

**THE
HUMBOLDT
MUNICIPAL
CODE**

Prepared by the

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

in cooperation with the

TENNESSEE MUNICIPAL LEAGUE

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Change 1, June 2, 2014

CITY OF HUMBOLDT, TENNESSEE

MAYOR

Marvin Sikes

VICE MAYOR

Leon McNeal

ALDERMEN

Don Graves

Donna Johnson

Bobby Pruett

James Shivers

CITY TREASURER

Howard K. Hadley

CITY ATTORNEY

Terri Crider

PREFACE

The Humboldt Municipal Code contains the codification and revision of the ordinances of the City of Humboldt, 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**

Ordinance adoption. All ordinances passed by the Board of Mayor and Aldermen of said city, before becoming effective, shall be passed on two separate readings and at separate meetings; provided, that any ordinance may be passed at regular or called sessions on first or second reading; provided, further, that if passed at a call or special meeting, the purpose of said call to be set out in the call, said call to be in writing and to be entered on the minutes of such call meeting; and provided, further, that all ordinances, before becoming effective, shall be entered on the ordinance book of said City and signed by the Mayor and Secretary of the Board of Aldermen, and shall also be published for one issue in a newspaper in the said city, if there be a newspaper published in said city, and, if not, then to be printed on posters and posted in front of the city hall of said city. The ordinances of said city, when entered on the ordinance book of said city or codified, may be proved in any of the courts of this State by the introduction of the ordinance book or by the code of ordinance when properly adopted by the Board of Mayor and Aldermen. (Charter: chapter 2, § 3)

TITLE 1

GENERAL ADMINISTRATION¹

CHAPTER

1. BOARD OF MAYOR AND ALDERMEN.
2. MAYOR.
3. CODE OF ETHICS.

CHAPTER 1

BOARD OF MAYOR AND ALDERMEN²

SECTION

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

1-101. Time and place of regular meetings. The board of mayor and aldermen shall meet twice monthly in regular session on the first and last Mondays in each month at five fifteen o'clock P.M.; and shall meet pursuant to such specially called meetings as provided by the charter. (Ord. #84-2, April 1984)

¹Charter references

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

Municipal code references

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

Fire department: title 7.

Utilities: titles 18 and 19.

Wastewater treatment: title 18.

Zoning: title 14.

²Charter references

Composition of board of mayor and aldermen: chapter 3, § 1.

Duties: chapter 3, § 3.

Meeting time: chapter 3, § 6.

Secretary of the board: chapter 3, § 7.

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

- (1) Call to order by the mayor.
- (2) Roll call by the secretary.
- (3) Reading of minutes of the previous meeting by the secretary, and approval or correction.
- (4) Grievances from citizens.
- (5) Communications from the mayor.
- (6) Reports from committees, aldermen, and other officers.
- (7) Old business.
- (8) New business.
- (9) Adjournment. (1980 Code, § 1-102)

1-103. General rules of order. The rules of order and parliamentary procedure contained in Robert's Rules of Order, Revised, shall govern the transaction of business by and before the board of mayor and aldermen at its meetings in all cases to which they are applicable and in which they are not inconsistent with provisions of the charter or this code. (1980 Code, § 1-103)

CHAPTER 2**MAYOR¹****SECTION**

1-201. Generally supervises city's affairs.

1-202. Executes city's contracts.

1-201. Generally supervises city's affairs. The mayor shall have general supervision of all municipal affairs and may require such reports from the officers and employees as he may reasonably deem necessary to carry out his executive responsibilities. (1980 Code, § 1-201)

1-202. Executes city's contracts. The mayor shall execute, and the secretary shall attest, all contracts as authorized by the board of mayor and aldermen. (1980 Code, § 1-202)

¹Charter references

Bond and oath: chapter 2, § 2.

Compensation: chapter 3, § 16(a).

Duties: chapter 3, §§ 4 and 5.

Vacancies in office: chapter 3, § 25.

CHAPTER 3

CODE OF ETHICS

SECTION

- 1-301. Applicability.
- 1-302. Definitions.
- 1-303. Gift ban.
- 1-304. Gift ban exceptions.
- 1-305. Disposition of gifts.
- 1-306. Disclosure of personal interests by official with vote.
- 1-307. Disclosure of personal interests in nonvoting matters.
- 1-308. City treasurer to maintain disclosure file.
- 1-309. Ethics complaints.
- 1-310. Violations.
- 1-311. Repealer clause.
- 1-312. City treasurer to file copy of ordinance with Tennessee Ethics Commission.

1-301. 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. #2007-01, May 2007)

1-302. Definitions. For the purposes of interpreting this chapter, the following words, terms, and phrases shall have the meanings ascribed to them in this section:

- (1) "City" means the municipality of Humboldt, Tennessee.
- (2) "Gift" means the transfer or conveyance of anything of economic value, regardless of form, without adequate and lawful consideration.
- (3) "Immediate family" means parents, spouse and children.
- (4) "Personal interest" means:
 - (a) The holding or acquisition of any financial or ownership of either ten thousand dollars (\$10,000.00) or five percent (5.00%) or greater in a business entity that has or is negotiating a contract of one thousand dollars (\$1,000.00) or more with the city, or is regulated by any agency of the city; or
 - (b) The ownership of any real estate having a value of one thousand dollars (\$1,000.00) or greater which the city has or is negotiating an acquisition, leasehold, or easement agreement; or

(c) Any such financial or ownership interest as defined in subsections (4)(a) and (b) of this section by the officer or employee's spouse or immediate family member. (as added by Ord. #2007-01, May 2007)

1-303. Gift ban. Except as permitted in § 1-304 of this chapter, no official or employee, nor any immediate family member of such official or employee for whom this chapter is applicable, shall intentionally or knowingly solicit or accept any gift as defined herein. (as added by Ord. #2007-01, May 2007)

1-304. Gift ban exceptions. Section 1-303 of this chapter is not applicable to the following:

(1) Opportunities; benefits, and services that are available on the same conditions as for the general public.

(2) Anything for which the officer or employee, or a member of his or her immediate family, pays the fair market value.

(3) Any condition that is lawfully made to the officer or employee's political campaign fund, or to that of his or her immediate family, including any activities associated with a fundraising event in support of a political organization or candidate.

(4) Educational materials provided for the purpose of improving or evaluating municipal programs, performance, or proposals.

(5) A gift from a relative, meaning those persons related to the individual as father, mother, son, daughter, brother, sister, uncle, aunt, great aunt, great uncle, first cousin, nephew, niece, husband, wife, grandfather, grandmother, grandson, granddaughter, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half-brother, half-sister, and including the father, mother, grandfather, or grandmother of the individual's spouse and the individual's fiancé or fiancée.

(6) Anything provided by an individual on the basis of a personal friendship unless the recipient has reason to believe that, under the circumstances, the gift was provided because of the official position or employment of the recipient or his or her spouse or immediate family member and not because of the personal friendship. In determining whether a gift is provided on the basis of personal friendship, the recipient shall consider the circumstances under which the gift was offered, such as:

(a) The history of the relationship between the individual giving the gift and the recipient of the gift, including any previous exchange of gifts between those individuals; and

(b) Whether to the actual knowledge of the recipient the individual who gave the gift personally paid for the gift or sought a tax deduction or business reimbursement for the gift; and

(c) Whether to the actual knowledge of the recipient the individual who gave the gift also at the same time gave the same or similar gifts to other officers or employees, or their spouses or immediate family members.

(7) Food or refreshments not exceeding one hundred dollars (\$100.00) per person in value on a single calendar day; provided that the food or refreshments are:

(a) Consumed on the premises from which they were purchased or prepared; or

(b) Catered.

For the purposes of this chapter, "catered" means food or refreshments that are purchased ready to consume which are delivered by any means.

(8) Food, refreshments, lodging, transportation, and other benefits resulting from the outside business or employment activities (or outside activities that are not connected to the official duties of an officer or employee), if the benefits have not been offered or enhanced because of the official position or employment of the officer or employee, and are customarily provided to others in similar circumstances.

(9) Intra-governmental and inter-governmental gifts. For the purpose of this chapter, "intra-governmental gift" means any gift that is given to an officer or employee from another officer or employee, "inter-governmental gift" means any gift given to an officer or employee by an officer or employee of another governmental entity.

(10) Bequests, inheritances, and other transfers at death.

(11) Ceremonial gifts or awards which have insignificant monetary value.

(12) Unsolicited gifts of nominal value or trivial items of informational value. (as added by Ord. #2007-01, May 2007)

1-305. Disposition of gifts. An officer or employee, his or her spouse or an immediate family member, does not violate this chapter if the recipient promptly takes reasonable action to return a prohibited gift to its source or gives the gift or an amount equal to its value to an appropriate charity that is exempt from income taxation under section 501(c)(3) of the Internal Revenue Code of 1986, as now or hereafter amended, renumbered, or succeeded. (as added by Ord. #2007-01, May 2007)

1-306. Disclosure of personal interests 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 the official's vote on the measure. Additionally, the official may recuse himself or herself from voting on the measure. (as added by Ord. #2007-01, May 2007)

1-307. Disclosure of personal interests in nonvoting matters. An official or employee who must exercise discretion relative to any matter, other than casting a vote, and who has a personal interest in the matter that affects the exercise of discretion shall disclose, before the exercise of the discretion when possible, the interest on a form provided by and filed with the secretary, board of aldermen. In addition, the official or employee may, to the extent allowed by law, charter, ordinance, or policy, recuse himself or herself from the exercise of discretion in the matter. (as added by Ord. #2007-01, May 2007)

1-308. City treasurer to maintain disclosure file. The city treasurer shall keep and maintain all financial disclosure statements required to be filed herein as public records and shall retain them for a period of seven (7) years after which the statements shall be destroyed. (as added by Ord. #2007-01, May 2007)

1-309. Ethics complaints. (1) The city attorney is designated as the ethics officer of the city. 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 laws.

(2) Except as otherwise provided in this chapter, the city attorney shall investigate any credible complaint against an appointed official or employee charging any violation of this chapter, or may undertake an investigation on his own initiative when he acquires information indicating a possible violation and make recommendations to end any activity that, in the attorney's judgment, constitutes a violation of this chapter. The city attorney may request that the city board retain another attorney, individual, or entity to act as ethics officer when he has or will have a conflict of interests in a particular matter.

(3) When a complaint of a violation of any provision of this chapter is lodged against the mayor or a member of the city board, the city board shall either determine that the complaint has merit, determine that the complaint does not have merit, or determine that the complaint has sufficient merit to warrant further investigation. If the city board determines that a complaint warrants further investigation, it shall authorize an investigation by the city attorney or another individual or entity chosen by the city board.

(4) When a violation of this chapter also constitutes a violation of the city's personnel policies, rules, or regulations, the violation shall be dealt with as a violation of the personnel provisions rather than as a violation of this chapter. (as added by Ord. #2007-01, May 2007)

1-310. 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 city charter or other applicable law and, in

addition, is subject to censure by the city board. Any municipal employee who violates any provision of this chapter is subject to disciplinary action up to, and including, termination of employment. (as added by Ord. #2007-01, May 2007)

1-311. Repealer clause. All ordinances and parts of ordinances which are inconsistent with the provisions of this chapter are hereby repealed to the extent of such inconsistency. (as added by Ord. #2007-01, May 2007)

1-312. City treasurer to file copy of ordinance with Tennessee Ethics Commission. Upon adopted by the board of mayor and aldermen, the city treasurer is hereby directed to file a duly signed and attested copy of the ordinance comprising this chapter with the Tennessee Ethics Commission, in compliance with section 49 of Public Chapter No. 1 of the Extraordinary Sessions of the 2006 Tennessee General Assembly. (as added by Ord. #2007-01, May 2007)

TITLE 2**BOARDS AND COMMISSIONS, ETC.****CHAPTER****1. CIVIL DEFENSE ORGANIZATION.****CHAPTER 1****CIVIL DEFENSE ORGANIZATION****SECTION**

- 2-101. Civil defense organization created.
- 2-102. Authority and responsibilities of organization.
- 2-103. Office of director--authority and responsibility.
- 2-104. Civil defense corps created.
- 2-105. Municipal or private liability.
- 2-106. Expenses of civil defense.

2-101. Civil defense organization created. Pursuant to the powers granted by Tennessee Code Annotated, §§ 58-2-101, et seq., the following joint civil defense organization shall be established. There is hereby created the Gibson County Civil Defense Organization, which shall be a joint operation by the City of Humboldt and the County of Gibson for the purpose of organizing and directing civil defense for the citizens of the entire county. All other civil defense agencies within the corporate limits of Gibson County shall be considered as a total part of the county-wide civil defense emergency resources, and when such agencies operate out of its corporate limits, it shall be at the direction of, subordinate to, and a part of the Gibson County Civil Defense. (1980 Code, § 1-801)

2-102. Authority and responsibilities of organization.

(1) Authority. In accordance with federal and state enactments of law, the Gibson County Civil Defense Organization is hereby authorized to assist the regular government of the county and governments of all political subdivisions therein, as may be necessary due to enemy caused emergency or natural disasters, including but not limited to: storms, floods, fires, explosions, tornadoes, hurricanes, drought, or peacetime man-made disasters, which might occur affecting the lives, health, safety, welfare, and property of the citizens of Gibson County. The Gibson County Civil Defense Organization is hereby authorized to perform such duties and functions as may be necessary on account of said disasters. The Gibson County Civil Defense Organization is hereby designated the official agency to assist regular forces in time of said emergencies.

(2) Responsibilities. The Gibson County Civil Defense Organization shall be responsible for preparation and readiness against enemy caused and natural emergencies arising in Gibson County, to establish and coordinate emergency plans, forces, means, and resources, and is hereby designated the official agency to establish such emergency plans. (1980 Code, § 1-802)

2-103. Office of director--authority and responsibility. (1) The office of the director of civil defense is hereby created. The director shall have authority to request the declaration of the existence of an emergency by the mayor and county executive or either or by higher authority as appropriate.

(2) The director shall have overall responsibility for the preparation of all plans, recruitment, and training of personnel. All local civil defense plans will be in consonance with State Plans and shall be approved by the State Civil Defense Office.

(3) The director is hereby given the authority to delegate such responsibility and authority as is necessary to carry out the purposes of this chapter subject to the approval of the chief executive officers of the city and county.

(4) The director shall be responsible to the chief executive officers of the city and county for the execution of the authorities, duties, and responsibilities of the Gibson County Civil Defense Organization, for the preparation of all plans and administrative regulations and for recruitment and training of personnel. (1980 Code, § 1-803)

2-104. Civil defense corps created. The Gibson County Civil Defense Corps is hereby created. The corps shall be under the direction of the director of civil defense and his staff members with delegated authority; it shall consist of designated regular government employees and volunteer workers. Duties and responsibilities of the corps members shall be outlined in the Civil Defense Emergency Plan. (1980 Code, § 1-804)

2-105. Municipal or private liability. The duties prescribed in this document are an exercise by the city and county of its governmental functions for the protection of the public peace, health, and safety and neither the City of Humboldt nor Gibson County, the agents and representatives of said city and county, nor any individual, receiver, firm, partnership, corporation, association, or trustee, nor any of the agents thereof, in good faith carrying out, complying with or attempting to comply with, any order, rule, or regulation promulgated pursuant to the provisions of this document shall be liable for any damage sustained to person or property as the result of said activity. Any person owning or controlling real estate or other premises for the purpose of sheltering persons during an actual, impending, or practice attack, shall together with his successors in interest, if any, not be civilly liable for the death of, or injury to, any person on or about such real estate or premises under such license,

privilege, or other permission or for loss of, or damage to, the property of such person. (1980 Code, § 1-805)

2-106. Expenses of civil defense. No person shall have the right to expend any public funds of the city or county in carrying out any civil defense activities authorized by this document without prior approval by the governing bodies of the city or county or both; nor shall any person have any right to bind the city or county by contract, agreement, or otherwise without prior and specific approval by the governing body of the city and/or county. The civil defense director shall disburse such monies as may be provided annually by appropriation of the city and county for the operation of the civil defense organization. He shall be responsible for the preparation and submission of a budget with recommendations as to its adoption by the city and county. All funds shall be disbursed upon vouchers properly executed by the director of civil defense, subject to audit by either the City of Humboldt or Gibson County. The civil defense director is hereby authorized to accept federal contributions in money, equipment, or otherwise, when available, or state contributions, and is further authorized to accept contributions to the civil defense organization, such funds becoming liable for audit by the city or county. (1980 Code, § 1-806)

TITLE 3**MUNICIPAL COURT****CHAPTER****1. MUNICIPAL COURT.****CHAPTER 1****MUNICIPAL COURT****SECTION**

- 3-101. City judge.
- 3-102. Maintenance of docket.
- 3-103. Issuance of arrest warrants.
- 3-104. Issuance of summonses.
- 3-105. Issuance of subpoenas.
- 3-106. Trial and disposition of cases.
- 3-107. Appearance bonds authorized.
- 3-108. Imposition of fines and costs.
- 3-109. Appeals.
- 3-110. Bond amounts, conditions, and forms.
- 3-111. Disposition and report of fines and costs.
- 3-112. Disturbance of proceedings.

3-101. City judge. Pursuant to section 13 of chapter 3 of the city's charter, the city judge shall be appointed by the board of mayor and aldermen. (1980 Code, § 1-501)

3-102. 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 which may be relevant.

In the absence of the city judge, the clerk shall keep the docket. (1980 Code, § 1-502)

3-103. Issuance of arrest warrants.¹ The city judge shall have the power to issue warrants for the arrest of persons charged with violating municipal ordinances. (1980 Code, § 1-503)

3-104. 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 personally to 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. (1980 Code, § 1-504)

3-105. 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. (1980 Code, § 1-505)

3-106. Trial and disposition of cases. Every person charged with violating a municipal ordinance shall be entitled to an immediate trial and disposition of his case, provided the city court is in session or the city judge is reasonably available. However, the provisions of this section shall not apply when the alleged offender, by reason of drunkenness or other incapacity, is not in a proper condition or is not able to appear before the court. (1980 Code, § 1-506)

3-107. Appearance bonds authorized. When the city judge is not available or when an alleged offender requests and has reasonable grounds for a delay in the trial of his case, he may, in lieu of remaining in jail pending disposition of his case, be allowed to post an appearance bond with the city judge or, in the absence of the judge, with the ranking police officer on duty at the

¹Charter reference

Clerk of the court; authorized to issue warrants, subpoenas, and other process: chapter 3, § 14.

State law reference

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

time, provided such alleged offender is not drunk or otherwise in need of protective custody. (1980 Code, § 1-507)

3-108. Imposition of fines and costs. All fines 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 by him, the city judge shall tax in the bill of costs the same amounts and for the same items allowed in courts of general sessions¹ for similar work in state cases. (1980 Code, § 1-508)

3-109. 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.² (1980 Code, § 1-509)

3-110. 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 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 or penalty 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 within the county. No other type bond shall be acceptable. (1980 Code, § 1-510)

3-111. Disposition and report of fines and costs. All funds coming into the hands of the city judge in the form of fines, 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 board of mayor and aldermen a report accounting for the collection or noncollection of all fines and costs imposed by his court during the current month and to date for the current fiscal year. (1980 Code, § 1-511)

3-112. Disturbance of proceedings. It shall be unlawful for any person to create any disturbance of any trial before the city court by making loud or unusual noises, by using indecorous, profane, or blasphemous language, or by any distracting conduct whatsoever. (1980 Code, § 1-512)

¹State law reference
Tennessee Code Annotated, § 8-21-401.

²State law reference
Tennessee Code Annotated, § 27-5-101.

TITLE 4**MUNICIPAL PERSONNEL****CHAPTER**

1. MISCELLANEOUS PERSONNEL REGULATIONS.
2. SOCIAL SECURITY FOR OFFICERS AND EMPLOYEES.
3. TRAVEL REIMBURSEMENT REGULATIONS.
4. OCCUPATIONAL SAFETY AND HEALTH PROGRAM.

CHAPTER 1**MISCELLANEOUS PERSONNEL REGULATIONS****SECTION**

- 4-101. Business dealings.
- 4-102. Acceptance of gratuities.
- 4-103. Outside employment.
- 4-104. Political activity.
- 4-105. Use of municipal time, facilities, etc.
- 4-106. Use of position.
- 4-107. Strikes and unions.

4-101. Business dealings. Except for the receipt of such compensation as may be lawfully provided for the performance of his municipal duties, it shall be unlawful for any municipal officer or employee to be privately interested in, or to profit, directly or indirectly, from business dealings with the city. (1980 Code, § 1-901)

4-102. Acceptance of gratuities. No municipal officer or 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 officer or 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. (1980 Code, § 1-902)

4-103. Outside employment. No full-time officer or employee of the city shall accept any outside employment without written authorization from the mayor. The mayor shall not grant such authorization if the work is likely to interfere with the satisfactory performance of the officer's or employee's duties, or is incompatible with his municipal employment, or is likely to cast discredit upon or create embarrassment for the city. (1980 Code, § 1-903)

4-104. Political activity. Municipal officers and employees may individually exercise their right to vote and privately express their political views as citizens. However, no municipal officer or employee shall solicit political campaign contributions or engage in or actively participate in any municipal political campaign. These restrictions shall not apply to elective officials. (1980 Code, § 1-904)

4-105. Use of municipal time, facilities, etc. No municipal 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 board of mayor and aldermen has authorized the use of such time, facilities, equipment, or supplies, and the city is paid at such rates as are normally charged by private sources for comparable services. (1980 Code, § 1-905)

4-106. Use of position. No municipal 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. (1980 Code, § 1-906)

4-107. Strikes and unions. No municipal officer or employee shall participate in any strike against the city, nor shall he join, be a member of, or solicit any other municipal officer or employee to join any labor union which authorizes the use of strikes by government employees. (1980 Code, § 1-907)

CHAPTER 2

SOCIAL SECURITY FOR OFFICERS AND EMPLOYEES

SECTION

- 4-201. Policy and purpose as to coverage.
- 4-202. Necessary agreements to be executed.
- 4-203. Withholdings from salaries or wages.
- 4-204. Appropriations for employer's contributions.
- 4-205. Records to be kept and reports made.
- 4-206. Exclusion of coverage due to another retirement system.
- 4-207. Exclusion of coverage due to lack of authorization.

4-201. 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, 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. (1980 Code, § 1-701)

4-202. 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 and to have said agreements and amendments thereto, and the payments provided thereunder, relate back to and be effective and payable as of January 1, 1951. (1980 Code, § 1-702)

4-203. 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. (1980 Code, § 1-703)

4-204. 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. (1980 Code, § 1-704)

4-205. Records to be kept and reports made. The city shall keep such records and make such reports as may be required by applicable state and federal laws or regulations. (1980 Code, § 1-705)

4-206. Exclusion of coverage due to another retirement system. There is hereby excluded from this chapter any authority to make any agreement with respect to any position or any employee or official now covered or authorized to be covered by any other provision of this code or ordinance creating any retirement system for any employee or official of the city. (1980 Code, § 1-706)

4-207. Exclusion of coverage due to lack of authorization. (1) There is hereby excluded from this chapter any authority to make any agreement with respect to any employee or official not authorized to be covered by applicable federal or state laws or regulations, or any elective official rendering legislative services, it being the legislative intent to authorize the extension of the benefits of the System of Federal Old Age and Survivors Insurance to include fee based employees as of January 1, 1951, and emergency and part-time employees as of October 1, 1962.

(2) Acting under § 4-207(1) hereinabove, the mayor is directed to amend the social security agreement executed on December 31, 1951, so as to extend the benefits of the System of Federal Old Age and Survivors Insurance to include emergency and part-time employees as of October 1, 1962. (1980 Code, § 1-707)

CHAPTER 3

TRAVEL REIMBURSEMENT REGULATIONS

SECTION

- 4-301. Purpose.
- 4-302. Enforcement.
- 4-303. Travel policy.
- 4-304. Travel reimbursement rate schedule.
- 4-305. Travel request.
- 4-306. Travel documentation.
- 4-307. Transportation.
- 4-308. Air.
- 4-309. Rail or bus.
- 4-310. Vehicles.
- 4-311. Taxi, limousine, and other transportation fares.
- 4-312. Lodging.
- 4-313. Meals and incidentals.
- 4-314. Miscellaneous expenses.
- 4-315. Entertainment.
- 4-316. Travel reconciliation.
- 4-317. Disciplinary action.

4-301. Purpose. The purpose of this policy and referenced regulations is to bring the City of Humboldt into compliance with Public Acts 1993, Chapter 433. This act requires Tennessee municipalities to adopt travel and expense regulations covering expenses incurred by "any mayor and any member of the local governing body and any board or committee member elected or appointed by the mayor or local governing body, and any official or employee of the municipality whose salary is set by charter or general law."

To provide consistent travel regulations and reimbursement, this chapter is expanded to cover regular city employees. It's the intent of this policy to assure fair and equitable treatment to all individuals traveling on city business at city expense. (Ord. #93-6, July 1993)

4-302. Enforcement. The chief administrative officer (CAO) of the city or his or her designee shall be responsible for the enforcement of these travel regulations. (Ord. #93-6, July 1993)

4-303. Travel policy. (1) In the interpretation and application of this chapter, the term "traveler" or "authorized travel" means any elected or appointed municipal officer or employee, including members of municipal boards and committees appointed by the mayor or the municipal governing body, and the employees of such boards and committees who are traveling on official

municipal business and whose travel was authorized in accordance with this chapter. "Authorized traveler" shall not include the spouse, children, other relatives, friends, or companions accompanying the authorized traveler on city business, unless the person(s) otherwise qualifies as an authorized traveler under this chapter.

(2) Authorized travelers are entitled to reimbursement of certain expenditures incurred while traveling on official business for the city. Reimbursable expenses shall include expenses for transportation; lodging; meals; registration fees for conferences, conventions, and seminars; and other actual and necessary expenses related to official business as determined by the CAO. Under certain conditions, entertainment expenses may be eligible for reimbursement.

(3) Authorized travelers can request either a travel advance for the projected cost of authorized travel, or advance billing directly to the city for registration fees, air fares, meals, lodging, conferences, and similar expenses.

Travel advance requests aren't considered documentation of travel expenses. If travel advances exceed documented expenses, the traveler must immediately reimburse the city. It will be the responsibility of the CAO to initiate action to recover any undocumented travel advances.

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

(5) The travel expense reimbursement form will be used to document all expense claims.

(6) To qualify for reimbursement, travel expenses must be:

(a) directly related to the conduct of the city business for which travel was authorized, and

(b) actual, reasonable, and necessary under the circumstances.

The CAO may make exceptions for unusual circumstances.

Expenses considered excessive won't be allowed.

(7) Claims of \$5 or more for travel expense reimbursement must be supported by the original paid receipt for lodging, vehicle rental, phone call, public carrier travel, conference fee, and other reimbursable costs.

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

(9) Mileage and motel expenses incurred within the city aren't ordinarily considered eligible expenses for reimbursement. (Ord. #93-6, July 1993)

4-304. Travel reimbursement rate schedules. Authorized travelers shall be reimbursed according to the State of Tennessee travel regulation rates. The city's travel reimbursement rates will automatically change when the State of Tennessee rates are adjusted.

The municipality may pay directly to the provider for expenses such as meals, lodging, and registration fees for conferences, conventions, seminars, and other education programs. (Ord. #93-6, July 1993)

4-305. Travel requests. To ensure reimbursement for official travel, an approved travel authorization form is required. Lack of pre-approval doesn't prohibit reimbursement, but it does assure reimbursement within the limits of the city travel policy. All costs associated with the travel should be reasonably estimated and shown on the travel request form. An approved request form is needed before advanced expenses are paid or travel advances are authorized. A copy of the conference program, if applicable, should be attached to the form. If the program isn't available prior to the travel, submit it with the reimbursement form. (Ord. #93-6, July 1993)

4-306. Travel documentation. It's the responsibility of the authorized traveler to:

- (1) Prepare and accurately describe the travel,
- (2) Certify the accuracy of the reimbursement request.
- (3) Note on the reimbursement form all direct payments and travel advances made by the city, and
- (4) File the reimbursement form with the necessary supporting documents and original receipts.

The reimbursement form should be filed with the finance department within 10 days of return or at the end of the month, whichever is more practical. (Ord. #93-6, July 1993)

4-307. Transportation. All potential costs should be considered when selecting the modes of transportation. For example, airline travel may be cheaper than automobile when time away from work and increased meal and lodging costs are considered. When time is important, or when the trip is so long that other modes of transportation aren't cost-beneficial, air travel is encouraged.

If the traveler goes outside the state by means other than air, the reimbursement will be limited to air fare at tourist or economy class, ordinary expenses during the meeting dates, and one day's meals and motel before and after the meeting. The traveler will be required to take annual leave for any additional time taken beyond the day before and the day after the meeting dates.

Exceptions: When the traveler extends the trip with personal time to take advantage of discount fares, the reimbursement will be limited to the lesser of:

- (1) The actual expenses incurred or
- (2) The amount that would have been incurred for the business portion only. The calculations for the business portion of the trip must be made using the least expensive rates available.

All expenses and savings associated with extending the trip must be submitted with the expense reimbursement form. (Ord. #93-6, July 1993)

4-308. Air. When possible, the traveler should make full use of discounts for advance airline reservations and advance registration. The traveler should request conference, government, or weekend rates, whichever is cheaper, when making lodging or rental car reservations. The city will pay for tourist or economy class air travel. The traveler should get the cheapest reasonable fare and take advantage of "Super Saver" or other discount fares. Airline travel can be paid by direct billing to the city.

Mileage credits for frequent flyer programs accrue to the individual traveler. However, the city won't reimburse for additional expenses -- such as circuitous routing, extended stays, layovers to schedule a particular carrier, upgrading from economy to first class -- for travelers to accumulate additional mileage or for other personal reasons.

The city won't reimburse travel by private aircraft unless authorized in advance by the CAO. (Ord. #93-6, July 1993)

4-309. Rail or bus. The city will pay for actual cost of tickets of prior-approved travel. (Ord. #93-6, July 1993)

4-310. Vehicles. Automobile transportation may be used when a common carrier can't be scheduled, when it's more economical, when a common carrier isn't practical, or when expenses can be reduced by two or more city employees traveling together.

(1) Personal vehicle. Employees should use city vehicles when possible. Use of a private vehicle must be approved in advance by the CAO. The city will pay a mileage rate not to exceed the rate allowed by the federal or state schedule, whichever the city adopts. The miles for reimbursement shall be paid from origin to destination and back by the most direct route. Necessary vicinity travel related to official city business will be reimbursed. However, mileage in excess of the Rand-McNally mileage must be documented as necessary and business-related. If an indirect route is taken, the Rand-McNally mileage table will be used to determine the mileage to be reimbursed.

If a privately owned automobile is used by two or more travelers on the same trip, only the traveler who owns or has custody of the automobile will be reimbursed for mileage. It's the responsibility of the traveler to provide adequate insurance to hold harmless the city for any liability from the use of the private vehicle.

In no event will mileage reimbursement, plus vicinity travel and associated automobile costs, exceed the lowest reasonable available air fare and associated air fare travel costs.

Travelers won't be reimbursed for automotive repair or breakdowns when using their personal vehicle.

(2) City vehicle. The city may require the employee to drive a city vehicle. If a city vehicle is provided, the traveler is responsible for seeing that the vehicle is used properly and only for acceptable business. The employee will be reimbursed for expenses directly related to the actual and normal use of the city vehicle when proper documentation is provided. Out-of-town repair cost to the city vehicle in excess of \$100 must be cleared with the proper city official before the repair is authorized.

(3) Rental cars. Use of a rental car isn't permitted unless it's less expensive or otherwise more practical than public transportation. Approval of car rental is generally required in advance by the CAO. Always request the government or weekend rate, whichever is cheaper. Anyone who uses a rental car for out-of-state travel must obtain liability coverage from the vendor.

(4) Fines for traffic or parking violations won't be reimbursed by the city.

(5) Reasonable tolls will be allowed when the most direct travel route requires them. (Ord. #93-6, July 1993)

4-311. Taxi, limousine, and other transportation fares. (1) When an individual travels by common carrier, reasonable fares will be allowed for necessary ground transportation. Bus or limousine service to and from airports should be used when available and practical. The city will reimburse mileage for travel to and from the local airport and parking fees, provided such costs don't exceed normal taxi/limousine fares to and from the airport. Receipts are required.

(2) For travel between lodging quarters and meetings, conferences, or meals, reasonable taxi fares will be allowed. Remember, original receipts are required for claims of \$5 or more. Transportation to and from shopping, entertainment, or other personal trips is the choice of the traveler and not reimbursable.

(3) Reimbursement claims for taxis, limousines, or other ground transportation must be listed separately on the expense form, claiming the destination and amount of each fare. (Ord. #93-6, July 1993)

4-312. Lodging. The amount allocated for lodging shall not ordinarily exceed the maximum per diem rates authorized by the state rate schedule, whichever is chosen by the city.

(1) Tennessee's current reimbursement rate is \$33, plus appropriate taxes.

(2) Original lodging receipts must be submitted with the reimbursement form. Photocopies aren't acceptable.

(3) If a traveler exceeds the maximum lodging per diem, excess costs are the responsibility of the traveler.

(4) If the best rate is secured, and it still exceeds the maximum lodging per diem, the CAO may authorize a higher reimbursement amount.

Even if it costs more, travelers may be allowed to stay at the officially designated hotel of the meeting; however, more moderately priced accommodations must be requested whenever possible. It will be the traveler's responsibility to provide documentation of the "officially designated meeting site" room rates, if these rates are higher than the normal reimbursable amounts.

(5) If two or more city employees travel together and share a room, the lodging reimbursement rate will be the maximum of two single rooms. If an employee shares a room with a non-employee, the actual cost will be allowed up to the maximum reimbursable amount. The receipt for the entire amount must be submitted with the expense form. (Ord. #93-6, July 1993)

4-313. Meals and incidentals. Receipts aren't required for meals and incidentals. The authorized travelers may be reimbursed the daily amount based on the rate schedule and the authorized length of stay. The per diem meal amounts are expected to cover meals, tips, porters, and incidental expenses. The authorized traveler won't be reimbursed more than this.

Whether meals may be claimed depends on when the traveler leaves and returns to the official station. The traveler's station is home or work, whichever produces the least cost to the city. When partial day travel is involved, the current per diem allowance is determined as follows:

<u>Meal</u>	<u>If departure before</u>	<u>If return after</u>
Breakfast	7 A.M.	8 A.M.
Lunch*	11 A.M.	1:30 P.M.
Dinner**	5 P.M.	6:30 P.M.

*Generally, lunch won't be reimbursed unless overnight travel is involved. Lunch may be reimbursed if departure is before 11 A.M. and the employee is eligible to be reimbursed for dinner.

**When overnight travel is involved, dinner reimbursement is made regardless of departure time.

Regardless of which reimbursement rate the city uses, the amounts include tip, gratuity, etc. The hour and date of departure and return must be shown on the expense reimbursement form.

The excess cost of an official banquet may be allowed provided proper documentation or explanation is submitted with the expense reimbursement form. If a meal is included as part of a conference or seminar registration, or is included with the air fare, then the allowance for that meal should be subtracted from the total allowance for the day. For example, if a dinner is included as part

of the conference fee, the maximum meal allowance for the day should be reduced by the allowed dinner amount.

PLEASE NOTE:

The municipality has selected to reimburse travelers at the State of Tennessee travel regulation rates. The city's rates will automatically change when the state's rates are adjusted. (Ord. #93-6, July 1993)

4-314. Miscellaneous expenses. (1) Registration fees for approved conferences, conventions, seminars, meetings, and other educational programs will be allowed and will generally include the cost of official banquets, meals, lodging, and registration fees. Registration fees should be specified on the original travel request form and can include a request for pre-registration fee payment.

(2) The traveler may be reimbursed for personal phone calls while on official travel, but the amount will be limited to \$_____ per day.

(3) A \$4 allowance will be reimbursable for hotel/motel check-in and baggage handling expenses.

(4) Laundry, valet service, tips and gratuities are considered personal expenses and aren't reimbursable.

(5) For travel outside the United States, all expenses claimed must be converted to U.S. dollars. The conversion rate and computation should be shown on each receipt. (Ord. #93-6, July 1993)

4-315. Entertainment. (1) The city may pay for certain entertainment expenses provided that:

(a) The entertainment is appropriate in the conduct of city business;

(b) The entertainment is approved by the CAO;

(c) The group or individuals involved are identified; and

(d) Documentation is attached to the expense form to support the entertainment expense claims.

(2) To request reimbursement for authorized entertainment expenses, be sure to include with the expense reimbursement form:

(a) Required receipts. All requests must be supported by original receipts from the vendor (restaurant, caterer, ticket office, etc.). Reasonable tips and gratuities included on the receipt by the vendor are reimbursable.

(b) A disclosure and explanation statement, explaining the purpose of the entertainment and identifying the group and the number of people entertained (or individual names listed if not a recognized group).

If the CAO is the person filing the claim, then it must be approved by the governing board before the finance officer authorizes payment. (Ord. #93-6, July 1993)

4-316. Travel reconciliation. (1) Within 10 days of return from travel, or by the end of the month, the traveler is expected to complete and file the expense reimbursement form. It must be certified by the traveler that the amount due is true and accurate. Original lodging, travel, taxi, parking, and other receipts must be attached.

If the city provided a travel advance or made advanced payment, the traveler should include that information on the expense form. In the case of advances, the form should have a reconciliation summary, reflecting total claimed expenses with advances and city pre-payments indicated. The balance due the traveler or the refund due the city should be clearly shown -- below the total claim on the form or in a cover memo attached to the front of the form.

(2) If the traveler received a travel advance and spent less than the advance, the traveler should attach a check made payable to the city for that difference.

(3) The CAO will address special circumstances and issues not covered in this chapter on a case-by-case basis. (Ord. #93-6, July 1993)

4-317. Disciplinary action. Violation of the travel rules can result in disciplinary action for employees. Travel fraud can result in criminal prosecution of officials and/or employees. (Ord. #93-6, July 1993)

CHAPTER 4

OCCUPATIONAL SAFETY AND HEALTH PROGRAM¹

SECTION

- 4-401. Title.
- 4-402. Purpose.
- 4-403. Coverage.
- 4-404. Standards authorized.
- 4-405. Variances from standards authorized.
- 4-406. Administration.
- 4-407. Funding the program.

4-401. Title. This chapter shall be known as "The Occupational Safety and Health Program Plan" for the employees of the City of Humboldt. (Ord. #2003-05, Aug. 2003, as replaced by Ord. #2013-02, April 2013)

4-402. Purpose. The City of Humboldt in electing to update the established program plan will maintain an effective and comprehensive occupational safety and health program plan for its employees and shall:

- (1) Provide a safe and healthful place and condition of employment that includes:
 - (a) Top management commitment and employee involvement;
 - (b) Continually analyze the worksite to identify all hazards and potential hazards;
 - (c) Develop and maintain methods for preventing or controlling the existing or potential hazards; and
 - (d) Train managers, supervisors, and employees to understand and deal with worksite hazards.
- (2) Acquire, maintain and require the use of safety equipment, personal protective equipment and devices reasonably necessary to protect employees.
- (3) Record, keep, preserve, and make available to the Commissioner of Labor and Workforce Development, or persons within the Department of Labor and Workforce Development to whom such responsibilities have been delegated, adequate records of all occupational accidents and illnesses and personal injuries for proper evaluation and necessary corrective action as required.

¹The Occupational Safety and Health Program for the City of Humboldt, including Appendices I through V is included in this municipal code as Appendix 2.

(4) Consult with the Commissioner of Labor and Workforce Development with regard to the adequacy of the form and content of records.

(5) Consult with the Commissioner of Labor and Workforce Development, as appropriate, regarding safety and health problems which are considered to be unusual or peculiar and are such that they cannot be achieved under a standard promulgated by the state.

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

(7) Provide for education and training of personnel for the fair and efficient administration of occupational safety and health standards, and provide for education and notification of all employees of the existence of this program plan. (Ord. #2003-05, Aug. 2003, as replaced by Ord. #2013-02, April 2013)

4-403. Coverage. The provisions of the occupational safety and health program plan for the employees of the City of Humboldt shall apply to all employees of each administrative department, commission, board, division, or other agency whether part-time or full-time, seasonal or permanent. (Ord. #2003-05, Aug. 2003, as replaced by Ord. #2013-02, April 2013)

4-404. Standards authorized. The occupational safety and health standards adopted by the City of Humboldt are the same as, but not limited to the State of Tennessee Occupational Safety and Health Standards promulgated, or which may be promulgated, in accordance with section 6 of the Tennessee Occupational Safety and Health Act of 1972.¹ (Ord. #2003-05, Aug. 2003, as replaced by Ord. #2013-02, April 2013)

4-405. Variances from standards authorized. Upon written application to the Commissioner of Labor and Workforce Development of the State of Tennessee, we may request an order granting a temporary variance from any approved standards. Applications for variances shall be in accordance with Rules of Tennessee Department of Labor and Workforce Development Occupational Safety and Health, Variances from Occupational Safety and Health Standards, chapter 0800-01-02, as authorized by Tennessee Code Annotated, title 50. Prior to requesting such temporary variance, we will notify or serve notice to our employees, their designated representatives, or interested parties and present them with an opportunity for a hearing. The posting of

¹State law reference

Tennessee Code Annotated, title 50, chapter 3.

notice on the main bulletin board shall be deemed sufficient notice to employees. (Ord. #2003-05, Aug. 2003, as replaced by Ord. #2013-02, April 2013)

4-406. Administration. For the purposes of this chapter, the safety director is designated to perform duties and to exercise powers assigned to plan, develop, and administer this program plan. The safety director shall develop a plan of operation for the program plan in accordance with Rules of Tennessee Department of Labor and Workforce Development Occupational Safety and Health, Safety and Health Provisions for the Public Sector, chapter 0800-01-05, as authorized by Tennessee Code Annotated, title 50. (Ord. #2003-05, Aug. 2003, as replaced by Ord. #2013-02, April 2013)

4-407. Funding the program. Sufficient funds for administering and staffing the program plan pursuant to this chapter shall be made available as authorized by the City of Humboldt. (Ord. #2003-05, Aug. 2003, as replaced by Ord. #2013-02, April 2013)

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

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

CHAPTER 1**REAL PROPERTY TAXES****SECTION**

5-101. When due and payable.

5-102. When delinquent--penalty and interest.

5-101. When due and payable.¹ Taxes levied by the city against real property shall become due and payable as provided by the city charter. (1980 Code, § 6-101)

5-102. When delinquent--penalty and interest.² All real property taxes shall become delinquent as provided by the city charter and shall thereupon be subject to such penalty and interest as are authorized and prescribed by the city charter. (1980 Code, § 6-102)

¹Charter reference

Assessments: chapter 5, § 5.

²Charter reference

Penalty: chapter 5, § 9.

Report on delinquencies: chapter 5, § 6.

CHAPTER 2

PRIVILEGE TAXES GENERALLY

SECTION

5-201. Tax levied.

5-202. License required.

5-201. Tax levied. Except as otherwise specifically provided in this code, there is hereby levied on all vocations, occupations, and businesses declared by the general laws of the state to be privileges taxable by municipalities, an annual privilege tax in the maximum amount allowed by said 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 said act. (1980 Code, § 6-201, modified)

5-202. License required. No person shall exercise any such privilege within the city without a currently effective privilege license, which shall be issued by the mayor to each applicant therefor upon such applicant's payment of the appropriate privilege tax. (1980 Code, § 6-202)

CHAPTER 3**WHOLESALE BEER TAX****SECTION**

5-301. To be collected.

