysis of cost and non-air quality health environmental impacts or energy requirements for the selected control technology; and

13. Any other relevant information required pursuant to Title 40 CFR Part 63, Subpart A, which has been incorporated by reference in Chapter 7.

c. In each instance where the owner or operator contends that a constructed or reconstructed major source will be in compliance, upon startup, with case-by-case MACT under Rule 16.10 without a change in control technology, the application for a MACT determination shall contain the following information:

1. The information described in Rule 16.10(d)(5)b.1.-b.10.; and

2. Documentation of the control technology in place.

(6) Administrative procedures for review of the notice of MACT Approval.

a. The director will notify the owner or operator in writing, within 45 days after the date the application is first received, as to whether the application for a MACT determination is complete or whether additional information is required.

b. The director will initially approve the recommended MACT emission limitation and other terms set forth in the application, or the board or director will notify the owner or operator in writing of its intent to disapprove the application, within 30 calendar days after the owner or operator is notified in writing that the application is complete.

c. The owner or operator may present, in writing, within 60 calendar days after receipt of notice of the director's intent to disapprove the application, additional information or arguments pertaining to, or amendments to, the application for consideration by the board or director before it decides whether to finally disapprove the application.

d. The director will either initially approve or issue a final disapproval of the application within 90 days after it notifies the owner or operator of an intent to disapprove or within 30 days after the date additional information is received from the owner or operator, whichever is earlier.

e. A final determination by the director to disapprove any application will be in writing and will specify the grounds on which the disapproval is based. If any application is finally disapproved, the owner or operator may appeal to the board or may submit a subsequent application concerning construction or reconstruction of the same major source, provided that the subsequent application has been amended in response to the stated grounds for the prior disapproval.

f. An initial decision to approve an application for a MACT determination will be set forth in the Notice of MACT Approval as described in Rule 16.10(d)(7).

(7) Notice of MACT approval.

a. The notice of MACT approval will contain a MACT emission limitation (or a MACT work practice standard if the board or director determines it is not feasible to prescribe or enforce an emission standard) to control the emissions of hazardous air pollutants. The MACT emission limitation or standard will be determined by the board or director and will conform to the principles set forth in Rule 16.10(d)(4).

b. The notice of MACT approval will specify any notification, operation and maintenance, performance testing, monitoring, reporting and record keeping requirements. The notice of MACT approval shall include:

1. In addition to the MACT emission limitation or MACT work practice standard established under Rule 16.10, additional emission limits, production limits, operational limits or other terms and conditions necessary to ensure practical enforceability of the MACT emission limitation;

2. Compliance certifications, testing, monitoring, reporting and record keeping requirements that are consistent with the requirements of § 8-757;

3. In accordance with Section 114(a)(3) of the Clean Air Act, monitoring shall be capable of demonstrating continuous compliance during the applicable reporting period. Such monitoring data shall be of sufficient quality to be used as a basis for enforcing all applicable requirements established under Rule 16.10, including emission limitations;

4. A statement requiring the owner or operator to comply with all applicable requirements contained in Title 40 CFR Part 63, Subpart A.

c. All provisions contained in the notice of MACT approval shall be practically enforceable upon the effective date of issuance of such notice, as provided by Rule 16.10(d)(10).

d. The notice of MACT approval shall expire if construction or reconstruction has not commenced within 18 months after issuance, unless the board or director has granted an extension, which shall not exceed an additional 12 months.

(8) Opportunity for public comment on the notice of MACT approval.

a. The board or director will provide opportunity for public comment on the notice of MACT approval, including, at a minimum:

1. Availability for public inspection in at least one location in the area affected of the information submitted by the owner or operator and of the board or director's initial decision to approve the application;

2. A 30-day period for submittal of public comment; and

3. A notice by prominent advertisement in the area affected of the location of the source information and initial decision specified in Rule 16.10(d)(8)a.1.

b. At the discretion of the board or director, the notice of MACT approval setting forth the initial decision to approve the application may become final automatically at the end of the comment period if no adverse comments are received. If adverse comments are received, the board or director shall have 30 days after the end of the comment period to make any necessary revisions in its analysis and decide whether to finally approve the application.

(9) EPA notification. The board or director shall send a copy of the final notice of MACT approval, notice of approval of a Part 70 permit application incorporating a MACT determination (in those instances where the owner or operator either is required or elects to obtain such a permit before construction or reconstruction), or other notice of approval issued pursuant to Rule 16.10(d)(3)b.2. to the administrator through the appropriate regional office, and to all other state air pollution control agencies having jurisdiction in affected states.

(10) Effective date. The effective date of a MACT determination shall be the date the notice of MACT approval becomes final, the date of issuance of a Part 70 permit incorporating a MACT determination [in those instances where the owner or operator either is required or elects to obtain such a permit before construction or reconstruction], or the date any other notice of approval issued pursuant to Rule 16.10(d)(3)b.2. of this section becomes final.

(11) Compliance date. On and after the date of start-up, a constructed or reconstructed major source which is subject to Rule 16.10 shall be in compliance with all applicable requirements specified in the MACT determination.

(12) Compliance with MACT determinations.

a. An owner or operator of a constructed or reconstructed major source that is subject to a MACT determination shall comply with all requirements in the final notice of MACT approval, the Part 70 permit (in those instances where the owner or operator either is required or elects to obtain such a permit before construction or reconstruction), or any other final notice of approval issued pursuant to Rule 16.10(c)(3)b.2., including but not limited to any MACT emission limitation or MACT work practice standard, and any notification, operation and maintenance, performance testing, monitoring, reporting, and recordkeeping requirements.

b. An owner or operator of a constructed or reconstructed major source which has obtained a MACT determination shall be deemed to be in compliance with Section 112(g)(2)(B) of the Clean Air Act only to the extent that the constructed or reconstructed major source is in compliance with all requirements set forth in the final notice of MACT approval, the Part 70 permit (in those instances where the owner or operator either is required or elects to obtain such a permit before construction or reconstruction), or any other final notice of approval issued pursuant to Rule 16.10(d)(3)b.2. Any violation of such requirements by the owner or operator shall be deemed to be a violation of the prohibition on construction or reconstruction in Section 112(g)(2)(B) for whatever period the owner or operator is determined to be in violation of such requirements, and shall subject the owner or operator to appropriate enforcement action under the Clean Air Act.

(13) Reporting to the administrator. Within 60 days after the issuance of a final notice of MACT approval, a Part 70 permit incorporating a MACT determination (in those instances where the owner or operator either is required or elects to obtain such a permit before construction or reconstruction), or any other final notice of approval issued pursuant to Rule 16.10(d)(3)b.2., the director shall provide a copy of such notice to the administrator, and shall provide a summary in a compatible electronic format for inclusion in the MACT data base.

(e) Requirements for constructed or reconstructed major sources subject to a subsequently promulgated MACT standard or MACT requirement.

(1) If the administrator promulgated an emission standard under Section 112(d) or Section 112(h) of the Clean Air Act or the board or director issues a determination under Section 112(j) of the Clean Air Act that is applicable to a stationary source or group of sources which would be deemed to be a constructed or reconstructed major source under Rule 16.10 before the date that the owner or operator has obtained a final and legally effective MACT determination under any of the review options available pursuant to Rule 16.10(d), the owner or operator of the source(s) shall comply with the promulgated standard or determination rather than any MACT determination under Section 112(g) of the Clean Air Act by the board or director, and the owner or operator shall comply with the promulgated standard by the compliance date in the promulgated standard.

(2) If the administrator promulgates an emission standard under Section 112(d) or Section 112(h) of the Clean Air Act or the board or director makes a determination under Section 112(j) of the Clean Air Act that is applicable to a stationary source or group of sources which was deemed to be a constructed or reconstructed major source under Rule 16.10 and has been subject to a prior case-by-case MACT determination pursuant to Rule 16.10(d), and the owner and operator obtained a final and legally effective case-by-case MACT determination prior to the promulgation date of such emission standard, then the board or director shall (if the initial Part 70 permit has not yet been issued) issue an initial operating permit which incorporates the emission standard or determination, or shall (if the initial Part 70 permit has been issued) revise the operating permit according to the reopening procedures in Article III of Chapter 7, to incorporate the emission standard or determination.

a. If the administrator has included in the emission standard established under Section 112(d) or Section 112(h) of the Clean Air Act a specific compliance date for those sources which have obtained a final and legally effective MACT

determination under Rule 16.10 and which have submitted the information required by Rule 16.10(d) to the EPA before the close of the public comment period for the standard established under Section 112(d) of the Act, such date shall assure that the owner or operator shall comply with the promulgated standard as expeditiously as practicable, but not longer than 8 years after such standard is promulgated. In that event, the board or director shall incorporate the applicable compliance date in the Part 70 permit.

b. If no compliance date has been established in the promulgated Section 112(d) or 112(h) standard or Section 112(j) determination, for those sources which have obtained a final and legally effective MACT determination under Rule 16.10, then the board or director shall establish a compliance date in the permit that assures that the owner or operator shall comply with the promulgated standard or determination as expeditiously as practicable, but not longer than 8 years after such standard is promulgated or a Section 112(j) determination is made.

(3) Notwithstanding the requirements of paragraphs (1) and (2) above, if the administrator promulgates an emission standard under Section 112(d) or Section 112(h) of the Clean Air Act or the board or director issues a determination under Section 112(j) of the Act that is applicable to a stationary source or group of sources which was deemed to be a constructed or reconstructed major source under Rule 16.10 and which is the subject of a prior case-by-case MACT determination pursuant to Rule 16.10(d), and the level of control required by the emission standard issued under Section 112(d) or Section 112(h) or the determination issued under Section 112(j) of the Act is less stringent than the level of control required by any emission limitation or standard in the prior MACT determination, the board or director is not required to incorporate any less stringent terms of the promulgated standard in the Part 70 permit applicable to such source(s) and may in its discretion consider any more stringent provisions of the prior MACT determination to be applicable legal requirements when issuing or revising such an operating permit.

Rule 17. Emission standard for asbestos.

Rule 17.1 Definitions. All terms that are used in this rule and are not defined below are given the same meaning as in § 8-702.

(1) "Active waste disposal site" means any disposal site other than an inactive site.

(2) "Adequately wet" means to sufficiently mix or penetrate with liquid to prevent the release of particulates. If visible emissions are observed coming from asbestos-containing material, then that material has not been



adequately wetted. However, the absence of visible emissions is not sufficient evidence of being adequately wetted.

(3) "Asbestos" means the asbestiform varieties of serpentine (chrysotile), riebeckite (crocidolite), cummingtonite-grunerite, anthophyllite, and actinolite-tremolite.

(4) "Asbestos-containing waste materials" means mill tailings or any waste that contains commercial asbestos and is generated by a source subject to the provisions of this subpart. This term includes filters from control devices, friable asbestos waste material, and bags or other similar packaging contaminated with commercial asbestos. As applied to demolition and renovation operations, this term also includes regulated asbestos-containing material waste and materials contaminated with asbestos including disposable equipment and clothing.

(5) "Asbestos mill" means any facility engaged in converting, or in any intermediate step in converting, asbestos ore into commercial asbestos. Outside storage of asbestos material is not considered a part of the asbestos mill.

(6) "Asbestos tailings" means any solid waste that contains asbestos and is a product of asbestos mining or milling operations.

(7) "Asbestos waste from control devices" means any waste material that contains asbestos and is collected by a pollution control device.

(8) "Category I nonfriable asbestos-containing material (ACM)" means asbestos-containing packing, gaskets, resilient floor covering, and asphalt roofing products containing more than 1 percent asbestos as determined using the method specified in Appendix A, subpart F, 40 CFR part 763, section 1, Polarized Light Microscopy, Revised as of July 1, 1991, which is included verbatim herein:

Appendix A to Subpart F--Interim Method of the Determination of Asbestos in Bulk Insulation Samples.

## SECTION 1. Polarized Light Microscopy

### 1.1 Principle and Applicability

Bulk samples of building materials taken for asbestos identification are first examined for homogeneity and preliminary fiber identification at low magnification. Positive identification of suspect fibers is made by analysis of subsamples with the polarized light microscope.

The principles of optical mineralogy are well established. A light microscope equipped with two polarizing filters is used to observe specific optical characteristics of a sample. The use of

plane polarized light allows the determination of refractive indices along specific crystallographic axes. Morphology and color are also observed. A retardation plate is placed in the polarized light path for determination of the sign of elongation using orthoscopic illumination. Orientation of the two filters such that their vibration planes are perpendicular (crossed polars) allows observation of the birefringence and extinction characteristics of anisotropic particles.

Quantitative analysis involves the use of point counting. Point counting is a standard technique in petrography for determining the relative areas occupied by separate minerals in thin sections of rock. Background information on the use of point counting<sup>2</sup> and the interpretation of point count data<sup>3</sup> is available.

This method is applicable to all bulk samples of friable insulation materials submitted for identification and quantitation of asbestos components.

### 1.2 Range

The point counting method may be used for analysis of samples containing from 0 to 100 percent asbestos. The upper detection limit is 100 percent. The lower detection limit is less than 1 percent.

### 1.3 Interferences

Fibrous organic and inorganic constituents of bulk samples may interfere with the identification and quantitation of the asbestos mineral content. Spray-on binder materials may coat fibers and affect color or obscure optical characteristics to the extent of masking fiber identity. Fine particles of other materials may also adhere to fibers to an extent sufficient to cause confusion in identification. Procedures that may be used for the removal of interferences are presented in Section 1.7.2.2.

### 1.4 Precision and Accuracy

Adequate data for measuring the accuracy and precision of the method for samples with various matrices are not currently available. Data obtained for samples containing a single asbestos type in a simple matrix are available in the EPA report

## Bulk Sample Analysis for Asbestos Content: Evaluation of the Tentative Method.4

### 1.5 Apparatus

#### 1.5.1 Sample Analysis

A low-power binocular microscope, preferably stereoscopic, is used to examine the bulk insulation sample as received.

- Microscope: binocular, 10-45X (approximate).
  - Light Source: incandescent or fluorescent.
  - Forceps, Dissecting Needles, and Probes
  - Glassine Paper or Clean Glass Plate
- Compound microscope requirements: A polarized light microscope complete with polarizer, analyzer, port for wave retardation plate, 360° graduated rotating stage, substage condenser, lamp, and lamp iris.
- Polarized Light Microscope: described above.
  - Objective Lenses: 10X, 20X, and 40X or near equivalent.
  - Dispersion Staining Objective Lens (optional)
  - Ocular Lens: 10X minimum.
  - Eyepiece Reticule: cross hair or 25 point Chalkley Point Array
  - Compensator Plate: 550 millimicron retardation.

#### 1.5.2 Sample Preparation

Sample preparation apparatus requirements will depend upon the type of insulation sample under consideration. Various physical and/or chemical means may be employed for an adequate sample assessment.

- Ventilated Hood or negative pressure glove box.
- Microscope Slides
- Coverslips
- Mortar and Pestle: agate or porcelain. (optional)
- Wylie Mill (optional)
- Beakers and Assorted Glassware (optional)
- Centrifuge (optional)
- Filtration apparatus (optional)
- Low temperature asher (optional)

### 1.6 Reagents

### 1.6.1 Sample Preparation

- Distilled Water (optional)
- Dilute CH<sub>3</sub>COOH: ACS reagent grade (optional)
- Dilute HCl: ACS reagent grade (optional)
- Sodium metaphosphate (Na<sub>a</sub>PO<sub>3</sub>)<sub>6</sub> (optional)

### 1.6.2 Analytical Reagents

Refractive Index Liquids: 1.490-1.570, 1.590-1.720 in increments of 0.002 or 0.004.

- Refractive Index Liquids for Dispersion Staining: high-dispersion series, 1.550, 1.605, 1.630 (optional).
- UICC Asbestos Reference Sample Set: Available from: UICC MRC Pneumoconiosis Unit, Llandough Hospital, Penarth, Glamorgan CF6 1XW, UK, and commercial distributors.
- Tremolite-asbestos (source to be determined)
- Actinolite-asbestos (source to be determined)

## 1.7 Procedures

NOTE: Exposure to airborne asbestos fibers is a health hazard. Bulk samples submitted for analysis are usually friable and may release fibers during handling or matrix reduction steps. All sample and slide preparations should be carried out in a ventilated hood or glove box with continuous airflow (negative pressure). Handling of samples without these precautions may result in exposure of the analyst and contamination of samples by airborne fibers.

### 1.7.1 Sampling

Samples for analysis of asbestos content shall be taken in the manner prescribed in Reference 5 and information on design of sampling and analysis programs may be found in Reference 6. If there are any questions about the representative nature of the sample, another sample should be requested before proceeding with the analysis.

### 1.7.2 Analysis

#### 1.7.2.1 Gross Examination

Bulk samples of building materials taken for the identification and quantitation of asbestos are first examined for homogeneity at low magnification with the aid of a stereo microscope. The core sample may be examined in its container or carefully removed from the container onto a glassine transfer paper or clean glass plate. If possible, note is made of the top and bottom orientation. When discrete strata are identified, each is treated as a separate material so that fibers are first identified and quantified in that layer only, and then the results for each layer are combined to yield an estimate of asbestos content for the whole sample.

#### 1.7.2.2 Sample Preparation

Bulk materials submitted for asbestos analysis involve a wide variety of matrix materials. Representative subsamples may not be readily obtainable by simple means in heterogeneous materials, and various steps may be required to alleviate the difficulties encountered. In most cases, however, the best preparation is made by using forceps to sample at several places from the bulk material. Forcep samples are immersed in a refractive index liquid on a microscope slide, teased apart, covered with a cover glass, and observed with the polarized light microscope.

Alternatively, attempts may be made to homogenize the sample or eliminate interferences before further characterization. The selection of appropriate procedures is dependent upon the samples encountered and personal preference. The following are presented as possible sample preparation steps.

A mortar and pestle can sometimes be used in the size reduction of soft or loosely bound materials though this may cause matting of some samples. Such samples may be reduced in a Wylie mill. The apparatus should be clean and extreme care exercised to avoid cross-contamination of samples. Periodic checks of the particle sizes should be made during the grinding operation so as to preserve any fiber bundles present in an identifiable form. These procedures are not recommended for samples that contain amphibole minerals or vermiculite. Grinding of amphiboles may result in the separation of fiber bundles or the production of cleavage fragments with aspect ratios greater than 3:1. Grinding of vermiculite may also produce fragments with aspect ratios greater than 3:1.

Acid treatment may occasionally be required to eliminate interferences. Calcium carbonate, gypsum, and bassanite (plaster) are frequently present in sprayed or trowelled insulations. These materials may be removed by treatment with warm dilute acetic acid. Warm dilute hydrochloric acid may also be used to remove the above materials. If acid treatment is required, wash the sample at least twice with distilled water, being careful not to lose the particulates during decanting steps. Centrifugation or filtration of the suspension will prevent significant fiber loss. The pore size of the filter should be 0.45 micron or less. Caution: prolonged acid contact with the sample may alter the optical characteristics of chrysotile fibers and should be avoided.

Coatings and binding materials adhering to fiber surfaces may also be removed by treatment with sodium metaphosphate.<sup>7</sup> Add 10 mL of 10g/L sodium metaphosphate solution to a small (0.1 to 0.5 mL) sample of bulk material in a 15-mL glass centrifuge tube. For approximately 15 seconds each, stir the mixture on a vortex mixer, place in an ultrasonic bath and then shake by hand. Repeat the series. Collect the dispersed solids by centrifugation at 1000 rpm for 5 minutes. Wash the sample three times by suspending in 10 mL distilled water and re-centrifuging. After washing, resuspend the pellet in 5 mL distilled water, place a drop of the suspension on a microscope slide, and dry the slide at 110° C.

In samples with a large portion of cellulosic or other organic fibers, it may be useful to ash part of the sample and view the residue. Ashing should be performed in a low temperature asher. Ashing may also be performed in a muffle furnace at temperatures of 500°C or lower. Temperatures of 550°C or higher will cause dehydroxylation of the asbestos minerals, resulting in changes of the refractive index and other key parameters. If a muffle furnace is to be used, the furnace thermostat should be checked and calibrated to ensure that samples will not be heated at temperatures greater than 550°. Ashing and acid treatment of samples should not be used as standard procedures. In order to monitor possible changes in fiber characteristics, the material should be viewed microscopically before and after any sample preparation procedure. Use of these procedures on samples to be used for quantitation requires a correction for percent weight loss.

### 1.7.2.3 Fiber Identification

Positive identification of asbestos requires the determination of the following optical properties:

- Morphology
- Color and pleochroism
- Refractive indices
- Birefringence
- Extinction characteristics
- Sign of elongation

Table 1-1 lists the above properties for commercial asbestos fibers. Figure 1-1 presents a flow diagram of the examination procedure. Natural variations in the conditions under which deposits of asbestiform minerals are formed will occasionally produce exceptions to the published values and differences from the UICC standards. The sign of elongation is determined by use of the compensator plate and crossed polars. Refractive indices may be determined by the Becke line test. Alternatively, dispersion staining may be used. Inexperienced operators may find that the dispersion staining technique is more easily learned, and should consult Reference 9 for guidance. Central stop dispersion staining colors are presented in Table 1-2. Available high-dispersion (HD) liquids should be used.

**TABLE 1-1 - OPTICAL PROPERTIES OF ASBESTOS FIBERS**



Figure 1-1. Flow chart for analysis of bulk samples by polarized light microscopy.

**TABLE 1-2-CENTRAL STOP DISPERSION STAINING COLORS,****1.7.2.4 Quantitation of Asbestos Content**

Asbestos quantitation is performed by a point-counting procedure or an equivalent estimation method. An ocular reticle (crosshair or point array) is used to visually superimpose a point or points on the microscope field of view. Record the number of points positioned directly above each kind of particle or fiber of interest. Score only points directly over asbestos fibers or nonasbestos matrix material. Do not score empty points for the closest particle. If an asbestos fiber and a matrix particle overlap so that a point is superimposed on their visual intersection, a point is scored for both categories. Point counting provides a determination of the area percent asbestos. Reliable conversion of area percent to percent of dry weight is not currently feasible unless the specific gravities and relative volumes of the materials are known.

For the purpose of this method, "asbestos fibers" are defined as having an aspect ratio greater than 3:1 and being positively identified as one of the minerals in Table 1-1.

A total of 400 points superimposed on either asbestos fibers or nonasbestos matrix material must be counted over at least eight different preparations of representative subsamples. Take eight forcep samples and mount each separately with the appropriate refractive index liquid. The preparation should not be heavily loaded. The sample should be uniformly dispersed to avoid overlapping particles and allow 25-50 percent empty area within the fields of view. Count 50 nonempty points on each preparation, using either:

- A cross-hair reticle and mechanical stage; or
- A reticle with 25 points (Chalkley Point Array) and counting at least 2 randomly selected fields.

For samples with mixtures of isotropic and anisotropic materials present, viewing the sample with slightly uncrossed polars or the addition of the compensator plate to the polarized light path will allow simultaneous discrimination of both particle types. Quantitation should be performed at 100X or at the lowest magnification of the polarized light microscope that can effectively distinguish the sample components. Confirmation of the quantitation result by a second analyst on some percentage of analyzed samples should be used as standard quality control procedure.

The percent asbestos is calculated as follows:

$$\% \text{ asbestos} = (a/n) 100\%$$

where

a = number of asbestos counts,

n = number of nonempty points counted (400),

If a=0, report "No asbestos detected." If  $0 < a \leq 3$ , report "<1% asbestos".

The value reported should be rounded to the nearest percent.

## 1.8 References

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4. E. P. Brantly, Jr., K. W. Gold, L. E. Myers, and D. E. Lentzen, Bulk Sample Analysis for Asbestos Content: Evaluation of the Tentative Method, U.S. Environmental Protection Agency, October 1981.
5. U.S. Environmental Protection Agency, Asbestos-Containing Materials in School Buildings: A Guidance Document, Parts 1 and 2, EPA/OTS No. C00090, March 1979.
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8. W. J. Campbell, R. L. Blake, L. L. Brown, E. E. Cather, and J. J. Sjöberg. Selected Silicate Minerals and Their Asbestiform Varieties: Mineralogical Definitions and Identification-Characterization, U.S. Bureau of Mines Information Circular 8751, 1977.
9. Walter C. McCrone, Asbestos Particle Atlas, Ann Arbor: Ann Arbor Science Publishers, June 1980.

(9) "Category II nonfriable ACM" means any material, excluding Category I nonfriable ACM, containing more than 1 percent asbestos as determined using the methods specified in appendix A, subpart F, 40 CFR part 763, section 1, Polarized Light Microscopy, Revised as of July 1, 1991, which is set forth verbatim at Rule 17.1(8) above, that, when dry, cannot be crumbled, pulverized, or reduced to powder by hand pressure.

(10) "Commercial asbestos" means any material containing asbestos that is extracted from ore and has value because of its asbestos content.

(11) "Cutting" means to penetrate with a sharp-edged instrument and includes sawing, but does not include shearing, slicing.

(12) "Demolition" means the wrecking or taking out of any load-supporting structural member of a facility together with any related handling operations or the intentional burning of any facility.

(13) "Emergency renovation operation" means a renovation operation that was not planned but results from a sudden, unexpected event that, if not immediately attended to, presents a safety or public health hazard, is necessary to protect equipment from damage, or is necessary to avoid imposing an unreasonable

financial burden. This term includes operations necessitated by nonroutine failures of equipment.

(14) "Fabricating" means any processing (e.g., cutting, sawing, drilling) of a manufactured product that contains commercial asbestos, with the exception of processing at temporary sites (field fabricating) for the construction or restoration of facilities. In the case of friction products, fabricating includes bonding, debonding, grinding, sawing, drilling, or other similar operations performed as part of fabricating.

(15) "Facility" means any institutional, commercial, public, industrial, or residential structure, installation, or building (including any structure, installation, or building containing condominiums or individual dwelling units operated as a residential cooperative, but excluding residential buildings having four or fewer dwelling units); any ship; and any active or inactive waste disposal site. For purposes of this definition, any building, structure, or installation that contains a loft used as a dwelling is not considered a residential structure, installation, or building. Any structure, installation or building that was previously subject to Rule 16 is not excluded, regardless of its current use or function.

(16) "Facility component" means any part of a facility including equipment.

(17) "Friable asbestos material" means any material containing more than 1 percent asbestos as determined using the method specified in appendix A, subpart F, 40 CFR part 763, section 1, Polarized Light Microscopy, Revised as of July 1, 1991, which is set forth verbatim at Rule 17.1(8) above, that, when dry, can be crumbled, pulverized, or reduced to powder by hand pressure. If the asbestos content is less than 10 percent as determined by a method other than point counting by polarized light microscopy (PLM), verify the asbestos content by point counting using PLM.

(18) "Fugitive source" means any source of emissions not controlled by an air pollution control device.

(19) "Glove bag" means a sealed compartment with attached inner gloves used for the handling of asbestos-containing materials. Properly installed and used, glove bags provide a small work area enclosure typically used for small-scale asbestos stripping operations. Information on glove-bag installation, equipment and supplies, and work practices is contained in the Occupational Safety and Health Administration's (OSHA's) final rule on occupational exposure to asbestos (appendix G to 29 CFR 1926.58, Revised July 1, 1992).

(20) "Grinding" means to reduce to powder or small fragments and includes mechanical chipping or drilling.

(21) "In poor condition" means the binding of the material is losing its integrity as indicated by peeling, cracking, or crumbling of the material.

(22) "Inactive waste disposal site" means any disposal site or portion of it where additional asbestos-containing waste material has not been deposited within the past year.

(23) "Installation" means any building or structure or any group of buildings or structures at a single demolition or renovation site that are under the control of the same owner or operator (or owner or operator under common control).

(24) "Leak-tight" means that solids or liquids cannot escape or spill out. It also means dust-tight.

(25) "Malfunction," for the purposes of Rule 17, means any sudden and unavoidable failure of air pollution control equipment or process equipment or of a process to operate in a normal or usual manner so that emissions of asbestos are increased. Failures of equipment shall not be considered malfunctions if they are caused in any way by poor maintenance, careless operation, or any other preventable upset condition, equipment breakdown, or process failure.

(26) "Manufacturing" means the combining of commercial asbestos--or, in the case of woven friction products, the combining of textiles containing commercial asbestos--with any other material(s), including commercial asbestos, and the processing of this combination into a product. Chlorine production is considered a part of manufacturing.

(27) "Natural barrier" means a natural object that effectively precludes or deters access. Natural barriers include physical obstacles such as cliffs, lakes or other large bodies of water, deep and wide ravines, and mountains. Remoteness by itself is not a natural barrier.

(28) "Nonfriable asbestos-containing material" means any material containing more than 1 percent asbestos as determined using the method specified in appendix A, subpart F, 40 CFR part 763, section 1, Polarized Light Microscopy, Revised as of July 1, 1991, which is set forth verbatim at Rule 17.1(8) above, that, when dry, cannot be crumbled, pulverized, or reduced to powder by hand pressure.

(29) "Nonscheduled renovation operation" operation means a renovation operation necessitated by the routine failure of equipment, which is expected to occur within a given period based on past operating experience, but for which an exact date cannot be predicted.

(30) "Outside air" means the air outside buildings and structures, including, but not limited to, the air under a bridge or in an open air ferry dock.

(31) "Owner or operator of a demolition or renovation activity" means any person who owns, leases, operates, controls, or supervises the facility being demolished or renovated or any person who owns, leases, operates, controls, or supervises the demolition or renovation operation, or both.

(32) "Particulate asbestos material" means finely divided particles of asbestos or material containing asbestos.

(33) "Planned renovation operations" means a renovation operation, or a number of such operations, in which some RACM will be removed or stripped within a given period of time and that can be predicted. Individual nonscheduled operations are included if a number of such operations can be predicted to occur during a given period of time based on operating experience.

(34) "Regulated asbestos-containing material (RACM)" means (a) friable material, (b) Category I nonfriable ACM that has become friable, (c) Category I nonfriable ACM that will be or has been subjected to sanding, grinding, cutting, or abrading, or (d) Category II nonfriable ACM that has a high probability of becoming or has become crumbled, pulverized, or reduced to powder by the forces expected to act on the material in the course of demolition or renovation operations regulated by this Rule.

(35) "Remove" means to take out RACM or facility components that contain or are covered with RACM from any facility.

(36) "Renovation" means altering a facility or one or more facility components in any way, including the stripping or removal of RACM from a facility component even if temporary. Operations in which load-supporting structural members are wrecked or taken out are demolitions.

(37) "Resilient floor covering" means asbestos-containing floor tile, including asphalt and vinyl floor tile, any sheet vinyl floor covering containing more than 1 percent asbestos as determined using polarized light microscopy according to the method specified in appendix A, subpart F, 40 CFR part 763, Section 1, Polarized Light Microscopy, Revised July 1, 1991, which is set forth verbatim at Rule 17.1(8) above.

(38) "Roadways" means surfaces on which vehicles travel. This term includes public and private highways, roads, streets, parking areas, and driveways.

(39) "Strip" means to take off RACM from any part of a facility or facility components.

(40) "Structural member" means any load supporting member of a facility, such as beams and load supporting walls; or any nonload supporting member, such as ceilings and nonload-supporting walls.

(41) "Visible emissions" means any emissions, which are visually detectable without the aid of instruments, coming from RACM or asbestos-containing waste material, or from any asbestos milling, manufacturing, or fabricating operation. This does not include condensed, uncombined water vapor.

(42) "Waste generator" means any owner or operator of a source covered by this Rule whose act or process produces asbestos-containing waste material.

(43) "Waste shipment record" means the shipping document, required to be originated and signed by the waste generator, used to track and substantiate the disposition of asbestos-containing waste material.

(44) "Working day" means Monday through Friday and includes holidays that fall on any of the days Monday through Friday.

Rule 17.2 Standard for asbestos mills.

(1) Each owner or operator of an asbestos mill shall either discharge no visible emissions to the outside air from that asbestos mill, including fugitive sources, or use the methods specified by Rule 17.12 to clean emissions containing particulate asbestos material before they escape to, or are vented to, the outside air.

(2) Each owner or operator of an asbestos mill shall meet the following requirements:

a. Monitor each potential source of asbestos emissions from any part of the mill facility, including air cleaning devices, process equipment, and buildings that house equipment for material processing and handling, at least once a day, during daylight hours, for visible emissions to the outside air during periods of operation. The monitoring shall be by visual observation of at least 15 seconds duration per source of emissions.

b. Inspect each air cleaning device at least once each week for proper operation and for changes that signal the potential for malfunction, including, to the maximum extent possible without dismantling other than opening the device, the presence of tears, holes, and abrasions in filter bags and for dust deposits on the clean side of bags. For air cleaning devices that cannot be inspected on a weekly basis according to this paragraph, submit to the director, and revise as necessary, a written maintenance plan to include, at a minimum, the following:

1. Maintenance schedule.
2. Recordkeeping plan.

c. Maintain records of the results of visible emissions monitoring and air cleaning device inspections using a format similar to that shown in Figures 1 and 2 and include the following:

1. Date and time of each inspection.
2. Presence or absence of visible emissions.
3. Condition of fabric filters, including presence of any tears, holes, and abrasions.
4. Presence of dust deposits on clean side of fabric filters.
5. Brief description of corrective actions taken, including date and time.
6. Daily hours of operation for each air cleaning device.

d. Furnish upon request, and make available at the affected facility during normal business hours for inspection by the director, all records required under this Rule.



e. Retain a copy of all monitoring and inspection records for at least 2 years.

f. Submit quarterly a copy of visible emission monitoring records to the director if visible emissions occurred during the report period. Quarterly reports shall be postmarked by the 30th day following the end of the calendar quarter.

Date of inspection (Mo/day/yr)	Time of inspection (a.m./p.m.)	Air cleaning device or fugitive source designation or number	Visible emissions observed (yes/no), corrective action taken	Daily operating hours	Inspector's initials

**Figure 1. Record of Visible Emission Monitoring**

1. Air cleaning device designation or number	_____		
2. Date of inspection	_____	_____	_____
3. Time of inspection	_____	_____	_____
4. Is air cleaning device operating properly (yes/no)	_____		
5. Tears, holes, or abrasions in fabric filter (yes/no)	_____		
6. Dust on clean side of fabric filters (yes/no)	_____		
7. Other signs of malfunctions or potential malfunctions (yes/no)	_____		
8. Describe other malfunctions or signs of potential malfunctions.	_____ _____		
9. Describe corrective action(s) taken.	_____ _____		
10. Date and time corrective action taken.	_____ _____		
11. Inspected by	_____		
(Print/Type Name)	(Title)	(Signature)	(Date)
_____	_____	_____	_____
(Print/Type Name)	(Title)	(Signature)	(Date)
_____	_____	_____	_____

**Figure 2. Air Cleaning Device Inspection Checklist**

Rule 17.3. Standard for roadways. No person may construct or maintain a roadway with asbestos tailings or asbestos-containing material on that roadway, unless, for asbestos tailings:

(1) It is a temporary roadway on an area of asbestos ore deposits (asbestos mine); or

(2) It is a temporary roadway at an active asbestos mill site and is encapsulated with a resinous or bituminous binder. The encapsulated road surface must be maintained at a minimum frequency of once per year to prevent dust emissions; or

(3) It is encapsulated in asphalt concrete meeting the specifications contained in section 401 of Standard Specifications for Construction of Roads and Bridges on Federal Highway Projects, FP-85, 1985, or their equivalent.

Rule 17.4. Standards for manufacturing.

(1) Applicability. This standard applies to the following manufacturing operations using commercial asbestos:

a. The manufacture of cloth, cord, wicks, tubing, tape, twine, rope, thread, yarn, roving, lap, or other textile materials;

b. The manufacture of cement products;

c. The manufacture of fireproofing and insulating materials;

d. The manufacture of friction products;

e. The manufacture of paper, millboard, and felt;

f. The manufacture of floor tile;

g. The manufacture of paints, coatings, caulks, adhesives, and sealants;

h. The manufacture of plastics and rubber materials;

i. The manufacture of chlorine utilizing asbestos diaphragm technology;

j. The manufacture of shotgun shell wads; and

k. The manufacture of asphalt concrete.

(2) Standard. Each owner or operator of any of the manufacturing operations to which Rule 17.4 applies shall:

a. Either discharge no visible emissions to the outside air from these operations or from any building or structure in which they are conducted or from any other fugitive sources; or

b. Use the methods specified by Rule 17.12 to clean emissions from these operations containing particulate asbestos material before they escape to, or are vented to, the outside air; and shall also

c. Monitor each potential source of asbestos emissions from any part of the manufacturing facility, including air cleaning devices, process equipment, and buildings housing material processing and handling equipment, at least once each day during daylight hours for visible emissions to the outside air during periods of operation. The

monitoring shall be by visual observation of at least 15 seconds duration per source of emissions.

d. Inspect each air cleaning device at least once each week for proper operation and for changes that signal the potential for malfunctions, including, to the maximum extent possible without dismantling other than opening the device, the presence of tears, holes, and abrasions in filter bags and for dust deposits on the clean side of bags. For air cleaning devices that cannot be inspected on a weekly basis according to this paragraph, submit to the director, and revise as necessary, a written maintenance plan to include, at a minimum, the following:

1. Maintenance schedule; and
2. Recordkeeping plan.

e. Maintain records of the results of visible emission monitoring and air cleaning device inspections using a format similar to that shown in Figures 1 and 2 and include the following:

1. Date and time of each inspection;
2. Presence or absence of visible emissions;
3. Condition of fabric filters, including presence of any tears, holes and abrasions;
4. Presence of dust deposits on clean side of fabric filters;
5. Brief description of corrective actions taken, including date and time; and
6. Daily hours of operation for each air cleaning device.

f. Furnish, upon request, and make available at the affected facility during normal business hours for inspection by the director or a representative of the director, all records required under Rule 17.4.

g. Retain a copy of all monitoring and inspection records for at least 2 years.

h. Submit quarterly a copy of the visible emission monitoring records to the director if visible emissions occurred during the reporting period. Quarterly reports shall be postmarked by the 30th day following the end of the calendar quarter.

Rule 17.5 Standard for demolition and renovation.

(1) Applicability. To determine which requirements of paragraphs (1), (2), and (3) of Rule 17.5 apply to the owner or operator of a demolition or renovation activity and prior to the commencement of the demolition or renovation, the owner or operator shall thoroughly inspect the affected facility or part of the facility where the demolition or renovation operation will occur for the presence of asbestos, including Category I and Category II nonfriable ACM. Any asbestos survey conducted by or for the owner or operator to determine the applicability of Rule 17.5 shall be conducted by a

qualified person who has complied with the training requirements of paragraph (3)h. The requirements of paragraphs (2) and (3) of Rule 17.5 apply to each owner or operator of a demolition or renovation activity, including the removal of RACM as follows:

a. In a facility being demolished, all the requirements of paragraphs (2) and (3) of this section apply, except as provided in paragraph (1)(c) of Rule 17.5, if the combined amount of RACM is

1. At least 80 linear meters (260 linear feet) on pipes or at least 15 square meters (160 square feet) on other facility components, or

2. At least 1 cubic meter (35 cubic feet) removed from facility components where the length or area could not be measured previously.

b. In a facility being demolished, only the notification requirements of paragraphs (2)a., (2)b., (2)c., 1. and 4., and (2)d.1. through 7. and 9. through 16. of Rule 17.5 apply, if the combined amount of RACM is

1. Less than 80 linear meters (260 linear feet) on pipes and less than 15 square meters (160 square feet) on other facility components, and

2. Less than one cubic meter (35 cubic feet) removed from facility components where the length or area could not be measured previously or there is no asbestos. These notification requirements apply to all demolition projects, even if no RACM has been identified by the owner or operator.

c. If the facility is being demolished under an order of a state or local government agency, issued because the facility is structurally unsound and in danger of imminent collapse, only the requirements of paragraphs (2)a., (2)b., (2)c.3, (2)d. (except (2)d.8), and (3)d. through i. of Rule 17.5 apply.

d. In a facility being renovated, including any individual nonscheduled renovation operation, all the requirements of paragraphs (2) and (3) of Rule 17.5 apply if the combined amount of RACM to be stripped, removed, dislodged, cut, drilled, or similarly disturbed is

1. At least 80 linear meters (260 linear feet) on pipes or at least 15 square meters (160 square feet) on facility components, or

2. At least 1 cubic meter (35 cubic feet) removed from facility components where the length or area could not be measured previously.

3. To determine whether paragraph (1)d. of Rule 17.5 applies to planned renovation operations involving individual nonscheduled operations, predict the combined additive amount

of RACM to be removed or stripped during a calendar year of January 1 through December 31.

4. To determine whether paragraph (1)d. of Rule 17.5 applies to emergency renovation operations, estimate the combined amount of RACM to be removed or stripped as a result of the sudden, unexpected event that necessitated the renovation.

(2) Notification requirements. Each owner or operator of a demolition or renovation activity to which Rule 17.5 applies shall:

a. Provide the director with written notice of intention to demolish or renovate on a form specified by the director and available from the bureau. Facsimile transmission is not acceptable.

b. Update the notice, as necessary, including when the amount of asbestos affected changes by at least 20 percent.

c. Assure receipt by the director of the original written notice as follows:

1. At least 10 working days before asbestos stripping or removal work or any other activity begins (such as site preparation that would break up, dislodge or similarly disturb asbestos material), if the operation is described in paragraphs (1)a. and d. (except (1)d.3. and (1)d.4.) of Rule 17.5.

2. At least 10 working days before any demolition operation described in paragraph (1)b. begins.

3. At least 10 working days before the end of the calendar year preceding the year for which notice is being given for renovations described in paragraph (1)d.3. of Rule 17.5.

4. As early as possible before, but not later than the following working day, if the operation is a demolition according to paragraph (1)c. of Rule 17.5 or, if the operation is a renovation described in paragraph (1)d.4. of Rule 17.5.

5. For asbestos stripping or removal work in a demolition or renovation operation, described in paragraphs (1)a. or d. (except (1)d.3. and (1)d.4.) of Rule 17.5, and for a demolition described in paragraph (1)(b) of Rule 17.5, that will begin on a date other than the one contained in the original notice, notice of the new start date must be provided to the director as follows:

(i) When the asbestos stripping or removal operation or demolition operation covered by this paragraph will begin after the date contained in the notice,

(A) Notify the director of the new start date by telephone as soon as possible before the original start date, and

(B) Provide the director with an original written notice of the new start date as soon as possible before, and no later than, the original start date. Facsimile transmission is not acceptable.

(ii) When the asbestos stripping or removal operation or demolition operation covered by Rule 17.5 will begin on a date earlier than the original start date,

(A) Provide the director with an original written notice of the new start date at least 10 working days before asbestos stripping or removal work begins. Facsimile transmission is not acceptable.

(B) For demolitions covered by paragraph (1)b. of Rule 17.5, provide the director an original written notice of a new start date at least 10 working days before commencement of demolition. Facsimile transmission is not acceptable.

(iii) In no event shall an operation covered by Rule 17.5 begin on a date other than the date contained in the written notice of the new start date.

d. Include the following in the notice:

1. An indication of whether the notice is the original or a revised notification;

2. Name, address, and telephone number of both the facility owner and operator and the asbestos removal contractor or operator;

3. Type of operation: demolition or renovation;

4. Description of the facility or affected part of the facility including the size (square meters [square feet] and number of floors), age, and present and prior use of the facility;

5. Procedure, including analytical methods, employed to detect the presence of RACM and Category I and Category II nonfriable AC;

6. Estimate of the approximate amount of RACM to be removed from the facility in terms of length of pipe in linear meters (linear feet), surface area in square meters (square feet) on other facility components, or volume in cubic meters (cubic feet) if off the facility components. Also, estimate the approximate amount of Category I and Category II nonfriable ACM in the affected part of the facility that will not be removed before demolition;

7. Location and street address (including city and building number or name and floor or room number, if appropriate) of the facility being demolished or renovated;

8. Scheduled starting and completion dates of asbestos work (or any other activity, such as site preparation that would break up, dislodge, or similarly disturb asbestos material) in a demolition or renovation; planned renovation operations involving individual nonscheduled operations shall only include the beginning and ending dates of the report period as described in paragraph (1)d.3. of Rule 17.5;

9. Scheduled starting and completion dates of demolition or renovation;

10. Description of planned demolition or renovation work to be performed and method(s) to be employed, including demolition or renovation techniques to be used, and description of affected facility components;

11. Description of work practices and engineering controls to be used to comply with the requirements of Rule 17.5, including asbestos removal and waste-handling emission control procedures;

12. Name and location of the waste disposal site where the asbestos-containing waste material will be deposited;

13. On and after January 1, 1993, a certification that at least one person trained as required by paragraph (3)h. of Rule 17.5 will supervise the stripping and removal described by this notification;

14. For facilities described in paragraph (1)c. of Rule 17.5, the name, title, and authority of the state or local government representative who has ordered the demolition, the date that the order was issued, and the date on which the demolition was ordered to begin or was ordered to be completed. A copy of the order shall be attached to the notification;

15. For emergency renovations described in paragraph (1)d.4. of Rule 17.5, the date and hour that the emergency occurred, a description of the sudden, unexpected event, and an explanation of how the event caused an unsafe condition, or would cause equipment damage or an unreasonable financial burden;

16. Description of procedures to be followed in the event that unexpected RACM is found or Category II nonfriable ACM becomes crumbled, pulverized, or reduced to powder; and

17. Name, address, and telephone number of the waste transporter.

(3) Procedures for asbestos emission control. Each owner or operator of a demolition or renovation activity to whom Rule 17.5 applies, according to paragraph (1) of Rule 17.5, shall comply with the following procedures:



a. Remove all RACM from a facility being demolished or renovated before any activity begins that would break up, dislodge, or similarly disturb the material or preclude access to the material for subsequent removal. RACM need not be removed before demolition if:

1. It is Category I nonfriable ACM that is not in poor condition and is not friable;

2. It is on a facility component that is encased in concrete or other similarly hard material and is adequately wet whenever expected during demolition;

3. It was not accessible for testing and was, therefore, not discovered until after demolition began and, as a result of the demolition, the material cannot be safely removed. If not removed for safety reasons, the exposed RACM and any asbestos-contaminated debris must be treated as asbestos-containing waste material and adequately wet at all times until disposed of; or

4. It is Category II nonfriable ACM and the probability is low that the materials will become crumbled, pulverized, or reduced to powder during demolition.

b. When a facility component that contains, is covered with, or is coated with RACM is being taken out of the facility as a unit or in sections:

1. Adequately wet all RACM exposed during cutting or disjoining operations; and

2. Carefully lower each unit or section to the floor and to ground level, not dropping, throwing, sliding, or otherwise damaging or disturbing the RACM.

c. When RACM is stripped from a facility component while it remains in place in the facility, adequately wet the RACM during the stripping operation.

1. In renovation operations, wetting is not required if:

i. The owner or operator has obtained prior written approval from the director based on a written application that wetting to comply with this paragraph would unavoidably damage equipment or present a safety hazard; and

ii. The owner or operator uses one of the following emission control methods:

(A) A local exhaust ventilation and collection system designed and operated to capture the particulate asbestos material produced by the stripping and removal of the asbestos materials. The system must exhibit no visible emissions to the

outside air or be designed and operated in accordance with the requirements in Rule 17.12;

(B) A glove-bag system designed and operated to contain particulate asbestos material produced by the stripping of the materials; or

(C) Leak-tight wrapping to contain all RACM prior to dismantlement.

2. In renovation operations where wetting would result in equipment damage or a safety hazard, and the methods allowed in paragraph (3)c.1. of Rule 17.5 cannot be used, another method may be used after written approval from the director based upon a determination that it is equivalent to wetting in controlling emissions or to the methods allowed in paragraph (3)c.1. of Rule 17.5.

3. A copy of the director's written approval shall be kept at the worksite and made available for inspection.

d. After a facility component covered with, coated with, or containing RACM has been taken out of the facility as a unit or in sections pursuant to paragraph (3)b. of Rule 17.5, it shall be stripped or contained in leak-tight wrapping, except as described in paragraph (3)e. of Rule 17.5. If stripped, either:

1. Adequately wet the RACM during stripping; or

2. Use a local exhaust ventilation and collection system designed and operated to capture the particulate asbestos material produced by the stripping. The system must exhibit no visible emissions to the outside air or be designed and operated in accordance with the requirements in Rule 17.12.

e. For large facility components such as reactor vessels, large tanks, and steam generators, but not beams (which must be handled in accordance with paragraphs (3)b., c., and d. of Rule 17.5), the RACM is not required to be stripped if the following are met:

1. The component is removed, transported, stored, disposed of, or reused without disturbing or damaging the RACM;

2. The component is encased in a leak-tight wrapping; and

3. The leak-tight wrapping is labeled according to Rule 17.9 (4)a.1., and 3. during all loading and unloading operations and during storage.

f. For all RACM, including material that has been removed or stripped:

1. Adequately wet the material and ensure that it remains wet until collected and contained or treated in preparation for disposal in accordance with Rule 17.10;

2. Carefully lower the material to the ground and floor, not dropping, throwing, sliding, or damaging or disturbing the material;

3. Transport the material to the ground via leak-tight chutes or containers if it has been removed or stripped more than 50 feet above ground level and was not removed as units or in sections;

4. RACM contained in leak-tight wrapping that has been removed in accordance with paragraphs (3)d. and (3)c.1.(ii)(c) of Rule 17.5 need not be wetted.

g. When the temperature at the point of wetting is below 0° C (32° F):

1. The owner or operator need not comply with paragraph (3)b.1. and the wetting provisions of paragraph (3)c. of Rule 17.5.

2. The owner or operator shall remove facility components containing, coated with, or covered with RACM as units or in sections to the maximum extent possible.

3. During periods when wetting operations are suspended due to freezing temperatures, the owner or operator must record the temperature in the area containing the facility components at the beginning, middle, and end of each workday and keep daily temperature records available for inspection by the director during normal business hours at the demolition or renovation site. The owner or operator shall retain the records for at least 2 years.

h. On and after January 1, 1993, no RACM shall be stripped, removed, or otherwise handled or disturbed at a facility regulated by Rule 17.5 unless at least one on-site representative, such as a foreman or management-level person or other authorized representative, trained in the provisions of Rule 17.5 and the means of complying with them, is present. Every 2 years, the trained on-site individual shall receive refresher training in the provisions of Rule 17.5. The required training shall include as a minimum: applicability; notifications; material identification; control procedures for removals including, at least, wetting, local exhaust ventilation, negative pressure enclosures, glove-bag procedures, and High Efficiency Particulate Air (HEPA) filters; waste disposal work practices; reporting and recordkeeping; and asbestos hazards and worker protection. Evidence that the required training has been completed shall be posted and made available for inspection by the director at the demolition or renovation site.

i. For facilities described in paragraph (1)c. of Rule 17.5, adequately wet the portion of the facility that contains RACM during the operation.

j. If a facility is demolished by intentional burning, all RACM including Category I and Category II nonfriable ACM must be removed in accordance with Rule 17.5 before burning.

Rule 17.6 Standard for spraying. The owner or operator of an operation in which asbestos-containing materials are spray applied shall comply with the following requirements:

(1) For spray-on application on buildings, structures, pipes, and conduits, do not use material containing more than 1 percent asbestos as determined using the method specified in appendix A, subpart F, 40 CFR part 763, section 1, Polarized Light Microscopy, Revised July 1, 1991, which is set forth verbatim at Rule 17.1(8) above, except as provided in paragraph (3) of Rule 17.6.

(2) For spray-on application of materials that contain more than 1 percent asbestos as determined using the method specified in appendix A, subpart F, 40 CFR part 763, section 1, Polarized Light Microscopy, Revised July 1, 1991, which is set forth verbatim at Rule 17.1(8) above, on equipment and machinery, except as provided in paragraph (3) of Rule 17.6:

a. Notify the director at least 20 days before beginning the spraying operation. Include the following information in the notice:

1. Name and address of owner or operator;
2. Location of spraying operation;
3. Procedures to be followed to meet the requirements of this paragraph.

b. Discharge no visible emissions to the outside air from spray-on application of the asbestos-containing material or use the methods specified by Rule 17.12 to clean emissions containing particulate asbestos material before they escape to, or are vented to, the outside air.

(3) The requirements of paragraphs (1) and (2) of Rule 17.6 do not apply to the spray-on application of materials where the asbestos fibers in the materials are encapsulated with a bituminous or resinous binder during spraying and the materials are not friable after drying.

Rule 17.7 Standards for fabricating.

(1) Applicability. This rule applies to the following fabricating operations using commercial asbestos:

- a. The fabrication of cement building products;
- b. The fabrication of friction products, except those operations that primarily install asbestos friction materials on motor vehicles; and
- c. The fabrication of cement or silicate board for ventilation hoods; ovens; electrical panels; laboratory furniture, bulkheads,

partitions, and ceilings for marine construction; and flow control devices for the molten metal industry.

(2) Standard. Each owner or operator of any of the fabricating operations to which Rule 17.7 applies shall either:

a. Either discharge no visible emissions to the outside air from any of the operations or from any building or structure in which they are conducted or from any other fugitive sources; or

b. Use the methods specified by Rule 17.12 to clean emissions containing particulate asbestos material before they escape to, or are vented to, the outside air; and shall also

c. Monitor each potential source of asbestos emissions from any part of the fabricating facility, including air cleaning devices, process equipment, and buildings that house equipment for material processing and handling, at least once each day, during daylight hours, for visible emissions to the outside air during periods of operation. The monitoring shall be by visual observation of at least 15 second duration per source of emissions.

d. Inspect each air cleaning device at least once each week for proper operation and for changes that signal the potential for malfunctions, including, to the maximum extent possible without dismantling other than opening the device, the presence of tears, holes, and abrasions in filter bags and for dust deposits on the clean side of bags. For air cleaning devices that cannot be inspected on a weekly basis according to this paragraph, submit to the director, and revise as necessary, a written maintenance plan to include, at a minimum, the following:

1. Maintenance schedule; and
2. Recordkeeping plan.

e. Maintain records of the results of visible emission monitoring and air cleaning device inspections using a format similar to that shown in Figures 1 and 2 and include the following:

1. Date and time of each inspection;
2. Presence or absence of visible emissions;
3. Condition of fabric filters, including presence of any tears, holes, and abrasions;
4. Presence of dust deposits on clean side of fabric filters;
5. Brief description of corrective actions taken, including date and time; and
6. Daily hours of operation for each air cleaning device.

f. Furnish upon request and make available at the affected facility during normal business hours for inspection by the director, all records required under Rule 17.

g. Retain a copy of all monitoring and inspection records for at least 2 years.

h. Submit quarterly a copy of the visible emission monitoring records to the director if visible emissions occurred during the report period. Quarterly reports shall be postmarked by the 30th day following the end of the calendar quarter.

Rule 17.8. Standard for insulating materials. No owner or operator of a facility may install or reinstall on a facility component any insulating materials that contain commercial asbestos if the materials are either molded and friable or wet-applied and friable after drying. The provisions of Rule 17.8 do not apply to spray-applied insulating materials regulated under Rule 17.6.

Rule 17.9 Standard for waste disposal for asbestos mills. Each owner or operator of any source covered under the provisions of Rule 17.2 shall:

(1) Deposit all asbestos-containing waste material at a waste disposal site operated in accordance with the provisions of Rule 17.14 and

(2) Discharge no visible emissions to the outside air from the transfer of control device asbestos waste to the tailings conveyor, or use the method specified by Rule 17.12 to clean emissions containing particulate asbestos material before they escape to, or are vented to, the outside air. Dispose of the asbestos waste from control devices in accordance with Rule 17.10 or paragraph (3) of Rule 17.9; and

(3) Discharge no visible emissions to the outside air during the collection, processing, packaging, or on-site transporting of any asbestos-containing waste material, or use one of the disposal methods specified in paragraphs (3)a. or b. of Rule 17.9, as follows:

a. Use a wetting agent as follows:

1. Adequately mix all asbestos-containing waste material with a wetting agent recommended by the manufacturer of the agent to effectively wet dust and tailings, before depositing the material at a waste disposal site. Use the agent as recommended for the particular dust by the manufacturer of the agent.

2. Discharge no visible emissions to the outside air from the wetting operation or use the methods specified by Rule 17.12 to clean emissions containing particulate asbestos material before they escape to, or are vented to, the outside air.

3. Wetting may be suspended when the ambient temperature at the waste disposal site is less than  $-9.5^{\circ}\text{C}$  ( $15^{\circ}\text{F}$ ), as determined by an appropriate measurement method with an accuracy of  $\pm 1$  degree C ( $\pm 2$  degrees F). During periods when wetting operations are suspended, the temperature must be recorded at least at hourly intervals, and records must be retained for at least 2 years in a form suitable for inspection.

b. Use an alternative emission control and waste treatment method that has received prior written approval by the administrator of the U.S. Environmental Protection Agency pursuant to 40 CFR 61.149(c)(2). The owner or operator shall provide the director with a photocopy of the written approval. To obtain approval for an alternative method, a written application must be submitted to the director demonstrating that the following criteria are met:

1. The alternative method will control asbestos emissions equivalent to currently required methods;

2. The suitability of the alternative method for the intended application;

3. The alternative method will not violate other regulations; and

4. The alternative method will not result in increased water pollution, land pollution, or occupational hazards.

(4) When waste is transported by vehicle to a disposal site:

a. Mark vehicles used to transport asbestos-containing waste material during the loading and unloading of the waste so that the signs are visible. The markings must:

1. Be displayed in such a manner and location that a person can easily read the legend;

2. Conform to the following requirements for 51 cm x 36 cm (20 in x 14 in) upright format signs:

Caution signs. Standard color of the background shall be yellow; and the panel, black with yellow letters. Any letters used against the yellow background shall be black. The colors shall be those of opaque glossy samples as specified in Table 1 of American National Standard Z53.1-1967; and

3. Display the following legend in the lower panel with letter sizes and styles of a visibility at least equal to those specified in Rule 17.9:

Legend	Notation
DANGER	2.5 cm (1 inch) Sans Serif Gothic or Block
ASBESTOS DUST HAZARD	2.5 cm (1 inch) Sans Serif Gothic or Block
CANCER AND LUNG DISEASE HAZARD Authorized Personnel Only	1.9 cm (3/4 inch) Sans Serif Gothic or Block  14 point Gothic

Spacing between any two lines must be at least equal to the height of the upper of the two lines.

b. For off-site disposal, provide a copy of the waste shipment record, described in paragraph (5)a. of Rule 17.9, to the disposal site owner or operator at the same time as the asbestos-containing waste material is delivered to the disposal site.

(5) For all asbestos-containing waste material transported off the facility site:

a. Maintain asbestos waste shipment records, using a form similar to that shown in Figure 3, and include the following information:

1. The name, address, and telephone of the waste generator;
2. The name and address of the local, state, or EPA regional agency responsible for administering the asbestos NESHAP program;
3. The quantity of the asbestos-containing material in cubic meters (cubic yards);
4. The name and telephone number of the disposal site operator;
5. The name and physical site location of the disposal site;
6. The date transported;
7. The name, address, and telephone number of the transporter(s); and
8. A certification that the contents of this consignment are fully and accurately described by proper shipping name and are classified, packed, marked, and labeled, and are in all respects in proper condition for transport by



highway according to applicable international and government regulations.

b. For waste shipments where a copy of the waste shipment record, signed by the owner or operator of the designated disposal site, is not received by the waste generator within 35 days of the date the waste was accepted by the initial transporter, contact the transporter and/or the owner or operator of the designated disposal site to determine the status of the waste shipment.

c. Report in writing to the director and also to any other officer or agency where required by local, state, or federal law covering the waste generator if a copy of the waste shipment record, signed by the owner or operator of the designated waste disposal site, is not received by the waste generator within 45 days of the date the waste was accepted by the initial transporter. Include in the report the following information:

1. A copy of the waste shipment record for which a confirmation of delivery was not received, and

2. A cover letter signed by the waste generator explaining the efforts taken to locate the asbestos waste shipment and the results of those efforts.

d. Retain a copy of all waste shipment records, including a copy of the waste shipment record signed by the owner or operator of the designated waste disposal site, for at least 2 years.

(6) Furnish upon request, and make available for inspection by the director, all records required under Rule 17.9.

1. Work site name and mailing address	Owner's name	Owner's telephone no.
2. Operator's name and address		Operator's telephone no.
3. Waste disposal site (WDS) name, mailing address, and physical site location		WDS telephone no.
4. Name and address of responsible agency		
5. Description of materials	6. Containers Number      Type	7. Total quantity m <sup>3</sup> (yd <sup>3</sup> )
8. Special handling instructions and additional information		
9. OPERATOR'S CERTIFICATION: I hereby declare that the contents of this consignment are fully and accurately described above by proper shipping name and are classified, packed, marked, and labeled, and are in all respects in proper condition for transport by highway according to applicable international and government regulations.		
Printed/typed name & title	Signature	Month   Day   Year
10. Transporter 1 (Acknowledgment of receipt of materials)		
Printed/typed name & title	Signature	Month   Day   Year
Address and telephone no.		
11. Transporter 2 (Acknowledgment of receipt of materials)		
Printed/typed name & title	Signature	Month   Day   Year
Address and telephone no.		
12.      Discrepancy indication space		
13.      Waste disposal site owner or operator: Certification of receipt of asbestos materials covered by this manifest except as noted in item 12.		
Printed/typed name & title	Signature	Month   Day   Year

Figure 3.Waste Shipment Record

## INSTRUCTIONS

Waste Generator Section (Items 1-9)

1. Enter the name of the facility at which asbestos waste is generated and the address where the facility is located. In the appropriate spaces, also enter the name of the owner of the facility and the owner's phone number.
2. If a demolition or renovation, enter the name and address of the company and authorized agent responsible for performing the asbestos removal. In the appropriate spaces, also enter the phone number of the operator.
3. Enter the name, address, and physical site location of the waste disposal site (WDS) that will be receiving the asbestos materials. In the appropriate spaces, also enter the phone number of the WDS. Enter "on-site" if the waste will be disposed of on the generator's property.
4. Provide the name and address of the local, state, or EPA regional office responsible for administering the asbestos NESHAP program.
5. Indicate the types of asbestos waste materials generated. If from a demolition or renovation, indicate the amount of asbestos that is
  - Friable asbestos material
  - Nonfriable asbestos material
6. Enter the number of containers used to transport the asbestos materials listed in item 5. Also enter one of the following container codes used in transporting each type of asbestos material (specify any other type of container used if not listed below):
  - DM - Metal drums, barrels
  - DP - Plastic drums, barrels
  - BA - 6 mil plastic bags or wrapping
7. Enter the quantities of each type of asbestos material removed in units of cubic meters (cubic yards).
8. Use this space to indicate special transportation, treatment, storage or disposal or Bill of Lading information. If an alternate waste disposal site is designated, note it here. Emergency response telephone numbers or similar information may be included here.
9. The authorized agent of the waste generator must read and then sign and date this certification. The date is the date of receipt by transporter.

Figure 3. Waste Shipment Record  
(continued)

Transporter Section (Items 10 & 11)

10. & 11. Enter name, address, and telephone number of each transporter used, if applicable. Print or type the full name and title of person accepting responsibility and acknowledging receipt of materials as listed on this waste shipment record for transport.

NOTE: The transporter must retain a copy of this form.

Disposal Site Section (Items 12 & 13)

12. The authorized representative of the WDS must note in this space any discrepancy between waste described on this manifest and waste actually received as well as any improperly enclosed or contained waste. Any rejected materials should be listed and destination of those materials provided. A site that converts asbestos-containing waste material to nonasbestos material is considered a WDS.
13. The signature (by hand) of the authorized WDS agent indicates acceptance and agreement with statements on this manifest except as noted in Item 12. The date of signature and receipt of shipment.

NOTE: The WDS must retain a completed copy of this form. The WDS must also send a completed copy to the operator listed in item 2.

Figure 3. Waste Shipment Record  
(Continued)

Rule 17.10. Standard for waste disposal for manufacturing, fabricating, demolition, renovation, and spraying operations. Each owner or operator of any source covered under the provisions of Rules 17.4, 17.5, 17.6, and 17.7 shall comply with the following provisions:

(1) Discharge no visible emissions to the outside air during the collection, processing (including incineration), packaging, or transporting of any asbestos-containing waste material generated by the source, or use one of the emission control and waste treatment methods specified in paragraphs (1)a. through d. of Rule 17.10.

a. Adequately wet asbestos-containing waste material as follows:

1. Mix control device asbestos waste to form a slurry; adequately wet other asbestos-containing waste material; and
2. Discharge no visible emissions to the outside air from collection, mixing, wetting, and handling operations, or use

the methods specified by Rule 17.12 to clean emissions containing particulate asbestos material before they escape to, or are vented to, the outside air; and

3. After wetting, seal all asbestos-containing waste material in leak-tight containers while wet; or, for materials that will not fit into containers without additional breaking, put materials into leak-tight wrapping; and

4. Label the containers or wrapped materials specified in paragraphs (1)a.3. of Rule 17.10 using warning labels specified by Occupational Safety and Health Standards of the Department of Labor, Occupational Safety and Health Administration under 29 CFR 1910.1001(j)(2) or 1926.58(k)(2)(iii). The labels shall be printed in letters of sufficient size and contrast so as to be readily visible and legible.

5. For asbestos-containing waste material to be transported off the facility site, label containers or wrapped materials with the name of the waste generator and the location at which the waste was generated.

b. Process asbestos-containing waste material into nonfriable forms as follows:

1. Form all asbestos-containing waste material into nonfriable pellets or other shapes;

2. Discharge no visible emissions to the outside air from collection and processing operations, including incineration, or use the method specified by Rule 17.12 to clean emissions containing particulate asbestos material before they escape to, or are vented to, the outside air.

c. For facilities demolished where the RACM is not removed prior to demolition according to Rule 17.5(3)a.1., 2., 3., and 4. or for facilities demolished according to Rule 17.5(3)i., adequately wet asbestos-containing waste material at all times after demolition and keep wet during handling and loading for transport to a disposal site. Asbestos-containing waste materials covered by Rule 17.10 do not have to be sealed in leak-tight containers or wrapping but may be transported and disposed of in bulk.

d. Use an alternative emission control and waste treatment method that has received prior written approval by the administrator of the U.S. Environmental Protection Agency pursuant to 40 CFR 61.150(a)(4). according to the procedure described in Rule 17.9(3)b. The owner or operator shall provide the director with a photocopy of the written approval.

e. As applied to demolition and renovation, the requirements of paragraph (1) of Rule 17.10 do not apply to Category I

nonfriable ACM waste and Category II nonfriable ACM waste that did not become crumbled, pulverized, or reduced to powder.

(2) All asbestos-containing waste material shall be deposited as soon as is practical by the waste generator at:

a. A waste disposal site operated in accordance with the provisions of Rule 17.14; or

b. An EPA-approved site that converts RACM and asbestos-containing waste material into nonasbestos (asbestos-free) material according to the provisions of Rule 17.15.

c. The requirements of paragraph (2) of Rule 17.10 do not apply to Category I nonfriable ACM that is not RACM.

(3) Mark vehicles used to transport asbestos-containing waste material during the loading and unloading of waste so that the signs are visible. The markings must conform to the requirements of Rule 17.9(4)a.1., 2., and 3.

(4) For all asbestos-containing waste material transported off the facility site:

a. Maintain waste shipment records, using a form similar to that shown in Figure 3, and include the following information:

1. The name, address, and telephone number of the waste generator;

2. The name and address of the local, state, or EPA regional office responsible for administering the asbestos NESHAP program;

3. The approximate quantity in cubic meters (cubic yards);

4. The name and telephone number of the disposal site operator;

5. The name and physical site location of the disposal site;

6. The date transported;

7. The name, address, and telephone number of the transporter; and

8. A certification under oath that the contents of this consignment are fully and accurately described by proper shipping name and are classified, packed, marked, and labeled, and are in all respects in proper condition for transport by highway according to applicable international and government regulations.

b. Provide a copy of the waste shipment record, described in paragraph (4)a. of Rule 17.10, to the disposal site owners or operators at the same time as the asbestos-containing waste material is delivered to the site.

c. For waste shipments where a copy of the waste shipment record, signed by the owner or operator of the designated site, is not received by the waste generator within 35 days of the date the waste was accepted by the initial transporter, contact the transporter and/or the owner or operator of the designated disposal site to determine the status of the waste shipment.

d. Report in writing to the director and also to any other officer or agency where required by local, state, or federal law covering the waste generator if a copy of the waste shipment record, signed by the owner or operator of the designated waste disposal site, is not received by the waste generator within 45 days of the date the waste was accepted by the initial transporter. Include in the report the following information:

1. A copy of the waste shipment record for which a confirmation of delivery was not received, and

2. A cover letter signed by the waste generator explaining the efforts taken to locate the asbestos waste shipment and the results of those efforts.

e. Retain a copy of all waste shipment records, including a copy of the waste shipment record signed by the owner or operator of the designated waste disposal site, for at least 2 years.

(5) Furnish upon request, and make available for inspection by the director, all records required under Rule 17.10.

Rule 17.11. Standard for inactive waste disposal sites for asbestos mills and manufacturing and fabricating operations. Each owner or operator of any inactive waste disposal site that was operated by sources covered under Rules 17.2, 17.4, or 17.7 and received deposits of asbestos-containing waste material generated by the sources, shall:

(1) Comply with one of the following:

a. Either discharge no visible emissions to the outside air from an inactive waste disposal site subject to this paragraph; or

b. Cover the asbestos-containing waste material with at least 15 centimeters (6 inches) of compacted nonasbestos-containing material, and grow and maintain a cover of vegetation on the area adequate to prevent exposure of the asbestos-containing waste material. In any chert area where vegetation is impossible to maintain, at least 8 additional centimeters (3 inches) of well-graded, nonasbestos crushed rock may be placed on top of the chert and maintained to prevent emissions; or

c. Cover the asbestos-containing waste with at least 60 centimeters (2 feet) of compacted on nonasbestos-containing material, and maintain it to prevent the exposure of the asbestos-containing waste; or

d. For inactive waste disposal sites for asbestos tailings, a resinous or petroleum-based dust suppression agent that effectively binds dust to control surface air emissions may be used instead of the methods in paragraphs (1)a., b., and c. of Rule 17.11. Use the agent in the manner and frequency recommended for the particular asbestos tailings by the manufacturer of the dust suppression agent to achieve and maintain dust control. Obtain prior written approval of the director to use other equally effective dust suppression agents. For purposes of Rule 17.11, any used, spent, or other waste oil is not considered a dust suppression agent.

(2) Unless a natural barrier adequately deters access by the general public, install and maintain warning signs and fencing as follows, or comply with paragraph (1)b. or (1)c. of Rule 17.11.

a. Display warning signs at all entrances and at intervals of 100 m (328 feet) or less along the property line of the site or along the perimeter of the sections of the site where asbestos-containing waste material was deposited. The warning signs must:

1. Be posted in such a manner and location that a person can easily read the legend; and

2. Conform to the following requirements for 51 cm x 36 cm (20 in x 14 in) upright format:

Caution signs. Standard color of the background shall be yellow; and the panel, black with yellow letters. Any letters used against the yellow background shall be black. The colors shall be those of opaque glossy samples as specified in Table 1 of American National Standard Z53.1-1967; and

3. Display the following legend in the lower panel with letter sizes and styles of a visibility at least equal to those specified in this paragraph.

Legend	Notation
ASBESTOS WASTE DISPOSAL SITE	2.4 cm (1 inch) Sans Serif Gothic or Block
DO NOT CREATE DUST	1.9 cm (3/4 inch) Sans Serif Gothic or Block
BREATHING ASBESTOS IS HAZARDOUS TO YOUR HEALTH	14 point Gothic

Spacing between any two lines must be at least equal to the height of the upper of the two lines.

b. Fence the perimeter of the site in a manner adequate to deter access by the general public.



c. When requesting a determination on whether a natural barrier adequately deters public access, supply information enabling the director to determine whether a fence or a natural barrier adequately deters access by the general public.

(3) The owner or operator may use an alternative control method that has received prior approval of the administrator of the U.S. Environmental Protection Agency pursuant to 40 CFR 61.151(c) rather than comply with the requirements of paragraph (1) or (2) of Rule 17.11. The owner or operator shall provide the director with a photocopy of the written approval.

(4) Notify the director in writing at least 45 days prior to excavating or otherwise disturbing any asbestos-containing waste material that has been deposited at a waste disposal site under Rule 17.11, and follow the procedures specified in the notification. If the excavation will begin on a date other than the one contained in the original notice, notice of the new start date must be provided to the director at least 10 working days before excavation begins and in no event shall excavation begin earlier than the date specified in the original notification. Include the following information in the notice:

- a. Scheduled starting and completion dates;
- b. Reason for disturbing the waste;
- c. Procedures to be used to control emissions during the excavation, storage, transport, and ultimate disposal of the excavated asbestos-containing waste material. If deemed necessary, the director may require changes in the emission control procedures to be used; and
- d. Location of any temporary storage site and the final disposal site.

(5) On or before the site becomes inactive, record, in accordance with state law, an instrument in the chain of title of the facility property that would normally be examined in a title search, that will in perpetuity notify any potential purchaser of the property that:

- a. The land has been used for the disposal of asbestos-containing waste material;
- b. The survey plot and record of the location and quantity of asbestos-containing waste disposed of within the disposal site required in Rule 17.14(6) have been filed with the director; and
- c. The site is subject to 40 CFR part 61, subpart M.

Rule 17.12. Air cleaning.

(1) The owner or operator who uses air cleaning, as specified in Rules 17.2(1); 17.4(2)b.; 17.5(3)c.1.(ii)(A); 17.5(3)d.2.; 17.6(2)b.; 17.7(2)b.; 17.9(2); 17.9(3)a.2.; 17.10(1)a.2.; 17.10(1)b.2.; and 17.15(5) shall:

- a. Use fabric filter collection devices, except as noted in paragraph (b) of Rule 17.12, doing all of the following:

1. Ensuring that the airflow permeability, as determined by ASTM Method D737-75, does not exceed 9 m<sup>3</sup>/min/m<sup>2</sup> (30 ft<sup>3</sup>/min/ft<sup>2</sup>) for woven fabrics or 113/min/m<sup>2</sup> (35 ft<sup>3</sup>/min/ft<sup>2</sup>) for felted fabrics, except that 12 m<sup>3</sup>/min/m<sup>2</sup> (40 ft<sup>3</sup>/min/ft<sup>2</sup>) for woven and 14 m<sup>3</sup>/min/m<sup>2</sup> (45 ft<sup>3</sup>/min/ft<sup>2</sup>) for felted fabrics is allowed for filtering air from asbestos ore dryers; and

2. Ensuring that felted fabric weighs at least 475 grams per square meter (14 ounces per square yard) and is at least 1.6 millimeter (one-sixteenth inch) thick throughout; and

3. Avoiding the use of synthetic fabrics that contain fill yarn other than that which is spun.

b. Properly install, use, operate, and maintain all air-cleaning equipment authorized by Rule 17.12. Bypass devices may be used only during upset or emergency conditions and then only for so long as it takes to shut down the operation generating the particulate asbestos material.

c. For fabric filter collection devices, provide for easy inspection for faulty bags.

(2) There are the following exceptions to paragraph (1)a.:

a. If the use of fabric creates a fire or explosion hazard, or the director determines that a fabric filter is not feasible, the director may authorize as a substitute the use of wet collectors designed to operate with a unit contacting energy of at least 9.95 kilopascals (40 inches water gage pressure).

b. Use a HEPA filter that is certified to be at least 99.97 percent efficient for 0.3 micron particles.

c. The administrator of the U.S. Environmental Protection Agency pursuant to 40 CFR 61.152(b)(3) may authorize the use of filtering equipment other than described in paragraphs (a)a. and (s)a. and b. or Rule 17.13 if the owner or operator demonstrates to the administrator's satisfaction that it is equivalent to the described equipment in filtering particulate asbestos material. The owner or operator shall provide the director with a photocopy of the written approval.

#### Rule 17.13. Reporting.

(1) Any new source to which Rule 17 applies (with the exception of sources subject to Rules 17.3, 17.5, 17.6, and 17.8) which has an initial startup date preceding the effective date of this revision, shall provide the following information to the director delivered within 90 days of the effective date. In the case of a new source that does not have an initial startup date preceding the effective date, the information shall be delivered within 90 days of the initial startup date. Any owner or operator of an existing source shall deliver the following information to the director within 90 days of the effective date of this subpart unless the owner or operator of the existing

source has previously provided this information to the director. Any changes in the information provided by any existing source shall be delivered to the director within 30 days after the change. Facsimile transmission is not acceptable.

a. A description of the emission control equipment used for each process; and

1. If the fabric device uses a woven fabric, the airflow permeability in  $\text{m}^3/\text{min}/\text{m}^2$  and; if the fabric is synthetic, whether the fill yarn is spun or not spun; and

2. If the fabric filter device uses a felted fabric, the density in  $\text{g}/\text{m}^2$ , the minimum thickness in inches, and the airflow permeability in  $\text{m}^3/\text{min}/\text{m}^2$ .

b. If a fabric filter device is used to control emissions,

1. The airflow permeability in  $\text{m}^3/\text{min}/\text{m}^2$  ( $\text{ft}^3/\text{min}/\text{ft}^2$ ) if the fabric filter device uses a woven fabric, and, if the fabric is synthetic, whether the fill yarn is spun or not spun; and

2. If the fabric filter device uses a felted fabric, the density in  $\text{g}/\text{m}^2$  ( $\text{oz}/\text{yd}^2$ ), the minimum thickness in millimeters (inches), and the airflow permeability in  $\text{m}^3/\text{min}/\text{m}^2$  ( $\text{ft}^3/\text{min}/\text{ft}^2$ ).

c. If a HEPA filter is used to control emissions, the certified efficiency.

d. For sources subject to Rules 17.9 and 17.10:

1. A brief description of each process that generates asbestos-containing waste material; and

2. The average volume of asbestos-containing waste material disposed of, measured in  $\text{m}^3/\text{day}$  ( $\text{yd}^3/\text{day}$ ); and

3. The emission control methods used in all stages of waste disposal; and

4. The type of disposal site or incineration site used for ultimate disposal, the name of the site operator, and the name and location of the disposal site.

e. For sources subject to Rules 17.11 and 17.14:

1. A brief description of the site; and

2. The method or methods used to comply with the standard, or alternative procedures to be used.

(2) The information required by Rule 17.13(1) must accompany the information submitted to the administrator of U.S. EPA pursuant to 40 CFR 61.10, Revised July 1, 1991. Active waste disposal sites subject to Rule 17.14 shall also comply with this provision. The information described in Rule 17.13 must be reported using the format required by the bureau.

Rule 17.14. Standard for active waste disposal sites. Each owner or operator of an active waste disposal site that receives asbestos-containing waste material from a source covered under Rules 17.9, 17.10, or 17.15 shall meet the requirements of this rule:

(1) Either there must be no visible emissions to the outside air from any active waste disposal site where asbestos-containing waste material has been deposited, or the requirements of paragraph (3) or (4) of Rule 17.14 must be met.

(2) Unless a natural barrier adequately deters access by the general public, either warning signs and fencing must be installed and maintained as follows, or the requirements of paragraph (3)a. of Rule 17.14 must be met.

a. Warning signs must be displayed at all entrances and at intervals of 100m (330 ft) or less along the property line of the site or along the perimeter of the sections of the site where asbestos-containing waste material is deposited. The warning signs must:

1. Be posted in such a manner and location that a person can easily read the legend; and

2. Conform to the requirements of 51 cm x 36 cm (20 in x 14 in) upright format signs:

Caution signs. Standard color of the background shall be yellow; and the panel, black with yellow letters. Any letters used against the yellow background shall be black. The colors shall be those of opaque glossy samples as specified in Table 1 of American National Standard Z53.1-1967; and

3. Display the following legend in the lower panel with letter sizes and styles of a visibility at least equal to those specified in Rule 17.14.

Legend	Notation
ASBESTOS WASTE DISPOSAL SITE	2.5 cm (1 inch) Sans Serif Gothic or Block
DO NOT CREATE DUST	1.9 cm (3/4 inch) Sans Serif Gothic or Block
BREATHING ASBESTOS IS HAZARDOUS TO YOUR HEALTH	14 point Gothic

Spacing between any two lines must be at least equal to the height of the upper of the two lines.

b. The perimeter of the disposal site must be fenced in a manner adequate to deter access by the general public.

c. Upon request and supply of appropriate information, the director will determine whether a fence or a natural barrier adequately deters access by the general public.

(3) Rather than meet the no visible emission requirement of paragraph (1) of Rule 17.14, at the end of each operating day, or at least once every 24-hour period while the site is in operation, the asbestos-containing

waste material that has been deposited at the site during the operating day or previous 24-hour period shall:

a. Be covered with at least 15 centimeters (6 inches) of compacted nonasbestos-containing material, or

b. Be covered with a resinous or petroleum-based dust suppression agent that effectively binds dust and controls wind erosion. Such an agent shall be used in the manner and frequency recommended for the particular dust by the dust suppression agent manufacturer to achieve and maintain dust control. Other equally effective dust suppression agents may be used upon prior approval by the director. For the purposes of Rule 17.14, any used, spent, or other waste oil is not considered a dust suppression agent.

(4) Rather than meet the no visible emission requirement of paragraph (1) of Rule 17.14, use an alternative emissions control method that has received prior written approval by the administrator of the U.S. Environmental Protection Agency pursuant to 40 CFR 61.154(d) according to the procedures described in Rule 17.9(3)b. The owner or operator shall provide the director with a photocopy of the written approval.

(5) For all asbestos-containing waste material received, the owner or operator of the active waste disposal site shall:

a. Maintain waste shipment records, using a form similar to that shown in Figure 3, and include the following information:

1. The name, address, and telephone number of the waste generator;

2. The name, address, and telephone number of the transporter(s);

3. The quantity of the asbestos-containing waste material in cubic meters (cubic yards);

4. The presence of improperly enclosed or uncovered waste, or any asbestos-containing waste material not sealed in leak-tight containers. Report in writing to the director and also to any other officer or agency where required by local, state or federal law covering the waste generator (identified in the waste shipment record), and, if different, the local, state, or EPA regional office responsible for administering the asbestos NESHAP program for the disposal site, by the following working day, the presence of a significant amount of improperly enclosed or uncovered waste. Submit a copy of the waste shipment record along with the report; and

5. The date of the receipt.

b. As soon as possible and no longer than 30 days after receipt of the waste, send a copy of the signed waste shipment record to the waste generator.

c. Upon discovering a discrepancy between the quantity of waste designated in the waste shipment records and the quantity actually received, attempt to reconcile the discrepancy with the waste generator. If the discrepancy is not resolved within 15 days after receiving the waste, immediately report in writing to the director and also to any other officer or agency where required by local, state, or federal law covering the waste generator (identified in the waste shipment record), and, if different, the local, state, or EPA regional office responsible for administering the asbestos NESHAP for the disposal site. Describe the discrepancy and attempts to reconcile it, and submit a copy of the waste shipment record along with the report.

d. Retain a copy of all records and reports required by this paragraph for at least 2 years.

(6) Maintain, until closure, records of the location, depth and area, and quantity in cubic meters (cubic yards) of asbestos-containing waste material within the disposal site on a map or diagram of the disposal area.

(7) Upon closure, comply with all the provisions of Rule 17.11.

(8) Submit to the director, upon closure of the facility, a copy of records of asbestos waste disposal locations and quantities.

(9) Furnish upon request, and make available during normal business hours for inspection by the director, all records required under Rule 17.14.

(10) Notify the director in writing at least 45 days prior to excavating or otherwise disturbing any asbestos-containing waste material that has been deposited at a waste disposal site and is covered. If the excavation will begin on a date other than the one contained in the original notice, notice of the new start date must be provided to the director at least 10 working days before excavation begins and in no event shall excavation begin earlier than the date specified in the original notification. Include the following information in the notice:

a. Scheduled starting and completion dates;

b. Reason for disturbing the waste;

c. Procedures to be used to control emissions during the excavation, storage, transport, and ultimate disposal of the excavated asbestos-containing waste material. If deemed necessary, the administrator may require changes in the emission control procedures to be used; and

d. Location of any temporary storage site and the final disposal site.

Rule 17.15. Standard for operations that convert asbestos-containing waste material into nonasbestos (asbestos-free) material. Each owner or operator of an operation that converts RACM and asbestos-containing waste material into nonasbestos (asbestos-free) material shall:

(1) Obtain the prior written approval of the administrator of the U.S. Environmental Protection Agency pursuant to 40 CFR 61.155(a) to construct the facility. The owner or operator shall provide the director with a photocopy of the written approval. To obtain approval, the owner or operator shall provide the administrator with the following information:

- a. Application.
- b. The information requirements of 40 CFR 61.07(b)(3), as well as the following:
  1. A description of waste feed handling and temporary storage.
  2. A description of process operating conditions.
  3. A description of the handling and temporary storage of the end product.
  4. A description of the protocol to be followed when analyzing output materials by transmission electron microscopy.
- c. Performance test protocol, including provisions for obtaining information required under paragraph (2) of Rule 17.15.
- d. The administrator of the U.S. Environmental Protection Agency may require that a demonstration of the process be performed prior to approval of the application to construct.

(2) After receipt of a temporary operating permit from the director pursuant to § 8-708, conduct a start-up performance test. Test results shall include:

- a. A detailed description of the types and quantities of nonasbestos material, RACM, and asbestos-containing waste material processed, e.g., asbestos cement products, friable asbestos insulation, plaster, wood, plastic, wire, etc. The test feed is to include the full range of materials that will be encountered in actual operation of the process;
- b. Results of analyses, using polarized light microscopy, that document the asbestos content of the wastes processed;
- c. Results of analyses, using transmission electron microscopy, that document that the output materials are free of asbestos. Samples for analysis are to be collected as 8-hour composite samples (one 200-gram [7-ounce] sample per hour), beginning with the initial introduction of RACM or asbestos-containing waste material and continuing until the end of the performance test;
- d. A description of operating parameters, such as temperature and residence time, defining the full range over which the process is expected to operate to produce nonasbestos (asbestos-free) materials. Specify the limits for each operating parameter within which the process will produce nonasbestos (asbestos-free) materials; and
- e. The duration of the test.

(3) During the initial 90 days of operation,

a. Continuously monitor and log the operating parameters identified during start-up performance tests that are intended to ensure the production of nonasbestos (asbestos-free) output material.

b. Monitor input materials to ensure that they are consistent with the test feed materials described during start-up performance tests in paragraph (2)a. of Rule 17.15.

c. Collect and analyze samples, taken as 10-day composite samples (one 200-gram [7-ounce] sample collected every 8 hours of operation) of all output material for the presence of asbestos. Composite samples may be for fewer than 10 days. Transmission electron microscopy shall be used to analyze the output material for the presence of asbestos. During the initial 90-day period, all output materials must be stored on-site until analysis shows the material to be asbestos-free or disposed of as asbestos-containing waste material in accordance with Rule 17.10.

(4) After the initial 90 days of operation,

a. Continuously monitor and record the operating parameters identified during start-up performance testing and any subsequent performance testing. Any output produced during a period of deviation from the range of operating conditions established to ensure the production of nonasbestos (asbestos-free) output materials shall be:

1. Disposed of as asbestos-containing waste material in accordance with Rule 17.10, or

2. Recycled as waste feed during process operation within the established range of operating conditions, or

3. Stored temporarily on-site in a leak-tight container until analyzed for asbestos content. Any product that is not asbestos-free shall be either disposed of as asbestos-containing waste material or recycled as waste feed to the process.

b. Collect and analyze monthly composite samples (one 200-gram [7-ounce] sample collected every 8 hours of operation) of the output material. Transmission electron microscopy shall be used to analyze the output material for the presence of asbestos.

(5) Discharge no visible emissions to the outside air from any part of the operation, or use the methods specified by Rule 17.12 to clean emissions containing particulate asbestos material before they escape to, or are vented to, the outside air.

(6) Maintain records on-site and include the following information:

a. Results of start-up performance testing and all subsequent performance testing, including operating parameters, feed characteristic, and analyses of output materials.



b. Results of the composite analyses required during the initial 90 days of operation under Rule 17.15(3).

c. Results of the monthly composite analyses required under Rule 17.15(4).

d. Results of the continuous monitoring and logs of process operating parameters under Rules 17.15(3) and (4).

e. The information on waste shipments received as required in Rule 17.14(5).

f. For output materials where no analyses were performed to determine the presence of asbestos, record the name and location of the purchaser or disposal site to which the output materials were sold or deposited, and the date of sale or disposal.

g. Retain records required by paragraph (6) of Rule 17.15 for at least 2 years.

(7) Submit the following reports to the administrator:

a. A report for each analysis of product composite samples performed during the initial 90 days of operation.

b. Quarterly reports, including the following information concerning activities during each consecutive 3-month period:

1. Results of analyses of monthly product composite samples;

2. A description of any deviation from the operating parameters established during performance testing, the duration of the deviation, and steps taken to correct the deviation;

3. Disposition of any product produced during a period of deviation, including whether it was recycled, disposed of as asbestos-containing waste material, or stored temporarily on-site until analyzed for asbestos content;

4. The information on waste disposal activities as required in Rule 17.14(6).

(8) Nonasbestos (asbestos-free) output material is not subject to any of the provisions of Rule 17. Output materials in which asbestos is detected, or output materials produced when the operating parameters deviated from those established during the start-up performance testing, unless shown by transmission electron microscopy analysis to be asbestos-free, shall be considered to be asbestos-containing waste and shall be handled and disposed of according to Rules 17.10 and 17.14 or reprocessed while all of the established operating parameters are being met.

"Title 40 Code of Federal Regulations Part 763, Appendix A to Subpart F--Interim Method of the Determinations of Asbestos in Building Insulation Samples (Revised as of July 1, 1993) is hereby incorporated by reference as a requirement of this municipality."

Rule 18. Prevention of significant air quality deterioration.

Rule 18.1. General provisions.

(a) No owner or operator of a major stationary source as defined in this rule shall begin actual construction and no owner or operator shall commence a major modification of a stationary source as defined in this rule unless the applicable requirements of this rule have been met. This rule shall be referred to hereinafter as the PSD rule.

(b) The requirements of this rule shall apply to a proposed major stationary source or major modification with respect to each pollutant subject to regulation under this chapter that it would emit. The requirements of this rule shall apply to any major stationary source or major modification that would be constructed in an area which is designated as attainment under Section 107 of the Federal Clean Air Act. No major stationary source or major modification shall be subject to this rule with respect to a particular pollutant if the owner or operator demonstrates that the major source or major modification is located in an area designated as nonattainment with respect to that pollutant, in which event other rules in this chapter would apply.

(c) Any owner or operator who constructs or operates a major source or major modification not in accordance with the application submitted pursuant to this rule or with the terms of any approval to construct, or without applying for and receiving approval in accordance with this rule and with § 8-708 of this chapter regarding permit applications and permit approvals, shall be subject to appropriate enforcement action.

(d) An installation permit shall become invalid if construction is not commenced within eighteen (18) months after its issuance, or if construction is discontinued for a period of eighteen (18) months or more, or if construction is not completed within eighteen (18) months after the completion date specified on the installation permit application. The board may grant an extension to complete construction of the source, which shall not exceed an additional eighteen (18) months, provided adequate justification is presented by the applicant. For phased construction projects, the determination of best available control technology shall be reviewed and modified as appropriate at the latest reasonable time which occurs no later than 18 months prior to commencement of construction of each independent phase of the project. At such time, the owner or operator of the applicable stationary source may be required to demonstrate the adequacy of any previous determination of best available control technology for the source.

(e) An installation permit shall not relieve any owner or operator of the responsibility to comply fully with applicable provisions of this chapter and any other requirements under local, state or federal law.

(f) If a stationary source or a modification becomes a major stationary source or a major modification solely by virtue of a relaxation in any enforcement limitation on the capacity of the stationary source or

modification to emit a pollutant, such as a restriction on hours of operation, and the enforcement limitation was established after August 7, 1980, then the source shall be deemed a major stationary source or a major modification for the purposes of the PSD rule. The PSD rule shall apply to the source or modification as though construction had not yet commenced on the source or modification, so that it may continue to operate under the enforcement limitation(s) that prevented it from becoming a major source until such time as a new PSD certificate of operation for which it applies is issued by the director.

Rule 18.2 Definitions. All terms used in this rule shall have the meaning given them herein, and all terms not defined herein shall have the meaning given them in § 8-702.

(a) "Actual emissions" means the calculated rate of emissions of a pollutant from an emissions unit, as determined in accordance with Paragraphs (a) (1), (2) and (3) below:

(1) Actual emissions calculated as of a particular date shall equal the average rate, in tons per year, at which the unit emitted the pollutant during a two-year period which precedes the particular date and which is representative of normal source operation. The director may allow the use of a different time period upon a determination that it is more representative of normal source operation. Actual emissions shall be calculated using the unit's actual operating hours, production rates, and types of materials processed, stored, or combusted during the selected time period. For a new source, actual emissions shall be calculated on the projected operating hours submitted on the installation permit application as representative of normal source operation. If the projected hours are less than 8760 hours per year, then the operating hours shall be specified as a federally enforceable permit condition. The calculation of actual emissions shall include fugitive emissions except where fugitive emissions are expressly excluded by a provision of this chapter.

(2) However, unless the source is in compliance with legally enforceable limits which restrict the operating rate, or hours of operation, or both, the director shall deem actual emissions of the unit to be those calculated using the maximum rated capacity of the source, based on 8760 hours per year, and the most stringent of the following:

a. The applicable standards as set forth in § 8-702, Rule 15 and Rule 16; or

b. The applicable emissions limitation in this chapter, including those with a future compliance date; or

c. The emissions rate specified as an enforceable permit condition under local, state or federal law.

(3) If there is an emissions unit in place and subject to a permit or certificate of operation which has not begun normal

operations on the particular date that an additional unit is to be issued a permit or certificate of operation, then actual emissions of the unit in place shall be calculated as being the potential to emit of the unit on that date.

(b) "Allowable emissions" means the emissions rate of a stationary source calculated using the maximum rated capacity of the source (unless the source is subject to enforceable limits under local, state or federal law which restrict the operating rate, or hours of operation, or both) and the most stringent of the following:

(1) The applicable standards as set forth in § 8-741, Rule 15 and Rule 16; or

(2) The applicable emissions limitation in this chapter, including those with a future compliance date; or

(3) The emissions rate specified as an enforceable permit condition under local, state or federal law.

(c) "Baseline area" means any intrastate area (and every part thereof) designated as attainment or unclassifiable under Section 107 of the Federal Clean Air Act, as amended in 1990, in which the major source or major modification establishing the minor source baseline date would construct or would have an air quality impact equal to or greater than one microgram per cubic meter (annual average) of the pollutant for which the minor source baseline date is established. Area redesignations cannot intersect or be smaller than the area of impact of any major stationary source or major modification which establishes a minor source baseline date or is subject to the PSD rule and would be constructed in the same state as the state proposing the redesignation. Any baseline area established originally for the TSP increment shall remain in effect and shall apply for purposes of determining the amount of available  $PM_{10}$  increments, except that such baseline area shall not remain in effect if the director rescinds the corresponding minor source baseline date in accordance with Rule 18.2(f)(4).

(d) (1) "Baseline concentration" means that ambient concentration level which exists in the baseline area at the time of the applicable minor source baseline date. A baseline concentration is determined for each pollutant for which a minor source baseline date is established and shall include:

a. The actual emissions representative of sources in existence on the applicable minor source baseline date except as provided in paragraph (d)(2) of this section; and

b. The allowable emissions of major stationary sources which commenced construction before January 6, 1975, but were not in operation by the applicable minor source baseline date.

(2) The following emissions will not be included in the baseline concentration but will instead affect the applicable maximum allowable increment increase(s):

a. Actual emissions increases and decreases at any stationary source on which construction commenced after January 6, 1975; and

b. Actual emissions increases and decreases at any stationary source occurring after the minor source baseline date.

(e) "Major source baseline date" means:

(1) In the case of particulate matter and sulfur dioxide, January 6, 1975; and

(2) In the case of nitrogen dioxide, February 8, 1988.

(f) "Minor source baseline date" means:

(1) In the case of particulate matter and sulfur dioxide, the earliest date after August 7, 1977, that a major source or major modification subject to the PSD rule submitted a complete application to the director. The established minor source baseline date for sulfur dioxide in the Chattanooga-Hamilton County Attainment Area is April 28, 1983. The minor source baseline date for particulate matter will be the date of the director's receipt of a complete PSD application for a major particulate matter source or major particulate matter modification in the Chattanooga-Hamilton County Attainment Area.

(2) In the case of nitrogen dioxide, February 8, 1988.

(3) In the case of other air pollutants, the baseline date is established for each pollutant for which increments have been determined in Section 163 of the Federal Clean Air Act, as amended in 1990, if:

a. The area in which the proposed source or modification would be constructed designated attainment or unclassifiable for the pollutant on the date of the complete PSD permit application; and

b. In the case of a major stationary source, the pollutant would be emitted in significant amounts, as described in Rule 18.2(t) or (aa), or for any pollutant not listed in Rule 18.2(u) at any emissions rate; in the case of a major modification there would be a significant net emissions increase of the pollutant as described in Rule 18.2(u) or (aa) and for any pollutant not listed in Rule 18.2(u) for which there would be any net emissions increase.

(4) Any minor source baseline date established originally for the TSP increment shall remain in effect and shall apply for purposes of determining the amount of available  $PM_{10}$  increments, except that the director may rescind any such minor source baseline date where it can be established that the emissions increase from the major

stationary source, or the net emissions increase from the major modification, responsible for triggering that date did not result in a significant amount of PM<sub>10</sub> emissions.

(g) "Begin actual construction" means, in general, initiation of physical on-site construction activities on an emissions unit which are of a permanent nature. Such activities include, but are not limited to, installation of building supports and foundations, laying of underground pipework, and construction of permanent storage structures. With respect to a change in the method of operation this term refers to those on-site activities, other than preparation activities, which mark the initiation of the change.

(h) "Best available control technology (BACT)" means an emissions limitation (including a visible emissions limitation) based on the maximum degree of reduction for each pollutant subject to regulation under this chapter which would be emitted from any proposed major stationary source or major modification which the director, on a case-by-case basis, taking into account energy, environmental, and economic impacts and other costs, determines is achievable for such source or modification through application of production processes or available methods, systems, and techniques, including fuel cleaning or treatment or innovative fuel combination techniques for control of such pollutant. In no event shall application of best available control technology result in emissions of any pollutant which would exceed the emissions allowed by any applicable limitation established under Rules 15 and 16. If a source demonstrates to the director that technological or economic limitations on the application of measurement methodology to a particular emissions unit would make the imposition of an emissions standard infeasible, a design, equipment work practice, operations standard or combination thereof, submitted by the source and approved by the director, may be prescribed instead to satisfy the requirement for the application of best available control technology. Such standard shall, to the degree possible set forth the emissions reduction achievable by implementation of such design, equipment, work practice or operation, and shall provide for compliance by means which achieve equivalent results.

(i) "Building, structure, facility or installation" means all of the pollutant-emitting activities which belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, and are under the control of the same person (or persons under common control) except the activities of any vessel. Pollutant-emitting activities shall be considered as part of the same industrial grouping if they belong to the same Major Group (i.e., which have the same two-digit code) as described in the Standard Industrial Classification Manual, 1987.

(j) "Commence" as applied to construction of a major stationary source or major modification means that the owner or operator has all necessary preconstruction approvals or permits and either has:

(1) Begun, or caused to begin, a continuous program of actual on-site construction of the source, to be completed within a reasonable time as determined by the director; or

(2) Entered into binding agreements or contractual obligations, which cannot be cancelled or modified without substantial loss to the owner or operator, to undertake a program of actual construction of the source to be completed within a reasonable time.

(k) "Complete," in reference to an application for a PSD permit, means that the application contains all the information necessary for processing the application. Deeming an application complete for purposes of permit processing does not preclude the director from requesting or accepting any additional information.

(1) "Emissions unit" means any part of a stationary source which emits or would have the potential to emit any pollutant subject to regulation under the PSD rule.

(m) "Federal land manager" means, with respect to any lands of the United States, the secretary of the department with authority over such lands.

(n) "Fugitive emissions" means those emissions which could not reasonably pass through a stack, chimney, vent, roof monitor or other functionally equivalent opening as determined by the director.

(o) "High terrain" means any area having an elevation nine hundred (900) feet or more above the base of the stack of a source.

(p) "Innovative control technology" means any system of air pollution control that has not been adequately demonstrated in practice, but would have a substantial likelihood of achieving greater continuous emissions reduction than any control system in current practice or of achieving at least comparable reductions at lower cost in terms of energy, economics or non-air-quality environmental impacts as determined by the director.

(q) "Legally enforceable" means all limitations and conditions which are enforceable under local, state, or federal law, including those under this chapter or an implementation plan, and any permit or certificate of operation requirements established pursuant to this chapter.

(r) "Low terrain" means any area other than high terrain.

(s) "Major sources and modifications for ozone." A source that is major for volatile organic compounds shall be considered major for ozone. Any net emissions increase that is significant for volatile organic compounds shall be considered significant for ozone.