5-301. To be collected. The mayor 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 6.¹ (1980 Code, § 6-301, modified)

¹State 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 4

PURCHASING

SECTION

5-401. Public advertising and competitive bidding.

5-401. Public advertising and competitive bidding. Public advertisement and competitive bidding shall be required for the purchase of all goods and services exceeding an amount of ten thousand dollars (\$10,000) except for those purchases specifically exempted from advertisement and bidding by the Municipal Purchasing Act of 1983. (Ord. #99-8, Dec. 1999)

TITLE 6**LAW ENFORCEMENT****CHAPTER**

1. POLICE AND ARREST.
2. WORKHOUSE.

CHAPTER 1**POLICE AND ARREST¹****SECTION**

- 6-101. Policemen subject to chief's orders.
- 6-102. Policemen to preserve law and order, etc.
- 6-103. Policemen to wear uniforms and be armed.
- 6-104. When policemen to make arrests.
- 6-105. Policemen may require assistance in making arrests.
- 6-106. Disposition of persons arrested.
- 6-107. 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. (1980 Code, § 1-401)

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. (1980 Code, § 1-402)

6-103. Policemen to wear uniforms and be armed. All policemen shall wear such uniform and badge as the board of mayor and aldermen shall authorize and shall carry a service pistol and billy club at all times while on duty unless otherwise expressly directed by the chief for a special assignment. (1980 Code, § 1-403)

¹Charter reference

Chief of police: chapter 3, § 10.

Policemen: chapter 3, § 11.

Municipal code reference

Traffic citations; etc.: title 15, chapter 8.

6-104. When policemen to make arrests¹. 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 reasonable cause to believe the person has committed it. (1980 Code, § 1-404)

6-105. Policemen may require assistance in making arrests. It shall be unlawful for any male person willfully to refuse to aid a policeman in maintaining law and order or in making a lawful arrest when such a person's assistance is requested by the policeman and is reasonably necessary to effect the arrest. (1980 Code, § 1-405)

6-106. Disposition of persons arrested. Unless otherwise authorized by law, when a person is arrested for any offense, he shall be brought before the city court for immediate trial or allowed to post bond. When the arrested person is drunk or when the city judge is not immediately available and the alleged offender does not post the required bond, he shall be confined. (1980 Code, § 1-406)

6-107. Police department records. The police department shall keep a comprehensive and detailed daily record in permanent form, showing:

(1) All known or reported offenses and/or crimes committed within the corporate limits.

(2) All arrests made by policemen.

(3) All police investigations made, funerals convoyed, fire calls answered, and other miscellaneous activities of the police department. (1980 Code, § 1-407)

CHAPTER 2**WORKHOUSE****SECTION**

6-201. County workhouse to be used.

6-202. Inmates to be worked.

6-203. Compensation of inmates.

6-201. County workhouse to be used. The county workhouse is hereby designated as the municipal workhouse, subject to such contractual arrangement as may be worked out with the county. (1980 Code, § 1-601)

6-202. Inmates to be worked. All persons committed to the workhouse, to the extent that their physical condition shall permit, shall be required to perform such public work or labor as may be lawfully prescribed for the county prisoners. (1980 Code, § 1-602)

6-203. Compensation of inmates. Each workhouse inmate shall be allowed five dollars (\$5.00) per day as credit toward payment of the fines and costs assessed against him.¹ (1980 Code, § 1-603)

¹State law reference
Tennessee Code Annotated, § 40-24-104.

TITLE 7

FIRE PROTECTION AND FIREWORKS¹

CHAPTER

1. GENERAL PROVISIONS.
2. FIRE CODE.
3. FIRE DEPARTMENT.
4. SALE AND USE OF FIREWORKS.

CHAPTER 1

GENERAL PROVISIONS

SECTION

7-101. Fire districts described.

7-101. Fire districts described. The corporate fire districts within the meaning of section 301.1 of the building code shall be as follows:

(1) The following defined areas shall constitute the first fire districts:

(a) Beginning at the Northwest corner of the City Fire Department Lot on the South side of Main Street; thence North to the North side of Main Street; thence West to the East side of 10th Avenue; thence North to the South side of Crenshaw Street; thence East with the South side of Crenshaw Street and continuing East with an alley to Dunlap's East line; thence North with Dunlap's East line to the South side of Osborne Street; thence East with the South side of Osborne Street to Central Avenue; thence South with the West side of Central Avenue to the North side of Burrow Street; thence West with Burrow Street to the Southeast corner of the Fire Department Lot; thence West to the Southwest corner of the Fire Department Lot; thence North to the beginning.

(b) Being three blocks in the Crossing Section of Humboldt, bounded on the South by Front Street; on the West by G.M. & O. Railroad; on the North by Vine Street; and on the East by L. & N. Railroad.

(c) Twenty-second Avenue from Mitchell Street to Farrell Street including a strip 100 feet East of, adjacent to and parallel to 22nd Avenue; and including a strip 100 feet wide West of, adjacent to and parallel to 22nd Avenue.

¹Municipal code reference

Building, utility and housing codes: title 12.

(2) The following defined areas, except the areas therein included and designated in § 7-101(1) as the first fire districts, shall constitute the second fire districts:

(a) Beginning at the intersection of Central Avenue and the G.M. & O. Railroad, thence Northwest with the G.M. & O. Railroad to Penn Street; thence West with Penn Street to a point 100 feet West of 7th Avenue; thence North and parallel with 7th Avenue to Main Street; thence East with Main Street to 7th Avenue; thence Northwest with 7th Avenue to Crenshaw Street; thence Northwest with G.M. & O. Railroad to Osborne Street; thence East with Osborne Street to 16th Avenue; thence South with 16th Avenue to Penn Street; thence West with Penn Street to Central Avenue; thence South with Central Avenue to the G.M. & O. Railroad, the beginning.

(b) Beginning in the center of the G.M. & O. Railroad at a point 100 feet North of Vine Street; thence East and parallel to Vine Street to 12th Avenue; thence Southeast with 12th Avenue crossing the L. & N. Railroad, to Mitchell Street; thence South with 12th Avenue to Maple Street; thence West with Maple Street to G.M. & O. Railroad and L. & N. Railroad Crossing; thence North with G.M. & O. Railroad to beginning.

(3) Sections 7-101(1) and (2) above shall constitute the fire districts within the meaning of section 301. 1 of the building code of the City of Humboldt, Tennessee and all other areas shall constitute the outer fire districts. (1980 Code, § 7-101)

CHAPTER 2**FIRE CODE****SECTION**

- 7-201. Fire code adopted.
- 7-202. Fire districts.
- 7-203. Modifications.
- 7-204. Violations.
- 7-205. Fire lanes.
- 7-206. Notice and hearing.
- 7-207. Establishment and erection of signs.
- 7-208. Appeal.
- 7-209. Violations.

7-201. Fire code adopted. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506, and for the purpose of prescribing regulations governing conditions hazardous to life and property from fire or explosion, the International Fire Code,¹ 2006 edition, and the NFPA 101 Life Safety Code (NFPA 101), 2006 edition,² as prepared and published by the National Fire Protection Association, are hereby adopted by reference and included as a part of this code. Pursuant to the requirement of Tennessee Code Annotated, § 6-54-502, one (1) copy of the fire code and life safety code have been filed with the mayor and are available for public use and inspection. Said fire codes are adopted and incorporated as fully as if set out at length herein and shall be controlling within the corporate limits. (1980 Code, § 7-201, as amended by Ord. #2000-01, March 2000, and Ord. #2010-03, May 2010)

7-202. Fire districts. Any limits referred to in the National Fire Codes in which storage of explosives and blasting agents is prohibited, or in which storage of flammable liquids in above ground tanks is prohibited, or in which other fire prevention measures are required, are hereby declared to be the fire limits set forth in § 7-101 of this code. (1980 Code, § 7-202)

7-203. Modifications. Any penalty clauses in the fire codes are hereby deleted. (1980 Code, § 7-203)

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

²This code may be ordered from the National Fire Protection Association, 470 Atlantic Avenue, Boston, Massachusetts 02210.

7-204. Violations. It shall be unlawful for any person to violate any of the provisions of the fire codes hereby adopted or fail to comply therewith, or violate or fail to comply with any order made thereunder; or build in violation of any detailed statement of specifications or plans submitted and approved thereunder, or any certificate or permit issued thereunder, and from which no appeal has been taken; or fail to comply with such an order as affirmed or modified by the board of mayor and aldermen or by a court of competent jurisdiction, within the time fixed herein. The application of a penalty under the general penalty clause for the municipal code shall not be held to prevent the enforced removal of prohibited conditions. (1980 Code, § 7-204)

7-205. Fire lanes. The fire chief is hereby empowered to establish areas in which vehicles are not permitted to be left standing or parked on private property within the corporate limits of the City of Humboldt on which two or more business houses or more than two residential housing units are located, when he deems that vehicles standing or parked in such areas would hinder the extinguishment of fires in such areas. (1980 Code, § 7-205)

7-206. Notice and hearing. Before such areas are so established, however, the fire chief shall give at least one of the owners of said property written notice of his intention to do so and said notice shall be served on said owner or owners by certified or registered mail addressed to the last known address of said owner or owners.

Said notice shall set forth the area to be established, the reason therefor, and shall set a time, date, and place in which the property owner or owners may be afforded a hearing, which hearing shall be held not less than ten (10) days from the date of the mailing of the notice herein provided. (1980 Code, § 7-206)

7-207. Establishment and erection of signs. After said hearing, should the fire chief determine that the safety of the improvements on the property and the safety of persons using said property require that "no parking zones" be established, he shall notify at least one owner in writing. If no appeal from owner is taken as provided in § 7-211 within ten (10) days from the mailing of said notice, he is empowered to erect signs or some other clear notice to vehicles using the area that no standing or parking is permitted, and after the erecting of said notice, no standing or parking of vehicles shall be permitted. (1980 Code, § 7-207)

7-208. Appeal. Upon protest by a property owner upon the establishment of a no standing or parking area by the officer provided for in § 7-205, such property owner may appeal the decision to the board of mayor and aldermen. A hearing of such an appeal shall be held by the board at the first meeting of the board which is held after thirty (30) days of the notice of the decision from the hearing provided in § 7-205. (1980 Code, § 7-208)

7-209. Violations. Any person allowing a vehicle to stand or park in a no standing or parking area established by the provisions of § 7-210 shall be guilty of a misdemeanor. (1980 Code, § 7-209)

CHAPTER 3

FIRE DEPARTMENT¹

SECTION

- 7-301. Establishment, equipment, and membership.
- 7-302. Objectives.
- 7-303. Organization, rules, and regulations.
- 7-304. Records and reports.
- 7-305. Tenure and compensation of members.
- 7-306. Chief responsible for training.
- 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 board of mayor and aldermen. 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 appointed by the board of mayor and aldermen and such number of physically-fit subordinate officers and firemen as the chief shall appoint. (1980 Code, § 7-301)

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. (1980 Code, § 7-302)

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. (1980 Code, § 7-303)

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 a written report on such matters

¹Municipal code reference

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

to the mayor once each month, and at the end of the year a detailed annual report shall be made. (1980 Code, § 7-304)

7-305. Tenure and compensation of members. The chief shall hold office so long as his conduct and efficiency are satisfactory to the board of mayor and aldermen. However, so that adequate discipline may be maintained, 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 but may be dismissed only by the board of mayor and aldermen.

All personnel of the fire department shall receive such compensation for their services as the board of mayor and aldermen may from time to time prescribe. (1980 Code, § 7-305)

7-306. Chief responsible for training. The chief of the fire department shall be fully responsible for the training of the firemen, and the minimum training shall consist of having the personnel take the fire apparatus out for practice operations not less than once a month. (1980 Code, § 7-306)

7-307. Chief to be assistant to state officer. Pursuant to requirements of Tennessee Code Annotated, § 68-102-108, the chief of the fire department is designated as an assistant to the state commissioner of insurance and banking 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 fire prevention commissioner in the execution of the provisions thereof. (1980 Code, § 7-307)

CHAPTER 4

SALE AND USE OF FIREWORKS

SECTION

7-401. Seasonal sale permitted.

7-402. Prohibition on the discharge of fireworks within the city.

7-403. Rules and regulations.

7-404. Penalty for violation.

7-401. Seasonal sale permitted. It shall be unlawful for fireworks as hereinafter defined to be sold within the Corporate Limits of the City of Humboldt, unless all of the following conditions are satisfied:

(1) The fireworks being sold are D.O.T. Class C fireworks as defined in Tennessee Code Annotated, § 68-104-01 and those items that comply with the construction chemical composition and labeling regulations promulgated by the U.S. Consumer Product Safety Commission and permitted for use by the general public under their regulations, subject, however, to the provisions of Tennessee Code Annotated, § 68-104-101 and subject to such rules and regulations as the city may require and impose; and

(2) The sale of any fireworks occurs within the following date and time limitations:

(a) Between the hours of 12:00 noon and 10:00 P.M. on June 26th through July 5th, except on the evening of July 4th when fireworks may be sold between the hours of 12:00 noon and 12:00 midnight; or

(b) Between the hours of 12:00 noon and 10:00 P.M. on December 18th through January 2nd, except on the evening of December 31st when fireworks may be sold between the hours of 12:00 noon and 12:00 midnight; and

(3) Each business or person engaged in the seasonal sale of fireworks has paid to the City of Humboldt a permit fee of twenty dollars (\$20.00) for each seasonal year defined as June 26th through July 5th or December 18th through January 2nd of each year. (Ord. #91-05, April 1991, as replaced by Ord. #2004-07, Dec. 2004)

7-402. Prohibition on the discharge of fireworks within the city.

Notwithstanding any implications that may arise from any provision of this chapter that allows the sale of fireworks within the City of Humboldt on certain dates and times, it shall be unlawful for any person to fire, set off, shoot, discharge or explode any fireworks within the corporate limits at any place or time within the City of Humboldt.

This chapter shall not apply to the possession and use of fireworks for public displays by holders of a permit for public display to be conducted in accordance with the rules and regulations promulgated by the state fire

marshal. (Ord. #91-05, April 1991, as replaced by Ord. #2004-07, Dec. 2004, Ord. #2012-05, Dec. 2012, and Ord. #2013-01, April 2013)

7-403. Rules and regulations. The Fire Chief of the City of Humboldt, Tennessee, and his or her representatives shall have the power to adopt rules and regulations for the storage, location, display, and sale of fireworks in the interest of safety of the citizens of Humboldt.

Such rules and regulations shall include all those specified in Tennessee Code Annotated, § 68-104-111 and the prohibitions included in Tennessee Code Annotated, § 68-104-112 as the statutes exist as of October, 2004, regardless of whether such subsections are later revoked, rescinded, or amended.

All structures from which fireworks are sold shall be approved by the fire chief. However, fireworks shall be sold only from permanent stationary structures. No fireworks shall be sold from tents, open buildings, trailers, mobile or motor homes, or any other transient structure, in addition, all structures from which fireworks are sold shall be equipped with such safety equipment, in addition to that required by the fire code adopted by this municipal code, as the fire chief determines is required to secure the safety of the citizens of this city. (Ord. #91-05, April 1991, as replaced by Ord. #2004-07, Dec. 2004)

7-404. Penalty for violation. Any person violating any provision of this chapter shall be guilty of a civil offense, which shall be punishable by a civil penalty of fifty dollars (\$50.00).

The fire chief of the City of Humboldt is further authorized to seize as contraband and destroy fireworks that do not comply with the provisions defining allowable fireworks contained in this chapter pursuant to the provisions of Tennessee Code Annotated, § 68-104-115. (as added by Ord. #2004-07, Dec. 2004)

TITLE 8

ALCOHOLIC BEVERAGES¹

CHAPTER

1. INTOXICATING LIQUORS--RETAIL SALES.
2. BEER.
3. INTOXICATING LIQUORS--ON PREMISES CONSUMPTION.

CHAPTER 1

INTOXICATING LIQUORS--RETAIL SALES

SECTION

- 8-101. Generally.
- 8-102. Licenses.
- 8-103. Certificate of compliance.
- 8-104. Inspection fee.
- 8-105. Operational rules and regulations.

8-101. Generally. (1) Definitions. Whenever used in this chapter the following terms shall have the following meanings unless the context necessarily requires otherwise:

(a) "Alcoholic beverage:" Alcohol, spirits, liquor, wine, and every liquid containing alcohol, spirits or wine capable of being consumed by a human being, other than patented medicine, beer or wine, where either of the latter has an alcoholic content of five (5%) percent by weight, or less.

(b) "Applicant:" The party applying for a certificate of compliance or a license which shall include each person to have any interest, direct or indirect, in the license as owner or partner or in the case of a corporation as officer, director or stockholder.

(c) "Application:" The form or forms an applicant is required to file in order to obtain a certificate of compliance or a license.

(d) "Certificate of Compliance:" The certificate provided for in Tennessee Code Annotated, title 57, chapter 1, in connection with the prescribed procedure for obtaining a state liquor retailer's license.

¹State law reference

Tennessee Code Annotated, title 57.

(e) "Inspection fee:" The monthly fee a licensee is required by this chapter to pay the amount of which is determined by a percentage of the gross sales of a licensee.

(f) "License:" A license issued by the state under the provisions of this chapter for the purpose of authorizing the holder thereof to engage in the business of selling alcoholic beverages at retail in the city.

(g) "License fee:" The annual fee to a licensee is required by this chapter to pay at or prior to the time of the issuance of a license.

(h) "Licensee:" The holder of a license.

(i) "Liquor store:" The building or the part of a building where a licensee conducts any of the business authorized by this license.

(j) "State Alcoholic Beverage Commission:" The Tennessee Alcoholic Beverage Commission, provision for which is made in the State Statutes, including without limitation the provisions of Tennessee Code Annotated, title 57, chapter 3.

(k) "State Liquor Retailer's License:" A license issued under the State Statutes (including the provisions contained in Tennessee Code Annotated, title 57, chapter 1) for the purpose authorizing the holder thereof to engage in the business of selling alcoholic beverages at retail.

(l) "State rules and regulations:" All applicable rules and regulations of the state applicable to alcoholic beverages as now in effect or as they may hereafter be changed, including without limitation the local option liquor rules and regulations of the State Alcoholic Beverage Commission.

(m) "State statutes:" The statutes of the state now in effect or as they may hereafter be changed.

(2) Compliance with all applicable laws and ordinances required. It shall be unlawful for any person either to engage in the business of selling, storing, transporting or distributing any alcoholic beverage, or to sell, store, transport, distribute, purchase or possess any alcoholic beverage, except as provided by the state statutes, by the state rules and regulations, by the federal statutes and by this chapter.

(3) Wholesalers. Unless hereafter authorized by ordinance, no wholesaler's license shall be granted to any person for the operation of any business for the sale at wholesale of any alcoholic beverage. Any wholesaler, whose business is located outside the city and who holds a valid state license and who has paid to the city all privilege taxes and fees applicable to such wholesale business, may sell at wholesale any alcoholic beverage to a licensee in the city and such licensee may purchase any alcoholic beverage from such wholesaler, but only as provided by the state statutes, the state rules and regulations, the federal statutes, and by this chapter.

(4) Sale legalized. It shall be lawful for a licensee to sell any alcoholic beverage at retail in a liquor store, within the corporate limits, provided such

sales are made in compliance with applicable federal statutes, state statutes, state rules and regulations, and the provisions of this chapter.

(5) Inspections. The mayor, the city clerk, or the authorized representative of either of them, are authorized to examine the books, papers and records of any licensee at any and all reasonable times for the purpose of determining whether the provisions of this chapter are being observed. The mayor, the city clerk, the chief of police and any other police officer of the city is authorized to enter and inspect the premises of a liquor store at any time the liquor store is open for business. Any refusal to permit the examination of the books, papers and records of a licensee, or the inspection and examination of the premises of a liquor store, shall be unlawful. The mayor shall forthwith report such violation to the State Alcoholic Beverage Commission with the request that appropriate action be taken to revoke the license of the offending licensee.

(6) Liability of licensee for acts of others. Each licensee shall be responsible for all acts of such licensee's officers, stockholders, directors, employees, agents and representatives, so that any violation of this chapter by any officer, stockholder, director, employee, agent or representative of a licensee shall constitute a violation of this chapter by such licensee.

(7) Violations. Any person violating any provision of this chapter shall be guilty of an offense, and shall be fined a minimum of ten dollars (\$10.00) and a maximum of fifty dollars (\$50.00) for each such violation. Any licensee violating any provision of this chapter shall be subject to having his license suspended or revoked for such violation as provided in this chapter, or by the state statutes, or by the state rules and regulations.

(8) Contraband beverages. Policemen shall take possession of any alcoholic beverages which have been received by, or are in the possession of, or are being transported by any person in violation of state statutes or regulations, federal statutes or this chapter. All beverages shall be turned over to the Tennessee Alcoholic Beverage Commission in accordance with Tennessee Code Annotated, title 57, chapter 9. (Ord. #___, Dec. 1984)

8-102. Licenses. (1) Qualifications of applicant. To be eligible to apply for or to receive a license, an applicant must satisfy all of the requirements of the state statutes and of the state rules and regulations for a holder of a state liquor retailer's license and must have been a resident of the City of Humboldt, Tennessee, at least two (2) years immediately preceding the date when the application is filed with the mayor.

(2) Amount of fee. Before any person shall engage in the sale of alcoholic beverages a business tax shall be paid to the city clerk and a license secured for the operation of a liquor store, for which a license fee of five hundred dollars (\$500.00) per year shall be paid. The fee for a license issued after February 1 in any calendar year for the remainder of such calendar year shall be an amount equal to one-twelfth (1/12) of the annual fee for each remaining month including the month of issuance.

(3) Issuance, term, renewal. The amount of the license fee set forth shall be for the calendar year, and each license shall expire on December 31st of each year. A license shall be subject to renewal each year by compliance with all applicable state statutes, all applicable state rules and regulations and the provisions of this chapter. All license fees shall be paid to the city clerk; and the city clerk shall not be authorized to issue any license until the applicant has qualified as a liquor retailer under the state statutes and has exhibited to the city clerk the state liquor retailer's license issued to the applicant by the State Alcoholic Beverage Commission. The license issued by the city clerk shall be of no effect after the expiration of the period for which issued or at any time while the license is suspended or revoked.

(4) Nature of license; suspension or revocation. The issuance of a license does not vest a property right in the license but is a privilege subject to revocation or suspension by the Tennessee Alcoholic Beverage Commission. The mayor shall have the authority to report to the Commission any violation of this chapter by the licensee or by any person for whose acts the licensee is responsible.

(5) Display. The licensee shall display and post, and keep displayed and posted his license in a conspicuous place in the licensee's liquor store at all times when any activity or business authorized hereunder is being done by the licensee.

(6) Number of licenses. There shall be no limit on the number of licenses issued and outstanding in the city.

(7) Transfer. A licensee shall not sell, assign or transfer his license or any interest therein to any other person without a certificate of compliance by the board.

(8) Miscellaneous restrictions upon licensees and their employees.

(a) The license fee for every license hereunder shall be payable by the person making application for such license and to whom it is issued, and no other person shall pay for any license issued under this chapter.

(b) No retailer's license shall be issued to a person who is a holder of a public office, either appointive or elective, or who is a public employee, either national, state, city or county. It shall be unlawful for any such person to have any interest in such retail business, directly or indirectly, either proprietary or by means of any loan, mortgage or lien, or to participate in the profits of any such business. The foregoing shall not apply to uncompensated appointees to municipal boards and commissions where the boards or commissions on which such appointees serve have no duty to vote for, overlook, or in any manner superintend the sale of alcoholic beverages.

(c) No retailer shall be a person who has been convicted of a felony involving moral turpitude within ten (10) years prior to the time he or the legal entity with which he is connected shall receive a license;

provided, that this provision shall not apply to any person who has been so convicted, but whose rights of citizenship have been restored or judgment of infamy has been, removed by a court of competent jurisdiction; and in the case of any such conviction occurring after a license has been issued and received, the license shall immediately be revoked, if such convicted felon be an individual licensee, and if not, the partnership, corporation or association with which he is connected shall immediately discharge him.

(d) No license shall, under any condition, be issued to any person who within ten (10) years preceding application for such license or permit shall have been convicted of any offense under the laws of the state or of any other state or of the United States prohibiting or regulating the sale, possession, transportation, storing, manufacturing or otherwise handling intoxicating liquors or who has, during such period, been engaged in business alone or with others, in violation of any such laws or rules and regulations promulgated pursuant thereto, or as they existed or may exist thereafter.

(e) No manufacturer, brewer or wholesaler shall have any interest in the licensee's rental, occupancy or revenues.

(f) It shall be unlawful for any person to have ownership or to participate, either directly or indirectly, in the profits of any retail business licensed, unless his interest in such business and the nature, extent and character thereof shall appear on the application; or if the interest is acquired after the issuance of a license, unless it shall be fully disclosed to the mayor and approved by him. Where such interest is owned by such person on or before the application for any license, the burden shall be upon such person to see that this section is fully complied with, whether he, himself, signs or prepared the application or whether the same is prepared by another; or if such interest is acquired after the issuance of the license, the burden of such disclosure of the acquisition of such interest shall be upon the seller and the purchaser.

(g) No retailer or any employee thereof engaged in the sale of alcoholic beverages shall be a person under the age of eighteen years (18), and it shall be unlawful for any retailer to employ any person under eighteen years (18) of age for the physical storage, sale or distribution of alcoholic beverages, or to permit any such person under such age in its place of business to engage in the storage, sale or distribution of alcoholic beverages.

(h) No retailer shall employ in the storage, sale or distribution of alcoholic beverages, any person who, within ten years (10) prior to the date of his employment, shall have been convicted of a felony involving moral turpitude, and in case an employee should be convicted he shall immediately be discharged; provided that this provision shall not apply to any person who has been so convicted, but whose rights of citizenship

have been restored or judgment of infamy has been removed by a court of competent jurisdiction.

(i) No advertising by a licensee of signs, displays, posters or designs intended to advertise any alcoholic beverages is permitted within the corporate limits of the city; except, that a sign approved by the mayor, in letters not larger than eight (8) inches in height designating the premises as "_____ Package Store." Only one such sign, and no other, shall be permitted and no sign shall extend or project from the building; provided however, that when a store is located at an intersection a sign shall be permitted on both sides of the building facing the two streets.

(j) No licensee shall employ any canvasser, agent, solicitor or representative otherwise for the purpose of receiving an order from a consumer of any alcoholic beverages at the residences or places of business of such consumer, nor shall any such licensee receive or accept any such order which shall have been solicited or received at the residence or place of business of such consumer. This paragraph shall not be construed so as to prohibit the solicitation by a state licensed wholesaler of any order from any licensed retailer at the licensed premises.

(k) All retail sales shall be confined to the premises of the licensee. No curb service is permitted nor shall there be permitted drive-in windows.

(l) No liquor store shall be located in the city on any premises above the ground floor. Each such store shall have only one (1) main entrance for use by the public as a means of ingress and egress for the purpose of purchasing alcoholic beverages at retail; provided, that any liquor store adjoining the lobby or a hotel or motel may maintain an additional entrance into such lobby as long as such lobby is open to the public.

(m) No liquor store shall be located other than in zoning districts shown on the Zoning Map as B-1, B-2 and B-3. No license shall be issued for a liquor store within 400 feet of a Nursery-Day Care, Kindergarten, Elementary or Secondary school, church or public library, or park or playground, as measured by the distance a pedestrian would normally walk; the distance to be measured from the front door of such liquor store to the front door of such Nursery-Day Care, Kindergarten, Elementary or Secondary school or church or public library; and measured from the front door or such liquor store to the property line of such park or playground. Where the strict interpretation of this provision would result in peculiar or exceptional practical difficulties, a variance may be granted by the board. (Ord. #___, Dec. 1984)

8-103. Certificate of compliance. (1) Application - filing: contents. Each applicant for a certificate of compliance shall file with the Mayor an

application fee of \$100.00, a completed form of application, on a form to be provided by the mayor, and which shall contain all of the following information:

(a) The name and street address of each person to have any interest, direct or indirect, in the license as owner, partner, or in the case of a corporation as officer, director or stockholder or otherwise;

(b) A statement of applicant's prior business experience;

(c) The name of the liquor store to be operated under the license;

(d) The address of the liquor store to be operated under the license and the applicable zoning designation;

(e) The statement that each applicant has been a resident of the City of Humboldt for at least two (2) years immediately prior to the time the application is filed;

(f) The names and addresses of at least three (3) residents of the city who have known each applicant for at least two (2) years, and who are not related to the applicant;

(g) The agreement of each applicant to comply with the state; federal and city laws and ordinances and with the rules and regulations of the State Alcoholic Beverage Commission with reference to the sale of alcoholic beverages, and the agreement of each applicant to the validity of and the reasonableness of the regulations, inspection fees and taxes provided in this chapter with reference to the sale of alcoholic beverages. The application form shall be accompanied by a copy of each questionnaire form and other material to be filed by the applicant with the State Alcoholic Beverage Commission in connection with this same application, and shall also be accompanied by five (5) copies of a scale plan drawn to a scale of not less than one (1) inch equals fifty (50) feet, giving the following information:

(i) The shape, size and location of the lot upon which the liquor store is to be operated under the license;

(ii) The shape, size, height and location of all buildings, whether they are to be erected, altered, moved or existing, upon the lot;

(iii) The off-street parking space and the off-street loading and unloading space to be provided including the vehicular access to be provided from these areas to a public street and;

(iv) The identification of every parcel of land within one hundred (100) feet of the lot upon which the liquor store is to be operated indicating ownership thereof and the locations of any structures situated thereon, and the use being made of every such parcel. The application form shall be signed and verified by each person to have any interest in the license either as owner or partner or in the case of a corporation, as officer, director or stockholder or otherwise. If at any time the applicable state

statutes should be changed so as to dispense with the requirement of a certificate of compliance, no original or renewal license shall be issued until an application in the same form has been filed with the city clerk.

(h) The financial interest of the owners, partners, stockholders or directors, whether the same is a firm, partnership or corporation.

(2) Same - misrepresentation or concealment of material fact. If any applicant misrepresents any material fact or conceals any material fact in any application form filed for the purpose of complying with the requirements contained in section 8-103(1) such applicant shall be deemed to have violated the provisions of this chapter.

(3) Same - restrictions upon issuance. (a) No certificate of compliance shall be issued unless a license issued on the basis thereof can be exercised without violating any provision of this chapter.

(b) Neither the mayor nor board shall sign any certificate of compliance for any applicant until:

(i) Such applicant's application has been filed with the mayor;

(ii) The location stated in the certificate has been approved by the board as a suitable location for the operation of a liquor store, and considering geography of the area to be served;

(iii) The applicant's demonstrated business ability has been determined to be good;

(iv) The application has been considered at a meeting of the board and approved by the vote of at least three (3) members thereof.

(4) Restrictions upon corporate licenses. If a licensee is a corporation, then in addition to the other provisions of this chapter:

(a) No person owning stock in or who is an officer or, director in such corporate licenses shall have any interest as an owner, stockholder, officer, director or otherwise in any business licensed to engage in the sale at wholesale or retail of alcoholic beverage in the state.

(b) No stock of such corporate licensee shall be transferred by sale, gift, pledge, operation of law or otherwise to any person who has not been a resident of the City of Humboldt for the two (2) consecutive years immediately preceding the date of any such transfer; nor shall any of said stock be so transferred to any person who would not be otherwise qualified as an original stockholder of an initial corporate applicant for a license hereunder. (Ord. #___, Dec. 1984)

8-104. Inspection fee. (1) Levied. There is hereby levied on each licensee an inspection fee in the amount of eight (8%) percent of the wholesale price of all alcoholic beverages supplied during each month by wholesalers to such licensee.

(2) Invoices. (a) It shall be unlawful for any wholesaler to supply, ship or otherwise deliver any alcoholic beverage to a licensee, and it shall be unlawful for any licensee to receive any alcoholic beverage, unless there shall be issued and delivered to the licensee by the wholesaler, concurrently with each such shipment or delivery, an invoice showing:

- (i) The date of the transaction;
- (ii) The name and address of the wholesaler and of the licensee;
- (iii) The brand name and quantity of alcoholic beverage covered by the invoice; and
- (iv) The unit wholesale price and the gross wholesale price for each item listed thereon.

(b) The wholesaler's invoice shall be issued and delivered to the licensee as hereinabove provided without regard to the terms of payment of the invoice so as to include all such transactions whether for cash or on credit or partly for cash and partly on credit.

(3) Form for reports; rules and regulations. The city clerk shall prepare and make available to each wholesaler or other source vending alcoholic beverages to licensees sufficient forms for the monthly report of inspection fees payable by each licensee making purchases from such wholesaler or other source; and the city clerk is authorized to promulgate reasonable rules and regulations to facilitate the reporting and collection of inspection fees and to specify the records of such sales and fees to be kept by each wholesaler or other vending source.

(4) Collection. Collection of the inspection fee levied herein shall be made by the wholesaler or other source, vending to the licensee at the time the sale is made to the licensee, and in such case payment of the inspection fee by such collecting wholesaler or other source shall be made to the city clerk on or before the fifteenth (15th) day of each calendar month. Nothing herein shall relieve the licensee of the obligation of the payment of the inspection fee, and it shall be the licensee's duty to see that the payment of the inspection fee is made to the city clerk on or before the fifteenth (15th) day of each calendar month.

(5) Bond. Each licensee, as a condition precedent to operating a liquor store in the city, shall execute and deliver to the city a bond in the amount of two thousand five hundred dollars (\$2,500.00); said bond shall be payable to the city and shall be executed by a surety company duly authorized and qualified to do business in the state; said bond shall be conditioned that the licensee shall pay or have paid to the city all inspection fees due hereunder. The surety bond shall be in a form approved by the city attorney.

(6) Effect of failure to report and pay. The failure to pay the inspection fee and to make the required reports accurately and within the time prescribed in this chapter shall be reported by the mayor to the Tennessee Alcoholic Beverage Commission as a violation of this chapter.

(7) Use of funds. All funds derived from the inspection fees imposed herein shall be paid into the general fund of the city. The city shall defray all expenses in connection with the enforcement of this chapter, including particularly the payment, of the compensation of officers, employees or other representatives of the city in investigating and inspecting licensees and applicants and in seeing that all provisions of this chapter are observed; the board finds and declares that the amount of those inspection fees is reasonable and that the funds expected to be derived from these inspection fees will be reasonably required for said purposes.

(8) Supplemental nature. The inspection fee levied herein shall be in addition to any general gross receipts, sales or other general taxes applicable to the sale of alcoholic beverages and shall not be a substitute for such taxes. (Ord. #___, Dec. 1984)

8-105. Operational rules and regulations. (1) Compliance with zoning. All provisions of the city's zoning ordinance, including but not limited to, those provisions relating to the required yard area, off-street loading and unloading of vehicles and off-street parking, which are applicable to the zoning district in which a liquor store is authorized to operate hereunder, shall be complied with by each licensee as a condition precedent to the operation of any liquor store authorized by this chapter.

(2) Records to be kept by licensee. In addition to any records specified in the rules and regulations promulgated by the city clerk pursuant to this chapter, each licensee shall keep on file at such licensee's liquor store the following records:

(a) Original invoices required herein for all alcoholic beverages bought by or otherwise supplied to the licensee;

(b) The original receipts for any alcoholic beverages returned by such licensee to any wholesaler; and

(c) An accurate record of all alcoholic beverages lost, stolen, damaged, given away, or disposed of other than by sale, and showing for each such transaction the date thereof, the quantity and brands of alcoholic beverages involved, and, where known, the name of the person or persons receiving the same.

All such records shall be preserved for a period of at least two (2) years unless the city clerk gives the licensee written permission to dispose of such records at an earlier time.

(3) Hours and days of operation. No liquor store shall be open and no licensee shall sell or give away any alcoholic beverage on Christmas Day, on Thanksgiving Day, on New Years Day, on Labor Day, on the 4th of July or on any Sunday. On other days, no liquor store shall be open and no licensee shall sell or give away any alcoholic beverage before 8:00 A.M. or after 11:00 P.M.

(4) Management. Each liquor store licensed hereunder shall be personally and actively managed by the holder of the license, if the licensee is

an individual, or by a partner or corporate officer, if the licensee is a partnership or corporation. In every case where alcoholic beverage is sold by a licensee that is either a partnership or a corporation, the name and address of the managing partner or the corporate officer who will be in active control and management of the liquor store shall be designated in the application, and any future changes in such manager shall be reported forthwith in writing to the city clerk. (Ord. #___, Dec. 1984)

CHAPTER 2

BEER

SECTION

- 8-201. Legalizing manufacture and sale of beer.
- 8-202. License required.
- 8-203. Regulations.
- 8-204. Conditions precedent.
- 8-205. Training program and fee.
- 8-206. License revocable.
- 8-207. Penalties.
- 8-208. License to hotels, clubs, and lodges.
- 8-209. Approval of application.
- 8-210. Hours of sale.
- 8-211. Suspension of license.
- 8-212. Expiration of license.
- 8-213. Provisions determined severable.
- 8-214. Emergency powers.

8-201. Legalizing manufacture and sale of beer. It shall hereafter be lawful to transport, store, sell, distribute, possess, receive, and/or manufacture beer of alcoholic content of not more than five (5) percent by weight or any other beverage of like alcoholic content within the corporate limits of the City of Humboldt, subject to all the regulations, limitations, and restrictions provided by Tennessee Code Annotated, § 57-5-101, et seq., or other laws of the state and subject to the rules, regulations, limitations, and restrictions hereinafter provided or hereafter promulgated. (1980 Code, § 2-201)

8-202. License required. No person, firm, corporation, syndicate, or association shall engage in the storing, selling, distributing, and/or manufacturing of beer of alcoholic content of not more than five (5) percent by weight or other beverage of like alcoholic content within the corporate limits of the City of Humboldt until he shall have received a permit or license to do so from the mayor, which license shall at all times be subject to all the limitations and restrictions hereinafter provided. The mayor shall not issue such license unless and until he is instructed to do so by the board of mayor and aldermen as hereinafter provided. (1980 Code, § 2-202)

8-203. Regulations. (1) No license shall be issued to sell beer or other beverage coming within the provisions of this chapter or in violation of any provisions of the state law, or where such sale will cause congestion of traffic or interfere with schools, churches, or other places of public gathering, or otherwise interfere with public health, safety, or morals. The judgment of the board of

mayor and aldermen on such matters shall be final except that same is subject to review at law. No license shall be issued to sell any beverage coming within the provisions of this chapter for consumption on the premises where the primary or principal business carried on is the sale of groceries, drugs, candies, soda fountain drinks, merchandise, or commodities, other than the serving of meals and lunches; provided, nothing in this section shall prevent sale or consumption in dining rooms and lunch rooms of stores where such rooms are separate and distinct from other departments.

(2) Provided, however, that no license for the sale of on premise consumption shall be issued except in the following geographical areas of the city:

(a) An area zoned B-2 by the zoning ordinance adjacent to 22nd Avenue, bounded on the North by Maple Street; on the South by Main Street; on the East by R-1; and on the West by R-4.

There shall be allowed four (4) licenses in this area or any extension or constriction thereof.

(b) An area adjacent to 22nd Avenue and East End Drive zoned B-2 by the zoning ordinance and bounded on the South by Mitchell Street and on the Northeast by the city limits.

There shall be allowed four (4) licenses in this area and any extension or constriction thereof.

(c) An area zoned B-3 by the zoning ordinance and bounded on the North by Vine Street; on the East by 9th Avenue; on the South and West by Front Street.

There shall be allowed six (6) licenses in this area or any extension or constriction thereof.

(d) The area zoned B-3 by the zoning ordinance and bounded on the North by Osborne Street; on the East by R-4 and 16th Avenue; on the South by Burrow Street, Penn Street, M-1, and Grenshaw Street; on the West by 11th Avenue and M-1.

There shall be allowed three (3) licenses in this area or the extension or constriction thereof.

(e) An area included in zone M-1 by the zoning ordinance bounded on the South by Main Street; on the East by R-4 between 10th Avenue and 11th Avenue; on the North by the L & N Railroad; on the West by the I.C.G. Railroad.

There shall be three (3) licenses allowed in this area or any extension or constriction thereof.

(f) An area included in a M-1 zone by the zoning ordinance and bounded on the North by an alley, Merchants State Bank, and the City of Humboldt; on the East by R-3; on the South by Penn Street; on the West by the City of Humboldt and I.C.G. Railroad.

There shall be allowed four (4) licenses in this area or any extension or constriction thereof.

(g) All the area in the M-1 Zone in the area bounded on the South by McKnight Street on the East by the I.C.G. Railroad; and on the West by L & N Railroad.

There shall be allowed four (4) licenses in this area or any extension or construction thereof.

(h) In addition to the limitations set out in (a) thru (g) above, no license to sell beer for consumption on the premises shall issue if the location is 500 feet within public parks, public playgrounds, schools or churches.

In addition to the number of licenses authorized in subsections a--g above, any business holding the highest grade for restaurants issued by the State of Tennessee and which business derives more than fifty percent (50%) of its revenues from the dispensing of food prepared by such business for consumption by its customers on the business premises together with non-alcoholic beverages may be granted a license in any area of the city except in those zoned R-1 through R-4 by the zoning ordinance. Any establishment selling beer for consumption on the premises not meeting the highest grades for restaurants issued by the State of Tennessee and which establishment does not derive more than fifty (50%) percent of its revenues from the dispensing of food prepared by such business for consumption by its customers on the premises together with non-alcoholic beverages shall not be permitted to have its business open between the hours of 11:59 P.M. and 7:00 A.M. on Monday through Friday of each week or between the hours of 11:59 P.M. on Saturday and 7:00 A.M. on Monday of each week.

Providing further that all valid licenses now existing shall continue to be valid until they expire without renewal or are surrendered or revoked for good cause.

(3) The location of premises on which a license is issued shall be well-lighted to the extent that persons and features are clearly distinguishable. Further, such location or premises must have an opening on the front where the occupants are clearly visible to someone looking in from the outside. (1980 Code, § 2-203, as amended by Ord. #83-7, Nov. 1983, Ord. #84-1, March 1984, Ord. # 88-2, Feb. 1988, and Ord. #92-6, July 1992)

8-204. Conditions precedent. Before any license is issued by the mayor, the applicant therefor shall file with the board of mayor and aldermen a sworn petition in writing establishing the following facts which are hereby made conditions of any permit issued thereunder, and any misstatement of fact shall be sufficient cause for the suspension or revocation of such license:

(1) The applicant shall be a citizen of the United States or if a firm, syndicate, or association, the members thereof shall be citizens of the United States. The application shall designate the location of the premises where the

business will be conducted and shall name the owner or owners of such premises.

(2) The applicant shall submit a complete application attached hereto at Exhibit A.

(3) Application fees. The application fee for a person, firm, corporation, partnership or any other entity shall be nonrefundable in the amount of two hundred fifty dollars (\$250) as required by Tennessee Code Annotated, § 57-4-104.

(4) Privilege tax. There is hereby imposed on the business of selling, distributing, storing, or manufacturing beer in this city a privilege tax of one-hundred dollars (\$100) as provided in Tennessee Code Annotated, § 57-5-104, notwithstanding the provisions of Tennessee Code Annotated, § 57-6-112.