(t) "Major stationary source" means:

(1) Any of the following stationary sources which emits or has the potential to emit one hundred (100) tons per year or more of any pollutant regulated under this chapter, including fugitive emissions:

- a. Fossil fuel-fired steam electric plants of more than two hundred fifty (250) million BTu per hour heat input;
- b. Municipal incinerators capable of charging more than two hundred fifty (250) tons of refuse per day;
- c. Fossil fuel boilers (or combinations thereof) totaling more than two hundred fifty (250) million Btu per hour heat input;
- d. Petroleum storage and transfer facilities with a total storage capacity exceeding three hundred thousand (300,000) barrels;
- e. Coal cleaning plants (with thermal dryers);
- f. Kraft pulp mills;
- g. Portland cement plants;
- h. Primary zinc smelters;
- i. Iron and steel mill plants;
- j. Primary aluminum ore reduction plants;
- k. Primary copper smelters;
- l. Hydrofluoric acid plants;
- m. Sulfuric acid plants;
- n. Nitric acid plants;
- o. Petroleum refineries;
- p. Lime plants;
- q. Phosphate rock processing plants
- r. Coke oven batteries;
- s. Sulfur recovery plants;
- t. Carbon black plants (furnace process);
- u. Primary lead smelters;
- v. Fuel conversion plants;
- w. Sintering plants;
- x. Secondary metal production plants;
- y. Chemical process plants;
- z. Taconite ore processing plants;
- aa. Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;
- bb. Glass fiber processing plants;
- cc. Charcoal production plants;

and any other stationary category regulated by the U.S. Environmental Protection Agency under Sections 111 or 112 of the Federal Clean Air Act, as amended in 1990; and

(2) Any other stationary source which emits or has the potential to emit two hundred fifty (250) tons per year or more of any pollutant regulated under this chapter, excluding fugitive emissions; and



(3) Any physical change that would occur at a stationary source not otherwise qualifying under the PSD rule as a major stationary source, if the change would constitute a major stationary source by itself, excluding fugitive emissions.

(4) Upon adoption by this jurisdiction of an emission limitation pursuant to Section 112 of the Federal Clean Air Act, as amended in 1990, applicable to a specific source category requiring the maximum degree of reduction in emissions determined to be achievable, a major stationary source otherwise subject to Rule 18 is exempt from the requirements of Rule 18 if that major stationary source is within the specific source category to which the local emission limitation described above applies, beginning on the effective date of that local emission limitation. Qualifying for this exemption from Rule 18 shall not permit said major stationary source to increase its emissions of any pollutant previously subject to emission limitations at that source pursuant to Rule 18.

(u) "Major modification" means any physical change in or change in the method of operation of a major stationary source that would result in a rate of emissions that would equal or exceed any of the following net emissions increases:

Carbon monoxide:	100 tons per year (tpy)
Nitrogen oxides:	40 tpy
Sulfur dioxide:	40 tpy
Particulate matter:	25 tpy
PM <sub>10</sub> :	15 tpy
Ozone:	40 tpy of volatile organic compounds
Lead:	0.6 tpy
Asbestos	0.007 tpy
Beryllium	0.0004 tpy
Mercury	0.1 tpy
Vinyl Chloride	1 tpy
Fluorides	3 tpy
Sulfuric acid mist	7 tpy
Hydrogen sulfide (H <sub>2</sub> S)	10 tpy
Total reduced sulfur, including H <sub>2</sub> S	10 tpy
Reduced sulfur compounds, including H <sub>2</sub> S	10 tpy
Municipal waste combustor organics (measured as total tetra- through octa-chlorinated dibenzo-p-dioxins and dibenzofurans):	3.5 x 10 <sup>-6</sup> tpy

Municipal waste combustor metals (measured as particulate matter):	15 tpy
Municipal waste combustor acid gases (measured as sulfur dioxide and hydrogen chloride):	40 tpy
Municipal solid waste landfill emissions (measured as nonmethane organic compounds):	45 megagrams per year 50 tpy

and in reference to a net emissions increase or the potential of a source to emit a pollutant subject to regulation under this chapter not listed above, any emissions rate. These net emissions increases are "significant" net emissions increases for the purposes of the PSD rule.

(1) A physical change or change in the method of operation shall not include the following:

- a. Routine maintenance, repair and replacement;
- b. Use of an alternative fuel or raw material by reason of any order under § 8-702(a) and of the Energy Supply and Environmental Coordination Act of 1974 (or any superseding legislation) or by reason of a natural gas curtailment plan pursuant to the Federal Power Act;
- c. Use of an alternative fuel by reason of an order or rule under section 125 of the Federal Clean Air Act, as amended in 1990;
- d. Use of an alternative fuel at a steam generating unit to the extent that the fuel is generated from municipal solid waste;
- e. Use of an alternative fuel or raw material by a stationary source which
  1. The source was capable of accommodating before January 6, 1975, unless such change would be prohibited under any legally enforceable permit or certificate condition under local, state or federal law which was established after January 6, 1975 pursuant to 40 Code of Federal Regulations (CFR) 52.21 or under regulations approved pursuant to 40 CFR Subpart I or Section 51.166, which is incorporated by reference under Ordinance No. 598; or
  2. The source is approved to use under any permit issued under 40 CFR 52.21 or under regulations approved pursuant to 40 CFR 51.166, which is incorporated by reference under Ordinance No. 598;

f. An increase in the hours of operation or in the production rate, unless such change would be prohibited under any legally enforceable permit or certificate condition under local, state or federal law which was established after January 6, 1975, pursuant to 40 CFR 52.21 or under regulations approved pursuant to 40 CFR 52.21 or under regulations approved pursuant to 40 CFR Part 51, Subpart I or Section 51.166, which is incorporated by reference under Ordinance No. 598; or

g. Any change in ownership at a stationary source.

h. The addition, replacement or use of a pollution control project at an existing electric utility steam generating unit, unless the administrator determines that such addition, replacement or use renders the unit less environmentally beneficial, or except:

1. When the reviewing authority has reason to believe that the pollution control project would result in a net emissions increase, as described in Rule 18.2(v), in representative actual annual emissions of any criteria pollutant over levels used for that source in the most recent air quality impact analysis in the area conducted for the purpose of Title I of the Federal Clean Air Act, if any, that are significant, as described in Rule 18.2(u) or Rule 18.2(aa), and

2. The director determines that the increase will cause or contribute to a violation of any national ambient air quality standard or PSD increment, or visibility limitation.

i. The installation operation, cessation, or removal of a temporary clean coal technology demonstration project, provided that the project complies with:

1. The state implementation plan; and

2. Other requirements necessary to attain and maintain the national ambient air quality standards during the project and after it is terminated.

j. The installation or operation of a permanent clean coal technology demonstration project that constitutes repowering, provided that the project does not result in an increase in the potential to emit of any regulated pollutant emitted by the unit. This exemption shall apply on a pollutant-by-pollutant basis.

k. The reactivation of a very clean coal-fired electric utility steam generating unit.

(2) Upon adoption by this jurisdiction of an emission limitation pursuant to Section 112 of the Federal Clean Air Act, as amended in 1990, applicable to a specific source category requiring the maximum degree of reduction in emissions determined to be achievable, a major modification otherwise subject to Rule 18 is exempt from the requirements of Rule 18 if that major modification is within the specific source category to which the local emission limitation described above applies, beginning on the effective date of that local emission limitation. Qualifying for this exemption from Rule 18 shall not permit said major modification to increase its emissions of any pollutant previously subject to emission limitations at that source pursuant to Rule 18.

(v) "Net emissions increase" that is significant for the purposes of the PSD rule means the amount by which the sum of the following exceeds zero:

(1) Any increase in actual emissions from a particular physical change or change in the method of operation at a stationary source; and

(2) Any other increases and decreases in actual emissions at the source that are contemporaneous with the particular change and are otherwise creditable.

a. An increase or decrease in actual emissions is contemporaneous with the increase from the particular change only if it occurs between the date five (5) years before a completed application for the particular change is submitted and the date that the increase from the particular change occurs.

b. An increase or decrease in actual emissions is creditable only if the director has not relied on it in issuing a permit for the source under regulations approved pursuant to this section, which permit is in effect when the increase in actual emissions from the particular change occurs.

c. An increase or decrease in actual emissions of sulfur dioxide, particulate matter, or nitrogen oxides which occurs before the applicable minor source baseline date is creditable only if it is required to be considered in calculating the amount of maximum allowable increases remaining available. With respect to particulate matter, only  $PM_{10}$  emissions can be used to evaluate the net emissions increase for  $PM_{10}$ .

d. An increase in actual emissions is creditable only to the extent that the new level of actual emissions exceeds the old level.

e. A decrease in actual emissions is creditable only to the extent that:

1. The old level of actual emissions or the old level of allowable emissions, whichever is lower, exceeds the new level of actual emissions; and

2. It is enforceable under local, state and federal law at and after the time that actual construction on the particular change begins; and

3. It has approximately the same qualitative significance for public health and welfare as that attributed to the increase from the particular change.

f. An increase that results from a physical change at a source occurs when the emissions unit on which construction occurred becomes operational and begins to emit a particular pollutant. Any replacement unit that requires shakedown becomes operational only after a reasonable shakedown period, not to exceed 180 days.

g. For the purpose of determining the net emissions increase for the PSD rule, fugitive emissions shall be included in actual emissions calculations only for those source categories identified in Rule 18.2(t). For the purpose of determining the net emissions increase for the PSD rule, secondary emissions from any off-site support facility which would not be constructed or increase its emissions except as a result of the operation of the modification shall be included in actual emissions only for those source categories identified in Rule 18.2(t).

(w) "Necessary preconstruction approvals or permits" means those permits or approvals required under the air pollution control laws and regulations which are part of this chapter.

(x) "Pollutant" means any air contaminant as defined in § 8-702 or combination of such air contaminants, including any physical, chemical, biological, or radioactive (including source material, special nuclear material, and byproduct material) air contaminant which is emitted into or otherwise enters the ambient air. Such term includes any precursors to the formation of any such air contaminants, to the extent the U.S. Environmental Protection Agency has identified such precursor or precursors for the particular purpose for which the term "pollutant" is used.

(y) "Potential to emit" means the maximum capacity of a stationary source to emit a pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the source to emit a pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design if the limitation or the effect it would have on emissions is enforceable under local or state law and under federal law once these regulations have been incorporated into the state implementation plan. Secondary emissions are not considered in

determining the potential to emit of a new or existing stationary source of major modification.

(z) "Secondary emissions" means emissions which occur as a result of the construction or operation of a major stationary source or major modification, but do not come from the major stationary source or major modification itself. For the purposes of this rule, secondary emissions must be specific, well defined, quantifiable, and impact the same general area as the stationary source or modification which causes the secondary emissions. Secondary emissions include emissions from any off-site support facility which would not be constructed or increase its emissions except as a result of the construction or operation of the major stationary source or major modification. Secondary emissions do not include any emissions which come directly from a mobile source, such as emissions from the tailpipe of a motor vehicle, from a train, or from a vessel.

(aa) "Significant" means, in addition to Rule 18.2(u), any emissions rate or any net emissions increase associated with a major stationary source or major modification which would be located within 10 kilometers (6.2 miles) of a Class I area and have an impact on such area equal to or greater than one microgram per cubic meter (24-hour average).

(bb) "Stationary source" means any building, structure, facility or installation which emits or may emit any air pollutant subject to regulation under this chapter.

(cc) "Volatile organic compounds (VOC)." (1) This includes any such organic compound other than the following, which have been determined to have negligible photochemical reactivity: methane; ethane; methylene chloride (dichloromethane); 1,1,1-trichloroethane (methyl chloroform); 1,1,1-trichloro-2,2,2-trifluoroethane (CFC-113); trichlorofluoromethane (CFC-11); dichlorodifluoromethane (CFC-12); chlorodifluoromethane (HCFC-22); trifluoromethane (HFC-23); 1,2-dichloro 1,1,2,2-tetrafluoroethane (CFC-114); chloropentafluoroethane (CFC-115); 1,1,1-trifluoro 2,2-dichloroethane (HCFC-123); 1,1,1,2-tetrafluoroethane (HCFC-134a); 1,1-dichloro 1-fluoroethane (HCFC-141b); 1-chloro-1,1-difluoroethane (HCFC-142b); 2-chloro-1,1,1,2-tetrafluoroethane (HCFC-124); pentafluoroethane (HFC-125); 1,1,2,2-tetrafluoroethane (HFC-134); 1,1,1-trifluoroethane (HFC-143a); 1,1-difluoroethane (HFC-152a); parachlorobenzotrifluoride (PCBTF); cyclic, branched, or linear completely methylated siloxanes; and perfluorocarbon compounds which fall into these classes:

- a. Cyclic, branched, or linear, completely fluorinated alkanes;
- b. Cyclic, branched, or linear, completely fluorinated ethers with no saturations;
- c. Cyclic, branched, or linear, completely fluorinated tertiary amines with no saturations; and

d. Sulfur containing perfluorocabons with no unsaturations and with sulfur bonds only to carbon and fluorine.

(2) For purposes of determining compliance with emissions limits, VOC will be measured by the test methods in this chapter or Title 40 Code of Federal Regulations Part 60, Appendix A, which is incorporated by reference under Ordinance No. 598, as applicable. Where such a method also measures compounds with negligible photochemical reactivity, these negligibly-reactive compounds may be excluded as VOC if the amount of such compounds is accurately quantified, and such exclusion is approved by the director.

(3) As a precondition to excluding these compounds as VOC or at any time thereafter, the director may require an owner or operator to provide monitoring or testing methods and results demonstrating the amount of negligibly-reactive compounds in the source's emissions.

(dd) "Welfare" means effects on soils, water, crops, vegetation, manmade materials, animals, wildlife, visibility, weather and climate, damage to and deterioration of property, and hazards to transportation, as well as effects on economic values and on personal comfort and well-being, whether those effects are caused directly or by transformation, conversion, or combination with other air pollutants.

(ee) "Electric utility steam generating unit" means any steam electric generating unit that is constructed for the purpose of supplying more than one-third of its potential electric output capacity and more than 25 MW electrical output to any utility power distribution system for sale. Any steam supplied to a steam distribution system for the purpose of providing steam to a steam-electric generator that would produce electrical energy for sale is also considered in determining the electrical energy output capacity of the affected facility.

(ff) "Pollution control project" means any activity or project undertaken at an existing electric utility steam generating unit for purposes of reducing emissions from such unit. Such activities or projects are limited to:

(1) The installation of conventional or innovative pollution control technology, including but not limited to advanced flue gas desulfurization, sorbent injection for sulfur dioxide and nitrogen oxides controls and electrostatic precipitators;

(2) An activity or project to accommodate switching to a fuel which is less polluting than the fuel used prior to the activity or project, including but not limited to natural gas or coal re-burning, or the co-firing of natural gas and other fuels for the purpose of controlling emissions;

(3) A permanent clean coal technology demonstration project conducted under Title II, Section 101(d) of the Further Continuing

Appropriations Act of 1985 [Title 42 U.S.C. 5903(d)], or subsequent appropriations, up to a total amount of \$2,500,000,000 for commercial demonstration of clean coal technology or similar projects funded through appropriations for the Environmental Protection Agency, or

(4) A permanent clean coal technology demonstration project that constitutes a repowering project.

(gg) "Representative actual annual emissions" means the average rate, in tons per year, at which the source is projected to emit a pollutant for the two-year period after a physical change or change in the method of operation of a unit, (or a different consecutive two-year period within 10 years after that change, where the director determines that such period is more representative of normal source operations), considering the effect any such change will have on increasing or decreasing the hourly emissions rate and on projected capacity utilization. In projecting future emissions the director shall:

(1) Consider all relevant information including, but not limited to, historical operational data, the company's own representations, filings with the state or federal regulatory authorities, and compliance plans under Title IV of the Federal Clean Air Act; and

(2) Exclude, in calculating any increase in emissions that results from the particular physical change or change in the method of operation at an electric utility steam generating unit, that portion of the unit's emissions following the change that could have been accommodated during the representative baseline period and is attributable to an increase in projected capacity utilization at the unit that is unrelated to the particular change, including any increased utilization due to the rate of electricity demand growth for the utility system as a whole.

(hh) "Clean coal technology" means any technology, including technologies applied at the precombustion, combustion, or post combustion stage, at a new or existing facility which will achieve significant reductions in air emissions of sulfur dioxide or oxides of nitrogen associated with the utilization of coal in the generation of electricity, or process steam which was not in widespread use as of November 15, 1990.

(ii) "Clean coal technology demonstration project" means a project using funds appropriated under the heading "Department of Energy--Clean Coal Technology," up to a total amount of \$2,500,000,000 for commercial demonstration of clean coal technology or similar projects funded through appropriations for the Environmental Protection Agency. The federal contribution for a qualifying project shall be at least 20 percent of the total cost of the demonstration project.

(jj) "Temporary clean coal technology demonstration project" means a clean coal technology demonstration project that is operated for a period of 5 years or less, and which complies with the state implementation plan and



other requirements necessary to attain and maintain the national ambient air quality standards during and after the project is terminated.

(kk) "Repowering:"

(1) Means replacement of an existing coal-fired boiler with one of the following clean coal technologies: atmospheric or pressurized fluidized bed combustion, integrated gasification combined cycle, magnetohydrodynamics, direct and indirect coal-fired turbines, integrated gasification fuel cells, or as determined by the administrator, in consultation with the Secretary of Energy, a derivative of one or more of these technologies, and any other technology capable of controlling multiple combustion emissions simultaneously with improved boiler or generation efficiency and with significantly greater waste reduction relative to the performance of technology in widespread commercial use as of November 15, 1990.

(2) Shall also include any oil or gas-fired unit which has been awarded clean coal technology demonstration funding as of January 1, 1991, by the Department of Energy.

(3) The director shall give expedited consideration to permit applications for any source that satisfies the requirements of this definition and is granted an extension under section 409 of the Federal Clean Air Act.

(11) "Reactivation of a very clean coal-fired electric utility steam generating unit" means any physical change or change in the method of operation associated with the commencement of commercial operations by a coal-fired utility unit after a period of discontinued operation where the unit:

(1) Has not been in operation for the two-year period prior to the enactment of the Clean Air Act Amendments of 1990, and the emissions from such unit continue to be carried in the emissions inventory at the time of enactment;

(2) Was equipped prior to shutdown with a continuous system of emissions control that achieves a removal efficiency for sulfur dioxide of no less than 85 percent and a removal efficiency for particulates of no less than 98 percent;

(3) Is equipped with low NO<sub>x</sub> burners prior to the time of commencement of operations following reactivation; and

(4) Is otherwise in compliance with the requirements of the Federal Clean Air Act.

(mm) "Control strategy" means a combination of measures, approved by the board, designated to achieve the aggregate reduction of emissions necessary for attainment and maintenance of the ambient air quality standards specified in § 8-741, Rule 21, or of the national ambient air quality standards, including but not limited to measures such as:

(1) Emission limitations;

- (2) Emission fees or other economic incentives or disincentives;
- (3) Closing or relocation of residential, commercial, or industrial facilities;
- (4) Changes in schedules or methods of operation of commercial or industrial facilities or transportation systems, including, but not limited to, short term changes made in accordance with standby plans;
- (5) Periodic inspection and testing of motor vehicle emission control systems, at such time it is determined that such programs are feasible and practicable;
- (6) Emission control measures applicable to in-use motor vehicles, including, but not limited to, measures such as mandatory maintenance, installation of emission control devices, and conversion of gaseous fuels;
- (7) Any transportation control measures considered feasible and practicable;
- (8) Control or prohibition of a fuel or fuel additive used in motor vehicles, if such control or prohibition is necessary to achieve a primary or secondary air quality standard, or national primary or secondary air quality standard; and
- (9) Any variation of, or alternative to any measure delineated herein.

Rule 18.3 Sources exempt from the rule.

(a) A major stationary source or a major modification shall not be subject to the requirements of the PSD rule if:

- (1) The stationary source or modification would be a major stationary source or major modification only if fugitive emissions, to the extent quantifiable, are considered in calculating the potential to emit of the stationary source or modification and such source does not belong to any of the source categories listed under Rule 18.2(t) or any other stationary source category which, as of the effective date of this rule, is being regulated under Rule 15 or Rule 16; or
- (2) The source or modification is a portable stationary source which has previously received an installation permit under requirements equivalent to those contained in the PSD rule if:
  - a. The source proposes to relocate and emissions of the source at the new location would be temporary; and
  - b. The emissions from the source would not exceed its allowable emissions; and
  - c. The emissions from the source would impact no Class I area and no area where an applicable increment is known to be violated; and

d. Thirty (30) days advance notice is given to the director prior to the relocation identifying the proposed new temporary location and the probable duration of the operation at the new location.

(b) Source impact and air quality analysis as required in Rule 18.4 shall not apply if the allowable emissions from a proposed new major stationary source with respect to a particular pollutant, or the net emissions increase of a particular pollutant from a major modification, would be temporary and impact no Class I area and no area where an applicable increment is known to be violated.

(c) Source impact and air quality analysis as required in Rule 18.4 as they relate to any maximum allowable increase for a Class II area do not apply to a major modification of a stationary source that was in existence on March 1, 1978, if the net increase in allowable emissions of each pollutant from the modification after the application of best available control technology (BACT) would be less than fifty (50) tons per year.

(d) A proposed major stationary source or major modification may be exempted by the director from preconstruction air quality analysis as required in Rule 18.4 with respect to monitoring for a particular pollutant if:

(1) The emissions increase of the pollutant from a new stationary source or the net emissions increase of the pollutant from a modification would cause, in any area, air quality impacts less than the following amounts:

Carbon monoxide	575 $\mu\text{g}/\text{m}^3$	8-hour average
Nitrogen dioxide	14 $\mu\text{g}/\text{m}^3$	annual average
Particulate matter		
PM <sub>10</sub>	10 $\mu\text{g}/\text{m}^3$	24-hour average
Sulfur dioxide	13 $\mu\text{g}/\text{m}^3$	24-hour average
Ozone		No de minimis level established, but any net increase of 100 tons/year or more of volatile organic compounds subject to the PSD rule may not be exempted from ambient impact analysis required in Rule 18.4(i).
Lead	0.1 $\mu\text{g}/\text{m}^3$	3-month average
Mercury	0.25 $\mu\text{g}/\text{m}^3$	24-hour average
Beryllium	0.001 $\mu\text{g}/\text{m}^3$	24-hour average
Fluorides	0.25 $\mu\text{g}/\text{m}^3$	24-hour average

Vinyl chloride	15 $\mu\text{g}/\text{m}^3$	24-hour average
Total reduced sulfur	10 $\mu\text{g}/\text{m}^3$	1-hour average
Hydrogen sulfide	0.2 $\mu\text{g}/\text{m}^3$	1-hour average
Reduced sulfur Compounds	10 $\mu\text{g}/\text{m}^3$	1-hour average; or

(2) The pollutants are not listed in Rule 18.3(d)(1) above; or

(3) The concentrations of the pollutant in the area that the source or modification would affect are less than the concentrations listed in Rule 18.3(d)(1).

(f) Source impact analysis otherwise required by Rule 18.4 does not apply to a stationary source or modification with respect to any maximum allowable increase for nitrogen oxides if the owner or operator of the source or modification submitted an installation and temporary operating permit application before the provisions embodying the maximum allowable increase took effect as part of this chapter and the director subsequently determined that the application as submitted before that date was complete.

Rule 18.4 Requirements of source owner or source operator.

(a) No major stationary source or major modification subject to the PSD rule may begin actual construction in any area to which the PSD rule applies unless a permit has been issued for such proposed source or modification in accordance with the requirements of the PSD rule with respect to each pollutant subject to the PSD rule that it would emit, setting forth emission limitations for the source or modification which conform to the PSD rule.

(b) A major stationary source or major modification shall meet the most stringent of each applicable emissions limitation in the regulation and the applicable emissions standard under § 8-741, Rules 15 and 16.

(c) A new major stationary source shall apply best available control technology (BACT) for each pollutant subject to regulation under this chapter that it would have the potential to emit:

(1) At a rate that would equal or exceed amounts deemed significant as described in Rule 18.2(u) and Rule 18.2(v); and

(2) At any emissions rate for any pollutant subject to regulation under this chapter not listed in Rule 18.2(u); and

(3) At a rate that would equal or exceed amounts deemed significant as described in Rule 18.2(aa).

(d) A major modification shall apply BACT for each pollutant subject to regulation under this chapter for which it would be a significant net emissions increase at the source as described in Rule 18.2(u) and Rule 18.2(v) or Rule 18.2(aa) and Rule 18.2(v); and for each pollutant subject to this chapter not listed in Rule 18.2(u) or which there would be a net emissions increase as described in Rule 18.2(v) at any emissions rate. This requirement applies to each proposed emissions unit at which a net

emissions increase in the pollutant would occur as a result of a physical change or change in the method of operation in the unit.

(e) For phased construction projects, the determination of BACT shall be reviewed and modified as appropriate at the latest reasonable time which occurs no later than 18 months prior to commencement of construction of each independent phase of the project. At such time, the owner or operator of the applicable stationary source may be required to demonstrate the adequacy of any previous determination of BACT for the source.

(f) Stack heights. The degree of emission limitation required for control of any air pollutant under the PSD rule shall not be affected in any manner by:

(1) So much of a stack height, not in existence before December 31, 1970, as exceeds good engineering practice, or

(2) Any other dispersion technique not implemented before December 31, 1970.

(g) Source impact analysis:

(1) The owner or operator of the proposed source or modification shall demonstrate that allowable emissions increases from the proposed source or modification, in conjunction with all other applicable emissions increases or reductions (including secondary emissions) would not cause or contribute to air pollution in violation of whichever of the following concentrations is lowest for the pollutant for a period of exposure:

a. Any national ambient air quality standard in Title 40 CFR Part 50, which is incorporated by reference under Ordinance No. 598; or

b. Any applicable maximum allowable increase over the baseline concentration in any baseline area.

(2) Rule 18.4(g)(1) shall not apply to a stationary source or modification with respect to any maximum allowable increase for PM<sub>10</sub> if:

a. The owner or operator of the source or modification submitted an application for a permit under the applicable permit program approved under the Federal Clean Air Act before the provisions embodying the maximum allowable increases for PM<sub>10</sub> took effect as part of the plan, and

b. The director subsequently determined that the application as submitted before that date was complete. Instead, the applicable requirements equivalent to Rule 18.4(g)(1) shall apply with respect to the maximum allowable increases for TSP as in effect on the date the application was submitted.

(3) All estimates of ambient concentrations required under the PSD rule shall be based on the applicable air quality models, data

bases, and other requirements specified in Title 40 CFR Part 51, Appendix W, which is incorporated by reference under Ordinance No. 598. Where an air quality impact model specified therein is inappropriate, the model may be modified or another model substituted. Such a modification or substitution of a model may be made on a case-by-case basis or, where appropriate, on a generic basis for a specific local program. Written approval of the administrator of U.S. EPA must be obtained for any modification or substitution. In addition, use of a modified or substituted model must be subject to notice and opportunity for public comment in accordance with Rule 18.6(g).

(h) Sources impacting federal class I areas.

(1) The director shall promptly provide written notice of receipt of any permit application for a proposed major stationary source or major modification, the emissions from which may affect a Class I area or which may have an adverse impact on visibility in any Class I area to the EPA administrator, the federal land manager, and the federal official charged with direct responsibility for management of any lands within any such area. The director shall transmit to the U.S. EPA Administrator and the federal land manager a copy of each permit application relating to a major stationary source or major modification which would affect a Class I area. This application shall include a copy of all information relevant to the permit application and shall be sent within 30 days after the director's receipt of the permit application, and at least 60 days prior to any public hearing on the application for a permit to construct. Such notification shall include an analysis of the proposed source's anticipated impacts on visibility in the federal Class I area. The director shall also provide the EPA Administrator, the federal land manager and such federal officials with a copy of the preliminary determination and shall make available to them any materials used in making that determination promptly after the director makes it. In addition, notification of public hearings, final determinations, and permits issued shall be provided. Finally, the director shall also notify all affected federal land managers within 30 days of the director's receipt of any advance notification of any such permit application.

(2) The director shall provide the federal land manager and the federal official charged with direct responsibility for management of Class I lands with the information described in Rule 18.4(h)(1) above to facilitate their efforts to protect the air quality related values (including visibility) of any such lands and to enable them to consider, in consultation with the administrator, whether a proposed source or modification would have an adverse impact on such values.

(3) A federal land manager of any such lands may present to the director, after the director's preliminary determination required under the PSD rule, a demonstration that the emissions from the proposed source or modification would have an adverse impact on the air quality-related values (including visibility) of any federal mandatory Class I lands, notwithstanding that the change in air quality resulting from emissions from such source or modification would not cause or contribute to concentrations which would exceed the maximum allowable increases for a Class I area. If the director concurs with such demonstration, the director shall not issue the permit. If the director does not concur, the director must, in the notice of public hearing on the permit application, either explain the decision or give notice as to where the explanation can be obtained.

(i) Air quality analysis.

(1) Preapplication analysis: Any application for a permit under the PSD rule shall contain an analysis of ambient air quality as required by the director in the area that the major stationary source or major modification would affect for each of the following pollutants:

a. For the stationary source, each pollutant that it would have the potential to emit in a significant amount as described in Rule 18.2(u), (v) and (aa), or for any pollutant subject to regulation under this chapter not listed in Rule 18.2(u) that it would have the potential to emit at any rate;

b. For the modification, each pollutant for which a significant net emissions increase, as described in Rule 18.2(u), (v) and (aa), would result from the modification, or for any pollutant subject to regulation under this chapter not listed in Rule 18.2(u) for which there would be any net emissions increase.

(2) The analysis shall contain such air quality monitoring data as the director determines is necessary to assess ambient air quality for any pollutant for which no ambient air quality standard exists in any area that the emissions of that pollutant would affect.

(3) With respect to any pollutant, other than nonmethane hydrocarbons, for which an ambient air quality standard (Rule 21) exists, the analysis shall contain continuous air quality monitoring data gathered for purposes of determining whether emissions of that pollutant would cause or contribute to a violation of the standard or any maximum allowable increase.

(4) In general, the continuous air monitoring data that is required shall have been gathered over a period of one (1) year and shall represent the year preceding receipt of the application, except that if the director determines that a complete and adequate analysis can be accomplished with monitoring data gathered over a period

shorter than one (1) year (but not less than four [4] months) the data that is required shall have been gathered over at least that shorter period.

(5) The owner or operator of a proposed major stationary source or major modification of volatile organic compounds who satisfies all conditions of § 8-708(e)(2), may provide post-approval monitoring data for ozone in lieu of providing preconstruction data as otherwise required by Rule 18.4(g) above.

(j) Post-construction monitoring. The owner or operator of a major stationary source or major modification shall, after construction of the source or modification, conduct such ambient monitoring as the director in the reasonable exercise of discretion shall determine is necessary to determine the effect emissions from the stationary source or modification may have, or are having, on air quality in any area.

(k) The owner or operator of a major stationary source or major modification shall meet the quality assurance requirements of Appendix B to Title 40 Code of Federal Regulations Part 58, which is incorporated by reference under Ordinance No. 598 during the operation of monitoring stations for the purposes of the PSD rule.

(1) The owner or operator of a proposed source or modification shall submit all information necessary to perform any analysis or make any determination required under procedures established in accordance with the PSD rule, including:

(1) A description of the nature, location, design capacity, and typical operating schedule of the source or modification, including specifications and drawings needed for the review showing its design and plant layout; and

(2) A detailed proposed schedule for construction of the source or modification; and

(3) A detailed description as to what system of continuous emission reduction is planned for the source or modification, emission estimates, and any other information necessary to determine that BACT would be applied where required by the PSD rule; and

(4) An analysis of the impairment to visibility, soils, and vegetation that would occur as a result of the stationary source or modification and general commercial, residential, industrial, and other growth associated with the stationary source or modification, excluding an analysis of the impact on vegetation having no significant commercial or recreational value; and

(5) An analysis of the air quality impact projected for the area as a result of general commercial, residential, industrial and other growth associated with the source or



modification. Upon the request of the director, the owner or operator shall also provide information on the air quality of the source or modification (including meteorological and topographical data) necessary to estimate such impact, and the air quality impacts and the nature and extent of any or all general commercial, residential, industrial and other growth which has occurred since August 7, 1977, in the area the source or modification would affect. Such data in the possession of the bureau shall be made available to the owner or operator, except for data protected pursuant to § 8-719 of this chapter.

Rule 18.5 Area classification.

(a) For the purposes of the PSD rule, the following area classifications shall apply:

- (1) Class I: Great Smoky Mountains National Park  
Joyce Kilmer Slickrock National Wilderness Area  
Cohutta National Wilderness Area
- (2) Class II: Remainder of Tennessee
- (3) Class III: None

Areas in surrounding states are classified as specified in Title 40 Code of Federal Regulations Part 52, which is incorporated by reference under Ordinance No. 598.

(b) All of the following areas which were in existence on August 7, 1977, shall be Class I areas and may not be redesignated:

- (1) International parks.
- (2) National wilderness areas which exceed 5,000 acres in size.
- (3) National memorial parks which exceed 5,000 acres in size.
- (4) National parks which exceed 6,000 acres in size.

Rule 18.6 Ambient air increments.

(a) In areas designated as Class I, II, or III, increases in pollutant concentration over the baseline concentration shall be limited to the following:

<u>Area</u>	<u>Pollutant</u>	<u>Maximum allowable increase (<math>\mu\text{g}/\text{m}^3</math>)</u>
Class I	Particulate Matter:	
	PM <sub>10</sub> , annual arithmetic mean	4
	PM <sub>10</sub> , 24-hour maximum	8
	Sulfur Dioxide:	
	Annual arithmetic mean	2
	24-hour maximum	5

<u>Area</u>	<u>Pollutant</u>	<u>Maximum allowable increase (<math>\mu\text{g}/\text{m}^3</math>)</u>
Class II	3-hour maximum	25
	Nitrogen Dioxide:	
	Annual arithmetic mean	2.5
	Particulate Matter:	
	PM <sub>10</sub> , annual arithmetic mean	17
	PM <sub>10</sub> , 24-hour maximum	30
	Sulfur Dioxide:	
	Annual arithmetic mean	20
	24-hour maximum	91
	3-hour maximum	512
Class III	Nitrogen Dioxide:	
	Annual arithmetic mean	25
	Particulate Matter:	
	PM <sub>10</sub> , annual arithmetic mean	34
	PM <sub>10</sub> , 24-hour maximum	60
	Sulfur Dioxide:	
	Annual arithmetic mean	40
	24-hour maximum	182
	3-hour maximum	700
	Nitrogen Dioxide:	
Annual arithmetic mean	50	

For any period other than an annual period, the applicable maximum allowable increase may be exceeded during one (1) such period per year at any one (1) location.

(b) Violations of air quality increments. The director shall not issue an installation permit to a source or facility to construct in an area where the increment is known to be violated or the air quality review predicts a violation of the increment or the ambient air quality standards except in accordance with the following:

(1) All new or modified facilities shall utilize good engineering practice as determined by the director in designing stacks. In no event shall that part of a stack which exceeds good engineering practices stack height be taken into account for the purpose of determining the degree of emission limitation required for the control of any pollutant for which there is an ambient air quality standard established in Rule 21.

(2) A major source or major modification which would normally be required to meet BACT shall be required to meet the Lowest Achievable Emission Rate (LAER) for that type of source as determined by the director at the time of the permit application. The

term "lowest achievable emission rate" means for any source that rate of emissions which reflects:

a. The most stringent emission limitation which is achieved in practice by such class or category of source.

b. In no event shall a new or modified source emit any pollutant in excess of the amount allowable under the applicable provisions of Rule 15 (New Source Performance Standards).

(3) If the requirements of Rule 18.6(b)(2) are not adequate to protect the increment or the ambient air quality standards, the source shall obtain emission offsets, legally enforceable at or before the time of PSD permit issuance, sufficient to predict that the increment or air quality standard will no longer be violated. The offsets shall be accomplished on or before the time of the new source operation and demonstrated through a source test or through another method acceptable to the director.

(c) Exclusions from increment consumption.

(1) The following concentrations shall be excluded in determining compliance with a maximum allowable increase as specified in Rule 18.6:

a. Concentrations attributable to the increase in emissions from stationary sources which have converted from the use of petroleum products, natural gas, or both by reason of an order in effect under sections 2(a) and (b) of the Energy Supply and Environmental Coordination Act of 1974 (or any superseding legislation) over the emissions from such sources before the effective date of such an order but no exclusion shall apply more than five (5) years after the effective date of such an order;

b. Concentrations attributable to the increase in emissions from sources which have converted from using natural gas by reason of a natural gas curtailment plan in effect pursuant to the Federal Power Act over the emissions from such sources before the effective date of such plan but no exclusion shall apply more than five (5) years after the effective date of such plan, and if both an order as in Rule 18.6(c)(1)a. above and a plan are in effect, no such exclusion shall apply more than five (5) years after the later of such effective dates;

c. Concentrations of particulate matter attributable to the increase in emissions from construction or other temporary emission-related activities of new or modified sources;

d. The increase in concentrations attributable to new sources outside the United States over the concentrations

attributable to existing sources which are included in the baseline concentration.

(2) Concentrations attributable to the temporary increase in emissions of sulfur dioxide, particulate matter, or nitrogen oxides from stationary sources which are approved by the director as meeting the following criteria shall be excluded in determining compliance with a maximum allowable increase:

a. The time period over which the temporary emissions increase of sulfur dioxide, particulate matter or nitrogen oxides would occur is not to exceed two (2) years in duration; and

b. This time period is not renewable; and

c. No emissions increase is allowed under Rule 18.6(c) from a stationary source that would either impact a Class I area or an area where an applicable increment is known to be violated, or cause or contribute to the violation of an ambient air quality standard; and

d. Emissions limitations in effect at the end of the temporary increase time period must ensure that emissions levels from stationary sources affected by Rule 18.6(c) would not exceed those levels occurring from such sources before the director approved the temporary increase.

(d) Class I variances. The owner or operator of a proposed source or modification may demonstrate to the federal land manager that the emissions from such source would have no adverse impact on the air quality related values of such lands (including visibility), notwithstanding that the change in air quality resulting from emissions from such source or modification would cause or contribute to concentrations which would exceed the maximum allowable increases for a Class I area. If the federal land manager concurs with such demonstration and so certifies to the state, the director may, provided that applicable requirements are otherwise met, issue the permit with such emission limitations as may be necessary to assure that emissions of sulfur dioxide, particulate matter, and nitrogen oxides would not exceed the following maximum allowable increases over minor source baseline concentration for such pollutants:

<u>Pollutant</u>	<u>Maximum Allowable Increases <math>\mu\text{g}/\text{m}^3</math></u>
Particulate matter:	
PM <sub>10</sub> , annual arithmetic mean	17
PM <sub>10</sub> , 24-hour maximum	30
Sulfur dioxide:	
Annual arithmetic mean	20
24-hour maximum	91

3-hour maximum	325
Nitrogen dioxide:	
Annual Arithmetic mean	25

(e) Sulfur dioxide variance by governor. If the owner or operator of a source or applicant for a proposed source or proposed modification cannot be approved under Rule 18.6 for failure to make the necessary demonstration to the federal land manager, then in that event the owner, operator or applicant may make application for a variance from Rule 18.6. In making such application for variance, the owner, operator or applicant is required to undertake the following:

(1) The owner, operator, or applicant may follow those procedures set forth in 40 CFR § 51.166, which is incorporated by reference under Ordinance No. 598, to obtain the governor's approval. If the governor, with the concurrence of the federal land manager, makes a favorable recommendation or if the governor, without the concurrence of the federal land manager, makes a favorable recommendation which receives the approval of the president, the owner, operator or applicant may make special application to the Chattanooga-Hamilton County Air Pollution Control Board for a special variance from Rule 18.6.

(2) If such application for such special variance is made, it shall be accompanied by a full and complete certified copy of the administrative record developed in undertaking the procedures set forth in Title 40 CFR § 51.166, which is incorporated by reference under Ordinance No. 598. If there is no such administrative record of such procedures, the application shall, at a minimum, be accompanied by certified copies of the governor's recommendation and the federal land manager's concurrence and, where applicable, the approval of the president.

(3) Thereafter, following public notice, a public hearing shall be held at which the certified copy of the record of the proceedings before the governor, the federal land manager and the president, if any, shall be received in evidence. Upon that evidence and the receipt of any other evidence offered by any interested party, the board may, but is not required to, issue a variance from the requirements of this Rule 18 without regard to the elements of proof required for a variance under § 8-721 of this chapter; provided, however, that such variance will carry with it all emission limitations and conditions suggested or imposed by the governor to the same extent as if the governor has issued the variance under Title 40 CFR § 51.166, which is incorporated by reference under Ordinance No. 598; and also provided further that a variance from Rule 18 will not exempt the owner/operator or the

source from all other provisions and requirements of the regulation or requirements of other provisions of local, state or federal law.

(f) Emission limitations for presidential or gubernatorial variance.

In the case of a permit issued under procedures developed pursuant to Rule 18.6, the source or modification shall comply with emission limitations as may be necessary to assure that emissions of sulfur dioxide from the source or modification would not (during any day on which the otherwise applicable maximum allowable increases are exceeded) cause or contribute to concentrations which would exceed the following maximum allowable increases over the baseline concentration and to assure that such emissions would not cause or contribute to concentrations which exceed the otherwise applicable maximum allowable increases for periods of exposure of 24 hours or less for more than 18 days, not necessarily consecutive, during any annual period:

<u>Period of Exposure</u>	<u>Maximum Allowable Increase (<math>\mu\text{g}/\text{m}^3</math>)</u>	
	<u>Terrain Areas</u>	
	<u>Low</u>	<u>High</u>
24-hour maximum	36	62
3-hour maximum	130	221

(g) Public participation.

(1) The director shall notify any applicant under the PSD rule within 30 days after receipt of an application as to the completeness of the application or any deficiency in the application or information submitted. In the event of such a deficiency, the date of receipt of the application shall be the date on which the director received all required information.

(2) Unless there is a need for a longer period of time for review up to one (1) year, agreed upon by mutual consent, within six months after receipt of a complete application the director shall:

a. Make a preliminary determination whether construction should be approved, approved with conditions, or disapproved;

b. Make available in at least one location in each region in which the proposed source or modification would be constructed a copy of all materials the applicant submitted, a copy of the preliminary determination, and a copy or summary of other materials, if any, considered in making the preliminary determination;

c. Notify the public, by advertisement in a newspaper of general circulation in each region in which the proposed source would be constructed, of the application, the preliminary determination, the degree of increment consumption that is

expected from the source or modification, and of the opportunity for comment at a public hearing as well as written public comment;

d. Send a copy of the notice of public comment to the applicant; the U.S. EPA Administrator; the State of Tennessee; any state that is contiguous to Tennessee; and to any other state, federal land manager, or indian governing body whose lands are within fifty (50) miles from the source or modification;

e. Provide opportunity for a public hearing for interested persons to appear and submit written or oral comments on the air quality impact of the source or modification, alternatives to it, the control technology required, and other appropriate considerations;

f. Consider all written comments submitted within a time specified in the notice of public comment and all comments received at any public hearing(s) in making a final decision on the approvability of the application. No later than ten (10) days after the close of the public comment period, the applicant may submit a written response to any comments submitted by the public or request an extension for this purpose. The director shall consider the applicant's response in making a final decision. The director shall make all comments available for public inspection in the same locations where the director made available preconstruction information relating to the proposed source or modification;

g. Make a final determination whether construction should be approved, approved with conditions, or disapproved pursuant to the PSD rule; and

h. Notify the applicant in writing of the final determination and make such notification available for public inspection at the same location where the director made available preconstruction information and public comments relating to the source.

All public comments and written comments prepared by the director will be maintained in the public depositories for one (1) year after the date of issuance of the installation permit.

Rule 18.7 Innovative control technology.

(a) The owner or operator of a proposed major stationary source or major modification may request that the director approve a system of innovative control technology.

(b) The director may determine that the source or modification may employ a system of innovative control technology, if:

(1) The proposed control system would not cause or contribute to an unreasonable risk to public health, welfare, or safety in its operation or function;

(2) The owner or operator agrees to achieve a level of continuous emissions reduction equivalent to that which would have been required under Rule 18.4(c) by a date specified by the director which shall not be later than four (4) years after the time of startup or seven (7) years after permit issuance, whichever earliest occurs;

(3) The source or modification would meet the requirements equivalent to those in Rule 18.4(b), (c), (d), (e) and (g) based on the emission rate that the stationary source employing the system of innovative control technology would be required to meet on the date specified by the director;

(4) The source or modification shall not before the date specified by the director:

a. Cause or contribute to any violation of an applicable national ambient air quality standard; or

b. Impact any area where an applicable increment is known to be violated;

(5) All other applicable requirements including those for public participation have been met; and

(6) The provisions of Rule 18.4(g)(3) and Rule 18.6(c), (d), (e), and (f) (relating to Class I areas) have been satisfied with respect to all periods during the life of the source or modification.

(c) The director shall withdraw any approval to employ a system of innovative control technology made under this section, if:

(1) The proposed system fails by the specified date to achieve the required continuous emissions reduction rate;

(2) The proposed system fails before the specified date so as to contribute to ambient air quality violations, or an unreasonable risk to public health, welfare, or safety; or

(3) The director determines at any time that the proposed system is unlikely to achieve the required level of control or to protect the public health, welfare or safety, or is contributing to ambient air quality violations.

(d) If a source or modification fails to meet the required level of continuous emissions reduction within the specified time period, or if the approval is withdrawn pursuant to Rule 18.7(c), the board may allow the source or modification up to an additional three (3) years to meet the requirement for the application of best available control technology through use of a demonstrated system of control.

Rule 19. Regulation of lead emissions.

Rule 19.1 Definitions. Unless specifically defined in this Rule 19, the definitions from § 8-702 will apply:



(1) "Significant source of lead" means

a. Any one permit unit, or combination of permit units as determined by the board of director, at any of the following stationary sources that emit lead or lead compounds (measured as elemental lead) of at least 1.25 tons per calendar quarter or at least five (5) tons per year whichever is the more restrictive: primary lead smelters, secondary lead smelters, primary cooper smelters, lead gasoline additive plants, lead-acid storage battery manufacturing plants that produce 2000 or more batteries per day.

b. Notwithstanding the source sizes specified in subparagraph a. of this paragraph, any other stationary source that emits 25 or more tons per year of lead or lead compounds measured as elemental lead.

(2) "Source" means any structure, building, facility, equipment, installation, or operation, or combination thereof, which is located on one or more contiguous or adjacent properties and which is owned or operated by the same person or by persons under common control. If a portion of a source is rented to or leased to another person for the purpose of a totally separate business venture, the board or the director may designate that portion as a separate source.

(3) "Permit unit" means any part of a source required to obtain a certificate of operation as required by this chapter.

Rule 19.2. General limitations for lead emissions.

(1) No person shall cause, suffer, allow, or permit lead emissions in excess of the limits established in this chapter.

(2) Upon mutual agreement of the board or the director and the owner or operator of a significant source of lead, an emission limitation more restrictive than that otherwise specified in this chapter may be established. Also, upon mutual agreement of the owner or operator of any source and the board or the director, operating hours, process flow rates, or any other operating parameters may be established as a binding limitation. The mutually acceptable limitations shall be stated as special conditions for any permit, or certificate concerning the source. Violation of any accepted special limitation is grounds for revocation of the issued permit or certificate and/or other enforcement measures.

Rule 19.3 Requirements for new and modified sources of lead.

(1) A new source the actual emissions of which are in excess of 5.0 tons per year of lead or lead compounds measured as elemental lead shall utilize best available control technology (BACT).

(2) Any modification of a source which results in an increase in excess of 0.6 tons per year of lead or lead compounds measured as elemental lead shall utilize BACT.

(3) The owner or operator of a proposed new or modified source of lead shall perform a source impact analysis to demonstrate that the allowable emission increases from the proposed source or modification would not cause or contribute to a violation of the lead ambient air quality standard in the source impact area including background concentrations. Source impact analysis shall be based on the applicable air quality models and data bases acceptable to the board or the director.

(4) Additional requirements for certain new or modified sources of lead are given in § 8-741, Rule 18 (Prevention of Significant Deterioration) and in § 8-741, Rule 15 (New Source Performance Standards) of this chapter.

Rule 19.4. Source sampling and analysis. Source sampling and analysis for lead shall be conducted in the manner prescribed in § 8-703 of this chapter.

Rule 19.5. Ambient monitoring requirements for lead. The board or the director may require ambient lead monitoring in the vicinity of a source regulated by this Rule 19. This monitoring shall be done in accordance with the requirements of this chapter.

Rule 20. Standards for hospital/medical/infectious waste incinerators constructed on or before [the effective date of this ordinance].

Rule 20.1. Purpose. It is the purpose of this rule to establish emission limitations and performance specifications for existing incinerators that burn hospital/medical/infectious waste in accordance with Sections 111 and 129 of the Clean Air Act and Title 40 CFR Part 60 Subpart Ce, federally effective November 14, 1997. (It should be noted that federal regulations at Title 40 CFR Part 60, Subpart Ec control for any hospital/medical/infectious waste incinerator for which construction was commenced after June 20, 1996, and before [the effective date of this ordinance] or for which modification was commenced after March 16, 1998, and before [the effective date of this ordinance].)

Rule 20.2. General.

(1) Upon a showing of good cause and following the guidelines set forth herein, with the concurrence of the board the director may establish an emission limit more restrictive than that otherwise specified in Rule 20 and/or may establish an emission limit for any air pollutant discharged from the hospital/medical/infectious waste incinerator that is not specified in Rule 20. Good cause shall be deemed to exist in the event that the emission(s) from a source or sources subject to Rule 20 shall be shown by generally accepted scientific, medical, or industry standards to cause an endangerment to the health and safety of persons. The more restrictive emission limit(s), or the limit(s) related to pollutants not specified in Rule 20, to be imposed on a source must be shown by a preponderance of the generally accepted scientific, medical or industry evidence to be necessary and reasonable under the

circumstances. Such an emission limit shall be a special condition on any permit or certificate of operation issued to a source after it has been approved by the board. Violation of the special condition shall be deemed to be a violation of this ordinance.

Rule 20.3. Existing source compliance schedules.

(1) The owner or operator of each hospital/medical/infectious waste incinerator which is a designated facility according to this rule shall satisfy the standards and requirements specified in Rule 20 within fourteen (14) months after [the effective date of this ordinance].

(2) An owner or operator of a designated facility may petition the director for a later compliance date to complete installation of air pollution control equipment necessary to achieve compliance. Such a petition must be delivered to the director no later than eight (8) months after [the effective date of this ordinance]. Such a petition must propose a date by which compliance will be achieved that is prior to the earlier of the date three (3) years after [the effective date of this ordinance] or September 15, 2002. Such a petition shall also include documentation of the analyses undertaken to support the need for an extension, including an explanation of the reason(s) compliance cannot be achieved within the first year after EPA approves Rule 20 but can be achieved within the following two years. Such a petition shall also specify measurable and enforceable incremental steps of progress towards compliance. Suggested measurable and enforceable activities include:

- a. Date for submitting a petition for site specific operating parameters to be established during the initial performance and to be continuously monitored thereafter for any designated facility using an air pollution control device other than a dry scrubber followed by a fabric filter, a wet scrubber, or a dry scrubber followed by a fabric filter and a wet scrubber to comply with the emission limits in this rule;
- b. Date for obtaining services of an architectural and engineering firm regarding the air pollution control device(s);
- c. Date for obtaining design drawings of the air pollution control device(s);
- d. Date for ordering the air pollution control device(s);
- e. Date for obtaining the major components of the air pollution control device(s);
- f. Date for initiation of site preparation for installation of the air pollution control devices); and
- g. Date for initial startup of the air pollution control device(s).

Rule 20.4. Definitions. Words and terms used in Rule 20 but not specifically defined in Rule 20.4 shall have the meaning given them in the Clean Air Act; in Title 40 CFR Part 60 Subparts A and B, which have been

incorporated by reference in Chapter 7; or if not specifically defined therein, the meaning given them in the general definitions in § 8-702 of Chapter 7.

(1) "Batch HMIWI" means an HMIWI that is designed such that neither waste charging nor ash removal can occur during combustion

(2) "Biologicals" means preparations made from living organisms and their products, including vaccines, cultures, etc., intended for use in diagnosing, immunizing, or treating humans or animals or in research pertaining thereto.

(3) "Blood products" means any product derived from human blood, including but not limited to blood plasma, platelets, red or white blood corpuscles, and other derived licensed products, such as interferon, etc.

(4) "Body fluids" means liquids emanating or derived from humans and limited to blood; dialysate; amniotic, cerebrospinal, synovial, pleural, peritoneal and pericardial fluids; and semen and vaginal secretions.

(5) "Bypass stack" means a device used for discharging combustion gases to avoid severe damage to the air pollution control device or other equipment.

(6) "Chemotherapeutic waste" means waste material resulting from the production or use of antineoplastic agents used for the purpose of stopping or reversing the growth of malignant cells.

(7) "Co-fired combustor" means a unit combusting hospital waste and/or medical/infectious waste with other fuels or wastes (e.g. coal, municipal solid waste) and subject to an enforceable requirement limiting the unit to combusting a fuel feed stream, 10 percent or less of the weight of which is comprised, in aggregate, of hospital waste and medical/infectious waste as measured on a calendar quarter basis. For purposes of this definition, pathological waste, chemotherapeutic waste, and low-level radioactive waste are considered "other" wastes when calculating the percentage of hospital waste and medical/infectious waste combusted.

(8) "Continuous emission monitoring system or CEMS" means a monitoring system for continuously measuring and recording the emissions of a pollutant from an affected facility.

(9) "Continuous HMIWI" means an HMIWI that is designed to allow waste charging and ash removal during combustion.

(10) "Dioxins/furans" means the combined emissions of tetra-through octa-chlorinated dibenzo-para-dioxins and dibenzofurans, as measured by EPA Test Reference Method 23, Title 40 CFR Part 60, Appendix A, which has been incorporated by reference in Chapter 7.

(11) "Dry scrubber" means an add-on air pollution control system that injects dry alkaline sorbent (dry injection) or sprays an alkaline sorbent (spray dryer) to react with and neutralize acid gases in the HMIWI exhaust stream forming a dry powder material.

(12) "Fabric filter" or "baghouse" means an add-on air pollution control system that removes particulate matter (PM) and nonvaporous metals emissions by passing flue gas through filter bags.

(13) "Facilities manager" means the individual in charge of purchasing, maintaining, and operating the HMIWI or the owner's or operator's representative responsible for the management of the HMIWI. Alternative titles may include director of facilities or vice president of support services.

(14) "High-air phase" means the stage of the batch operating cycle when the primary chamber reaches and maintains maximum operating temperatures.

(15) "Hospital" means any facility which has an organized medical staff, maintains at least six inpatient beds, and where the primary function of the institution is to provide diagnostic and therapeutic patient services and continuous nursing care primarily to human inpatients who are not related and who stay on average in excess of 24 hours per admission. This definition does not include facilities maintained for the sole purpose of providing nursing or convalescent care to human patients who generally are not acutely ill but who require continuing medical supervision.

(16) "Hospital/medical/infectious waste incinerator or HMIWI or HMIWI unit" means any device that combusts any amount of hospital waste and/or medical/infectious waste.

(17) "Hospital waste" means discards generated at a hospital, except unused items returned to the manufacturer. The definition of hospital waste does not include human corpses, remains, and anatomical parts that are intended for interment or cremation.

(18) "Infectious agent" means any organism (such as a virus or bacteria) that is capable of being communicated by invasion and multiplication in body tissues and capable of causing disease or adverse health impacts in humans.

(19) "Intermittent HMIWI" means an HMIWI that is designed to allow waste charging, but not ash removal, during combustion.

(20) "Large HMIWI" means:

a. Except as provided in (b):

1. An HMIWI whose maximum design waste burning capacity is more than 500 pounds per hour; or

2. A continuous or intermittent HMIWI whose maximum charge rate is more than 500 pounds per hour; or

3. A batch HMIWI whose maximum charge rate is more than 4,000 pounds per day.

b. The following are not large HMIWI:

1. A continuous or intermittent HMIWI whose maximum charge rate is less than or equal to 500 pounds per hour; or

2. A batch HMIWI whose maximum charge rate is less than or equal to 4,000 pounds per day.

(21) "Low-level radioactive waste" means waste material which contains radioactive nuclides emitting primarily beta or gamma radiation, or both, in concentrations or quantities that exceed applicable federal or state standards for unrestricted release. Low-level radioactive waste is not high-level radioactive waste, spent nuclear fuel, or by-product material as defined by the Atomic Energy Act of 1954 [42 U.S.C. § 2014(e)(2)].

(22) "Malfunction" means any sudden, infrequent, and not reasonably preventable failure of air pollution control equipment, process equipment, or a process to operate in a normal or usual manner. Failures that are caused, in part, by poor maintenance or careless operation are not malfunctions. During periods of malfunction the operator shall operate within established parameters as much as possible, and monitoring of all applicable operating parameters shall continue until all waste has been combusted or until the malfunction ceases, whichever comes first.

(23) "Maximum charge rate" means:

a. For continuous and intermittent HMIWI, 110 percent of the lowest 3-hour average charge rate measured during the most recent performance test demonstrating compliance with all applicable emission limits.

b. For batch HMIWI, 110 percent of the lowest daily charge rate measured during the most recent performance test demonstrating compliance with all applicable emission limits.

(24) "Maximum design waste burning capacity" means:

a. For intermittent and continuous HMIWI:

$$C = P_v \times 15,000 / 8,500$$

Where:

C=HMIWI capacity, lb/hr

$P_v$ =primary chamber volume, ft<sup>3</sup>

15,000=primary chamber heat release rate factor, Btu/ft<sup>3</sup>/hr

8,500=standard waste heating value, Btu/lb;

b. For batch HMIWI,

$$C = P_v \times 4.5 / 8$$

Where

C=HMIWI capacity, lb/hr

$P_v$ =primary chamber volume, ft<sup>3</sup>

4.5=waste density, lb/ft<sup>3</sup>

8=typical hours of operation of a batch HMIWI, hours.

(25) "Maximum fabric filter inlet temperature" means 110 percent of the lowest 3-hour average temperature at the inlet to the fabric filter (taken, at a minimum, once every minute) measured during the most recent performance test demonstrating compliance with the dioxin/furan emission limit.

(26) "Maximum flue gas temperature" means 110 percent of the lowest 3-hour average temperature at the outlet from the wet scrubber (taken, at a minimum, once every minute) measured, during the most recent performance test demonstrating compliance with the mercury (Hg) emission limit.

(27) "Medical/infectious waste" means any waste generated in the diagnosis, treatment, or immunization of human beings or animals; in research pertaining thereto; or in the production or testing of biologicals, that is listed in paragraphs (a) through (g) of this definition. The definition of medical/infectious waste does not include hazardous waste identified or listed under the regulations in Title 40 CFR Part 261; household waste, as defined in Title 40 CFR § 261.4(b)(1); ash from incineration of medical/infectious waste, once the incineration process has been completed; human corpses, remains, and anatomical parts that are intended for interment or cremation; and domestic sewage materials identified in § 261.4(a)(1).

a. Cultures and stocks of infectious agents and associated biologicals, including: cultures from medical and pathological laboratories; cultures and stocks of infectious agents from research and industrial laboratories; wastes from the production of biologicals; discarded live and attenuated vaccines, and culture dishes and devices used to transfer, inoculate, and mix cultures.

b. Human pathological waste, including tissues, organs, and body parts and body fluids that are removed during surgery or autopsy, or other medical procedures, and specimens of body fluids and their containers.

c. Human blood and blood products including:

1. Liquid waste human blood;
2. Products of blood;
3. Items saturated and/or dripping with human blood;

or

4. Items that were saturated and/or dripping with human blood that are now caked with dried human blood; including serum, plasma, and other blood components, and their containers, which were used or intended for use in either patient care, testing and laboratory analysis or the development of pharmaceuticals. Intravenous bags are also included in this category.

d. Sharps that have been used in animal or human patient care or treatment or in medical, research, or industrial laboratories, including hypodermic needles, syringes (with or without the attached needle), pasteur pipettes, scalpel blades, blood vials, needles with attached tubing, and culture dishes (regardless of presence of infectious agents). Also included are other types of broken or unbroken

glassware that were in contact with infectious agents, such as used slides and cover slips.

e. Animal waste including contaminated carcasses, body parts, and bedding of animals that were exposed to infectious agents during research (including research in veterinary hospitals), production of biologicals or testing of pharmaceuticals.

f. Isolation wastes including biological waste and discarded materials contaminated with blood, excretions, exudates, or secretions from humans who are isolated to protect others from certain highly communicable diseases, or isolated animals known to be infected with highly communicable diseases.

g. Unused sharps including the following unused, discarded sharps: hypodermic needles, suture needles, syringes, and scalpel blades.

(28) "Medium HMIWI" means:

a. Except as provided in paragraph (b):

1. An HMIWI whose maximum design waste burning capacity is more than 200 pounds per hour but less than or equal to 500 pounds per hour; or

2. A continuous or intermittent HMIWI whose maximum charge rate is more than 200 pounds per hour but less than or equal to 500 pounds per hour; or

3. A batch HMIWI whose maximum charge rate is more than 1,600 pounds per day but less than or equal to 4,000 pounds per day.

b. The following are not medium HMIWI:

1. A continuous or intermittent HMIWI whose maximum charge rate is less than or equal to 200 pounds per hour or more than 500 pounds per hour; or

2. A batch HMIWI whose maximum charge rate is more than 4,000 pounds per day or less than or equal to 1,600 pounds per day.

(29) "Minimum dioxin/furan sorbent flow rate" means 90 percent of the highest 3-hour average dioxin/furan sorbent flow rate (taken, at a minimum, once every hour) measured during the most recent performance test demonstrating compliance with the dioxin/furan emission limit.

(30) "Minimum Hg sorbent flow rate" means 90 percent of the highest 3-hour average Hg sorbent flow rate (taken, at a minimum, once every hour) measured during the most recent performance test demonstrating compliance with the Hg emission limit.

(31) "Minimum hydrogen chloride (HCl) sorbent flow rate" means 90 percent of the highest 3-hour average HCl sorbent flow rate (taken, at a minimum, once every hour) measured during the most recent performance test demonstrating compliance with the HCl emission limit.



(32) "Minimum horsepower or amperage" means 90 percent of the highest 3-hour average horsepower or amperage to the wet scrubber (taken, at a minimum, once every minute) measured during the most recent performance test demonstrating compliance with the applicable emission limits.

(33) "Minimum pressure drop across the wet scrubber" means 90 percent of the highest 3-hour average pressure drop across the wet scrubber PM control device (taken, at a minimum, once every minute) measured during the most recent performance test demonstrating compliance with the PM emission limit.

(34) "Minimum scrubber liquor flow rate" means 90 percent of the highest 3-hour average liquor flow rate at the inlet to the wet scrubber (taken, at a minimum, once every minute) measured during the most recent performance test demonstrating compliance with all applicable emission limits.

(35) "Minimum scrubber liquor pH" means 90 percent of the highest 3-hour average liquor pH at the inlet to the wet scrubber (taken, at a minimum, once every minute) measured during the most recent performance test demonstrating compliance with the HCl emission limit.

(36) "Minimum secondary chamber temperature" means 90 percent of the highest 3-hour average secondary chamber temperature (taken, at a minimum, once every minute) measured during the most recent performance test demonstrating compliance with the PM, CO, or dioxin/furan emission limits.

(37) "Modification" or "Modified HMIWI" means any change to an HMIWI unit after the effective date of these standards such that:

a. The cumulative costs of the modifications, over the life of the unit, exceed 50 percent of the original cost of the construction and installation of the unit (not including the cost of any land purchased in connection with such construction or installation) updated to current costs, or

b. The change involves a physical change in or change in the method of operation of the unit which increases the amount of any air pollutant emitted by the unit for which standards have been established under Section 129 or Section 111 of the Clean Air Act.

(38) "Operating day" means a 24-hour period between 12:00 midnight and the following midnight during which any amount of hospital waste or medical/infectious waste is combusted at any time in the HMIWI.

(39) "Operation" means the period during which waste is combusted in the incinerator excluding periods of startup or shutdown.

(40) "Particulate matter" or "PM" means the total particulate matter emitted from an HMIWI as measured by EPA Reference Method 5 or EPA Reference Method 29, Title 40 CFR Part 60, Appendix A, which has been incorporated by reference in Chapter 7.

(41) "Pathological waste" means waste material consisting of only human or animal remains, anatomical parts, and/or tissue, the bags/containers used to collect and transport the waste material, and animal bedding (if applicable).

(42) "Primary chamber" means the chamber in an HMIWI that receives waste material, in which the waste is ignited, and from which ash is removed.

(43) "Pyrolysis" means the endothermic gasification of hospital waste and/or medical/infectious waste using external energy.

(44) "Secondary chamber" means a component of the HMIWI that receives combustion gases from the primary chamber and in which the combustion process is completed.

(45) "Shutdown" means the period of time after all waste has been combusted in the primary chamber. For continuous HMIWI, shutdown shall commence no less than 2 hours after the last charge to the incinerator. For intermittent HMIWI, shutdown shall commence no less than 4 hours after the last charge to the incinerator. For batch HMIWI, shutdown shall commence no less than 5 hours after the high-air phase of combustion has been completed.

(46) "Small HMIWI" means:

a. Except as provided in (b):

1. An HMIWI whose maximum design waste burning capacity is less than or equal to 200 pounds per hour; or

2. A continuous or intermittent HMIWI whose maximum charge rate is less than or equal to 200 pounds per hour; or

3. A batch HMIWI whose maximum charge rate is less than or equal to 1,600 pounds per day.

b. The following are not small HMIWI:

1. A continuous or intermittent HMIWI whose maximum charge rate is more than 200 pounds per hour;

2. A batch HMIWI whose maximum charge rate is more than 1,600 pounds per day.

(47) "Standard conditions" means a temperature of 20°C and a pressure of 101.3 kilopascals.

(48) "Standard Metropolitan Statistical Area or SMSA" means any areas listed in Office of Management and Budget (OMB) Bulletin No. 93-17 entitled "Revised Statistical Definitions for Metropolitan Areas" dated June 30, 1993, which has been incorporated by reference in Chapter 7.

(49) "Startup" means the period of time between the activation of the system and the first charge to the unit. For batch HMIWI, startup means the period of time between activation of the system and ignition of the waste.

(50) "Wet scrubber" means an add-on air pollution control device that utilizes an alkaline scrubbing liquor to collect particulate matter (including

nonvaporous metals and condensed organics) and/or to absorb and neutralize acid gases.

Rule 20.5. Designated facilities.

(1) Except as provided in Rule 20.5 (2) through (8), the designated facilities to which Rule 20 applies includes each individual HMIWI for which construction was commenced on or before [the effective date of this ordinance].

(2) A combustor is not subject to Rule 20.5 during periods when only pathological waste, low-level radioactive waste, and/or chemotherapeutic waste (as defined in this rule) is burned, provided the owner or operator of the combustor:

- a. Notifies the director of an exemption claim; and
- b. Keeps records on a calendar quarter basis of the periods of time when only pathological waste, low-level radioactive waste, and/or chemotherapeutic waste is burned.

(3) Any co-fired combustor (defined in this rule) is not subject to this rule if the owner or operator of the co-fired combustor:

- a. Notifies the director of an exemption claim;
- b. Provides an estimate of the relative weight of hospital waste, medical/infectious waste, and other fuels and/or wastes to be combusted; and
- c. Keeps records on a calendar quarter basis of the weight of hospital waste and medical/infectious waste combusted, and the weight of all other fuels and wastes combusted at the co-fired combustor.

(4) Any combustor required to have a permit under Section 3005 of the Solid Waste Disposal Act [Title 42 U.S.C. § 6925] is not subject to Rule 20.

(5) Any combustor which meets the applicability requirements under Title 40 CFR Part 60, Subparts Cb, Ea or Eb, which have been incorporated by reference in Chapter 7, containing standards and guidelines for certain municipal waste combustors, is not subject to Rule 20.

(6) Any pyrolysis unit (defined in Rule 20) is not subject to Rule 20.

(7) Cement kilns firing hospital waste and/or medical/infectious waste are not subject to Rule 20.

(8) Physical or operational changes made to an existing HMIWI unit solely for the purpose of complying with Rule 20 are not considered a modification and do not result in an existing HMIWI unit becoming subject to the provisions of Rule 20 or the new source performance standard in § 8-741, Rule 15, which incorporates by reference Title 40 CFR Part 60, Subpart Ec (62 FR 48380; September 15, 1997).

(9) Designated facilities subject to Rule 20 shall operate pursuant to a Part 70 permit issued pursuant to Article III. Part 70 Source Regulation and Permits.

Rule 20.6. Emission limitations.

(1) Except as provided in Rule 20.6(2), on and after the earlier of the date on which the initial performance test is completed or is required to be completed under Rule 20, no owner or operator of a designated facility shall cause to be discharged into the atmosphere from that facility any gases that contain stack emissions in excess of the limits presented in Table I.

TABLE I. EMISSION LIMITS FOR SMALL, MEDIUM AND LARGE HMIWI

Pollutant	Units (7 percent oxygen, dry basis)	Emission Limits		
		HMIWI Size		
		Small	Medium	Large
Particulate Matter	Milligrams per dry standard cubic meter (grains per dry standard cubic foot)	115 (0.05)	69 (0.03)	34 (0.015)
Carbon Monoxide	Parts per million by volume	40	40	40
Dioxins/ Furans	Nanograms per dry standard cubic meter total dioxins/furans (grains per billion dry standard cubic feet) or nanograms per dry standard cubic meter TEQ (grains per billion dry standard cubic feet).	125 (55) or 2.3 (1.0)	125 (55) or 2.3 (1.0)	125 (55) or 2.3 (1.0)
Hydrogen Chloride	Parts per million by volume or percent reduction	100 or 93%	100 or 93%	100 or 93%
Sulfur Dioxide	Parts per million by volume	55	55	55
Nitrogen Oxides	Parts per million by volume	250	250	250
Lead	Milligrams per dry standard cubic meter (grains per thousand dry standard cubic feet) or percent reduction	1.2 (0.52) or 70%	1.2 (0.52) or 70%	1.2 (0.52) or 70%
Cadmium	Milligrams per dry standard cubic meter (grains per thousand dry standard cubic feet) or percent reduction	0.16 (0.07) or 65%	0.16 (0.07) or 65%	0.16 (0.07) or 65%
Mercury	Milligrams per dry standard cubic meter (grains per thousand dry standard cubic feet) or percent reduction.	0.55 (0.24) or 85%	0.55 (0.24) or 85%	0.55 (0.24) or 85%

(2) On and after the earlier of the date on which the initial performance test is completed or is required to be completed under Rule 20, no owner or operator of any small HMIWI (defined in Rule 20) which is located more than 50 miles from the boundary of the nearest standard metropolitan statistical area (defined in Rule 20) and which burns less than 2,000 pounds per week of hospital waste and medical/infectious waste shall cause to be discharged into the atmosphere from that facility any gases that contain stack emissions in excess of the limits presented in Table II. The 2,000 lb/week limitation does not apply during performance tests.

TABLE II. EMISSIONS LIMITS FOR CERTAIN SMALL HMIWI

Pollutant	Units (7 percent oxygen, dry basis)	HMIWI Emission Limits
Particulate Matter	Milligrams per dry standard cubic meter (grains per dry standard cubic foot)	197 (0.086)
Carbon Monoxide	Parts per million by volume	40
Dioxins/ Furans	Nanograms per dry standard cubic meter total dioxins/furans (grains per billion dry standard cubic feet) or nanograms per dry standard cubic meter TEQ (grains per billion dry standard cubic feet)	800 (350) or 15 (6.6)
Hydrogen Chloride	Parts per million by volume	3100
Sulfur Dioxide	Parts per million by volume	55
Nitrogen Oxides	Parts per million by volume	250
Lead	Milligrams per dry standard cubic meter (grains per thousand dry standard cubic feet)	10 (4.4)
Cadmium	Milligrams per dry standard cubic meter (grains per thousand dry standard cubic feet)	4 (1.7)
Mercury	Milligrams per dry standard cubic meter (grains per thousand dry standard cubic feet)	7.5 (3.3)

(3) On and after the earlier of the date on which the initial performance test is completed or is required to be completed under Rule 20, no owner or operator of a designated facility shall cause to be discharged into the atmosphere from the stack of that facility any gases that exhibit greater than 10 percent opacity (6-minute block average).

(4) On and after the earlier of the date on which the initial performance test is completed or is required to be completed under Rule 20, no owner or operator of a large HMIWI shall cause to be discharged into the atmosphere visible emissions of combustion ash from an ash conveying system (including conveyor transfer points) in excess of 5 percent of the observation period (i.e, 9 minutes per 3-hour period), as determined by EPA Reference Method 22, which has been incorporated in Chapter 7, except as provided in Rule 20.6(5) and (6).

(5) The emission limit specified in Rule 20.6(4) does not cover visible emissions discharged inside buildings or enclosures of ash conveying systems; however, the emission limit does cover visible emissions discharged to the atmosphere from buildings or enclosures of ash conveying systems.

(6) The provisions of Rule 20.6(4) do not apply during maintenance and repair of ash conveying systems. Maintenance and/or repair shall not exceed 10 operating days per calendar quarter unless the owner or operator obtains written approval from the director establishing a date whereby all necessary maintenance and repairs of ash conveying systems shall be completed.

Rule 20.7. Operator training and qualification requirements.

(1) No owner or operator of a designated facility shall allow that facility to operate at any time unless a fully trained and qualified HMIWI operator is accessible, either at the facility or available at the facility within one (1) hour. The trained and qualified HMIWI operator may operate the HMIWI directly or be the direct supervisor of one or more HMIWI operators.

(2) Operator training and qualification shall be obtained through a state-approved program, a director-approved program, or by completing the requirements included in Rule 20.7(3) through (7).

(3) Training shall be obtained by completing an HMIWI operator training course that includes, at a minimum, the following provisions:

- a. 24 hours of training on the following subjects:
  1. Environmental concerns, including pathogen destruction and types of emissions;
  2. Basic combustion principles, including products of combustion;
  3. Operation of the type of incinerator to be used by the operator, including proper startup, waste charging, and shutdown procedures;
  4. Combustion controls and monitoring;

5. Operation of air pollution control equipment and factors affecting performance (if applicable);
  6. Methods to monitor pollutants (continuous emission monitoring systems and monitoring of HMIWI and air pollution control device operating parameters) and equipment calibration procedures (where applicable);
  7. Inspection and maintenance of the HMIWI, air pollution control devices, and continuous emission monitoring systems;
  8. Actions to correct malfunctions or conditions that may lead to malfunctions;
  9. Bottom and fly ash characteristics and handling procedures;
  10. Applicable federal, state, and local regulations;
  11. Work safety procedures;
  12. Pre-startup inspections; and
  13. Recordkeeping requirements.
- a. An examination designed and administered by the instructor.
  - b. Reference material distributed to the attendees covering the course topics.
- (4) Qualification shall be obtained by:
- a. Completion of a training course that satisfies the criteria under Rule 20.7(3); and
  - b. Either 6 months of experience as an HMIWI operator, 6 months of experience as a direct supervisor of an HMIWI operator, or completion of at least two burn cycles under the observation of two qualified HMIWI operators.
- (5) Qualification is valid from the date on which the examination is passed or the completion of the required experience, whichever is later.
- (6) To maintain qualification, the trained and qualified HMIWI operator shall complete and pass an annual review or refresher course of at least 4 hours covering, at a minimum, the following:
- a. Update of regulations;
  - b. Incinerator operation, including startup and shutdown procedures;
  - c. Inspection and maintenance;
  - d. Responses to malfunctions or conditions that may lead to malfunction; and
  - e. Discussion of operating problems encountered by attendees.
- (7) A lapsed qualification shall be renewed by one of the following methods:



a. For a lapse of less than 3 years, the HMIWI operator shall complete and pass a standard annual refresher course described in Rule 20.7(6).

b. For a lapse of 3 years or more, the HMIWI operator shall complete and pass a training course with the minimum criteria described in Rule 20.7(3).

(8) The owner or operator of a designated facility shall maintain documentation at the facility that address the following:

a. Summary of the applicable standards under Rule 20;

b. Description of basic combustion theory applicable to an HMIWI;

c. Procedures for receiving, handling, and charging waste;

d. HMIWI startup, shutdown, and malfunction procedures;

e. Procedures for maintaining proper combustion air supply levels;

f. Procedures for operating the HMIWI and associated air pollution control systems within the standards established under Rule 20;

g. Procedures for responding to periodic malfunction or conditions that may lead to malfunction;

h. Procedures for monitoring HMIWI emissions;

i. Reporting and recordkeeping procedures; and

j. Procedures for handling ash.

(9) The owner or operator of a designated facility shall establish a program for reviewing the information listed in Rule 20.7(9) annually with each HMIWI operator (defined in Rule 20).

a. The initial review of the information listed in Rule 20.7(9) shall be conducted within 6 months after the effective date of Rule 20 or prior to assumption of responsibilities affecting HMIWI operation, whichever date is later.

b. Subsequent reviews of the information listed in Rule 20.7(9) shall be conducted annually.

(10) The information listed in Rule 20.7(9) shall be kept in a readily accessible location for all HMIWI operators. This information, along with records of training, shall be available for inspection by the U.S. EPA or its delegated enforcement agent upon request.

Rule 20.8. Waste management guidelines. The owner or operator of a designated facility shall prepare a waste management plan. The waste management plan shall identify both the feasibility and the approach to separate certain components of solid waste from the health care waste stream in order to reduce the amount of toxic emissions from incinerated waste. A waste management plan may include, but is not limited to, elements such as paper, cardboard, plastics, glass, battery, or metal recycling; or purchasing recycled or recyclable products. A waste

management plan may include different goals or approaches for different areas or departments of the facility and need not include new waste management goals for every waste stream. It should identify, where possible, reasonably available additional waste management measures, taking into account the effectiveness of waste management measures already in place, the costs of additional measures, the emission reductions expected to be achieved, and any other environmental or energy impacts they might have. The American Hospital Association publication entitled "An Ounce of Prevention: Waste Reduction Strategies for Health Care Facilities", a copy of which is available at the bureau, shall be considered in the development of the waste management plan.

Rule 20.9. Inspection guidelines.

(1) Each small HMIWI subject to the emissions limits of Rule 20 shall undergo an initial equipment inspection within fourteen (14) months after [the effective date of this ordinance] and annually thereafter no more than 12 months following the previous annual equipment inspection that, at a minimum, includes the following items:

- a. Inspect all burners, pilot assemblies, and pilot sensing devices for proper operation; clean pilot flame sensor, as necessary;
- b. Ensure proper adjustment of primary and secondary chamber combustion air, and adjust as necessary;
- c. Inspect hinges and door latches, and lubricate as necessary;
- d. Inspect dampers, fans, and blowers for proper operation;
- e. Inspect HMIWI door and door gaskets for proper sealing;
- f. Inspect motors for proper operation;
- g. Inspect primary chamber refractory lining; clean and repair/replace lining as necessary;
- h. Inspect incinerator shell for corrosion and/or hot spots;
- i. Inspect secondary/tertiary chamber and stack, clean as necessary;
- j. Inspect mechanical loader, including limit switches, for proper operation, if applicable;
- k. Visually inspect waste bed (grates) and repair or seal as appropriate;
- l. For the burn cycle that follows the inspection, document that the incinerator is operating properly and make any necessary adjustments;
- m. Inspect air pollution control device(s) for proper operation, if applicable;
- n. Inspect waste heat boiler systems to ensure proper operation, if applicable;
- o. Inspect bypass stack components;

p. Ensure proper calibration of thermocouples, sorbent feed systems and any other monitoring equipment; and

q. Generally observe that the equipment is maintained in good operating condition.

(2) Within 10 operating days following an equipment inspection all necessary repairs shall be completed unless the owner or operator obtains written approval from the director establishing a date whereby all necessary repairs of the designated facility shall be completed.

Rule 20.10. Compliance, performance testing, and monitoring guidelines.

(1) The emission limits in Rule 20 apply at all times except during periods of startup, shutdown, or malfunction, provided that no hospital waste or medical/infectious waste is charged to the designated facility during startup, shutdown, or malfunction.

(2) The owner or operator of any small HMIWI (defined in Rule 20) subject to emission limits under Rule 20.6 shall conduct an initial performance test to determine compliance with the emission limits in Rule 20.6 and shall meet the following compliance and performance testing requirements, subject to the stated exceptions:

a. The requirement that a small HMIWI burn less than 2,000 pounds per week of hospital and medical/infectious waste does not apply during performance tests.

b. The use of the bypass stack during a performance test shall invalidate the performance test.

c. All performance tests shall consist of a minimum of three test runs conducted under representative operating conditions.

d. The minimum sample time shall be one hour per test run unless otherwise indicated.

e. EPA Test Reference Method 1, Title 40 CFR Part 60, Appendix A which has been incorporated by reference in Chapter 7, shall be used to select the sampling location and number of traverse points.

f. EPA Test Reference Methods 3 or 3A, Title 40 CFR Part 60, Appendix A, which have been incorporated by reference in Chapter 7, shall be used for gas composition analysis, including measurement of oxygen concentration.

g. The pollutant concentrations shall be adjusted to 7 percent oxygen using the following equation:

$$C_{\text{adj}} = C_{\text{meas}} (20.9 - 7)/(20.9 - \%O_2)$$

where:

$C_{\text{adj}}$  = pollutant concentration adjusted to 7 percent oxygen

$C_{\text{meas}}$  = pollutant concentration measured on a dry basis  
 (20.9 – 7) = 20.9 percent oxygen minus 7 percent  
 oxygen (defined oxygen correction basis)  
 20.9 = oxygen concentration in air, percent; and  
 %O<sub>2</sub> = oxygen concentration measured on a dry basis,  
 percent.

h. EPA Test Reference Method 5 or Method 29, Title 40 CFR Part 60, Appendix A, which have been incorporated by reference in Chapter 7, shall be used to measure the particulate matter emissions;

i. EPA Test Reference Method 9, Title 40 CFR Part 60, Appendix A, which has been incorporated by reference in Chapter 7, shall be used to measure stack opacity;

j. EPA Test Reference Methods 10 or 10B, Title 40 CFR Part 60, Appendix A, which have been incorporated by reference in Chapter 7, shall be used to measure the CO emissions;

k. EPA Test Reference Method 23, Title 40 CFR Part 60, Appendix A, which has been incorporated by reference in Chapter 7, shall be used to measure total dioxin/furan emissions. The minimum sample time shall be four hours per test run. If the facility has selected the toxic equivalency standards for dioxin/furans, under Rule 20.6, the following procedures shall be used to determine compliance:

1. Measure the concentration of each dioxin/furan tetra- through octa- congener emitted using EPA Test Reference Method 23.

2. For each dioxin/furan congener measured in accordance with Rule 20.10(k)(l)1., multiply the congener concentration by its corresponding toxic equivalency factor specified in Table III.

3. Sum the products calculated in accordance with Rule 20.10(k)(l)2. to obtain the total concentration of dioxins/furans emitted in terms of toxic equivalency.

TABLE III. TOXIC EQUIVALENCY FACTORS

Dioxin/Furan Congener	Toxic Equivalency Factor
2,3,7,8-tetrachlorinated dibenzo-p-dioxin	1
1,2,3,7,8-pentachlorinated dibenzo-p-dioxin	0.5

Dioxin/Furan Congener	Toxic Equivalency Factor
1,2,3,4,7,8-hexachlorinated dibenzo-p-dioxin	0.1
1,2,3,7,8,9-hexachlorinated dibenzo-p-dioxin	0.1
1,2,3,6,7,8-hexachlorinated dibenzo-p-dioxin	0.1
1,2,3,4,6,7,8-hexachlorinated dibenzo-p-dioxin	0.01
Octachlorinated dibenzo-p-dioxin	0.001
2,3,7,8-tetrachlorinated dibenzofuran	0.1
2,3,4,7,8-pentachlorinated dibenzofuran	0.5
1,2,3,7,7-pentachlorinated dibenzofuran	0.05
1,2,3,4,7,8-hexachlorinated dibenzofuran	0.1
1,2,3,6,7,8-hexachlorinated dibenzofuran	0.1
1,2,3,7,8,9-hexachlorinated dibenzofuran	0.1
2,3,4,6,7,8-hexachlorinated dibenzofuran	0.1
1,2,3,4,6,7,8-heptachlorinated dibenzofuran	0.01
1,2,3,4,7,8,9-heptachlorinated dibenzofuran	0.01
Octachlorinated dibenzofuran	0.001

1. EPA Test Reference Method 29, which has been incorporated by reference in Chapter 7, shall be used to measure Hg emissions. If the facility has selected the reduction standards for metals under Rule 20.6, the

percentage reduction in emissions ( $\%R_{\text{metal}}$ ) is computed using the following formula:

$$(\%R_{\text{metal}}) = (E_i - E_o/E_i) \times 100$$

Where:

$\%R_{\text{metal}}$  = percentage reduction of metal emission (Hg) achieved

$E_i$  = metal emission concentration (Hg) measured at the control device inlet, corrected to 7 percent oxygen (dry basis); and

$E_o$  = metal emission concentration (Hg) measured at the control device outlet, corrected to 7 percent oxygen (dry basis)

m. Determine compliance with the opacity limit by conducting an annual performance test (no more than 12 months after the previous performance test) using the applicable procedures and test methods listed in Rule 20.10.

n. Establish maximum charge rate and minimum secondary chamber temperature as site-specific operating parameters during the initial performance test to determine compliance with applicable emissions limits.

o. Following the earlier of the date on which the initial performance test is completed or the date on which it is required to be completed under Title 40 CFR § 60.8, which has been incorporated by reference in Rule 15.1 in Chapter 7, ensure that the designated facility does not operate above the maximum charge rate or below the minimum secondary chamber temperature measured as 3-hour rolling averages (calculated each hour as the average of the previous 3 operating hours) at all times except during periods of startup, shutdown and malfunction. Operating parameter limits do not apply during performance tests. Operation above the maximum charge rate or below the minimum secondary chamber temperature shall constitute a violation of the established operating parameter(s).

p. Except as provided in Rule 20.10(2)(q), operation of the designated facility above the maximum charge rate and below the minimum secondary chamber temperature (each measured on a 3-hour rolling average) simultaneously shall constitute a violation of the PM, CO, and dioxin/furan emission limits.

q. The owner or operator of a designated facility may conduct a repeat performance test within 30 days after violation of applicable operating parameter(s) to demonstrate that the designated facility is not in violation of the applicable emission limit(s). Repeat performance tests conducted pursuant to Rule 20.10(2)(q) must be

conducted using the identical operating parameters that indicated a violation under Rule 20.10(2)(p).

(3) The owner or operator of any designated facility, other than a small HMIWI (defined in Rule 20), subject to emission limits under Rule 20 shall meet the requirements of Rule 20.10(1), (2) (b) through and including (m) and, shall meet the following additional requirements:

a. EPA Test Reference Method 26, which has been incorporated in Chapter 7, shall be used to measure HCl emissions. If the facility has selected the percentage reduction standards for HCl under Rule 20.6, the percentage reduction in HCl emissions ( $\%R_{\text{HCl}}$ ) is computed using the following formula:

$$(\%R_{\text{HCl}}) = (E_i - E_o/E_i) \times 100$$

Where:

$\%R_{\text{HCl}}$  = percentage reduction of HCl emissions achieved;

$E_i$  = HCl emission concentration measured at the control device inlet, corrected to 7 percent oxygen (dry basis); and

$E_o$  = HCl emission concentrations measured at the control device outlet, corrected to 7 percent oxygen (dry basis)

b. EPA Test Reference Method 29, required in Rule 20.10(2)(l) shall be used to measure Pb, Cd, and Hg emissions. Parenthetical references to Hg following the percentage reduction formula for metals shall include Pb and Cd for these purposes.

c. Determine compliance with the PM, CO and HCl emission limits by conducting an annual performance test (no more than 12 months following the previous performance test) using the applicable procedures and test methods listed in Rule 20.10. If all three performance tests over a 3-year period indicate compliance with the emission limit for a pollutant (PM, CO, or HCl), the owner or operator may forego a performance test for that pollutant for the subsequent 2 years. At a minimum, a performance test for PM, CO, and HCl shall be conducted every third year (no more than 36 months following the previous performance test). If a performance test conducted every third year indicates compliance with the emission limit for a pollutant (PM, CO, or HCl), the owner or operator may forego a performance test for that pollutant for an additional 2 years. If any performance test indicates noncompliance with the respective emission limit, a performance test for that pollutant shall be conducted annually until all annual performance tests over a 3-year period indicate compliance

with the emission limit. The use of the bypass stack during a performance test shall invalidate the performance test.

d. Designated facilities using a CEMS to demonstrate compliance with any of the emission limits in Rule 20 shall:

1. Determine compliance with the appropriate emission limit(s) using a 12-hour rolling average, calculated each hour as the average of the previous 12 operating hours (not including startup, shutdown, or malfunction).

2. Operate all CEMS in accordance with the applicable procedures under Title 40 CFR Part 60, Appendices B and F, which have been incorporated by reference in Chapter 7.

e. The owner or operator of a designated facility equipped with a dry scrubber followed by a fabric filter, a wet scrubber, or a dry scrubber followed by a fabric filter and wet scrubber shall:

1. Establish the appropriate maximum and minimum operating parameters, indicated in Table IV in Rule 20, for each control system, as site specific operating parameters during the initial performance test to determine compliance with the emission limits; and

2. Following the earlier of the date on which the initial performance test is completed or the date it is required to be completed under Title 40 CFR § 60.8, which has been incorporated by reference in Chapter 7, ensure that the designated facility does not operate above any of the applicable maximum operating parameters or below any of the applicable minimum operating parameters listed in Table IV of Rule 20 and measured as 3-hour rolling averages (calculated each hour as the average of the previous 3 operating hours) at all times except during periods of startup, shutdown and malfunction. Operating parameter limits do not apply during performance tests. Operation above the established maximum or below the established minimum operating parameter(s) shall constitute a violation of established operating parameters.

f. Except as provided in Rule 20.10(3)(i), for designated facilities equipped with a dry scrubber followed by a fabric filter:

1. Operation of the designated facility above the maximum charge rate and below the minimum secondary chamber temperature (each measured on a 3-hour rolling average) simultaneously shall constitute a violation of the CO emission limit.

2. Operation of the designated facility above the maximum fabric filter inlet temperature, above the maximum charge rate, and below the minimum dioxin/furan sorbent flow



rate (each measured on a 3-hour rolling average) simultaneously shall constitute a violation of the dioxin/furan emission limit.

3. Operation of the designated facility above the maximum charge rate and below the minimum HCl sorbent flow rate (each measured on a 3-hour rolling average) simultaneously shall constitute a violation of the HCl emission limit.

4. Operation of the designated facility above the maximum charge rate and below the minimum Hg sorbent flow rate (each measured on a 3-hour rolling average) simultaneously shall constitute a violation of the Hg emission limit.

5. Use of the bypass stack (except during startup, shutdown, or malfunction) shall constitute a violation of the PM, dioxin/furan, HCl, Pb, Cd and Hg limits.

g. Except as provided in Rule 20.10(3)(i), for designated facilities equipped with a wet scrubber:

1. Operation of the designated facility above the maximum charge rate and below the minimum pressure drop across the wet scrubber or below the minimum horsepower or amperage to the system (each measured on a 3-hour rolling average) simultaneously shall constitute a violation of the PM emission limit.

2. Operation of the designated facility above the maximum charge rate and below the minimum secondary chamber temperature (each measured on a 3-hour rolling average) simultaneously shall constitute a violation of the CO emission limit.

3. Operation of the designated facility above the maximum charge rate, below the minimum secondary chamber temperature, and below the minimum scrubber liquor flow rate (each measured on a 3-hour rolling average) simultaneously shall constitute a violation of the dioxin/furan emission limit.

4. Operation of the designated facility above the maximum charge rate and below the minimum scrubber liquor pH (each measured on a 3-hour rolling average) simultaneously shall constitute a violation of the HCl emission limit.

5. Operation of the designated facility above the maximum flue gas temperature and above the maximum charge rate (each measured on a 3-hour rolling average) simultaneously shall constitute a violation of the Hg emission limit.

6. Use of the bypass stack (except during startup, shutdown, or malfunction) shall constitute a violation of the PM, dioxin/furan, HCl, Pb, Cd and Hg emission limits.

h. Except as provided in Rule 20.10(3)(i), for designated facilities equipped with a dry scrubber followed by a fabric filter and a wet scrubber:

1. Operation of the designated facility above the maximum charge rate and below the minimum secondary chamber temperature (each measured on a 3-hour rolling average) simultaneously shall constitute a violation of the CO emission limit.

2. Operation of the designated facility above the maximum fabric filter inlet temperature, above the maximum charge rate, and below the minimum dioxin/furan sorbent flow rate (each measured on a 3-hour rolling average) simultaneously shall constitute a violation of the dioxin/furan emission limit.

3. Operation of the designated facility above the maximum charge rate and below the minimum scrubber liquor pH (each measured on a 3-hour rolling average) simultaneously shall constitute a violation of the HCl emission limit.

4. Operation of the designated facility above the maximum charge rate and below the minimum Hg sorbent flow rate (each measured on a 3-hour rolling average) simultaneously shall constitute a violation of the Hg emission limit.

5. Use of the bypass stack (except during startup, shutdown, or malfunction) shall constitute a violation of the PM, dioxin/furan, HCl, Pb, Cd and Hg emission limits.

i. The owner or operator of a designated facility may conduct a repeat performance test within 30 days after violation of applicable operating parameter(s) to demonstrate that the designated facility is not in violation of the applicable emission limit(s). Repeat performance tests conducted pursuant to Rule 20.10(3)(i) shall be conducted using the identical operating parameters that indicated a violation under Rule 20.10(f), (g) or (h).

j. The owner or operator of a designated facility using an air pollution control device other than a dry scrubber followed by a fabric filter, a wet scrubber, or a dry scrubber followed by a fabric filter and a set scrubber to comply with the emission limits under Rule 20.10 shall petition the administrator for other site-specific operating parameters to be established during the initial performance test until after the petition has been approved by the director.

k. The owner or operator of a designated facility may conduct a repeat performance test at any time to establish new values for the operating parameters. The director may request a repeat performance test at any time.

**TABLE IV. OPERATING PARAMETERS TO BE MONITORED  
AND MINIMUM MEASUREMENT AND RECORDING FREQUENCIES**

<b>Operating Parameters To Be Monitored</b>	<b>Minimum Frequency of Data Measurement</b>	<b>Minimum Frequency Of Data Recording</b>	<b>Dry Scrubber Followed by Fabric Filter</b>	<b>Wet Scrubber</b>	<b>Dry Scrubber Followed by Fabric Filter and Wet Scrubber</b>
Maximum Charge Rate	Continuous	1 x Hour	X	X	X
Maximum Fabric Filter Inlet Temperature	Continuous	1 x Minute	X		X
Maximum Flue Gas Temperature	Continuous	1 x Minute		X	X
Minimum Secondary Chamber Temperature	Continuous	1 x Minute	X	X	X
Minimum Dioxin/Furan Sorbent Flow Rate	Hourly	1 x Hour	X		X
Minimum HCl Sorbent Flow Rate	Hourly	1 x Hour	X		X
Minimum Mercury (Hg) Sorbent Flow Rate	Hourly	1 x Hour	X		X

<b>Operating Parameters To Be Monitored</b>	<b>Minimum Frequency of Data Measurement</b>	<b>Minimum Frequency Of Data Recording</b>	<b>Dry Scrubber Followed by Fabric Filter</b>	<b>Wet Scrubber</b>	<b>Dry Scrubber Followed by Fabric Filter and Wet Scrubber</b>
Minimum Pressure Drop across the Wet Scrubber or Minimum Horsepower or Amperage to Wet Scrubber	Continuous	1 x Minute		X	X
Minimum Scrubber Liquor Flow Rate	Continuous	1 x Minute		X	X
Minimum Scrubber Liquor pH	Continuous	1 x Minute		X	X

**Rule 20.11. Monitoring requirements.**

(1) The owner or operator of a small HMIWI (defined in Rule 20) shall meet the following monitoring requirements:

a. Install, calibrate to manufacturers' specifications, maintain, and operate a device for measuring and recording the temperature of the secondary chamber on a continuous basis, the output of which shall be recorded, at a minimum, once every minute throughout operation.

b. Install, calibrate to manufacturers' specifications, maintain, and operate a device which automatically measures and records the date, time, and weight of each charge fed into the HMIWI.

c. The owner or operator of a designated facility shall obtain monitoring data at all times during HMIWI operation except during periods of monitoring equipment malfunction, calibration, or repair. At a minimum, valid monitoring data shall be obtained for 75 percent of the operating hours per day and for 90 percent of the operating

hours per calendar quarter that the designated facility is combusting hospital waste and/or medical/infectious waste.

(2) The owner or operator of any other designated facility (defined in Rule 20) shall meet the following monitoring requirements:

a. Install, calibrate to manufacturers' specifications, maintain, and operate devices (or establish methods), for monitoring the applicable maximum and minimum operating parameters listed in Table IV in Rule 20 such that these devices (or methods) measure and record values for these operating parameters at the frequencies indicated in Table IV at all times except during periods of startup and shutdown.

b. The owner or operator of a designated facility shall install, calibrate to manufacturers' specifications, maintain, and operate a device or method for measuring the use of the bypass stack including date, time, and duration.

c. The owner or operator of a designated facility using something other than a dry scrubber followed by a fabric filter, a wet scrubber, or a dry scrubber followed by a fabric filter and a wet scrubber to comply with the emission limits in Rule 20 shall install, calibrate to the manufacturers' specifications, maintain, and operate the equipment necessary to monitor the site-specific operating parameters developed pursuant to Rule 20.10(3)(j).

d. The owner or operator of a designated facility shall obtain monitoring data at all times during HMIWI operation except during periods of monitoring equipment malfunction, calibration, or repair. At a minimum, valid monitoring data shall be obtained for 75 percent of the operating hours per day and for 90 percent of the operating days per calendar quarter that the designated facility is combusting hospital waste and/or medical/infectious waste.

Rule 20.12. Reporting and recordkeeping requirements.

(1) The owner or operator of a designated facility shall maintain the following information (as applicable) for a period of at least 5 years:

a. Calendar date of each record;

b. Records of the following data:

1. Concentrations of any pollutant listed in Rule 20.6 or measurements of opacity as determined by the continuous emission monitoring system (if applicable);

2. HMIWI charge dates, times, and weights and hourly charge rates;

3. Fabric filter inlet temperatures during each minute of operation, as applicable;

4. Amount and type of dioxin/furan sorbent used during each hour of operation, as applicable;

5. Amount and type of Hg sorbent used during each hour of operation, as applicable;
6. Amount and type of HCl sorbent used during each hour of operation, as applicable;
7. Secondary chamber temperatures recorded during each minute of operation;
8. Liquor flow rate to the wet scrubber inlet during each minute of operation, as applicable;
9. Horsepower or amperage to the wet scrubber during each minute of operation, as applicable;
10. Pressure drop across the wet scrubber system during each minute of operation, as applicable;
11. Temperature at the outlet from the wet scrubber during each minute of operation, as applicable;
12. pH at the inlet to the wet scrubber during each minute of operation, as applicable;
13. Records indicating use of the bypass stack, including dates, times and durations; and
14. For designated facilities complying with Rule 20.10(3)(j) and Rule 20.11(2)(c), the owner or operator shall maintain all operating parameter data collected.

c. Identification of calendar days for which data on emission rates or operating parameters specified under Rule 20.12(1)(b) have not been obtained, with an identification of the emission rates or operating parameters not measured, reasons for not obtaining the data, and a description of corrective actions taken.

d. Identification of calendar days, times and durations of malfunctions, a description of the malfunction and the corrective action taken.

e. Identification of calendar days for which data on emission rates or operating parameters specified under Rule 20.12(1)(b) exceeded the applicable limits, with a description of the exceedances, reasons for such exceedances, and a description of corrective actions taken.

f. The results of the initial, annual, and any subsequent performance tests conducted to determine compliance with the emission limits and/or to establish operating parameters, as applicable.

g. Records showing the names of HMIWI operators who have completed review of the information in Rule 20.7(8) as required by Rule 20.7(9), including the date of the initial review and all subsequent annual reviews;

h. Records showing the names of the HMIWI operators who have completed the operator training requirements, including documentation of training and the dates of the training;

i. Records showing the names of the HMIWI operators who have met the criteria for qualification under Rule 20.7 and the dates of their qualification; and

j. Records of calibration of any monitoring devices as required under Rule 20.11(2)(a), (b), and (c).

(2) The owner or operator of a designated facility shall submit the information specified in Rule 20.12(2)(a) through (c) no later than 60 days after completion of the initial performance test. All reports shall be signed by the facilities manager.

a. The initial performance test data as recorded under Rule 20.10(2)(a) through (l), as applicable.

b. The values for the site-specific operating parameters established pursuant to Rule 20.10(e) or (j), as applicable.

(3) The waste management plan as specified in Rule 20.8.