The board of mayor and aldermen shall consider the applications filed and grant or refuse the license according to its best judgment of the facts and circumstances. Any person, firm or entity determined by the beer board or the board of mayor and aldermen to be capable of carrying out the sale of beer in compliance with the laws of the State of Tennessee and the ordinances of the City of Humboldt, and who has not been convicted of a felony within the last ten (10) years, or convicted of a violation of the laws of the State of Tennessee or the ordinances of the City of Humboldt for the violation of sale, possession, manufacture, or transportation of narcotic drugs, beer, or intoxicating liquors, or of any crime involving moral turpitude or dishonesty within the past ten (10) years shall be issued a license to sell beer. The action of the board of mayor and aldermen in granting or refusing a license shall be final except as same is subject to review at law. (1980 Code, § 2-204, as amended by Ord. #92-6, July 1992, and Ord. #2003-06, Sept. 2003)

8-205. Training program and fee. Applicants who have been approved for a license under this section shall attend training program provided by the Humboldt Police Department. The training program shall provide the licensee with a copy of the state law and municipal ordinances that govern the sale of beer. A reasonable copying fee of ten dollars (\$10) will be charged.

For licensees who have a history of license revocations, a training program consisting of a review of the state law and municipal ordinances accompanied by procedural training designed to eliminate sale of intoxicants to minors as well as other violations of state law or municipal ordinances will be required. The training program for licensees whose licenses have been revoked once shall be fifty dollars (\$50). For licensees whose licenses have been revoked twice, the training fee shall be one hundred dollars (\$100). For licensees with three or more revocations, the training fee shall be three hundred dollars (\$300). No licensee shall begin operation until he or she has attended the training program and received a certificate of compliance from the Humboldt Police Chief. (Ord. #92-6, July 1992)

8-206. License revocable. Licenses issued pursuant to the authority of the board of mayor and aldermen shall be revocable by the board of mayor and aldermen. Whenever it shall be brought to the attention of said board of mayor and aldermen that any declaration of fact contained in the application is false, or that there has been any violation thereof, or that the limitations and conditions of the license have been violated, or that the licensee permits minors to frequent or loiter around his place, or permits gambling or gambling devices of any character under the same roof in which such beverages are sold, or permits liquor or other beverages of alcoholic content greater than five percent (5%) by weight to be brought on his premises or consumed thereon, or permits any drunken, disreputable, or disorderly person or persons heretofore connected with the violating of liquor laws to make his establishment a place of visitation or resort, fails to file a report or pay any tax or license fee required, or otherwise violates the provisions or restrictions of the state law or of any ordinance, said board of mayor and aldermen shall revoke such license.

(1) No person shall be employed in the sale of such beverages except at the place or places for which the board of mayor and aldermen has issued a license or licenses to said applicants.

(2) No sale of such beverage shall be made except in accordance with the following conditions:

(a) If the application is for a license to sell at hotels, sales for consumption on the premises will be made only at tables and to persons in guest rooms.

(b) If the application is for a license in a club or lodge, such applicant must be a regularly incorporated club or lodge operating under a charter and bylaws in which the officers are elected by regular membership. Members of said organization must pay a substantial membership or initiation fee. The purpose of organization and existence of said club shall be for purposes other than the sale of beverages covered by this chapter.

(c) If the application is for a license for sale of beer not to be consumed on the premises, no sale shall be made other than in a container (bottle, can, or keg) in which it was delivered to the licensee.

(3) No sale shall be made to minors. Applicant shall not permit minors or any disorderly or disreputable person or persons previously convicted of violation of the liquor laws to loiter around or frequent his place of business.

(4) Applicant shall not allow gambling or gambling devices on his premises.

(5) Applicant shall not allow any liquors or beverages of alcoholic content greater than five percent (5%) by weight to be brought into his premises for consumption therein.

(6) Neither the applicant nor any person employed by him in the distribution, sale, or manufacture of beer shall have been convicted of any violation of the laws of the State of Tennessee against the sale, manufacture,

possession, or transportation of beer, drugs or intoxicating liquors, or of any crime involving moral turpitude within the past ten years.

(7) Applicant shall conduct the business in person for himself. If applicant is acting as agent, the application shall state the person, firm, corporation, syndicate, association, or joint stock company for whom the applicant intends to act.

(8) Applicant shall not distribute or sell beverages in bottles or other containers unless such containers shall bear a label or cap showing the name of the manufacturer thereof.

(9) Applicant shall not purchase beer except from manufacturers or distributors licensed to manufacture or distribute such beverage in this state. No manufacturer or distributor shall sell beer for resale except to those who have been licensed by the board of mayor and aldermen.

Applicant shall submit with his application satisfactory evidence that he has registered and received from the Commissioner of Finance and Taxation of the State of Tennessee a certificate showing such registration and that he has filed with said commissioner of finance and taxation a bond securing the payment of the state taxes. (1980 Code, § 2-205, as amended by Ord. # 92-6, July 1992)

8-207. Penalties. Upon the violation of any one of the circumstances listed in § 8-206, the board of mayor and aldermen, acting as the beer board or as the board of mayor and aldermen shall suspend or revoke the license of any licensee found in violation as follows:

(1) **First offense.** Suspension of license for a period of thirty (30) days effective at midnight the day of the board's decision.

(2) **Second offense.** Revocation of license. Licensee may not reapply before the expiration of ninety (90) days following the action revoking the license.

(3) **Third offense.** Revocation of license. Licensee may not reapply before the expiration of one (1) year following the action revoking the license.

The penalty for the violation of § 8-206(3), selling intoxicants to a minor, for the first offense shall be revocation of license. Licensee may reapply after thirty (30) days following the date of the action revoking the license by paying the application fee and by instituting a policy designed to eliminate sales to minors.

The penalty for the violation of § 8-206(3) selling intoxicants to a minor for a second time (but not within one year) shall be the revocation of the license. Licensee may not reapply until the expiration of ninety (90) days and the installation of a policy designed to enforce the prohibition against sale of intoxicants to minors.

The penalty for the violation of § 8-206(3), selling intoxicants to a minor, for the second offense within one (1) year shall be punishable by revocation of the license for one (1) year.

In the event a license is revoked three times for the violation of § 8-206(3) selling intoxicants to a minor (but not within 18 months), the license shall be revoked. Licensee may not reapply before the expiration of one (1) year.

In the event a license is revoked three times by the board of mayor and aldermen within eighteen (18) months for the offense of selling intoxicants to a minor, no new license or permit shall be issued to permit the sale of beer to the same person or entity for a period of five (5) years.

Where a permit or license has been revoked by the board of mayor and aldermen, three times, no new license or permit shall be issued to permit the sale of beer on the same premises until after the expiration of one (1) year from the date said revocation becomes final and effective, unless there has been a bona fide change or transfer of title and ownership in and to the business and fixtures used in said business; provided, further, that if there be a bona fide sale of the business and fixtures thereof, a sale or transfer of the real property on which said premises are located shall not be necessary. (1980 Code, § 2-205, as amended by Ord. #92-6, July 1992)

8-208. License to hotels, clubs, and lodges. A license may be issued for the sale of any beverage coming within the provisions of this chapter in hotels, clubs, or lodges, subject to all the limitations and restrictions contained in Tennessee Code Annotated, § 57-5-101, et seq., and subject to the limitations and restrictions provided by this chapter. (1980 Code, § 2-206)

8-209. Approval of application. Applications for license shall be filed with the mayor who shall make an investigation. The police department may assist in the investigation. Upon completion of said investigation, the mayor shall submit the application and recommendations to the board of mayor and aldermen at its next meeting. The board of mayor and aldermen shall consider the application and shall endorse its action thereon. If approved, the mayor shall issue a license. (1980 Code, § 2-207)

8-210. Hours of sale. No sale of any beverage coming within the provisions of this chapter shall be made between the hours of 12 o'clock midnight and 7:00 A.M. on weekdays or between the hours of 12 o'clock midnight on Saturday and 7:00 A.M. on Monday. (1980 Code, § 2-208)

8-211. Suspension of license. The board of mayor and aldermen may suspend a license issued under the provisions of this chapter for violation of §§ 8-203 and 8-204. Upon finding a violation, the board shall serve notice to the licensee stating the violation and shall require the licensee to show cause why the license shall not be suspended. The licensee shall have five (5) days in which to request a hearing before the board of mayor and aldermen. (1980 Code, § 2-209, as amended by Ord. #92-6, July 1992)

8-212. Expiration of license. Each license shall expire twelve (12) months following the date of its issuance unless revoked.

No license may be transferred, assigned or sold. (Ord. #92-6, July 1992)

8-213. Provisions determined severable. The provisions contained in chapter two, §§ 8-201 -- 8-212 are deemed severable. In the event a provision is determined unconstitutional, only that provision shall be stricken and the remaining provisions shall remain in full force and effect. (Ord. #92-6, July 1992)

8-214. Emergency powers. The Mayor of Humboldt is hereby granted emergency powers to suspend the license of a business establishment which sells intoxicating liquors. In the event where the laws of the State of Tennessee or the ordinances of the City of Humboldt are or have been violated and city or state charges are pending, and the mayor has reason to believe that further violations may occur before a hearing can be held, then and in that event the mayor is authorized to act immediately to suspend the license of the person or entity for the purpose of preventing any violations or for the purpose of policing any riotous or violent circumstance as determined in the discretion of the mayor. Any person or entity aggrieved by the action of the mayor may demand a hearing before the board of mayor and aldermen within twenty-four (24) hours of the suspension of the license. The board shall take such action as the board determines. Any action or decision is appealable as by law. In the event a hearing is not requested by the licensee within twenty four (24) hours, the mayor shall provide the licensee with five (5) days' notice that the board of mayor and aldermen will hear the charges against the person or establishment with a statement of the charges. In the case of immediate suspension, no sale of intoxicating beverages may be made while the matter is pending. (Ord. #92-6, July 1992)

CHAPTER 3**INTOXICATING LIQUORS--ON PREMISES CONSUMPTION****SECTION**

8-301. Consumption of alcoholic beverages on premises.

8-302. Privilege tax on retail sale of alcoholic beverages for consumption on premises.

8-303. Annual privilege tax to be paid to the city clerk.

8-304. Concurred sales of liquor by the drink and beer.

8-305. Advertisement of alcoholic beverages.

8-306. Opt out provision for extended hours of sale.

8-301. Consumption of alcoholic beverages on premises. Tennessee Code Annotated, title 57, chapter 4, inclusive, is hereby adopted 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 Humboldt, Tennessee. It is the intent of the mayor and aldermen that the said Tennessee Code Annotated, title 57, chapter 4, inclusive, shall be effective in Humboldt, Tennessee, the same as if said code sections were copied herein verbatim. (as added by Ord. #2008-06, Dec. 2008)

8-302. Privilege tax on retail sale of alcoholic beverages for consumption on 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 Humboldt 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 Humboldt on alcoholic beverages for consumption on the premises where sold. (as added by Ord. #2008-06, Dec. 2008)

8-303. 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 of the City of Humboldt, Tennessee shall remit annually to the city clerk the appropriate tax described in § 8-107. 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. #2008-06, Dec. 2008)

8-304. 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 liquor by the drink from the Alcoholic Beverage Commission (ABC) under the authority of Tennessee Code Annotated, title 57, chapter 4, shall qualify to receive a beer permit from the city, provided that the ABC liquor by the drink permit holder apply for a beer permit, and meet the qualifications, for a beer permit contained in § 8-204 of this title. (as added by Ord. #2008-06, Dec. 2008)

8-305. 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. #2008-06, Dec. 2008)

8-306. Opt out provision for extended hours of sale. Under Tennessee Code Annotated, § 57-4-203(d)(5), the Alcoholic Beverage Commission (ABC) is authorized to extend the hours of sales in jurisdictions that have approved the sale of liquor by the drink, but under that statute municipalities that have approved the sale of liquor by the drink have the authority to opt out of any such extension of hours by the ABC, by the passage of a resolution. (as added by Ord. #2008-06, Dec. 2008)

TITLE 9**BUSINESS, PEDDLERS, SOLICITORS, ETC.¹****CHAPTER**

1. OUT OF BUSINESS SALES, STREET SOLICITATIONS.
2. PEDDLERS, ETC.
3. AUCTIONS.
4. CHARITABLE SOLICITORS.
5. TAXICABS.
6. POOL ROOMS.
7. FOOD AND BEVERAGE ESTABLISHMENTS.
8. PERSONAL PROPERTY SALES IN RESIDENTIAL DISTRICTS.
9. CABLE TELEVISION.
10. SEXUALLY ORIENTED BUSINESSES.

CHAPTER 1**OUT OF BUSINESS SALES, STREET SOLICITATIONS****SECTION**

- 9-101. "Going out of business" sales.
9-102. Street solicitations prohibited.

9-101. "Going out of business" sales. It shall be unlawful for any person falsely to 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," a "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. (1980 Code, § 5-101)

9-102. Street solicitations prohibited. It shall be unlawful for any person, corporation, association or other organization to use the streets and

¹Municipal code references

Building, plumbing, wiring and housing regulations: title 12.

Junkyards: title 13.

Liquor and beer regulations: title 8.

Noise reductions: title 11.

Zoning: title 14.

highways with the corporate limits of the City of Humboldt, Tennessee, for the purpose of soliciting sales of merchandise, whether or not such merchandise has value, or to solicit contributions from operators of or passengers in or on motor vehicles being operated or parked on any such streets or highways.

Each solicitation of any such sale or contribution shall constitute a separate offense. (1980 Code, § 5-102, as amended by Ord. # 83-1, Jan. 1983)

CHAPTER 2**PEDDLERS, ETC.¹****SECTION**

- 9-201. Permit required.
- 9-202. Exemptions.
- 9-203. Application for permit.
- 9-204. Issuance or refusal of permit.
- 9-205. Appeal.
- 9-206. Bond.
- 9-207. Loud noises and speaking devices.
- 9-208. Use of street and permitted locations.
- 9-209. Exhibition of permit.
- 9-210. Policemen to enforce.
- 9-211. Revocation or suspension of permit.
- 9-212. Reapplication.
- 9-213. Expiration and renewal of permit.

9-201. Permit required. It shall be unlawful for any peddler, canvasser, solicitor, or transient merchant to ply his trade within the corporate limits without first obtaining a permit therefor in compliance with the provisions of this chapter. No permit shall be used at any time by any person other than the one to whom it is issued. (1980 Code, § 5-201)

9-202. Exemptions. The terms of this chapter shall not be applicable 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 bona fide charitable, religious, patriotic, or philanthropic organizations. (1980 Code, § 5-202)

9-203. Application for permit. Applicants for a permit under this chapter must file with the mayor a sworn written application containing the following:

- (1) Name and physical description of applicant.
- (2) Complete permanent home address and local address of the applicant and, in the case of transient merchants, the local address from which proposed sales will be made.
- (3) A brief description of the nature of the business and the goods to be sold.

¹Municipal code reference
Privilege taxes: title 5.

(4) If employed, the name and address of the employer, together with credentials therefrom establishing the exact relationship.

(5) The length of time for which the right to do business is desired.

(6) A recent clear photograph approximately two (2) inches square showing the head and shoulders of the applicant.

(7) The names of at least two (2) reputable local property owners who will certify as to the applicant's good moral reputation and business responsibility, or in lieu of the names of references, such other available evidence as will enable an investigator properly to evaluate the applicant's moral reputation and business responsibility.

(8) A statement as to whether or not the applicant has been convicted of any crime or misdemeanor or for violating any municipal ordinance, and if so, the nature of the offense, and the punishment or penalty assessed therefor.

(9) The last three (3) cities or towns, if that many, where applicant carried on business immediately preceding the date of application and, in the case of transient merchants, the addresses from which such business was conducted in those municipalities.

(10) At the time of filing the application, a fee of five dollars (\$5.00) shall be paid to the city to cover the cost of investigating the facts stated therein. (1980 Code, § 5-203)

9-204. Issuance or refusal of permit. (1) Each application shall be referred to the chief of police for investigation. The chief shall report his findings to the mayor within seventy-two (72) hours.

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

(3) If, on the other hand, the chief's report indicates that the moral reputation and business responsibility of the applicant are satisfactory, the mayor shall issue a permit upon the payment of all applicable privilege taxes and the filing of the bond required by § 9-206. The mayor shall keep a permanent record of all permits issued. (1980 Code, § 5-204)

9-205. Appeal. Any person aggrieved by the action of the chief of police and/or the mayor in the denial of a permit shall have the right to appeal to the board of mayor and aldermen. Such appeal shall be taken by filing with the mayor within fourteen (14) days after notice of the action complained of, a written statement setting forth fully the grounds for the appeal. The mayor shall set a time and place for a hearing on such appeal and notice of the time and place of such hearing shall be given to the appellant. The notice shall be in writing and shall be mailed, postage prepaid, to the applicant at his last known address at least five (5) days prior to the date set for hearing, or 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. (1980 Code, § 5-205)

9-206. Bond. Every permittee shall file with the mayor a surety bond running to the city in the amount of one thousand dollars (\$1,000.00). The bond shall be conditioned that the permittee shall comply fully with all the provisions of the ordinances of the city and the statutes of the state regulating peddlers, canvassers, solicitors, transient merchants, itinerant merchants, or itinerant vendors, as the case may be, and shall guarantee to any citizen of the city that all money paid as a down payment will be accounted for and applied according to the representations of the permittee, and further guaranteeing to any citizen of the city doing business with said permittee that the property purchased will be delivered according to the representations of the permittee. Action on such bond may be brought by any person aggrieved and for whose benefit, among others, the bond is given, but the surety may, by paying, pursuant to order of the court, the face amount of the bond to the clerk of the court in which the suit is commenced, be relieved without costs of all further liability. (1980 Code, § 5-206)

9-207. Loud noises and speaking devices. No permittee, nor any person in his behalf, shall shout, cry out, blow a horn, ring a bell, or use any sound amplifying device upon any of the sidewalks, streets, alleys, parks, or other public places of the city or upon private premises where sound of sufficient volume is emitted or produced therefrom to be capable of being plainly heard upon the adjacent sidewalks, streets, alleys, parks, or other public places, for the purpose of attracting attention to any goods, wares, or merchandise which such permittee proposes to sell. (1980 Code, § 5-207)

9-208. Use of street and permitted locations. No permittee shall have any right to locate in the public street or sidewalk nor shall any be permitted to operate in a congested area if such operation might impede or inconvenience the public use of such area. No more than one (1) permit shall be issued for each listed premise. A listed premise shall consist of a parcel of property that is assessed for property taxes by the City of Humboldt and show as such on the tax map of said city. (Ord. #95-3, April 1995)

9-209. Exhibition of permit. Permittees are required to exhibit their permits at the request of any policeman or citizen. (1980 Code, § 5-209)

9-210. Policemen to enforce. It shall be the duty of all policemen to see that the provisions of this chapter are enforced. (1980 Code, § 5-210)

9-211. Revocation or suspension of permit. (1) Permits issued under the provisions of this chapter may be revoked by the board of mayor and aldermen after notice and hearing, for any of the following causes:

(a) Fraud, misrepresentation, or incorrect statement contained in the application for permit or made in the course of carrying on the business of solicitor, canvasser, peddler, transient merchant, itinerant merchant, or itinerant vendor.

(b) Any violation of this chapter.

(c) Conviction of any crime or misdemeanor.

(d) Conducting the business of peddler, canvasser, solicitor, transient merchant, itinerant merchant, or itinerant vendor, as the case may be, 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 permit shall be given by the mayor in writing, setting forth specifically the grounds of complaint and the time and place of hearing. Such notice shall be mailed to the permittee 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.

(3) When it is reasonably necessary in the public interest, the mayor may suspend a permit pending the revocation hearing. (1980 Code, § 5-211)

9-212. Reapplication. No permittee whose permit has been revoked shall make further application until a period of at least six (6) months has elapsed since the last revocation. (1980 Code, § 5-212)

9-213. Expiration and renewal of permit. Permits issued under the provisions of this chapter shall expire on the same date that the permittee's privilege license expires and shall be renewed without cost if the permittee applies for and obtains a new privilege license within thirty (30) days thereafter. Permits issued to permittees who are not subject to a privilege tax shall be issued for one (1) year. An application for a renewal shall be made substantially in the same form as an original application. However, only so much of the application shall be completed as is necessary to reflect conditions which have changed since the last application was filed. (1980 Code, § 5-213)

CHAPTER 3

AUCTIONS

SECTION

- 9-301. Types of auctions regulated by this chapter.
- 9-302. Permit and licensed auctioneer required.
- 9-303. Bond required; issuance of permit.
- 9-304. Right to bid on behalf of seller must be made public.
- 9-305. Identification of merchandise.
- 9-306. Sales must be recorded.
- 9-307. Auctions to be conducted by licensed auctioneer.

9-301. Types of auctions regulated by this chapter. This chapter shall apply to all sales by auction of personal property within the City of Humboldt, except auctions held pursuant to the order of courts of record, sales by executors or administrators, sales by trustees under recorded mortgages or deeds of trust, or by lien holders acting in accordance with law. (1980 Code, § 5-301)

9-302. Permit and licensed auctioneer required. No person, firm, or corporation shall, directly or indirectly, through agents or otherwise, conduct any sale by auction, with the exceptions set forth in § 9-301, except by a licensed auctioneer and without first having obtained a permit from the mayor of the City of Humboldt for conducting the same. The application for the permit shall be made in writing, giving the name and address of the owner and the description of the merchandise, goods, or wares or other personal property to be offered for sale at public auction, and the place the proposed auction sale is to be held.

The application shall state whether or not any other application for a permit by the owner or the auctioneer has been refused or rejected after having been issued. (1980 Code, § 5-302)

9-303. Bond required; issuance of permit. No person, firm, or corporation shall hold an auction sale, except as excluded in section 9-301 hereof, without first depositing with the mayor a good and sufficient bond, payable to the City of Humboldt and conditioned to pay the city, or anyone else suing in its name, for their use, for injuries or damages sustained on account of dishonest or fraudulent conduct in connection with an auction sale. The amount of said bond shall be in the penal sum of one thousand dollars (\$1,000.00). Said bond shall provide that any person or persons injured by the dishonest, fraudulent, or improper conduct or representations in connection with any auction sale may sue on said bond, and the recovery, if any, shall be payable to said person or persons.

The mayor of the City of Humboldt, upon consideration of said application and upon the payment of twenty-five dollars (\$25.00) by the applicant, may issue said permit for a period not longer than two weeks if in his opinion the proposed auction sale is for legitimate business purposes and will be conducted in a proper manner and at a suitable place. (1980 Code, § 5-303)

9-304. Right to bid on behalf of seller must be made public. At any auction sale where notice in the advertisements of the auction has not been given that the sale by auction is subject to right to bid on behalf of the seller, it shall not be lawful for the seller to bid for himself or to employ or induce any person to bid at such sale in his behalf or for the auctioneer to employ or induce any person to bid at such sale on behalf of the seller, or knowingly to take a bid from a seller or any person employed by him, and any sale contravening this rule may be treated as fraudulent by the buyer and shall be a misdemeanor.

At any auction sale permitted under this chapter, where any bid is made by or on behalf of the seller, it shall be so announced at the time the bid is made, including the starting price. (1980 Code, § 5-304)

9-305. Identification of merchandise. No used or secondhand merchandise shall be sold without so announcing when such article is to be sold. (1980 Code, § 5-305)

9-306. Sales must be recorded. In conducting an auction sale, the auctioneer will describe in writing the articles sold, the name of the purchaser, and the amount paid, and will require the purchaser to sign each such entry, and this written information shall each day be filed in the office of the mayor. (1980 Code, § 5-306)

9-307. Auctions to be conducted by licensed auctioneer. All auctions shall be conducted by a duly licensed auctioneer. (1980 Code, § 5-307)

CHAPTER 4

CHARITABLE SOLICITORS

SECTION

- 9-401. Permit required.
- 9-402. Prerequisites for a permit.
- 9-403. Denial of a permit.
- 9-404. Exhibition of permit.
- 9-405. Trespassing.
- 9-406. Violations.

9-401. Permit required. No person shall solicit contributions or anything else of value for any real or alleged charitable or religious purpose without a permit from the mayor authorizing such solicitation. Provided, however, that this section shall not apply to any locally established organization or church operated exclusively for charitable or religious purposes if the solicitations are conducted exclusively among the members thereof, voluntarily and without remuneration for making such solicitations, or if the solicitations are in the form of collections or contributions at the regular assemblies of any such established organization or church. (1980 Code, § 5-401)

9-402. Prerequisites for a permit. The mayor shall, upon application, issue a permit authorizing charitable or religious solicitations when, after a reasonable investigation, he finds the following facts to exist:

(1) The applicant has a good character and reputation for honesty and integrity, or if the applicant is not an individual person, that every member, managing officer, or agent of the applicant has a good character or reputation for honesty and integrity.

(2) The control and supervision of the solicitation will be under responsible and reliable persons.

(3) The applicant has not engaged in any fraudulent transaction or enterprise.

(4) The solicitation will not be a fraud on the public but will be for a bona fide charitable or religious purpose.

(5) The solicitation is prompted solely by a desire to finance the charitable cause described by the applicant. (1980 Code, § 5-402)

9-403. Denial of a permit. Any applicant for a permit to make charitable or religious solicitations may appeal to the board of mayor and aldermen if he has not been granted a permit within fifteen (15) days after he makes application therefor. (1980 Code, § 5-403)

9-404. Exhibition of permit. Any solicitor required by this chapter to have a permit shall exhibit such permit at the request of any policeman or person solicited. (1980 Code, § 5-404)

9-405. Trespassing. It shall be unlawful and deemed to be a trespass for any permittee acting under this chapter to fail to leave promptly the private premises of any person who requests or directs him to leave. (1980 Code, § 5-405)

9-406. Violations. Any person violating any provision of this chapter or making a false or fraudulent statement either in his application for a permit or in the process of making a solicitation shall be subject to the penalty provided for violations of this municipal code. In addition to or in lieu of any pecuniary penalty, if a violator has been issued a permit, his permit shall be cancelled and revoked by the court. (1980 Code, § 5-406)

CHAPTER 5

TAXICABS¹

SECTION

- 9-501. Taxicab franchise and privilege license required.
- 9-502. Requirements as to application and hearing.
- 9-503. Liability insurance required.
- 9-504. Revocation or suspension of franchise.
- 9-505. Mechanical condition of vehicles.
- 9-506. Cleanliness of vehicles.
- 9-507. Inspection of vehicles.
- 9-508. License and permit required for drivers.
- 9-509. Qualifications for driver's permit.
- 9-510. Revocation or suspension of driver's permit.
- 9-511. Drivers not to solicit business.
- 9-512. Parking restricted.
- 9-513. Drivers to use direct routes.
- 9-514. Taxicabs not to be used for illegal purposes.
- 9-515. Miscellaneous prohibited conduct by drivers.
- 9-516. Transportation of more than one passenger at the same time.

9-501. Taxicab franchise and privilege license required. It shall be unlawful for any person to engage in the taxicab business unless he has first obtained a taxicab franchise from the city and has a currently effective privilege license. (1980 Code, § 5-501)

9-502. Requirements as to application and hearing. No person shall be eligible for a taxicab franchise if he has a bad character or has been convicted of a felony within the last ten (10) years. Applications for taxicab franchises shall be made under oath and in writing to the chief of police. The application shall state the name and address of the applicant, the name and address of the proposed place of business, the number of cabs the applicant desires to operate, the makes and models of said cabs, and such other pertinent information as the chief of police may require. The application shall be accompanied by at least two (2) affidavits of reputable local citizens attesting to the good character and reputation of the applicant. Within ten (10) days after receipt of an application the chief of police shall make a thorough investigation of the applicant; determine if there is a public need for additional taxicab service; present the application to the board of mayor and aldermen; and make

¹Municipal code reference
Privilege taxes: title 5.

a recommendation either to grant or refuse a franchise to the applicant. The board shall thereupon hold a public hearing at which time witnesses for and against the granting of the franchise shall be heard. In deciding whether or not to grant the franchise, the board of mayor and aldermen shall consider the public need for additional service, the increased traffic congestion, parking space requirements, and whether or not the safe use of the streets by the public, both vehicular and pedestrian, will be preserved by the granting of such an additional taxicab franchise. Those persons already operating taxicabs when this code is adopted¹ shall not be required to make applications under this section but shall be required to comply with all of the other provisions hereof. (1980 Code, § 5-502)

9-503. Liability insurance required. No taxicab franchise shall be issued or continued in operation unless there is in full force and effect a liability insurance policy for each vehicle authorized in the amount of ten thousand dollars (\$10,000.00) for bodily injury or death to any one person, twenty thousand dollars (\$20,000.00) for bodily injuries or death to more than one person which are sustained in the same accident, and five thousand dollars (\$5,000.00) for property damage resulting from any one accident. (1980 Code, § 5-503)

9-504. Revocation or suspension of franchise. The board of mayor and aldermen, after a public hearing, may revoke or suspend any taxicab franchise for misrepresentations or false statements made in the application therefor or for traffic violations or violations of this chapter by the taxicab owner or any driver. (1980 Code, § 5-504)

9-505. Mechanical condition of vehicles. It shall be unlawful for any person to operate any taxicab in the city unless such taxicab is equipped with four (4) wheel brakes, front and rear lights, safe tires, horn, muffler, windshield wipers, and rear vision mirror, all of which shall conform to the requirements of the state motor vehicle law. Each taxicab shall be equipped with a handle or latch or other opening device attached to each door of the passenger compartment so that such doors may be operated by the passenger from the inside of the taxicab without the intervention or assistance of the driver. The motor and all mechanical parts shall be kept in such condition or repair as may be reasonably necessary to provide for the safety of the public and the continuous satisfactory operation of the taxicab. (1980 Code, § 5-505)

¹This refers to the 1968 Code which was adopted and became effective on October 8, 1968.

9-506. Cleanliness of vehicles. All taxicabs operated in the city shall, at all times, be kept in a reasonably clean and sanitary condition. They shall be thoroughly swept and dusted at least once each day. At least once every week they shall be thoroughly washed and the interior cleaned with a suitable antiseptic solution. (1980 Code, § 5-506)

9-507. Inspection of vehicles. All taxicabs shall be inspected at least semiannually by the chief of police to insure that they comply with the requirements of this chapter with respect to mechanical condition, cleanliness, etc. (1980 Code, § 5-507)

9-508. License and permit required for drivers. No person shall drive a taxicab unless he is in possession of a state special chauffeur's license and a taxicab driver's permit issued by the chief of police. (1980 Code, § 5-508)

9-509. Qualifications for driver's permit. No person shall be issued a taxicab driver's permit unless he complies with the following to the satisfaction of the chief of police:

- (1) Makes written application to the chief of police.
- (2) Is at least eighteen (18) years of age and holds a state special chauffeur's license.
- (3) Undergoes an examination by a physician and is found to be of sound physique, with good eyesight and hearing and not subject to epilepsy, vertigo, heart trouble, or any other infirmity of body or mind which might render him unfit for the safe operation of a public vehicle.
- (4) Is clean in dress and person and is not addicted to the use of intoxicating liquor or drugs.
- (5) Produces affidavits of good character from two (2) reputable citizens of the city who have known him personally and have observed his conduct for at least two (2) years next preceding the date of his application.
- (6) Has not been convicted of a felony, drunk driving, driving under the influence of an intoxicant or drug, or of frequent minor traffic offenses.
- (7) Is familiar with the state and local traffic laws. (1980 Code, § 5-509)

9-510. Revocation or suspension of driver's permit. The board of mayor and aldermen, after a public hearing, may revoke or suspend any taxicab driver's permit for violation of traffic regulations, for violation of this chapter, or when the driver ceases to possess the qualifications as prescribed in § 9-509. (1980 Code, § 5-510)

9-511. Drivers not to solicit business. All taxicab drivers are expressly prohibited from indiscriminately soliciting passengers or from cruising

upon the streets of the city for the purpose of obtaining patronage for their cabs. (1980 Code, § 5-511)

9-512. Parking restricted. It shall be unlawful to park any taxicab on any street except in such places as have been specifically designated and marked by the city for the use of taxicabs. It is provided, however, that taxicabs may stop upon any street for the purpose of picking up or discharging passengers if such stops are made in such manner as not unreasonably to interfere with or obstruct other traffic and provided the passenger loading or discharging is promptly accomplished. (1980 Code, § 5-512)

9-513. Drivers to use direct routes. Taxicab drivers shall always deliver their passengers to their destinations by the most direct available route. (1980 Code, § 5-513)

9-514. Taxicabs not to be used for illegal purposes. No taxicab shall be used for or in the commission of any illegal act, business, or purpose. (1980 Code, § 5-514)

9-515. Miscellaneous prohibited conduct by drivers. It shall be unlawful for any taxicab driver, while on duty, to be under the influence of, or to drink any intoxicating beverage or beer; to use profane or obscene language; to shout or call to prospective passengers; unnecessarily to blow the automobile horn; or otherwise unreasonably to disturb the peace, quiet, and tranquility of the city in any way. (1980 Code, § 5-515)

9-516. Transportation of more than one passenger at the same time. No person shall be admitted to a taxicab already occupied by a passenger without the consent of such other passenger. (1980 Code, § 5-516)

CHAPTER 6

POOL ROOMS¹

SECTION

9-601. Hours of operation regulated.

9-602. Minors to be kept out; exception.

9-603. Gambling, etc., not to be allowed.

9-601. 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 12:00 P.M. and 6:00 A.M. on other days. (1980 Code, § 5-601)

9-602. 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, or for 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 first having obtained the written consent of the father and mother of such minor, if living. If the father is dead, then written consent must be obtained from 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 must be obtained; provided that this section shall not apply to the use of billiards, bagatelle, and pool tables in private residences. (1980 Code, § 5-602)

9-603. Gambling, etc., not to be allowed. It shall be unlawful for any person operating, conducting, or maintaining any place where pool tables or billiard tables are kept for public use or hire to permit any gambling or other unlawful or immoral conduct on such premises. (1980 Code, § 5-603)

¹Municipal code reference
Privilege taxes: title 5.

CHAPTER 7**FOOD AND BEVERAGE ESTABLISHMENTS****SECTION**

9-701. Hours regulated.

9-701. Hours regulated. No person, firm, partnership, association, or corporation selling or otherwise dispensing prepared or processed food or beverages, except beer, shall be open for business between the hours of twelve (12) midnight and six (6) o'clock A.M. or cause or permit its servants, agents, or employees to do so.

There shall be excepted from this section any such business whose location abuts a highway which is designated a U.S. Highway. (1980 Code, § 5-701)

CHAPTER 8

PERSONAL PROPERTY SALES IN RESIDENTIAL DISTRICTS

SECTION

- 9-801. Intent and purpose.
- 9-802. Permit required.
- 9-803. Term of permit.
- 9-804. Application for permit.
- 9-805. Exceptions.
- 9-806. Conditions to be met.
- 9-807. Signs.

9-801. Intent and purpose. It is the intent of these regulations to prohibit infringement of any businesses in any established residential areas and in so doing to regulate the term and frequency of a personal property sale (such as garage sales, porch sales, yard sales, and other similar types of sales) so as not to disturb or disrupt the residential environment of the area. It is not the intent of this chapter to seek control of sales by individuals selling a few of their household or personal items. (Ord. #84-11, Oct. 1984)

9-802. Permit required. It shall be unlawful for any person desirous of holding a personal property sale (such as, but not limited to, garage sale, porch sale, or yard sale), of clothing or any personal property items which are owned by the residents of the premises to hold such sale without first obtaining a permit therefor from the Police Department of the City of Humboldt. (Ord. #84-11, Oct. 1984)

9-803. Term of permit. Any such permit issued shall be for a term not exceeding three consecutive calendar days.

Permits shall be limited to four per calendar year, per residential dwelling. (Ord. #84-11, Oct. 1984)

9-804. Application for permit. Application for permit shall be made to the Humboldt Police Department upon forms furnished by the city, along with a permit fee of \$1.00.

The form shall contain at least the following information:

- (1) Full name and address of applicant.
- (2) The location at which the proposed sale is to be held.
- (3) The date or dates upon which the personal property sale shall be held.
- (4) The date or dates of any other personal property sales within the current calendar year.

(5) An affirmative statement that the property to be sold was owned by the applicant as his own personal property and was neither acquired or consigned for the purpose of resale. (Ord. # 84-11, Oct. 1984)

9-805. Exceptions. The provisions of this chapter shall not apply to or affect the following persons or sales:

(1) Persons selling goods pursuant to an order or process of a court of competent jurisdiction.

(2) Persons acting in accordance with their powers and duties as public officials.

(3) Any bona fide charitable, eleemosynary, educational, cultural, or government institution or organization, provided, however, that the burden of establishing the exemption shall be on the organization or institution claiming such exemption. (Ord. #84-11, Oct. 1984)

9-806. Conditions to be met. The permit shall be posted on the premises in a conspicuous place so as to be seen by the public and city inspectors. (Ord. #84-11, Oct. 1984)

9-807. Signs. No signs shall be posted anywhere in the City of Humboldt advertising such sales, except that the property owner may install on the residential lot on which the sale is held one sign not larger than 2' x 3' advertising such sale. Such sign shall not be erected more than three days prior to the date of the sale, and shall be removed at the end of the last day upon which the sale is held. (Ord. #84-11, Oct. 1984)

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 Humboldt and its inhabitants under franchise as the board of mayor and aldermen shall grant. The rights, powers, duties, and obligations of the City of Humboldt and its inhabitants and the grantee of the franchise shall be clearly stated in the franchise agreement which shall be binding upon the parties concerned.¹

¹For complete details relating to the cable television franchise agreement see Ord. #96-6 dated June 3, 1996 and Ord. #2009-01, Feb. 2009, in the office of the city recorder.

CHAPTER 10

SEXUALLY ORIENTED BUSINESSES

SECTION

- 9-1001. Purpose and intent.
- 9-1002. Definitions.
- 9-1003. Establishment and classification of businesses regulated.
- 9-1004. Measurement of distance.
- 9-1005. Location of sexually oriented businesses.
- 9-1006. Regulations governing existing sexually oriented businesses.
- 9-1007. Injunction.
- 9-1008. Sexually oriented business permit; purpose and intent.
- 9-1009. Permit required.
- 9-1010. Investigation and application.
- 9-1011. Issuance of permit.
- 9-1012. Annual permit fee.
- 9-1013. Inspection.
- 9-1014. Expiration of permit.
- 9-1015. Suspension of permit.
- 9-1016. Revocation of permit.
- 9-1017. Judicial review of permit denial, suspension or revocation.
- 9-1018. Transfer of permit.
- 9-1019. Sexually oriented business employee license.
- 9-1020. Regulations pertaining to exhibition of sexually explicit films or videos in video booths.
- 9-1021. Prohibitions regarding minors and sexually oriented businesses.
- 9-1022. Advertising and lighting regulations.
- 9-1023. Hours of operation.
- 9-1024. Nudity at sexually oriented businesses prohibited.
- 9-1025. Regulations pertaining to live entertainment.
- 9-1026. Additional criminal prohibitions for the operation of a sexually oriented business without a valid permit.
- 9-1027. Exemptions.
- 9-1028. Criminal penalties and additional legal, equitable, and injunctive relief.
- 9-1029. Immunity from prosecution.
- 9-1030. Prohibition of distribution of sexual devices.

9-1001. Purpose and intent. It is the purpose and intent of this chapter to regulate sexually oriented businesses to promote the health, safety, morals, and general welfare of the citizens of the city and to establish reasonable and uniform regulations to prevent any deleterious location and concentration of sexually oriented businesses within the city, thereby reducing or eliminating the adverse secondary effects from such sexually oriented businesses. The

provisions of this chapter have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is not the intent nor effect of this chapter to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of the chapter to condone or legitimize the distribution of obscene material. (Ord. #97-7, Dec. 1997)

9-1002. Definitions. For the purposes of this division, certain terms and words are defined as follows:

(1) "Sexually oriented businesses" are those businesses defined as follows:

(a) "Adult arcade" means an establishment where, for any form of consideration, one or more still or motion picture projectors, slide projectors, or similar machines, or other image producing machines, for viewing by five or fewer persons each, are regularly used to show films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas."

(b) "Adult bookstore," "adult novelty store" or "adult video store" means a commercial establishment which has a significant or substantial portion of its stock-in-trade or derives a significant or substantial portion of its revenues or devotes a significant or substantial portion of its interior business or advertising to the sale, rental for any form of consideration, of any one or more of the following:

(i) Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes, slides, or other visual representations which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas";

(ii) An establishment may have other principal business purposes that do not involve the offering for sale rental or viewing of materials depicting or describing "specified sexual activities" or "specified anatomical areas," and still be categorized as adult bookstore, adult novelty store, or adult video store. Such other business purposes will not serve to exempt such establishments from being categorized as an adult bookstore, adult novelty store or adult video store so long as one of its principal business purposes is offering for sale or rental, for some form of consideration, the specified materials which depict or describe "specified anatomical areas" or "specified sexual activities."

(c) "Adult cabaret" means a nightclub, bar, restaurant, "bottle club," or similar commercial establishment, whether or not alcoholic beverages are served, which regularly features:

- (i) Persons who appear nude or in a state of nudity;
- (ii) Live performances which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities," or
- (iii) Films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas."

(d) "Adult motel" means a motel, hotel or similar commercial establishment which:

- (i) Offers public accommodations, for any form of consideration, which provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas" and which advertises the availability of this sexually oriented type of material by means of a sign visible from the public right-of-way, or by means of any off-premises advertising including but not limited to, newspapers, magazines, pamphlets or leaflets, radio or television, or
- (ii) Offers a sleeping room for rent for a period of time less than ten (10) hours; or
- (iii) Allows a tenant or occupant to sub-rent the sleeping room for a time period of less than ten (10) hours.

(e) "Adult motion picture theater" means a commercial establishment where films, motion pictures, video cassettes, slides or similar photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical area" are regularly shown for any form of consideration.

(f) "Adult theatre" means a theater, concert hall, auditorium, or similar commercial establishment which, for any form of consideration, regularly features persons who appear in a state of nudity or live performances which are characterized by exposure of "specified anatomical areas" or by "specified sexual activities."

(g) "Escort" means a person who, for any form of consideration, agrees or offers to act as a companion, guide, or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.

(h) "Escort agency" means a person or business association who furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes for a fee, tip, or other consideration.

(i) "Massage parlor" means and place where, for any form of consideration or gratuity, massage, alcohol rub, administration of fomentations, electric or magnetic treatments, or any other treatment manipulation of the human body which occurs as a part of or in connection with "specified sexual activities," or where any person providing such treatment, manipulation, or service related thereto, exposes his or her "specified anatomical areas." The definition of sexually oriented businesses shall not include the practice of massage in any licensed hospital, nor by a licensed hospital, nor by a licensed physician, surgeon, chiropractor or osteopath, nor by any nurse or technician working under the supervision of a licensed physician, surgeon, chiropractor or osteopath, nor by trainers for any amateur, semiprofessional or professional athlete or athletic team or school athletic program.

(j) "Nude model studio" means any place where a person, who regularly appears in a state of nudity is provided for money or any form of consideration to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons.

(k) "Sexual encounter establishment" means a business or commercial establishment, that as one of its primary business purposes, offers for any form of consideration, a place where two or more persons may congregate, associate, or consort for the purpose of "specified sexual activities" or the exposure of "specified anatomical areas" or activities when one or more of the persons is in a state of nudity. The definition of sexually oriented businesses shall not include an establishment where a medical practitioner, psychologist, psychiatrist, or similar professional person licensed by the state engages in medically approved and recognized sexual therapy.

(2) "Employee" means a person who works or performs in and/or for a sexually oriented business, regardless of whether or not said person is paid a salary, wage or other compensation by the operator of said business.

(3) "Establishment" means and includes any of the following:

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

(b) The conversion of an existing business, whether or not a sexually oriented business, to any of the sexually oriented businesses defined in this chapter;

(c) The addition of any of the sexually oriented businesses defined in this chapter to any other existing sexually oriented business; or

(d) The relocation of any such sexually oriented business.

(4) "Nudity" or "state of nudity" means:

(a) The appearance of human bare buttock, anus, male genitals, female genitals, or the areola or nipple of the female breast; or

(b) A state of dress which fails to opaquely and fully cover a human buttocks, anus, male or female genitals, pubic region or areola or nipple of the female breast.

(5) "Operator" means and includes the owner, permit holder, custodian, manager, operator or person in charge of any permitted or licensed premises.

(6) "Permitted or licensed premises" means any premises that requires a license and/or permit and that is classified as a sexually oriented business.

(7) "Permittee" and/or "licensee" means a person in whose name a permit and/or license to operate a sexually oriented business has been issued, as well as the individual listed as an applicant on the application for a permit and/or license.

(8) "Person" means an individual, proprietorship, partnership, corporation, association, or other legal entity.

(9) "Public building" means any building owned, leased or held by the United States, the state, the county, the city, any special district, school district, or any other agency or political subdivision of the state or the United States, which building is used for governmental purposes.

(10) "Public park" or "recreation area" means public land which has been designated for park or recreational activities including but not limited to a park, playground, nature trails, swimming pool, reservoir, athletic field, basketball or tennis courts, pedestrian/bicycle paths, open space, wilderness areas, or similar public land within the city which is under the control, operation, or management of the city park and recreation authorities.

(11) "Religious institution" means any church, synagogue, mosque, temple or building which is used primarily for religious worship and related religious activities.

(12) "Residential district" or "use" means a single family, duplex, townhouse, multiple family, or mobile park or subdivision and campground as defined in the and/or Humboldt Zoning Ordinances.

(13) "School" means any public or private educational facility including but not limited to child day care facilities, nursery schools, preschools, kindergartens, elementary schools, primary schools, intermediate schools, junior high schools, middle schools, high schools, vocational schools, secondary schools, continuation schools, special education schools, junior colleges, and universities. School includes the school grounds, but does not include the facilities used primarily for another purpose and only incidentally as a school.

(14) "Semi-nude" means a state of dress in which clothing covers no more than the genitals, pubic region, and areolae of the female breast, as well as portions of the body covered by supporting straps or devices.

(15) "Sexually oriented business" means an adult arcade, adult bookstore, adult novelty shop, adult video store, adult cabaret, adult motel, adult motion picture theatre, adult theatre, massage parlor, sexual encounter establishment, escort agency or nude model studio.

(16) "Specified anatomical areas," as used in this division means and includes any of the following:

- (a) Less than completely and opaquely covered human genitals, pubic region, buttocks, anus, or female breasts below a point immediately above the top of the areolae; or
- (b) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

(17) "Specified sexual activities," as used in this division, means and includes any of the following:

- (a) The fondling or other intentional touching of human genitals, pubic region, buttocks, anus, or female breasts;
- (b) Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy;
- (c) Masturbation, actual or simulated; or
- (d) Human genitals in a state of sexual stimulation, arousal or tumescence;
- (e) Excretory functions as part of or in connection with any of the activities set forth in subdivisions (a) through (d) of this subsection.

(18) "Substantial enlargement of a sexually oriented business" means increase in the floor areas occupied by the business by more than 15%, as the floor areas exist on date ordinance becomes effective.

(19) "Transfer of ownership or control of a sexually oriented business" means and includes any of the following:

- (a) The sale, lease or sublease of the business;
- (b) The transfer of securities which constitute a controlling interest in the business, whether by sale, exchange or similar means;
- (c) The establishment of a trust, gift or other similar legal devise which transfers ownership or control of the business, except for transfer by bequest or other operation of law upon the death of a person possessing the ownership or control. (Ord. #97-7, Dec. 1997)

9-1003. Establishment and classification of businesses regulated.

(1) The establishment of a sexually oriented business shall be permitted only in the areas available as established by the following restrictions and shall be subject to the following restrictions. No person shall cause or permit the establishment of any of the following sexually oriented businesses, as defined above, within 1200 feet of another such business or within 1200 feet of any religious institution, school, boys' club, girls' club, or similar existing youth organization, or public park or public building, or within 1200 feet of any property zoned for residential use or used for residential purposes and are classified as follows:

- (a) Adult arcade
- (b) Adult bookstore, adult novelty store or adult video store
- (c) Adult cabaret

- (d) Adult motel
- (e) Adult motion picture theater
- (f) Adult theater
- (g) Massage parlor
- (h) Sexual encounter establishment
- (i) Escort agency, or
- (j) Nude model studio. (Ord. #97-7, Dec. 1997)

9-1004. Measurement of distance. As regarding § 9-1003(1), distance between any two sexually oriented businesses shall be measured in a straight line, without regard to intervening structures, from the closest exterior structural walls of each business. The distance between any sexually oriented business and any religious institution, public or private elementary or secondary school, boys club, girls club, or similar existing youth organization, or public park or public building or any properties zoned for residential use or used for residential purposes shall also be measured in a straight line, without regard to intervening structures or objects from the nearest point of the property line of the premises where the sexually oriented business is conducted, to the nearest point of the property line of the premises of a religious institution, public or private elementary or secondary school, boys club, girls club, or similar existing youth organization, or public park or public building or any properties zoned for residential use or used for residential purposes. (Ord. #97-7, Dec. 1997)

9-1005. Location of sexually oriented businesses. The City of Humboldt's Zoning Ordinance hereby requires that sexually oriented businesses shall be permitted only as provided in § 9-1003 in which such use is listed as permissible. Permits for sexually oriented businesses shall be required and governed by the procedures and policies specified in § 9-1008 et seq. of this division. In addition, any sexually oriented business shall be subject to the following restrictions:

- (1) The person commits a misdemeanor, if he operates or causes to be operated a sexually oriented business except as provided in § 9-1003.
- (2) The person commits a misdemeanor if he operates or causes to be operated a sexually oriented business within 1200 feet of:
 - (a) Any religious institution;
 - (b) Any school;
 - (c) The boundary of any residential district;
 - (d) A public park adjacent to any residential district;
 - (e) A property line of a lot devoted to residential use; or
 - (f) A boys club, girls club, or similar existing youth organization,
- (3) A person commits a misdemeanor if he operates or causes to be operated a sexually oriented business within 1200 feet of another such business, which will include, any adult arcade, adult book store, adult video store, adult

cabaret, adult motel, adult motion picture theater, adult theater, massage parlor or any sexual encounter establishment,

(4) A person commits a misdemeanor if he causes or permits the operation, establishment, or maintenance of more than one sexually oriented business within the same building, structure, or portion thereof, or causes the substantial enlargement of any sexually oriented business in any building, structure or portion thereof containing another sexually oriented business.

(5) It is a defense to prosecution under this section if a person appearing in a state of nudity did so in a modeling class operated:

(a) By a proprietary school, licensed by the State of Tennessee; a college, junior college, or university supported entirely or partly by taxation;

(b) By a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation; or

(c) In a structure:

(i) Which has no sign visible from the exterior of the structure and no other advertising that indicates a nude person is available for viewing; and

(ii) Where, in order to participate in a class a student must enroll at least three (3) days in advance of the class; and

(iii) Where no more than one nude model is on the premises at any one time. (Ord. #97-7, Dec. 1997)

9-1006. Regulations governing existing sexually oriented businesses. (1) A sexually oriented business lawfully operating as conforming use is not rendered a non-conforming use by the location, subsequent to the grant or renewal of a sexually oriented business permit and/or license, of a church, public or private elementary or secondary school, public park, public building, residential district, or residential lot within 1200 feet of the sexually oriented business. This provision applies only to the renewal of a valid permit and/or license and does not apply when an application for a permit and/or license is submitted after a permit and/or license has expired or has been revoked.

(2) Any establishment subject to the provision of this section shall apply for the permit provided for by § 9-1010 within thirty (30) days of the effective day of this chapter. Any establishment, existing prior to the effective date of this chapter, shall comply with the regulations pertaining to §§ 9-1020, 9-1022, and 9-1030 within sixty (60) days of the effective date of this chapter and all other applicable permit regulations within 30 days of the effective date of this chapter. (Ord. #97-7, Dec. 1997)

9-1007. Injunction. A person who operates or causes to be operated a sexually oriented business without having a valid permit due to locational restrictions is subject to a suit for injunction as well as prosecution for the criminal violation. Such violation shall be punishable by a fine of up to \$500.00 for each calendar day of the violation, and if an injunction must be sought, attorneys fees and costs will be assessed at the discretion of the court against the sexually oriented business. (Ord. #97-7, Dec. 1997)

9-1008. Sexually oriented business permit: purpose and intent. It is the purpose of this chapter to regulate sexually oriented businesses to promote the health, safety, morals and general welfare of the citizens of the city, and to establish reasonable and uniform regulations to prevent deleterious effects of sexually oriented businesses within the city. The provisions of this chapter have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is not the intent nor effect of this chapter to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent or effect of this chapter to in any way condone or legitimize the distribution of obscene or harmful to minors' material. (Ord. #97-7, Dec. 1997)

9-1009. Permit required. (1) No sexually oriented business shall be permitted to operate without a valid sexually oriented business permit issued by the city for the particular type of business. It shall be unlawful and a person commits a misdemeanor if he/she operates or causes to be operated a sexually oriented business without said permit.

(2) The Mayor of the City of Humboldt and the Board of Aldermen is responsible for granting, denying, revoking, renewing, suspending, and canceling sexually oriented business permits for proposed or existing sexually oriented businesses. The Mayor of the City of Humboldt or his/her designee is also responsible for ascertaining whether a proposed sexually oriented business for which a permit is being applied for complies with all locational requirements of §§ 9-1003, 9-1005, and 9-1006 of this chapter, all applicable zoning laws and/or regulations now in effect or as amended or enacted subsequent to the effective date of this chapter in the city and the city comprehensive plan.

(3) The Humboldt Police Department is responsible for providing information on whether an applicant has been convicted of a specified criminal act during the time period set forth.

(4) The city's code enforcement office is responsible for inspecting a proposed, permitted or non-permitted sexually oriented business in order to ascertain whether it is in compliance with applicable statutes and ordinances.

(5) An application for a permit must be made on a form provided by the city. Any person desiring to operate a sexually oriented business shall file

with the city an original and two copies of a sworn permit application on the standard application form supplied by the city or designee.

(6) The completed application shall contain the following information and shall be accompanied by the following documents:

(a) If the applicant is:

(i) An individual, the individual shall state his/her legal name and any aliases and submit satisfactory proof that he/she is eighteen years of age;

(ii) A partnership, the partnership shall state its complete name, and the names of all partners, whether the partnership is general or limited, and a copy of the partnership agreement, if any;

(iii) A corporation, the corporation shall state its complete name, the date of its incorporation, evidence that the corporation is in good standing under the laws of Tennessee the names and capacity of all officers, directors and principal stockholders, and the name of the registered corporate agent and the address of the registered office for service of process.

(b) If the applicant intends to operate the sexually oriented business under a name other than that of the applicant; he must state:

(i) The sexually oriented business's fictitious name and

(ii) Submit the required Tennessee registration documents.

(c) Whether the applicant or any of the other individuals listed pursuant to § 9-1009 of this chapter has, within the two (2) or five (5) year period as specified in § 9-1011 immediately preceding the date of the application, been convicted of a specified criminal act, and, if so, the specified criminal act involved, the date of conviction and the place of conviction.

(d) Whether the applicant or any of the other individuals pursuant to § 9-1009 and or licenses of this chapter has had a previous permit under ordinance or other similar sexually oriented business ordinances from another city or county denied, suspended or revoked, including the name and location of the sexually oriented business for which the permit was denied, suspended or revoked, as well as the date of the denial, suspension or revocation, and whether the applicant or any other individuals listed pursuant to § 9-1009 has been a partner in a partnership or an officer, director or principal stockholder of a corporation that is permitted under this chapter whose permit has previously been denied, suspended or revoked, including the name and location of the sexually oriented business for which the permit was denied, suspended or revoked as well as the date of denial, suspension or revocation.

(e) Whether the applicant or any other individual listed pursuant to § 9-1009 holds any other permits and/or licenses under this

chapter or other similar sexually oriented business ordinance from another city or county and, if so, the names and locations of such other permitted businesses.

(f) The single classification of permit for which the applicant is filing.

(g) The location of the proposed sexually oriented business, including a legal description of the property, street address, and telephone number(s), if any.

(h) The applicant's mailing addresses and residential address.

(i) A recent photograph of the applicant(s).

(j) The applicant's driver's permit number, social security number, and or his/her state or federally issued tax identification number.

(k) A sketch or diagram showing the configuration of the premises, including a statement of total floor space occupied by the business. The sketch or diagram need not be professionally prepared, but it must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six (6) inches.

(l) A current certificate and straight-line drawing prepared within thirty (30) days prior to application by a Tennessee registered land surveyor depicting the property lines and the structures containing any established existing uses regulated by this chapter within 1200 feet of the property to be certified; the property lines of any established religious institution/synagogue, school, or public park or recreation area within 1200 feet of the property to be certified; and the property lines of any residentially zoned area or residential property within 1200 feet of the property to be certified. For purposes of this section, a use shall be considered existing or established if it is in existence at the time an application is submitted.

(m) If a person who wishes to operate a sexually oriented business is an individual, he/she must sign the application for a permit as applicant. If a person who wishes to operate a sexually oriented business is other than an individual, each individual who has a ten percent (10%) or greater interest in the business must sign the application for a permit as applicant. If a corporation is listed as owner of a sexually oriented business or as the entity which wishes to operate such a business, each individual having a ten percent (10%) or greater interest in the corporation must sign the application for a permit as applicant.

(n) If a person wishes to operate a sexually oriented business which shall exhibit on the premises films, video cassettes, or other video reproductions which depict specified sexual activities or specified

anatomical areas, then said person shall comply with the application requirements stated at § 9-1020 *et seq.*

(7) Applicants for a permit under this section shall have a continuing duty to promptly supplement application information required by this section in the event that said information changes in any way from what is stated on the application. The failure to comply with said continuing duty within thirty (30) days from the date of such change, by supplementing the application on file with the Mayor of the City of Humboldt or his/her designee, shall be grounds for suspension of a permit.

(8) In the event that the Mayor of the City of Humboldt or his/her designee determines or learns at any time that the applicant has improperly completed the application for a proposed sexually oriented business, he/she shall promptly notify the applicant of such fact and allow the applicant ten (10) days to properly complete the application. (The time period for granting or denying a permit shall be stayed during the period in which the applicant is allowed an opportunity to properly complete the application.)

(9) The applicant must be qualified according to the provisions of this chapter and the premises must be inspected and found to be in compliance with health, fire and building codes and laws.

(10) The applicant shall be required to pay non-refundable application fee of one hundred dollars (\$100.00) at the time of filing an application under this section of this chapter.

(11) Prior to obtaining any permit or license to operate any sexually oriented business defined in this chapter, and as part of any application for a permit under this section, the applicant shall obtain from the city or its designee a certification that the proposed location of such business complies with the locational requirements of §§ 9-1005 and 9-1006 of this chapter.

(12) The fact that a person possesses other types of state or city permits and/or licenses does not exempt him/her from the requirement of obtaining a sexually oriented business permit.

(13) By applying for a permit under this chapter, the applicant shall be deemed to have consented to the provisions of this chapter and to the exercise by the Mayor of the City of Humboldt or his/her designee, the Humboldt Police Department and all other city agencies charged with the enforcing the laws, ordinances and codes applicable in the city of their respective responsibilities under this chapter.

(14) The applicant shall be required to provide the city with the names of any and all employees who are required to be licensed pursuant to § 9-1019 of this chapter. This shall be a continuing requirement even after a permit is granted or renewed. (Ord. #97-7, Dec. 1997)

9-1010. Investigation and application. (1) Upon receipt of an application properly filed with the city and upon payment of the non-refundable application fee, the city or its designee, shall immediately stamp the application

as received and shall immediately thereafter send photocopies of the application to the Humboldt Police Department and any other city agencies responsible for enforcement of health, fire and building codes and laws. Each department or agency shall promptly conduct an investigation of the applicant, application and the proposed sexually oriented business in accordance with its responsibilities under law and as set forth in this chapter. Said investigation shall be completed within twenty (20) days of receipt of the application by the city or its designee. At the conclusion of its investigation, each department or agency shall indicate on the photocopy of the application its approval or disapproval of the application, date it, sign it, and in the event it disapproves, state the reasons therefor. The Humboldt Police Department shall only be required to certify the NCIC records request check mentioned at § 9-1011. The Humboldt Police Department shall not be required to approve or disapprove applications.

(2) A department or agency shall disapprove an application if it finds that the proposed sexually oriented business will be in violation of any provision of any statute, code, ordinance, regulation or other law in effect in the city. After its indication of approval or disapproval, each department or agency shall immediately return the photocopy of the application to the city or its designee. (Ord. #97-7, Dec. 1997)

9-1011. Issuance of permit. (1) The Mayor of the City of Humboldt or his/her designee, shall grant or deny an application for a permit within thirty (30) days from the date of its proper filing. Upon the expiration of the thirtieth (30th) day, unless the applicant requests and is granted a reasonable extension of time, the applicant shall be permitted to begin operating the business for which the permit is sought, unless and until the city or its designee, notifies the applicant of a denial of the application and states the reason(s) for that denial.

(2) Grant of application for permit. (a) The Mayor of the City of Humboldt or his/her designee, shall grant the application unless one or more of the criteria set forth in (3) below is present.

(b) The permit, if granted, shall state on its face the name of the person or persons to whom it is granted, the expiration date, and the address of the sexually oriented business. The permit shall also indicate that the sexually oriented business whether permitted or not may be subject to prohibitions against public nudity and indecency pursuant to the United States Supreme Court decision in Barns v. Glen Theatre, Inc., 501 U.S. 560 (1991). The permit shall be posted in a conspicuous place at or near the entrance to the sexually oriented business so that it can be read easily at any time.

(3) Denial of application for permit. (a) The Mayor of the City of Humboldt or his/her designee, shall deny the application for any of the following reasons:

(i) An applicant is under eighteen years of age.

(ii) An applicant or an applicant's spouse is overdue on his/her payment to the city of taxes, fees, fines, or penalties assessed against him/her or imposed upon him/her in relation to a sexually oriented business.

(iii) An applicant is residing with a person who has been denied a permit by the city to operate a sexually oriented business within the preceding twelve (12) months, or residing with a person whose permit to operate a sexually oriented business has been revoked within the preceding twelve (12) months.

(iv) An applicant has failed to provide information required by this section or permit application for the issuance of the permit or has falsely answered a question or request for information on the application form.

(v) The premises to be used for the sexually oriented business have not been approved as being in compliance with health, fire and building codes by the department or agency responsible under law for investigating said compliance.

(vi) The application or permit fees required by this chapter have not been paid.

(vii) An applicant of the proposed business is in violation of, or is not in compliance with, any of the provisions of this chapter including but not limited to the zoning locational requirements for a sexually oriented business under §§ 9-1003, 9-1005, and 9-1006.

(viii) The granting of the application would violate a statute, ordinance, or court order.

(ix) The applicant has a permit under this chapter which has been suspended or revoked.

(x) An applicant has been convicted of a "specified criminal" act for which:

(A) Less than two (2) years have elapsed since the date of conviction or the date of release from confinement, whichever is the later date, if the conviction is of a misdemeanor offense for the "specified criminal" acts which are sexual crimes against children, sexual abuse, rape or crimes connected with another sexually oriented business including but not limited to distribution of obscenity or material harmful to minors, prostitution, pandering, or tax violations;

(B) Less than five (5) years have elapsed since the date of conviction or the date of release from confinement, whichever is the later date, if the conviction is of a felony offense; for the "specified criminal" acts which are sexual crimes against children, sexual abuse, rape or crimes

connected with another sexually oriented business including but not limited to distribution of obscenity or material harmful to minors, prostitution, pandering, or tax violations;

(C) Less than five (5) years have elapsed since the date of conviction or the date of release from confinement, whichever is the later date, if the convictions are of two or more misdemeanor offenses for "specified criminal" acts which are sexual crimes against children, sexual abuse, rape or crimes connected with another sexually oriented business including but not limited to distribution of obscenity or materials harmful to minors, prostitution, pandering or tax violations; offenses occurring within any twenty-four month period;

(D) The fact that a conviction is being appealed shall have no effect on disqualification of the applicant;

(E) An applicant who has been convicted of the above described "specified criminal acts" may qualify for a sexually oriented business permit only when the time period required above in § 9-1011(3)(a)(x) has elapsed.

(xi) An applicant knowingly has in his or her employ, an employee who does not have a valid license as required in § 9-1019 of this chapter.

(b) If the Mayor of the City of Humboldt or his/her designee, denies the application, he/she shall notify the applicant of the denial and state the reason(s) for the denial.

(c) If a person applies for a permit for a particular location within a period of twelve (12) months from the date of denial of a previous application for a permit at the location, and there has not been an intervening change in the circumstances which could reasonably be expected to lead to a different decision regarding the former reasons for denial, the application shall be denied. (Ord. #97-7, Dec. 1997)

9-1012. Annual permit fee. The annual fee for a sexually oriented business permit is eight hundred fifty dollars (\$850.00). (Ord. #97-7, Dec. 1997)

9-1013. Inspection. (1) An applicant or permittee shall permit representatives of the code enforcement office, the county health department, and the fire department to inspect the premises of a sexually oriented business for the purpose of insuring compliance with the law, at any time it is occupied or open for business.

(2) It shall be unlawful and a person who operates a sexually oriented business, regardless of whether or not a permit has been issued for said business under this chapter, or his/her agent or employee commits a misdemeanor if

he/she refuses to permit such lawful inspection of the premises at any time that it is occupied or open for business. (Ord. #97-7, Dec. 1997)

9-1014. Expiration of permit. (1) Each permit shall expire one (1) year from the date of issuance and may be renewed only by making application as provided in § 9-1011 (for renewals, filing of original survey shall be sufficient) of this chapter. Application for renewal shall be made at least thirty (30) days before the expiration date, and when made less than thirty (30) days before the expiration date, the expiration of the permit will not be affected.

(2) When the Mayor of the City of Humboldt or his/her designee, denies renewal of the permit, the applicant shall not be issued a permit under this chapter for one (1) year from the date of denial. If, subsequent to denial, the city or its designee, finds that the basis for denial of the renewal of the permit has been corrected, the applicant shall be granted a permit if at least ninety (90) days have elapsed since the date denial became final. (Ord. #97-7, Dec. 1997)

9-1015. Suspension of permit. (1) The Mayor of the City of Humboldt or his/her designee, shall suspend a permit for a period not to exceed thirty (30) days if he/she determines that a permittee, or an employee of a permittee, has:

(a) Violated or is not in compliance with any section of this chapter; or

(b) Been under the influence of alcoholic beverages while working in the sexually oriented business premises; or

(c) Refused to allow an inspection of sexually oriented business premises as authorized by this chapter; or

(d) Knowingly permitted gambling by any person on the sexually oriented business premises; or

(e) Operated the sexually oriented business in violation of a building, fire, health, or zoning statute, code, ordinance or regulation, whether federal, state or local, said determination being based on investigation by the division, department or agency charged with enforcing said rules or laws. In the event of such statute, code, ordinance or regulation violation, the city or its designee, shall promptly notify the permittee of the violation and shall allow the permittee a seven (7) day period in which to correct the violation. If the permittee fails to correct the violation before the expiration of the seven (7) day period, the city or its designee, shall forthwith suspend the permit and shall notify the permittee of the suspension.

(f) Engaged in permit transfer contrary to § 9-1018 of this chapter. In the event that the city or its designee, suspends a permit on the ground that a permittee engaged in a permit transfer contrary to § 9-1018 of this chapter, the Mayor of the City of Humboldt or his/her designee shall forthwith notify the permittee of the suspension. The

suspension shall remain in effect until the applicable section of this chapter has been satisfied.

(g) Operated the sexually oriented business in violation of the hours of operation § 9-1023.

(h) Knowingly employs a person who does not have a valid license as required in § 9-1019 of this chapter.

(2) The suspension shall remain in effect until the violation of the statute, code, ordinance or regulation in question has been corrected. (Ord. #97-7, Dec. 1997)

9-1016. Revocation of permit. (1) The Mayor of the City of Humboldt or his/her designee shall revoke a permit if a cause of suspension in § 9-1015 of this chapter occurs and the permit has been suspended within the preceding twelve (12) months.

(2) The Mayor of the City of Humboldt or his/her designee, shall revoke a permit upon determining that:

(a) A permittee gave false or misleading information in the material submitted during the application process that tended to enhance the applicant's opportunity for obtaining a permit; or

(b) A permittee or an employee has knowingly allowed possession, use or sale of controlled substances in or on the premise; or

(c) A permittee or an employee has knowingly allowed prostitution on the premises; or

(d) A permittee or an employee knowingly operated the sexually oriented business during a period of time when the permittee's permit was suspended; or

(e) A permittee has been convicted of a "specified criminal act" for which the time period required in § 9-1011 of this chapter has not elapsed; or

(f) On two or more occasions within a twelve (12) month period, a person or persons committed an offense, occurring in or on the permitted premises, constituting a specified criminal act for which a conviction has been obtained, and the person or persons were employees of the sexually oriented business at the time the offenses were committed. The fact that a conviction is being appealed shall have no effect on the revocation of the permit; or

(g) A permittee is convicted of tax violations for any taxes or fees related to a sexually oriented business; or

(h) A permittee or an employee has knowingly allowed any act of sexual intercourse, sodomy, oral copulation, masturbation, or any other specified sexual activities to occur in or on the permitted premises.

(i) A permittee has been operating more than one sexually oriented business under a single roof except as provided in § 9-1003.

(3) When the Mayor of the City of Humboldt or his/her designee, revokes a permit, the revocation shall continue for one (1) year and the permittee shall not be issued a sexually oriented business permit for one (1) year from the date revocation became effective. If, subsequent to revocation, the Mayor of the City of Humboldt or his/her designee finds that the basis for revocation under § 9-1016 of this chapter has been corrected, the applicant shall be granted a permit if at least ninety (90) days have elapsed since the date revocation became effective. If the permit was revoked under § 9-1016 of this chapter, an applicant may not be granted another permit until the number of years required under § 9-1016 have elapsed. (Ord. #97-7, Dec. 1997)

9-1017. Judicial review of permit denial, suspension or revocation. After denial of an application, or denial of a renewal of an application, or suspension or revocation of a permit, the applicant or permittee may seek prompt review of such administrative action through the city council or special city review board if one is established by the city. If the denial, suspension or revocation is affirmed upon review, the administrative action shall be promptly reviewed by the court. (Ord. #97-7, Dec. 1997)

9-1018. Transfer of permit. (1) A permittee shall not operate a sexually oriented business under the authority of a permit at any place other than the address designated in the application for permit.

(2) A permittee shall not transfer his/her permit to another person unless and until such other person satisfies the following requirements:

(a) Obtains an amendment to the permit from the Mayor of the City of Humboldt or his/her designee, which provides that he/she is now the permittee, which amendment may be obtained only if he/she has completed and properly filed an application with the Mayor of the City of Humboldt or his/her designee, setting forth the information called for under § 9-1011 of this chapter in the application; and

(b) Pays a transfer fee of twenty percent (20%) of the annual permit fee set by this chapter.

(3) No permit may be transferred when the Mayor of the City of Humboldt or his/her designee has notified the permittee that suspension or revocation proceedings have been or will be brought against the permittee.

(4) A permittee shall not transfer his permit to another location.

(5) Any attempt to transfer a permit either directly or indirectly in violation of this section is hereby declared void and the permit shall be deemed revoked. (Ord. #97-7, Dec. 1997)

9-1019. Sexually oriented business employee license. (1) Each individual to be employed in a sexually oriented business, as defined in § 9-1002 of this chapter, who engages in the services rendered by a semi-nude model studio, escort or escort agency, sexual encounter establishment, massage parlor,

or a live performer or entertainer shall be required to obtain a sexually oriented business employee license. Each applicant shall pay a permit fee of twenty five dollars (\$25.00). Said fee to cover reasonable administrative costs of the licensing application process.

(2) Before any applicant may be issued a sexually oriented business employee license, the applicant shall submit on a form to be provided by the Mayor of the City of Humboldt or his or her designee the following information:

- (a) The applicant's name or any other names (including "stage" names) or aliases used by the individual;
- (b) Age, date, and place of birth;
- (c) Height, weight, hair and eye color;
- (d) Present residence address and telephone number;
- (e) Present business address and telephone number;
- (f) State driver's license or identification number;
- (g) Social security number; and
- (h) Acceptable written proof that the individual is at least eighteen (18) years of age.

(i) Attached to the application form as provided above, a color photograph of the applicant clearly showing the applicant's face, and the applicant's fingerprints on a form provided by the Humboldt Police Department. Any fees for the photographs and fingerprints shall be paid by the applicant.

(j) A statement detailing the license or permit history of the applicant for the five (5) years immediately preceding the date of the filing of the application, including whether such applicant previously operating or seeking to operate, in this or any other county, city, state, or country has ever had a license, permit, or authorization to do business denied, revoked, or suspended, or had any professional or vocational license or permit denied, revoked, or suspended. In the event of any such denial, revocation, or suspension, state the date, the name of the issuing or denying jurisdiction, and describe in full the reasons for the denial, revocation, or suspension. A copy of any order of denial, revocation, or suspension shall be attached to the application.

(k) Whether the applicant has been convicted of a "special criminal" act as defined in § 9-1011(3)(a)(x) of this chapter. This information shall include the date, place, nature of each conviction or plea of nolo contendere and identifying the convicting jurisdiction.

(l) The Mayor of the City of Humboldt or his or her designee shall refer the sexually oriented business employee license application to the Humboldt Police Department for an investigation to be made of such information as is contained on the application. The application process shall be completed within ten (10) days from the date the completed application is filed. After the investigation, the Mayor of the City of Humboldt or his or her designee shall issue a license unless the report

from the sheriff's department finds that one or more of the following findings is true:

(i) That the applicant has knowingly made any false, misleading, or fraudulent statement of a material fact in the application for a license, or in any report or record required to be filed with the sheriff's department or other department of the city;

(ii) That the applicant is under eighteen (18) years of age;

(iii) That the applicant has been convicted of a "specified criminal act" as defined in § 9-1011(3)(a)(x) of this chapter;

(iv) That the sexually oriented business employee license is to be used for employment in a business prohibited by local or state law, statute, rule or regulation, or prohibited by particular provisions of this chapter.

(v) That the applicant has had a sexually oriented business employee license revoked by the city within two (2) years of the date of the current application;

(3) Renewal of license:

(a) A license granted pursuant to this section shall be subject to annual renewal by the Mayor of the City of Humboldt or his or her designee upon the written application of the applicant and a finding by the Mayor of the City of Humboldt or his or her designee and the Humboldt Police Department that the applicant has not been convicted of any "specified criminal act" as defined in § 9-1011(3)(a)(x) of this chapter or committed any act during the existence of the previous license period which would be grounds to deny the initial permit application.

(b) The renewal of the license shall be subject to payment of a fee as set by a resolution of the city council. (Ord. #97-7, Dec. 1997)

9-1020. Regulations pertaining to exhibition of sexually explicit films or videos in video booths. (1) A person who operates or causes to be operated a sexually oriented business, other than a sexually oriented motel/hotel and regardless of whether or not a permit has been issued to said business under this chapter, which exhibits on the premises in a viewing room of less than one hundred fifty (150) square feet of floor space, a film, video cassette or other video reproduction which depicts specified sexual activities or specified anatomical areas, shall comply with the following requirements:

(a) Upon application for a sexually oriented business permit, the application shall be accompanied by a diagram of the premises showing a plan thereof specifying the location of one or more manager's stations, the location of all overhead lighting fixtures and designating any portion of the premises in which patrons will not be permitted. A manager's station may not exceed thirty-two (32) square feet of floor area with no dimension greater than eight (8) feet. The diagram shall also designate the place at which this permit will be conspicuously posted, if granted.

A professionally prepared diagram in the nature of an engineer's or architect's blueprint shall not be required; however, each diagram should be oriented to the north or to some designated street or object and should be drawn to a designated scale with marked dimensions sufficient to show the various internal dimension of all areas of the interior of the premises to an accuracy of plus or minus six (6) inches. The Mayor of the City of Humboldt or his/her designee, may waive the foregoing diagram for renewal applications if the applicant adopts a diagram that was previously submitted and certifies that the configuration of the premises has not been altered since it was prepared.

(b) The application shall be sworn to be true and correct by the applicant.

(c) No alteration in the configuration or location of a manager's station may be made without the prior approval of the city or its designee.

(d) It is the duty of the owners and operator of the premises to insure that at least one employee is on duty and situated at each manager's station at all times that any patron is present inside the premises.

(e) The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of every area of the premises to which any patron is permitted access for any purpose, excluding restrooms. Restrooms may not contain video reproduction equipment. If the premises have two or more manager's stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose from at least one of the manager's stations. The view required in this subsection must be by direct line of sight from the manager's station.

(f) It shall be the duty of the owners and operator, and it shall also be the duty of any agents and employees present on the premises to insure that the view area specified in subsection (e) remains unobstructed by any doors, walls, merchandise, display racks or other materials or person at all times and to insure that no patron is permitted access to any area of the premises which has been designated as an area in which patrons will not be permitted in the application filed pursuant to subsection (a) of this section.

(g) No viewing room may be occupied by more than one person at any one time. No holes, commonly known as "glory holes," shall be allowed in the walls or partitions which separate each viewing room from an adjoining viewing room or restroom.

(h) The premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access and an illumination of not less than two (2.0) foot candle as measured at the floor level.

(i) It shall be the duty of the owners and operator and it shall also be the duty of any agents and employees present on the premises to insure that the illumination described above is maintained at all times that any patron is present on the premises.

(2) A person having a duty under § 9-1020(1)(a)(i) commits a misdemeanor if he/she knowingly fails to fulfill that duty. (Ord. #97-7, Dec. 1997)

9-1021. Prohibitions regarding minors and sexually oriented businesses. A person commits a misdemeanor if he/she operates or causes to be operated a sexually oriented business, regardless of whether or not a permit has been issued for said business under this chapter, and knowingly or with reasonable cause to know, permit, suffer, or allow:

(1) Admittance of a person under eighteen (18) years of age to the business premises unless accompanied by a parent or guardian;

(2) A person under eighteen (18) years of age to remain at the business premises unless accompanied by a parent or guardian;

(3) A person under eighteen (18) years of age to purchase goods or services at the business premises without the specific consent of a parent or guardian; or

(4) A person who is under eighteen (18) years of age to work at the business premises as an employee. (Ord. #97-7, Dec. 1997)

9-1022. Advertising and lighting regulations. (1) It shall be unlawful and a person commits a misdemeanor if he/she operates or causes to be operated a sexually oriented business, regardless of whether or not a permit has been issued for said business under this chapter, and advertises the presentation of any activity prohibited by any applicable state statute or local ordinance.

(2) It shall be unlawful and a person commits a misdemeanor if he/she operates or causes to be operated a sexually oriented business, regardless of whether or not a permit has been issued for said business under this chapter, and displays or otherwise exhibits the materials and/or performances at such sexually oriented business in any advertising which is visible outside the premises. This prohibition shall not extend to advertising of the existence or location of such sexually oriented business.

(3) The permittee shall not allow any portion of the interior premises to be visible from outside the premises.

(4) All off-street parking areas and premise entries of the sexually oriented business shall be illuminated from dusk to closing hours of operation with a lighting system which provides an average maintained horizontal illumination of one (1.0) foot candle of light on the parking surface and/or walkways. This required lighting level is established in order to provide sufficient illumination of the parking areas and walkways serving the sexually

oriented business for the personal safety of patrons and employees and to reduce the incidence of vandalism and criminal conduct. The lighting shall be shown on the required sketch or diagram of the premise.

(5) Nothing contained in this section of the chapter shall relieve the operator(s) of a sexually oriented business from complying with the requirements of the City of Humboldt, commonly known as the Sexually Oriented Business Ordinance, as it may be amended from time to time, or any subsequently enacted city ordinances or regulations. (Ord. #97-7, Dec. 1997)

9-1023. Hours of operation. (6) It shall be unlawful and a person commits a misdemeanor if he/she operates or causes to be operated a sexually oriented business, regardless of whether or not a permit has been issued for said business under this chapter, and allows such business to remain open for business, or to permit any employee to engage in a performance, solicit a performance, make a sale, solicit a sale, provide a service, or solicit a service, between the hours of 12:00 A.M. and 9:00 A.M. of any particular day.

(7) It shall be unlawful and a person commits a misdemeanor if, working as an employee of a sexually oriented business, regardless of whether or not a permit has been issued for said business under this chapter, said employee engages in a performance, solicits a performance, makes a sale, solicits a sale, provides a service, or solicits a service between the hours of 12:00 A.M. and 9:00 A.M. of any particular day. (Ord. #97-7, Dec. 1997)

9-1024. Nudity at sexually oriented businesses prohibited. (1) The United States Supreme Court decision in Barnes v. Glen Theatre, Inc., 501 U.S. 560, 111 (1991) which upheld the rights of cities to prohibit live public exposure of a person(s) private parts, specifically applies to sexually oriented businesses (regardless of whether or not a permit has been issued to said businesses under this chapter), including said businesses where no alcoholic beverages are sold, served, or consumed at the premises.

(2) Public nudity is prohibited within the City of Humboldt, including any sexually oriented business. Any sexually oriented business which is found in violation of this section shall have its permit suspended pursuant to the provisions of § 9-1015. (Ord. #97-7, Dec. 1997)

9-1025. Regulations pertaining to live entertainment. (1) For purposes of this section, "live entertainment" is defined as a person who appears nude, semi-nude, or a performance which is characterized by the exposure of "specified anatomical areas" or by "specified sexual activities."

(2) No person shall perform live entertainment for patron(s) of a sexually oriented business establishment except upon a stage at least eighteen (18) inches above the level of the floor which is separated by a distance of at least ten (10) feet from the nearest area occupied by patron(s). No patron shall

be permitted within ten (10) feet of the stage while the stage is occupied by a performer.

(3) The sexually oriented business establishment shall provide separate dressing room facilities for female and male performers which shall not be occupied or used in any way by any one other than performers.

(4) The sexually oriented business establishment shall provide access for performers between the stage and the dressing rooms which is completely separated from the patrons. If such separate access is not physically feasible, the establishment shall provide a minimum four (4) foot wide walk aisle for performers between the dressing room area and the stage, with a railing, fence or other barrier separating the patrons and the performers which prevents any physical contact between patrons and performers.

(5) No entertainer, either before, during, or after a performance, shall have physical contact with any patron and no patron shall have physical contact with any entertainer either before, during or after a performance. This subsection shall only apply to physical contact while in or on the premises of the establishment.

(6) Fixed rail(s) at least thirty (30) inches in height shall be maintained establishing the separations between performers and patrons required by this section.

(7) No patron shall directly pay or give any gratuity to any entertainer. A patron who wishes to pay or give a gratuity to a performer shall place the gratuity in a container that is at all times located separately from the performers for the purpose of preventing any physical contact between a patron and a performer. No performer shall solicit any gratuity from any patron.

(8) No operator of a sexually oriented business establishment shall cause or allow a performer to contract or engage in any entertainment such as a "couch" or a "straddle" dance with a patron while in or on the establishment premises. No performer shall contract to or engage in a "couch" or "straddle" dance with a patron while in or on the establishment premises. For purposes of this subsection, "couch" or "straddle" dance is defined as an employee of the establishment intentionally touching or coming within ten (10) feet of any patron while engaged in the display or exposure of any "specified anatomical area," or any "specified sexual activity." For purposes of this subsection, employee is defined as it is in § 9-1002(2).

(9) Section 9-1025 shall not apply to an employee of an establishment who, while acting as a waiter, waitress, host, hostess, or bar tender, comes within ten (10) feet of a patron. No employee shall engage in any "specified sexual activity" or display or expose any "specified anatomical area" while acting as a waiter, waitress, host, hostess, or bar tender.

(10) Compliance with this section:

(a) For purposes of this section, establishment is defined as it is in § 9-1002(3) of this chapter. No establishment shall be in compliance with this section until the city's designated agent(s) have inspected and

approved of the establishment's compliance. The city shall have ten (10) days from the date it receives written notice from the operator that the establishment is ready for inspection to approve or disapprove of compliance required by this section. Failure to approve or disapprove of compliance within ten (10) days shall constitute a finding of compliance under this section.

(b) The operator of an establishment, that has been providing live entertainment under a valid sexually oriented business permit, shall have the time periods listed below in which to bring the establishment into compliance with this section. Failure to do so while continuing to provide live entertainment shall cause the establishment's permit to be suspended under § 9-1015 of this chapter. The permit shall remain suspended until the establishment is approved by the city's designated agent(s) as being in full compliance with this section.

(c) The operator of establishment, that has been operating under a valid permit for another classification of sexually oriented business and who wishes to provide live entertainment at that establishment, shall apply for and receive a sexually oriented business permit for the operation of an establishment providing live entertainment before any live entertainment is provided at that establishment. No live entertainment permit shall be issued until the establishment is approved as being in full compliance with this section and all other applicable requirements of this chapter.

(d) The applicant for a permit to operate a new establishment, who wishes to provide live entertainment, shall apply for and receive a sexually oriented business permit for the operation of an establishment providing live entertainment before any live entertainment is provided. No live entertainment permit shall be issued until the establishment is approved as being in full compliance with this section and all other applicable requirements of this chapter.

(e) Subsection B: Sixty (60) days from the date this section becomes effective.

(f) Subsection C: Ninety (90) days from the date this section becomes effective.

(g) Subsection D: Ninety (90) days from the date this section becomes effective.

(h) Subsection E: Upon the date this section becomes effective.

(i) Subsection F: Sixty days (60) days from the date this section becomes effective.

(j) Subsection G: Upon the date this section becomes effective.

(k) Subsection H: Upon the date this section becomes effective.

(Ord. #97-7, Dec. 1997)

9-1026. Additional criminal prohibitions for the operation of a sexually oriented business without a valid permit. (1) In addition to the criminal provisions found at other sections of this chapter, the following additional criminal provisions shall also apply to sexually oriented businesses.

(2) It shall be unlawful and a person commits a misdemeanor if he/she operates or causes to be operated a sexually oriented business, regardless of whether or not a permit has been issued for said business under this chapter, and said person knows or should know that:

- (a) The business does not have a sexually oriented business permit under this chapter for any applicable classification;
- (b) The business has a permit which is under suspension;
- (c) The business has a permit which has been revoked; or
- (d) The business has a permit which has expired. (Ord. #97-7, Dec. 1997)

9-1027. Exemptions. (1) it is a defense to prosecution for any violation of this chapter that a person appearing in a state of nudity did so in a modeling class operated:

- (a) By a college, junior college, or university supported entirely or partly by taxation;
- (b) By a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation; or:
- (c) In a structure:
 - (i) Which has no sign visible from the exterior of the structure and no other advertising that indicates a nude person is available for viewing; and
 - (ii) Where, in order to participate in a class a student must enroll at least three days in advance of the class; and
 - (iii) Where no more than one nude model is on the premises at any one time.

(2) It is a defense to prosecution for a violation of this chapter that an employee of a sexually oriented business, regardless of whether or not it is permitted under this chapter, exposed any specified anatomical area during the employee's bona fide use a restroom, or during the employees bona fide use of a dressing room which is accessible only to employees. (Ord. #97-7, Dec. 1997)

9-1028. Criminal penalties and additional legal, equitable, and injunctive relief. (1) In addition to whatever penalties are applicable under the Tennessee Penal Code, if any person fails or refuses to obey or comply with or violates any of the criminal provisions of this chapter, such person upon conviction of such offense, shall be guilty of a misdemeanor and shall be punished by a fine not to exceed five hundred dollars (\$500.00). Each violation

or non-compliance shall be considered a separate and distinct offense. Further, each day of continued violation or non-compliance shall be considered as a separate offense.