(4) An annual report shall be submitted within one year following the submission of the information in Rule 20.12(3), and subsequent reports shall be submitted no more than 12 months following the submittal of the previous report. Once the unit is subject to permitting requirements under Article III. of Chapter 7, Part 70 Source Regulation and Permits, the owner or operator of a designated facility must submit these reports semiannually. The annual report shall include the information specified in Rule 20.12(4)(a) through (h). All submitted reports shall be signed by the facilities manager.

a. The values for the site-specific operating parameters established pursuant to Rule 20.10(e) or (j), as applicable.

b. The highest maximum operating parameter and the lowest minimum operating parameter, as applicable, for each operating parameter recorded for the calendar year being reported, pursuant to Rule 20.10(e) or (j), as applicable.

c. The highest maximum operating parameter and the lowest minimum operating parameter, as applicable for each operating parameter recorded pursuant to Rule 20.10(e) or (j) for the calendar year preceding the year being reported, in order to provide the director with a summary of the performance of the designated facility over a 2-year period.

d. Any information recorded under Rule 20.12(1)(c) through (e) for the calendar year preceding the year being reported, in order to provide the director with a summary of the performance of the designated facility over a 2-year period.

e. If a performance test was conducted during the reporting period, the results of that test.

f. If no exceedances or malfunctions were reported under Rule 20.12(1)(c) through (e) for the calendar year being reported, a statement that no exceedances occurred during the reporting period.

g. Any use of the bypass stack, the duration, reason for malfunction, and corrective action taken.

(5) The owner or operator of a designated facility shall submit semiannual reports containing any information recorded under Rule 20.12(1)(c) through (e) no later than 60 days following the reporting period. The first semiannual reporting period ends 6 months following the submission of information in rule 20.12(2). Subsequent reports shall be submitted no later than 6 calendar months following the previous report. All reports shall be signed by the facilities manager.

(6) All records specified under Rule 20.12(1) shall be maintained onsite in either paper copy or computer-readable format, unless an alternative format is approved by the director.

**Rule 21. Ambient air quality standards.**

Ambient air quality standards are given in Table I.

Table I						
All values other than annual values are maximum concentrations not to be exceeded more than once per year. Parts per million (PPM) values are approximate only. All concentrations relate to air at standard conditions of 25 degrees centigrade temperature and 760 millimeters mercury pressure.						
$\mu\text{g}/\text{m}^3$ - Micrograms per AGM - Annual geometric mean AAM - Annual arithmetic cubic meter mean						
Contaminants	Primary Standard			Secondary Standard		
	Concentration		Averaging Interval	Concentration		Averaging Interval
	$\mu\text{g}/\text{m}^3$	ppm by volume		$\mu\text{g}/\text{m}^3$	ppm by volume	
Total Suspended Particulates		-- --		150	-- --	24 hr.
$^1\text{PM}_{10}$	50 150		AAM 24 hr.	50 150		AAM 24 hr.
Sulfur Dioxide	80 365	0.03 0.14	AAM 24 hr.	1,300	0.5	3 hr.
Carbon Monoxide	10,000 40,000	9.0 35.0	8 hr. 1 hr.	10,000 40,000	9.0 35.0	8 hr. 1 hr.



<sup>2</sup> Ozone	235	0.12	1 hr.	235	0.12	1 hr.
Nitrogen Dioxide	100	0.05	AAM	100	0.05	AAM
Lead	1.5		Calendar Quarter	1.5		Calendar Quarter
<sup>3,4</sup> Gaseous Fluorides Expressed as HF				1.2 1.6 2.9 3.7	1.5 2.0 3.5 4.5	30 days 7 days 24 hours 12 hours

## Notes:

1. The 24 hour standards are attained when the expected number of days per calendar year with a 24-hour average concentration above 150  $\mu\text{g}/\text{m}^3$ , as determined by 40 Code of Federal Regulations Part 50, Appendix K, which is incorporated by reference under Ordinance No. 598, is equal to or less than one. The annual standards are attained when the expected annual arithmetic mean concentration, as determined in accordance with Appendix K as cited above, is less than or equal to 50  $\mu\text{g}/\text{m}^3$ .

2. The standard is attained when the expected number of days per calendar year with maximum hourly concentration above 0.12 ppm (235  $\mu\text{g}/\text{m}^3$ ) is equal to or less than 1 as determined by 40 Code of Federal Regulations Part 50, Appendix H, which is incorporated by reference under Ordinance No. 598.

3. Concentrations in micrograms per cubic meter ( $\mu\text{g}/\text{m}^3$ ) are approximate only, as they pertain to gaseous fluorides.

4. All averaging intervals are consecutive time periods.

Rule 22. Good engineering practice stack heights.

Rule 22.1. General provisions.

(1) This Rule 22 provides that the degree of emission limitation required of any source for control of any air pollutant must not be affected by that portion of any source's stack height that exceeds good engineering practice (GEP) or any other dispersion technique, except as provided in Rule 22.1(2)(a). Before a new or revised emission limitation that is based on good engineering practice stack height exceeds the height allowed by Rule 22.2(3)(a) or (b), the director must notify the public of the availability of the demonstration study and must provide opportunity for public hearing on it. This Rule 22 does not restrict in any manner the actual stack height of any source.

(2) The provisions of this Rule 22 shall not apply to stack heights in existence, or dispersion techniques implemented on or before December 31, 1970, except where pollutants are being emitted from such stacks or using such dispersion techniques by stationary sources which were constructed,

reconstructed, or for which major modifications, as defined in § 8-708(e) were carried out after December 31, 1970.

Rule 22.2. Definitions. As used in this Rule 22, the following definitions shall apply:

(1) "Dispersion technique" means any technique which attempts to affect the concentration of a pollutant in the ambient air by:

(a) Using that portion of a stack which exceeds good engineering practice stack height;

(b) Varying the rate of emission of a pollutant according to atmospheric conditions or ambient concentrations of that pollutant; or

(c) Increasing final exhaust gas plume rise by manipulating source process parameters, exhaust gas parameters, stack parameters, or combining exhaust gases from several existing stacks into one stack; or other selective handling of exhaust gas streams so as to increase the exhaust gas plume rise.

The preceding sentence defining "dispersion technique" does not include:

(a) The reheating of a gas stream, following use of a pollution control system, for the purpose of returning the gas to the temperature at which it was originally discharged from the facility generating the gas stream;

(b) The merging of exhaust gas streams where:

1. The source owner or operator demonstrates that the facility was originally designed and constructed with such merged gas streams;

2. After July 8, 1985, such merging is part of a change in operation at the facility that includes the installation of pollution controls and is accompanied by a net reduction in the allowable emissions of a pollutant. This exclusion from the definition of "dispersion techniques" shall apply only to the emission limitation for the pollutant affected by such change in operation; or

3. Before July 8, 1985, such merging was part of a change in operation at the facility that included the installation of emissions control equipment or was carried out for sound economic or engineering reasons. Where there was an increase in the emissions limitation or, in the event that no emission limitation was in existence prior to the merging, an increase in the quantity of pollutants actually emitted prior to the merging, the director shall presume that the merging was significantly motivated by an intent to gain emissions credit for greater dispersion. Absent a demonstration by the source owner or operator that merging was not significantly motivated by such

intent, the director shall deny credit for the effects of such merging in calculating the allowable emissions for the source;

(c) Smoke management in agricultural or silvicultural prescribed burning programs;

(d) Episodic restrictions on residential woodburning and open burning; or

(e) Techniques under Rule 22.2(1)(C) which increase final exhaust gas plume rise where the resulting plant-wide allowable emissions or sulfur dioxide do not exceed 5,000 tons per year.

(2) "Emission limitation" means a requirement established by the director, which limits the quantity, rate or concentration of emissions of air pollutants on a continuous basis, including any requirements which limit the level of opacity, prescribe equipment, set fuel specifications, or prescribe operation or maintenance procedures for a source to assure continuous emission reduction.

(3) "Good engineering practice" (GEP) stack height means the greater of:

(a) 65 meters (213 feet), measured from the ground-level elevation at the base of the stack;

(b) Considering other stack criteria the following formulae apply:

1. For stacks in existence on January 12, 1979, and for which the owner or operator had obtained all applicable permits or approvals required,

$$H_g = 2.4H,$$

provided the owner or operator produces evidence that this equation was actually relied on in establishing an emission limitation;

2. For all other stacks;

$$H_g = H + 1.5L,$$

where

$H_g$  = good engineering practice stack height, measured from the ground-level elevation at the base of the stack,

$H$  = height of nearby structure(s) measured from ground-level elevation at the base of the stack,

$L$  = lesser dimension, height ( $H$ ) or projected width, of nearby structure(s) provided that the director may require the use of a field of study or fluid model to verify GEP stack height for the source; or

(c) The height demonstrated by a fluid model or a field study approved by the director, which ensures that the emissions from a stack do not result in excessive concentrations of any air pollutant as a result of atmospheric downwash, wakes, or eddy effects created by the source itself, nearby structures or nearby terrain features.

(4) "Nearby" as used in Rule 22.2(3) is defined for a specific structure or terrain feature and

(a) For the purposes of applying the formulae provided in Rule 22.2(3)(b) means that distance up to five times the lesser of the height or the width dimension of a structure, but not greater than 0.8 km ( $\frac{1}{2}$  mile), and

(b) For conducting demonstrations under Rule 22.2(3)(c) means not greater than 0.8 km ( $\frac{1}{2}$  mile), except that the portion of a terrain feature may be considered to be nearby which falls within a distance of up to 10 times the maximum height ( $H_t$ ) feature achieves a height ( $H_t$ ) 0.8 km from the stack that is at least 40 percent of the GEP stack height determined by the formulae provided in Rule 19(B)(3)(b)2. or 26 meters (85 feet), whichever is greater, as measured from the ground level elevation at the base of the stack. The height of the structure or terrain feature is measured from the ground-level elevation at the base of the stack.

(5) "Excessive concentration" is defined for the purposes of determining good engineering practice stack height under Rule 22.2(3)(C), and means:

(a) For sources seeking credit for stack height exceeding that established under Rule 22.2(3)(b), a maximum ground-level concentration due to emissions from a stack due in part to downwash, wakes, and eddy effects produced by nearby structures or nearby terrain features which individually is at least 40 percent in excess of the maximum concentration experienced in the absence of such downwash, wakes, or eddy effect and which contributes to a total concentration due to the emissions from all sources that is greater than an ambient air quality standard. For sources subject to Rule 18.2, an excessive concentration alternatively means a maximum ground-level concentration due to emissions from a stack due in whole or part to downwash, wakes, or eddy effects produced by nearby structures or nearby terrain features which individually is at least 50 percent in excess of the maximum concentration experienced in the absence of such downwash, wakes or eddy effects and greater than a prevention of significant deterioration increment. The allowable emission rate to be used in making demonstrations under this rule shall be prescribed by the new source performance standard (NSPS) that is applicable to the source category unless the owner or operator demonstrates that this emission rate is infeasible. Where such

demonstrations are approved by the director, an alternative emission rate shall be established in consultation with the source owner or operator;

(b) For sources seeking credit after October 11, 1983, for increases in existing stack heights established under Rule 22.2(3)(b) either:

1. A maximum ground-level concentration due in whole or part to downwash wakes, or eddy effects as provided in Rule 22.2 (5)(a), except that the emission rate specified by the State Implementation Plan (or, in absence of such a limit, the actual emission rate) shall be used, or

2. The actual presence of a local nuisance caused by the existing stack, as determined by the director; and

(c) For sources seeking credit after January 12, 1979, for a stack height determined under Rule 22.2 (3)(b) where the director requires the use of a field study or fluid model to verify GEP stack height; for sources seeking stack height credit after November 9, 1984, based on the aerodynamic influence of cooling towers; and for sources seeking stack height credit after December 31, 1970, based on the aerodynamic influence of structures not adequately represented by the equations in Rule 22.2(3)(b), a maximum ground-level concentration due in whole or part to downwash, wakes, or eddy effects that is at least 40 percent in excess of the maximum concentration experienced in the absence of such downwash, wakes, or eddy effects.

(6) "Stack" for the purpose of good engineering practice means any point in a source designed to emit solids, liquids, or gases into the air, including a pipe or duct but not including flares.

(7) "A stack in existence" means that the owner or operator had (1) begun, or caused to begin, a continuous program of physical on-site construction of the stack; or (2) entered into binding agreements or contractual obligations, which could not be cancelled or modified without substantial loss to the operator, to undertake a program of construction of the stack to be completed in a reasonable time.

Rule 22.3. Good engineering practice stack height requirements.

(1) No person shall cause, suffer, allow, or permit emissions in excess of the limitations in this Rule 22.

(2) Upon mutual agreement of the owner or operator of a source and the director, an emission limitation more restrictive than that otherwise specified in this Rule 22 may be established. The mutually acceptable limits shall be stated as a special condition(s) for any permit or certificate concerning the source. Violation of any accepted special limitation is grounds for revocation of the issued certificate of operation and other enforcement measures provided for in law.

(3) The possession of a valid permit or certificate of operation shall not protect the source from enforcement actions if permit or certificate conditions are not met.

Rule 22.4. Specific emissions limitations. For any affected air contaminant source or sources at a facility, the director shall specify as special conditions on the installation permit, temporary operating permit, and certificate of operation the emission limitation that is determined to be necessary under the provisions of this Rule 22. Such conditions shall be subjected to a public hearing and incorporated as a revision to the State Implementation Plan.

Rule 23. General provisions and applicability for process gaseous emissions standards.

Rule 23.1. No person shall cause, suffer, allow or permit gaseous emission in excess of the standards provided in this chapter. For the purpose of this Rule 23 the term "process gaseous emission" shall mean any gaseous emission of an air contaminant to the ambient air other than that from fuel-burning equipment, incinerators or open burning.

Rule 23.2. Any person constructing or otherwise establishing an air contaminant source emitting gaseous air contaminants after the effective date of this regulation, which is not limited by a specific standard provided elsewhere in this chapter, shall install and utilize equipment and technology which is deemed reasonable and proper by the director.

Rule 24. [Reserved.]

Rule 25. General provisions and applicability for volatile organic compounds.

Rule 25.1. Purpose. It is the purpose of this Rule 25 to establish emission standards for new and existing sources of volatile organic compounds located within the city. The emission standards established within this rule will apply to different sources depending upon the potential emissions of the source.

Rule 25.2. Definitions. Words or terms defined in Rule 25 are for the purpose of this rule only and will not affect the definitions of § 8-702. Unless specifically defined in this Rule 25, the definitions from § 8-702 will apply:

(1) "Approved" means approved by the director, Chattanooga-Hamilton County Air Pollution Control Bureau.

(2) "Capture system" means the equipment (including hoods, ducts, fans, etc.) used to contain, capture or transport a pollutant to a control device.

(3) "Commenced" means that an owner or operator has undertaken a continuous program of construction or modification or that an owner or operator has entered into a contractual obligation to undertake and complete, within a reasonable time, a continuous program of construction or modification.

(4) "Construction" means commencement of on-site fabrication, erection or installation of a new or modified source or facility.

(5) "Control device" means any method, process or equipment which removes or reduces volatile organic compounds (VOC) emissions to the ambient air.

(6) "Continuous vapor control system" means a vapor control system that treats vapors displaced from tanks during filling on a demand basis without intermediate accumulation.

(7) "Day" means a twenty-four-hour period beginning at midnight.

(8) "Emission" means the release or discharge, whether directly or indirectly, of VOC's into the ambient air from any source.

(9) "Existing source" is any process(es) in existence or having an installation permit prior to the effective date of each Rule 25 category.

(10) "Facility" means any building, structure, installation, activity or combination thereof which contains one or more stationary source of air contaminants.

(11) "Intermittent vapor control system" means a vapor control system that employs an intermediate vapor holder to accumulate vapors displaced from tanks during filling. The control device treats the accumulated vapors only during automatically controlled cycles.

(12) "Loading rack" means an aggregation or combination of gasoline loading equipment arranged so that all loading outlets in the combination can be connected to a tank truck or trailer parked in a specified loading space.

(13) "New source" is all other process(es) not defined in definition (9) as an existing source.

(14) "Organic material" means a chemical compound of carbon excluding carbon monoxide, carbon dioxide, carbonic acid, metallic carbides or carbonates and ammonium carbonate.

(15) "Owner or operator" means any person who owns, leases, controls, operates or supervises a facility, existing source, new source or control device.

(16) "Petroleum liquid" means crude oil, condensate and any finished or intermediate products manufactured or extracted in a petroleum refinery.

(17) "Solvent" means organic materials which are liquid at standard conditions and which are used as dissolvers, viscosity reducers or cleaning agents.

(18) "Standard conditions" means a temperature of twenty (20) degrees centigrade, sixty-eight (68) degrees Fahrenheit and pressure of seven hundred sixty (760) millimeters of mercury (twenty-nine and ninety-two hundredths (29.92) inches of mercury.

(19) "Vapor collection system" means a vapor transport system which uses direct displacement by the liquid loaded to force vapors from the tank into a vapor control system.

(20) "Vapor control system" means a system approved by the director that prevent release to the atmosphere of organic compounds in the vapors displaced from a tank during the transfer of gasoline.

(21) "Volatile organic compounds (VOC)." (1) This includes any such organic compound other than the following, which have been determined to have negligible photochemical reactivity: methane; ethane; methylene chloride (dichloromethane); 1,1,1-trichloroethane (methyl chloroform); 1,1,1-trichloro-2,2,2-trifluoroethane (CFC-113); trichlorofluoromethane (CFC-11); dichlorodifluoromethane (CFC-12); chlorodifluoromethane (CFC-22); trifluoromethane (FC-23); 1,2-dichloro 1,1,2,2-tetrafluoroethane (CFC-114); chloropentafluoroethane (CFC-115); 1,1,1-trifluoro 2,2-dichloroethane (CFC-123); 1,1,1,2-tetrafluoroethane (HCFC-134a); 1,1-dichloro 1-fluoroethane (CFC-141f); 1-chloro-1,1-difluoroethane (HCFC-142b); 2-chloro-1,1,1,2-tetrafluoroethane (HCFC-124); pentafluoroethane (HFC-125); 1,1,2,2-tetrafluoroethane (HCFC-134); 1,1,1-trifluoroethane (HCFC-143a); 1,1-difluoroethane (HCFC-152a); parachlorobenzotrifluoride (PCBTF); cyclic, branched, or linear completely methylated siloxanes; and perfluorocarbon compounds which fall into these classes:

- a. Cyclic, branched, or linear, completely fluorinated alkanes;
- b. Cyclic, branched, or linear, completely fluorinated ethers with no unsaturations;
- c. Cyclic, branched, or linear, completely fluorinated tertiary amines with no unsaturations; and
- d. Sulfur containing perfluorocarbons with no unsaturations and with sulfur bonds only to carbon and fluorine.

(2) For purposes of determining compliance with emissions limits, VOC will be measured by the test methods in this chapter or Title 40 Code of Federal Regulations Part 60, Appendix A, which is incorporated by reference under Ordinance No. 598, as applicable. Where such a method also measures compounds with negligible photochemical reactivity, these negligibly-reactive compounds may be excluded as VOC if the amount of such compounds is accurately quantified, and such exclusion is approved by the director.

(3) As a precondition to excluding these compounds as VOC or at any time thereafter, the director shall require an owner or operator to provide monitoring or testing methods and results demonstrating the amount of negligibly-reactive compounds in the source's emissions.

Rule 25.3 Standard for new sources.

(1) For the purpose of this Rule 25.3, the following definitions apply:

- a. "Lowest achievable emission rate (also denoted as LAER)" means for any source that rate of emissions which reflects:



1. The most stringent emission limitation which is achieved in practice by such class or category of source.

2. In no event shall a new or modified source emit any pollutant in excess of the amount allowable under applicable rules of Rule 15.

This limit will be determined by the director at the time of the permit application.

- b. "Potential emissions" means the maximum capacity to emit a pollutant absent air pollution control equipment. Air pollution control equipment includes control equipment which is not, aside from air pollution control laws and regulations, vital to production of the normal product of the source or to its normal operation. Annual potential shall be based on the maximum annual rated capacity of the source unless the source is subject to enforceable permit conditions which limit the operating rate or hours of operation, or both. Enforceable permit conditions on the type or amount of materials combusted or processed may be used in determining the potential emission rate of a source.

- (2) New or modified sources identified as having potential emissions of one hundred (100) tons per year or greater shall utilize LAER. All other new or modified sources locating in the county shall utilize BACT. Regardless of the specific emission standards derived from these rules, a new and/or modified source in the city must comply with the provisions of this rule.

- a. Attainment and unclassified areas. The director shall not grant a permit or waiver for the construction or modification of any air contaminant source in an attainment or unclassified area if such construction or modification will interfere with the maintenance of an air quality standard or will violate any provision of these regulations or will violate any provision of the Tennessee Air Quality Act.

- b. Nonattainment areas. The director shall not grant a permit for construction or modification of any air contaminant source in a nonattainment area nor to any source that significantly impacts on a nonattainment area if such construction or modification will interfere with reasonable further progress in attainment of the specific air quality standard(s) or will violate any provision of the Tennessee Air Quality Act or will violate provisions of these regulations, except in accordance with the following:

1. All new or modified sources shall utilize good engineering practice as determined by the director in designing stacks.

2. New or modified sources with potential emissions of less than one hundred (100) tons per year shall utilize best available control technology (BACT) as specified by the director.

3. New or modified sources identified as having potential emissions of one hundred (100) tons per year or greater shall meet the lowest achievable emission rate (LAER) for that type of source as determined by the director at the time of the permit application. The term "lowest achievable emission rate" means, for any source, that rate of emissions which reflects:

(i) The most stringent emission limitation which is achieved in practice by such class or category of source.

(ii) In no even shall a new or modified source emit any pollutant in excess of the amount allowable under applicable rules of Rule 15.

4. A major source shall also show that it will not interfere with reasonable further progress in attaining the ambient air quality standards by one of the following methods:

(i) Banked credits.

(A) By agreeing to control the nonattainment emissions to a rate lower than the nonattainment emissions specified as reasonable available control technology (RACT) by the director, the owner or operator of an air contaminant source has reserved the right to utilize the incremental reduction between RACT and the banked credit agreed rate (BCAR) to provide for future growth in the nonattainment area.

(B) The banked credit agreed rate is an emission rate more restrictive than RACT which is mutually agreed to by the director and an air contaminant source for the purpose of establishing a banked credit. This emission level is in no way related to BACT or LAER. Only sources in existence at the time of a nonattainment state implementation plan (SIP) revision for an area are eligible to establish a banked credit agreed rate.

(C) The following limitations shall apply to the issuance of a permit for construction or modification for sources using banked credit agreed rate.

All banked credits in a given nonattainment area shall become void upon official reclassification of that area as an attainment area.

An increase in pounds per hour shall be offset by a banked credit of that amount. The

banked credit account will be reduced by that amount.

An air quality modeling review shall show that the banked credit used and the new and/or modified source result in predicted cleaner air for the nonattainment area than air quality at the RACT emission level. No predicted new violations of the ambient air quality standards will be permitted.

A banked credit shall not be used until the banked credit agreed rate level of control is attained by the source involved and demonstrated through another method acceptable to the director.

The banked credit agreed rate shall be contained in the state implementation plan as the legally enforceable standard for the air contaminant source. If the source electing to use banked credits must reduce emissions to achieve the banked credit agreed rate level approved by the board, a compliance schedule shall be included in the state implementation plan revision.

(ii) Emission offsets.

(A) For major sources, a larger than one-to-one offset of emissions of the nonattainment pollutant, based on both allowable and actual emissions shall be employed. This offset must result in a net improvement in predicted air quality for the pollutant in the area under the influence of emissions from the new or modified major sources and that reasonable further progress shall not be hindered.

(B) All or any portions of the offsets shall be accomplished on or before the time of new source operation and demonstrated through a source test or through another method acceptable to the director.

(C) The reductions shall come from sources in the emission inventory used in the approved control strategy for the nonattainment area state implementation plan revision.

(D) The amount of the proposed reduction shall be sufficient to offset both the emission increases directly associated with the proposed source construction and/or modification and those

emissions attributed to permitted minor sources that have come into the area since the last reasonable further progress milestone was met.

(iii) Construction or modification of major sources that have no emission offsets or banked credit. The director shall issue a construction permit to proposed new or modified sources provided the sources' emissions will not prevent reasonable further progress in the nonattainment area or will not prevent the ambient air quality standards being met. Completed applications from sources qualifying for this provision will be processed based on the date of receipt of the application by the director.

(iv) Combination of the provisions of subparts (i), (ii) and (iii) of this part.

5. Prior to the issuance of a permit to a major volatile organic compound (VOC) source in this city, an analysis of alternative sites, sizes, production process and environmental control techniques for the proposed source shall be made. A permit shall only be issued if the benefits of the proposed source significantly outweigh the environmental and social costs imposed on the public as a result of the source's location, construction or modification in this county. The director shall require the submittal of such information as he deems necessary for this analysis.

6. A source is identified as a major source for each pollutant as indicated below:

A major source for volatile organic compounds is a source with potential emissions of more than one hundred (100) tons per year and allowable emissions (based on BACT) greater than any of the following: Fifty (50) tons per year; one thousand (1,000) pounds per day; or one hundred (100) pounds per hour.

Piecemeal construction is cumulative.

When an air contaminant source's new and/or modified allowable emissions equals or exceeds the above levels, it becomes a major source.

"Potential emissions" as used above means the capability at maximum capacity to emit a pollutant in the absence of air pollution control equipment. Air pollution control equipment includes control equipment which is not, aside from air pollution control laws and regulations, vital to production of the normal product of the source or to its normal operation. Annual potential shall be based on the maximum annual rated capacity of the source, unless the source is subject to enforceable permit

conditions which limit the annual hours of operation. Enforceable permit conditions on the type or amount of materials combusted or processed may be used in determining the potential emission rate of a source.

7. The director shall not issue a permit to any major source in or significantly impacting a nonattainment area unless all other sources owned or operated by the applicant anywhere in the state are in compliance or on an approved compliance schedule.

(3) If new or modified sources at a facility occurring since February 16, 1979, or since the time of the last construction approval issued regarding LAER under this rule total to more than one hundred (100) tons per year potential emissions, all the new and modified sources during the period shall utilize LAER. The stage of construction and the ability of the source to install additional control equipment shall be considered in determining LAER.

(4) No emissions credit may be allowed for replacing one volatile organic compound (VOC) with another of lesser reactivity.

Rule 25.4. Alternate emission limitation.

(1) Plants with process emission source(s) regulated by this Rule 25 with a certificate of alternate control shall not emit volatile organic compounds in excess of the limits on said certificate. This limitation is in lieu of the emission limitation contained in other rules of this chapter. Only sources with an emission limitation in Rule 25 are eligible for inclusion in the certificate.

(2) The owner or operator of any plant having process emission sources regulated by Rule 25 can apply to the director for a certificate of alternate control for a plant and the director may grant the request if the following conditions are met:

a. The plant is reducing, or will be after a specified date taking actions to reduce, emissions of volatile organic compounds at least as much as is required under the other rules in Rule 25, even though specific process emission source(s) in the plant may not be meeting the limitations specified in the other rules of this Rule 25.

b. If a specified future date for compliance is involved, this date must be as expeditious as is practicable and be specified in a schedule of compliance as a condition on the certificate. This schedule must conform with the requirements of paragraphs (c) and (d) of Rule 25.42 for individual compliance schedules.

c. There must be reasonable means for the director or his representatives to determine that this alternative emission control method is being implemented and complied with.

d. A fee of two hundred fifty dollars (\$250.00) has been paid to the bureau at the time application is made to cover the cost of review of the request for the certificate of alternate control.

e. All process emission sources commenced on or after the effective date of a rule or rules in Rules 15 and 18.2 and the requirements of § 8-708(f) limiting emissions of volatile organic compounds are meeting the limits specified in those rules.

f. No credit can be given for reduction of emissions in determining if the requirements of subparagraph a. of this paragraph are met if another rule would require that reduction anyway.

(3) Alternate emission control limitations approved under this section must be subjected to a public hearing and incorporated as a revision to the state implementation plan. The owner or operator requesting this alternate emission control limitation shall be responsible for all costs associated with publishing the required legal notices.

(4) The owner or operator of the plant must:

a. File or post on the operating premises the certificate of alternate control.

b. Keep all pollution control equipment in good operating condition and utilize said equipment at all times.

c. Meet other conditions specified in accordance with Rule 25.4(8).

(5) The certificate of alternate control may be revoked by the board if it is found that any of the requirements of this section have been violated or the board may enforce this section by seeking any other remedy available under this chapter or at law.

(6) The certificate of alternate control does not relieve the owner or operator of the duty to meet all emission requirements in other rules for process emission sources commenced after the effective date of the rule.

(7) Upon revocation of the certificate of alternate control, the process emission sources at the plant must comply with all other rules in this chapter that would have been applicable had the certificate not been issued. The board may specify a time period for the source to come into compliance with the more restrictive emission limitations.

(8) The certificate of alternate control may specify alternate test methods to determine compliance or different averaging times (so long as this time does not exceed eight (8) hours) or may contain other conditions appropriate to insure compliance with the alternate control method and the meeting of compliance on the date specified in accordance with subparagraph (2)b. of this rule. The certificate must contain, as conditions, specific standards for each emission source involved.

Rule 25.5 through 25.09. Reserved.

Rule 25.10. Gasoline dispensing facilities--state I vapor recovery.

(1) For the purpose of this rule, the following definitions apply:

a. "Coaxial system" means the delivery of the product to the stationary storage tank and the recovery of vapors from the storage tanks occurs through a single coaxial fill tube, which is a tube within a tube. Product is delivered through the inner tube, and vapor is recovered through the annular space between the walls of the inner tube and outer tube.

b. "Delivery vessel" means tank trucks or trailers equipped with a storage tank and used for transport of gasoline from sources of supply to stationary storage tanks of gasoline dispensing facilities.

c. "Dual point system" means the delivery of the product to the stationary storage tank and the recovery of vapors from the stationary storage tank occurs through two separate openings in the storage tank and two separate hoses between the tank truck and the stationary storage tank.

d. "Gasoline" means any petroleum distillate having a Reid vapor pressure of 4.0 psia or greater.

e. "Gasoline dispensing facility" means any site where gasoline is dispensed to motor vehicle gasoline tanks from stationary storage tanks.

f. "Gasoline service station" means any gasoline dispensing facility where gasoline is sold to the motoring public from stationary storage tanks.

g. "Line" means any pipe suitable for transferring gasoline.

h. "Operator" means any person who leases, operates, controls, or supervises a facility at which gasoline is dispensed.

i. "Owner" means any person who has legal or equitable title to the gasoline storage tank at a facility.

j. "Poppeted vapor recovery adaptor" means a vapor recovery adaptor that automatically and immediately closes itself when the vapor return line is disconnected and maintains a tight seal when the vapor return line is not connected.

k. "Stationary storage tank" means a gasoline storage container that is a permanent fixture.

l. "Submerged fill pipe" means any fill pipe with a discharge opening which is entirely submerged when the pipe normally used to withdraw liquid from the tank can no longer withdraw any liquid, or which is entirely submerged when the level of the liquid is:

1. Six inches above the bottom of the tank if the tank does not have a vapor recovery adaptor; or

2. Twelve inches above the bottom of the tank if the tank has a vapor recovery adaptor.

m. "Throughput" means the amount of gasoline dispensed at a facility.

(2) Applicability. This rule applies to all gasoline dispensing facilities and gasoline service stations and to delivery vessels delivering gasoline to a gasoline dispensing facility or gasoline service station; and this rule applies to all persons owning, occupying, operating or using a gasoline distribution facility or gasoline service station.

(3) Exemptions. This rule does not apply to:

a. Transfers made to storage tanks at gasoline dispensing facilities or gasoline service stations equipped with floating roofs or their equivalent;

b. Stationary tanks with a capacity of not more than 2,000 gallons which were in place before July 1, 1979, if the tanks are equipped with a permanent or portable submerged fill pipe;

c. Stationary storage tanks with a capacity of not more than 550 gallons which were installed after June 30, 1979, if the tanks are equipped with a permanent or portable submerged fill pipe;

d. Stationary storage tanks at a gasoline dispensing facility or gasoline service station where the combined annual throughput of gasoline at the facility or station does not exceed 50,000 gallons, if the tanks are equipped with a permanent submerged fill pipe; and

e. Any tanks used exclusively to test fuel dispensing meters.

(4) No person may cause, suffer, allow or permit the transfer of gasoline from any delivery vessel into any stationary storage tank unless they comply with the following:

a. The stationary storage tank is equipped with a submerged fill pipe and the vapors displaced from the tank during filling are controlled by a vapor control system as described in Paragraph (8) of this rule;

b. The vapor control system is in good working order and is connected and operating with a vapor tight connection;

c. The vapor control system is properly maintained and any damaged or malfunctioning components or elements of design have been repaired, replaced or modified;

d. Gauges, meters, or other specified testing devices are maintained in proper working order;

e. All loading lines and vapor lines of delivery vessels and vapor collection systems are equipped with fittings which are leak tight and vapor tight; and

f. All hatches on the delivery vessel are kept closed and securely fastened.

(5) The following records shall be maintained for not less than two years and the same shall be made available for inspection and copy by representative or designees of the Bureau:



a. The scheduled date for maintenance or the date that a malfunction was detected;

b. The date the maintenance was performed or the malfunction corrected; and

c. The date the component or element of design of the control system was repaired, replaced, or modified.

(6) The premises of any gasoline dispensing facility or gasoline service station shall be available for inspection by representatives or designees of the Bureau at any time the facility or station is in operation.

(7) The process of transfer of gasoline from any delivery vessel into any stationary storage tank shall be subject to observation and inspection or investigation by representatives or designees of the Bureau.

(8) The vapor control system required by Paragraph (4) of this rule shall include one or more of the following:

a. A vapor-tight line from the stationary storage tank to the delivery vessel and:

1. For a coaxial vapor recovery system, either a poppeted or unpoppeted vapor recovery adaptor; or

2. For a dual point vapor recovery system, a poppeted vapor recovery adaptor; or

b. A refrigeration-condensation system or equivalent designed to recover at least 90 percent by weight of the organic compounds in the displaced vapor.

(9) If an unpoppeted vapor recovery adaptor is used pursuant to Part (8)a.1. of this rule, the tank liquid fill connection shall remain covered either with a vapor-tight cap or a vapor return line except when the vapor return line is being connected or disconnected.

(10) If an unpoppeted vapor recover adaptor is used pursuant to Part (8)a.1. of this rule, the unpoppeted vapor recovery adaptor shall be replaced with a poppeted vapor recovery adaptor when the tank is replaced or upgraded.

(11) Where vapor lines from the storage tanks are manifold, poppeted vapor recovery adaptors shall be used. No more than one tank is to be loaded at a time if the manifold vapor lines have a nominal pipe size of less than 3 inches. If the manifold vapor lines have a nominal pipe size of 3 inches or larger, then two tanks at a time may be loaded.

(12) Vent lines on stationary storage tanks shall have pressure release valves or restrictors.

(13) The vapor-laden delivery vessel:

a. Shall be designed and maintained to be vapor-tight during loading and unloading operations and during transport with the exception of normal pressure/vacuum venting as required by regulations of the Department of Transportation; and

b. If it is refilled in Hamilton County, Tennessee, shall be refilled only at:

1. Bulk gasoline plants complying with Rule 25.8 of this section; or
2. Bulk gasoline terminals complying with Rule 25.9 of this section.

(14) It shall be the responsibility of owners, occupiers and operators of gasoline dispensing facilities and gasoline service stations to assure compliance with this rule and to disallow the transfer from any delivery vessel that does not comply with those requirements of this rule applicable to delivery vessels. It shall be the responsibility of owners, operators and drivers of delivery vessels to assure compliance with this rule and to refuse to transfer from any delivery vessel that does not comply with those requirements of this rule applicable to delivery vessels. (Rule 25.10 added by Ord. #777, Dec. 2004)

Rule 25.11 through 25.42. Reserved.

Rule 25.43. General provisions for test methods and procedures.

(1) The owner or operator of any new or existing source required to comply with standards contained in this chapter shall at his own expense, when so directed by the director, demonstrate compliance by the following methods or an alternative method approved by the director.

(2) No volatile organic compound emissions compliance testing will be allowed, nor the results accepted, unless prior notification has been supplied to the director as required under paragraphs (3) and (4) of this Rule 25.43, and the director has granted approval.

(3) Any person proposing to conduct a volatile organic compound emissions compliance test shall notify the director of the intent to test not less than thirty (30) days before the proposed initiation of the test so the director may, at his option, observe the test.

(4) For compliance determination, the owner or operator of any new or existing source shall be responsible for providing:

- a. Sampling ports, pipes, lines, or appurtenances for the collection of samples and data required by the test procedure;
  - b. Safe access to the sample and data collection locations;
- and
- c. Light, electricity and other utilities required for sample and data collection.

(5) A copy (or copies) of the test report shall be submitted to the director by the prescribed time period in a format stipulated by the director.

Rule 24.44. Determination of volatile content of surface coatings.

(1) This method applies, in accordance with Rule 25.43, to paint, varnish, lacquer, and surface coatings which are air-dried or force-dried.

(2) This method does not apply to any coating system requiring a special curing process such as:

- a. Exposure to temperatures in excess of one hundred ten (110) degrees Celsius, (two hundred thirty (230) degrees Fahrenheit) to promote thermal cross-linking; or
- b. Exposure to ultraviolet light to promote cross-linking.
- (3) For the purpose of this method, the applicable surface coatings are divided into three (3) classes. They are:
- a. Class I: General solvent-type paints. This class includes white linseed oil outside paint, white soya and phthalic alkyd enamel, white linseed o-phthalic alkyd enamel, red lead primer, zinc chromate primer, slat white inside enamel, white epoxy enamel, white vinyl toluene modified alkyd, white amino modified baking enamel, and other solvent-type paints not included in Class II.
- b. Class II: Varnishes and lacquers. This class includes clear and pigmented lacquers and varnishes.
- c. Class III: Water-thinned paints. This class includes emulsion or latex paints and colored enamels.
- (4) For the purposes of this method, a representative sample of the surface coating shall be obtained at the point of delivery to the coater or any other point in the process that the director approves.
- (5) The volatile organic content of the sample shall be determined as follows:
- a. Assign the coating to one of the three (3) classes in paragraph (c) of this section. Assign any coating not clearly belonging to Class II or III to Class I.
- b. Determine the density  $D_m$  (in grams per cubic centimeter) of the paint, varnish, lacquer or related product according to the procedure outlined in ASTM D 1475-60, Standard Method of Test for Density of Paint, Varnish, Lacquer, and Related Products. Then, depending on the class of the coating, use one of the following specified procedures to determine the volatile content:
1. Class I. Use the procedure in ASTM D 2369-73, Standard Method of Test for Volatile Content of Paints.
    - (i) Record the following information:  
 $W_1$  = Weight of dish and sample, grams  
 $W_2$  = Weight of dish and sample after heating, grams  
 $S$  = Sample, weight, grams
    - (ii) Compute the volatile matter content  $C_v$  (in grams/liter of paint) as follows:  

$$C_v = \frac{(W_1 - W_2) (D_m) (10^3)}{S}$$
    - (iii) To convert grams per liter to pounds per gallon, multiply  $C_v$  by  $8.3455 \times 10^{-3}$ .

2. Class II. Use the procedure in ASTM D 1644-59 Method A, Standard Methods of Test for Nonvolatile Content of Varnishes. (Do not use Method B).

(i) Record the following information:

A = Weight of dish, grams

B = Weight of sample used, grams

C = Weight of dish and contents after heating, grams

(ii) Compute the volatile matter content  $C_v$  (in grams per liter as follows):

$$C_v = \frac{(A + B - C) (D_m)}{B} (10^3)$$

(iii) To convert grams per liter to pounds per gallon, multiply  $C_v$  by  $8.3455 \times 10^{-3}$ .

3. Class III. Use the procedure in ASTM D 2369-73, Standard Method of Test for Volatile Content of Paints.

(i) Record the same information as specified for Class II.

(ii) Determine the water content in P (in percent water) of the paint according to the procedure outlined in Federal Standard 141a, Method 4082.1, Water in Paint and Varnishes (Karl Fischer Titration Method).

(iii) Compute the nonaqueous volatile matter content  $C_v$  (in grams per liter) as follows:

$$C_v = \frac{(W_1 - W_2 - 0.01 PS) (D_m)}{S} (10^3)$$

(iv) To convert grams per liter to pounds per gallon, multiply  $C_v$  by  $8.3455 \times 10^{-3}$ .

Rule 25.45. Test method for determination of volatile organic compound emission control system efficiency.

(1) The provisions of this section are generally applicable, in accordance with Rule 25.43, to any test method employed to determine the collection of control efficiency of any device or system designed, installed and operated for the purpose of reducing volatile organic compound emissions.

(2) The following procedures shall be included in any efficiency determination:

a. The volatile organic compound containing material shall be sampled and analyzed in a manner approved by the director such that the quantity of emissions that could result from the use of the material can be quantified.

b. The efficiency of any capture system used to transport the volatile organic compound emissions from their point of origination to the control equipment shall be computed using accepted engineering practice and in a manner approved by the director.

c. Samples of the volatile organic compound containing gas stream shall be taken simultaneously at the inlet and outlet of the emissions control device in a manner approved by the director.

d. The total combustible carbon content of the samples shall be determined by a method approved by the director.

e. The efficiency of the control device shall be expressed as the fraction of total combustible carbon content reduction achieved.

f. The volatile organic compound mass emission rate shall be the sum of emissions from the control device, emissions not collected by the capture system and capture system losses.

Rule 25.46. Test method for determination of solvent metal cleaning organic compound emissions.

(1) This method is applicable to determining volatile organic compound emissions from solvent metal cleaning equipment in accordance with Rule 25.43.

(2) The purpose of this method is to quantify, by material balance, the amount of solvent input into a degreaser over a sufficiently long period of time so that an average emission rate can be computed.

(3) The following procedure shall be followed to perform a material balance test:

a. Clean the degreaser sump before testing.

b. Record the amount of solvent added to the tank with a flow meter.

c. Record the weight and type of work load degreased each day.

d. At the end of the test run, pump out the used solvent and measure the amount with a flow meter. Also, estimate the volume of metal chips and other material remaining in the emptied sump, if significant.

e. Bottle a sample of the used solvent and analyze it to find the percent that is oil and other contaminants. The oil and solvent proportions can be estimated by weighing samples of used solvent before and after boiling off the solvent. The volume of solvent displaced by this oil along with the volume of makeup solvent added during operations is equal to the solvent emission.

25.47. Test procedure for determination of VOC emissions from bulk gasoline terminals.

(1) Use of test. This test method is applicable to determining volatile organic compound emissions from bulk gasoline terminals in accordance with Rule 25.43.

(2) Principle. VOC mass emissions are determined directly using flow meters and hydrocarbon analyzers. The volume of liquid gasoline dispensed is determined by a computation based on the metered quantity of

gasoline at the loading rack. Test results are expressed in milligrams of hydrocarbons emitted per liter of gasoline transferred.

(3) Summary of the method. This method describes the test conditions and test procedures to be followed in determining the emissions from systems installed to control volatile organic compound vapors resulting from tank truck and trailer loading operations at bulk terminals. Under this procedure, direct measurements are made to compute the hydrocarbon mass exhausted from the vapor control system. All possible sources of leaks are qualitatively checked to insure that no uncontrolled vapors are emitted to the atmosphere. The results are expressed in terms of mass hydrocarbons emitted per unit volume of gasoline transferred. Emissions are determined on a total hydrocarbon basis. If methane is present in the vapors returned from the tank trucks or trailers, provisions are included for conversion of a total nonmethane hydrocarbon basis.

(4) Applicability. This method is applicable to determining VOC emission rates at tank truck and trailer gasoline loading terminals employing vapor collection systems and either continuous or intermittent vapor control systems. This method is applicable to motor tank truck and trailer loading only.

(5) Apparatus. The components essential to the evaluation of emissions from gasoline loading terminals.

- a. Portable combustible gas detector equipped to read 0 to 100 percent of the lower explosive limit;
- b. Flexible thermocouple with recorder;
- c. Gas volume meter, sized for the expected exhaust flow rate and range;
- d. Total hydrocarbon analyzer with recorder (flame ionization detector or nondispersive infrared equipped to read 0 to 10 percent by volume hydrocarbon as propane for vapor control systems which recover the vapor as liquid; or 0 to 10,000 PPM hydrocarbons as propane for incineration vapor control systems);
- e. Barometer to measure atmospheric pressure;
- f. Gas chromatography/flame ionization detector with a column to separate C<sub>1</sub>-C<sub>7</sub> alkanes, used if methane is present in recovered vapors or if incineration is the vapor control technique.

(6) Test requirements.

- a. No fewer than three (3) eight-hour test repetitions will be performed.
- b. During the test period, all loading racks shall be open for each product line which is controlled by the system under test. Simultaneous use of more than one (1) loading rack shall occur to the extent that such use would normally occur.

c. Simultaneous use of more than one (1) dispenser on each loading rack shall occur to the extent that such use would normally occur.

d. Dispensing rates shall be set at the maximum rate at which the equipment is designed to be operated. Automatic product dispensers are to be used according to normal operating practices.

e. Applicable operating parameters of the vapor control system shall be monitored to demonstrate levels. For intermittent vapor control systems employing a vapor holder, each test repetition shall include at least one fully automatic operation cycle of the vapor holder and control device. Tank trucks and trailers shall be essentially leak free as determined by the director.

(7) Basic measurements required. The basic measurements essential to the evaluation of emissions from gasoline loading terminals are:

a. The amount of gasoline dispensed from gasoline dispensers;

b. Leak check of all fittings and vents;

c. The following items for the processing unit exhaust:

1. Temperature;

2. Pressure;

3. Volume of vapors;

4. Hydrocarbon concentration of vapors;

5. Gas chromatograph analysis of vapors if methane is present in recovered vapors.

(8) Test procedure.

a. Calibrate and span all instruments as outlined under paragraph (10) of this rule.

b. Install an appropriately sized gas meter on the exhaust vent of the vapor control system. For those vapor control systems where size restrictions preclude the use of a volume meter, or when incineration is used for vapor control, a gas flow rate meter (orifice, pitot tube, annubar, etc.) is necessary. At the meter inlet, install a thermocouple with recorder. Install a tap at the volume meter outlet. Attach a sample line for a total hydrocarbon analyzer (0 to 10 percent as propane) to this tap. If the meter pressure is different than barometric pressure, install a second tap at the meter outlet and attach an appropriate manometer for pressure measurement. If methane analysis is required, install a third tap for connection to a constant volume sample/pump evacuated bag assembly as described in Method 3, Federal Register 36:247, December 23, 1977.

c. Measurements and data required for evaluating emissions from the system:

1. At the beginning and end of each test repetition, record the volume readings on each product dispenser on each loading rack served by the system under test.

2. At the beginning of each test repetition and each two (2) hours thereafter, record the ambient temperature and the barometric pressure.

3. For intermittent vapor control systems employing a vapor holder, the unit shall be manually started and allowed to process vapors in the holder until the lower automatic cutoff is reached. This cycle should be performed immediately prior to the beginning of the test repetition before readings required under part 8(c)1 of this rule are taken.

4. For each cycle of the vapor control system during each test repetition, record the start and stop time, the initial and final gas meter readings, the average vapor temperature, pressure and hydrocarbon concentrations. If a flow rate meter readouts continuously during the cycle. If required, extract a sample continuously during each cycle for chromatographic analysis for specific hydrocarbons.

5. For each tank truck or trailer loading during the test period, check all fittings and seals on the tanker compartments with the combustible gas detector. Record the maximum combustible gas reading for any incidents of leakage of hydrocarbon vapors. Explore the entire periphery of the potential leak source with the sample hose inlet one centimeter (four-tenths (0.4) inches) away from the interface.

6. During each test period, monitor all possible sources of leaks in the vapor collection and control systems with the combustible gas indicator. Record the location and combustible gas reading for any incidents of leakage.

7. For intermittent vapor control systems, the control unit shall be manually started and allowed to process vapors in the holder until the lower automatic shutoff is reached at the end of each test repetition.

(9) Calculations.

a. Terminology:

$T_a$  = Ambient temperature ( $^{\circ}\text{C}$ )

$P_b$  = Barometric pressure (mm Hg)

$L_t$  = Total volume of liquid dispensed from all controlled racks during the test period (liters)

$V_e$  = Volume of air-hydrocarbon mixture exhausted from the processing unit ( $\text{M}^3$ )

$V_{eS}$  = Normalized volume of air-hydrocarbon mixture exhausted,  $\text{NM}^3$  at  $20^{\circ}\text{C}$ , 760 mm Hg



$C_e$  = Volume fraction of hydrocarbons in exhausted mixture (volume percent as  $C_3H_8/100$ , corrected for methane content if required)

$T_e$  = Temperature at processing unit exhaust ( $^{\circ}C$ )

$P_e$  = Pressure at processing unit exhaust (mm HG abs)

$(M/L)_e$  = Mass of hydrocarbons exhausted from the processing unit per volume of liquid loaded, (mg/liter)

b. 1. Calculate the following results for each period of the vapor control system:

$$V_e = V_e f V_{e i} (M^3)$$

Where:

$V_e$  = Totalized volume from flow rate and time records

$V_e f$  = Final volume

$V_{e i}$  = Initial volume

2. Normalized volume of exhausted mixture:

$$V_{e s} = \frac{(0.3858 \text{ } ^{\circ}K/mm \text{ Hg}) V_e P_e}{(T_e + 273.2)} \text{ NM at } 20^{\circ} \text{ C, } 760 \text{ mm Hg}$$

3. Mass of hydrocarbons exhausted from the vapor control system:

$$M_e = (1.833 \times \frac{10^6 \text{ mg } C_3 H_8}{\text{NM}^3 C_3 H_8}) \times V_{e s} C_e \text{ (mg)}$$

c. Calculate the average mass of hydrocarbons emitted per volume of gasoline loaded:

$$(M/L)_e = \frac{M_e}{L_t} \text{ (mg/liter)}$$

(10) Calibrations.

a. Flow meters shall be calibrated using standard methods and procedures which have been approved by the director.

b. Temperature recording instruments shall be calibrated prior to a test period and following the test period using an ice bath (zero degrees Celsius) and a known reference temperature source of about thirty-five (35) degrees Celsius. Daily during the test period, use an accurate reference to measure the ambient temperature and compare the ambient temperature reading of all other instruments to this value.

c. Manufacturer's instructions concerning warmup and adjustments shall be followed for total hydrocarbon analyzers. Prior to and immediately after the emission test, perform a comprehensive

laboratory calibration on each analyzer used. Calibration gases should be propane in nitrogen prepared gravimetrically with mass quantities of approximately one hundred (100) percent propane. A calibration curve shall be provided using a minimum of five (5) prepared standards in the range of concentrations expected during testing:

1. For each repetition, zero with zero gas (3 ppm C) and span with seventy (70) percent propane for instruments used in the vapor lines and with ten (10) percent propane for instruments used at the vapor control system exhaust.

2. The zero and span procedure shall be performed at least once prior to the first test measurement, once during the middle of the run, and once following the final test measurement for each run.

3. Conditions in calibration gas cylinders must be kept such that condensation of propane does not occur. A safety factor of two (2) for pressure and temperature is recommended.

Rule 26. [Reserved.]

Rule 27. Particulate matter controls for new sources and new modifications after [insert effective date of this regulation].