(2) Nothing herein contained shall prevent or restrict the city from taking such other lawful action in any court of competent jurisdiction as is necessary to prevent or remedy any violation or non-compliance. Such other lawful actions shall include, but shall not be limited to, an equitable action for injunctive relief or an action at law for damages.

(3) Further, nothing in this section shall be construed to prohibit the city from prosecuting any violation of this chapter by means of a code enforcement board established pursuant to the authority as provided by the laws of Tennessee.

(4) All remedies and penalties provided for in this section shall be cumulative and independently available to the city and the city shall be authorized to pursue any and all remedies set forth in this section to the full extent allowed by law. (Ord. #97-7, Dec. 1997)

9-1029. Immunity from prosecution. The city and its designee, the Humboldt Police Department and all other departments and agencies, and all other city officers, agents and employees, charged with enforcement of state and local laws and codes shall be immune from prosecution, civil or criminal, for reasonable, good faith trespass upon a sexually oriented business while acting within the scope of authority conferred by this chapter. (Ord. #97-7, Dec. 1997)

9-1030. Prohibition of distribution of sexual devices. (1) It is unlawful for anyone to distribute, for commercial purposes, sell or offer for sale any device, instrument or paraphernalia designed or marketed primarily for stimulation of human genital organs or for sado-masochistic use or abuse of themselves or others.

(2) Such devices, instruments or paraphernalia include but are not limited to; phallic shaped vibrators, dildo's, muzzles, whips, chains, bather restraints, racks, non-medical enema kits, body piercing implements (excluding earrings or other decorative jewelry) or other tools or sado-masochistic abuse.

(3) A violation of this section is a misdemeanor punishable by a fine of up to five hundred dollars (\$500). (Ord. #97-7, Dec. 1997)

TITLE 10**ANIMAL CONTROL****CHAPTER**

1. IN GENERAL.
2. DOGS.

CHAPTER 1**IN GENERAL****SECTION**

- 10-101. Running at large prohibited.
- 10-102. Keeping near a residence or business restricted.
- 10-103. Pen or enclosure to be kept clean.
- 10-104. Adequate food, water, and shelter, etc., to be provided.
- 10-105. Keeping in such manner as to become a nuisance prohibited.
- 10-106. Cruel treatment prohibited.
- 10-107. Seizure and disposition of animals.
- 10-108. Inspections of premises.
- 10-109. Dead animals.

10-101. Running at large prohibited. It shall be unlawful for any person owning or being in charge of any cows, swine, sheep, horses, mules, goats, or any chickens, ducks, geese, turkeys, or other domestic fowl, cattle, or livestock, knowingly or negligently to permit any of them to run at large in any street, alley, or unenclosed lot within the corporate limits. (1980 Code, § 3-101)

10-102. Keeping near a residence or business restricted. No person shall keep any animal or fowl enumerated in the preceding section within one thousand (1,000) feet of any residence, place of business, or public street, without a permit from the health officer. The health officer shall issue a permit only when in his sound judgment the keeping of such an animal in a yard or building under the circumstances as set forth in the application for the permit will not injuriously affect the public health. Provided, however, it shall be unlawful to keep swine within the corporate limits; provided further, that it shall be unlawful for any person or persons to maintain apiaries or bee-hives, or swarms of bees, within the corporate limits within two hundred (200) feet of any residence or occupied building if a protest has been voiced by three (3) citizens in the neighborhood. (1980 Code, § 3-102)

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. (1980 Code, § 3-103)

10-104. Adequate food, water, and shelter, etc., to be provided. No animal or fowl shall be kept or confined in any place where the food, water, shelter, and ventilation are not adequate and sufficient for the preservation of its health, safe condition and wholesomeness for food if so intended.

All feed shall be stored and kept in a rat-proof and fly-tight building, box, or receptacle. (1980 Code, § 3-104)

10-105. Keeping in such manner as to become a nuisance prohibited. No animal or fowl shall be kept in such a place or condition as to become a nuisance because of either noise, odor, contagious disease, or other reason. (1980 Code, § 3-105)

10-106. Cruel treatment prohibited. It shall be unlawful for any person to beat or otherwise abuse or injure any dumb animal or fowl. (1980 Code, § 3-106)

10-107. Seizure and disposition of animals. Any animal or fowl found running at large or otherwise being kept in violation of this chapter may be seized by the health officer or by any police officer and confined in a pound provided or designated by the board of mayor and aldermen. If the owner is known he shall be given notice in person, by telephone, or by a postcard addressed to his last-known mailing address. If the owner is not known or cannot be located, a notice describing the impounded animal or fowl will be posted at the city hall. In either case the notice shall state that the impounded animal or fowl must be claimed within seven (7) days by paying the pound costs or the same will be humanely destroyed or sold. If not claimed by the owner, the animal or fowl shall be sold or humanely destroyed, or it may otherwise be disposed of as authorized by the board of mayor and aldermen.

The pound keeper shall be entitled to collect from each person claiming an impounded animal or fowl a reasonable fee to cover the costs of impoundment and maintenance. (1980 Code, § 3-107, as amended by Ord. #96-9, Jan. 1997)

10-108. Inspections of premises. For the purpose of making inspections to insure compliance with the provisions of this chapter, the health officer, or his authorized representative, shall be authorized to enter, at any reasonable time, any premises where he has reasonable cause to believe an animal or fowl is being kept in violation of this chapter. (1980 Code, § 3-108)

10-109. 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 city recorder and dispose of such animal in such manner as the city recorder shall direct. (Ord. # 87-02, _____)

CHAPTER 2

DOGS

SECTION

- 10-201. Rabies vaccination, registration, and tags required.
- 10-202. Muzzling.
- 10-203. Vicious dogs to be securely restrained.
- 10-204. Noisy dogs prohibited.
- 10-205. Confinement of dogs suspected of being rabid.
- 10-206. Seizure and disposition of dogs.
- 10-207. Dogs not allowed off premises of owner.
- 10-208. Enclosures of less than certain size required to be certain distance from residence.

10-201. Rabies vaccination, registration, and tags required. Every dog over two months of age within the corporate limits of the City of Humboldt, shall be vaccinated against rabies once each year, and a tag shall be issued by the vaccinating authority showing the age of the dog and when vaccinated; this tag shall be securely fastened around the neck of such dog, where it shall be worn at all times. (1980 Code, § 3-201)

10-202. Muzzling. Whenever it becomes necessary to safeguard the public from the dangers of hydrophobia, the mayor, if he deems it necessary, shall issue a proclamation ordering every person owning or keeping a dog to confine it securely on his premises unless such dog shall have a muzzle of sufficient strength to prevent its biting any person. Any unmuzzled dog showing symptoms of hydrophobia running at large during the time of the proclamation shall be shot or otherwise killed or destroyed by the police officers. (1980 Code, § 3-202)

10-203. Vicious dogs to be securely restrained. It shall be unlawful for any person to own or keep any dog known to be vicious or dangerous unless such dog is so confined and/or otherwise securely restrained as reasonably to provide for the protection of other animals and persons. (1980 Code, § 3-203)

10-204. Noisy dogs prohibited. No person shall own, keep, or harbor any dog which, by loud and frequent barking, whining, or howling, annoys or disturbs the peace and quiet of any neighborhood. (1980 Code, § 3-204)

10-205. Confinement of dogs suspected of being rabid. If any dog has bitten any person or is suspected of having bitten any person or is for any reason suspected of being infected with rabies, then the health officer or chief of police may cause such dog to be confined or isolated for such time as he

reasonably deems necessary to determine if such dog is rabid. (1980 Code, § 3-205)

10-206. Seizure and disposition of dogs. Any dog found running at large may be seized by the health officer or any police officer and placed in a pound provided or designated by the board of mayor and aldermen. If said dog is wearing a tag, the owner shall be notified in person, by telephone, or by a postcard addressed to his last-known mailing address to appear within seven (7) days and redeem his dog by paying a reasonable pound fee, to be fixed by the pound keeper, or the dog will be humanely destroyed or sold. If said dog is not wearing a tag, it shall be humanely destroyed or sold unless legally claimed by the owner within seven (7) days. No dog shall be released in any event from the pound unless or until such dog has been vaccinated and a tag placed on its collar.

When because of its viciousness or apparent infection with rabies, a dog found running at large cannot be safely impounded, it maybe summarily destroyed by the health officer or any policeman.¹ (1980 Code, § 3-206, as amended by Ord. #96-9, Jan. 1997)

10-207. Dogs not allowed off premises of owner. It shall be unlawful for any person to allow a dog belonging to him or under his control, or that may be habitually found on property occupied by him or immediately under his control, to leave such property. (1980 Code, § 3-207)

10-208. Enclosures of less than certain size required to be certain distance from residence. It shall be unlawful for any person to have for a dog a pen, cage, house, or other enclosure of less than four hundred (400) square feet in area nearer than fifty (50) feet to another person's residence. (1980 Code, § 3-208)

¹State law reference

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

TITLE 11

MUNICIPAL OFFENSES¹

CHAPTER

1. MISCELLANEOUS.
2. ENUMERATED.
3. JUVENILE CURFEW ORDINANCE.

CHAPTER 1

MISCELLANEOUS

SECTION

- 11-101. Misdemeanors of the state adopted.
- 11-102. Smoking prohibited within any city owned or leased buildings.

11-101. Misdemeanors of the state² adopted. Except where prohibited by state law, all offenses against the State of Tennessee which are committed within the corporate limits and which are defined by the state law or are recognized by the Common Law to be misdemeanors are hereby designated and declared to be offenses against the City of Humboldt. Any violation of any such law within the corporate limits is also a violation of this section. (1980 Code, § 10-101, modified)f

11-102. Smoking prohibited within any city owned or leased buildings. (1) It shall be and is a prohibited act for any person, including an employee of the city, to smoke anyplace at anytime inside the Humboldt City Hall or any other building owned or leased by the City of Humboldt, Tennessee.

(2) For the purposes of this section, "to smoke" means and includes carrying of, or having in possession or control, a lighted cigarette, cigarillo, cigar, pipe or any other similar product or device by whatever name it is known.

¹Municipal code references

- Animals and fowls: title 10.
- Housing and utilities: title 12.
- Fireworks and explosives: title 7.
- Traffic offenses: title 15.
- Streets and sidewalks (non-traffic): title 16.

²State law reference

- For definitions of "misdemeanor," Tennessee Code Annotated, §§ 39-1-103 and 39-1-104.

(3) A violation of this section is declared to be a misdemeanor, and shall be punished by a fine not to exceed fifty dollars (\$50.00). In addition, any employee who violates this section shall also be subject to a disciplinary action, which action need not depend upon or await either a prosecution or conviction under this section. (Ord. #2003-01, March 2003)

CHAPTER 2

ENUMERATED

SECTION

- 11-201. Assault and battery.
- 11-202. Disturbing the peace.
- 11-203. Disorderly houses.
- 11-204. Immoral conduct.
- 11-205. Obscene literature, etc.
- 11-206. Indecent or improper exposure or dress.
- 11-207. Window peeping.
- 11-208. Profanity, etc.
- 11-209. Escape from custody or confinement.
- 11-210. Resisting or interfering with city personnel.
- 11-211. Impersonating a government officer or employee.
- 11-212. Weapons and firearms generally.
- 11-213. Air rifles, etc.
- 11-214. Throwing of missiles.
- 11-215. Gambling.
- 11-216. Promotion of gambling.
- 11-217. False emergency alarms.
- 11-218. Loitering.
- 11-219. Vagrancy.
- 11-220. Trespassing on trains.
- 11-221. Minors in beer places.
- 11-222. Abandoned refrigerators, etc.
- 11-223. Curfew for minors.
- 11-224. Malicious mischief.
- 11-225. Trespassing.
- 11-226. Posting notices, etc.
- 11-227. Drinking beer, etc., on streets, etc.
- 11-228. Coercing people not to work.
- 11-229. Caves, wells, cisterns, etc.
- 11-230. Interference with traffic.
- 11-231. Anti-noise regulations.
- 11-232. Fortune telling, etc.
- 11-233. Wearing masks.
- 11-234. Waterguns and pea shooters.
- 11-235. Violation of civil emergency.

11-201. Assault and battery. It shall be unlawful for any person to commit an assault or an assault and battery upon any person. (1980 Code, § 10-201)

11-202. 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. (1980 Code, § 10-202)

11-203. Disorderly houses. It shall be unlawful for any person to keep a disorderly house or house of ill fame for the purpose of prostitution or lewdness or where drunkenness, quarrelling, fighting, or other breaches of the peace are carried on or permitted to the disturbance of others. Furthermore, it shall be unlawful for any person knowingly to visit any such house for the purpose of engaging in such activities. (1980 Code, § 10-203)

11-204. Immoral conduct. No person shall commit, offer, or agree to commit, nor shall any person secure or offer another for the purpose of committing, a lewd or adulterous act or an act of prostitution or moral perversion; nor shall any person knowingly transport or direct or offer to transport or direct any person to any place or building for the purpose of committing any lewd act or act of prostitution or moral perversion; nor shall any person knowingly receive, or offer or agree to receive any person into any place or building for the purpose of performing a lewd act, or an act of prostitution or moral perversion, or knowingly permit any person to remain in any place or building for any such purpose. (1980 Code, § 10-204)

11-205. Obscene literature, etc. It shall be unlawful for any person to publish, sell, exhibit, distribute, or possess for the purpose of lending, selling, or otherwise circulating or exhibiting, any book, pamphlet, ballad, movie film, filmstrip, phonograph record, or other written, printed, or filmed matter containing obscene language, prints, pictures, or descriptions manifestly intended to corrupt the morals. (1980 Code, § 10-205)

11-206. Indecent or improper exposure or dress. It shall be unlawful for any person publicly to appear naked or to any dress not appropriate to his or her sex, or in any indecent or lewd dress, or otherwise to make any indecent exposure of his or her person. (1980 Code, § 10-206)

11-207. Window peeping. No person shall spy, peer, or peep into any window of any residence or dwelling premise that he does not occupy, nor shall he loiter around or within view of any such window with the intent of watching or looking through it. (1980 Code, § 10-207)

11-208. Profanity, etc. No person shall use any profane, vulgar, or indecent language in or near any public street or other public place or in or

around any place of business open to the use of the public in general. (1980 Code, § 10-208)

11-209. Escape from custody or confinement. It shall be unlawful for any person under arrest or otherwise in custody of or confined by the city to escape or attempt to escape, or for any other person to assist or encourage such person to escape or attempt to escape from such custody or confinement. (1980 Code, § 10-209)

11-210. Resisting or interfering with city personnel. It shall be unlawful for any person knowingly to resist or in any way interfere with or attempt to interfere with any officer or employee of the city while such officer or employee is performing or attempting to perform his municipal duties. (1980 Code, § 10-210)

11-211. Impersonating a government officer or employee. No person other than an official police officer of the city shall wear the uniform, apparel, or badge, or carry any identification card or other insignia of office like or similar to, or a colorable imitation of that adopted and worn or carried by the official police officers of the city. Furthermore, no person shall deceitfully impersonate or represent that he is any government officer or employee. (1980 Code, § 10-211)

11-212. Weapons and firearms generally. It shall be unlawful for any person to carry in any manner whatever, with the intent to go armed, any razor, dirk, knife, blackjack, brass knucks, pistol, revolver, or any other dangerous weapon or instrument. However, the foregoing prohibition shall not apply to members of the United States Armed Forces carrying such weapons as are prescribed by applicable regulations nor to any officer or policeman engaged in his official duties, in the execution of process, or while searching for or engaged in arresting persons suspected of having committed crimes. Furthermore, the prohibition shall not apply to persons who may have been summoned by such officer or policeman to assist in the discharge of his said duties, nor to any conductor of any passenger or freight train of any steam railroad while he is on duty. It shall also be unlawful for any unauthorized person to discharge a firearm within the city. (1980 Code, § 10-212)

11-213. 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 metal bullet or pellet, whether propelled by spring, compressed air, expanding gas, explosive, or other force-producing means or method.

The mayor, chief of police, or other officer designated by the mayor may, in his discretion, require the impounding of any such instruments used contrary to this section. They may be released to the owners thereof upon such

reasonable terms and conditions as may be prescribed, except that there shall be no fee or money penalty assessed for their release. (1980 Code, § 10-213)

11-214. Throwing of missiles. It shall be unlawful for any person to throw maliciously any stone, snowball, bottle, or any other missile upon or at any vehicle, building, tree, or other public or private property or upon any person. (1980 Code, § 10-214)

11-215. Gambling. It shall be unlawful for any person to play at any game of hazard or chance for money or other valuable thing or to make or accept any bet or wager for money or other valuable thing. (1980 Code, § 10-215)

11-216. Promotion of gambling. It shall be unlawful for any person to encourage, promote, aid, or assist the playing at any game, or the making of any bet or wager, for money or other valuable thing, or to possess, keep, or exhibit for the purpose of gambling, any gaming table, device, ticket, or any other gambling paraphernalia. (1980 Code, § 10-216)

11-217. False emergency alarms. It shall be unlawful for any person intentionally to make, turn in, or give a false alarm of fire, or of need for police or ambulance assistance, or to aid or abet in the commission of such an act. (1980 Code, § 10-217)

11-218. Loitering. It shall be unlawful for any person without legitimate business or purpose to loaf, loiter, wander, or idle in, upon, or about any way or place customarily open to public use. (1980 Code, § 10-218)

11-219. Vagrancy. It shall be unlawful for any person to beg or solicit alms or, if without apparent lawful means of support, willfully to neglect to apply himself to some honest occupation. (1980 Code, § 10-220)

11-220. Trespassing on trains. It shall be unlawful for any person to climb, jump, step, stand upon, or cling to, or in any other way attach himself to any locomotive engine or railroad car unless he works for the railroad corporation and is acting in the scope of his employment or unless he is a lawful passenger or is otherwise lawfully entitled to be on such vehicle. (1980 Code, § 10-221)

11-221. Minors in beer places. No person under the legal drinking age shall loiter in or around, any place where beer is sold at retail for consumption on the premises. (1980 Code, § 10-222, modified)

11-222. 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. (1980 Code, § 10-223)

11-223. Curfew for minors.¹ It shall be unlawful for any minor under the age of eighteen (18) years to be abroad at night after 12:00 midnight unless upon a legitimate errand for, or accompanied by, a parent, guardian, or other adult person having lawful custody of such minor. A violation of this section shall be deemed separate offenses by both the minor involved as well as the parents or guardian. (1980 Code, § 10-224)

11-224. Malicious mischief. It shall be unlawful and deemed to be malicious mischief for any person willfully, maliciously, or wantonly to damage, deface, destroy, conceal, tamper with, remove, or withhold real or personal property which does not belong to him. (1980 Code, § 10-225)

11-225. Trespassing. The owner or person in charge of any lot or parcel of land or any building or other structure within the corporate limits may post the same against trespassers. It shall be unlawful for any person to go upon any such posted lot or parcel of land or into any such posted building or other structure without the consent of the owner or person in charge.

It shall also be unlawful and deemed to be a trespass for any peddler, canvasser, solicitor, transient merchant, or other person to fail to leave promptly the private premises of any person who requests or directs him to leave. (1980 Code, § 10-226)

11-226. Posting notices, etc. No person shall fasten, in any way, any show-card, poster, or other advertising device upon any public or private property. (1980 Code, § 10-227)

11-227. Drinking beer, etc., on streets, etc. It shall be unlawful for any person to drink or consume, or have an open container of beer or intoxicating liquor in or on any public street, alley, avenue, highway, sidewalk, public park, public school ground, or other public place unless the place has an appropriate permit and/or license for on premises consumption. (1980 Code, § 10-228)

11-228. Coercing people not to work. It shall be unlawful for any person in association or agreement with any other person to assemble,

¹Municipal code references

Curfew for minors: § 11-303.

Juvenile curfew ordinance: title 11, chapter 3.

congregate, or meet together in the vicinity of any premises where other persons are employed or reside for the purpose of inducing any such other person by threats, coercion, intimidation, or acts of violence to quit or refrain from entering a place of lawful employment. It expressly is not the purpose of this section to prohibit peaceful picketing. (1980 Code, § 10-230)

11-229. 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. (1980 Code, § 10-231)

11-230. Interference with traffic. It shall be unlawful for any person to stand, sit, or engage in any activity whatever on any public street, sidewalk, bridge, or public ground in such a manner as to prevent, obstruct, or interfere unreasonably with the free passage of pedestrian or vehicular traffic thereon. (1980 Code, § 10-232)

11-231. 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 signal device on any automobile, motorcycle, bus, truck, or other 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 persons in any hospital, dwelling, hotel, or other type of residence, or of any person in the vicinity.

(d) Pets. The keeping of any animal, bird, or fowl which by causing frequent or long continued noise shall disturb the comfort or repose of any person in the vicinity.

(e) Use of vehicle. The use of any automobile, motorcycle, truck, or vehicle so out of repair, so loaded, or in such manner as to cause loud and unnecessary grating, grinding, rattling, or other noise.

(f) Blowing whistles. The blowing of any steam whistle, attached to any stationary boiler, except to give notice of the time to begin or stop work or as a warning of fire or danger, or upon request of proper municipal authorities.

(g) Exhaust discharge. To discharge into the open air the exhaust of any steam engine, stationary internal 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 (including excavation), demolition, alteration, or repair of any building in any residential area or section or the construction or repair of streets and highways in any residential area or section, other than between the hours of 7:00 A.M. and 6:00 P.M. on week days, except in case of urgent necessity in the interest of public health and safety, and then only with a permit from the building inspector granted for a period while the emergency continues not to exceed thirty (30) days. If the building inspector should determine that the public health and safety will not be impaired by the erection, demolition, alteration, or repair of any building or the excavation of streets and highways between the hours of 6:00 P.M. and 7:00 A.M. and if he shall further determine that loss or inconvenience would result to any party in interest through delay, he may grant permission for such work to be done between the hours of 6:00 P.M. and 7:00 A.M. upon application being made at the time the permit for the work is awarded or during the process of the work.

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

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

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

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

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

(a) Municipal vehicles. Any vehicle of the 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 mayor. Hours for the use of an amplifier 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. (1980 Code, § 10-233)

11-232. Fortune telling, etc. It shall be unlawful for any person to hold himself forth to the public as a fortune teller, clairvoyant, hypnotist, spiritualist, palmist, phrenologist, or other mystic endowed with supernatural powers. (1980 Code, § 10-234)

11-233. Wearing masks. It shall be unlawful for any person to appear on or in any public way or place while wearing any mask, device, or hood whereby any portion of the face is so hidden or covered as to conceal the identity of the wearer. The following are exempted from the provisions of this section:

(1) Children under the age of ten (10) years.

(2) Workers while engaged in work wherein a face covering is necessary for health and/or safety reasons.

(3) Persons wearing gas masks in civil defense drills and exercises or emergencies.

(4) Any person having a special permit issued by the mayor to wear a traditional holiday costume. (1980 Code, § 10-235)

11-234. Waterguns and pea shooters. It shall be unlawful for anyone to sell or use a watergun or pea shooter during the entire week in which the

annual Strawberry Festival is held in the City of Humboldt. (1980 Code, § 10-236)

11-235. Violation of civil emergency. Whenever the mayor of the City of Humboldt proclaims a civil emergency pursuant to Tennessee Code Annotated, §§ 38-9-101, et seq., any person violating the provisions of orders issued by the mayor, including curfew orders and other restrictive orders as set forth in the above statute, shall be guilty of a misdemeanor. (1980 Code, § 10-237)

CHAPTER 3

JUVENILE CURFEW ORDINANCE

SECTION

- 11-301. Short title.
- 11-302. Definitions.
- 11-303. Curfew for minors.
- 11-304. Parents' responsibilities.
- 11-305. Procedures.
- 11-306. Violations.
- 11-307. Severability of provisions.
- 11-308. Jurisdiction.

11-301. Short title. This chapter shall be known and may be cited as the "Juvenile Curfew Ordinance." (Ord. #92-3, June 1992)

11-302. Definitions. For the purpose of this ordinance, the following terms, phrases, words, and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number the plural number. The word "shall" is always mandatory and not merely directory.

- (4) "City" is the City of Humboldt, Tennessee.
- (5) "Central business district" or "CBD" is defined as the corporate boundaries of the City of Humboldt, Gibson County, Tennessee.
- (6) "Minor" is any person 17 years of age or younger.
- (7) "Parent" is the natural or adoptive parent of a minor.
- (8) "Guardian" is any person other than a parent who has legal guardianship of a minor.
- (9) "Custodian" is any person over age eighteen who is in loco parentis to a juvenile.
- (10) "Public place" shall mean any street, alley, highway, sidewalk, park, playground or place to which the general public has access and a right to resort for business, entertainment, or other lawful purpose. A public place shall include but not be limited to any store, shop, restaurant, tavern, bowling alley, cafe, theater, drug store, pool room, shopping center, and any other place devoted to amusement or entertainment of the general public. It shall also include the front or immediate area of the above. (Ord. #92-3, June 1992)

11-303. Curfew for minors.¹ (1) It shall be unlawful for any minor seventeen (17) years or younger to be or remain in any public place, either on foot or to cruise about with no set destination in any vehicle, in the City of Humboldt, Tennessee, between the hours of 11:00 P.M. and 5:00 A.M., Sunday through Thursday, and between the hours of 12:00 midnight and 5:00 A.M., Friday through Saturday.

(2) During school vacations and holidays, and on nights preceding school vacations and holidays, Friday and Saturday curfew hours shall be in effect.

(3) The provisions of paragraph (1), (2), and (3) shall not apply to the following circumstances:

(a) When the minor is accompanied by a parent, guardian, custodian, or other adult person having custody or control of such minor;

(b) When the minor is on an emergency errand or specific business or activity directed or permitted by his parent, guardian, or other person having the care and custody of the minor;

(c) When the presence of the minor is connected with or required by some legitimate employment, trade, profession or occupation and the minor is traveling by direct route to or from such place of employment, trade, profession, or occupation.

(d) When the minor is in a motor vehicle and engaged in interstate travel with the consent of a parent, guardian or other adult person having custody or control of such minor.

(e) When the minor is within one block of his/her legal residence.

(f) When the minor is traveling by direct route to or from a school or church-sponsored activity including, but not limited to, a dance, theater presentations, and sporting events. Minors who attend such activities shall return to their homes or usual places of abode within one-half hour after the activity has ended.

(g) When the minor, or a group of minors, has been authorized by special permit obtained from the chief of police to be in the CBD during curfew hours for circumstances not provided for by the other exceptions set forth in this ordinance. (Ord. #92-3, June 1992)

11-304. Parents' responsibilities. It shall be unlawful for the parent, guardian, or other adult person having custody or control of any minor to permit or by inefficient control to allow such person to be or remain in any public place in the CBD in violation of Section 10.62.030. (Ord. #92-3, June 1992)

¹Municipal code reference
Curfew for minors: § 11-223.

11-305. Procedures. (1) Police officers may stop and question a person they reasonably believe to be a minor in order to obtain the name, address, and age of such person and the name and address of his or her parent, guardian, or other adult person having custody or control of such person. Any police officer, upon finding a minor in violation of this title, shall advise the minor that he or she is in violation of curfew and shall direct the minor to proceed at once to his or her home or usual place of abode. The police officer may report such action to the police department or dispatch, who in turn may notify the parents, guardian, or person having custody or control of such minor.

(2) If such minor refuses to heed such warning or direction by any police officer or refuses to give such police officer his correct name and address, or if the minor has been warned on a previous occasion that he or she is in violation of curfew, he or she shall be subject to arrest and referred to the municipal court for disposition of the violation or, alternatively, he or she may be taken to the police department and the parent, guardian, or other adult person having the care and custody of such minor shall be notified to come and take charge of the minor. If the parent, guardian, or other adult person above cannot be located or fails to come and take charge of the minor, the minor shall be released to the juvenile authorities.

(3) If the minor is determined to be in violation of § 11-303 and the officer believes the minor is in danger, the officer may take the minor into protective custody and deliver or arrange to deliver the minor either to:

- (a) The minor's parent, guardian, or other adult person having custody or control;
- (b) The police department;
- (c) An appropriate facility of the department of human services.

(Ord. #92-3, June 1992)

11-306. Violations. (1) Minors. Any minor arrested for violating the provisions of this ordinance shall be dealt with in accordance with the juvenile court law and procedure, and, upon conviction, shall be subject to a fine of not more than fifty dollars (\$50.00), or to community service of not more than twenty (20) hours, or to both time and community service.

(2) Adults. Any parent, guardian, or other adult person having the care and custody of a minor violating this ordinance shall be guilty of a misdemeanor, and, upon conviction, shall be subject to a fine of not more than fifty dollars (\$50.00), or to community service of not more than forty (40) hours, or to both fine and community service. (Ord. #92-3, June 1992)

11-307. Severability of provisions. Each separate provision of this ordinance shall be deemed independent of all other provisions. If any provision of this ordinance, or part thereof, be declared invalid, all other provisions, or parts thereof, shall remain valid and enforceable. (Ord. #92-3, June 1992)

11-308. Jurisdiction. A violation of the provisions of this ordinance is designated as a civil infraction and all violations may be heard and determined by the municipal court.

(1) A law enforcement officer has the authority to issue a citation when the infraction is committed in the officer's presence or if an officer, upon investigation, has reasonable cause to believe that a person has committed a violation of this ordinance.

(2) The court may issue a citation upon receipt of a written statement of the officer that there is reasonable cause to believe that an infraction was committed.

(3) The citation shall be in substantially the same form as prescribed for traffic violations.

(4) The procedure for responding to a citation under this ordinance shall be the same procedure prescribed for responding to traffic infractions. Any person who receives a citation shall respond in the manner prescribed herein. If any person issued a notice of infraction fails to respond to the notice as provided, or fails to appear at a hearing requested pursuant to the procedures, the court shall enter an appropriate order assessing the monetary penalty prescribed for the curfew infraction and may hold the party or parties in contempt and assess fine and punishment.

(5) Procedures for hearings provided for in this ordinance shall be in accordance with the procedures for hearings established in title three of the Humboldt City Charter and ordinances. (Ord. #92-3, June 1992)

TITLE 12

BUILDING, UTILITY, ETC. CODES

CHAPTER

1. BUILDING CODE.
2. PLUMBING CODE.
3. ELECTRICAL CODE.
4. GAS CODE.
5. RESIDENTIAL CODE.
6. HOUSING.
7. SWIMMING POOL CODE.
8. SWIMMING POOL ENCLOSURE.
9. AMUSEMENT DEVICE CODE.
10. EXISTING BUILDING CODE.
11. MECHANICAL CODE.
12. UNSAFE BUILDING ABATEMENT CODE.

CHAPTER 1

BUILDING CODE¹

SECTION

- 12-101. Building code adopted.
- 12-102. Modifications.
- 12-103. Available in mayor's office.
- 12-104. Violations.
- 12-105. Highway right of entry permit required.

12-101. Building code adopted. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 to 6-54-506, inclusive, and for the purpose of regulating the construction, alteration, repair, use, occupancy, location, maintenance, removal, and demolition of every building or structure or any appurtenance connected or attached to any building or structure, the International Building Code,² 2006 edition, as prepared and adopted by the

¹Municipal code references

Fire protection, fireworks, and explosives: title 7.

Planning and zoning: title 14.

Streets and other public ways and places: title 16.

Utilities and services: titles 18 and 19.

²Copies of this code (and any amendments) may be purchased from the
(continued...)

International Code Council, is hereby adopted and incorporated by reference as a part of this code, and is hereinafter referred to as the building code. (1980 Code, § 4-101, as amended by Ord. #2000-01, March 2000, and Ord. #2010-03, May 2010)

12-102. Modifications. Whenever the building code refers to the "Chief Appointing Authority" or the "Chief Administrator," it shall be deemed to be a reference to the board of mayor and aldermen. When the "Building Official" or "Director of Public Works" is named it shall, for the purposes of the building code, mean such person as the board of mayor and aldermen shall have appointed or designated to administer and enforce the provisions of the building code. The recommended schedule of permit fees set forth in Appendix "K" is amended so that the fees to be collected shall be as follows:

<u>Building Value</u>	<u>Fee</u>
\$ 100.00--\$15,000.00	\$2.00 per thousand or fraction thereof.
\$15,000.01--\$100,000.00	\$30.00 for first \$15,000.00 plus \$1.00 for each additional \$1,000.00 or fraction thereof.
\$100,000.01--\$500,000.00	\$115.00 for first \$100,000.00 plus \$.50 for each additional \$1,000.00 or fraction thereof.
\$500,000.01--\$1,000,000.00	\$315.00 for first \$500,000.00 plus \$.25 for each additional \$1,000.00 or fraction thereof.
\$1,000,000.01 and over	\$440.00 for first \$1,000,000.00 plus \$.15 for each additional \$1,000.00 or fraction thereof.

Provided, however, that the minimum fee for an inspection shall be \$5.00. Section 114 of the building code is hereby deleted.

There shall also be a permit required for the demolition of a building which permit fee shall be \$4.00 and for the moving of a building, the permit for

(...continued)

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

which shall be \$10.00. (1980 Code, § 4-102, as amended by Ord. # 83-6, Oct. 1983)

12-103. Available in mayor's office. Pursuant to the requirements of Tennessee Code Annotated, § 6-54-502, one (1) copy of the building code has been placed on file in the mayor's office and shall be kept there for the use and inspection of the public. (1980 Code, § 4-103, modified)

12-104. Violations. It shall be unlawful for any person to violate or fail to comply with any provision of the building code as herein adopted by reference and modified. (1980 Code, § 4-104)

12-105. Highway right of entry permit required. On all state highways, a right of entry permit shall be obtained from the Tennessee Department of Transportation before any building permit will be issued by the city. (Ord. #86-04, June 1986)

CHAPTER 2

PLUMBING CODE¹

SECTION

12-201. Plumbing code adopted.

12-202. Modifications.

12-203. Available in mayor's office.

12-204. Violations.

12-201. Plumbing code adopted. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 to 6-54-506, inclusive, and for the purpose of regulating plumbing installations, including alterations, repairs, equipment, appliances, fixtures, fittings, and the appurtenances thereto, within or without the City of Humboldt, when such plumbing is or is to be connected with the municipal water or sewerage system, the International Plumbing Code,² 2006 edition, as prepared and adopted by the International Code Council, is hereby adopted and incorporated by reference as a part of this code and is hereinafter referred to as the plumbing code. (1980 Code, § 4-201, as amended by Ord. #2000-01, March 2000, and Ord. #2010-03, May 2010)

12-202. Modifications. Wherever the plumbing code refers to the "Chief Appointing Authority," the "Administrative Authority," or the "Governing Authority," it shall be deemed to be a reference to the board of mayor and aldermen.

Wherever "City Engineer," "Engineering Department," "Plumbing Official," or "Inspector" is named or referred to, it shall mean the person appointed or designated by the board of mayor and aldermen to administer and enforce the provisions of the plumbing code. Section 110 of the plumbing code is hereby deleted.

The suggested schedule of permit fees in appendix "H" is modified so that the permit fees shall be as follows:

- | | | |
|-----|----------------------------------|---------|
| (1) | House with one (1) bath | \$12.00 |
| (2) | House with two (2) or more baths | \$24.00 |

¹Municipal code references

Cross connections: title 18.

Street excavations: title 16.

Wastewater treatment: title 18.

Water and sewer system administration: title 18.

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

(3)	Commercial building with two (2) baths	\$12.00
(4)	Commercial building with more than (2) baths	\$24.00

(1980 Code, § 4-202, as amended by Ord. # 83-6, Oct. 1983)

12-203. Available in mayor's office. 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 mayor's office and shall be kept there for the use and inspection of the public. (1980 Code, § 4-203)

12-204. Violations. It shall be unlawful for any person to violate or fail to comply with any provision of the plumbing code as herein adopted by reference and modified. (1980 Code, § 4-204)

CHAPTER 3**ELECTRICAL CODE**¹**SECTION**

- 12-301. Electrical code adopted.
- 12-302. Available in mayor's office.
- 12-303. Permit required for doing electrical work.
- 12-304. Inspection.
- 12-305. Enforcement.
- 12-306. Fees.
- 12-307. Violations.

12-301. Electrical code adopted. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 to 6-54-506, inclusive, and for the purpose of providing practical minimum standards for the safeguarding of persons and of buildings and their contents from hazards arising from the use of electricity for light, heat, power, radio, signaling, or for other purposes, the National Electrical Code (International Series),² 2008 edition, as prepared by the National Fire Protection Association, is hereby adopted and incorporated by reference as a part of this code and is hereinafter referred to as the electrical code. (1980 Code, § 4-301, as amended by Ord. #2000-01, March 2000, and Ord. #2010-03, May 2010)

12-302. Available in mayor's office. Pursuant to the requirements of Tennessee Code Annotated, § 6-54-502, one (1) copy of the electrical code has been placed on file in the mayor's office and shall be kept there for the use and inspection of the public. (1980 Code, § 4-302)

12-303. Permit required for doing electrical work. No electrical work shall be done within the City of Humboldt 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.

No permit shall be issued to any person for electrical work until plans and specifications showing the proposed work in necessary detail have been

¹Municipal code reference

Electrical service: title 19, chapter 1.

²Copies of this code may be purchased from the National Fire Protection Association, 470 Atlantic Avenue, Boston, Massachusetts 02210.

submitted to the electrical inspector and twenty-four (24) hours allowed for the study of same; except, in the discretion of the electrical inspector, plans and specifications will not be required for a permit for alterations or repairs on small jobs when the applicant can show the electrical inspector, to the satisfaction of said inspector, the work to be done.

No permit will be required for the repair or installation of such appliances as radios, televisions, lamps, fixtures, fuses, bulbs, iron cords, or air conditioning units or any other appliance or device unless such installation or repair will necessitate a change from 110 volts to 220 volts or more, in which event a permit will be required. Electrical work in connection with remodeling or new construction costing not more than one hundred dollars (\$100.00) may be made without a permit; provided that such remodeling or new construction shall not violate any of the provisions of this chapter. (1980 Code, § 4-303)

12-304. Inspection. All wiring on jobs where a permit is required shall be inspected when roughed in and when the work is completed, and twenty-four (24) hours notice shall be given the electrical inspector before the work is ready for inspection.

An inspection shall be made and a fee of \$1.00 will be charged for such inspection where there has been fire damage to the electrical wiring or appurtenances which, in the discretion of the electrical inspector, requires an inspection, or where the inspector is called for a special service electrical inspection. (1980 Code, § 4-304)

12-305. Enforcement. It shall be the duty of the electrical inspector to enforce the provisions of this chapter and to make the inspections and tests required hereunder.

The electrical inspector may enter any building, structure, or premises in the City of Humboldt to perform any duty imposed upon him by this chapter, and any electrical inspector or other officer or employee of the city charged with the enforcement of this chapter, acting for the city in the discharge of his duties, shall not thereby render himself liable personally, and he is hereby relieved from all personal liability for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of his duties. (1980 Code, § 4-305)

12-306. Fees. Application for a permit for electrical work shall be made on suitable forms provided by the electrical inspector, and shall be accompanied by fees in accordance with the following:

SCHEDULE OF FEES

- (1) Run wire out of box or change wire \$12.00
- (2) House containing one (1) to four (4)

	rooms	12.00
(3)	House containing four (4) to eight (8) rooms .	24.00
(4)	Each room over eight (8) rooms	1.00 per room
(5)	Commercial building with 100-amp entrance or under	15.00
(6)	Commercial building with 101 to 600 amp entrance	28.00
(7)	Commercial building with 601 to 1,000 amp entrance	60.00

(1980 Code, § 4-306, as amended by Ord. # 83-6, Oct. 1983)

12-307. Violations. It shall be unlawful for any person to do or authorize any electrical work or to use any electricity in such manner or under such circumstances as not to comply with this chapter and/or the requirements and standards prescribed by the electrical code. (1980 Code, § 4-307)

CHAPTER 4

GAS CODE¹

SECTION

- 12-401. Title and definitions.
- 12-402. Purpose and scope.
- 12-403. Use of existing piping and appliances.
- 12-404. Bond and license.
- 12-405. Gas inspector and assistants.
- 12-406. Powers and duties of inspector.
- 12-407. Permits.
- 12-408. Inspections.
- 12-409. Certificates.
- 12-410. Fees.
- 12-411. Violations and penalties.
- 12-412. Non-liability.

12-401. Title and definitions. This chapter and the code herein adopted by reference shall be known as the gas code of the City of Humboldt and may be cited as such.

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 board of mayor and aldermen.

(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. (1980 Code, § 4-401)

12-402. Purpose and scope. The purpose of the gas code is to provide minimum standards, provisions, and requirements for safe installation of

¹Municipal code reference
Gas: title 19, chapter 2.

consumer's gas piping and gas appliances. All gas piping and gas appliances installed, replaced, maintained, or repaired within the corporate limits shall conform to the requirements of this chapter and to the International Gas Code,¹ 2006 edition, which is hereby incorporated by reference and made a part of this chapter as if fully set forth herein. One (1) copy of the gas code shall be kept on file in the office of the mayor for the use and inspection of the public. (1980 Code, § 4-402, as amended by Ord. #2000-01, March 2000, and Ord. #2010-03, May 2010)

12-403. Use of existing piping and appliances. Notwithstanding any provision in the gas code to the contrary, consumer's piping installed prior to the adoption of the gas code or piping installed to supply other than natural gas may be converted to natural gas if the inspector finds, upon inspection and proper tests, that such piping will render reasonably satisfactory gas service to the consumer and will not in any way endanger life or property; otherwise, such piping shall be altered or replaced, in whole or in part, to conform with the requirements of the gas code. (1980 Code, § 4-403)

12-404. Bond and license. (1) No person shall engage in or work at the installation, extension, or alteration of consumer's gas piping or certain gas appliances, until such person shall have secured a license as hereinafter provided, and shall have executed and delivered to the mayor a good and sufficient bond in the penal sum of \$10,000, with corporate surety, conditioned for the faithful performance of all such work, entered upon or contracted for, in strict accordance and compliance with the provisions of the gas code. The bond herein required shall expire on the first day of January next following its approval by the mayor, and thereafter on the first day of January of each year a new bond, in form and substance as herein required, shall be given by such person to cover all such work as shall be done during such year.

(2) Upon approval of said bond, the person desiring to do such work shall secure from the mayor a non-transferable license which shall run until the first day of January next succeeding its issuance, unless sooner revoked. The person obtaining a license shall pay any applicable license fees to the mayor.

(3) Nothing herein contained shall be construed as prohibiting an individual from installing or repairing his own appliances or installing, extending, replacing, altering, or repairing consumer's piping on his own premises, or as requiring a license or a bond from an individual doing such work on his own premises; provided, however, all such work must be done in conformity with all other provisions of the gas code, including those relating to permits, inspections, and fees. (1980 Code, § 4-404)

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

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 board of mayor and aldermen, and the compensation for such office shall be determined at the time of appointment. (1980 Code, § 4-405)

12-406. Powers and duties of inspector. (1) The inspector is authorized and directed to enforce all the provisions of the gas code. Upon presentation of proper credentials, he may enter any building or premises at reasonable times for the purpose of making inspections or preventing violations of the gas code.

(2) The inspector is authorized to disconnect any gas piping or fixture or appliance for which a certificate of approval is required but has not been issued with respect to same, or which, upon inspection, shall be found defective or in such condition as to endanger life or property. In all cases where such a disconnection is made, a notice shall be attached to the piping, fixture, or appliance disconnected by the inspector, which notice shall state that the same has been disconnected by the inspector, together with the reason or reasons therefor, and it shall be unlawful for any person to remove said notice or reconnect said gas piping or fixture or appliance without authorization by the inspector and such gas piping or fixture or appliance shall not be put in service or used until the inspector has attached his certificate of approval in lieu of his prior disconnection notice.

(3) It shall be the duty of the inspector to confer from time to time with representatives of the local health department, the local fire department, and the gas company, and otherwise obtain from proper sources all helpful information and advice, presenting same to the appropriate officials from time to time for their consideration. (1980 Code, § 4-406)

12-407. Permits. (1) No person shall install a gas conversion burner, floor furnace, central heating plant, vented wall furnace, water heater, boiler, consumer's gas piping, or convert existing piping to utilize natural gas without first obtaining a permit to do such work from the gas inspector, at a fee of \$1.50 per permit issued; however, permits will not be required for setting or connecting other gas appliances, or for the repair of leaks in house piping.

(2) When only temporary use of gas is desired, the recorder may issue a permit for such use, for a period of not to exceed sixty (60) days, provided the consumer's gas piping to be used is given a test equal to that required for a final piping inspection.

(3) Except when work in a public street or other public way is involved the gas company shall not be required to obtain permits to set meters, or to extend, relocate, remove, or repair its service lines, mains, or other facilities, or

for work having to do with its own gas system. (1980 Code, § 4-407, as amended by Ord. #83-6, Oct. 1983)

12-408. Inspections. (1) A rough piping inspection shall be made after all new piping authorized by the permit has been installed, and before any such piping has been covered or concealed or any fixtures or gas appliances have been attached thereto.

(2) A final piping inspection shall be made after all piping authorized by the permit has been installed and after all portions thereof which are to be concealed by plastering or otherwise have been so concealed, and before any fixtures or gas appliances have been attached thereto. This inspection shall include a pressure test, at which time the piping shall stand an air pressure equal to not less than the pressure of a column of mercury six (6) inches in height, and the piping shall hold this air pressure for a period of at least ten (10) minutes without any perceptible drop. A mercury column gauge shall be used for the test. All tools, apparatus, labor, and assistance necessary for the test shall be furnished by the installer of such piping. (1980 Code, § 4-408)

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. (1980 Code, § 4-409)

12-410. Fees. (1) The total fees for inspection of consumer's gas piping at one location (including both rough and final piping inspections) shall be \$5.00.

(2) The fees for inspecting conversion burners, floor furnaces, boilers, or central heating plants of less than 500,000 BTU shall be \$5.00; and \$10.00 for 500,000 BTU or over.

(3) The fees for inspecting vented wall furnaces and water heaters shall be \$5.00 for each unit.

(4) The fee for inspecting gas installations at commercial buildings shall be \$20.00.

(5) Any and all fees shall be paid by the person to whom the permit is issued. (1980 Code, § 4-410, as amended by Ord. #83-6, Oct. 1983)

12-411. Violations and penalties. Section 114 of the gas code is hereby deleted. Any person who shall violate or fail to comply with any of the provisions of the gas code shall be guilty of a misdemeanor, and upon conviction thereof shall be fined under the general penalty clause for this code of ordinances, or the license of such person may be revoked, or both fine and revocation of license may be imposed. (1980 Code, § 4-411)

12-412. Non-liability. This chapter shall not be construed as imposing upon the city any liability or responsibility for damages to any person injured by any defect in any gas piping or appliance mentioned herein, or by installation thereof, nor shall the city, or any official or employee thereof, be held as assuming any such liability or responsibility by reason of the inspection authorized hereunder or the certificate of approval issued by the inspector. (1980 Code, § 4-412)

CHAPTER 5

RESIDENTIAL CODE¹

SECTION

12-501. Residential code adopted.

12-502. Modifications.

12-503. Available in mayor's office.

12-504. Violations.

12-501. Residential code adopted. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 to 6-54-506, inclusive, and for the purpose of securing the public safety, health, and general welfare through structural strength, stability, sanitation, adequate light, and ventilation in dwellings, apartment houses, rooming houses, and buildings, structures, or premises used as such, the International Residential Code,² 2006 edition, as prepared and adopted by the International Code Council, is hereby adopted and incorporated by reference as a part of this code and is hereinafter referred to as the residential code. (1980 Code, § 4-501, as amended by Ord. #2000-01, March 2000, and Ord. #2010-03, May 2010)

12-502. Modifications. Wherever the residential code refers to the "Building Official," it shall mean the person appointed or designated by the board of mayor and aldermen to administer and enforce the provisions of the residential code. Wherever the "Department of Law" is referred to it shall mean the city attorney. Wherever the "Chief Appointing Authority" is referred to it shall mean the board of mayor and aldermen. (1980 Code, § 4-502, as amended by Ord. #2010-03, May 2010)

12-503. Available in mayor's office. Pursuant to the requirements of Tennessee Code Annotated, § 6-54-502, one (1) copy of the residential code has been placed on file in the mayor's office and shall be kept there for the use and inspection of the public. (1980 Code, § 4-503, as amended by Ord. #2010-03, May 2010)

¹Municipal code references

Mobile home park restrictions: title 14, chapter 11.

Water and sewer: title 18.

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

12-504. Violations. It shall be unlawful for any person to violate or fail to comply with any provision of the residential code as herein adopted by reference and modified. (1980 Code, § 4-504, as amended by Ord. #2010-03, May 2010)

CHAPTER 6

HOUSING¹

SECTION

- 12-601. Applicability, purpose of chapter.
- 12-602. Definitions.
- 12-603. Nonconforming habitable buildings declared a nuisance.
- 12-604. Electric, water service not to be available to nonconforming buildings.
- 12-605. Existence of dwellings unfit for human habitation.
- 12-606. Building inspector designated to act.
- 12-607. Institution of action and notification by building inspector.
- 12-608. Determination of and further notice by building inspector.
- 12-609. Failure of owner to comply to vacate and repair.
- 12-610. Failure of owner to remove or demolish.
- 12-611. Creation of lien and payment into court.
- 12-612. Conditions rendering dwelling unfit for human habitation.
- 12-613. Service of complaints or orders.
- 12-614. Enjoining enforcement of order.
- 12-615. Powers given the building inspector.

12-601. Applicability, purpose of chapter. Every building used in whole or part as a home or residence of a single family or person and every building used in whole or in part as a home or residence of two (2) or more persons as families, living in separate apartments, or otherwise, shall conform to the requirements of this chapter irrespective of the class to which such building may otherwise belong, and irrespective of when such building may have been constructed, altered, or repaired. This chapter establishes minimum standards for occupancy, and does not replace or modify standards otherwise established for the construction, replacement, or repair of buildings except such as are in conflict with the provisions of this chapter. (Ord. #92-05, July 1992)

12-602. Definitions. For the purpose of this chapter the following words and phrases shall have the meanings assigned herein:

- (1) "Basement" shall mean that portion of a building below the main floor, the ceiling of which is not less than three feet (3') above grade.
- (2) "Cellar" shall mean that portion of a building, the ceiling of which is less than three feet (3') above grade.
- (3) "Dwelling" shall mean any building or structure, or part thereof, used and occupied for human habitation or intended to be so used, and includes

¹Municipal code reference

Housing code: title 12, chapter 5.

any outhouses and appurtenances belonging thereto or usually enjoyed therewith.

(4) "Family" shall mean a group of persons, not necessarily related by blood or marriage, living together as a single housekeeping unit.

(5) "Habitable building" shall mean any structure or part thereof that shall be used as a home or place of abode by one or more persons.

(6) "Habitable room" shall mean any room in any building in which persons sleep, eat, or carry on their usual domestic or social vocations or avocations, but shall not include private laundries, bathrooms, to-let rooms, pantries, storerooms, corridors, rooms for mechanical equipment for service in the building or other similar spaces not used by persons frequently or during extended periods.

(7) "Infestation" shall mean the presence of household pests, vermin, or rodents.

(8) "Owner" shall mean the holder of the title in fee simple and every mortgagee of record.

(9) "Plumbing" shall include all gas pipes, gas burning equipment, waste pipes, water pipes, water closets, sinks, lavatories, bathtubs, catch basins, drains, vents and any other fixtures connected to the water, sewer, or gas lines.

(10) "Public hall" shall mean a hall, corridor, or passageway not within the exclusive control of one family.

(11) "Substandard" shall be construed to include all buildings used for purposes of human habitation which do not conform to the minimum standards established by this chapter and by other provisions of this code.

(12) "Parties in interest" shall mean all individuals, associations, corporations, and others who have interests of record in a dwelling and any who are in possession thereof. (Ord. #92-05, July 1992)

12-603. Nonconforming habitable buildings declared a nuisance. Any habitable building which shall fail to conform to the requirements set forth in this chapter shall be deemed a nuisance and detrimental to the health, safety, and welfare of the habitants of this city. (Ord. #92-05, July 1992)

12-604. Electric, water service not to be available to nonconforming building. No electric power or water from the city's electrical or water distribution systems shall be made available to any habitable building within the city or within a radius of five (5) miles of the corporate limits of the city, which shall fail to conform to this housing code. (Ord. #92-05, July 1992)

12-605. Existence of dwellings unfit for human habitation. There exist in the City of Humboldt dwellings which are unfit for human habitation, due to dilapidation, defects increasing the hazards of fire, accident, or other calamities; lack of ventilation, light or sanitary facilities or due to other

conditions rendering such dwellings unsafe or unsanitary or dangerous or detrimental to the health, safety, or morals, or otherwise inimical to the welfare of the residents of the City of Humboldt. (Ord. #92-05, July 1992)

12-606. Building inspector designated to act. The building inspector is designated as the public officer of the City of Humboldt who is to exercise the powers herein prescribed. (Ord. #92-05, July 1992)

12-607. Institution of action and notification by building inspector. Whenever a petition is filed with the building inspector by a public authority or by at least five (5) residents of the City of Humboldt charging that any dwelling is unfit for human habitation, or whenever it appears to the building inspector (on his own motion) that any dwelling is unfit for human habitation, the building inspector shall, if after making a preliminary investigation, such investigation disclosing a basis for such charges, issue and cause to be served upon the owner of and parties in interest of such dwelling a complaint stating the charges in that respect and containing a notice that a hearing will be held before the building inspector (or his designated agent) at a time and place therein fixed, not less than ten (10) days nor more than thirty (30) days after the serving of said complaint; that the owners and parties in interest shall be given the right to file an answer to the complaint and to appear in person or otherwise and give testimony at the place and time fixed in the complaint; and the rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the building inspector or his designated agent. As contained herein, "public authority" shall mean any housing authority, or any officer who is in charge of any department or branch of the government of the City of Humboldt or the State of Tennessee relating to health, fire, building regulations, or other activities concerning dwellings in the City of Humboldt. (Ord. #92-05, July 1992)

12-608. Determination of and further notice by building inspector. If, after such notice and hearing as above-prescribed, the building inspector determines that the dwelling under consideration is unfit for human habitation, he shall state in writing his findings of fact in support of such determination, and shall issue and cause to be served upon the owner thereof an order.

(1) If the repair, alteration, or improvement of the said dwelling can be made at a reasonable cost in relation to the value of the dwelling requiring the owner within the time specified in the order to repair, alter, or improve such dwelling to render it fit for human habitation or if not adequately repaired, altered, or improved within the time specified in the order to vacate and close the dwelling as a human habitation; or,

(2) If the repair, alteration, or improvement of the said dwelling cannot be made at a reasonable cost in relation to the value of the dwelling requiring

the owner within the time specified in the order to remove or demolish such dwelling.

Rebuilding in violation of existing zoning ordinances will not be permitted.

The building inspector shall determine the value of the dwelling in question existing on the land and the value of the land separately, and if the dwelling can be made to conform to such standards as will make it properly habitable by an expenditure of not more than fifty percent (50%) of said value of the dwelling, the order referred to in the preceding paragraph shall contain the first alternative. If an expenditure of more than fifty percent (50%) of the value of the dwelling would be necessary to make the dwelling properly habitable, the order in the preceding paragraph shall contain the second alternative or removal or demolition. (Ord. #92-05, July 1992)

12-609. Failure of owner to comply to vacate and repair. If the owner fails to comply with the order under part (1) of § 12-408, the building inspector may cause such dwelling to be repaired, altered, or improved or be vacated and closed; and in such event, the building inspector may cause to be posted on the main entrance of any dwelling so closed a placard with the following words: "This building is unfit for human habitation; the use or occupation of this building for human habitation is prohibited and unlawful." (Ord. #92-05, July 1992)

12-610. Failure of owner to remove or demolish. If the owner fails to comply with an order as set forth in part (2) of § 12-408, the building inspector may cause such dwelling to be removed or demolished. (Ord. #92-05, July 1992)

12-611. Creation of lien and payment into court. The amount of the cost of such repairs, alterations or improvements, or expenses of vacating and closing or removal or demolition of the dwelling by the building inspector shall be a lien against the real property on which such cost was incurred. If the dwelling is removed or demolished by the building inspector, he shall sell the materials of such dwelling and shall credit the proceeds of such sale against the cost of the removal or demolition and any balance remaining shall be deposited in the chancery court by the building inspector, shall be secured in such manner as may be directed by such court and shall be disbursed by such court to the person found to be entitled thereto by final order or decree of such court, provided however, that nothing in this section shall be construed to impair or limit in any way the power of the City of Humboldt to define and declare nuisances and to cause their removal or abatement by summary proceedings or otherwise. (Ord. #92-05, July 1992)

12-612. Conditions rendering dwelling unfit for human habitation. In addition to the other standards set forth in this chapter, the building inspector may determine that a dwelling is unfit for human habitation if he finds that conditions exist in such dwelling which are dangerous or injurious to the health, safety, or morals of the occupants of such dwelling, the occupants of neighboring dwellings or other residents of the city; such conditions may include the following (but without limiting the generality of the foregoing): Defects in increasing the hazards of fire, accident or other calamities; lack of adequate ventilation, light, or sanitary facilities; dilapidation; disrepair; structural defects; and uncleanliness. (Ord. #92-05, July 1992)

12-613. Service of complaints or orders. Complaints or orders issued by the building inspector pursuant to the requirements of this chapter shall be served upon persons either personally or by registered mail, but if the whereabouts of such persons is unknown and the same cannot be ascertained by the building inspector in the exercise of reasonable diligence and the said building inspector shall make affidavit to that effect, then the serving of such complaint or order upon such persons may be made by publishing the same once each week for two (2) consecutive weeks in a newspaper printed and published in the City of Humboldt. A copy of such complaint or order shall be posted in a conspicuous place on the premises affected by the complaint or order. A copy of such complaint or order shall also be filed for the record in the register's office of Gibson County and such filing of the complaint or order shall have the same force and effect as other lis pendens notices provided by law. (Ord. #92-05, July 1992)

12-614. Enjoining enforcement of order. Any person affected by an order issued by the building inspector may file a bill in the chancery court for an injunction restraining the said inspector from carrying out the provisions of the order and the court may, upon the filing of such bill, issue a temporary injunction restraining the said inspector pending the final disposition of the cause; provided, however, that within sixty (60) days after the posting and service of the order of the building inspector, such persons shall file such bill in the court. Hearings shall be had by the court on such bills within twenty (20) days or as soon thereafter as possible, and shall be given preference over other matters on the court's calendar.

The court shall hear and determine the issue raised and shall enter such final order or decree as law and justice may require. In all such proceedings, the finding of the building inspector as to facts, if supported by evidence, shall be conclusive. Costs shall be in the discretion of the court. The remedies herein provided shall be exclusive remedies and no person affected by an order of the building inspector shall be entitled to recover any damages for action taken pursuant to any order of the building inspector, or because of noncompliance by such person with any order of the building inspector. (Ord. #92-05, July 1992)

12-615. Powers given the building inspector. The building inspector is authorized to exercise such powers as may be necessary or convenient to carry out and effectuate the purposes and provisions of this chapter including the following powers in addition to others herein granted:

(1) To investigate the dwelling conditions in the City of Humboldt to determine which dwellings therein are unfit for human habitation.

(2) To administer oaths, affirmations, examine witnesses and receive evidence.

(3) To enter upon premises for the purposes of making examinations provided that such entries shall be made in such manner as to cause the least possible inconvenience to the persons in possession.

(4) To appoint and fix the duties of such officers, agents, and employees as he deems necessary to carry out the purposes of this chapter.

(5) To delegate any of his functions and powers under this chapter to such officers and agents as he may designate. (Ord. #92-05, July 1992)

CHAPTER 7

SWIMMING POOL CODE¹

SECTION

12-701. Swimming pool code adopted.

12-702. Modifications.

12-703. Available in recorder's office.

12-704. Violations.

12-701. Swimming pool code adopted. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506, 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,² 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. #2000-01, March 2000)

12-702. Modifications. Within the swimming pool code, when reference is made to the duties of a certain official named therein, that designated official of the City of Humboldt, Tennessee who has duties corresponding to those of the named official in the swimming pool code shall be deemed to be the responsible official insofar as enforcing the provisions of the swimming pool code are concerned. (Ord. #2000-01, March 2000)

12-703. Available in recorder's office. 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 the recorder's office and shall be kept there for the use and inspection of the public. (Ord. #2000-01, March 2000)

¹Municipal code references

Fire protection, fireworks, and explosives: title 7.

Planning and zoning: title 14.

Streets and other public ways and places: title 16.

Swimming pool enclosure: title 12, chapter 8.

Utilities and services: titles 18 and 19.

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

12-704. 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. (Ord. #2000-01, March 2000)

CHAPTER 8

SWIMMING POOL ENCLOSURE¹

SECTION

- 12-801. Fence required.
- 12-802. Gates and doors to be self-closing, etc.
- 12-803. Application of requirements.
- 12-804. Modifications.
- 12-805. Permit required.

12-801. Fence required. Every outdoor swimming pool or family pool within the City of Humboldt shall be completely surrounded by a fence or wall not less than five (5) feet in height, which shall be so constructed as not to have openings, holes, or gaps larger than four (4) inches in any dimension except for doors and gates. A dwelling house or accessory building may be used as a part of such enclosure. (1980 Code, § 4-601)

12-802. Gates and doors to be self-closing, etc. All gates or doors opening into such enclosure shall be equipped with a self-closing and self-latching device for keeping the gate or door securely closed at all times when not in actual use, except the door of any building which forms a part of the enclosure need not be so equipped. Latches shall be placed a minimum of 4 1/2 feet above the underlying ground or otherwise made inaccessible from the outside to small children. (1980 Code, § 4-602)

12-803. Application of requirements. This requirement for enclosures of swimming pools shall be applicable to all municipal pools or family pools hereafter constructed, other than indoor pools, and shall apply to all existing pools which have the depth of at least 18 inches of water. No person in possession of land within the city, either as owner, purchaser, lessee, tenant, or licensee, upon which is situated a swimming pool or family pool having a depth of at least 18 inches of water shall fail to provide and maintain such fence or wall as herein provided. (1980 Code, § 4-603)

12-804. Modifications. The building inspector may make modifications in individual cases, upon a showing of good cause, with respect to the height, nature, or location of the fence, wall, gates, or latches, provided the protection of small children is not reduced thereby. The building inspector of Humboldt may permit other protective devices or structures to be used so long as the

¹Municipal code reference
Swimming pool code: title 12, chapter 7.

degree of protection afforded by the substitute devices or structures is not less than the protection afforded by the wall, fence, gate, and latches described herein. The building inspector shall allow a reasonable period within which to comply with the requirements of this chapter. (1980 Code, § 4-604)

12-805. Permit required. No enclosure required herein shall be constructed without first securing a permit for the construction of same from the building inspector. (1980 Code, § 4-605)

CHAPTER 9

AMUSEMENT DEVICE CODE¹

SECTION

- 12-901. Amusement device code adopted.
- 12-902. Modifications.
- 12-903. Available in recorder's office.
- 12-904. Violations.

12-901. Amusement device code adopted. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506, and for the purpose of regulating the installation, construction, alteration, repair, removal, operation and use of amusement rides and devices. The Standard Amusement Device Code,² 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 amusement device code. (Ord. #2000-01, March 2000)

12-902. Modifications. Within the amusement device code, when reference is made to the duties of a certain official named therein, that designated official of the City of Humboldt, Tennessee who has duties corresponding to those of the named official in the amusement device code shall be deemed to be the responsible official insofar as enforcing the provisions of the amusement device code are concerned. (Ord. #2000-01, March 2000)

12-903. Available in recorder's office. Pursuant to the requirements of the Tennessee Code Annotated, § 6-54-502, one (1) copy of the amusement device code has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public. (Ord. #2000-01, March 2000)

12-904. Violations. It shall be unlawful for any person to violate or fail to comply with any provision of the amusement device code as herein adopted by reference and modified. (Ord. #2000-01, March 2000)

¹Municipal code references

Fire protection, fireworks, and explosives: title 7.

Planning and zoning: title 14.

Streets and other public ways and places: title 16.

Utilities and services: titles 18 and 19.

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

CHAPTER 10

EXISTING BUILDINGS CODE¹

SECTION

12-1001. Existing buildings code adopted.

12-1002. Modifications.

12-1003. Available in recorder's office.

12-1004. Violations.

12-1001. Existing buildings code adopted. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506, and for the purpose of providing a concise set of regulations and procedures to effect safety in occupancy, the Standard Existing Buildings Code,² 1997 edition, as prepared by the Southern Building Code Congress International, Inc., is adopted and the same is incorporated herein by reference, subject to modifications as hereinafter provided, and shall be known and referred to as the standard existing buildings code. (Ord. #2000-01, March 2000)

12-1002. Modifications. Within the existing buildings code, when reference is made to the duties of a certain official named therein, that designated official of the City of Humboldt, Tennessee who has duties corresponding to those of the named official in the existing buildings code shall be deemed to be the responsible official insofar as enforcing the provisions of the existing buildings code are concerned. (Ord. #2000-01, March 2000)

12-1003. Available in recorder's office. Pursuant to the requirements of the Tennessee Code Annotated, § 6-54-502, one (1) copy of the standard existing buildings code shall be placed on file in the office of the recorder and the same shall be kept there for the use and inspection of the public. (Ord. #2000-01, March 2000)

12-1004. Violations. It shall be unlawful for any person to violate or fail to comply with any provision of the standard existing buildings code or any final order made pursuant thereto. Such violation is declared an offense against the

¹Municipal code references

Fire protection, fireworks, and explosives: title 7.

Planning and zoning: title 14.

Streets and other public ways and places: title 16.

Utilities and services: titles 18 and 19.

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

city and for which punishment shall be a fine of not more than \$50 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. (Ord. #2000-01, March 2000)

CHAPTER 11

MECHANICAL CODE¹

SECTION

- 12-1101. Mechanical code adopted.
- 12-1102. Modifications.
- 12-1103. Available in recorder's office.
- 12-1104. Violations.

12-1101. Mechanical code adopted. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506, and for the purpose of regulating the installation of mechanical systems, including alterations, repairs, replacement, equipment, appliances, fixtures, fittings and/or appurtenances thereto, including ventilating, heating, cooling, air conditioning, and refrigeration systems, incinerators, and other energy-related systems, the International Mechanical Code,² 2006 edition, as prepared and adopted by the International Code Council, is hereby adopted and incorporated by reference as a part of this code and is hereinafter referred to as the mechanical code. (Ord. #2000-01, March 2000, as amended by Ord. #2010-03, May 2010)

12-1102. Modifications. Within the mechanical code, when reference is made to the duties of a certain official named therein, that designated official of the City of Humboldt, Tennessee who has duties corresponding to those of the named official in the mechanical code shall be deemed to be the responsible official insofar as enforcing the provisions of the mechanical code are concerned. (Ord. #2000-01, March 2000)

12-1103. Available in recorder's office. Pursuant to the requirements of Tennessee Code Annotated, § 6-54-502, one (1) copy of the mechanical code has been placed on file in the city recorder's office and shall be kept there for the use and inspection of the public. (Ord. #2000-01, March 2000)

¹Municipal code references

Street excavations: title 16.

Wastewater treatment: title 18.

Water and sewer system administration: title 18.

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

12-1104. 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. (Ord. #2000-01, March 2000)

CHAPTER 12

UNSAFE BUILDING ABATEMENT CODE

SECTION

12-1201. Unsafe building abatement code adopted.

12-1202. Modifications.

12-1203. Available in recorder's office.

12-1204. Violations.

12-1201. Unsafe building abatement code adopted. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506, and for the purpose of regulating buildings and structures to insure structural strength, stability, sanitation, adequate light and ventilation, and safety to life and property from fire and other hazards incident to the construction, alteration, repair, removal, demolition, use and occupancy of buildings, structures or premises, within or without the city, the Standard Unsafe Building Abatement Code,¹ 1985 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 unsafe building abatement code. (Ord. #2000-01, March 2000)

12-1202. Modifications. Within the unsafe building abatement code, when reference is made to the duties of a certain official named therein, that designated official of the City of Humboldt, Tennessee who has duties corresponding to those of the named official in the unsafe building abatement code shall be deemed to be the responsible official insofar as enforcing the provisions of the unsafe building abatement code are concerned. (Ord. #2000-01, March 2000)

12-1203. Available in recorder's office. Pursuant to the requirements of Tennessee Code Annotated, § 6-54-502, one (1) copy of the unsafe building abatement code has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public. (Ord. #2000-01, March 2000)

12-1204. Violations. It shall be unlawful for any person to violate or fail to comply with any provision of the unsafe building abatement code as herein adopted by reference and modified. (Ord. #2000-01, March 2000)

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

TITLE 13**PROPERTY MAINTENANCE REGULATIONS¹****CHAPTER**

1. MISCELLANEOUS.
2. JUNKYARDS.
3. JUNKED VEHICLES ON PUBLIC AND PRIVATE PROPERTY.

CHAPTER 1**MISCELLANEOUS****SECTION**

- 13-101. Smoke, soot, cinders, etc.
- 13-102. Stagnant water.
- 13-103. Weeds.
- 13-104. Health and sanitation nuisances.

13-101. Smoke, soot, cinders, etc. It shall be unlawful for any person to permit or cause the escape of such quantities of dense smoke, soot, cinders, noxious acids, fumes, dust, or gases as to be detrimental to or to endanger the health, comfort, and safety of the public or so as to cause or have a tendency to cause injury or damage to property or business. (1980 Code, § 8-104)

13-102. Stagnant water. It shall be unlawful for any person knowingly to allow any pool of stagnant water to accumulate and stand on his property without treating it so as effectively to prevent the breeding of mosquitoes. (1980 Code, § 8-105)

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 recorder or chief of police to cut such vegetation when it has reached a height of over one (1) foot. (1980 Code, § 8-106)

13-104. 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

¹Municipal code references

Animal control: title 10.

Littering streets, etc.: § 16-107.

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. (1980 Code, § 8-107)

CHAPTER 2**JUNKYARDS**¹**SECTION**

13-201. Junkyards.

13-201. Junkyards.² All junkyards within the corporate limits shall be operated and maintained subject to the following regulations:

(1) All junk stored or kept in such yards shall be so kept that it will not catch and hold water in which mosquitoes may breed and so that it will not constitute a place, or places in which rats, mice, or other vermin may be harbored, reared, or propagated.

(2) All such junkyards shall be enclosed within close fitting plank or metal solid fences touching the ground on the bottom and being not less than six (6) feet in height, such fence to be built so that it will be impossible for stray cats and/or stray dogs to have access to such junkyards.

(3) Such yards shall be so maintained as to be in a sanitary condition and so as not to be a menace to the public health or safety. (1980 Code, § 8-108)

¹Municipal code references

Junked vehicles on public and private property: title 13, chapter 3.
Storage and repair of disabled vehicles: title 15, chapter 7.

²State law reference

The provisions of this section were taken substantially from the Bristol ordinance upheld by the Tennessee Court of Appeals as being a reasonable and valid exercise of the police power in the case of Hagaman v. Slaughter, 49 Tenn. App. 338, 354 S.W.2d 818 (1961).

CHAPTER 3

JUNKED VEHICLES ON PUBLIC AND PRIVATE PROPERTY¹

SECTION

- 13-301. Definitions.
- 13-302. Violations a civil offense.
- 13-303. Exceptions.
- 13-304. Enforcement.
- 13-305. Penalty for violations.

13-301. Definitions. For the purpose of the interpretation and application of this chapter, the following words and phrases shall have the indicated meanings:

(1) "Person" shall mean any natural person, or any firm, partnership, associations corporation or other organization of any kind and description.

(2) "Private property" shall include all property that is not public property, regardless of how the property is zoned or used.

(3) "Traveled portion of any public street or highway" shall mean the width of the street from curb to curb, or where there are no curbs the entire width of the paved portion of the street, or where the street is unpaved the entire width of the street in which vehicles ordinarily use for travel.

(4) (a) "Vehicle" shall mean any machine propelled by power other than human powers designed to travel along the ground by the use of wheels, treads, self-laying tracks, runners, slides or skids, including but not limited to automobiles, trucks, motorcycles, motor scooters, go-carts, campers, tractors, trailers, tractor-trailers, buggies, wagons, and earth-moving equipment, and any part of the same.

(b) "Junk vehicle" shall mean a vehicle of any age that is damaged or defective in any one or combination of any of the following ways that either makes the vehicle immediately inoperable, or would prohibit the vehicle from being operated in a reasonably safe manner upon the public streets and highways under its own power if self-propelled, or while being towed or pushed, if not self-propelled:

(i) Flat tires, missing tires, missing wheels, or missing or partially or totally disassembled tires and wheels;

(ii) Missing or partially or totally disassembled essential part or parts of the vehicle's drive train, including, but not limited

¹Municipal code references

Junkyards: title 13, chapter 2.

Storage and repair of disabled vehicles: title 15, chapter 7.

to, engine, transmission, transaxle, drive shaft, differential, or axle.

(iii) Extensive exterior body damage or missing or partially or totally disassembled essential body parts, including, but not limited to, fenders, doors, engine hood, bumper or bumpers, windshield, or windows.

(iv) Missing or partially or totally disassembled essential interior parts, including, but not limited to, driver's seat, steering wheel, instrument panel, clutch, brake, gear shift lever.

(v) Missing or partially or totally disassembled parts essential to the starting or running of the vehicle under its own power, including but not limited to, starter, generator or alternator, battery, distributor, gas tank, carburetor or fuel injection system, spark plugs, or radiator.

(vi) Interior is a container for metal, glass, paper, rags or other cloth, wood, auto parts, machinery, waste or discarded materials in such quantity, quality and arrangement that a driver cannot be properly seated in the vehicle;

(vii) Lying on the ground (upside down, on its side, or at other extreme angle), sitting on block, or suspended in the air by any other method;

(viii) General environment in which the vehicle sits, including, but not limited to, vegetation that has grown up around, in or through the vehicle, the collection of pools of water in the vehicle, and the accumulation of other garbage or debris around the vehicle. (Ord. #97-1, June 1997)

13-302. Violations a civil offense. It shall be unlawful and a civil offense for any person:

(1) To park and or in any other manner place and leave unattended on the traveled portion of any public street or highway a junk vehicle for any period of time, even if the owner or operator of the vehicle did not intend to permanently desert or forsake the vehicle.

(2) To park or in any other manner place and leave unattended on the untraveled portion of any street or highway, or upon any other public property, a junk vehicle for more than forty-eight (48) continuous hours even if the owner or operator of the vehicle did not intend to permanently desert or forsake the vehicle.

(3) To park store, keep, maintain on private property a junk vehicle for more than sixty (60) days. (Ord. #97-1, June 1997)

13-303. Exceptions. (1) It shall be permissible for a person to park, store, keep and maintain a junked vehicle on private property under the following conditions:

(a) The junk vehicle is completely enclosed within a building where neither the vehicle nor any part of it is visible front the street or from any other abutting property. However, this exception shall not exempt the owner or person in possession of the property from any zoning, building, housing, property maintenance, and other regulations governing the building in which such vehicle is enclosed.

(b) The junk vehicle is parked or stored on property lawfully zoned for business engaged in wrecking, junking or repairing vehicles. However, this exception shall not exempt the owner or operator of any such business from any other zoning, building, property maintenance and other regulations governing business engaged in wrecking, junking or repairing vehicles.

(2) No person shall park, store, keep and maintain on private property a junk vehicle for any period of time if it poses an immediate threat to the health and safety of citizens elsewhere in the city. (Ord. #97-1, June 1997)

13-304. Enforcement. Pursuant to Tennessee Code Annotated, § 7-63-101, the building inspector is authorized to issue ordinance summons for violations of this chapter on private property. The building inspector shall upon the complaint of any citizen, or acting on his own information, investigate complaints of junked vehicles on private property. If after such investigation the building inspector finds a junked vehicle on private property, he shall issue an ordinance summons. The ordinance summons shall be served upon the owner or owners of the property, or upon the person or persons apparently in lawful possession of the property, and shall give notice to the same to appear and answer the charges against him or them. If the offender refuses to sign the agreement to appear, the building inspector may

(1) Request the city judge to issue a summons, or

(2) Request a police officer to witness the violation. The police officer who witnesses the violation may issue the offender a citation in lieu of arrest as authorized by Tennessee Code Annotated, § 7-63-101 et seq., or if the offender refuses to sign the citation, may arrest the offender for failure to sign the citation in lieu of arrest. (Ord. #97-1, June 1997)

13-305. Penalty for violations. Any person violating this chapter shall be subject to a civil penalty of \$50.00 for each separate violation of this chapter. Each day the violation of this chapter continues shall be considered a separate violation. (Ord. #97-1, June 1997)

TITLE 14

ZONING AND LAND USE CONTROL¹

CHAPTER

1. MUNICIPAL REGIONAL PLANNING COMMISSION.
2. GENERAL PROVISIONS RELATING TO ZONING.
3. PROVISIONS GOVERNING RESIDENTIAL DISTRICTS.
4. PROVISIONS GOVERNING BUSINESS DISTRICTS.
5. PROVISIONS GOVERNING INDUSTRIAL DISTRICTS.
6. PROVISIONS GOVERNING AIRPORT HEIGHT REGULATIONS AND AIRPORT CLEAR ZONE (ACZ) OVERLAY DISTRICT.
7. PROVISIONS GOVERNING FLOOD HAZARD DISTRICTS.
8. EXCEPTIONS AND MODIFICATIONS.
9. ENFORCEMENT.
10. BOARD OF ZONING APPEALS.
11. AMENDMENT.
12. LEGAL STATUS PROVISIONS.

CHAPTER 1

MUNICIPAL REGIONAL PLANNING COMMISSION

SECTION

- 14-101. Authority.
- 14-102. Creation and membership.
- 14-103. Organization, powers, duties, etc.

14-101. Authority. An ordinance to the authority granted by Tennessee Code Annotated, §§ 13-7-201 through 13-7-210, authorizing the City of Humboldt, Tennessee to establish districts or zones within its corporate limits; to regulate, within such district, the location height, bulk, number of stories and size of buildings and structures, the percentage of lot occupancy, the required open spaces, the density of population and the uses of land, buildings, and structures, to provide methods of administration of this ordinance and to prescribe penalties for the violation thereof. (1980 Code, § 11-101, as replaced by Ord. #2010-01, Jan. 2010)

¹Municipal code reference

Beer licensing; zoning restrictions: § 8-203.

14-102. Creation and membership. Pursuant to the provisions of Tennessee Code Annotated, §§ 13-4-101 and 13-3-102, there is hereby created a municipal-regional 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 or his/her designee and another member of the board of mayor and aldermen selected by the board of mayor and aldermen; 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 board of mayor and aldermen shall run concurrently with their terms of office. Any vacancy in an appointive membership shall be filled for the un-expired term by the mayor, who shall have the authority to remove any appointive members at his pleasure. (1980 Code, § 11-102, as replaced by Ord. #2010-01, Jan. 2010)

14-103. 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. #2010-01, Jan. 2010)

CHAPTER 2

GENERAL PROVISIONS RELATING TO ZONING

SECTION

- 14-201. Title.
- 14-202. Purpose.
- 14-203. Definitions.
- 14-204. General provisions.
- 14-205. Zoning affects every building and use.
- 14-206. Non-conformities.
- 14-207. Erection of more than one principal structure on a lot.
- 14-208. Reduction in lot area prohibited.
- 14-209. Required yard cannot be used by another building.
- 14-210. Rear yard abutting a public street.
- 14-211. Obstruction to vision at street intersection prohibited.
- 14-212. Off-street parking requirements.
- 14-213. Off-street loading and unloading space.
- 14-214. Access control.
- 14-215. Public street frontage.
- 14-216. Alterations.
- 14-217. Building permits in floodplains.
- 14-218. Classification of districts.
- 14-219. Boundaries of districts.
- 14-220. Sign regulations.
- 14-221. Telecommunication structure requirements.
- 14-222. Site plan review provisions.

14-201. Title. Chapters 2 through 12 of this title shall be known and may be cited as the Zoning Ordinance of Humboldt, Tennessee, and the map herein referred to which is identified by the title, "Official Zoning Map, Humboldt, Tennessee" and all explanatory matters thereon are hereby adopted and made a part of chapters 2 through 12 of this title. The official zoning map shall be located in the city hall and shall be identified by the signature of the mayor attested by the secretary of the board of mayor and aldermen. The official zoning map may be amended under the procedures set forth in chapter 9 of this title, provided, however, that no amendment of the official zoning map shall become effective until after such change and entry has been made on said map and signed by the mayor attested by the secretary of the board of mayor and aldermen. (1980 Code, § 11-201, as replaced by Ord. #2010-01, Jan. 2010)

14-202. Purpose. The zoning regulations and districts as herein set forth have been made in accordance with a comprehensive plan for the purpose of promoting the health, safety, morals, and the general welfare of the

community. They have been designed to lessen congestion in the streets, to secure safety from fire, panic and other dangers to provide adequate light and air, to prevent the overcrowding of land, to avoid undue concentration of population, to facilitate the adequate provisions of transportation, water sewerage, schools, parks other public requirements. They have been made with reasonable consideration among other things, as the character of each district and its peculiar suitability for particular uses, and with a view of conserving the value of buildings and encouraging the most appropriate use of land throughout the city. (1980 Code, § 11-202, as replaced by Ord. #2010-01, Jan. 2010)

14-203. Definitions. Unless otherwise stated the following words shall, for the purpose of chapters 2 through 12 of this title, have the meaning herein indicated. Words used in the present tense include the future. The singular number includes the plural and the plural the singular. The word "shall" is mandatory, not directory.

(1) "Animated sign." Any sign that uses movement or change of lighting to depict action or create a special effect or scene.

(2) "Antenna array." Poles, rods, panels, reflecting dishes, or similar devices used for the transmission or reception of radio frequency signals.

(3) "Alley." Any public or private way set aside for public travel twenty feet (20') or less in width.

(4) "Assisted living facility." Residences for the frail elderly that provide rooms, meals, personal care, and supervision of self-administered medication. They may provide other services, such as recreational activities, financial services, and transportation.

(5) "Banner." Any sign of lightweight fabric or similar material that is permanently mounted to a pole or a building by a permanent frame at one (1) or more edges. National flags, state or municipal flags, or the official flag of any institution or business shall not be considered banners.

(6) "Beacon." Any light with one (1) or more beams directed into the atmosphere or directed at one (1) or more points not on the same lot as the light source; also any light with one (1) or more beams that rotate or move.

(7) "Billboard." A sign that directs attention to a business, commodity, service, or entertainment conducted, sold, or offered at a location other than the premises on which the sign is located.

(8) "Building." Any structure designed or built for the support, enclosure, shelter or protection of persons, animals, chattels or property.

(a) "Principal building." A building in which the primary use of the lot is conducted.

(b) "Accessory building." A detached building or structure subordinate to the principal building or use on the same lot and serving a purpose naturally and normally incidental to the principal building or use, including swimming pools and satellite dishes.

(9) "Building marker." Any sign indicating the name of a building and date and incidental information about its construction, which sign is cut into a masonry surface or made of bronze or other permanent material.

(10) "Building sign." Any sign attached to any part of a building, as contrasted to a freestanding sign.

(11) "Canopy sign." Any sign that is a part of or attached to an awning, canopy, or other fabric, plastic, or structural protective cover over a door entrance, window or outdoor service area. A marquee is not a canopy.

(12) "Changeable copy sign." A sign or portion thereof with characters, letters, or illustrations that can be changed or rearranged without altering the face of the surface of the sign. A sign on which the message changes more than eight (8) times per day shall be considered an animated sign and not a changeable copy sign for purposes of this chapter. A sign on which the only copy that changes is an electronic or mechanical indication of time or temperature shall be considered a "time and temperature" portion of a sign and not a changeable sign for purposes of this chapter.

(13) "Clinic." A facility for the examination and treatment of ill and afflicted human out-patients provided, however, that patients are not kept overnight except under emergency conditions. This includes doctors and dental offices.

(14) "Commercial message." Any sign wording, logo, or other representation that, directly or indirectly, names, advertises, or calls attention to a business, product, service or other commercial activity.

(15) "Day care center." A facility operated by a person, society, agency, corporation, institution, or group that receives pay for the care of thirteen (13) or more children under seventeen (17) years of age for less than twenty-four (24) hours per day, without transfer of custody.

(16) "Day care home, group." A facility operated by a person, social agency, corporation or institution or any other group which receives from eight (8) to twelve (12) children under seventeen (17) years of age less than twenty-four (24) hours per day for care outside their own homes, without transfer of custody.

(17) "Day care home, family." A facility operated by any person who receives pay for providing less than twenty-four (24) hour supervision and care, without transfer of custody, for four (4) to seven (7) children under seventeen (17) years of age who are not related to the operator and whose parents or guardians are not residents of the household. A home providing care for fewer than four (4) children will not be regulated by this title.

(18) "Development." Any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavating, or drilling operations. Agricultural activities such as plowing or cultivating and gardening activities are not included in this definition of development.

(19) "Dwelling, apartments." A residential building designed for or occupied by five (5) or more families, with the number of families in residence not exceeding the number of dwelling units provided.

(20) "Dwelling, multi-family." A residential building designed for or occupied by not less than three (3) nor more than four (4) families, with the number of families in residence not exceeding the number of dwelling units provided.

(21) "Dwelling, single-family." A detached residential dwelling unit other than a mobile home, designed for and occupied by one (1) family only.

(22) "Dwelling, townhouse." An attached residential dwelling unit designed for occupancy by one (1) family constructed in a row of three (3) to seven (7) such dwelling units, each dwelling unit being separated by the adjoining dwelling units in each story by adjoining fire-resistant walls without openings extending at least for the lowest floor level through the roof, and each dwelling unit having independent access to the exterior in the ground story. For the purpose of this title a townhouse dwelling shall not be considered a single family dwelling, a multi-family dwelling or apartments.

(23) "Dwelling, two-family." A detached residential dwelling unit other than a mobile home, designed for and occupied by two (2) families only.

(24) "Dwelling unit." One (1) room, or rooms connected together, constituting a separate independent housekeeping establishment for owner occupancy, rental or lease on a weekly, monthly, or longer basis, and physically separated from any other rooms or dwelling units which may be in the same structure and containing independent cooking and sleeping facilities.

(25) "Enforcement officer." The codes enforcement officer/building inspector of the city or his or her designee.

(26) "Family." One (1) or more persons occupying a premises and living as a single, nonprofit housekeeping unit.

(27) "Flag." Any fabric, banner, or bunting containing distinctive colors, patterns or symbols, used as a symbol of a government, political subdivision, or other entity.

(28) "Flood." A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of rivers or streams or the unusual and rapid accumulation of runoff of surface waters from any source.

(29) "Floodway." The stream channel and the portion of the adjacent floodplain which must be reserved solely for the passage of floodwaters in order to prevent an increase in upstream flood heights of more than one foot (1') above predevelopment conditions.

(30) "Floodway fringe area." Lands lying outside a designated floodway but within the area subject to inundation by the 100-year flood.