Rule 27.1. Particulate matter best available control technology. Any new source or modification, alteration or reconstruction the installation of which commences after [the effective date of this Ordinance] that emits or has the potential to emit fifteen (15) tons per year (tpy) or more of PM<sub>10</sub> emissions, or that emits or has the potential to emit twenty-five (25) tons per year or more of particulate matter shall utilize "particulate matter best available control technology" (particulate BACT) as defined in Rule 27.2. If test results at a source subject to Rule 27.1 show more than 15.0 tons per year actual emissions of particulate matter, such source shall forward such test results to the director. In addition, within sixty (60) days after receiving such test results such source shall complete PM<sub>10</sub> emissions testing and forward the results of the PM<sub>10</sub> emissions testing to the director.

Rule 27.2. For the purposes of Rule 27, "particulate matter best available control technology" means an emissions limitation (including a visible emissions limitation) based on the maximum degree of reduction for particulate matter which would be emitted from any proposed stationary source or modification, alteration, ore reconstruction which the director, on a case-by-case basis, taking into account energy, environmental, and economic impacts and other costs, determines is achievable for such source or modification through such application of production processes or available methods, systems and techniques, including fuel cleaning or treatment or innovative fuel combination techniques for control of each such pollutant. In no event shall the application of particulate matter best available control technology result in emissions of particulate matter which would exceed the emissions allowed by any applicable limitation established under Rules 15

and 16. If a source demonstrates to the director that technological or economic limitations on the application of measurement methodology to a particular emissions unit would make the imposition of an emissions limitation infeasible, a design, equipment, work practice, operations standard or combination thereof, submitted by the source and approved by the director, may be prescribed instead to satisfy the requirement for the application of particulate matter best available control technology. Such a standard shall, to the degree possible, set forth the emissions reduction achievable by implementation of such design, equipment, work practice or operations standard and shall provide for compliance by means which achieve equivalent results.

Rule 27.3. Reasonable and proper emission limitations. Any new source or modification, alteration or construction the installation of which commences after [the effective date of this Ordinance] that emits or has the potential to emit at its maximum less than fifteen (15) tpy of PM<sub>10</sub> emissions or less than twenty-five (25) tons per year of particulate matter shall achieve "reasonable and proper emission limitations" as defined in Rule 27.4.

Rule 27.4. For the purposes of Rule 27, "reasonable and proper emission limitations" means an emissions limitation (including a visible emission standard) which the director, on a case-by-case basis, determines is reasonably achievable and cost-effective for such new source or modification, alteration or reconstruction through the application of production processes or through available methods, systems, and techniques (including fuel cleaning or treatment or innovative fuel combustion techniques) for control of emissions of particulate matter taking into account the following factors:

- (1) The necessity of requiring emissions reductions in order to attain or maintain ambient air quality standards; and
- (2) The technology available, the costs, energy and other environmental impacts, and any control equipment in use at the source.

If the director determines that technological or economic limitations on the application of control technology to a particular emissions unit would make the imposition of a quantitative emissions limitation infeasible, a design, equipment, work practice, operational standard, or combination thereof, may be prescribed instead to satisfy the requirement for reasonable and proper emissions reductions.

#### Housekeeping Revisions

### Rule 28. General Provisions and Applicability for Sulfuric Acid Plants and Oleum Manufacturing Plants.

Rule 28.1 Purpose. The purpose of this Rule 28 is to establish emission standards and other requirements for sulfuric acid plants and for oleum manufacturing plants.

Rule 28.2. Definitions. Words or terms defined in rule 28 are for the purpose of this rule only and will not affect the definitions of Section 8-702.

Unless specifically defined in this Rule 28, the definitions from Section 8-702 will apply:

(1) "Acid mist" means sulfuric acid mist, as measured by EPA Method 8 in Title 40 Code of Federal Regulations Part 60, Appendix A, which has been incorporated by reference in Title 8, Chapter 7, or an equivalent or alternative method, as provided in Title 40 Code of Federal Regulations Part 60, Subpart H, which has been incorporated by reference in Title 8, Chapter 7.

(2) "Deluge system" means a system to overflow an area of a release with an extinguishing agent.

(3) "Oleum manufacturing plant" means any facility producing oleum.

(4) "Sulfuric acid plant" means any facility producing sulfuric acid by the contact process by burning elemental sulfur, alkylation acid, hydrogen sulfide, organic sulfides and mercaptans, or acid sludge or by any other method.

#### Rule 28.3. Standards.

(1) Best Available Control Technology. Any sulfuric acid plant or oleum manufacturing plant or the modification, alteration or reconstruction of a sulfuric acid plant or oleum manufacturing plant shall utilize "best available control technology" for the control of sulfur dioxide emissions and for the control of acid mist emissions during start-up, normal operations and shut-down. For the purposes of this Rule 28, "best available control technology" shall have the same definition as for "Best available control technology (BACT) for Section 8-708(e) and Section 8-741, Rule 25."

#### (2) Normal operations.

a. In no case shall "best available control technology" be less stringent than the requirements of the Standards of Performance for Sulfuric Acid Plants, Title 40 Code of Federal Regulations Part 60, Subpart H, which has been incorporated by reference in Title 8, Chapter 7. Except during startup, no emissions containing sulfuric acid mist shall be discharged from the facility with an opacity in excess of five (5) percent for an aggregate of more than five (5) minutes in any one (1) hour or more than twenty (20) minutes in any twenty-four-hour period.

b. The process equipment and material handling shall be operated in accordance with the facility's leak detection and repair (LDAR) procedures, which shall be submitted to the director for written approval prior to the issuance of any installation permit, certificate of operation, or Part 70 operating permit. Written approval must be received from the director prior to the initial start-up of the plant.

(3) Plant start-up operations.

a. Acid mist emissions, including fugitive emissions, shall not exceed 0.15 pounds of acid mist emissions per ton of one hundred percent sulfuric acid produced.

b. Sulfur dioxide emissions shall not exceed 1,200 parts per million by volume, averaged over the three consecutive hours immediately following the initiation of sulfur burning.

c. No emissions containing sulfuric acid mist shall be discharged from the facility with an opacity in excess of twenty (20) percent for an aggregate of more than five (5) minutes in any one (1) hour during startup.

d. A continuous monitoring system for the measurement of sulfur dioxide emissions during start-up shall be installed, calibrated, maintained, and operated by the owner or operator during start-up. The pollutant gas used to prepare calibration gas mixtures for calibration checks shall be sulfur dioxide. EPA Method 8 in Title 40 Code of Federal Regulations Part 60, Appendix A, which has been incorporated by reference in Title 8, Chapter 7, shall be used for conducting monitoring system performance evaluations except that only the sulfur dioxide portion of the Method 8 results shall be used. The span value shall be set at 2,000 ppm of sulfur dioxide.

e. Plant start-up shall be at the lowest practicable production rate, not to exceed seventy percent of the maximum production rate, until the sulfur dioxide continuous emissions monitor required under Rule 28.3(3)(d). indicates compliance with the best available control technology sulfur dioxide emissions limitations provided in Rule 28.3(1). If a more appropriate indicator (such as blower pressure, furnace temperature, gas strength, blower speed, number of sulfur guns operating, or equivalent operating parameter) can be documented, tested and validated, the director may accept this in lieu of directly documenting the production rate.

f. If the sulfur dioxide continuous emissions monitor required under Rule 28.3(3)(d). indicates that the plant is not in compliance with the sulfur dioxide emissions limitations of Rule 28.3(1) by the end of the third hour after start-up initiation, the plant shall be shut down within the fourth hour after start-up initiation. Restart may occur as soon as practicable following any needed repairs or adjustments, provided that corrective action has been taken, logged, and initialed prior to restart.

g. Plant start-up procedures which minimize sulfur dioxide emissions and acid mist emissions during start-up shall be developed, documented, and submitted to the director for written approval prior to issuance of any installation permit, certificate of operation, or Part 70 operating permit. Written approval must be received from the

director prior to the initial start-up of the plant. These procedures shall include recording the inlet and outlet temperatures of each catalyst mass; and the concentration, temperature, and flow of circulating acid in each absorbing tower on a written operator log. The plant shall operate in accordance with the approved start-up procedures.

h. Plant start-up shall not commence unless meteorological conditions clearly demonstrate that inversion and/or air stagnation conditions do not exist in the vicinity of the plant.

1. The owner or operator shall develop, document, and implement procedures to be followed during start-up which clearly demonstrate that inversion and/or air stagnation conditions do not exist at the plant at the time of start-up. These procedures shall be submitted to the director for written approval prior to the issuance of any installation permit, certificate of operation, or Part 70 operating permit. Written approval must be received from the director prior to the initial start-up of the plant. Any modifications to these procedures shall require the written approval of the director. Written approval must be received from the director prior to implementation of the modifications.

2. A record of the meteorological conditions present during each start-up shall be recorded on a written operator log.

(4) Storage tanks. Storage tanks used to store concentrated sulfuric acid or oleum at ambient temperature shall meet the design, fabrication, and inspection requirements of the National Association of Corrosion Engineers (NACE) Standard RP0294-94, "Recommended Practice Design, Fabrication, and Inspection of Tanks for Storage of Concentrated Sulfuric Acid and Oleum at Ambient Temperatures," which has been incorporated by reference in Title 8, Chapter 7.

(5) Deluge system. The owner or operator of an oleum manufacturing plant or a sulfuric acid plant where oleum is a product or by-product shall install and maintain a deluge system, which shall be operated in the event of an oleum release.

Rule 29. General Provisions and Applicability for Oleum Transfer Operations.

Rule 29.1. Purpose. The purpose of this Rule 29 is to prevent releases of oleum from oleum transfer facilities.

Rule 29.2. Definitions. Words or terms defined in Rule 29 are for the purpose of this rule only and will not affect the definitions of Section 8-702. Unless specifically defined in this Rule 29, the definitions from Section 8-702 will apply:

(1) "Deluge system" means a system to overflow an area of a release with an extinguishing agent.

(2) "Failure event" means any release of oleum into the ambient air which may expose the public to sulfuric acid and sulfur trioxide (combined) in excess of 0.01 grams per cubic meter or two parts per million calculated as sulfuric acid averaged over any ten consecutive minutes, or any release of oleum of any amount into the ambient air that causes or contributes to cause any of the following health effects: irritated eyes, skin or mucous membranes; headaches; burning sensation in the nose or throat; nausea; difficulty breathing; inflammation of the upper respiratory tract; chronic bronchitis; lung damage; loss of consciousness; or chemical pneumonitis.

(3) "Oleum" means sulfuric acid ( $H_2SO_4$ ) with any dissolved sulfur trioxide ( $SO_3$ ).

(4) "Oleum transfer facility" means a facility or operation that loads or unloads oleum into or out of containers.

Rule 29.3. Standards. Any owner or operator of an oleum transfer facility shall meet all of the following requirements:

(1) No owner or operator of an oleum transfer facility shall cause, suffer, allow or permit any oleum release into the ambient air which may expose the public to sulfuric acid and sulfur trioxide (combined) in excess of 0.01 grams per cubic meter or two parts per million calculated as sulfuric acid averaged over any ten consecutive minutes, or any release of oleum of any amount into the ambient air that causes or contributes to cause any of the following health effects: irritated eyes, skin or mucous membranes; headaches; burning sensation in the nose or throat; nausea; difficulty breathing; inflammation of the upper respiratory tract; chronic bronchitis; lung damage; loss of consciousness; or chemical pneumonitis.

(2) All oleum transfers shall be continuously conducted, attended, and monitored by a qualified operator. A qualified operator is a person who is trained under the facility's oleum transfer procedures to conduct an oleum transfer.

(3) All oleum transfers shall be conducted in strict accordance with the facility's written oleum transfer procedures. The oleum transfer procedures shall meet the following requirements:

a. The procedures shall be submitted for written approval by the director that the requirements of Rule 29.3(3)b. through (3)f. have been met prior to the issuance of an installation permit, certificate of operation, or Part 70 permit. Written approval must be received from the director prior to the initial start-up of the facility. The director shall provide a 30-day public comment period followed by a public hearing prior to the initial start-up of the facility and will consider all comments received during the public comment period and the public hearing prior to approval of the procedures.

b. The procedures shall explicitly establish and thoroughly describe a qualified operator training program; an equipment

inspection and maintenance plan; and monitoring and warning systems to avoid a failure event as defined in Rule 29.2.

c. The procedures shall detail the steps that must be taken by the qualified operator during the oleum transfer and shall include a written oleum transfer checklist. The checklist must provide for a method that will verify completion of each step in the transfer procedure.

d. The procedures shall detail the approval process that must be followed to change the oleum transfer procedures or the oleum transfer checklist. Any change in procedures must be submitted for advance written approval by the director.

e. The procedures must be approved and signed by a responsible manager. A responsible manager is a person who is an employee of the facility and who is responsible for the management of the facility.

f. The owner or operator, using a process hazards analysis as described in Title 40 Code of Federal Regulations Part 68, Subpart D, Section 68.67, which has been incorporated by reference in Title 8, Chapter 7, shall predict failure events; identify and evaluate hazards involved in the process; plan, implement, and document at least three consecutive prevention measures for every predicted failure event. A process hazards analysis is a systematic method for reducing the likelihood for an oleum release, and for identifying conditions, component failure, and human activities that may result in emissions to the ambient air. The procedures must contain the written predictions, plans, and prevention measures.

1. Prevention measures include, but are not limited to, flow, level and pressure indicators with interlocks; deadman switches; monitoring systems; documented and verified routine inspection and maintenance programs specified in detail by the oleum transfer procedure; and secondary containment and control equipment.

2. Operator training and documented and verified routine inspection and maintenance programs specified in detail by the oleum transfer procedure, collectively, may count as only one of the three required prevention measures.

3. A component, system or program with an unacceptable probability for failure shall not be considered a prevention measure.

4. As part of the process hazards analysis, methods for reducing the likelihood for a release include an inherent safety review of the operation, which considers process modifications and which minimizes the number of oleum transfers.



g. So that appropriate protective measures, such as shelter in place or evacuation plans, may be instituted, the owner or operator will develop, document, and implement notification procedures to immediately notify the public in the event of an oleum release which may result in a failure event as defined in Rule 29.2. The written notification procedures shall be included in the oleum transfer procedures.

(4) At the time of each transfer, an oleum transfer checklist shall be completed by the qualified operator who attends and conducts the transfer. Immediately following the completion of the transfer, the qualified operator shall sign the completed checklist, which shall include the date and the time of the transfer.

(5) The owner or operator of an oleum transfer facility shall vent all pressure relief devices to a secondary containment system, which is a system designed to contain and control a release of oleum in order to avoid a failure event as defined in Rule 29.2. In lieu of controlling any pressure relief device on a tank truck or railroad tankcar, an additional pressure relief device may be installed on the stationary vent line to the tank truck or railroad tankcar. This additional pressure relief device shall be vented to a secondary containment system and shall be designed to relieve at less than eighty percent of the set point of the tank truck or railroad tankcar pressure relief device.

(6) Oleum transfer checklists for each transfer shall be retained for at least two years following the date of the transfer and shall be available for inspection by the director or his designated representatives during normal business hours.

(7) In the event of an oleum release, the owner or operator of an oleum transfer facility shall immediately report the release to the director and to the local emergency services. This shall mean an immediate telephone report to the director and to the local emergency services, followed up by a written report submitted to the director within seven (7) days after the release.

(8) The owner or operator of an oleum transfer facility shall install and maintain a deluge system, which shall be operated in the event of an oleum release to prevent a failure event as defined in Rule 29.2. (1993 Code, § 8-741, as amended by Ord. #540, \_\_\_\_\_, Ord. #598, Sept. 1995, Ord. #599, Sept. 1995, Ord. #670, Dec. 1998, Ord. #671, Dec. 1998, Ord. #702, May 2000, and Ord. #703, May 2000)

**8-742–8-749. Reserved.**

**8-750. Part 70 sources.** The provisions, requirements, limitations, exceptions and other terms of the Part 70 Operating Permit Program ordinance apply to all part 70 sources and emissions units located at all part

70 sources, as are hereinafter defined, which are now existing or hereafter may be constructed or modified so as to become or to have the potential to become a part 70 source (or an emissions unit at a part 70 source) and does not apply to other sources. Part 70 sources are not subject to the procedural permitting requirements of the "Installation permit, temporary operating permit, certificate of operation, and solid fuel permit" section in the air pollution control ordinance of this municipality except that part 70 sources (and emissions units located thereat or thereon) will be required to apply for installation permits in accordance with that section if modifications to or new construction of a part 70 source are subject to the following:

(a) Rule 18 of the air pollution control ordinance of this municipality;

(b) Rule 25.3 of the air pollution control ordinance of this municipality;

(c) Section 8-741, Rule 23 or Rule 27 of the East Ridge Air Pollution Control Ordinance.

(d) Any standard or other requirement pursuant to regulations promulgated under section 111 of the Act [42 U.S.C. § 7411], in 40 CFR Part 60, revised as of July 1, 1993, which is incorporated herein by reference pursuant to the provisions of Tennessee Code Annotated, § 68-201-115; or

(e) Case-by-case determinations made pursuant to sections 112(g) and (j) of the Act [42 U.S.C. §7412(g) and (j)] as set forth at Section 4 "Applicable requirements" (4) of the Part 70 Operating Permit Program ordinance.

All other sources that are not part 70 sources remain subject to the air pollution control ordinance of this municipality but without regard to this enactment. The other (non-part 70) sources are exempt from the terms hereof, until such later time as by amendment hereof they are brought within the scope hereof. Nothing herein shall be construed to use the authority of the permitting agency to modify acid rain program requirements. (Ord. #582, Oct. 1994, as amended by Ord. #671, Dec. 1998)

**8-751. Permitting authority.** The permitting authority, as is hereinafter defined, has authority to issue, terminate, modify, revoke and reissue permits in accordance with the provisions hereof and to enforce the requirements, conditions and elements of a part 70 permit and also to enforce the requirements for obtaining a permit and to collect the permit fees provided for herein and to enforce, in all ways permissible under law, the requirements and provisions of the Part 70 Operating Permit Program ordinance. No part 70 source or emissions unit at a part 70 source may operate without the permit required herein, unless specifically excepted or exempted by the Part 70 Operating Permit Program ordinance. (Ord. #582, Oct. 1994)

**8-752. Program overview.** (a) The regulations and requirements of the Part 70 Operating Permit Program ordinance provide for the establishment of a comprehensive air quality permitting system consistent with the requirements of Title V of the Clean Air Act (Act) (42 U.S.C. §7401, et seq.) and 40 CFR Part 70. The Part 70 Operating Permit Program ordinance and these regulations and requirements define the procedures and elements required for operating permits.

(b) All sources subject to these regulations must have a permit to operate that assures compliance by the source with all applicable requirements and with the requirements of the Part 70 Operating Permit Program ordinance.

(c) In the case of federal intervention in the permit process, the Administrator of EPA has reserved the right to implement this operating permit program, in whole or in part, or the federal program contained in regulations promulgated under Title V of the Act.

(d) The requirements of 40 CFR Part 70, revised as of July 1, 1993, which are incorporated herein by reference pursuant to the provisions of Tennessee Code Annotated, § 68-201-115, including provisions regarding schedules for submission and approval or disapproval of permit applications, shall apply to the permitting of affected sources under the acid rain program, except as provided herein or modified in regulations promulgated under Title IV of the Act (acid rain program) promulgated under Title IV of the Act in 40 CFR Parts 72, 75, and 76 revised as of July 1, 1993, and 40 CFR Part 76 at 59 Federal Register 13564-13580, which are incorporated herein by reference pursuant to the provisions of Tennessee Code Annotated, § 68-201-115. If the provisions or requirements of 40 CFR Part 72 conflict with or are not included in the Part 70 Operating Permit Program ordinance, the Part 72 provisions and requirements shall apply and take precedence.

(e) The actions of the permitting authority shall not be used to modify any acid rain program requirements. (Ord. 582, Oct. 1994)

**8-753. Definitions.** The following definitions apply to this part of the air pollution control ordinance of this municipality. Except as specifically provided in this section, terms used in this part retain the meaning accorded them under the applicable requirements of the Act. In the event that there are conflicts in the definition or contextual use of a term in the Part 70 Operating Permit Program ordinance and the definition of that term in the air pollution control ordinance of this municipality, the definition here shall apply in this part 70 program and the definition in other parts shall apply there. Unless a word or phrase is specifically defined in § 8-753, the definitions from § 8-702 will apply.

"Act" means the Clean Air Act, as amended, 42 U.S.C. §7401, et seq.

"Actual emissions" means the actual rate of emissions in tons per year of any regulated pollutant (for presumptive fee calculation) emitted from a

part 70 source over the preceding calendar year or any other period determined by the permitting authority to be representative of normal source operation and consistent with the fee schedule approved pursuant to this section. Actual emissions shall be calculated using the unit's actual operating hours, production rates, and in-place control equipment, types of materials processed, stored, or combusted during the preceding calendar year or such other time period established by the permitting authority pursuant to the preceding sentence.

"Administrative permit amendment" means a permit revision that:

- (1) Corrects typographical errors;
- (2) Identifies a change in the name, address, or phone number of any person identified in the permit, or provides a similar minor administrative change at the source;
- (3) Requires more frequent monitoring or reporting by the permittee;
- (4) Allows for a change in ownership or operational control of a source where the permitting authority determines that no other change in the permit is necessary, provided that a written agreement containing a specific date for transfer of permit responsibility, coverage, and liability between the current and new permittee has been submitted to the permitting authority;
- (5) Incorporates into the part 70 permit the requirements from preconstruction review permits authorized under an EPA-approved program, provided that such a program meets procedural requirements substantially equivalent to the requirements of 40 CFR §§70.7 and 70.8 that would be applicable to the change if it were subject to review as a permit modification, and compliance requirements substantially equivalent to those contained in 40 CFR §70.6; or
- (6) Incorporates any other type of change which the administrator has determined as part of the approved part 70 program to be similar to those in paragraphs (1) through (4) of this definition, provided that such "other type of change" has been identified in the Part 70 Operating Permit Program ordinance by amendment subsequent to the action of the administrator.

"Administrator" means the administrator of the United States Environmental Protection Agency.

"Affected source" shall have the meaning given to it under Title IV of the Act which is a source that includes one or more affected units.

"Affected states" are all states:

- (1) Whose air quality may be affected and that are contiguous to the State of Tennessee; or
- (2) That are within 50 miles of the permitted source.

"Affected unit" shall have the meaning given to it under Title IV of the Act which is a unit that is subject to emission reduction requirements or limitations under Title IV of the Act.

"Applicable requirements" mean all of the following requirements in the Act, as they apply to emissions units in a part 70 source (including requirements that have been promulgated or approved by EPA through rulemaking at the time of issuance but have future-effective compliance dates) which are specifically as follows:

(1) Any standard or other requirement provided for in the applicable implementation plan approved or promulgated by EPA through rulemaking under Title I of the Act that implements the relevant requirements of the Act, including any revisions to that plan promulgated in 40 CFR Part 52 where the same have been legally adopted by ordinance in this municipality;

(2) Any term or condition of any preconstruction permits issued pursuant to regulations promulgated under Title I, including parts C or D, of the Act in 40 CFR Part 51 or 40 CFR 60, revised as of July 1, 1993, which are incorporated herein by reference pursuant to the provisions of Tennessee Code Annotated, § 68-201-115;

(3) Any standard or other requirement pursuant to regulations promulgated under section 111 of the Act [42 U.S.C. §7411] in 40 CFR Part 60, revised as of July 1, 1993, which is incorporated herein by reference pursuant to the provisions of Tennessee Code Annotated, § 68-201-115;

(4) Any standard or other requirement promulgated under section 112 of the Act [42 U.S.C. § 7412], including any requirement concerning accident prevention under section 112(r)(7) of the Act [42 U.S.C. Section 7412(r)(7)] in 40 CFR Part 61; 40 CFR Part 63; and 40 CFR Part 68, which have been incorporated herein by reference in Chapter 7 pursuant to the provisions of Tennessee Code Annotated, § 68-201-115. No owner or operator may install or modify a Part 70 source that is a major source of hazardous air pollutants [as defined in section 112(b) of the Act (42 U.S.C. § 7412)] unless the maximum achievable control technology emission limitation promulgated under section 112 of the Act and incorporated by reference at § 8-753 as an applicable requirement will be met, and provided further that the maximum achievable control technology emission limitation determination shall be made by the permitting authority on a case-by-case basis as an interim measure pending such promulgation where such promulgation has not yet occurred pursuant to § 8-741, Rule 16.10. If a major source of hazardous air pollutants has executed an enforceable agreement with the administrator pursuant to the Title 42 U.S.C. Section 7412(i)(5) Early Reductions Program that contains more stringent requirements or more stringent emissions limitations than

would otherwise be applicable under the Part 70 Operating Permit Program ordinance or the air pollution control ordinance of this municipality, the part 70 permit issued to it shall include the requirements and emissions limitations contained in that agreement, unless the major source is subsequently released from said enforceable agreement and such release is confirmed in a writing signed by the administrator, or designee, and submitted to the director;

(5) Any standard or other requirement of the acid rain program promulgated under Title IV of the Act and which are incorporated by reference at Section 3(d) of the Part 70 Operating Permit Program ordinance;

(6) Any standard or other requirement governing solid waste incineration promulgated under section 129 of the Act [42 U.S.C. §7429], including 40 CFR Part 60, Subpart Ea, "Standards of Performance for Municipal Waste Combustors", revised as of July 1, 1993, which is incorporated herein by reference pursuant to the provisions of Tennessee Code Annotated, § 68-201-115 and standards or other requirements that have been identified in the Part 70 Operating Permit Program ordinance by amendment subsequent to the action of the administrator;

(7) Any standard or other requirement for consumer and commercial products, under section 183(e) of the Act [42 U.S.C. §7511b.(e)] provided that these standards or other requirements have been identified in the Part 70 Operating Permit Program ordinance by amendment subsequent to the action of the administrator;

(8) Any standard or other requirement for tank vessels, under section 183(f) of the Act [42 U.S.C. §7511b.(f)] provided that these standards or other requirements have been identified in the Part 70 Operating Permit Program ordinance by amendment subsequent to the action of the administrator;

(9) Any standard or other requirement of the regulations promulgated to protect stratospheric ozone under Title VI of the Act in 40 CFR Part 82, Revised as of July 1, 1993, which is incorporated herein by reference pursuant to the provisions of Tennessee Code Annotated, § 68-201-115, unless the administrator has determined that such requirements need not be contained in a part 70 permit;

(10) Any national ambient air quality standard or increment or visibility requirement under part C of Title I of the Act, but only as it would apply to temporary sources permitted pursuant to section 504(e) of the Act [42 U.S.C. §7661c.(e)];

(11) All requirements of 40 CFR Part 70, revised as of July 1, 1993, which are incorporated by reference at Section 3(d) of the Part 70 Operating Permit Program ordinance; and

(12) Any standard or requirement set forth in the "Rules Adopted" section of the air pollution control ordinance of this municipality. If a federal regulation is promulgated that does have, or would have, application to a Part 70 source or emissions unit, the board shall cause the bureau to prepare within 60 days a draft ordinance for consideration at a public hearing and the board shall within 120 days make a recommendation to the municipality concerning a proposed ordinance. During the interim period following such federal promulgation but preceding local adoption and enforceability of such standard, each Part 70 permit issued to a source that is subject to such federal applicable requirement shall include a statement that such source is subject to such federal applicable requirement, followed by the appropriate legal citation for such requirement.

(13) Any standard or other requirement for compliance assurance monitoring in Title 40 CFR Part 64 promulgated at 62 FR 54940-54947; October 22, 1997, which has been incorporated by reference in Chapter 7.

"Board" means the Chattanooga-Hamilton County Air Pollution Control board.

"Bureau" means the Chattanooga-Hamilton County Air Pollution Control Bureau.

"Certification" shall mean a notarized attested statement under oath by a responsible official of the truth, accuracy, and completeness that, based on information and belief formed after reasonable inquiry the statements and information in the document or submittal are true, accurate and complete. It shall constitute a certification under Tennessee Code Annotated, § 68-201-112, as amended in 1994.

"Designated representative" shall have the meaning given to it in section 402(26) of the Act [42 U.S.C. §7651a.(26)] which is a responsible person or official authorized by the owner or operator of a unit to represent the owner or operator in matters pertaining to the holding, transfer, or disposition of allowances allocated to a unit, and the submission of and compliance with permits, permit applications, and compliance plans for the unit.

"Director" means the director of the Chattanooga-Hamilton County Air Pollution Control Bureau.

"Draft permit" means the version of a permit for which the permitting authority offers public participation under Section 9(h) of the Part 70 Operating Permit Program ordinance or affected state review under Section 10 of the Part 70 Operating Permit Program ordinance.

"Emissions allowable under the permit" means a legally enforceable permit term or condition determined at issuance to be required by an applicable requirement that establishes an emissions limit (including a work

practice standard) or an enforceable emissions cap that the source has assumed to avoid an applicable requirement to which the source would otherwise be subject.

"Emissions unit" means any part or activity of a stationary source that emits or has the potential to emit any regulated air pollutant or any pollutant listed under section 112(b) of the Act [42 U.S.C. §7412(b)]. This term is not meant to alter or affect the definition of the term "unit" for purposes of any other part of the local ordinance.

The "EPA" or the "administrator" means the administrator of the EPA or his/her designee.

"Final permit" means the version of a part 70 permit issued by the permitting authority that has completed all review procedures required by the Part 70 Operating Permit Program ordinance and by federal law.

"Fugitive emissions" are those emissions which could not reasonably pass through a stack, chimney, vent, or other functionally-equivalent opening. "General permit" means a part 70 permit that has been issued pursuant to and meets the requirements of Section 8(d) of the Part 70 Operating Permit Program ordinance.

"Local governments" means Hamilton County, Tennessee, and all included municipalities.

"Local program" (for this part of the ordinance) means part 70 program as hereinafter defined.

"Major source" means any stationary source [or any group of stationary sources that are located on one or more contiguous or adjacent properties, and are under common control of the same person (or persons under common control)], belonging to a single major industrial grouping and that are described in paragraphs (1), (2), or (3) of this definition. For the purposes of defining "major source," a stationary source or group of stationary sources shall be considered part of a single industrial grouping if all of the pollutant emitting activities at such source or group of sources on contiguous or adjacent properties belong to the same Major Group (i.e., all have the same two-digit code) as described in the Standard Industrial Classification Manual, 1987.

(1) A major source under section 112 of the Act [42 U.S.C. §7412], which is defined as:

(i) For pollutants other than radionuclides, any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit, in the aggregate, 10 tons per year (tpy) or more of any hazardous air pollutant which has been listed pursuant to section 112(b) of the Act [42 U.S.C. §7412(b)], 25 tpy or more of any combination of such hazardous air pollutants, or such lesser quantity as the administrator may establish by rule. Notwithstanding the preceding sentences, emissions from any



oil or gas exploration or production well (with its associated equipment) and emissions from any pipeline compressor or pump station shall not be aggregated with emissions from other similar units, whether or not such units are in a contiguous area or under common control, to determine whether such units or stations are major sources; or

(ii) For radionuclides, "major source" shall have the meaning identified in the Part 70 Operating Permit Program ordinance by amendment subsequent to the action of the administrator.

(2) A major stationary source of air pollutants, as defined in section 302 of the Act [42 U.S.C. §7602(j)], that directly emits or has the potential to emit, 100 tpy or more of any air pollutant (including any major source of fugitive emissions of any such pollutant, as determined by rule by the administrator). The fugitive emissions of a stationary source shall not be considered in determining whether it is a major stationary source for the purposes of section 302(j) of the Act [42 U.S.C. §7602(j)], unless the source belongs to one of the following categories of stationary source:

- (i) Coal cleaning plants (with thermal dryers);
- (ii) Kraft pulp mills;
- (iii) Portland cement plants;
- (iv) Primary zinc smelters;
- (v) Iron and steel mills;
- (vi) Primary aluminum ore reduction plants;
- (vii) Primary copper smelters;
- (viii) Municipal incinerators capable of charging more than 250 tons of refuse per day;
- (ix) Hydrofluoric, sulfuric, or nitric acid plants;
- (x) Petroleum refineries;
- (xi) Lime plants;
- (xii) Phosphate rock processing plants;
- (xiii) Coke oven batteries;
- (xiv) Sulfur recovery plants;
- (xv) Carbon black plants (furnace process);
- (xvi) Primary lead smelters;
- (xvii) Fuel conversion plant;
- (xviii) Sintering plants;
- (xix) Secondary metal production plants;
- (xx) Chemical process plants;
- (xxi) Fossil-fuel boilers (or combination thereof) totaling more than 250 million British thermal units per hour heat input;

- (xxii) Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;
- (xxiii) Taconite ore processing plants;
- (xxiv) Glass fiber processing plants;
- (xxv) Charcoal production plants;
- (xxvi) Fossil-fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input; or
- (xxvii) All other stationary source categories regulated by a standard promulgated under section 111 or 112 of the Act [42 U.S.C. §7411 and §7412], in 40 CFR Parts 60, 61, 63 and 68, which are incorporated herein by reference as an "applicable requirement" in Section 4 of the Part 70 Operating Permit Program ordinance, but only with respect to those air pollutants that have been regulated for that category.

(3) A major stationary source as defined in part D of Title I of the Act, including:

- (i) For ozone nonattainment areas, sources with the potential to emit 100 tpy or more of volatile organic compounds or oxides of nitrogen in areas classified as "marginal" or "moderate," 50 tpy or more in areas classified as "serious," 25 tpy or more in areas classified as "severe," and 10 tpy or more in areas classified as "extreme"; except that the references in this paragraph to 100, 50, 25, and 10 tpy of nitrogen oxides shall not apply with respect to any source for which the administrator has made a finding, under section 182(f)(1) or (2) of the Act [42 U.S.C. §7511a.(f)(1) or (2)], that requirements under section 182(f) of the Act [42 U.S.C. §7511a.(f)] do not apply;
- (ii) For ozone transport regions established pursuant to section 184 of the Act [42 U.S.C. §7511c], sources with the potential to emit 50 tpy or more of volatile organic compounds;
- (iii) For carbon monoxide nonattainment areas (1) that are classified as "serious," and (2) in which stationary sources contribute significantly to carbon monoxide levels as determined under rules issued by the administrator, sources with the potential to emit 50 tpy or more of carbon monoxide; and
- (iv) For particulate matter (PM-10) nonattainment areas classified as "serious," sources with the potential to emit 70 tpy or more of PM-10.

"Modification" means any physical change in, or change in the method of operation of, a regulated air pollutant source which increases the actual emissions of any regulated air pollutant emitted by such source or increases its potential to emit any regulated air pollutant or which results in the emission of any regulated air pollutant not previously emitted by it.

"Owner or operator" means any person who owns, leases, operates, controls, or supervises a source.

"Part 70 application" means an application which fully complies with the requirements of Section 7 of the Part 70 Operating Permit Program ordinance.

"Part 70 general permit" means a part 70 permit issued under Section 8(d) of the Part 70 Operating Permit Program ordinance.

"Part 70 permit" or "permit" (unless the context suggests otherwise) means any permit or group of permits covering a part 70 source that is issued, renewed, amended, or revised pursuant to the Part 70 Operating Permit Program ordinance.

"Part 70 program" or "Local program" means the program, established by ordinance, approved by the administrator under 40 CFR Part 70.

"Part 70 source" means any source subject to the permitting requirements of the Part 70 Operating Permit Program ordinance and as required in 40 CFR §§70.3(a) and 70.3(b) and as set forth in Section 5 of the Part 70 Operating Permit Program ordinance.

"Permit modification" means a revision to a part 70 permit that meets the requirements of 40 CFR §70.7(e) and Section 9(e) of the Part 70 Operating Permit Program ordinance.

"Permit program costs" means all reasonable (direct and indirect) costs required to develop and administer a permit program, as set forth in 40 CFR §70.9(b) and Section 11(b) of the Part 70 Operating Permit Program ordinance (whether such costs are incurred by the permitting authority or other agencies that do not issue permits directly, but that support permit issuance or administration).

"Permit revision" means any permit modification or administrative permit amendment.

"Permitting authority" means either of the following:

(1) The administrator, in the case of EPA-implemented programs; or

(2) The director of the Chattanooga-Hamilton County Air Pollution Control Bureau, acting under delegation of authority from the board. Upon appeal of a permit issuance, denial, condition, failure to act or other permit action (or any other time that the chairman of the board asserts the primacy of the board), the permitting authority is the Chattanooga-Hamilton County Air Pollution Control board.

"Potential to emit" means the maximum capacity of a stationary source to emit any air pollutant under its physical and operational design. Any physical or operational limitation on the capacity of a source to emit an air pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design if the limitation is enforceable under the Part 70 Operating Permit Program ordinance and by the

administrator. This term does not alter or affect the use of this term for any other purposes under any other sections of the Part 70 Operating Permit Program ordinance or under the Act, or the term "capacity factor" as used in Title IV of the Act or the regulations promulgated thereunder at 40 CFR Part 72 adopted by reference in Section 3(d) of the Part 70 Operating Permit Program ordinance.

"Proposed permit" means the version of a permit that the permitting authority proposes to issue and forwards to the administrator for review in compliance with 40 CFR § 70.8.

"Regulated air pollutant" means the following:

(1) Nitrogen oxides or any volatile organic compounds;

(2) Any pollutant for which a national ambient air quality standard has been promulgated in 40 CFR Part 50, revised July 1, 1993 which is incorporated herein by reference pursuant to the provisions of Tennessee Code Annotated, § 68-201-115;

(3) Any pollutant that is subject to any standard that has been promulgated under section 111 of the Act [42 U.S.C. §7411] in 40 CFR Part 60, revised as of July 1, 1993, which is incorporated herein by reference pursuant to the provisions of Tennessee Code Annotated, § 68-201-115 or Rule 15 of the air pollution control ordinance of this municipality.

(4) Any Class I or II substance subject to a standard promulgated under or established by Title VI of the Act in 40 CFR Part 82, Revised as of July 1, 1993, which is incorporated herein by reference pursuant to the provisions of Tennessee Code Annotated, § 68-201-115.

(5) Any pollutant subject to a standard that has been promulgated under section 112 of the Act [42 U.S.C. §7412] in 40 CFR Part 61, revised as of July 1, 1993, and 40 CFR Part 63 revised as of July 1, 1993, which are incorporated herein by reference pursuant to the provisions of Tennessee Code Annotated, § 68-201-115, and 40 CFR Part 63, Subpart A "General Provisions" at 59 FR 12430-12459; 40 CFR Part 63 Subparts F, G, H and I, "Synthetic Organic Chemical Manufacturing Industry" at 59 FR 19453-19625; 40 CFR Subpart M, "National Perchloroethylene Air Emissions Standards for Dry Cleaning Facilities" at 58 FR 49376-49380 and 58 FR 66289; 40 CFR Part 63, Subpart L, "National Emission Standards for Coke Oven Batteries" at 58 FR 57911-57935 and 59 FR 1992; 40 CFR Part 63, Subpart E, "Approval of State Programs and Delegation of Federal Authorities" at 58 FR 62283-62288; Title 40 CFR Part 63 at 58 FR 62543; 40 CFR Part 63, Subpart B, "Requirements for Control Technology Determinations for Major Sources in Accordance with Clean Air Act Sections, Sections 112(g) and 112(j)" at 59 FR 26449-26454; and 40 CFR Part 63, Subpart G, 49 FR 29201 and 40

CFR Part 68 at 59 FR 4493-4499 which are incorporated herein by reference pursuant to the provisions of Tennessee Code Annotated, § 68-201-115, including the following:

(i) Any pollutant subject to requirements under section 112(j) of the Act [42 U.S.C. §7412(j)]. If the administrator fails to promulgate a standard by the date established pursuant to section 112(e) of the Act [42 U.S.C. §7412(e)], any pollutant for which a subject source would be a major shall be considered to be regulated on the date 18 months after the applicable date established pursuant to section 112(e) of the Act [42 U.S.C. §7412(e)]; and

(ii) Any pollutant for which the requirements of section 112(g)(2) of the Act [42 U.S.C. §7412(g)(2)] have been met, but only with respect to the individual source subject to section 112(g)(2) of the Act [42 U.S.C. §7412(g)(2)] requirements.

"Regulated pollutant (for presumptive fee calculation)," which is used only for purposes of Section 11 of the Part 70 Operating Permit Program ordinance, means any "regulated air pollutant" except the following:

(1) Carbon monoxide;

(2) Any pollutant that is a regulated air pollutant solely because it is a Class I or II substance subject to a standard that has been promulgated under or established by Title VI of the Act. The standards referred to are found at 40 CFR Part 82, revised as of July 1, 1993, which are incorporated by reference at Section 4 "Applicable requirements" (9) of the Part 70 Operating Permit Program ordinance; or

(3) Any pollutant that is a regulated air pollutant solely because it is subject to a standard or regulation under section 112(r) of the Act [42 U.S.C. §7412(r)] which is incorporated herein by reference pursuant to the provisions of Tennessee Code Annotated, § 68-201-115.

(4) Any pollutant resulting from any insignificant activity listed at Section 7(c)(11) and Section 7(c)(12) of the Part 70 Operating Permit Program ordinance.

"Renewal" means the process by which a permit is reissued at the end of its term.

"Research and development facility" means any stationary source whose primary purpose is to conduct research and development into new processes and products, where such source is operated under the close supervision of technically trained personnel and is not engaged in the manufacture of products for commercial sale in commerce, except where such sales do not exceed 2% of the gross receipts of the source for which it is conducting the research and development.

"Responsible official" means one of the following:

(1) For a corporation: a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function. For corporations qualifying under the criteria below, a "responsible official" may be any other person who performs similar policy or decision-making functions for the corporation, or a duly authorized representative of such person if the representative is responsible for the overall operation of one or more manufacturing, production, or operating facilities applying for or subject to a permit and either:

(i) The facilities employ more than 250 persons or have gross annual sales or expenditures exceeding \$25 million (in second quarter 1980 dollars); or

(ii) The delegation of authority to such representative is approved in advance by the permitting authority;

(2) For a partnership or sole proprietorship: a general partner or the proprietor, respectively;

(3) For a municipality, state, federal, or other public agency: either a principal executive officer or ranking elected official. For the purposes of this part, a principal executive officer of a federal agency includes the chief executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., a Regional administrator of EPA); or

(4) For affected sources:

(i) The designated representative in so far as actions, standards, requirements, or prohibitions are concerned under Title IV of the Act or any applicable requirement promulgated thereunder which are adopted by reference at Section 3(d) of the Part 70 Operating Permit Program ordinance; and

(ii) The designated representative for any other purposes under 40 CFR Part 70.

"Section 502(b)(10) changes" are changes that contravene an express permit term. Such changes do not include changes that would violate applicable requirements or contravene federally enforceable permit terms and conditions that are monitoring (including test methods), recordkeeping, reporting, or compliance certification requirements.

"Significant change" shall have the meaning set forth in Section 9(e)(3)(i) of the Part 70 Operating Permit Program ordinance.

"State" means any non-federal permitting authority, including any local agency, interstate association, or statewide program. Where such meaning is clear from the context, "State" shall have its conventional meaning. For purposes of the acid rain program, the term "State" shall be limited to authorities within the 48 contiguous states and the District of Columbia as provided in section 402(14) of the Act [42 U.S.C. §7651a.(14)].

"State implementation plan", "Implementation plan" or "SIP" means the Hamilton County portion of the Tennessee State Implementation Plan.

"Stationary source" means any building, structure, facility, or installation that emits or may emit any regulated air pollutant or any pollutant listed under section 112(b) of the Act [42 U.S.C. §7412(b)].

"Synthetic minor source" means a source that would otherwise be considered a part 70 source, due to its potential to emit, if it were not for a mutually agreed upon, more restrictive, federally enforceable limitation, contained in an installation permit, or certificate of operation issued pursuant to the "Installation permit, temporary operating permit, certificate of operation, and solid fuel permit" section in the air pollution control ordinance of this municipality upon the potential to emit of that source under its physical and operational design. All emissions limitations, controls, and other requirements imposed by such permit or certificate of operation shall be at least as stringent as any other applicable limitations and requirements contained in the air pollution control ordinance of this municipality and enforceable thereunder.

"Temporary locations" means the locations that conform to Section 8(e) of the Part 70 Operating Permit Program ordinance. (Ord. #582, Oct. 1994, as amended by Ord. #601, Oct. 1995, Ord. #603, Dec. 1995, and Ord. #671, Dec. 1998)

**8-754. Applicability.** (a) Part 70 sources. The Part 70 Operating Permit Program ordinance applies to emissions units at part 70 sources and to part 70 sources which are defined to be:

- (1) Any major source;
- (2) Any source, including an area source, subject to a standard, limitation, or other requirement under section 111 of the Act [42 U.S.C. §7411];
- (3) Any source, including an area source, subject to a standard or other requirement under section 112 of the Act, except that a source is not required to obtain a permit solely because it is subject to regulations or requirements under section 112(r) of the Act [42 U.S.C. §7412(r)];
- (4) Any affected source; and
- (5) Any source in a source category designated by the administrator pursuant to 40 CFR §70.3 and which, in the event of such designation, shall be included into local law by amendment to the ordinance.

(b) Source category exemptions.

- (1) The following sources listed in paragraph (a) of this section that are not major sources, affected sources, or solid waste incineration units required to obtain a permit pursuant to section 129(e) of the Act [42 U.S.C. § 7429], are not Part 70 sources and are

exempted from the obligation to obtain a part 70 permit until such time as specified below:

a. Perchloroethylene dry cleaning facilities. Pursuant to Title 40 CFR Part 63, § 63.320 of Subpart M--National Perchloroethylene Air Emission Standards for Dry Cleaning Facilities, as amended at 61 FR 27788 on June 3, 1996, a source subject to Subpart M that is neither a "major source," as defined in § 8-702, nor a source located at a major source, is deferred from Part 70 source operating permit program requirements until December 9, 1999. Each source subject to this deferral shall submit its Part 70 permit application not later than December 9, 2000. Each source subject to this deferral shall meet the compliance schedule as stated in Title 40 CFR Part 63, § 63.320, which has been incorporated by reference in Chapter 7.

(2) In the case of non-major sources subject to a standard or other requirement promulgated under either section 111 or section 112 of the Act [42 U.S.C. §7411 or 7412] after July 21, 1992, the administrator has reserved the right to determine whether to exempt any or all such applicable sources from the requirement to obtain a part 70 permit and such determination will be incorporated thereafter by amendment of the Part 70 Operating Permit Program ordinance.

(3) Any source listed in paragraph (a) of this section which has been declared exempt from the requirement to obtain a permit under this section may opt to apply for a permit under a part 70 program.

(4) The following source categories are exempted from the obligation to obtain a part 70 permit:

(i) All sources and source categories that would be required to obtain a permit solely because they are subject to 40 CFR Part 60, Subpart AAA - Standards of Performance for New Residential Wood Heaters; and

(ii) All sources and source categories that would be required to obtain a permit solely because they are subject to 40 CFR Part 61, Subpart M - National Emission Standard for Hazardous Air Pollutants for Asbestos, § 61.145, Standard for Demolition and Renovation.

(5) Research and development facilities and operations (R & D operations) are not exempt sources or exempt emissions units, but R & D operations are entitled to special treatment. The permitting authority will treat an R & D facility as separate from the manufacturing facility with which it is co-located. The R & D facility will be treated as though it were a separate source and is required to have a part 70 permit only if the R & D facility itself is a major source.

(c) Emissions units and part 70 sources.



(1) For major sources, the permitting authority shall include in the permit all applicable requirements for all relevant emissions units in the major source.

(2) For any non-major source subject to the part 70 program under paragraphs (a) or (b) of this section, the permitting authority shall include in the permit all applicable requirements applicable to emissions units that cause the source to be subject to the part 70 program.

(d) Fugitive emissions. Fugitive emissions from a part 70 source shall be included in the part 70 permit application and the part 70 permit in the same manner as stack emissions, regardless of whether the source category in question is included in the list of sources contained in the definition of major source.

(e) Synthetic minor sources. A part 70 source may choose to request federally enforceable physical or operational limitations on its potential to emit in order to avoid applicability of the Part 70 Operating Permit Program ordinance. Such source must:

(1) Comply with all requirements of the "Installation permit, temporary operating permit, certificate of operation, and solid fuel permit" section in the air pollution control ordinance of this municipality;

(2) Undergo public participation requirements. This requires that notice of a draft initial certificate(s) of operation for a synthetic minor source shall be given to the general public at least thirty (30) days in advance of a public hearing on the draft initial certificate(s) of operation and shall provide at least thirty (30) days for public comment. Such notice shall be given by publication in a newspaper of general circulation in Hamilton County, Tennessee. In addition, a copy of the draft certificate(s) of operation for a synthetic minor source shall be delivered to the U.S. Environmental Protection Agency at least thirty (30) days in advance of a public hearing on the draft certificate(s) of operation. Such advance notice must be given and a public hearing must be held prior to issuance of any certificate of operation to a synthetic minor source. Any certificate of operation issued to a synthetic minor source shall contain a statement of basis comparing the source's potential to emit with the synthetic limit to emit and a description of the procedures to be followed that will insure that the limit on which the director bases a determination that a source is a synthetic minor source and not a "major source", as defined in the Part 70 Operating Permit Program ordinance, is not exceeded;

(3) Submit a written request to the permitting authority within 12 months of becoming subject to the Part 70 Operating Permit Program ordinance seeking synthetic minor source status. This

request must contain the proposed physical and operational limitations on potential to emit; and

(4) Be granted synthetic minor source status and maintain the operational and other criteria by which it gained that designation. (Ord. #582, Oct. 1994, as amended by Ord. #671, Dec. 1998)

**8-755. Local program submittals and transition.** (a) The permitting authority shall develop and the board shall adopt by resolution, the following:

(1) A complete program description describing how the municipality through the permitting authority intends to carry out its responsibilities under 40 CFR Part 70.

(2) (i) Copies of the permit form(s), application form(s), and reporting form(s) that the permitting authority intends to employ in its program; and

(ii) Relevant guidance issued by the permitting authority to assist in the implementation of its permitting program, including criteria for monitoring source compliance (e.g., inspection strategies).

(3) A demonstration, consistent with Section 11(c) of the Part 70 Operating Permit Program ordinance and with 40 CFR § 70.9, that the permit fees required by the program are sufficient to cover permit program costs. (Ord. #582, Oct. 1994)

**8-756. Permit applications.** (a) Duty to apply. For each part 70 source, the owner or operator shall submit to the permitting authority a timely and complete permit application in accordance with the requirements of 40 CFR Part 70 and the requirements of the Part 70 Operating Permit Program ordinance.

(1) Timely application.

(i) A timely application for a source applying for a part 70 permit for the first time is one that is submitted within 12 months after the source becomes subject to the Part 70 Operating Permit Program ordinance.