(31) "Flood-proofing." Any combination of structural or non-structural additions, changes, or adjustments which reduces or eliminates flood damage to real estate, improved real property, water supply and sanitary sewer facilities, electrical systems, and structures and their contents.

(32) "Floodplain." A relatively flat or low area adjoining a river or stream which is periodically subject to partial or complete inundation by floodwaters, or a low area subject to the unusual and rapid accumulation of runoff of surface waters from any source. For the purposes of this title, the land subject to inundation by the 100-year flood, i.e. the 100-year floodplain.

(33) "Freestanding sign." Any sign supported by structures of supports that are placed on, or anchored in, the ground and that are independent from any building or other structure.

(34) "Incidental sign." A sign, generally informational, that has a purpose secondary to the use of the lot on which it is located, such as "no parking," "entrance," "loading only," "telephone," and other similar directives. No sign with a commercial message legible from a position off the lot on which the sign is located shall be considered incidental.

(35) "Lot." A piece, parcel, or plot of land in one (1) ownership, which may include one (1) or more lots of record, occupied or to be occupied by buildings and accessory buildings and including the open spaces required under chapters 2 through 9 of this title. All lots shall front on and have access to a street.

(a) "Lot line." A boundary dividing a given lot from a street, an alley, or adjacent lots.

(b) "Lot of records." A lot, the boundaries of which are filed as a legal record.

(36) "Marquee." Any permanent roof-like structure projecting beyond a building or extending along and projecting beyond the wall of the building, generally designed and constructed to provide protection from the weather.

(37) "Marquee sign." Any sign attached to, in any manner, or made a part of a marquee.

(38) "Mobile home." A detached residential dwelling unit designed for transportation after fabrication on streets or highways on its own wheels or on flatbed or other trailers, and arriving at the site where it is to be occupied as a dwelling complete and ready for occupancy except for minor and incidental unpacking and assembly operations, location on jacks and other temporary or permanent foundations, connection to utilities, and the like. The character of a mobile home as a non-permanent dwelling shall not be changed in the view of this section by removal of the wheels and/or carriage or placement on a permanent foundation.

A travel trailer is not to be considered as a mobile home.

(a) "Independent mobile homes." A mobile home equipped with interior toilet and bathing facilities and fixtures for connection of such facilities to permanent water supply and sewage collection systems.

(b) "Travel trailer." A trailer or vehicle designed for short term occupancy and built to be transported on its own wheels.

(39) "Mobile home park." Any plot of ground upon which two (2) or more mobile homes, occupied for dwelling or sleeping purposes, are located, regardless of whether or not a charge is made for such accommodation.

(40) "Nonconforming sign." Any sign that does not conform to the requirements of this title.

(41) "Nonconforming structure." A structure which was lawfully constructed prior to enactment or amendment of the provisions of chapters 2 through 9 of this title that does not conform with the provisions hereof for the district in which it is located.

(42) "Nonconforming use." A use of a building or land lawful at the time of the enactment of the provisions of chapters 2 through 9 of this title that does not conform with the provisions hereof for the district in which it is located.

(43) "One-hundred year flood." A flood which has, on the average, a one percent (1%) chance of being equaled or exceeded in any given year. It is sometimes referred to as the "1-percent chance flood."

(44) "Person." Any association, company, corporation, firm, organization, or partnership, singular or plural, of any kind.

(45) "Portable sign." Any sign not permanently attached to the ground or other permanent structure, or sign designed to be transported, including, but not limited to, signs designed to be transported by means of wheels; signs converted to A- or T-frames; menu and sandwich board signs; balloons used as signs; umbrellas used for advertising; and signs attached to or painted on vehicles parked and visible from the public right-of-way, unless said vehicle is used in the normal day-to-day operations of the business.

(46) "Projecting sign." Any sign affixed to a building or wall in such a manner that its leading edge extends more than six inches (6") beyond the surface of such building or wall.

(47) "Public way." Right-of-way.

(48) "Residential sign." Any sign located in a district zoned for residential uses that contains no commercial message except advertising for goods or services legally offered on the premises where the sign is located, if offering such service at such location conforms with all requirements of the zoning ordinance.

(49) "Roof sign, integral." Any sign erected or constructed as an integral or essentially integral part of a normal roof structure of any design, such that no part of the sign extends vertically above the highest portion of the roof by a space of more than six inches (6") or twenty-five feet (25') from the base of the sign.

(50) "Sign." Any outdoor structure or part thereof or device attached thereto or represented thereon, which shall display or include any letter, words, model banner, flag, pennant insignia or representation used as, or which is in the nature of an announcement, direction or advertisement. The word "sign" includes the word "billboard" or any other type of advertising device, but does

not include the flag, pennant or insignia of any nation, state, city or other potential unit.

(51) "Story." That portion of a building included between the upper surface of any floor and the upper surface of the floor next above, or any portion of a building used for human occupancy between the topmost floor and the roof. A basement not used for human occupancy other than for a janitor or domestic employee shall not be counted as a story.

(52) "Street." Any public or private way set aside for public twenty-one feet (21') or more in width. The word "street" shall include the words "road," "highway," and "thoroughfare."

(53) "Street frontage." The distance for which a lot line of a lot adjoins a public street, from one (1) lot line intersecting said street to the furthest distant lot line intersecting the same street.

(54) "Substantial improvement." (a) Any repair, reconstruction, or improvement to a structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure either:

(i) Before the repair or improvement; or

(ii) Before the damage occurred.

(b) For the purpose of the title, "substantial improvement" is considered to occur when the alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not however, include either:

(i) Any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to ensure safe living conditions; or

(ii) An alteration or restoration of a structure listed on the National Register of Historic Places or a state inventory of historic places.

(55) "Suspended sign." A sign that is suspended from the underside of a horizontal plane surface and is supported by such surface.

(56) "Telecommunication tower structure." A wireless transmission facility constructed as a lattice tower structure with or without guy wires, as an alternative tower structure, or as a monopole tower; primarily for the purpose of supporting an antenna array; and support buildings and equipment; excluding equipment under thirty feet (30') in height used for amateur radio communication.

(57) "Temporary sign." Any sign that is used only temporarily and is not permanently mounted.

(58) "Total floor area." The area of all floors of a building including finished attic, finished basements, and covered porches.

(59) "Wall sign." Any sign attached parallel to, but within six inches (6") of a wall, painted on the wall surface, or erected and confined within the limits

of an outside wall or any building or structure, which is supported by such wall or building, and which displays only one (1) sign surface.

(60) "Window sign." Any sign, pictures, symbol, or combination thereof, designed to communicate information about an activity, business, commodity, event, sale, or service, that is placed inside a window or upon the window panes or glass and is visible from the exterior of the window.

(61) "Yard." A required open space other than a court unoccupied and unobstructed by any structure or portion of a structure from thirty inches (30") above the general ground level of the graded lot upward, provided however that fences, walls, poles, posts, and other customary yard accessories, ornaments, and furniture may be permitted in any yard subject to height limitations and requirements limiting obstruction of visibility.

(a) Front yard. A yard extending across the entire width of the lot between the front yard line and the nearest part of the principal building, including covered porches and carports.

(b) Rear yard. The yard extending across the entire width of the lot between the rear lot line and the nearest part of the principal building including covered porches and carports.

(c) Side yard. A yard extending along the side lot line from the front yard to the rear yard, and lying between the side lot line and the nearest part of the principal building, including covered porches and carports. (1980 Code, § 11-203, as amended by Ord. # 83-4, Aug. 1983, replaced by Ord. #2010-01, Jan. 2010, and amended by Ord. #2014-04, June 2014)

14-204. General provisions. For the purpose of chapters 2 through 12 of this title, there shall be certain general provisions which shall apply to the city as a whole as follows. (1980 Code, § 11-204, as amended by Ord. #92-8, Oct. 1992, and replaced by Ord. #2010-01, Jan. 2010)

14-205. Zoning affects every building and use. No building or land shall hereafter be used and no building or part thereof shall be erected, moved or altered unless for a use expressly permitted by and in conformity with the regulations herein specified for the district in which it is located, whether operated for or without compensation. (1980 Code, § 11-205, as replaced by Ord. #2010-01, Jan. 2010)

14-206. Non-conformities. When within the districts established by chapters 2 through 12 of this title or amendments that may later be adopted there exist uses and/or structures which were lawful before the provisions of chapters 2 through 12 of this title were passed or amended, but which would be prohibited, regulated, or restricted under the terms hereof or future amendment, the following shall apply.

(1) Any non-conforming structure may not be:

- (a) Extended except in conformity with chapters 2 through 12 of this title.
- (b) Rebuilt or repaired after damage exceeding seventy-five percent (75%) of replacement value except in conformity with the provisions of chapters 2 through 12 of this title.
- (2) Any non-conforming use of land may not be:
 - (a) Changed to another non-conforming use which would be more detrimental to the district in which it is located as determined by the board of zoning appeals.
 - (b) Extended, except in conformity with chapters 2 through 12 of this title.
- (3) Any non-conforming use or structure may not be:
 - (a) Changed to another non-conforming use which would be more detrimental to the district in which it is located as determined by the board of zoning appeals.
 - (b) Re-established after discontinuance of one (1) year.
- (4) Any structure used for a non-conforming use shall not be rebuilt or repaired after damage exceeding seventy-five percent (75%) of replacement cost unless the use and structure conform to the provisions of chapters 2 through 12 of this title.
- (5) All non-conforming junk yards, commercial animal yards, and lumber yards not on the same lot with a plant, sales building or factory shall be torn down, altered, or otherwise made to conform to the provisions hereof within five (5) years from the adoption of chapters 2 through 12 of this title. (1980 Code, § 11-206, as replaced by Ord. #2010-01, Jan. 2010)

14-207. Erection of more than one principal structure on a lot. In any district, more than one (1) structure housing a permitted or permissible principal use may be erected on a single lot, provided that yard and other requirements of chapters 2 through 12 of this title shall be met for each structure as though it were on an individual lot. (1980 Code, § 11-207, as replaced by Ord. #2010-01, Jan. 2010)

14-208. Reduction in lot area prohibited. No lot, even though it may consist of one (1) or more adjacent lots of record, shall be reduced in area so that yards, lot area per family, lot width, building area, or other requirements hereof are not maintained. This section shall not apply when a portion of a lot is acquired for a public purpose. (1980 Code, § 11-208, as replaced by Ord. #2010-01, Jan. 2010)

14-209. Required yard cannot be used by another building. No part of a yard or other open space required about any building for the purpose of complying with the provisions of these regulations shall be included as a part

of a yard or other open space required under these regulations for another building. (1980 Code, § 11-209, as replaced by Ord. #2010-01, Jan. 2010)

14-210. Rear yard abutting a public street. When the rear yard of a lot abuts a public street, all structures built in that rear yard shall observe the same setback from the street line, centerline of the street, or property line as required for adjacent properties which front on that street. In addition, any structure located within twenty-five feet (25') of that setback line shall be no closer to any side property line than the distance required for side yards on adjoining properties fronting on that street. (1980 Code, § 11-210, as replaced by Ord. #2010-01, Jan. 2010)

14-211. Obstruction to vision at street intersection prohibited. On a corner lot not in a B-3 (Central Business District), within the area formed by the center lines of the intersecting or intercepting streets and a line joining points on such center lines at a distance of one hundred feet (100') from their intersection, there shall be no obstruction to vision between a height of two and one-half feet (2 1/2') and a height of ten feet (10') above the average grade of each street at the center line thereof. The requirements of this section shall not be construed to prohibit any necessary retaining wall. (1980 Code, § 11-211, as replaced by Ord. #2010-01, Jan. 2010)

14-212. Off-street parking requirements. (1) General provisions.

(a) In all districts, when any building or structure is constructed or at the time any main building or structure is enlarged or increased in capacity by additional dwelling units, guest rooms, seats or floor area, or before conversion from one zoning use or occupancy to another, permanent off-street parking shall be provided of at least two hundred (200) square feet per space with vehicular access to a street or alley. Spaces shall be marked of a minimum size of ten feet by twenty feet (10'x20') except those spaces located within the B-3 (Central Business) District. Those spaces shall be a minimum of nine feet by eighteen feet (9'x18'). For commercial development when estimating a site's parking capacity it is best to provide four hundred (400) square feet of area per car to allow for access drives and incidental areas such as landscape plots and unusable corners. The city reserves the right to control entrance and exit over private rights-of-way.

(b) A parking space is required for a portion of a unit of measurement one-half (1/2) or more of the amount set forth herein.

(c) Parking spaces maintained in connection with an existing and continuing main buildings or structure on the effective date of the ordinance comprising this chapter, shall be continued and may not be counted as serving a new structure or addition.

(d) A residential off-street parking space shall consist of a driveway and either a parking space, carport or garage and shall be located on the lot it is intended to serve.

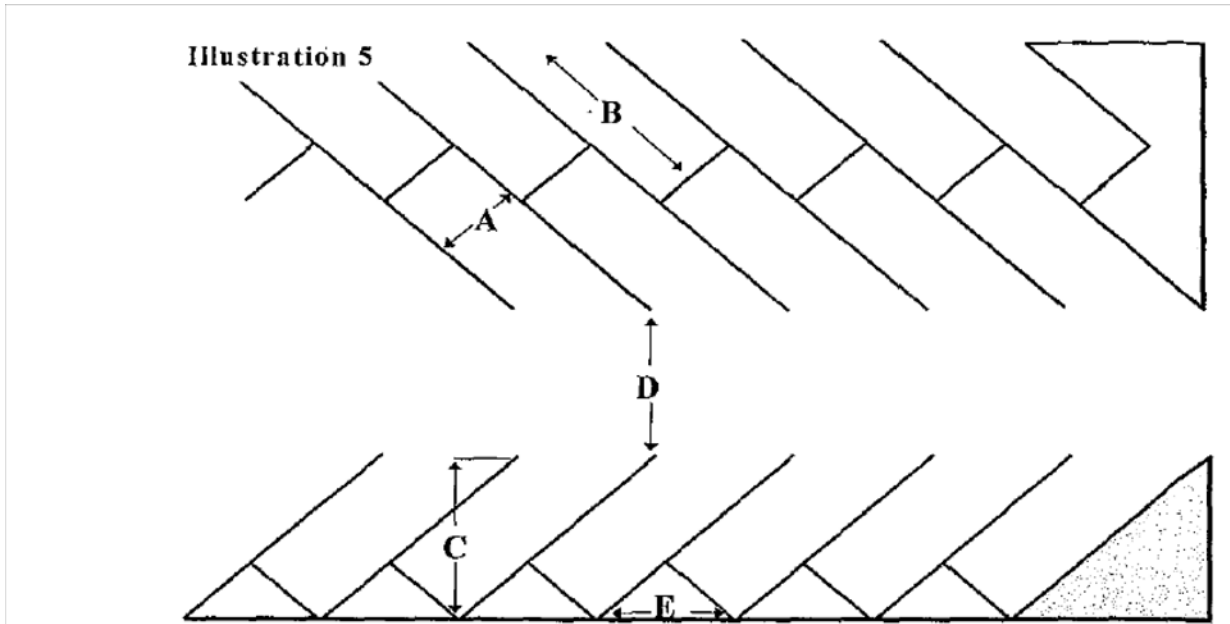
(e) The entire parking area, including parking spaces and maneuvering lanes, required under this section in accordance with specifications approved by the building official. Single-family and two-family developments shall provide an on-site parking and paving will be required in accordance with the specifications approved by the building official. In commercial, industrial, and multi-family developments, the parking area will be paved with two inches (2") of asphalt surface treated to be impermeable to prevent the intrusion of water, or the parking area may be surfaced with concrete if preferred. The concrete shall be a minimum thickness of four inches (4") of re-enforced concrete approved by the building inspector.

(f) In parking areas which abut an adjacent property line or is adjacent to a street right-of-way, all areas shall have either a continuously formed curbing six inches (6") in height or individual concrete stops located so as to prevent encroachment to any property line or street right-of-way.

(g) Location. Off-street parking shall be located on the same lot which it serves. If the parking cannot be reasonably provided on the same lot, the board of zoning appeals may permit parking spaces to be provided on the other off-street property provided such space lies within three hundred feet (300') of the main entrance to such principal use.

(h) Any lighting used to illuminate an off-street parking facility shall be arranged, installed, and maintained in order to deflect, shade, and focus lights away from adjacent public or private properties. Modifications to installed lighting may be required by the building inspector upon his determination that the lighting constitutes a hazard or nuisance.

(i) Parking stall width, length, depth, etc. shall conform to the design in Illustration 5.



Angle	Stall Width (A)	Stall Length (B)	Stall Depth (C)	Aisle Width (D)	Curb Length Per Car (E)
0°	10'	20'	10'	11'	23'
30°	10'	20'	18'8"	11'	20'
45°	10'	20'	21'3"	13'	14'2"
60°	10'	20'	22'3"	17'6"	11'6"
90°	10'	20'	20'	22'	10'

Note: Illustration Depicts 45 Degree Parking

(2) The minimum off-street parking requirements are as follows:

	Use	Spaces required
a.	Residential	
(1)	Dwelling, one and two family, townhouses and mobile homes	2 spaces per dwelling unit
(2)	Dwelling, multi-family	1.5 spaces for each one bedroom unit; 2.0 spaces for each two-bedroom unit; 2.5 spaces for each three bedroom unit; 3.0 spaces for each unit having four or more bedrooms.

	Use	Spaces required
(3)	Fraternities and sororities	2 spaces per bedroom plus 1 space for each 300 sq. ft. of common space
(4)	Retirement home or assisted living home	1 space per employee plus 1 space per dwelling unit
(5)	All other residential uses	as determined by the planning commission or the board of zoning appeals
b.	<u>Transportation, communications</u>	
(1)	Communications related services	1 space per 350 sq. ft. of total floor area
(2)	Freight forwarding and trucking terminals	1 space per 5,000 sq. ft. of total floor area
(3)	Transportation related services	1 space per 350 sq. ft. of total floor area
(4)	Warehousing and storage	3 spaces plus 1 space per 100 units
(5)	All other transportation and warehousing not listed	as determined by the planning commission or board of zoning appeals
c.	<u>Retail</u>	
(1)	Auto sales and service, auto parts, boat sales and service, boat parts and motorcycle sales and service	1 space per 500 sq. ft. of total floor area
(2)	Lumber and building materials	1 space per 500 sq. ft. of total floor area
(3)	Plumbing and heating supply	1 space per 1,000 sq. ft. of total floor area
(4)	Hardware and paint	1 space per 500 sq. ft. of total floor area

	Use	Spaces required
(5)	Greenhouse, nursery products, agricultural equipment and lawnmower sales and service	1 space per 1,000 sq. ft. of total floor area plus 1 space for each 5,000 sq. ft. of floor area
(6)	Shopping centers and malls	1 space per 200 sq. ft. of total floor area
(7)	General merchandise, clothing, variety and department stores	1 space per 200 sq. ft. of total floor area
(8)	Furniture, home furnishings, art, antiques and books and stationary	1 space per 400 sq. ft. of total floor area
(9)	Grocery stores and supermarkets	1 space per 150 sq. ft. of total floor area
(10)	Delicatessens and bakeries	1 space per 150 sq. ft. of total floor area
(11)	Package liquor store and beverage store	1 space per 200 sq. ft. of total floor area
(12)	Mobile home, semi-truck and heavy equipment sales	1 space per 500 sq. ft. of total floor area
(13)	Restaurants, cafes and cafeteria	1 space per 200 sq. ft. of total floor area
(14)	Restaurants, fast food	1 space per 100 sq. ft. of total floor area
(15)	Taverns, bars and drive-in restaurants	1 space per 150 sq. ft. of total floor area
(16)	Fuel or gas stations	1 space per 250 sq. ft. of total floor area with a minimum of 5 parking spaces
(17)	Convenience store	1 space per 200 sq. ft. of total floor area
(18)	Pawn shop	1 space per 300 sq. ft. of total floor area

	Use	Spaces required
(19)	All other retail trade not listed	as determined by the planning commission or the board of zoning appeals
d.	<u>Finance insurance and real estate</u>	
(1)	Banks, savings and loans, real estate offices, and insurance	1 space per 250 sq. ft. of total floor area
(2)	All other finance insurance and real estate not listed	as determined by the planning commission or the board of zoning appeals
e.	<u>Services</u>	
(1)	Advertising, consumer credit reporting and collections	1 space per 400 sq. ft. of total floor area
(2)	Arcades and pool halls	1 space per 200 sq. ft. of total floor area
(3)	Attorneys, accountants, engineers	1 space per 300 sq. ft. of total floor area
(4)	Automobile repair, oil and fluid changing services, electrical repair and radio and television repair	1 space per 500 sq. ft. of total floor area with a minimum of 2 spaces
(5)	Beauty, barber and photographic services	1 space per 300 sq. ft. of total floor area and 1 space per employee
(6)	Car wash, full service	1 space per 1000 sq. ft. of floor area
(7)	Car wash, self service	2 spaces plus 1 space per wash bay
(8)	Clerical services, monument sales	1 space per 500 sq. ft. of total floor area
(9)	Contract construction services	1 space per 1000 sq. ft. of total floor area

	Use	Spaces required
(10)	Convalescent homes	1 space for each employee plus 1 space for each 4 beds with a minimum of 4 spaces
(11)	Day care and child care centers	1.5 spaces per care room with a minimum of 5 spaces plus a paved unobstructed pick-up area with adequate stacking area
(12)	Elementary school or junior high school	1 space for each classroom, plus 1 space for each staff member and employee other than teachers, plus ten (10) additional spaces. This provision is not applicable where parking space required for an auditorium is provided.
(13)	Fairgrounds and amusement parks	1 sq. ft. of parking area for each sq. ft. of activity area
(14)	Funeral home or moratorium	1 space per 1,000 sq. ft. of floor area
(15)	Golf driving ranges and miniature golf	2 spaces per hole or tee
(16)	Group day care homes	1.5 spaces per care room with a minimum of 3 spaces
(17)	Hospitals and sanitariums	1 space for each employee, two spaces for each bed plus 1 space for each emergency vehicle
(18)	Hotels, motels, tourist courts and similar transient lodging	1 space per unit plus 1 space for each 400 sq. ft. of public meeting area or restaurant space
(19)	Kennels	1 space per 1,000 sq. ft. of total floor area
(20)	Labor unions, clubs, lodges and civil, social or fraternal associations	1 space per 100 sq. ft. of total floor area
(21)	Laundry, dry cleaning, apparel repair and cleaning services	1 space per 350 sq. ft. of total floor area

	Use	Spaces required
(22)	Libraries, museums and art galleries	1 space per 1,000 sq. ft. of floor area
(23)	Membership organizations	1 space per 300 sq. ft. of total floor area
(24)	Motion picture theaters, amphitheaters and stadiums	1 space per 50 sq. ft. of theater space
(25)	Other education services	1 space per 300 sq. ft. of total floor area
(26)	Photocopying, mailing, exterminating and employment	1 space per 400 sq. ft. of total floor area
(27)	Physicians, dentist offices and clinics	1 space per 150 sq. ft. of total floor area
(28)	Printing and publishing	1 space per 400 sq. ft. of total floor area
(29)	Retirement home	1 space per employee plus 1 space per dwelling unit
(30)	Rest homes or assisted living homes	1 space for each employee plus 1 space for each dwelling unit
(31)	Roller skating rinks, gymnasiums, fitness clubs and athletic clubs	1 space per 250 sq. ft. of total floor area
(32)	Senior high school	1 space for each classroom plus 1 space for each staff member and employee other than teachers, plus 1 space for each fifteen (15) students based on the capacity for which the building was designed.
(33)	Veterinarians and animal hospitals	1 space per 300 sq. ft. of total floor area
(34)	Watch repair, reupholstery, and other repair services not listed	1 space per 300 sq. ft. of total floor area with a minimum of 2 spaces

	Use	Spaces required
(35)	All other business, personal, professional, repair, governmental, and recreation	as determined by the planning commission or the board of zoning appeals
e.	<u>Industrial</u>	
	All industrial uses	1 space per 1,000 sq. ft. of floor area
f.	<u>Places of assembly</u>	
	Churches, synagogues, mosques, chapels, etc.	1 space per 5 seats or as determined by the board of zoning appeals

(3) Required handicapped parking spaces. (a) In developments handicapped parking spaces shall be provided which have a minimum width of twelve feet (12'). The number of handicapped parking spaces in relation to the total number of spaces is listed below:

<u>Total Spaces in Lot</u>	<u>Reserved Spaces</u>
Up to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 200	5
201 to 200	6
201 to 300	7
301 to 400	8
401 to 500	9
over 500	2% of total

(b) One in every eight (1 in 8) accessible parking spaces, or a minimum of one (1) (whichever is the greater number), shall be van accessible and shall be identified with the words "Van Accessible" on an above ground sign. Van accessible parking spaces shall be open to all vehicles properly identified.

(c) Access ramp slope. Slopes required for handicapped ramp access shall have a running slope not steeper than one (1) unit vertical in eight (8) units horizontal (12.5 percent slope). A running slope of one (1) unit vertical in twelve (12) units horizontal (8 percent slope) is desirable.

(1980 Code, § 11-212, as amended by Ord. #98-1, Feb. 1998, and replaced by Ord. #2010-01, Jan. 2010, and Ord. #2014-01, March 2014)

14-213. Off-street loading and unloading space. Every building or structure used for business or trade shall provide adequate space for the loading or unloading of vehicles off the street or public alley. Such space shall have access to a public alley, or if there is no alley, to a public street. (1980 Code, § 11-213, as replaced by Ord. #2010-01, Jan. 2010)

14-214. Access control. In order to promote the safety of the motorist and pedestrian and to minimize traffic congestion and conflict by reducing the points of contact, the following regulations shall apply:

(1) A point of access, i.e., a drive or other opening for vehicles onto a street shall not exceed thirty feet (30') in width.

(2) There shall be no more than two (2) points of access to any one (1) public street on a lot less than four hundred feet (400') but more than one hundred feet (100') in width. Lots less than one hundred feet (100') in width shall have no more than one (1) point of access to any one (1) public street.

(3) No point of access shall be allowed within ten feet (10') of the right-of-way of any public street intersection.

(4) Where sidewalks exist, the area existing between the street and an interior parking space or driveway parallel to the street shall have a curb of at least six inches (6") in height and six inches (6") in width separating the parking area from the sidewalk to prevent encroachment of vehicles onto the sidewalk area.

(5) No curbs on city streets or rights-of-way shall be cut or altered without written approval of the building inspector.

(6) Cases requiring variances relative to this action, and hardships not caused by the property owner, shall be heard and acted upon by the board of zoning appeals, provided, further, that no curb cuts for off-street automobile storage or parking space shall be permitted where the arrangement would require that vehicles back directly into a public street.

(7) Access control on property abutting state or federal highways shall be governed by official regulations of the Tennessee Department of Highways or the provisions of chapters 2 through 9 of this title whichever is higher. (1980 Code, § 11-214, as replaced by Ord. #2010-01, Jan. 2010)

14-215. Public street frontage. All residential uses must front on a public street for a distance of at least thirty-five feet (35'). (1980 Code, § 11-215, as replaced by Ord. #2010-01, Jan. 2010)

14-216. Alterations. No building or structure, whether conforming or non-conforming, shall be changed, expanded, or any way altered except in conformance with all provisions of chapters 2 through 12 of this title. An

example of a violation of this provision would be the division of a single dwelling unit into two (2) or more units except in conformance herewith. (1980 Code, § 11-216, as replaced by Ord. #2010-01, Jan. 2010)

14-217. Building permits in floodplains. No building permit shall be issued for the construction of any building for any residential, business, industrial, or public use, which would be within the floodplain of any creek, ditch, or stream, or which is subject to periodic or occasional inundation, as determined by the board of zoning appeals. This shall be construed to include the storage of any material which may float and cause drainage obstructions. (1980 Code, § 11-217, as replaced by Ord. #2010-01, Jan. 2010)

14-218. Classification of districts. For the purpose of chapters 2 through 12 of this title, Humboldt, Tennessee, is hereby divided into eleven (12) districts, designated as follows:

R-1	Low Density Residential
R-2	Medium Density Residential
R-3	High Density Residential
R-4	Residential--Professional
PRD	Planned Residential Development
B-1	Neighborhood Business
B-2	General Business
B-3	Central Business
H-M	Hospital-Medical
M-1	Light Industrial
M-2	Heavy Industrial
F-H	Flood Hazard District Overlay
ACR	Airport Clear Zone Overlay

(Ord. # 83-4, Aug. 1983, as replaced by Ord. #2010-01, Jan. 2010)

14-219. Boundaries of districts. (1) The boundaries of districts in § 14-218 of this chapter are hereby established as shown on the official zoning map entitled "Official Zoning Map of Humboldt, Tennessee," which is a part of chapters 2 through 12 of this title and which is on file in the city hall.

(2) Unless otherwise indicated on the zoning map, the boundaries are lot lines, the center lines of streets or alleys, railroad rights-of-way, or the corporate limit lines as they existed at the time of the enactment of the provisions of chapters 2 through 12 of this title. Questions concerning the exact

locations of district boundaries shall be determined by the board of zoning appeals.

(3) Where a district boundary divides a lot, as existing at the time the provisions of chapters 2 through 12 of this title takes effect and the major portion of said lot is in the less restricted, the regulations relative to that district may be extended to twenty feet (20') into the more restricted district within said lot. (1980 Code, § 11-219, as replaced by Ord. #2010-01, Jan. 2010)

14-220. Sign regulations. (1) Purposes. The purposes of these sign regulations are:

- (a) To encourage the effective use of signs as a means of communication in the city;
- (b) To maintain and enhance the aesthetic environment and the city's ability to attract sources of economic development and growth;
- (c) To improve pedestrian and traffic safety;
- (d) To minimize the possible adverse effect of signs on nearby public and private property; and
- (e) To enable the fair and consistent enforcement of these sign restrictions.

(2) Applicability--effect. A sign may be erected, placed, established, painted, created, or maintained in the city only in conformance with the standards, procedures, exemptions, and other requirements of this title. The effect of this title, as more specifically set forth therein, is:

- (a) To establish a permit system to allow a variety of types of signs in commercial and industrial zones, and a limited variety of signs in other zones, subject to the standards and the permit procedures of this title;
- (b) To allow certain signs that are small, unobtrusive, and incidental to the principal use of the respective lots on which they are located, subject to the substantive requirements of this title, but without a requirement for permits;
- (c) To prohibit all signs not expressly permitted by this title; and
- (d) To provide for the enforcement of the provisions of this title.

(3) Computations. The following principles shall control the computation of sign area and sign height.

(4) Computation of area of individual signs. The area of a sign face (which is also the sign area of a wall sign or other sign with only one (1) face) shall be computed by means of the smallest square, circle, rectangle, triangle, or combination thereof that will encompass the extreme limits of the writing, representation, emblem, or other display, together with any material or color forming an integral part of the background of the display or used to differentiate the sign from the backdrop or structure against which is placed, but not including any supporting framework, bracing, or decorative fence or wall when

such fence or wall otherwise meets zoning ordinance regulations and is clearly incidental to the display itself.

(5) Computation of area of multi-faced signs. The sign area for a sign with more than one (1) face shall be computed by adding together the area of all sign faces visible from any one (1) point. When two (2) identical sign faces are placed back to back, so that both faces cannot be viewed from any point at the same time, and when such sign faces are part of the same sign structure and are not more than forty-two inches (42") apart, the sign area shall be computed by the measurement of one (1) of the faces.

(6) Computation of height. The height of a sign shall be computed as the distance from the base of the sign at normal grade to the top of the highest attached component of the sign. Normal grade shall be construed to be the lower of:

(a) Existing grade prior to construction; or

(b) The newly established grade after construction, exclusive of any filling, berming, mounding, or excavating solely for the purpose of locating the sign. In cases in which the normal grade cannot reasonably be determined, sign height shall be computed on the assumption that the elevation of the normal grade at the base of the sign is equal to the elevation of the nearest point of the crown of a public street or the grade of the land at the principal entrance to the principal structure on the lot, whichever is lower.

(7) Computation of a maximum total permitted sign area for a lot. The permitted sum of the area of all individual signs on a lot shall be computed by applying the formula contained in Table 14-220B, Maximum Total Sign Area, to the lot frontage, building frontage, or wall area, as appropriate, for the zoning district in which the lot is located. Lots fronting on two (2) or more streets are allowed the permitted sign area for each street frontage. However, the total sign area that is oriented toward a particular street may not exceed the portion of the lot's total sign area allocation that is derived from the lot, building, or wall area frontage on that street.

(8) Signs allowed on private property with and without permits. Signs shall be allowed on private property in the city in accordance with, and only in accordance with, Table 14-220A. If the letters "OK" appear for a sign type in a column, such sign is allowed without prior permit approval in the zoning districts represented by that column. Special conditions may apply in some cases. If the letters "NO" appear for a sign type in a column, such a sign is not allowed in the zoning districts represented by that column under any circumstances. If the letter "P" appears, a permit is required. Although permitted under the previous paragraph, a sign designated by an "OK" or "P" in Table 14-220A shall be allowed only if:

(a) The sum of the area of all building and freestanding signs on the lot conforms with the maximum permitted sign area as determined

by the formula for the zoning district in which the lot is located as specified in Table 14-220B;

(b) The size, location, and number of signs on the lot conform with the requirements of Tables 14-220B, which establish permitted sign dimensions by sign type, and with any additional limitations listed in Table 14-220A;

(c) The characteristics of the sign conform with the limitations on characteristics listed in Table 14-220A.

(9) Permits required. If a sign requiring a permit under the provision of this title is to be placed, constructed, erected, or modified on a lot, the owner of the lot shall secure a sign permit prior to the construction, placement, erection, or modification of such a sign in accordance with the requirements of § 14-220(27).

(a) No signs shall be erected in the public right-of-way except in accordance with § 14-220(22).

(b) No sign permit of any kind shall be issued for an existing or proposed sign unless such sign is consistent with the requirements of this title (including those protecting existing signs) in every respect and with the master signage plan or common signage plan in effect for the property.

Table 14-220A

Signs by Type and Zoning District

District	R-1	R-2	R-3	R-4	B-1	B-2	B-3	H-M	M-1	M-2
FREESTANDING										
Billboard	NO	NO	NO	NO	NO	P	P	P	P	P
Incidental	OK	OK	OK	OK	OK	OK	OK	OK	OK	OK
BUILDING										
Wall	NO	NO	NO	NO	NO	P	P	P	P	OK
Banner	NO	NO	NO	NO	NO	P	P	P	P	OK
Building Marker	OK	OK	OK	OK	OK	OK	OK	OK	OK	OK
Canopy Sign	NO	NO	NO	NO	NO	OK	OK	OK	OK	OK
Incidental ³	NO	NO	NO	OK	OK	OK	OK	OK	OK	OK
Marquee ⁴	NO	NO	NO	NO	NO	P	P	P	P	OK
Projecting ⁴	NO	NO	NO	NO	NO	P	P	P	P	OK

Sign Type	R-1	R-2	R-3	R-4	B-1	B-2	B-3	H-M	M-1	M-2
Area (sq. ft.)	4	4	4	12	12	40	81	40	40	12
Height	2	2	2	5	5	15	25	15	15	5
Setback	5	5	5	5	5	2	10	10	10	5
Number Permitted	1	1	1	1	1	1	1	1	1	1
Per Street Frontage					per 200 Lft*	per 100 Lft	per 200 Lft	per 400 Lft	per 400 Lft	

BUILDING

Area (max sq. ft.)	4	4	4	4	4	NA	NA	NA	NA	10
Wall Area (percent)	1%	1%	1%	1%	1%	10%	20%	5%	5%	NA

*Lft = linear feet

(10) Design, construction, and maintenance. All signs shall be designed, constructed, and maintained in accordance with the following standards:

(a) All signs shall comply with applicable provisions of the building code and the electrical code of the city at all times.

(b) Except for banners, flags and temporary signs, conforming in all respects with the requirements of this title, all signs shall be constructed of permanent materials and shall be permanently attached to the ground, a building, or another structure by direct attachment to a rigid wall, frame, or structure.

(11) Master or common signage plan. No permit shall be issued for an individual sign requiring a permit unless and until a master signage plan or a common signage plan for the lot on which the sign will be erected has been submitted and approved by the planning commission as conforming with this section.

(12) Master signage plan. For any lot on which the owner proposes to erect one (1) or more signs requiring a permit, unless such lot is included in a common signage plan, the owner shall submit to the planning commission a master signage plan containing the following:

(a) An accurate plot plan of the lot, at such scale as the planning commission may reasonably require;

(b) Location of buildings, parking lots, driveways, and landscaped areas on such lot;

(c) Computation of the maximum total sign area, the maximum area for individual signs, the height of signs and the number of freestanding signs allowed on the lot(s) included in the plan under this title; and

(d) An accurate indication on the plot plan of the proposed location of each present and future sign of any type, whether requiring a permit or not, except that incidental signs need not be shown.

(13) Common signage plan. If the owners of two (2) and more contiguous (disregarding intervening streets and alleys) lots or the owner of a single lot with more than one (1) building (not including any accessory building) file with the planning commission for such lots a common signage plan conforming with the provisions of this section, a twenty-five percent (25%) increase in the maximum total sign area shall be allowed for each included lot. This bonus shall be allocated within each lot as the owner(s) elects.

(14) Provisions of common signage plan. The common signage plan shall contain all of the information required for a master signage plan and shall also specify standards for consistency among all signs on the lots affected by the plan with regard to:

- (a) Color scheme;
- (b) Location of each sign on the buildings;
- (c) Lettering or graphic style;
- (d) Material and sign proportions;
- (e) Lighting.

(15) Limit on number of freestanding signs under common signage plan. The common signage plan, for all lots with multiple uses or multiple users, shall limit the number of freestanding signs to a total of one (1) for each street on which the lots included in the plan have frontage and shall provide for shared or common usage of such signs.

(16) Other provisions of master or common signage plans. The master or common signage plan may contain such other restrictions as the owners of the lots may reasonably determine.

(17) Consent. The master or common signage plan shall be signed by all owners or their authorized agents in such form as the enforcement officer shall require.

(18) Procedures. A master or common signage plan shall be included in any development plan, site plan, planned unit development plan, or other official plan required by the city for the proposed development and shall be processed simultaneously with such other plan.

(19) Amendment. A master or common signage plan may be amended by filing a new master or common signage plan that conforms with all requirements of the ordinance then in effect.

(20) Existing signs not conforming to common signage plan. If any new or amended common signage plan is filed for a property on which existing signs are located, it shall include a schedule for bringing into conformance, within

three (3) years, all signs not conforming to the proposed amended plan or to the requirements of this title in effect on the date of submission. This schedule shall be enforced by the enforcement officer.

(21) Binding effect. After approval of a master or common signage plan, no sign shall be erected, placed, painted, or maintained, except in conformance with such plan, and such plan may be enforced in the same way as any provision of this title. In case of any conflict between the provisions of such a plan and any other provision of this title, this title shall control.

(22) Signs in the public right-of-way. No sign shall be allowed in the public right-of-way, except for the following:

(a) Permanent signs. Permanent signs, including: public signs erected by or on behalf of a governmental body to post legal notices identify public property, convey public information, and direct or regulate pedestrian or vehicular traffic; bus stop signs erected by a public transit company; informational signs of a public utility regarding its poles, lines, pipes, or facilities, and awning, projecting, and suspended signs projecting over a public right-of-way in conformity with the conditions of Table 14-220A of this chapter.

(b) Emergency signs. Emergency warning signs erected by a governmental agency, a public utility company, or a contractor doing authorized or permitted work within the public right-of-way.

(c) Other signs forfeited. Any sign installed or placed on public property, except in conformance with the requirements of this section, shall be forfeited to the public and subject to confiscation. In addition to other remedies hereunder, the city shall have the right to recover from the owner or person placing such a sign the full costs of removal and disposal of such sign.

(23) Signs exempt from regulation under this ordinance. The following signs shall be exempt from regulation under this chapter:

(a) Any public notice or warning required by a valid and applicable federal, state, or local law, regulations, or ordinance;

(b) Any sign inside a building, attached to a window or door;

(c) Works of art that do not include a commercial message;

(d) Holiday lights and decorations with no commercial message;

(e) Traffic control signs on private property, such as Stop, Yield, and similar signs, the face of which meet Department of Transportation standards and which contain no commercial message of any sort;

(f) Temporary signs without a commercial message;

(g) Signs indicating anti-theft systems and alarm systems.

(24) Signs regulated as temporary signs. Temporary signs are permitted in all districts. There will not be a fee for temporary signs. The following types of signs shall be regulated as temporary signs within the City of Humboldt and shall be removed within a maximum period of thirty (30) days. Extensions to the thirty (30) day maximum are granted by the enforcement officer.

- (a) Beacons; and
- (b) Pennants; and
- (c) Strings of lights not permanently mounted to a rigid background, except those exempt under the previous section; and
- (d) Inflatable signs and tethered balloons; and
- (e) Temporary sales signs, to include but not limited to garage or yard sale signs (in accordance with current Humboldt City Code), personal business signs and signs intended to sell or distribute goods.

(25) General permit procedures. The following procedures shall govern the application for, and issuance of, all sign permits under this chapter, and the submission and review of common signage plans and master signage plans.

(26) Applications. All applications for sign permits of any kind and for approval of a master or common signage plan shall be submitted to the enforcement officer on an application form or in accordance with application specifications published by the enforcement officer.

(27) Fees. Each application for a sign permit or for approval of a master or common usage signage plan shall be accompanied by the applicable fees, which shall be established by the governing body of the city from time to time by resolution.

(28) Completeness. Within thirty (30) days of receiving an application for a sign permit or for a common or master signage plan, the enforcement officer shall review it for completeness. If the enforcement officer finds that it is complete, the application shall then be submitted to the planning commission for review. If the enforcement officer finds that it is incomplete, the enforcement officer shall, within such thirty (30) day period, send to the applicant a notice of the specific ways in which the application is deficient, with appropriate references to the applicable sections of this chapter.

(29) Action. Within thirty (30) days of the submission of a complete application for a sign permit, the planning commission shall either:

- (a) Authorize the issuance of a sign permit, if the sign(s) that is the subject of the application conforms in every respect with the requirements of this chapter and the applicable master or common signage plan; or
- (b) Reject the sign permit if the sign(s) that is the subject of the application fails in any way to conform with the requirements of this chapter and of the applicable master or common signage plan. If the sign permit is rejected by the planning commission, the owner/developer has a right to appeal to the board of zoning appeals.

(30) Permits to construct or modify signs. Signs identified as "P" on Table 14-220A shall be erected, installed, or created only in accordance with a duly issued and valid sign construction permit from the enforcement officer. Such permits shall be issued only in accordance with the following requirements and procedures.

(31) Permit for new sign or for sign modification. An application for construction, creation, or installation of a new sign or for modification of an existing sign shall be accompanied by detailed drawings to show the dimensions, design, structure, and location of each particular sign, to the extent that such details are not contained on a master signage plan or common signage plan then in effect for the lot. One (1) application and permit may include multiple signs on the same lot.

(32) Inspection. The enforcement officer shall inspect the lot for which each permit for a new sign or for modification of an existing sign is issued during the sixth month after the issuance of such permit or at such earlier date as the owner may request. If the construction is not substantially complete at the time of inspection, the permit shall lapse and become void. If the construction is complete and in full compliance with this chapter and with the building and electrical codes, the enforcement officer shall affix to the premises a permanent symbol identifying the sign(s) and the applicable permit by number or other reference. If the construction is substantially complete but not in full compliance with this chapter and applicable notice of the deficiencies and shall allow an additional thirty (30) days from the date of inspection for the deficiencies to be corrected. If the deficiencies are not corrected by such date, the permit shall lapse. If the construction is then complete, the enforcement officer shall affix to the premises the permanent symbol described above.