(ii) Part 70 sources or emissions units at part 70 sources required to meet the requirements under section 112(g) of the Act [42 U.S.C. §7412], or to have a permit under the preconstruction review program approved into the applicable implementation plan under part C or D of Title I of the Act, shall file a complete application to obtain the part 70 permit or permit revision within 12 months after commencing operation or on or before such earlier date as the permitting authority may establish. Any operation prior to obtaining a fully approved part 70 permit shall be subject to any applicable requirements of the

provisions of the Part 70 Operating Permit Program ordinance. Where an existing part 70 permit would prohibit such construction or change in operation, the source must obtain a permit revision before commencing operation.

(iii) For purposes of permit renewal, a timely application is one that is submitted at least 6 months prior to the date of permit expiration.

(iv) Applications for initial phase II acid rain permits shall be submitted to the permitting authority by January 1, 1996 for sulfur dioxide, and by January 1, 1998 for nitrogen oxides.

(2) Complete application. To be deemed complete, an application must provide all information required pursuant to paragraph (c) of this section, except that applications for permit revision need supply such information only if it is related to the proposed change. Information required under paragraph (c) of this section must be sufficient to evaluate the subject source and its application and to determine all applicable requirements. The application shall require that a responsible official certify the submitted information consistent with paragraph (d) of this section. Unless the permitting authority determines that an application is not complete within 60 days of receipt of the application, such application shall be deemed to be complete, except as otherwise provided in Section 9(a)(4) of the Part 70 Operating Permit Program ordinance. If, while processing an application that has been determined or deemed to be complete, the permitting authority determines that additional information is necessary to evaluate or take final action on that application, it may request such information in writing and set a reasonable deadline for a response. The source shall furnish the required information. The source's ability to operate without a part 70 permit, as set forth in Section 9(b) of the Part 70 Operating Permit Program ordinance, shall be in effect from the date the application is determined or deemed to be complete until the final permit is issued, provided that the applicant submits any requested additional information by the deadline specified by the permitting authority. Any terms and conditions effective in the most recently issued installation permits and certificates of operation issued to a Part 70 source in accordance with § 8-708 of the East Ridge Air Pollution Control Ordinance prior to the effective date of its initial issued Part 70 permit shall continue in full force and effect pending final action on the application. A completeness determination shall be made within 60 days of receipt of the application.

(3) Confidential information. In the case where a source has submitted information to the permitting authority under a claim of

confidentiality, the permitting authority may also require the source to submit a copy of such information directly to the administrator.

(b) Duty to supplement or correct application. Any applicant who fails to submit any relevant facts or who has submitted incorrect information in a permit application shall, upon becoming aware of such failure or incorrect submittal, promptly submit such supplementary facts or corrected information. In addition, an applicant shall provide additional information as necessary to address any requirements that become applicable to the source after the date it filed a complete application but prior to release of a draft permit.

(c) Standard application form and required information. The permitting authority shall provide for a standard application form or forms. Information as described below for each emissions unit at a part 70 source shall be included in the application. The administrator has reserved the overriding authority under 40 CFR § 70.5(c) to approve or disapprove a list of insignificant activities and emissions levels. Subject to the approval of the administrator and effective only after such approval, the activities listed at Section 7(c)(11) of the Part 70 Operating Permit Program ordinance are deemed to be insignificant activities that need not be included in the permit application. Subject to the approval of the administrator and effective only after such approval, the activities listed at Section 7(c)(12) of the Part 70 Operating Permit Program ordinance are deemed to be insignificant activities because of size or production rate that must be included in the permit application in accordance with the permit forms as approved by the board pursuant to Section 6(a)(2) of the Part 70 Operating Permit Program ordinance. The activities listed at Section 7(c)(12) need not comply with the requirements of Section 7(a)(2), Section 8(a)(3) and Section 8(c)(5) of the Part 70 Operating Permit Program ordinance. An application may not omit information needed to determine the applicability of, or to impose, any applicable requirement, or to evaluate the fee amount required under the schedule approved pursuant to 40 CFR § 70.9. The forms and attachments chosen, however, shall include the elements specified below:

(1) Identifying information, including company name and address (or plant name and address if different from the company name), owner's name and agent, and telephone number and names of plant site manager/contact.

(2) A description of the source's processes and products (by Standard Industrial Classification Code) including any associated with each alternate scenario identified by the source.

(3) The following emissions-related information:

(i) All emissions of pollutants for which the source is major, and all emissions of regulated air pollutants. A permit application shall describe all emissions of regulated air pollutants emitted from any emissions unit, except where such

units are exempted under this paragraph (c). The permitting authority shall require additional information related to the emissions of air pollutants sufficient to verify which requirements are applicable to the source, and other information necessary to collect any permit fees owed under the fee schedule approved pursuant to Section 11(b) of the Part 70 Operating Permit Program ordinance.

(ii) Identification and description of all points of emissions described in paragraph (c)(3)(i) of this section in sufficient detail to establish the basis for fees and applicability of requirements of the Act.

(iii) Emissions rates in tons per year (tpy) and in such terms as are necessary to establish compliance consistent with the applicable standard reference test method.

(iv) The following information to the extent it is needed to determine or regulate emissions: fuels, fuel use, raw materials, production rates, and operating schedules.

(v) Identification and description of air pollution control equipment and compliance monitoring devices or activities.

(vi) Limitations on source operation affecting emissions or any work practice standards, where applicable, for all regulated pollutants at the part 70 source.

(vii) Other information required by any applicable requirement (including information related to stack height limitations developed pursuant to section 123 of the Act [42 U.S.C. §7423]).

(viii) Calculations on which the information in items (i) through (vii) above is based.

(4) The following air pollution control requirements:

(i) Citation and description of all applicable requirements, and

(ii) Description of or reference to any applicable test method for determining compliance with each applicable requirement.

(5) Other specific information that may be necessary to implement and enforce other applicable requirements of the Act or of this part or to determine the applicability of such requirements.

(6) An explanation of any proposed exemptions from otherwise applicable requirements.

(7) Additional information as determined to be necessary by the permitting authority to define alternative operating scenarios identified by the source pursuant to Section 8(a)(9) of the Part 70 Operating Permit Program ordinance or to define permit terms and

conditions implementing Section 9(i) or Section 8(a)(10) of the Part 70 Operating Permit Program ordinance.

(8) A compliance plan for all part 70 sources that contains all the following:

(i) A description of the compliance status of the source with respect to all applicable requirements.

(ii) A description as follows:

(A) For applicable requirements with which the source is in compliance, a statement that the source will continue to comply with such requirements.

(B) For applicable requirements that will become effective during the permit term, a statement that the source will meet such requirements on a timely basis.

(C) For requirements for which the source is not in compliance at the time of permit issuance, a narrative description of how the source will achieve compliance with such requirements.

(iii) A compliance schedule as follows:

(A) For applicable requirements with which the source is in compliance, a statement that the source will continue to comply with such requirements.

(B) For applicable requirements that will become effective during the permit term, a statement that the source will meet such requirements on a timely basis. A statement that the source will meet in a timely manner applicable requirements that become effective during the permit term shall satisfy this provision, unless a more detailed schedule is expressly required by the applicable requirement.

(C) A schedule of compliance for sources that are not in compliance with all applicable requirements at the time of permit issuance. Such a schedule shall include a schedule of remedial measures, including an enforceable sequence of actions with milestones, leading to compliance with any applicable requirements for which the source will be in noncompliance at the time of permit issuance. This compliance schedule shall resemble and be at least as stringent as that contained in any judicial consent decree or administrative order to which the source is subject. Any such schedule of compliance shall be supplemental to, and shall not sanction noncompliance with, the applicable requirements on which it is based.

(iv) A schedule for submission of certified progress reports no less frequently than every 6 months for sources required to have a schedule of compliance to remedy a violation.

(v) The compliance plan content requirements specified in this paragraph shall apply and be included in the acid rain portion of a compliance plan for an affected source, except as specifically superseded by regulations promulgated under Title IV of the Act which are incorporated by reference in Section 3(d) of the Part 70 Operating Permit Program ordinance with regard to the schedule and method(s) the source will use to achieve compliance with the acid rain emissions limitations.

(9) Requirements for compliance certification, including the following:

(i) A certification of compliance with all applicable requirements by a responsible official consistent with paragraph (d) of this section and section 114(a)(3) of the Act [42 U.S.C. §7414];

(ii) A statement of methods to be used for determining compliance, including a description of monitoring, recordkeeping, and reporting requirements and test methods;

(iii) A schedule for submission of compliance certifications during the permit term, to be submitted no less frequently than annually, or more frequently if specified by the underlying applicable requirement or by the permitting authority; and

(iv) A statement indicating the source's compliance status with any applicable enhanced monitoring and compliance certification requirements of the Act provided that these requirements have been identified in the Part 70 Operating Permit Program ordinance by amendment subsequent to the action of the administrator.

(10) The use of nationally-standardized forms for acid rain portions of permit applications and compliance plans, as required by regulations promulgated under Title IV of the Act.

(11) The following activities, due to de minimus emissions levels, are deemed to be insignificant activities that need not be included in the permit application provided that potential emissions of criteria pollutants from an activity listed in § 8-756(c)(11) by a Part 70 source are less than five (5) tons per year; and provided that potential emissions of any single hazardous air pollutant from an activity listed in § 8-756(c)(11) by a Part 70 source are less than one thousand (1000) pounds per year; and provided that the activity involves no potential emissions of any Class I substance or Class II substance as defined in Title 42 U.S.C. 7671; and further provided that the activity listed in

§ 8-756(c)(11) is not subject to an applicable requirement, as that term is defined in § 8-753. Potential emissions of any air pollutant that is both a criteria pollutant and a hazardous air pollutant shall be subject to the more stringent threshold of 1000 pounds per year for the purposes of § 8-756(c)(11).

(i) Mobile sources such as: automobiles, trucks, buses, locomotives, planes, boats, and ships. This exemption only applies to the emissions from the internal combustion engines used exclusively to propel such vehicles;

(ii) Equipment used on farms for soil preparation, tending or harvesting of crops, or for preparation of feed to be used on the farm where prepared, except if subject to Title 40 CFR Part 60, Subpart DD, incorporated by reference in § 8-741, Rule 15;

(iii) Barbecue pits and cookers; if the products are edible (intended for human consumption), and are sold on site, or at one location;

(iv) Any air emission or air emission unit at a domestic residence for domestic use except where open burning requires permit issuance or is expressly prohibited;

(v) Wood smoking operations to cure tobacco in barns;

(vi) Operations exempted under Rule 6 of the air pollution control ordinance of this municipality;

(vii) Natural gas mixing and treatment operations including sampling and testing, except if subject to Title 40 CFR Part 60, Subparts KKK or LLL, incorporated by reference in § 8-741, Rule 15;

(viii) Wire drawing including drawing coolants and lubricants provided-that they are water based;

(ix) Open air drying of wood;

(x) Exterior washing of trucks and vehicles, except with cleaners containing volatile organic compounds;

(xi) Sealing or cutting plastic film or foam with heat or hot wires, except processes that emit chlorofluorocarbons;

(xii) Combustion units designed and used exclusively for comfort heating purposes employing liquid petroleum gas, or natural gas as fuel;

(xiii) Comfort air conditioning systems or comfort ventilating systems which are not used to remove air contaminants generated by or released from specific units of equipment, except any activity subject to an applicable requirement promulgated under Title VI of the Act in Title 40 CFR Part 82;



(xiv) Water cooling towers (except for those at nuclear power plants), water treating systems for process cooling water or boiler feedwater, and water tanks, reservoirs, or other water containers designed to cool, store, or otherwise handle water (including rainwater) that has not been in contact with gases or liquids containing carbon compounds, sulfur compounds, halogens or halogen compounds, cyanide compounds, inorganic acids, or acid gases, except for those using chromium-based water treatment chemicals;

(xv) Equipment used for hydraulic, or hydrostatic testing;

(xvi) Equipment used exclusively to store or hold dry natural gas, except if subject to Title 40 CFR Part 60, Subparts KKK or LLL, incorporated by reference in § 8-741, Rule 15;

(xvii) Gasoline, diesel fuel, and fuel oil handling facilities, equipment, and storage tanks, except those subject to Section 4 "Applicable Requirements" (3) of the Part 70 Operating Permit Program ordinance and Rule 25.7, Rule 25.8, and Rule 25.9 of the air pollution control ordinance of this municipality;

(xviii) Blast cleaning equipment using a suspension of abrasives in water;

(xvix) Laboratory equipment used exclusively for chemical and physical analyses, including ventilating and exhaust systems for laboratory hoods used for air contaminants other than radioactive air contaminants;

(xx) Reserved;

(xxi) Equipment used for inspection of metal products;

(xxii) Brazing, soldering, or welding operations which do not release hexavalent chromium compounds or hazardous air pollutants subject to regulations promulgated pursuant to Section 112 of the Act;

(xxiii) Laundry dryers, extractors, or tumblers used for fabrics cleaned with water solutions of bleach or detergents;

(xxiv) Foundry sand mold forming equipment producing molds to which no heat is applied and from which no organics are emitted;

(xxv) Reserved;

(xxvi) Mixers, blenders, roll mills, or calendars for rubber or plastics where no materials in powder form are added and in which no organic solvents, dilutents, or thinners are used;

(xxvii) Vacuum cleaning systems used exclusively for industrial, commercial, or residential housekeeping purposes, except those systems used to collect hazardous air contaminants

subject to Section 4 "Applicable Requirements" (3) of the Part 70 Operating Permit Program ordinance;

(xxviii) Reserved;

(xxix) Repairs or maintenance not involving structural changes where no new or permanent facilities are installed, not conducted as part of a manufacturing process, not related to the source's primary business activity, not otherwise triggering a permit modification or permanent increase in emissions, and not subject to control requirements for volatile organic compounds or hazardous air pollutants;

(xxx) Alkaline/phosphate washers and associated burners;

(xxxi) Outdoor heaters fueled by kerosene;

(xxxii) Livestock and poultry feedlots;

(xxxiii) Reserved;

(xxxiv) Blueprint copiers and photocopying;

(xxxv) Reserved;

(xxxvi) Reserved;

(xxxvii) Funeral homes, excluding crematoriums;

(xxxviii) Gas flares or flares used solely to indicate danger to the public;

(xxxix) Firefighting equipment and the equipment used to train firefighters;

(xl) Equipment used for cooking food for immediate human consumption;

(xli) Blacksmith forges;

(xlii) Clean steam condensate and steam relief vents;

(xliii) Boiler water treatment operations, excluding cooling towers;

(xliv) Reserved;

(xlv) Herbicide and pesticide dilution and application activities for on site use;

(xlvi) Routine building maintenance, lawn maintenance, housekeeping, and administrative activities, such as painting buildings, roofing, sandblasting, paving parking lots, lawn care activities, all clerical activities, and all janitorial activities;

(xlvii) Miscellaneous activities and equipment, such as: cafeteria vents, bathroom vents, locker room vents, copying, blue print machines, decommissioned equipment, dumpsters, fire training, refrigerators, and space heaters;

(xlviii) Cold storage refrigerator equipment, excluding equipment that uses a Class I substance or a Class II substance as defined in Title 42 U.S.C. 7671;

(il) Equipment used for portable steam cleaning;

- (l) Non-routine clean out of tanks and equipment for the purposes of worker entry or in preparation for maintenance or decommissions;
  - (li) Sampling connections used exclusively to withdraw materials for testing and analysis, including air contaminant detectors and vent lines;
  - (lii) Laboratories in primary and secondary schools and in schools of higher education used for instructional purposes;
  - (liii) Equipment used exclusively for rolling, forging, pressing, stamping, spinning, drawing, or extruding either hot or cold metals unless their emissions exceed any applicable regulated amount;
  - (liv) Reserved;
  - (lv) Grain, metal or mineral extrusion process;
  - (lvi) Equipment used exclusively for mixing and blending water-based adhesives and coatings at ambient temperatures and from which no organics are released;
  - (lvii) Reserved;
  - (lviii) Steam heated wood drying kilns, not used for chemically treated wood;
  - (lix) Unpaved roadways and parking areas not regularly used for traffic unless permits have specific conditions limiting fugitive emissions;
  - (lx) Warehouse activities, including the storage of packaged raw materials and finished goods, excluding activities that emit hazardous air pollutants or volatile organic compounds;
  - (lxi) Electric stations, including transformers, battery charging and substations, excluding activities that emit polychlorinated biphenyls (PCBs);
  - (lxii) Compressors and vacuum producing equipment not fueled by gasoline or diesel;
  - (lxiii) Groundwater monitoring wells;
  - (lxiv) Reserved;
  - (lxv) Use of materials for marking and grading of lumber, and the storage of lumber;
  - (lxvi) Reserved;
  - (lxvii) Reserved;
  - (lxviii) Equipment used in the production of aqueous inks in which no organic solvents, dilutents, or thinners are used;
  - (lxix) Equipment used to transport or store process wastewater streams to a wastewater treatment facility (i.e. floor drains, sumps, drain headers, manhole covers);
  - (lxx) Vacuum seal pot and vacuum pumps;

(lxxi) Presses used exclusively for extruding metals, minerals, plastics, rubber, or wood except where halogenated carbon compounds or hydrocarbon organic solvents are used as foaming agents. Presses used for extruding scrap materials or reclaiming scrap materials are not insignificant activities;

(lxxii) Tank trucks, railcars, barges, and trailers, excluding transfer and loading operations that are subject to an applicable requirement, as defined in § 8-753 of this chapter, and excluding internal cleaning operations that emit hazardous air pollutants or volatile organic compounds;

(lxxiii) Dumpsters;

(lxxiv) Environmental field sampling activities;

(lxxv) Cleaning, polishing, and other housekeeping activities associated with custodial duties;

(lxxvi) Instrument air dryers and distribution;

(lxxvii) Automatic oiling operations (e.g., oiler on chains);

(lxxviii) Machine blowdown with air for cleanup;

(lxxix) Architectural, structural, and maintenance coating operations in which the articles being coated are coated in place, excluding activities that are part of a manufacturing process or that are part of the source's primary business activity;

(lxxx) Sand blasting operations in which the operations are conducted on articles which are fixed in place, excluding activities that are part of a manufacturing process or that are part of the source's primary business activity;

(lxxxii) Welding operations for maintenance or field fabrication in which the articles being welded are fixed in place;

(lxxxii) Sanitary sewer systems;

(lxxxiii) Reserved;

(lxxxiv) Use of office equipment and supplies;

(lxxxv) Treatment systems for potable water; and

(lxxxvi) Coal-Fired Steam Generating Facilities

Insignificant Activities are as follows:

Bunker room exhaust;

Coal sampling and weighing operations;

Vents from ash transport systems not operating at positive pressure (e.g. ash hoppers);

Coal combustion by-product disposal (except for dry stacking and intermittent ash hauling and disposal);

Building ventilation other than boiler room, coal handling, and ash loading (e.g. turbine room, battery room);

Lubrication of equipment except vents from oil vapor extractors;  
 Hydrogen vents;  
 Steam vents;  
 Air compressor and distribution systems;  
 Fugitive dust from operation of a passenger automobile, station wagon, pickup truck, or van;  
 Pressure relief valves;  
 Test gases and bottled gases;  
 Emissions from a laboratory (If a facility manufactures or produces products for profit in any quantity, it may not be considered to be a laboratory under this item);  
 Safety devices such as fire extinguishers;  
 Equipment used for hydraulic or hydrostatic testing;  
 Food preparation for onsite consumption;  
 Boiler room ventilation; and  
 Oil vapor extractor (e.g. turbine seal oil, turbine lube oil).  
 (lxxxvii) Reserved;

(12) The following activities, due to size and production rate, are deemed to be insignificant activities that must be included in the permit application in accordance with § 8-756 of this chapter provided that potential emissions of criteria pollutants from an activity listed in § 8-756(c)(12) by a Part 70 source are less than five (5) tones per year; and provided that potential emissions of any single hazardous air pollutant from an activity listed in § 8-756(c)(12) by a Part 70 source are less than one thousand (1000) pounds per year; and provided that the activity involves no potential emissions of any Class I substance or Class II substance as defined in Title 42 U.S.C. 7671; and further provided that the activity listed in § 8-756(c)(12) is not subject to an applicable requirement, as that term is defined in § 8-753. Potential emissions of any air pollutant that is both a criteria pollutant and a hazardous air pollutant shall be subject to the more stringent threshold of 1000 pounds per year for the purposes of § 8-756(c)(12).

(i) Fuel burning equipment of less than 500,000 Btu per hour capacity. This exemption shall not apply where the total capacity of all fuel burning equipment operated at a fuel burning installation exceeds 2.00 million Btu per hour;

(ii) A single stack of an air contaminant source that emits no regulated gaseous pollutants or any pollutants defined at Section 4 "Regulated Air Pollutants" (5) of the Part 70 Operating Permit Program ordinance and which does not have potential emissions of more than 0.500 pounds per hour of particulates, provided that the total amounts to less than two (2)

pounds per hour. For the purpose of this subparagraph, an air contaminant source includes all sources located within a contiguous area and under common control. This insignificant activity designation does not apply to incinerators or sources emitting lead or lead compounds.

(iii) Natural gas or propane-fired stationary internal combustion engines with less than 5 million Btu/hour heat input.

(iv) Processes used for the curing of rubber products and plastic products, except when emitting more than 1 pound per hour of volatile organic compounds. If applicable, associated heat input using natural gas, #2 fuel oil, or propane shall not exceed 5 million BTU per hour.

(v) Surface coating and degreasing operations which do not exceed a combined total usage of more than 60 gallons/month of coatings, thinners, clean-up solvents, and degreasing solvents, at any one location.

(vi) Fuel burning sources that are either gas fired or #2 oil fired with a heat input rate under 5 million Btu/hour, where the combined total heat input rate at each location does not exceed 5 million Btu/hour. This exemption does not apply to gas fired turbines greater than 5 million Btu/hour.

(vii) Machining of metals where total solvent usage does not exceed more than 60 gallons/month at any one location.

(viii) Non-continuous solvent recycling units with less than 60 gallons capacity.

(ix) Hand-held sprayer and airbrush graphic arts operations in which total organic solvent emissions from such operations at a facility do not exceed 15 pounds per day.

(x) Emission units not otherwise exempt under this paragraph with uncontrolled emissions of 100 pounds per year or less of any Class I or Class II substance subject to a standard promulgated under or established by Title VI of the Act concerning stratospheric ozone protection.

(xi) Any change in the activity or level of operation of an air emissions unit that has the potential to increase emissions of any regulated air pollutant by less than 5 tons per year unless the change in the activity or level of operation increases the air emissions unit's potential to emit any regulated air pollutant to above 5 tons per year or if the change in the activity or level of operation is subject to Section 4 "Applicable requirements" (3) and (4) of the Part 70 Operating Permit Program ordinance.

(xii) Industrial wastewater treatment facilities which do not use air stripping or air sparging and do not release more than 0.5 tons/year of any regulated pollutant.

(xiii) Process equipment burning natural gas or #2 fuel oil with a heat input rate under 5 million Btu/hour where the combined total heat input rate at each facility does not exceed 5 million BTU/hour. Only the fuel burning emissions from these sources are considered insignificant activities.

(xiv) All storage tanks with a capacity of no more than 1,000 gallons (including 55 gallon drums used only for storage) except those emitting any hazardous air pollutant as set forth at Section 4 "Applicable Requirements" (4) of the Part 70 Operating Permit Program ordinance.

(xv) All process tanks with a capacity of no more than 1,000 gallons where the combined total emissions from such tanks are less than 0.5 tons of any regulated air pollutant combined.

(xvi) Equipment used for compression molding and injection molding of plastics, excluding processes that involve the use of acrylics, polystyrene and related copolymers, and plasticizer, and limited to the blowing agents oxygen, nitrogen, carbon dioxide, air that is a mixture of gases with a composition of approximately 78% nitrogen and 21% oxygen by volume, or inert gas;

(xvii) All gas fired, #2 oil fired, infrared, and electric ovens with a heat input of no more than 5 million BTU/hour which have no emissions other than products of fuel combustion, unless they are associated with a source subject to § 8-753 "Applicable requirement" (3) of this chapter;

(xviii) Powder coating operations;

(xix) An "emergency generator" which is used when loss of primary electrical power occurs for reasons beyond the control of the source. In no event shall an "emergency generator" be operated for a period of time longer than 5 consecutive days or more than a total of 20 days in any calendar year, unless a source demonstrates to the director with clear and convincing evidence that reasonably unforeseeable events beyond the control of the source require use of the "emergency generator" for an additional period of time. The source shall maintain a written record of each loss of primary electrical power, including a record of the loss;

(xx) Equipment used exclusively for rolling, forging, pressing, stamping, spinning or extruding either hot or cold plastics that do not emit hazardous air pollutants;

(xxi) Lubricants and waxes used for machinery lubrication.

(d) Any application form, report, or compliance certification submitted pursuant to these regulations shall contain a certification by a responsible official of truth, accuracy, and completeness. This certification and any other certification required under the Part 70 Operating Permit Program ordinance shall state that, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete.

(e) Transition plan. It is required that:

(1) Submittal of permit applications by all part 70 sources shall occur within 1 year after the date of approval of the permit program by the administrator.

(2) Final action shall be taken on at least one-third of such applications each year over a period not to exceed 3 years after the date of approval of the permit program by the administrator. Complete permit applications shall be processed in the order received with the first third of the part 70 permits issued within one year after the applications are submitted to the first third received; the second third within two years after the applications are submitted to remaining sources as determined by a random lottery; and the third issued within three years after the applications are submitted to the remaining sources. Initial issuance of part 70 permits may be for three, four or five year permit terms at the discretion of the director.

(3) Any complete permit application containing an early reduction demonstration under section 112(i)(5) of the Act [42 U.S.C. §7412] shall be acted on within 9 months of receipt of the complete application; and

(4) Submittal of permit applications and the permitting of affected sources shall occur in accordance with the deadlines in Title IV of the Act and set forth at Section 7(a)(1)(iv) of the Part 70 Operating Permit Program ordinance and the applicable requirements promulgated under Title IV of the Act and incorporated by reference in the Part 70 Operating Permit Program ordinance at Section 3(d). (Ord. #582, Oct. 1994, as amended by Ord. #604, Feb. 1996, and Ord. #671, Dec. 1998)

**8-757. Permit content.** The permitting authority shall issue and enforce permits in this municipality which conform with these provisions and shall require compliance therewith:

(a) Standard permit requirements. Each permit issued under this part shall include the following elements:

(1) Emission limitations and standards, including those operational requirements and limitations that assure compliance with



all applicable requirements at the time of permit issuance and all requirements of 40 CFR Part 70 that apply to the emissions units and to the source.

(i) The permit shall specify and reference the origin of and authority for each term or condition, and identify any difference in form as compared to the applicable requirement upon which the term or condition is based.

(ii) The permit shall state that, where an applicable requirement of the Act is more stringent than an applicable requirement of regulations promulgated under Title IV of the Act and incorporated by reference in the Part 70 Operating Permit Program ordinance at Section 3(d), both provisions shall be incorporated into the permit and shall be legally enforceable.

(iii) Because the air pollution control ordinance of this municipality allows a determination of an alternative emission limit at a source, equivalent to that contained in the "Rules Adopted" section in the air pollution control ordinance of this municipality, to be made in the permit issuance, renewal, or significant modification process, if the permitting authority elects to use such process, any permit containing such equivalency determination shall contain provisions to ensure that any resulting emissions limit has been demonstrated to be quantifiable, accountable, enforceable, and based on replicable procedures.

(2) Permit duration. The permitting authority shall issue permits for a fixed term of 5 years in the case of affected sources, and for a term not to exceed 5 years in the case of all other part 70 sources. Notwithstanding this requirement, the permitting authority shall issue permits for solid waste incineration units combusting municipal waste subject to standards under section 129(e) of the Act [42 U.S.C. §7429(e)] for a period not to exceed 12 years and shall review such permits at least every 5 years. Any permit issued for a term of more than 3 years shall contain a condition that if EPA promulgates regulations or requirements which would be applicable to the source or any emissions unit of the source, then the permit will be reopened by agreement and the applicable requirement incorporated into the permit. Acceptance of the permit by the source constitutes consent to the agreement.

(3) Monitoring and related recordkeeping and reporting requirements.

(i) Each permit shall contain the following requirements with respect to monitoring:

(A) All monitoring and analysis procedures or test methods required under applicable monitoring and

testing requirements, including Title 42 CFR Part 64, which has been incorporated by reference in Chapter 7, and any other procedures and methods promulgated pursuant to sections 504(b) [42 U.S.C. § 7661c.(b)] or 114(a)(3) [42 U.S.C. § 7414(a)(3)] of the Act provided that these methods and procedures have been identified in this ordinance by amendment subsequent to the action of the administrator. If more than one monitoring or testing requirement applies, the permit may specify a streamlined set of monitoring or testing provisions provided the specified monitoring or testing is adequate to assure compliance at least to the same extent as the monitoring or testing applicable requirements that are not included in the permit as a result of such streamlining;

(B) Where the applicable requirement does not require periodic testing or instrumental or noninstrumental monitoring (which may consist of recordkeeping designed to serve as monitoring), periodic monitoring sufficient to yield reliable data from the relevant time period that are representative of the source's compliance with the permit, as reported pursuant to paragraph (a)(3)(iii) of this section. Such monitoring requirements shall assure use of terms, test methods, units, averaging periods, and other statistical conventions consistent with the applicable requirement. The permitting authority shall determine whether and in what cases recordkeeping provisions are sufficient to meet the requirements of this paragraph (a)(3)(i)(B); and

(C) As necessary, requirements concerning the use, maintenance, and, where appropriate, installation of monitoring equipment or methods.

(ii) With respect to recordkeeping, the permit shall incorporate all applicable recordkeeping requirements and require, where applicable, the following:

(A) Records of required monitoring information that include the following:

- (1) The date, place as defined in the permit, and time of sampling or measurements;
- (2) The date(s) analyses were performed;
- (3) The company or entity that performed the analyses;
- (4) The analytical techniques or methods used;

(5) The results of such analyses; and

(6) The operating conditions as existing at the time of sampling or measurement;

(B) Retention of records of all required monitoring data and support information for a period of at least 5 years from the date of the monitoring sample, measurement, report, or application. Support information includes all calibration and maintenance records and all original strip-chart recordings for continuous monitoring instrumentation, and copies of all reports required by the permit.

(iii) With respect to reporting, the permit shall incorporate all applicable reporting requirements and require the following:

(A) Submittal of reports of any required monitoring at least every 6 months. All instances of deviations from permit requirements must be clearly identified in such reports. All required reports must be certified by a responsible official consistent with Section 7(d) of the Part 70 Operating Permit Program ordinance.

(B) Prompt reporting of deviations from permit requirements, including those attributable to upset conditions as defined in the permit, the probable cause of such deviations, and any corrective actions or preventive measures taken. The permitting authority shall define "prompt" in the permit in relation to the degree and type of deviation likely to occur and the applicable requirements.

(4) A permit condition prohibiting emissions exceeding any allowances that the source lawfully holds under Title IV of the Act or the regulations promulgated thereunder and incorporated by reference in the Part 70 Operating Permit Program ordinance at Section 3(d).

(i) No permit revision shall be required for increases in emissions that are authorized by allowances acquired pursuant to the acid rain program, provided that such increases do not require a permit revision under any other applicable requirement.

(ii) No limit shall be placed on the number of allowances held by the source. The source may not, however, use allowances as a defense to noncompliance with any other applicable requirement.

(iii) Any such allowance shall be accounted for according to the procedures established in regulations promulgated under Title IV of the Act and incorporated by

reference in the Part 70 Operating Permit Program ordinance at Section 3(d).

(5) A severability clause to ensure the continued validity of the various permit requirements in the event of a challenge to any portions of the permit.

(6) Provisions stating the following:

(i) The permittee must comply with all conditions of the part 70 permit. Any permit noncompliance constitutes a violation of both the ordinance and the federal Act and is grounds for joint or several enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application.

(ii) It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

(iii) The permit may be modified, revoked, reopened, and reissued, or terminated for cause. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or of a notification of planned changes or anticipated noncompliance does not stay any permit condition.

(iv) The permit does not convey any property rights of any sort, or any exclusive privilege.

(v) The permittee shall furnish to the permitting authority, within a reasonable time, any information that the permitting authority may request in writing to determine whether cause exists for modifying, revoking and reissuing, or terminating the permit or to determine compliance with the permit. Upon request, the permittee shall also furnish to the permitting authority copies of records required to be kept by the permit or, for information claimed to be confidential, the permittee may furnish such records directly to the administrator along with a claim of confidentiality.

(7) A provision to ensure that a part 70 source pays fees to the permitting authority consistent with the fee schedule approved pursuant to 40 CFR §70.9 and set forth in Section 11 of the Part 70 Operating Permit Program ordinance.

(8) Emissions trading. A provision stating that no permit revision shall be required, under any economic incentives, marketable permits, emissions trading and other similar programs or processes which have been approved by the permitting authority for changes that are provided for in the permit, but only when and where emissions trading is allowable and has been approved.

(9) Terms and conditions for reasonably anticipated operating scenarios identified by the source in its application as approved by the permitting authority. Such terms and conditions:

(i) Shall require the source, contemporaneously with making a change from one operating scenario to another, to record in a log at the permitted facility a record of the scenario under which it is operating;

(ii) May extend the permit shield described in paragraph (f) of this section to all terms and conditions under each such operating scenario; and

(iii) Must ensure that the terms and conditions of each such alternative scenario meet all applicable requirements and all the requirements of the Part 70 Operating Permit Program ordinance.

(10) Terms and conditions, if the permit applicant requests them, for the trading of emissions increases and decreases in the permitted facility, to the extent that the applicable requirements set forth in Section 4 of the Part 70 Operating Permit Program ordinance provide for trading such increases and decreases without a case-by-case approval of each emissions trade. Such terms and conditions:

(i) Shall include all terms required under Sections 8(a) and (c) of the Part 70 Operating Permit Program ordinance to determine compliance;

(ii) May extend the permit shield described in paragraph (f) of this section to all terms and conditions that allow such increases and decreases in emissions; and

(iii) Must meet all applicable requirements and requirements of the Part 70 Operating Permit Program ordinance.

(b) Federally-enforceable requirements.

(1) All terms and conditions in a part 70 permit, including any provisions designed to limit a source's potential to emit, are enforceable by the administrator and citizens under the Act.

(2) Notwithstanding paragraph (b)(1) of this section, the permitting authority shall specifically designate as not being federally enforceable under the Act any terms and conditions included in the permit that are not required under the Act or under any of its applicable requirements.

(c) Compliance requirements. All part 70 permits shall contain the following elements with respect to compliance:

(1) Consistent with paragraph (a)(3) of this section, compliance certification, testing, monitoring, reporting, and recordkeeping requirements sufficient to assure compliance with the

terms and conditions of the permit. Any document (including reports) required by a part 70 permit shall contain a certification by a responsible official that meets the requirements of Section 7(d) of the Part 70 Operating Permit Program ordinance.

(2) Inspection and entry requirements that require that, upon presentation of credentials and other documents as may be required by law, the permittee shall allow the permitting authority or an authorized representative to perform the following:

(i) Enter upon the permittee's premises where a part 70 source is located or emissions-related activity is conducted, or where records must be kept under the conditions of the permit;

(ii) Have access to and copy, at reasonable times, any records that must be kept under the conditions of the permit;

(iii) Inspect at reasonable times any facilities, equipment (including monitoring and air pollution control equipment), practices, or operations regulated or required under the permit; and

(iv) As authorized by the Act or by the Part 70 Operating Permit Program ordinance, sample or monitor at reasonable times substances or parameters for the purpose of assuring compliance with the permit or applicable requirements.

(v) For purposes of (ii), (iii), and (iv) above, reasonable times shall be considered to be customary business hours, unless reasonable cause exists to suspect noncompliance with the air pollution control ordinance of this municipality or any "Applicable requirement", as defined in Section 4 of the Part 70 Operating Permit Program ordinance or with any permit issued by the permitting authority and the director specifically authorizes a designee to inspect a facility at any other time.

(3) A schedule of compliance consistent with Section 7(c)(8) of the Part 70 Operating Permit Program ordinance.

(4) Progress reports consistent with an applicable schedule of compliance and Section 7(c)(8) of the Part 70 Operating Permit Program ordinance to be submitted at least semiannually, or at a more frequent period if specified in the applicable requirement or by the permitting authority. Such progress reports shall contain the following:

(i) Dates for achieving the activities, milestones, or compliance required in the schedule of compliance, and dates when such activities, milestones or compliance were achieved; and

(ii) An explanation of why any dates in the schedule of compliance were not or will not be met, and any preventive or corrective measures adopted.

(5) Requirements for compliance certification with terms and conditions contained in the permit, including emission limitations, standards, or work practices. Permits shall include each of the following:

(i) The frequency (not less than annually or such more frequent periods as specified in the applicable requirement or by the permitting authority) of submissions of compliance certifications;

(ii) In accordance with Section 8(a)(3) of the Part 70 Operating Permit Program ordinance, a means for monitoring the compliance of the source with its emissions limitations, standards, and work practices;

(iii) A requirement that the compliance certification include all of the following (provided that the identification of applicable information may cross-reference the permit or previous reports, as applicable):

(A) The identification of each term or condition of the permit that is the basis of the certification;

(B) The identification of the method(s) or other means used by the owner or operator for determining the compliance status with each term and condition during the certification period, and whether such methods or other means provide continuous or intermittent data. Such methods and other means shall include, at a minimum, the methods and means required under § 8-757(a)(3). If necessary, the owner or operator shall also identify any other material information that must be included in the certification to comply with Section 113(c)(2) of the Act, which prohibits knowingly making a false certification or omitting material information;

(C) The status of compliance with the terms and conditions of the permit for the period covered by the certification, based on the method or means designated in § 8-757(c)(5)(iii)(B). The certification shall identify each deviation and take it into account in the compliance certification. The certification shall also identify as possible exceptions to compliance any periods during which compliance is required and in which an excursion or exceedance is defined under Title 40 CFR Part 64 occurred; and

(D) Such other facts as the permitting authority may require to determine the compliance status of the source.

(iv) A requirement that all compliance certifications be submitted to the administrator as well as to the permitting authority; and

(6) Such other provisions as the permitting authority may require.

(d) Part 70 general permits.

(1) The permitting authority may, after notice and opportunity for public participation provided under Section 9(h) of the Part 70 Operating Permit Program ordinance, issue a general permit covering numerous similar sources. Any such general permit shall comply with all requirements applicable to other part 70 permits and shall identify criteria by which sources may qualify for the part 70 general permit. To sources that qualify, the permitting authority shall grant the conditions and terms of the part 70 general permit. Notwithstanding the shield provisions of paragraph (f) of this section, the source shall be subject to enforcement action for operation without a part 70 permit if the source is later determined not to qualify for the conditions and terms of the part 70 general permit. Part 70 general permits shall not be authorized for affected sources under the acid rain program unless otherwise provided in regulations promulgated under Title IV of the Act which are incorporated by reference in Section 3(d) of the Part 70 Operating Permit Program ordinance nor for non-part 70 sources.

(2) Part 70 sources that would qualify for a general permit must apply to the permitting authority for coverage under the terms of the general permit or must apply for a part 70 permit consistent with Section 7 of the Part 70 Operating Permit Program ordinance. The permitting authority may, in the general permit, provide for applications which deviate from the requirements of Section 7 of the Part 70 Operating Permit Program ordinance, provided that such applications meet the requirements of Title V of the Act, and include all information necessary to determine qualification for, and to assure compliance with, the general permit. Without repeating the public participation procedures required under Section 9(h) of the Part 70 Operating Permit Program ordinance, the permitting authority may grant a source's request for authorization to operate under a general permit, but such a grant shall not be a final permit action for purposes of judicial review.

(e) Temporary sources. The permitting authority may issue a single permit authorizing emissions from similar operations by the same source owner or operator at multiple temporary locations. The operation must be temporary and involve at least one change of location during the term of the permit. No affected source shall be permitted as a temporary source. Permits for temporary sources shall include the following:



(1) Conditions that will assure compliance with all applicable requirements at all authorized locations;

(2) Requirements that the owner or operator notify the permitting authority at least 10 days in advance of each change in location; and

(3) Conditions that assure compliance with all other provisions of this section.

(f) Permit shield.

(1) Except as provided in the Part 70 Operating Permit Program ordinance, the permitting authority shall, upon request by the responsible official who submits an application, expressly include in a part 70 permit a provision stating that compliance with the conditions of the permit shall be deemed compliance with any applicable requirements as of the date of permit issuance, provided that:

(i) Such applicable requirements are included and are specifically identified in the permit; or

(ii) The permitting authority, in acting on the permit application or revision, determines in writing that other requirements specifically identified are not applicable to the source, and the permit includes the determination or a concise summary thereof.

(2) A part 70 permit that does not expressly state that a permit shield exists shall be presumed not to provide such a shield.

(3) Nothing in this paragraph or in any part 70 permit shall alter or affect the following:

(i) The provisions of section 303 of the Act [42 U.S.C. §7603] (emergency orders), including the authority of the administrator or the permitting authority under that section;

(ii) The liability of an owner or operator of a source for any violation of applicable requirements prior to or at the time of permit issuance;

(iii) The applicable requirements of the acid rain program, consistent with section 408(a) of the Act [42 U.S.C. §7651g.(a)]; or

(iv) The ability of EPA to obtain information from a source pursuant to section 114 of the Act [42 U.S.C. §7414] or of the permitting authority to obtain information from a source pursuant to the Part 70 Operating Permit Program ordinance.

(g) Emergency provision.

(1) Definition. An "emergency" means any situation arising from sudden and reasonably unforeseeable events beyond the control of the source, including acts of God, which situation requires immediate corrective action to restore normal operation, and that

causes the source to exceed a technology-based emission limitation under the permit, due to unavoidable increases in emissions attributable to the emergency. An emergency shall not include noncompliance to the extent caused by improperly designed equipment, lack of preventative maintenance, careless or improper operation, or operator error.

(2) Effect of an emergency. An emergency constitutes an affirmative defense to an action brought for noncompliance with such technology-based emission limitations if the conditions of paragraph (g)(3) of this section are met, unless an ambient air violation occurs as a result of the emergency.

(3) The affirmative defense of emergency shall be demonstrated through properly signed, contemporaneous operating logs, or other relevant evidence that:

(i) An emergency occurred and that the permittee can identify the cause(s) of the emergency;

(ii) The permitted facility was at the time being properly operated;

(iii) During the period of the emergency the permittee took all reasonable steps to minimize levels of emissions that exceeded the emission standards, or other requirements in the permit; and

(iv) The permittee submitted notice of the emergency to the permitting authority within 2 working days of the time when emission limitations were exceeded due to the emergency. This notice fulfills the requirement of paragraph (a)(3)(iii)(B) of this section. This notice must contain a description of the emergency, any steps taken to mitigate emissions, and corrective actions taken.

(4) In any enforcement proceeding, the permittee seeking to establish the occurrence of an emergency has the burden of proof.

(5) This provision is in addition to any emergency or upset provision contained in any applicable requirement. (Ord. #582, Oct. 1994, as amended by Ord. #671, Dec. 1998)

**8-758. Permit issuance, renewal, reopenings, and revisions.**

(a) Action on application.

(1) A permit, permit modification, or renewal may be issued only if all of the following conditions have been met:

(i) The permitting authority has received a complete application for a permit, permit modification, or permit renewal, except that a complete application need not be received before issuance of a general permit under Section 8(d) of the Part 70 Operating Permit Program ordinance;

(ii) Except for modifications qualifying for minor permit modification procedures under Section 9(e)(1) and (2) of the Part 70 Operating Permit Program ordinance, the permitting authority has complied with the requirements for public participation under paragraph (h) of this Section 9;

(iii) The permitting authority has complied with the requirements for notifying and responding to affected states under § 8-759(b) of the Part 70 Operating Permit Program ordinance;

(iv) The conditions of the permit provide for compliance with all applicable requirements and the requirements of the Part 70 Operating Permit Program ordinance; and

(v) The administrator has received a copy of the proposed permit and any notices required under 40 CFR §§70.8(a) and 70.8(b), and has not objected to issuance of the permit under 40 CFR §70.8(c) within the time period specified therein.

(vi) No permit for a solid waste incineration unit may be issued by an agency, instrumentality or person that is also responsible, in whole or in part, for the design and construction or operation of the unit.

(2) Except as provided under the initial transition plan provided for under Section 7(e) of the Part 70 Operating Permit Program ordinance or under Title IV or Title V of the Act for the permitting of affected sources under the acid rain program, the permitting authority takes final action on each permit application (including a request for permit modification or renewal) within 18 months, or such lesser time established by the permitting authority, after receiving a complete application.

(3) Priority shall be given to taking action on applications for construction or modification under Title I, parts C and D of the Act.

(4) The permitting authority shall promptly provide notice to the applicant of whether the application is complete. Unless the permitting authority requests additional information or otherwise notifies the applicant of incompleteness within 60 days of receipt of an application, the application shall be deemed complete. For modifications processed through minor permit modification procedures, such as those in paragraphs (e)(1) and (2) of this section, a completeness determination is not required.

(5) The permitting authority shall provide a statement that sets forth the legal and factual basis for the draft permit conditions (including references to the applicable statutory or regulatory provisions). The permitting authority shall send this statement to EPA and to any other person who requests it.

(6) The submittal of a complete application shall not affect the requirement that any source or emissions unit at a part 70 source have a preconstruction permit under Title I of the Act.

(b) Requirement for a permit. Except as provided in the following sentence, Section 9(i)(1) of the Part 70 Operating Permit Program ordinance, and paragraphs Section 9(e)(1)(v) and (2)(v) of the Part 70 Operating Permit Program ordinance, no part 70 source may operate after the time that it is required to submit a timely and complete application under the Part 70 Operating Permit Program ordinance after its approval by EPA, except in compliance with a permit issued under a part 70 program. If a part 70 source submits a timely and complete application for permit issuance (including for renewal), the source's failure to have a part 70 permit is not a violation of the Part 70 Operating Permit Program ordinance until the permitting authority takes final action on the permit application, except as noted in this section. This protection shall cease to apply if, subsequent to the completeness determination made pursuant to paragraph (a)(4) of this section, and as required by Section 7(a)(2) of the Part 70 Operating Permit Program ordinance, the applicant fails to submit by the deadline specified in writing by the permitting authority any additional information identified as being needed to process the application.

(c) Permit renewal and expiration.

(1) (i) Permits being renewed are subject to the same procedural requirements, including those for public participation, affected state and EPA review, that apply to initial permit issuance; and

(ii) Permit expiration terminates the source's right to operate unless a timely and complete renewal application has been submitted consistent with paragraph (b) of this section and Section 7(a)(1)(iii) of the Part 70 Operating Permit Program ordinance.

(2) If the permitting authority fails to act in a timely way on a permit renewal, EPA may override the permitting authority to terminate or revoke and reissue the permit.

(3) If a timely and complete application for a permit renewal is submitted, consistent with Section 7(a)(2) of the Part 70 Operating Permit Program ordinance, but the permitting authority has failed to issue or deny the renewal permit before the end of the term of the previous permit, then:

(i) The permit shall not expire until the renewal permit has been issued or denied and any permit shield that may be granted pursuant to Section 8(f) of the Part 70 Operating Permit Program ordinance may extend beyond the original permit term until renewal; or

(ii) All the terms and conditions of the permit including any permit shield that may have been granted under the Part 70 Operating Permit Program ordinance or pursuant to Section 8(f) of the Part 70 Operating Permit Program ordinance shall remain in effect until the renewal permit has been issued or denied.

(4) Consistent with the requirements of the Part 70 Operating Permit Program ordinance and 40 CFR Part 70, the permitting authority is authorized to terminate, modify, or revoke and reissue permits for cause.

(5) The permitting authority shall make available to the public for inspection any permit application, compliance plan, permit, and monitoring and compliance certification report pursuant to section 503(e) of the Act [42 U.S.C. §7661b.(e)], except for information entitled to confidential treatment pursuant to section 114(c) of the Act [42 U.S.C §7414]. The contents of a part 70 permit shall not be entitled to protection under section 114(c) of the Act [42 U.S.C. §7414].

(d) Administrative permit amendments.

(1) An "administrative permit amendment" is a permit revision that:

- (i) Corrects typographical errors;
- (ii) Identifies a change in the name, address, or phone number of any person identified in the permit, or provides a similar minor administrative change at the source;
- (iii) Requires more frequent monitoring or reporting by the permittee;
- (iv) Allows for a change in ownership or operational control of a source where the permitting authority determines that no other change in the permit is necessary, provided that a written agreement containing a specific date for transfer of permit responsibility, coverage, and liability between the current and new permittee has been submitted to the permitting authority;

(v) Incorporates into the part 70 permit the requirements from preconstruction review permits authorized under an EPA-approved program, provided that such a program meets procedural requirements substantially equivalent to the requirements of Section 9 and Section 10 of the Part 70 Operating Permit Program ordinance that would be applicable to the change if it were subject to review as a permit modification, and compliance requirements substantially equivalent to those contained in Section 8 of the Part 70 Operating Permit Program ordinance; or

(vi) Incorporates any other type of change which the administrator has determined as part of the approved part 70 program to be similar to those in paragraphs (d)(1)(i) through (iv) of this section provided that such "other type of change" has been identified in the Part 70 Operating Permit Program ordinance by amendment subsequent to the action of the administrator.

(2) Administrative permit amendments for purposes of the acid rain portion of the permit shall be governed by regulations promulgated under Title IV of the Act which are incorporated by reference in the Part 70 Operating Permit Program ordinance at Section 3(d).

(3) Administrative permit amendment procedures. An administrative permit amendment may be made by the permitting authority consistent with the following:

(i) The permitting authority shall take no more than 60 days from receipt of a request for an administrative permit amendment to take final action on such request, and may incorporate such changes without providing notice to the public or affected states provided that it designates any such permit revisions as having been made pursuant to this section of the Part 70 Operating Permit Program ordinance.

(ii) The permitting authority shall submit a copy of the revised permit to the administrator.

(iii) The source may implement the changes addressed in the request for an administrative amendment immediately upon submittal of the request.

(4) The permitting authority may, upon taking final action granting a request for an administrative permit amendment, allow coverage by the permit shield in Section 8(f) of the Part 70 Operating Permit Program ordinance for administrative permit amendments made pursuant to paragraph (d)(1)(v) of this section which meet the relevant requirements of Sections 8, 9, and 10 of the Part 70 Operating Permit Program ordinance for significant permit modifications.

(e) Permit modification. A permit modification is any revision to a part 70 permit that cannot be accomplished under the program's provisions for administrative permit amendments under paragraph (d) of this section. A permit modification for purposes of the acid rain portion of the permit shall be governed by regulations promulgated under Title IV of the Act which are incorporated by reference in the Part 70 Operating Permit Program ordinance at Section 3(d).

(1) Minor permit modification procedures.

(i) Criteria.

(A) Minor permit modification procedures may be used only for those permit modifications that:

(1) Do not violate any applicable requirement;

(2) Do not involve significant changes to existing monitoring, reporting, or recordkeeping requirements in the permit;

(3) Do not require or change a case-by-case determination of an emission limitation or other standard, or a source-specific determination for temporary sources of ambient impacts, or a visibility or increment analysis;

(4) Do not seek to establish or change a permit term or condition for which there is no corresponding underlying applicable requirement and that the source has assumed to avoid an applicable requirement to which the source would otherwise be subject. Such terms and conditions include:

(A) A federally enforceable emissions cap assumed to avoid classification as a modification under any provision of Title I of the Act; and

(B) An alternative emissions limit approved pursuant to regulations promulgated under section 112(i)(5) of the Act [42 U.S.C. §7412(i)(5)];

(5) Are not modifications under any provision of Title I of the Act; and

(6) Are not required by the Part 70 Operating Permit Program ordinance to be processed as a significant modification.

(B) Notwithstanding paragraphs (e)(1)(i)(A) and (e)(2)(i) of this section, minor permit modification procedures may be used for permit modifications involving the use of economic incentives, marketable permits, emissions trading, and other similar approaches, to the extent that such minor permit modification procedures are explicitly provided for in an applicable implementation plan or in applicable requirements promulgated by EPA.

(ii) Application. An application requesting the use of minor permit modification procedures shall meet the

requirements of Section 7(c) of the Part 70 Operating Permit Program ordinance and shall include the following:

(A) A description of the change, the emissions resulting from the change, and any new applicable requirements that will apply if the change occurs;

(B) The source's suggested draft permit;

(C) Certification by a responsible official, consistent with Section 7(d) of the Part 70 Operating Permit Program ordinance, that the proposed modification meets the criteria for use of minor permit modification procedures and a request that such procedures be used; and

(D) Completed forms for the permitting authority to use to notify the administrator and affected states as required under 40 CFR §70.8.

(iii) EPA and affected state notification. Within 5 working days of receipt of a complete permit modification application, the permitting authority shall meet its obligation under Section 10(a)(1) and (b)(1) of the Part 70 Operating Permit Program ordinance to notify the administrator and affected states of the requested permit modification. The permitting authority promptly shall send any notice required under Section 10(b)(2) of the Part 70 Operating Permit Program ordinance to the administrator.

(iv) Timetable for issuance. The permitting authority may not issue a final part 70 permit modification until after EPA's 45-day review period or until EPA has notified the permitting authority that EPA will not object to issuance of the permit modification, whichever is first, although the permitting authority can approve the permit modification prior to that time. In the event of an objection by the administrator, the director shall follow the procedures set forth at Section 10(c) of the Part 70 Operating Permit Program ordinance. Within 90 days of the permitting authority's receipt of an application under minor permit modification procedures or 15 days after the end of the administrator's 45-day review period under Section 10(c) of the Part 70 Operating Permit Program ordinance, whichever is later, the permitting authority shall:

(A) Issue the permit modification as proposed;

(B) Deny the permit modification application;

(C) Determine that the requested modification does not meet the minor permit modification criteria and should be reviewed under the significant modification procedures; or



(D) Revise the draft permit modification and transmit to the administrator the new proposed permit modification as required by 40 CFR §70.8(a).

(v) Source's ability to make change. The source is allowed to make the change proposed in its minor permit modification application immediately after it files such application. After the source makes the change allowed by the preceding sentence, and until the permitting authority takes any of the actions specified in paragraphs (e)(1)(iv)(A) through (C) of this section, the source must comply with both the applicable requirements governing the change and the proposed permit terms and conditions. During this time period, the source need not comply with the existing permit terms and conditions it seeks to modify. However, if the source fails to comply with its proposed permit terms and conditions during this time period, the existing permit terms and conditions it seeks to modify may be enforced against it.

(vi) Permit shield. The permit shield under Section 8(f) of the Part 70 Operating Permit Program ordinance may not extend to minor permit modifications.

(2) Group processing of minor permit modifications. Consistent with this paragraph, the permitting authority may modify the procedure outlined in paragraph (e)(1) of this section to process groups of a source's applications for certain modifications eligible for minor permit modification processing.

(i) Criteria. Group processing of modifications may be used only for those permit modifications:

(A) That meet the criteria for minor permit modification procedures under paragraph (e)(1)(i)(A) of this section; and

(B) That collectively are below the threshold level approved by the administrator as part of the approved program. This threshold shall be 10 percent of the emissions allowed by the permit for the emissions unit for which the change is requested, 20 percent of the applicable definition of major source in Section 4 of the Part 70 Operating Permit Program ordinance, or 5 tons per year, whichever is least.

(ii) Application. An application requesting the use of group processing procedures shall meet the requirements of Section 7(c) of the Part 70 Operating Permit Program ordinance and shall include the following:

(A) A description of the change, the emissions resulting from the change, and any new applicable requirements that will apply if the change occurs.

(B) The source's suggested draft permit.

(C) Certification by a responsible official, consistent with Section 7(d) of the Part 70 Operating Permit Program ordinance, that the proposed modification meets the criteria for use of group processing procedures and a request that such procedures be used.

(D) A list of the source's other pending applications awaiting group processing, and a determination of whether the requested modification, aggregated with these other applications, equals or exceeds the threshold set under paragraph (e)(2)(i)(B) of this section.

(E) Certification, consistent with Section 7(d) of the Part 70 Operating Permit Program ordinance, that the source has notified EPA of the proposed modification. Such notification need only contain a brief description of the requested modification.

(F) Completed forms for the permitting authority to use to notify the administrator and affected states as required under Section 10 of the Part 70 Operating Permit Program ordinance.

(iii) EPA and affected state notification. On a quarterly basis or within 5 business days of receipt of an application demonstrating that the aggregate of a source's pending applications equals or exceeds the threshold level set under paragraph (e)(2)(i)(B) of this section, whichever is earlier, the permitting authority promptly shall meet its obligation under Section 10(a)(1) and (b)(1) of the Part 70 Operating Permit Program ordinance to notify the administrator and affected states of the requested permit modifications. The permitting authority shall send any notice required under Section 10(b)(2) of the Part 70 Operating Permit Program ordinance to the administrator.

(iv) Timetable for issuance. The provisions of paragraph (e)(1)(iv) of this section shall apply to modifications eligible for group processing, except that the permitting authority shall take one of the actions specified in paragraphs (e)(1)(iv)(A) through (D) of this section within 180 days of receipt of the application or 15 days after the end of the administrator's 45-day review period under Section 10(c) of the Part 70 Operating Permit Program ordinance, whichever is later.

(v) Source's ability to make change. The provisions of paragraph (e)(1)(v) of this section shall apply to modifications eligible for group processing.

(vi) Permit shield. The provisions of paragraph (e)(1)(vi) of this section shall also apply to modifications eligible for group processing.

(3) Significant modification procedures.

(i) Criteria. Significant modification procedures shall be used for applications requesting permit modifications that do not qualify as minor permit modifications or as administrative amendments. The permitting authority shall follow these criteria in determining whether a change is significant: Any change in existing monitoring permit terms or conditions and every relaxation of reporting or recordkeeping permit terms or conditions shall be considered significant. Nothing herein shall be construed to preclude the permittee from making changes consistent with this part that would render existing permit compliance terms and conditions irrelevant.

(ii) Significant permit modifications shall meet all requirements of the Part 70 Operating Permit Program ordinance, including those for applications, public participation, review by affected states, and review by EPA, as they apply to permit issuance and permit renewal. The permitting authority shall design and implement this review process to complete review on the majority of significant permit modifications within 9 months after receipt of a complete application.

(f) Reopening for cause.

(1) Each issued permit shall include provisions specifying the conditions under which the permit will be reopened prior to the expiration of the permit. A permit shall be reopened and revised under any of the following circumstances:

(i) Additional applicable requirements under the Act become applicable by ordinance amendment to a major part 70 source with a remaining permit term of 3 or more years. Such a reopening shall be completed not later than 18 months after promulgation of the applicable requirement. No such reopening is required if the effective date of the requirement is later than the date on which the permit is due to expire, unless the original permit or any of its terms and conditions has been extended pursuant to Section 9(c)(3) of the Part 70 Operating Permit Program ordinance.

(ii) Additional requirements (including excess emissions requirements) become applicable to an affected source under the acid rain program. Upon approval by the

administrator and amendment of the Part 70 Operating Permit Program ordinance, excess emissions offset plans shall be incorporated into the permit by the permitting authority.

(iii) The permitting authority or EPA determines that the permit contains a material mistake or that inaccurate statements were made in establishing the emissions standards or other terms or conditions of the permit.

(iv) The administrator or the permitting authority determines that the permit must be revised or revoked to assure compliance with the applicable requirements.

(2) Proceedings to reopen and issue a permit shall follow the same procedures as apply to initial permit issuance and shall affect only those parts of the permit for which cause to reopen exists. Such reopening shall be made as expeditiously as practicable.

(3) Reopenings under paragraph (f)(1) of this section shall not be initiated before a notice of such intent is provided to the part 70 source by the permitting authority at least 30 days in advance of the date that the permit is to be reopened, except that the permitting authority may provide a shorter time period in the case of an emergency.

(g) Reopenings for cause by EPA.

(1) If the administrator finds that cause exists to terminate, modify, or revoke and reissue a permit pursuant to paragraph (f) of this section, the administrator is required by federal law to notify the permitting authority and the permittee of such finding in writing.

(2) The permitting authority shall, within 90 days after receipt of such notification, forward to EPA a proposed determination of termination, modification, or revocation and reissuance, as appropriate. The administrator may extend this 90-day period for an additional 90 days if he finds that a new or revised permit application is necessary or that the permitting authority must require the permittee to submit additional information.

(3) The administrator is required by federal regulations to review the proposed determination from the permitting authority within 90 days of receipt.

(4) The permitting authority shall have 90 days from receipt of an EPA objection to follow the procedures set forth at Section 10(c) of the Part 70 Operating Permit Program ordinance in an effort to resolve any objection that EPA makes.

(5) If the permitting authority fails to submit a proposed determination pursuant to paragraph (g)(2) of this section or fails to resolve any objection pursuant to paragraph (g)(4) of this section, the administrator is required by federal law to exercise override authority

and to terminate, modify, or revoke and reissue the permit after taking the following actions:

(i) Providing at least 30 days' notice to the permittee in writing of the reasons for any such action. This notice may be given during the procedures in paragraphs (g)(1) through (4) of this section.

(ii) Providing the permittee an opportunity for comment on the administrator's proposed action and an opportunity for a hearing.

(h) Public participation. Except for modifications qualifying for minor permit modification procedures, all permit proceedings, including initial permit issuance, significant modifications, and renewals, shall provide adequate procedures for public notice including offering an opportunity for public comment and a hearing on the draft permit. These procedures include the following:

(1) Notice shall be given: by publication in a newspaper of general circulation in the area where the source is located or in a state publication designed to give general public notice; to persons on a mailing list developed by the permitting authority, including those who request in writing to be on the list; and by other means if necessary to assure adequate notice to the affected public;

(2) The notice shall identify the affected facility; the name and address of the permittee; the name and address of the permitting authority processing the permit; the activity or activities involved in the permit action; the emissions change involved in any permit modification; the name, address, and telephone number of a person from whom interested persons may obtain additional information, including copies of the permit draft, the application, all relevant supporting materials, including the compliance plan, and monitoring and compliance certification report pursuant to section 503(e) of the Act, except for information entitled to confidential treatment pursuant to Section 114(c) of the Act [the contents of a part 70 permit shall not be entitled to confidential treatment under section 114(c) of the Act.], and all other materials available to the permitting authority that are relevant to the permit decision; a brief description of the comment procedures required by this part; and the time and place of any hearing that may be held, including a statement of procedures to request a hearing (unless a hearing has already been scheduled);

(3) The permitting authority shall provide such notice and opportunity for participation by affected states as is provided for by Section 10 of the Part 70 Operating Permit Program ordinance;

(4) Timing. The permitting authority shall provide at least 30 days for public comment and shall give notice of any public hearing at least 30 days in advance of the hearing.

(5) The permitting authority shall keep a record of the commentors and also of the issues raised during the public participation process so that the administrator may fulfill his obligation under section 505(b)(2) of the Act [42 U.S.C. §7661d.(b)(2)] to determine whether a citizen petition may be granted, and such records shall be available to the public.

(i) Operational flexibility. Consistent with paragraphs (i)(1) through (3) of this section changes within a permitted facility are allowed without requiring a permit revision, if the changes are not modifications under any provision of Title I of the Act and the changes do not exceed the emissions allowable under the permit (whether expressed therein as a rate of emissions or in terms of total emissions): Provided that the facility provides the administrator and the permitting authority with written notification as required below in advance of the proposed changes, which shall be a minimum of 7 days, unless the permitting authority provides a different time frame for emergencies. The source, permitting authority, and EPA shall attach each such notice to their copy of the relevant permit. The following provisions implement this requirement:

(1) The source shall be allowed to make section 502(b)(10) of the Act [42 U.S.C. §7661a.(b)(10)] changes without requiring a permit revision, if the changes are not modifications under any provision of Title I of the Act and the changes do not exceed the emissions allowable under the permit (whether expressed therein as a rate of emissions or in terms of total emissions).

(i) For each such change, the written notification required above shall include a brief description of the change within the permitted facility, the date on which the change will occur, any change in emissions, and any permit term or condition that is no longer applicable as a result of the change.

(ii) The permit shield described in 40 CFR §70.6(f) and Section 8(f) of the Part 70 Operating Permit Program ordinance shall not apply to any change made pursuant to this paragraph 9(i)(1).

(2) If the applicant in possession of a certificate of alternate control (issued pursuant to the "Certificate of alternate control" section in the air pollution control ordinance of this municipality) for an operating permit requests them, the permitting authority shall include terms and conditions for the trading of emissions increases and decreases in the permitted source, to the extent that the applicable requirements in the certificate of alternate control provide for trading such increases and decreases without a case-by-case approval of each emissions trade.

(i) Such terms and conditions:

(A) Shall include all terms required under the Part 70 Operating Permit Program ordinance and the air pollution control ordinance of this municipality to determine compliance; and

(B) Must meet all applicable requirements in the air pollution control ordinance of this municipality that are not altered by the certificate of alternate control.

(ii) Under this paragraph (i)(2)(ii), a 7-day advance written notification is required and shall include the following information: when the proposed change will occur, a description of each such change, any change in emissions, the permit requirements with which the source will comply using the emissions trading provisions of the applicable implementation plan, and the pollutants emitted subject to the emissions trade. The notice shall also refer to the provisions with which the source will comply in the applicable certificate of alternate control and that provide for the emissions trade.

(iii) The permit shield described in 40 CFR §70.6(f) and in Section 8(f) of the Part 70 Operating Permit Program ordinance shall not extend to any change made under this paragraph (i)(2). Compliance with the permit requirements that the source will meet using the emissions trade shall be determined only to the extent that requirements of an applicable certificate of alternate control authorize the emissions trade.

(3) The permitting authority shall, if a permit applicant requests it, issue permits that contain terms and conditions, including all terms required under Section 8(a) and (c) of the Part 70 Operating Permit Program ordinance to determine compliance, allowing for the trading of emissions increases and decreases in the permitted facility solely for the purpose of complying with a federally-enforceable emissions cap that is established in the permit independent of otherwise applicable requirements. The permit applicant shall include in its application proposed replicable procedures and permit terms that ensure the emissions trades are quantifiable and enforceable. The permitting authority shall not be required to include in the emissions trading provisions any emissions units for which emissions are not quantifiable or for which there are no replicable procedures to enforce the emissions trades. The permit shall also require compliance with all applicable requirements.

(i) Under this paragraph (i)(3), the written notification required above shall state when the change will occur and shall describe the changes in emissions that will result and how these increases and decreases in emissions will comply with the terms and conditions of the permit.

(ii) The permit shield described in 40 CFR §70.6(f) and Section 8(f) of the Part 70 Operating Permit Program ordinance may extend to terms and conditions that allow such increases and decreases in emissions.

(j) Off permit changes. The source may make changes that are not addressed or prohibited by the permit, other than those described in paragraph (k) of this section, to be made without a permit revision, only after the source meets the requirements of (1) through (3) of this paragraph.

(1) Each such change shall meet all applicable requirements and shall not violate any existing permit term or condition.

(2) Sources must provide contemporaneous written notice to the permitting authority and EPA of each such change, except for changes that qualify as insignificant under the provisions adopted pursuant to 40 CFR §70.5(c) or Sections 7(c)(11) and 7(c)(12) of the Part 70 Operating Permit Program ordinance. Such written notice shall describe each such change, including the date, any change in emissions, pollutants emitted, and any applicable requirement that would apply as a result of the change.

(3) The change shall not qualify for the shield under 40 CFR §70.6(f) or Section 8(f) of the Part 70 Operating Permit Program ordinance.

(4) The permittee shall keep a record describing changes made at the source that result in emissions of a regulated air pollutant subject to an applicable requirement, but not otherwise regulated under the permit, and the emissions resulting from those changes. The records shall be retained until the changes are incorporated into subsequently issued permits.

(k) No source shall make, without a permit revision, changes that are not addressed or prohibited by the part 70 permit, if such changes are subject to any requirements under Title IV of the Act or are modifications under any provision of Title I of the Act.

(l) Sharing of information. Any information obtained or used in the administration of this part 70 program shall be available to EPA upon request without restriction and in a form specified by the administrator, including computer-readable files to the extent practicable. If the information has been submitted to the permitting authority under a claim of confidentiality, the permitting authority may require the source to submit this information to the administrator directly. Where the permitting authority submits information to the administrator under a claim of confidentiality, the permitting authority shall submit that claim to EPA when providing information to EPA under this section. Any information obtained from a permitting authority or part 70 source accompanied by a claim of confidentiality will be treated in accordance with the applicable regulations. (Ord. #582, Oct. 1994, as amended by Ord. #671, Dec. 1998)



**8-759. Permit review by EPA and affected states.****(a) Transmission of information to the administrator.**

(1) The permitting authority shall provide to the administrator a copy of each permit application (including any application for permit modification), each proposed permit, and each final part 70 permit. The applicant may be required by the permitting authority to provide a copy of the permit application (including the compliance plan) directly to the administrator. Upon agreement with the administrator, the permitting authority may submit to the administrator a permit application summary form and any relevant portion of the permit application and compliance plan, in place of the complete permit application and compliance plan. To the extent practicable, the preceding information shall be provided in computer-readable format compatible with EPA's national database management system.

(2) If the administrator waives the requirements of paragraphs (a)(1) and (b)(1) of this section for any category of sources (including any class, type, or size within such category) other than major sources those requirements need not be complied with.

(3) The permitting authority shall keep for 5 years such records and submit to the administrator such information as the administrator may reasonably require to ascertain whether the local program complies with the requirements of the Act or of 40 CFR Part 70.

**(b) Review by affected states.**

(1) The permitting authority shall give notice of each draft permit to any affected state on or before the time that the permitting authority provides this notice to the public under 40 CFR §70.7(h), except to the extent 40 CFR §70.7(e)(2) or (3) requires the timing of the notice to be different.

(2) The permitting authority, as part of the submittal of the proposed permit to the administrator [or as soon as possible after the submittal for minor permit modification procedures allowed under 40 CFR §70.7(e)(2) or (3)], shall notify the administrator and any affected state in writing of any refusal by the permitting authority to accept all recommendations for the proposed permit that the affected state submitted during the public or affected state review period. The notice shall include the permitting authority's reasons for not accepting any such recommendation.

**(c) EPA objection.**

(1) If the administrator, pursuant to Title 40 CFR 70.8(c), objects to the issuance of an operating permit for which an application must be transmitted to the U.S. EPA administrator pursuant to Title 40 CFR 70.8(a), in writing within 45 days after receipt of the proposed

operating permit and all necessary supporting information, then the director shall not issue the operating permit and shall review the objection, including the statement of the administrator's reasons for objection and description of the terms and conditions that the operating permit must include to respond to the objection.

(i) If the director, upon such review, agrees with the administrator and finds that the cause for the objection requires permit revision, then the director shall revise the proposed permit to include those terms and conditions that the administrator describes as necessary to respond to the objection.

(ii) If, however, upon such review the director does not agree with the administrator and finds that no cause exists to include the terms and conditions suggested by the administrator in the permit, the director shall forthwith take the following action:

(A) Offer the permittee the opportunity to voluntarily incorporate into the permit or delete from the permit the terms and conditions necessary to accommodate the concerns and resolve the objection of the administrator. If the permittee agrees to the terms and conditions described by the administrator, then the permit shall be issued so as to be acceptable to the administrator, all of which shall be accomplished in a timely manner under schedules agreeable to the administrator.

(B) If the permittee declines to voluntarily agree to adopt and incorporate into the permit the requirements necessary to accommodate the concerns of the administrator and to resolve all objections of the administrator pursuant to Title 40 CFR 70.8(c), then the director shall notify the permittee that the permit as issued has no federal force and effect; that it is merely a local government permit; that the permit does not qualify as a federal operating permit under Title V of the Clean Air Act Amendments of 1990 or Title 40 CFR Part 70; and that the permit, as a non-federal permit may not afford a shield to the permittee against federal civil or criminal enforcement action.

(2) Failure of the permitting authority to do any of the following also shall constitute grounds for an objection by the administrator:

- (i) Comply with paragraphs (a) or (b) of this section;
- (ii) Submit to the administrator any information necessary to review adequately the proposed permit; or

(iii) Process the permit under the procedures approved to meet Section 9(h) of the Part 70 Operating Permit Program ordinance except for administrative permit modifications, operating changes that do not require permit revision, or minor permit modifications.

(3) Under 40 CFR 70.8 (c)(4) the administrator has retained overriding authority to issue or deny permits in accordance with the requirements of the federal program promulgated Title V of the Act.

(4) If the permitting authority fails, within 90 days after the date of an objection under paragraph (c)(1) of this section, to revise and submit a proposed permit in response to the objection, the administrator has the authority to issue or deny the permit in accordance with the requirements of the federal program promulgated under Title V of the Act.

(d) EPA objection after permit issuance. If the permitting authority has issued a permit prior to receipt of an EPA objection under this paragraph, the administrator retains authority to modify, terminate, or revoke such permit, and may do so consistent with the procedures in 40 CFR §70.7. If the director agrees that the administrator's objection is well taken, the director will issue a revised permit that satisfies EPA's objection. If the director does not agree that the administrator's objection is well taken, then the director shall follow the procedures hereinabove set forth at (c)(1) through (c)(3). In any case, the source will not be in violation of the requirement to have submitted a timely and complete application.

(e) Public petitions to the administrator. If the administrator does not object in writing under paragraph (c) or (d) of this section, any person may petition the administrator within 60 days after the expiration of the administrator's 45-day review period to make such objection. Any such petition shall be based only on objections to the permit that were raised with reasonable specificity during the public comment period provided for in Section 9(h) of the Part 70 Operating Permit Program ordinance, unless the petitioner demonstrates that it was impracticable to raise such objections within such period, or unless the grounds for such objection arose after such period. If the administrator objects to the permit as a result of a petition filed under this paragraph, the permitting authority shall not issue the permit until EPA's objection has been resolved, except that a petition for review does not stay the effectiveness of a permit or its requirements if the permit was issued after the end of the 45-day review period and prior to an EPA objection. If the director agrees that the administrator's objection is well taken, the director will issue a revised permit that satisfies EPA's objection. If the director does not agree that the administrator's objection is well taken, then the director shall follow the procedures hereinabove set forth at (c)(1) through (c)(3).

(f) Prohibition on default issuance. Consistent with 40 CFR §70.4(b)(3)(ix), for the purposes of federal law and Title V of the Act, a part 70 permit (including a permit renewal or modification) will not issue until affected states and EPA have had an opportunity to review the proposed permit as required under this section. (Ord. #582, Oct. 1994)

**8-760. Fee determination and certification.** (a) Fee Requirement. The owners or operators of part 70 sources shall pay annual fees, or the equivalent over some other period, that are sufficient to cover the part 70 permit program costs and any fee required by this section will be used solely for part 70 permit program costs.

(b) Fee schedule adequacy.

(1) Overriding federal law requires that there be a fee schedule that results in the collection and retention of revenues sufficient to cover the part 70 permit program costs. These costs are required to include, but are not limited to, the costs of the following activities as they relate to the Part 70 Operating Permit program for stationary sources:

(i) Preparing generally applicable regulations or guidance regarding the part 70 permit program or its implementation or enforcement;

(ii) Reviewing and acting on any application for a part 70 permit, permit revision, or permit renewal, including the development of an applicable requirement as part of the processing of a part 70 permit, or permit revision or renewal;

(iii) General administrative costs of running the part 70 permit program, including the supporting and tracking of permit applications, compliance certification, and related data entry;

(iv) Implementing and enforcing the terms of any part 70 permit (not including any court costs or other costs associated with an enforcement action), including adequate resources to determine which sources are subject to the program;

(v) Emissions and ambient monitoring;

(vi) Modeling, analyses, or demonstrations;

(vii) Preparing inventories and tracking emissions; and

(viii) Providing direct and indirect support to sources under the Small Business Stationary Source Technical and Environmental Compliance Assistance Program contained in section 507 of the Act [42 U.S.C. §7661(f)] in determining and meeting their obligations under the Act.

(2) (i) The fee schedule may be presumed to meet the requirements of paragraph (b)(1) of this section if it would result in the collection and retention of an amount not less than \$25

per year (as adjusted pursuant to the criteria set forth in paragraph (b)(2)(iv) of this section) times the total tons of the actual emissions of each regulated pollutant (for presumptive fee calculation) emitted from part 70 sources.

(ii) There may be excluded from such calculation:

(A) The actual emissions of sources for which no fee is required under paragraph (b)(4) of this section;

(B) The amount of a part 70 source's actual emissions of each regulated pollutant (for presumptive fee calculation) that the source emits in excess of four thousand (4,000) tpy;

(C) A part 70 source's actual emissions of any regulated pollutant (for presumptive fee calculation), the emissions of which are already included in the minimum fees calculation; or

(D) The insignificant quantities of actual emissions not required in a permit application pursuant to Section 7(c) of the Part 70 Operating Permit Program ordinance relative to approved insignificant activities.

(iii) "Actual emissions" means the actual rate of emissions in tons per year of any regulated pollutant (for presumptive fee calculation) emitted from a part 70 source over the preceding calendar year or any other period determined by the permitting authority to be representative of normal source operation and consistent with the fee schedule approved pursuant to this section. Actual emissions shall be calculated using the unit's actual operating hours, production rates, and in-place control equipment, types of materials processed, stored, or combusted during the preceding calendar year or such other time period established by the permitting authority pursuant to the preceding sentence.

(iv) The \$25 per ton per year used to calculate the presumptive minimum amount to be collected under a fee schedule, as described in paragraph (b)(2)(i) of this section, shall be increased each year by the percentage, if any, by which the Consumer Price Index for the most recent calendar year ending before the beginning of such year exceeds the Consumer Price Index for the calendar year 1989. Such calculation shall be made in accordance with the provisions of Section 11(e)(4) of the Part 70 Operating Permit Program ordinance.

(A) The Consumer Price Index for any calendar year is the average of the Consumer Price Index for all-urban consumers published by the Department of

Labor, as of the close of the 12-month period ending on August 31 of each calendar year.

(B) The revision of the Consumer Price Index which is most consistent with the Consumer Price Index for the calendar year 1989 shall be used.

(3) The fee schedule herein established may include emissions fees, application fees, service-based fees or other types of fees, or any combination thereof, to meet the requirements of paragraph (b)(1) or (b)(2) of this section. Nothing in the provisions of this section shall require the permitting authority to calculate fees on any particular basis or in the same manner for all part 70 sources, all classes or categories of part 70 sources, or all regulated air pollutants, provided that the permitting authority collects a total amount of fees sufficient to meet the program support requirements of paragraph (b)(1) of this section. Where there is more than one allowable method of calculating the annual fee, the owner (or operator) may select the method.

(4) Notwithstanding any other provision of this section, during the years 1995 through 1999 inclusive, no fee for purposes of the part 70 program shall be required to be paid with respect to emissions from any affected unit under section 404 of the Act.

(5) The permitting authority shall provide a detailed accounting that the fee schedule meets the requirements of paragraph (b)(1) of this section if:

(i) The fee schedule that would result in the collection and retention of an amount less than that presumed to be adequate under paragraph (b)(2) of this section; or

(ii) The administrator determines, based on comments rebutting the presumption in paragraph (b)(2) of this section or on his/her own initiative, that there are serious questions regarding whether the fee schedule is sufficient to cover the permit program costs.

(c) Fee demonstration. The permitting authority shall provide a demonstration that the fee schedule selected will result in the collection and retention of fees in an amount sufficient to meet the requirements of this section.

(d) Use of required fee revenue. The demonstration shall contain an initial accounting (and periodic updates as required) of how required fee revenues are used solely to cover the costs of meeting the various functions of the part 70 permitting program.

(e) The initial fee schedule is as follows:

(1) The owner or operator or the "responsible official" of a part 70 source shall pay an annual emission fee to the bureau based on "regulated pollutant (for presumptive fee calculation)" as those terms

are defined in Section 4 of the Part 70 Operating Permit Program ordinance. The minimum annual emission fee charged to a part 70 source will be no less than \$100.00.

(2) The annual emission fee for any part 70 source shall be based on its allowable emissions until the end of the first annual accounting period following issuance of its initial part 70 operating permit. No later than 12 months after issuance of its initial part 70 operating permit, the owner or operator or responsible official of the part 70 source shall notify the director in writing of its choice to base its annual emissions fee for the remainder of its initial operating permit term, as elected by the source, on either its allowable emissions or its actual emissions.

(3) The annual emissions fees described in Section 11(e)(6) of the Part 70 Operating Permit Program ordinance shall apply after the enactment date of the Part 70 Operating Permit Program ordinance and approval by the administrator. A source subject to the Part 70 Operating Permit Program ordinance shall be required to pay the required fee prior to issuance of its part 70 operating permit. Said fees shall be collected by the bureau and remitted to the treasurer of the City of Chattanooga as the fiscal agent of the board.

(4) If the owner or operator or responsible official chooses actual emissions as its fee basis, the magnitude of the source's emissions must be proven to the satisfaction of the director. The procedure for quantifying actual emission rates shall be specified in the operating permit. The costs of proving the actual emission rates on an annualized basis shall be borne by the part 70 source. The required payment shall be based upon the actual emissions documentation submitted by the source and subject to correction by the bureau after inspection of the source.

(i) Once the choice of a fee basis has been declared, it may be altered by written request to the director only during the following periods of eligibility: (1) at least 180 days prior to expiration of the initial part 70 operating permit or (2) at least 180 days prior to renewal of an expiring part 70 operating permit.

(5) The due date for part 70 source annual emission fees is November 1st of each calendar year beginning November 1, 1995. Part

70 sources with annual emission fees in excess of \$50,000 may elect to make four (4) equal payments according to the following schedule:

1st Payment	November 1st
2nd Payment	February 1st
3rd Payment	May 1st
4th Payment	August 1st



(6) The rate at which annual emission fees are assessed shall be \$31.33 per ton for each annual accounting period.

(7) An emission cap of 4,000 tons per year per "regulated pollutant (for presumptive fee calculation)" for a part 70 source per part 70 source SIC code shall apply to actual or allowable-based emission fees. An emission fee will not be charged for emissions in excess of the cap(s) or for carbon monoxide.

(8) In the case where a part 70 source is shutdown such that it has operated only during a portion of the annual accounting period and permits are forfeited to the director, the appropriate fee shall be calculated on a prorated basis over the period of time that the permits were active in the annual accounting period. A part 70 source that is shutdown, but wishes to retain its operating permit, shall pay a maintenance fee equivalent to 40% of the fee that would be charged had it chosen the allowable emission based annual emission fee. If the source chooses this option in the midst of an annual accounting period, the fee will be prorated according to the number of months that the source was in the maintenance fee status.

(9) Part 70 sources choosing an allowable based annual emission fee must conform to the following requirements:

(i) If the part 70 source wishes to restructure its allowable emissions for the purposes of lowering its annual emission fees, a mutually agreed upon, more restrictive regulatory requirement may be established to reduce its allowable emissions and thus its annual emission fee. The more restrictive requirement must be specified in the permit, and must specify the method used to determine compliance with the limitation. The documentation procedure to be followed by the part 70 source must also be included to insure that the limit is not exceeded. Restructuring the allowable emissions is permissible only at the expiration of the initial operating permit or at the renewal of an expiring operating permit, and only if a written request for restructuring is filed with the director at least 120 days prior to the beginning of the annual accounting period for which the change is requested.

(ii) Beginning November 1, 1995, and each November 1st thereafter, any part 70 source paying annual emission fees based on allowable emissions shall file an allowable emissions analysis with the director which summarizes its allowable emissions of all "regulated pollutants (for presumptive fee calculation)" at the part 70 source. Based upon its allowable emissions analysis, the part 70 source shall pay a minimum annual emission fee calculated at sixty percent (60%) of the current annual emission fee rate.

(iii) Beginning November 1, 1997, and each November 1st thereafter, a part 70 source subject to annual emission fees based on actual emissions shall file an actual emissions analysis with the director which (1) specifies the method(s) used to quantify its emissions at each emission point and as fugitive emissions and (2) which summarizes its actual emissions of all regulated pollutants.

(iv) The bureau will compile a report of all actual based and allowable based annual emission fees that it receives for the annual accounting period and reconcile the report to the bureau's operating budget for the corresponding fiscal year. If insufficient revenues were received for the budgeted direct and indirect costs of the bureau's regulatory activities pertaining to part 70 sources, supplemental fees for the sources choosing to pay a fraction of the annual emission fee rate on an allowable tonnage basis will be required. The supplemental fees for those part 70 sources choosing allowable emissions shall be calculated and presented to the board at its January meeting following the fiscal year under consideration. Upon board approval, supplemental fees shall be assessed against all part 70 sources choosing allowable based annual emission fees. However, no part 70 source shall be charged an annual emission fee based on a dollar per ton rate greater than the current emission fee for actual based emission fees. The supplemental fee assessment will be sent to the part 70 source via certified mail and is due within thirty (30) days after receipt of the assessment. The director may extend this due date an additional ninety (90) days where the director finds that the part 70 source owner or operator's supplemental fee notice was mailed by the bureau to an incorrect mailing address. If a part 70 source owner or operator is aggrieved by a supplemental fee, the bureau will explain the procedures used to calculate the fee. If a dispute continues after the explanation, the matter may be appealed to the board as a contested case hearing provided that the dispute is not based upon:

(A) The quantity of "regulated pollutants (for presumptive fee calculation)" allowable emission tonnages that were reported by the part 70 source in its allowable emissions analysis for the period in dispute and/or;

(B) The supplemental allowable emission annual emission fee rate set by the board pursuant to Section 11(b)(1)(iv) of the Part 70 Operating Permit Program ordinance for the period in dispute.

Exceedance of a restructured allowable emission limitation shall be viewed by the board as circumvention of the required annual emission fee and a matter for which enforcement action must be pursued.

(10) A newly constructed part 70 source, or an existing source modifying operations such that it becomes a part 70 source in the midst of the standard November 1st through October 31st annual accounting period, shall pay allowable based annual emissions fees for the fractional remainder of the annual accounting period commencing upon start-up. At the beginning of the next annual accounting period, the part 70 source's owner or operator or "responsible official" may choose to pay annual emission fees based on actual or allowable emissions. (Ord. #582, Oct. 1994, as amended by Ord. #601, Oct. 1995, Ord. #603, Dec. 1995, Ord. #671, Dec. 1998, and Ord. #703, May 2000)

**8-761. Judicial review - failure to take final action.** Solely for the purposes of obtaining judicial review in state court for failure to take final action, "final permit action" shall include the failure of the permitting authority to take final action on an application for a permit, permit renewal or permit revision within the time specified in the Part 70 Operating Permit Program ordinance or such lesser time as may be established by the board.

If sources are permitted to make changes subject to post hoc review under Section 9(e)(1) of the Part 70 Operating Permit Program ordinance the failure of the permitting authority to take final action within 90 days of receipt of an application requesting minor permit modification procedures shall be deemed to be final action subject to judicial review. If a source is permitted to make changes subject to post hoc review under Section 9(e)(2) of the Part 70 Operating Permit Program ordinance the failure of the permitting authority to take final action within 180 days of receipt of an application requesting modifications subject to group processing requirements shall be deemed to be final action subject to judicial review.

Except as provided under the initial transition plan provided for under Section 7(e) of the Part 70 Operating Permit Program ordinance or under Title IV of the Act, final action shall be taken on each permit within the time prescribed by, or established under, Section 9(a)(2) of the Part 70 Operating Permit Program ordinance.

The failure of the permitting authority to take final action within the time herein prescribed constitutes an action upon which the source (or other person with "standing") may seek a writ of mandamus (Tennessee Code Annotated, § 29-25-101 et seq.) or a writ of certiorari (Tennessee Code Annotated, § 27-9-101 et seq.) whichever is applicable. If a writ of mandamus is sought it shall require the permitting authority to issue or deny the permit, and shall not attempt to establish the terms, conditions, requirements or elements of the permit. (Ord. #582, Oct. 1994)

**8-762. Final action - administrative and judicial review.** Except as provided under the initial transition plan provided for under Section 7(e) of the Part 70 Operating Permit Program ordinance or under Title IV of the Act final action shall be taken on each permit within the time prescribed by Section 9(a)(2) of the Part 70 Operating Permit Program ordinance.

The failure of the permitting authority to take action within the time hereinabove prescribed constitutes an action upon which the source (or other person with "standing") may seek a writ of mandamus (Tennessee Code Annotated, § 29-25-101 et seq.) or writ of certiorari (Tennessee Code Annotated, § 27-9-101 et seq.) whichever is appropriate in the circumstances of the case. If a writ of mandamus is sought it shall require the permitting authority to either issue or deny the permit, but not attempt to establish the terms or conditions of the permit.

If review of final permit action is sought on grounds of contest arising after the time prescribed by Tennessee Code Annotated, § 27-9-101 et. seq., the grounds must be brought initially to the attention of the board by petition with a request for special hearing setting forth the time constraints. Certiorari under Tennessee Code Annotated, § 27-9-101 et. seq. will be from the action of the board on that petition, provided that the application for certiorari under Tennessee Code Annotated, § 27-9-101 et. seq. must in any event be filed prior to the 91st day after the new grounds arose.

If the final permit action being challenged is the failure of the board to take action, upon a petition for final permit action by the board after failure of the director to take action, the contestant may file for the appropriate writ in state court at any time following the expiration of the time allowances hereinabove provided and before the board denies the permit or issues the final permit. (Ord. #582, Oct. 1994)

**8-763. Judicial review of terms and conditions of permit.** The exclusive means for obtaining judicial review of the terms and conditions of permits shall be by certiorari under Tennessee Code Annotated, § 27-9-101 et. seq. but only after all administrative remedies have been exhausted.

In those cases where certiorari is appropriate under Tennessee Code Annotated, § 27-9-101 et. seq. the source shall, at such time as the source deems timely, petition the board to exercise its own authority to override the director and take appropriate final permit action so as to permit the source to meet the prescribed time constraints in obtaining judicial review. Such petition to the board shall be filed in sufficient time to allow the chairperson (or vice-chairperson, in the absence of the chairperson) to call a special meeting of the board and to allow the board to hold a hearing, to deliberate and to take appropriate action within the time limits prescribed in the Part 70 Operating Permit Program ordinance for final permit action.

Such administrative and judicial review on permit actions shall be available to the applicant, to any person who participated in the hearing

process provided pursuant to Section 9(h) of the Part 70 Operating Permit Program ordinance and to any other person who, under the law of Tennessee, has "standing" to obtain judicial review of such action. The application for such judicial review is required to be prior to the 91st day following final permit action. The person seeking judicial review under this provision must exhaust administrative remedies and is required to appeal to the board from any action of the director and in a contested case final permit action is the action of the board following a hearing, or opportunity for hearing, by the contestant or contestants. The petition for certiorari for judicial review under Tennessee Code Annotated, § 27-9-101 et. seq. must be for review of action of the board and not from action of the director. It must be filed within the time specified in that statute and in no event more than 90 days after the final permit action by the board. (Ord. #582, Oct. 1994)

**8-764. Hearings and review.** Except as hereinabove provided all other enforcement proceedings, adjudicatory hearings, administrative review, administrative remedies, appeals to the board, petitions to the board and all judicial review of board actions shall be governed and controlled by the provisions of the "Enforcement; procedure for adjudicatory hearings" section and the "Hearings and judicial review" section in the air pollution control ordinance of this municipality. (Ord. #582, Oct. 1994)

**8-765. Enforcement.** (a) Whenever the permitting authority has reason to believe that a violation of any provision of the Part 70 Operating Permit Program ordinance has occurred, the board or director may cause written notice to be served upon the alleged violator or violators. The notice shall specify the provision of the Part 70 Operating Permit Program ordinance or permit alleged to be violated and the date, time, place and general nature of the alleged violation or violations thereof and may include an order that necessary action be taken within a reasonable time. The notice provided for in this subsection may be served by the sheriff or a deputy sheriff of the county; or by a police officer of this municipality; or by a special police officer of this municipality; or by a special deputy sheriff; or may be served in any other manner prescribed for the service of a writ of summons by the statutes of the state or by the Tennessee Rules of Civil Procedure. Any such order shall become final unless, no later than thirty (30) days after the date the notice and order are served, the person or persons named therein request in writing a hearing before the board and file a notice of appeal and a bond pursuant to the "Hearings and judicial review" section of the air pollution control ordinance of this municipality. Upon such request, the board shall hold a hearing. In lieu of an order, the board may require that the alleged violator or violators appear before the board for a hearing at a time and place specified in the notice and answer the charges complained of, or the board may initiate action pursuant to any applicable provisions of

the Part 70 Operating Permit Program ordinance, or the statutes of the state, or the acts of Congress of the United States, or the board may initiate action pursuant to any provisions or doctrines of the law of this state.

(b) The board may issue cease and desist orders after a hearing or opportunity for hearing before the board.

(c) The board may file suit in the name of the board in state or federal court for judicial aid in enforcement of any administrative order.

(d) The permitting authority may terminate, modify, or revoke and reissue permits for cause.

(e) Enforcement. The permitting authority shall have the enforcement authority established in Section 2 of the Part 70 Operating Permit Program ordinance and shall have the following enforcement authority to address violations of the Part 70 Operating Permit Program ordinance by part 70 sources including those that submit a written request for treatment as a synthetic minor source, (or emissions units thereat or thereon) or violations of permit requirements or conditions:

(1) To restrain or enjoin immediately and effectively any person by administrative order or by suit in court from engaging in any activity in violation of a permit that is presenting an imminent and substantial endangerment to the public health or welfare, or the environment;

(2) To seek injunctive relief in court to enjoin any violation of any program requirement, including permit conditions, without the necessity of a prior revocation of the permit; and

(3) To assess civil penalties and sue in court to recover same and to seek criminal remedies, including fines, according to the following:

(i) Civil penalties shall be recoverable for the violation of any applicable requirement as that term is defined in the Part 70 Operating Permit Program ordinance; any permit term or condition; any fee or filing requirement; any duty to allow or carry out inspection, entry or monitoring activities, or any regulation or orders issued by the permitting authority; operation of a part 70 source or of an emissions unit at a part 70 source without a part 70 permit at any time that the part 70 source is required to have an issued part 70 permit, except as otherwise provided in the Part 70 Operating Permit Program ordinance; and operation of a source that submits a written request for treatment as a synthetic minor source that is denied such treatment that operates without a part 70 permit at any time that the source or an emissions unit at the source is required to have an issued part 70 permit, except as otherwise provided in the Part 70 Operating Permit Program ordinance. Each day of operation without an issued part 70 permit as

described in this paragraph constitutes a separate violation. These penalties shall be recoverable in a maximum amount of not less than \$10,000 per day per violation. Mental state shall not be an element of proof for civil violations.

(ii) To bring civil actions to collect permit fees when necessary and to bring action to require compliance with the permit requirements of the Part 70 Operating Permit Program ordinance.

(iii) Criminal fines shall be recoverable against any person who knowingly violates any applicable requirement; any permit condition; or any fee or filing requirement. These fines shall be recoverable in a maximum amount of not less than \$10,000 per day per violation.

(iv) Criminal fines shall be recoverable against any person who knowingly makes any false material statement, representation or certification in any form, in any notice or report required by a permit, or who knowingly renders inaccurate any required monitoring device or method. These fines shall be recoverable in a maximum amount of not less than \$10,000 per day per violation.

(v) For the prosecution of criminal action under paragraph (e)(3)(iii) or (e)(3)(iv) of this section, the permitting authority shall follow and comply with the provisions of Tennessee Code Annotated, § 68-201-112 and shall notify the District Attorney General of the violation.

(f) Burden of proof. The burden of proof and degree of knowledge or intent required under state law for establishing violations under paragraph (e)(3) of this section shall be no greater than the burden of proof or degree of knowledge or intent required under the Act.

(g) Appropriateness of penalties and fines. A civil penalty or criminal fine assessed, sought, or agreed upon by the permitting authority under paragraph (e)(3) of this section shall be appropriate to the violation. Where an affirmative defense of emergency is not established, the board may consider emergency circumstances in mitigation or reduction in assessing a penalty, and shall consider those factors enumerated in §113(e)(1)[42 U.S.C. 7413(e)(1)] of the Act and those factors enumerated in Tennessee Code Annotated, § 68-201-106, as well as those factors set forth in the "Penalties for violation" section of the air pollution control ordinance of this municipality. (Ord. #582, Oct. 1994, as amended by Ord. #601, Oct. 1995, and Ord. #603, Dec. 1995)

**8-766--8-767. [Reserved.]** (Ord. #598, Sept. 1995)

**8-768. Incorporation of documents by reference.** The following documents are hereby incorporated by reference in accordance with Tennessee Code Annotated, § 68-201-115 in Chapter 7 as requirements of this municipality:

(a) Title 40 Code of Federal Regulations Part 50, Appendices A through K--Reference Methods for the Determination of National Primary and Secondary Ambient Air Quality Standards (Revised as of July 1, 1996); and

(b) Title 40 Code of Federal Regulations Part 51, Appendix M--Recommended Test Methods for State Implementation Plans, Appendix P--Minimum Emission Monitoring Requirements, and Appendix W--Guideline on Air Quality Models including Appendix A to Appendix W, Appendix B to Appendix W (Revised as of July 1, 1996) and Appendix C to Appendix W at 61 FR 41840-41894, August 12, 1996; and

(c) Title 40 Code of Federal Regulations Part 58, Appendix B--Quality Assurance Requirements for Prevention of Significant Deterioration (PSD) Monitoring (Revised as of July 1, 1996); and

(d) Title 40 Code of Federal Regulations Part 64--Compliance Assurance Monitoring federally effective November 21, 1997, published at 62 FR 54940-54947 on October 22, 1997; and

(e) Title 40 Code of Federal Regulations Part 68--Chemical Accident Prevention Provisions (Revised as of July 1, 1996); and Amendments to Part 68, Subparts A and F, at 63 FR 644-645, January 6, 1998; and

(f) Title 40 Code of Federal Regulations Part 75--Continuous Emission Monitoring, including all appendices (Revised as of July 1, 1996); and

(g) Title 40 Code of Federal Regulations Part 258--Criteria for Municipal Solid Waste Landfills, Subpart D--Design Criteria § 258.40 and Subpart F--Closure and Post-Closure Care § 258-60 (Revised as of July 1, 1996); and

(h) Title 40 Code of Federal Regulations § 257.2 Definitions (Revised as of July 1, 1996).

(i) ASTM Designation D 3266-91, Standard Test Method for Automated Separation and Collection of Particulate and Acidic Gaseous Fluoride in the Atmosphere (Double Paper Tape Sampler Method), 1994 Annual Book of ASTM Standards Volume 11.03; and

(j) American Society for Testing and Materials, D-323-94, Standard Test Method for Vapor Pressure of Petroleum Products (Reid Method), 1994 Annual Book of ASTM Standards Volume 5.01; and

(k) American Petroleum Institute Bulletin 2517 "Evaporation Loss from External Floating-Roof Tanks" Third Edition with addendum May 1994; and

(l) Tennessee Visible Emission Evaluation Method 1 for visible emissions resulting from roads and parking areas, Visible Emissions



Evaluation Instruction Manual, August 1988 Revised 1995, issued by the Tennessee Department of Health and Environment Division of Air Pollution Control.

(m) National Association of Corrosion Engineers (NACE) Standard RP0294-94 "Recommended Practice Design, Fabrication, and Inspection of Tanks for Storage of Concentrated Sulfuric Acid and Oleum at Ambient Temperatures." (Ord. #670, Dec. 1998, as amended by Ord. #702, May 2000)

ORDINANCE NO. 707**AN ORDINANCE ADOPTING AND ENACTING A CODIFICATION AND REVISION OF THE ORDINANCES OF THE CITY OF EAST RIDGE TENNESSEE.**

WHEREAS some of the ordinances of the City of East Ridge are obsolete, and

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

WHEREAS the City Council of the City of East Ridge, Tennessee, has caused its ordinances of a general, continuing, and permanent application or of a penal nature to be codified and revised and the same are embodied in a code of ordinances known as the "East Ridge Municipal Code," now, therefore:

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

**Section 1. Ordinances codified.** The ordinances of the city of a general, continuing, and permanent application or of a penal nature, as codified and revised in the following "titles," namely "titles" 1 to 20, both inclusive, and Appendix 2 in Volume Two, are ordained and adopted as the "East Ridge Municipal Code," hereinafter referred to as the "municipal code."

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

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

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

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

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

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

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<sup>1</sup>State law reference

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

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

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


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

**Section 9. Code available for public use.** A copy of the municipal code shall be kept available in the city hall for public use and inspection at all reasonable times.

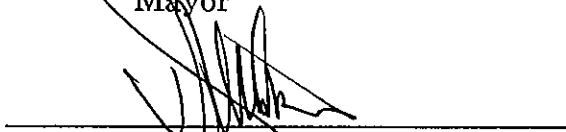
**Section 10. Date of effect.** This ordinance shall take effect from and after its final passage, the public welfare requiring it, and the municipal code, including all the codes and ordinances therein adopted by reference, shall be effective on and after that date.

Passed 1st reading, October 26, 2000.

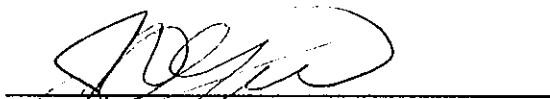
Passed 2nd reading, November 30, 2000.

  
\_\_\_\_\_  
Mayor

Attest:

  
\_\_\_\_\_  
City Manager

Approval as to form:

  
\_\_\_\_\_  
City Attorney