(33) Signs in the public right-of-way. No signs, whether permanent or temporary, may be placed in the public right-of-way. Enforcement shall include the removal of any signs in the right-of-way, with no compensation granted to the offending party or parties.

(34) Violations. Any of the following shall be a violation of this chapter and shall be subject to the enforcement remedies and penalties provided by this chapter and/or by state law.

(a) To install, create, erect, or maintain any sign in a way that is inconsistent with any plan or permit governing such sign or the lot on which the sign is located;

(b) To install, create, erect, or maintain any sign requiring a permit without such a permit;

(c) To fail to remove any sign that is installed, created, erected, or maintained in violation of this chapter; or

(d) Each sign installed, created, erected, or maintained in violation of this chapter shall be considered a separate violation when applying the penalty portions of this chapter.

(35) Fee schedule. Sign permits fees will be assessed and collected for each master or common signage plan. Fees for all new or modified permitted signs shall be based on the ratio of one dollar (\$1.00) per square foot of signage. Holiday oriented signs, public purpose signs without a commercial message and all signs excluded from this chapter shall not be required to pay sign permit

fees. (as added by Ord. #2005-01, Feb. 2005, and replaced by Ord. #2010-01, Jan. 2010)

14-221. Telecommunication structure requirements. (1) Purpose. The purpose of this section is to protect the following health and enhance the safety of the residents of the City of Humboldt by providing provisions relative to controlling the height, number and light emission of telecommunication structures in the city.

(2) Applicability. All new telecommunication structures which are defined as any system of wires, poles, rods, reflecting discs, or similar devices that exceed a height of twenty feet (20'), are not constructed upon a residential structure and are used for the transmission or reception of electromagnetic waves shall be required to submit a site plan for approval.

(3) Plan requirement. Prior to the issuance of a building permit for the construction of a tower or the utilization of an existing utility structure for telecommunications purposes, a site plan shall be submitted and reviewed in accordance to with the provisions of the site plan review requirements in the Humboldt Zoning Ordinance and the following provisions:

(a) All new telecommunications structures not on an existing utility structure shall show the location of the tower and accessory structure and the location of two (2) future antennae arrays and accessory structures.

(b) A letter of intent from the owner allowing for the shared use of the tower.

(c) A letter from a professional engineer certifying that the tower's height and design complies with these regulations and all applicable structural standards and, also, describes the tower's capacity which includes the number and type of antennas that can be accommodated.

(d) A letter indicating why all existing towers within one (1) mile radius of the proposed tower cannot be utilized.

(4) Uses permitted on appeal. All telecommunication structures are only allowed in commercial and industrial districts as uses permitted on appeal.

(5) Prohibited uses. All telecommunication towers that exceed a height of twenty feet (20') constructed in a lattice type manner and any tower that is not specifically permitted as a use permitted on appeal.

(6) Type. Lattice or monopole type telecommunications towers are allowed.

(7) Accessory uses and structures. (a) A telecommunications structure, as defined in this section, shall not be considered as an accessory use to any permitted use or use permitted on appeal in any zoning district in the City of Humboldt. For the purpose of this section, transmission, switching and receiving buildings that provide for the operation of the tower, shall be considered as accessory uses. Any building that allows for the conduct

of business or requires partial occupation by person or persons for any part of a day shall not be considered as an accessory structure to a tower.

(b) A utility structure shall be limited to no more than two (2) accessory buildings or structures at the base of the power line structure or water tower.

(8) Structural requirements. (a) All new telecommunications structures not on an existing utility structure within the City of Humboldt shall be designed to accommodate a minimum of three (3) antenna arrays.

(b) All telecommunication structures on an existing utility structure shall be designed to accommodate a minimum of two (2) antenna arrays.

(c) All telecommunications structures, whether freestanding or on an existing utility structure shall be designed to withstand winds of a minimum of 70 mph with half an inch (1/2") radial ice.

(9) Setback. (a) All telecommunications structures and accessory structures that are not constructed on an existing utility structure shall be setback from the property lines a distance equal to seventy percent (70%) of the height of the structure. The setback shall be measured from the security fence to all of the surrounding property lines.

(b) In instances when telecommunications structures and accessory structures are constructed adjacent to a residential district, either immediately adjacent to such property or across a public way, the minimum setback from a residential lot line or a residential district, measured from the security fence, shall be one hundred percent (100%) of the tower height plus ten feet (10').

(10) Co-use of utility structures. The co-use of existing utility structures in the City of Humboldt shall be encouraged on existing power line structures exceeding thirty feet (30') in height and water towers.

(11) Height. No tower shall exceed one hundred fifty feet (150'). In instances when a tower is to be located upon or within an existing utility structure, which is defined as an existing power line structure that exceeds thirty feet (30') or an existing water tower, the maximum height shall not exceed the height of the structure plus fifteen feet (15').

(12) Shared use. The shared use of existing towers within the City of Humboldt shall be encouraged through the requirement of having all new towers designed for additional users. All proposals for a new telecommunications structure shall demonstrate, through documentation, that no existing towers within a one (1) mile radius of the proposed tower will accommodate a new antenna array for one (1) or more of the following reasons:

(a) The planned antenna array equipment would exceed the structural capacity of all existing or approved towers and existing utility structures and said towers and structures cannot be upgraded at a reasonable cost.

(b) The planned equipment would cause Radio Frequency (RF) interference with other existing or planned equipment.

(c) The planned equipment would not function effectively and reasonably on an existing tower or utility structure.

(d) Geographic service requirements would prevent the co-use of an existing tower or utility structure.

(13) Security. All telecommunications structures, whether freestanding or on an existing utility structure, shall be fully secured through the installation of a security fence/wall system of a minimum height of eight feet (8') or the height of the accessory structures, whichever is greater.

(14) Landscaping. All freestanding towers and utility structures shall have a four foot (4') wide landscaping strip around the perimeter of the security fence. The landscaping strips shall be installed for the permanent year round protection of adjacent property owners by visually shielding the contents at the base of the tower from adjoining property owners. The landscaping strip shall consist of a combination of trees, shrubs, vines and other ground covers that are expected to grow to a height of eight feet (8').

The landscaping provision of this subsection may be varied or reduced if the proposed plan provides for unique and innovative landscaping treatment or there are existing physical features that meet the intent and purpose of this section.

(15) Vehicle access/parking. (a) The location and design of driveways and/or access easements to the facility from a public street shall be depicted on the site plan and shall be approved by the planning commission.

(b) No parking spaces shall be required for the site since the site shall not have workers that remain at the site on a full or part-time basis.

(16) Lighting. (a) Towers. No artificially lighted tower shall be permitted in the City of Humboldt. If the Federal Aviation Administration (FAA) requires the proposed tower to be lighted, then the applicant shall be required to reduce the height of the tower or move the tower to eliminate the requirement for lighting.

(b) Structures. Outside lighting of structures, if required for safety and security purposes, shall be of a sensory fashion in which illumination offers only when the site is approached. The lighting shall be arranged to minimize glare and reflection on adjacent properties and public streets.

(17) Removal of obsolete towers. Any telecommunications structure that is no longer in use for its original purpose shall be removed at the owner's expense. The owner shall provide the city with a copy of the notice of intent to cease operations that must be submitted to the FCC and shall be given ninety (90) days from the date of ceasing operations to remove the obsolete tower and any accessory structure(s). In case of multiple operators sharing a single tower,

this provision shall not become effective until all users cease operations. (as added by Ord. #2010-01, Jan. 2010)

14-222. Contents of the site plan. (a) The site plan shall include:

- (i) Name of development and address.
- (ii) Name and address of owner of record and the applicant.
- (iii) Scale of one inch equals fifty feet (1" = 50') or larger.
- (iv) Note present zoning classification of the site and all abutting properties. Also, note nature of proposed use.
- (v) Date, scale, and north point with reference to source of meridian. Note all related dimensions and bearings of the lot.
- (vi) Courses and distances of center lines of all streets.
- (vii) All building restriction lines (yard setbacks and rights-of-way) right-of-way and highway setback lines, easements, covenants, reservations and rights-of-way.
- (viii) The acreage or square footage of the lot.
- (ix) Sufficient grade and elevation information to demonstrate that the property will properly drain and can be connected to the public sewer system to provide gravity discharge of waste from the building. Topography to be shown by dashed line illustrating contours.
- (x) A certificate by a licensed civil engineer, architect or land surveyor certifying that the plan as show is true and correct. Drainage plans requiring calculations shall be certified by a licensed civil engineer.
- (xi) A vicinity map showing the relationship of the proposed development to Humboldt.
- (xii) A form for certification of approval by the secretary of the planning commission.
- (xiii) A form for certification by the owner and trustee of the mortgage, if any, that they adopt the plan, and dedicate the streets and other public improvements shown on the plan and agree to make any required improvements as shown on the plan.

(b) The site plan shall show the location, dimensions, site and height of the following:

- (i) Sidewalks, streets, alleys, easements and utilities.
- (ii) Buildings and structures including the front (street) side and rear elevations of proposed buildings.
- (iii) Public sewer systems.
- (iv) Slopes, terraces, and retaining walls.
- (v) Driveways, entrances (all access points), exits, parking areas, sidewalks and garbage collection site.
- (vi) Water mains and fire hydrants.

- (vii) The following when applicable:
 - (A) Number and size of parking stalls and type of proposed pavement (either portland concrete or asphalt).
 - (B) Number of loading spaces and type of proposed pavement (either portland concrete asphalt).
- (viii) Plans for the collection and discharge of stormwater and methods for landscaping. The delineation of the limits of floodplains, if any. Also the site plan must denote the minimum 100-year, base flood elevation level if any portion of the site lies within the FEMA designated special flood hazard area.
- (ix) Proposed grading and drainage plan with calculations.
- (x) Detailed plans for landscaping and required screens.
- (c) The planning commission shall have the power to require such changes in the required site plan as may be necessary to minimize the impact of the proposed use. This may include, but not be limited to setbacks, screening, lighting, parking location and layouts, access and general landscaping requirements.
- (d) The planning commission, within sixty (60) days shall approve the site plan as submitted or reject the site plan as submitted. The reasons for rejection of the site plan shall be certified to the applicant in writing or by telecommunications. The planning commission shall have the authority to give conditional approval to a site plan, subject to revision being required of the applicant.
- (e) The certification required of the owner and trustee of the mortgage shall serve as the commitment by the owner that the site plan will be developed as shown on the site plan. Upon such certification by the owner, the approved site plan shall be recorded by the owner with the Gibson County Register's Office and shall regulate the development of the subject parcel. If, during the process of construction, the building inspector notes variations from the approved site plan, he shall promptly notify the owner in writing of these variations and shall direct that the variations be corrected within a specified period. If, after proper notice by the building inspector, the owner has not complied with these provisions of the approved site plan, the building inspector shall have the authority to cite the owner to municipal court for violation of this chapter. (as added by Ord. #2010-01, Jan. 2010)

CHAPTER 3

PROVISIONS GOVERNING RESIDENTIAL DISTRICTS

SECTION

- 14-301. R-1 (Low Density Residential) Districts.
- 14-302. R-2 (Medium Density Residential) Districts.
- 14-303. R-3 (High Density Residential) Districts.
- 14-304. R-4 (Residential-Professional) Districts.
- 14-305. PRD (Planned Residential District).

14-301. R-1 (Low Density Residential) Districts. The intent of the R-1 (Low Density Residential) is to provide for an area for single family residential free from conflicting residential uses. These areas should be served by all municipal services. Within the R-1 (Low Density Residential) Districts, as shown on the zoning map of Humboldt, Tennessee, the following regulations shall apply:

- (1) Uses permitted. (a) Single-family dwellings, not mobile homes.
 - (b) Accessory buildings customarily incidental to any aforementioned permitted use.
 - (c) Real estate signs advertising the sale, rental, or leasing of only the premises on which they are maintained, provided that they are not over four (4) square feet in area, and at least fifteen feet (15') from all lot lines.
 - (d) Townhouse residential development may be permitted as a special exception upon approval by the board of zoning appeals, and subject to such conditions as the board of zoning appeals may require in order to preserve and protect the character of the neighborhood in which the proposed development is located and provided that the following standards and criteria are met:
 - (i) Detail design criteria of the site plan.
 - (A) Not more than seven (7) contiguous townhouses, nor fewer than in a row with approximately the same (but staggered) front line;
 - (B) Minimum width for the lot on which any single townhouse unit is to be considered shall be twenty feet (20').
 - (C) Lot area per townhouse shall average no less than five thousand (5,000) square feet. The number of units permitted per site shall be determined on the following basis:

Ten thousand (10,000) square feet for the first unit plus five thousand (5,000) square feet for each additional unit.

(D) No portion of a townhouse or accessory structure shall be closer than twenty feet (20') to any portion of a townhouse or accessory structure related to another group.

(ii) Area regulations (project area or parcel).

(A) The townhouse project area or parcel shall front on a public street for at least one hundred feet (100').

(B) Land requirements for the perimeter of the townhouse project area or parcel shall be as follows:

(1) Front yard or corner side yard. The minimum depth of the front yard or corner side yard shall be thirty feet (30').

(2) Side yard. The minimum depth of the side yard shall be ten feet (10').

(3) Rear yard. The minimum depth of the rear yard shall be thirty feet (30').

(iii) Height regulation. No townhouse structure shall exceed three (3) stories or thirty-five feet (35') in height. No accessory structure shall exceed two (2) stories or twenty-five feet (25') in height.

(iv) Open space. Minimum open space shall be computed at forty percent (40%) to the total area to be developed for townhouse purpose.

(v) Parking facilities. Insofar as practical, off-street parking shall be grouped in bays, in the interior of the project area. No off-street parking space shall be more than one hundred feet (100') by the more direct pedestrian route, from a door of the dwelling unit it is intended to serve. Two (2) parking spaces shall be provided for each dwelling unit. Unless specifically provided, no parking space shall be arranged so as to allow backing upon a public street.

(vi) Maintenance of private streets and utilities, open spaces and common areas. Provision for the maintenance of all private streets and utilities, and open spaces not platted as individual lots shall be included in the deed restrictions of the property. Individual utility, connections shall be provided to each townhouse dwelling unit.

(vii) Procedure for approval. The board of zoning appeals may make other reasonable requirements or information when necessary.

Upon receiving a properly submitted and prepared site plan, the building inspector, acting on behalf of the board of zoning appeals, shall refer the site plan to the planning commission of their review and recommendations. The planning commission shall

review the site plan of the proposed development and shall make recommendations to the board of zoning appeals, provided that any such recommendations shall be made within a maximum of thirty-five (35) days from the date first reviewed by the planning commission.

The board of zoning appeals, having received the recommendation of the planning commission, or in the event that recommendations are not received from the planning commission within thirty-five (35) days from the date first received by the planning commission, shall act upon the request for special exception in accordance with the procedures set forth in § 14-904, and may prescribe appropriate conditions and safeguard as authorized therein.

(viii) Relationship to the subdivision regulations. At the time an application is made for site plan approval of a townhouse development, the developer must also make application for preliminary approval of the subdivision plat. This is necessary since land is to be subdivided, and, in some cases, streets are to be dedicated. Both the site plan and the preliminary plat should be considered simultaneously. The site plan should form the sole basis for granting modifications with respect to subdivision regulations. The final subdivision plat may be submitted to the planning commission on all or any portion of a development in accordance with final plat requirements of the subdivision regulations.

(2) Uses permissible on appeal. Churches and other places of worship, parish houses, public libraries, schools offering general education courses, public parks and public recreational facilities, any railroad rights-of-way, as a matter of right, provided however, that the provisions hereof are observed and subject to approval of the site plans by the board of zoning appeals. The board of zoning appeals may attach such conditions to the permit as are necessary to minimize vehicle and pedestrian congestion and to preserve and protect the character of the district in which the proposed use is located. This power shall include: the power to require greater setbacks and yard spaces than required by other provisions of chapters 2 through 12 of this title, the power to specify access points and driveway and parking locations, and similar site design matters. This power shall not include the power to specify or alter the architectural style of proposed buildings, the power to specify building materials or colors, or other similar powers.

(b) The board of zoning appeals may at its discretion permit county, state or federal uses, public utilities facilities, cemeteries, philanthropic institutions and clubs, except a club the chief activity of which is customarily carried on as a business, customary general farming

uses, gardens and buildings incidental thereto, but not including animal or poultry farms or kennels; provided, however, that no permit shall be issued except with the written approval of the board of zoning appeals and subject to such conditions as the board of zoning appeals may require in order to preserve and protect the character of the district in which the proposed use is located.

(c) Customary incidental home occupations provided that no building permit or certificate of occupancy for such use shall be issued without the written approval of the board of zoning appeals and subject to such conditions as the board of zoning appeals may require in order to preserve and protect the character of the neighborhood in which the proposed use is located; and provided further that:

(i) The proposed use shall be located and conducted in the principal building only;

(ii) The principals and employees engaged in the proposed use shall be residents of the dwelling unit in which the proposed use is located;

(iii) Not more than fifteen percent (15%) of the total floor area in a dwelling unit shall be devoted to the proposed use;

(iv) The proposed use shall not constitute primary or incidental storage facility for a business, industrial, or agricultural activity conducted elsewhere;

(v) No activity, materials, goods or equipment indicative of the proposed use shall be visible from any public way;

(vi) The proposed use shall not be advertised by the display of goods or signs on the lot on which the proposed use is located.

(vii) The proposed use shall not generate noise, noise, odor, fumes, smoke, vehicular or pedestrian traffic, nor nuisance of any kind which would tend to depreciate the residential character of the neighborhood in which the proposed use is located;

(viii) The provisions of this section will not be used under any circumstance to permit barber shops, beauty shops, gift shops, florist shops, business offices or professional offices.

(d) Board of zoning appeals as home occupations subject to the requirements of subsection 14-301(2)(c), and submission of a site plan, except that the board may waive any site plan requirements it deems unnecessary for its review. The approval of the required site plan may be subject to such conditions as the board of zoning appeals may require in order to protect the children and to preserve and protect the character of the district in which the proposed use is to be located. At a minimum, the day care operations approved shall meet the following additional requirements:

(i) Minimum required lot area.

(A) Family day care home--ten thousand (10,000) square feet.

(ii) Minimum required fenced play area.

(A) Family day care home--one thousand four hundred (1,400) square feet.

(iii) The board of zoning appeals shall also specifically address the need for set back of fenced area and buffering of the fenced play area, and may require set back and/or buffering in specific cases to protect adjacent residential uses.

(iv) All outdoor play activities shall be conducted within the fenced play area.

(v) The family day care home facility maintenance and operation shall meet the requirements of the Tennessee Department of Human Services.

(vi) The family day care home shall be conducted in single-family residences only, not to include mobile homes. Accessory structures may not be used for day care facilities.

(vii) All persons engaged in the family day care home operation shall be residents of the home.

(viii) No more than fifteen percent (15%) of the ground floor area may be used in the home occupation.

(ix) There shall be no signs advertising the property as a day care facility.

(3) Uses prohibited. Any other use or structure not specifically permitted or permissible on appeal in this section is prohibited.

(4) Location of accessory buildings. (a) No accessory building shall be erected in any required front or side yard. Accessory buildings shall not cover more than thirty percent (30%) of any required rear yard, and shall be at least five feet (5') from all lot lines and from any other building on the same lot.

(b) Accessory buildings on corner lots shall conform with front yard setbacks for both intersecting streets.

(5) Regulations controlling lot area, lot width, yards, building height. The principal building shall be located so as to comply with the following requirements:

- (a) Minimum required lot area:
 - (i) Dwelling units 10,000 sq. ft.
 - (ii) Churches One (1) acre or 200 sq. ft. of lot area per auditorium seat, whichever is greater
 - (iii) Schools Five (5) acres plus one (1) acre for each one hundred (100) students

- (iv) Other uses As required by the board of appeals
- (b) Minimum required lot width at the building line:
 - (i) Dwellings 75 feet
 - (ii) Churches 200 feet
 - (iii) Other uses As required by the board of appeals
- (c) Minimum required front yard:
 - (i) Dwellings 30 feet
 - (ii) Churches 40 feet
 - (iii) Other uses 40 feet or more as required by the board of appeals
- (d) Minimum required rear yard:
 - (i) Dwellings 30 feet
 - (ii) Churches 30 feet
 - (iii) Other uses 30 feet or more as required by the board of appeals
- (e) Minimum required side yard on each side:
 - (i) Dwellings 10 feet
 - (ii) Churches 30 feet
 - (iii) Other uses 15 feet or more as required by the board of appeals
- (f) Minimum required side yards for side facing streets on corner lots 30 feet
- (g) Maximum lot coverage by all buildings:
 - (i) Dwellings and accessories 30%
 - (ii) Churches 25%
 - (iii) Other uses As required by the board of appeals
- (h) Maximum permitted height of structures:
 - (i) No building shall exceed three (3) stories or thirty-five feet (35') in height unless each side yard is increased over the required minimum by five feet (5') for every five feet (5'), or fraction thereof, of additional height over thirty-five feet (35'), not to exceed sixty-five feet (65'), however;
 - (ii) On a lot less than fifty feet (50') in width at the building line no building shall exceed one and one-half (1 1/2) stories or twenty-five feet (25') in height.
 - (iii) No accessory building shall exceed two (2) stories in height.

(iv) Free standing poles, spires, towers, antennae and similar structures not designed for, or suitable to human occupancy may exceed the height provisions of this chapter provided they comply with all other codes and ordinances and provided that they are located a distance equal to their own height plus ten feet (10') from the nearest property line.

(6) Site plan review. Prior to issuance of a building permit for any use except single-family dwellings, a site plan for the use and development of the entire tract shall be submitted to planning commission and Humboldt Utilities. The site plan shall conform to the requirements provided in § 14-222. (1980 Code, § 11-301, as amended by Ord. #83-4, Aug. 1983, Ord. #96-2, June 1996, Ord. #97-2, Aug. 1997, and Ord. #2000-08, March 2001, and replaced by Ord. #2010-01, Jan. 2010, and amended by Ord. #2010-04, May 2010)

14-302. R-2 (Medium Density Residential) Districts. The intent of the R-2 (Medium Density Residential) is to provide for an area that allows for single family and two-family residential development free from conflicting residential land uses. Within the R-2 (Medium Density Residential) Districts, as shown on the zoning map of Humboldt, Tennessee, the following regulations shall apply:

(1) Uses permitted. (a) Single and two-family dwellings, not to include mobile homes.

(b) Accessory buildings customarily incidental to any aforementioned permitted use.

(c) Real estate signs advertising the sale, rental, or leasing of only the premises on which they are maintained, provided that they are not over four (4) square feet in area, and at least fifteen feet (15') from all lot lines.

(2) Uses permissible on appeal. (a) Churches and other places of worship, parish houses, public libraries, schools offering general education courses, public parks and public recreational facilities, funeral homes provided they are located on a street of at least a collector classification, and railroad rights-of-way shall be permitted as a matter of right, provided however, that the provisions of chapters 2 through 12 of this title are observed and subject to approval of the site plans by the board of zoning appeals. The board of zoning appeals may attach such conditions to the permit as are necessary to minimize vehicle and pedestrian congestion and to preserve and protect the character of the district in which the proposed uses is located. This power shall include: the power to require greater setbacks and yard spaces than required by other provisions of this section, the power to specify access points and driveway and parking locations, and similar site design matters. This power shall not include the power to specify or alter the architectural

style or proposed buildings, the power to specify building materials or colors, or other similar powers.

(b) The board of zoning appeals may at its discretion permit county, state or federal uses, public utilities facilities, cemeteries, philanthropic institutions and clubs, except a club the chief activity of which is customarily carried on as a business, customary general farming uses, gardens and buildings incidental thereto, but not including animal or poultry farms or kennels; provided, however, that no permit shall be issued except with the written approval of the board of zoning appeals and subject to such conditions as the board of zoning appeals may require in order to preserve and protect the character of the district in which the proposed use is located.

(c) Customary incidental home occupations provided that no building permit or certificate of occupancy for such use shall be issued without the written approval of the board of zoning appeals and subject to such conditions as the board of zoning appeals may require in order to preserve and protect the character of the neighborhood in which the proposed use is located; and provided further that:

(i) The proposed use shall be located and conducted in the principal building only;

(ii) The principals and employees engaged in the proposed use shall be residents of the dwelling unit in which the proposed use is located;

(iii) Not more than fifteen percent (15%) of the total floor area in a dwelling unit shall be devoted to the proposed use;

(iv) The proposed use shall not constitute primary or incidental storage facility for a business, industrial, or agricultural activity conducted elsewhere;

(v) No activity, materials, goods or equipment indicative of the proposed use shall be visible from any public way;

(vi) The proposed use shall not be advertised by the display of goods or signs on the lot on which the proposed use is located;

(vii) The proposed use shall not generate noise, odor, fumes, smoke, vehicular or pedestrian traffic, nor nuisance of any kind which would tend to depreciate the residential character of the neighborhood in which the proposed use is located; and

(d) Townhouse residential development may be permitted as a special exception upon approval by the board of zoning appeals, and subject to such conditions as the board of zoning appeals may require in order to preserve and protect the character of the neighborhood in which the proposed development is located and provided that the following standards and criteria are met:

(i) Detail design criteria of the site plan:

(A) Not more than seven (7) contiguous townhouses, nor fewer than three (3), shall be built in a row with approximately the same (but staggered) front line;

(B) Minimum width for the lot on which any single townhouse unit is to be constructed shall be twenty feet (20');

(C) Lot area per townhouse shall average no less than thirty-five hundred (3,500) square feet. The number of units permitted per site shall be determined on the following bases:

Six thousand (6,000) square feet for the first unit plus three thousand five hundred (3,500) square feet for each additional unit.

(D) No portion of a townhouse or accessory structure shall be closer than fourteen feet (14') to any portion of a townhouse or accessory structure related to another group.

(E) Assisted living facilities provided, as conditions of approval of uses permissible on appeal, the subject property for such must be located on an arterial status street, and a site plan shall be approved by the planning commission. The board of zoning appeals may attach such conditions to the permit as are necessary to minimize vehicle and pedestrian congestion and to preserve and protect the character of the district in which the proposed use is located. This power shall include the following:

(1) The power to require greater setbacks and yard spaces than required by the other provisions of this section;

(2) The power to specify access points and driveway and parking locations, and similarly site design matters;

(3) The power to require proper buffering/screening in order to protect adjacent properties;

(4) This power shall not include the power to specify or alter the architectural style of proposed buildings, the power to specify building materials or colors, or other similar powers.

(ii) Area regulations (project area or parcel).

(A) The townhouse project area or parcel shall front on a public street for at least one hundred feet (100').

(B) Land requirements for the perimeter of the townhouse project area or parcel shall be as follows:

(1) Front yard or corner side yard. The minimum depth of the front yard or corner side yard shall be twenty-five feet (25').

(2) Side yard. The minimum depth of the side yard shall be seven feet (7').

(3) Rear yard. The minimum depth of the rear yard shall be twenty feet (20').

(C) Family day care homes may be permitted by the board of zoning appeals as home occupations subject to the requirements of § 14-302(2)(c), and submission of a site plan, except that the board may waive any site plan requirements it deems unnecessary for its review. The approval of the required site plan may be subject to such conditions as the board of zoning appeals may require in order to protect the children and to preserve and protect the character of the district in which the proposed use is to be located. At a minimum, the day care operations approved shall meet the following additional requirements:

(1) Minimum required lot area.

(a) Family day care home--6,000 square feet.

(2) Minimum required fenced play area.

(a) Family day care home--1,400 square feet.

(3) The board of zoning appeals shall also specifically address the need for set back of fenced play area and buffering of the fenced play area, and may require set back and/or buffering in specific cases to protect adjacent residential uses.

(4) All outdoor play activities shall be conducted within the fenced play area.

(5) The family day care home facility maintenance and operation shall meet the requirements of the Tennessee Department of Human Services.

(6) The family day care home shall be conducted in single-family residences only, not to include mobile homes. Accessory structures may not be used for day care facilities.

(7) All persons engaged in the family day care home operation shall be residents of the home.

(8) No more than fifteen percent (15%) of the ground floor area may be used in the home occupation.

(9) There shall be no signs advertising the property as a day care facility.

(iii) Height regulation. No townhouse structure shall exceed three (3) stories or thirty-five feet (35') in height. No accessory structure shall exceed two (2) stories or twenty-five feet (25') in height.

(iv) Open space. Minimum open space shall be computed at forty percent (40%) of the total area to be developed for townhouse purpose.

(v) Parking facilities. Insofar as practical, off-street parking shall be grouped in bays in the interior of the project area. No off-street parking space shall be more than one hundred feet (100'), by the more direct pedestrian route, from a door of the dwelling unit it is intended to serve. Two (2) parking spaces shall be provided for each dwelling unit. Unless specifically provided, no parking space shall be arranged so as to allow backing upon a public street.

(vi) Maintenance of private streets and utilities, open spaces and common areas. Provisions for the maintenance of all private streets and utilities, and open spaces not platted as individual lots shall be included in the deed restrictions of the property. Individual utility, connections shall be provided to each townhouse dwelling unit.

(vii) Procedure for approval. The board of zoning appeals may make other reasonable requirements for information when necessary.

Upon receiving a properly submitted and prepared site plan, the building inspector, acting on behalf of the board of zoning appeals, shall refer the site plan to the planning commission of their review and recommendations.

The planning commission shall review the site plan of the proposed development and shall make recommendations to the board of zoning appeals, provided that any such recommendations shall be made within a maximum of thirty-five (35) days from the date first reviewed by the planning commission.

The board of zoning appeals, having received the recommendation of the planning commission, or in the event that recommendations are not received from the planning commission within thirty-five (35) days from the date first received by the planning commission, shall act upon the request for special exception in accordance with the procedures set forth in § 14-904, and may prescribe appropriate conditions and safeguard as authorized therein.

- (i) Dwellings and apartments 25 feet
 - (ii) Churches 30 feet
 - (iii) Other uses 30 feet or more as required by the board of appeals.
- (d) Minimum required rear yard.
 - (i) Dwellings 20 feet
 - (ii) Churches 25 feet
 - (iii) Other uses 15 feet or more as required by the board of appeals.
- (e) Minimum required side yard on each side of lot.
 - (i) Dwellings and apartments 7 feet
 - (ii) Churches 25 feet
 - (iii) Other uses 10 feet or more as required by the board of appeals
- (f) Minimum required side yards for side facing streets on corner lots. 25 feet
- (g) Maximum lot coverage by all buildings.
 - (i) Dwellings, apartments and accessories 35%
 - (ii) Churches 30%
 - (iii) Other uses As required by the board of appeals
- (h) Maximum permitted height of structures.
 - (i) No building shall exceed three (3) stories or thirty-five feet (35') in height unless each side yard is increased over the required minimum by five feet (5') for every five feet (5'), or fraction thereof, of additional height over thirty-five feet (35'), not to exceed sixty-five feet (65'), however;
 - (ii) On a lot less than fifty feet (50') in width at the building line no building shall exceed one and one-half (1 1/2) stories or twenty-five feet (25') in height.
 - (iii) No accessory building shall exceed two (2) stories in height.
 - (iv) Free standing poles, spires, towers, antennae and similar structures not designed for, or suitable for human occupancy may exceed the height provisions of this chapter provided they comply with all other codes and ordinances and provided that they are located a distance equal to their own height plus ten feet (10') from the nearest property line.

(6) Site plan review. Prior to issuance of a building permit for any use except single-family dwellings and duplexes on single lots, a site plan for the use and development of the entire tract shall be submitted to the planning commission and Humboldt Utilities. The site plan shall conform to the requirements provided in § 14-222. (1980 Code, § 11-302, as amended by Ord. #83-4, Aug. 1983, Ord. #96-2, June 1996, Ord. #97-2, Aug. 1997, and Ord. #2000-08, March 2001, replaced by Ord. #2010-01, Jan. 2010, and amended by Ord. #2014-04, June 2014)

14-303. R-3 (High Density Residential) Districts. Within the R-3 (High Density Residential) Districts, as shown on the zoning map of Humboldt, Tennessee, the following regulations shall apply:

(1) Uses permitted. (a) Single, multi-family dwellings and apartments.

(b) Townhouses. Provided that the site plans are reviewed and approved by the planning commission. The planning commission shall have the power to require screening adjacent uses, adequate parking, access for fire protection, and service vehicles, and to assure that the maximum density standards are met.

(c) Accessory buildings customarily incidental to any aforementioned permitted use.

(d) Real estate signs advertising the sale, rental, or leasing of only the premises on which they are maintained, provided that they are not over four (4) square feet in area, and at least fifteen feet (15') from all lot lines.

(2) Uses permissible on appeal. (a) Churches and other places of worship, parish houses, public libraries, schools offering general education courses, public parks and public recreational facilities, funeral homes provided they are located on a street of at least a collector classification, and railroad rights-of-way shall be permitted as a matter of right, provided however, that the provisions of this section are observed and subject to approval of the site plans by the board of zoning appeals. The board of zoning appeals may attach such conditions to the permit as are necessary to minimize vehicle and pedestrian congestion and to preserve and protect the character of the district in which the proposed use is located. This power shall include: the power to require greater setbacks and yard spaces than required by other provisions of this section, the power to specify access points and driveway and parking locations, and similar site design matters. This power shall not include the power to specify or alter the architectural style of proposed buildings, the power to specify building materials or colors, or other similar powers.

(b) The board of zoning appeals may at its discretion permit county, state or federal uses, public utilities facilities, cemeteries, philanthropic institutions and clubs, except a club the chief activity of which is customarily carried on as a business, customary general farming

uses, gardens and buildings incidental thereto, but not including animal or poultry farms or kennels; provided, however, that no permit shall be issued except with the written approval of the board of zoning appeals and subject to such conditions as the board of zoning appeals may require in order to preserve and protect the character of the district in which the proposed use is located.

(c) Customary incidental home occupations provided that no building permit or certificate of occupancy for such use shall be issued without the written approval of the board of zoning appeals and subject to such conditions as the board of zoning appeals may require in order to preserve and protect the character of the neighborhood in which the proposed use is located; and provided further that:

(i) The proposed use shall be located and conducted in the principal building only;

(ii) The principals and employees engaged in the proposed use shall be residents of the dwelling unit in which the proposed use is located;

(iii) Not more than fifteen percent (15%) of the total floor area in a dwelling unit shall be devoted to the proposed use;

(iv) The proposed use shall not constitute primary or incidental storage facilities for a business, industrial, or agricultural activity conducted elsewhere;

(v) No activity, materials, goods or equipment indicative of the proposed use shall be visible from any public way;

(vi) The proposed use shall not be advertised by the display of goods or signs on the lot on which the proposed use is located;

(vii) The proposed use shall not generate noise, odor, fumes, smoke, vehicular or pedestrian traffic, nor nuisance of any kind which would tend to depreciate the residential character of the neighborhood in which the proposed use is located.

(d) Mobile home parks. Provided all provisions of the mobile home park ordinance are met.

(e) Family day care homes may be permitted by the board of zoning appeals as home occupations subject to the requirements of § 14-303(2)(c), and submission of a site plan, except that the board may waive any site plan requirements it deems unnecessary for its review. The approval of the required site plan may be subject to such conditions as the board of zoning appeals may require in order to protect the children and to preserve and protect the character of the district in which the proposed use is to be located. At a minimum, the day care operations approved shall meet the following additional requirements:

(3) Uses prohibited. Any other use or structure not specifically permitted or permissible on appeal in this section is prohibited.

(4) Location of accessory buildings. (a) No accessory building shall be erected in any required front or side yard. Accessory buildings shall not cover more than thirty percent (30%) of any required rear yard, and shall be at least five feet (5') from all lot lines and from any other building on the same lot.

(b) Accessory buildings on corner lots shall conform with front yard setbacks for both intersecting streets.

(5) Regulations controlling lot area, lot width, yards, building coverage, and building height. The principal building shall be located so as to comply with the following requirements:

(a) Minimum required lot area:

- | | | |
|-------|--|--|
| (i) | Dwelling units-single, and multiple family | 5,000 sq. ft. for the first dwelling unit plus 2,500 sq. ft. for each additional dwelling unit. |
| (ii) | Apartments | 10,000 sq. ft. for the first five (5) units plus 1,000 sq. ft. for each additional unit. |
| (iii) | Townhouses | 1,400 sq. ft. for any unit, provided, however, the overall density for the entire development shall be no lower than 2,000 sq. ft. per unit. |
| (iv) | Churches | 20,000 sq. ft. or 200 sq. ft. of lot area per auditorium seat, whichever is greater. |
| (v) | Schools | Five (5) acres plus one (1) acre for each 100 students. |
| (vi) | Other uses | As required by the board of appeals. |

(b) Minimum required lot width at the building line.

- | | | |
|-------|--------------------------|-------------------------------------|
| (i) | Dwellings and apartments | 50 feet |
| (ii) | Townhouses | none |
| (iii) | Churches | As required by the board of appeals |

(c) Minimum required front yard.

- | | | |
|-------|--------------------------|---------|
| (i) | Dwellings and apartments | 25 feet |
| (ii) | Townhouses | 20 feet |
| (iii) | Churches | 25 feet |

- (iv) Other uses 25 feet or more as required by the board of appeals
- (d) Minimum required rear yard.
 - (i) Dwelling and apartments 15 feet
 - (ii) Townhouses 15 feet
 - (iii) Churches 20 feet
 - (iv) Other uses 15 feet or more as required by the board of appeals
- (e) Minimum required side yard on each side of lot.
 - (i) Dwellings and apartments 5 feet
 - (ii) Townhouses None on side with townhouse common wall, 7 feet in all other cases.
 - (iii) Churches 20 feet
 - (iv) Other uses 10 feet or more as required by the board of appeals
- (f) Minimum required side yards for side facing streets on corner lots.
 - All uses 20 feet
- (g) Maximum lot coverage by all buildings.
 - (i) Dwellings and apartments 40%
 - (ii) Townhouses 60%
 - (iii) Churches 35%
 - (iv) Other uses As required by the board of appeals
- (h) Maximum permitted height of structures.
 - (i) No building shall exceed three (3) stories or thirty-five feet (35') in height unless each side yard is increased over the required minimum by five feet (5') for every five feet (5'), or fraction thereof, of additional height over thirty-five feet (35'), not to exceed sixty-five feet (65'), however;
 - (ii) On a lot less than fifty feet (50') in width at the building line no building shall exceed one and one-half (1 1/2) stories or twenty-five feet (25') in height.
 - (iii) No accessory building shall exceed two (2) stories in height.
 - (iv) Free standing poles, spires, towers, antennae and similar structures not designed for, or suitable to human occupancy may exceed the height provisions of this ordinance provided they comply with all other codes and ordinances and

provided that they are located a distance equal to their own height plus ten feet (10') from the nearest property line.

(6) Site plan review. Prior to issuance of a building permit for any use except single-family dwellings and duplexes on single lots, a site plan for the use and development of the entire tract shall be submitted to the planning commission and Humboldt Utilities. The site plan shall conform to the requirements provided in § 14-222. (1980 Code, § 11-303, as amended by Ord. #96-2, June 1996, Ord. #96-4, June 1996, Ord. #97-2, Aug. 1997, and Ord. #2000-08, March 2001, as replaced by Ord. #2010-01, Jan. 2010)

14-304. R-4 (Residential - Professional) Districts. Within the R-4 (Residential-Professional) Districts, as shown on the zoning map of Humboldt, Tennessee, the following regulations shall apply:

(1) Uses permitted. (a) Single and multi-family dwellings and apartments, not mobile homes.

(b) Townhouses.

(c) Accessory buildings customarily incidental to any aforementioned permitted use.

(d) Real estate signs advertising the sale, rental, or leasing of only the premises on which they are maintained, provided that they are not over four (4) square feet in area, and at least fifteen feet (15') from all lot lines.

(2) Uses permissible on appeal. (a) Clinics (outpatient), drug stores, professional and business offices and services, florist and flower shops, beauty and barber shops, special training schools, professional membership organizations, churches and other places of worship, parish houses, public libraries, schools offering general education courses, public parks and public recreational facilities, funeral homes provided they are located on a street of at least a collector classification, and railroad rights-of-way shall be permitted as a matter of right, provided however, that the provisions of this section are observed and subject to approval of the site plans by the board of zoning appeals. The board of zoning appeals may attach such conditions to the permit as are necessary to minimize vehicle and pedestrian congestion and to preserve and protect the character of the district in which the proposed use is located. This power shall include: the power to require greater setbacks and yard spaces than required by other provisions of this section, the power to specify access points and driveway and parking locations, and similar site design matters. This power shall not include the power to specify or alter the architectural style of proposed buildings, the power to specify building materials or colors, or other similar powers.

(b) The board of zoning appeals may at its discretion permit county, state or federal uses, public utilities facilities, cemeteries, philanthropic institutions and clubs, except a club the chief activity of

which is customarily carried on as a business, customary general farming uses, gardens and buildings incidental thereto, but not including commercial animal or poultry farms or kennels; provided, however, that no permit shall be issued except with the written approval of the board of zoning appeals and subject to such conditions as the board of zoning appeals may require in order to preserve and protect the character of the district in which the proposed use is located.

(c) Customary incidental home occupations provided that no building permit or certification of occupancy for such use shall be issued without the written approval of the board of zoning appeals and subject to such conditions as the board of zoning appeals may require in order to preserve and protect the character of the neighborhood in which the proposed use is located; and provided further that:

(i) The proposed use shall be located and conducted in the principal building only;

(ii) The principals and employees engaged in the proposed use shall be residents of the dwelling unit in which the proposed use is located;

(iii) Not more than fifteen percent (15%) of the total floor area in a dwelling unit shall be devoted to the proposed use;

(iv) The proposed use shall not constitute primary or incidental storage facilities for a business, industrial, or agricultural activity conducted elsewhere;

(v) No activity, materials, goods or equipment indicative of the proposed use shall be visible from any public way;

(vi) The proposed use shall not be advertised by the display of goods or signs on the lot on which the proposed use is located.

(d) Family day care homes may not be permitted by the board of zoning appeals as home occupations subject to the requirements of § 14-304(2)(c), and submission of a site plan, except that the board may waive any site plan requirements it deems unnecessary for its review. The approval of the required site plan may be subject to such conditions as the board of zoning appeals may require in order to protect the children and to preserve and protect the character of the district in which the proposed use is to be located. At a minimum, the day care operations approved shall meet the following additional requirements:

(i) Minimum required lot area.

(A) Family day care home -- 6,000 square feet.

(ii) Minimum required fenced play area.

(A) Family day care home--1,400 square feet.

(iii) The board of zoning appeals shall also specifically address the need for set back of fenced play area and buffering of

the fenced play area, and may require set back and/or buffering in specific cases to protect adjacent residential uses.

(iv) All outdoor play activities shall be conducted within the fenced play area.

(v) The family day care home facility maintenance and operation shall meet the requirements of the Tennessee Department of Human Services.

(vi) The family day care home shall be conducted in single-family residences only, not to include mobile homes. Accessory structures may not be used for day care facilities.

(vii) All persons engaged in the family day care home operation shall be residents of the home.

(viii) No more than fifteen percent (15%) of the ground floor area may be used in the home occupation.

(ix) There shall be no signs advertising the property as a day care facility.

(3) Uses prohibited. Any other use or structure not specifically permitted or permissible on appeal in this section is prohibited.

(4) Location of accessory buildings. (a) No accessory building shall be erected in any required front or side yard. Accessory buildings shall not cover more than thirty percent (30%) of any required rear yard, and shall be at least five feet (5') from all lot lines and from any other building on the same lot.

(b) Accessory buildings on corner lots shall conform with front yard setbacks for both intersecting streets.

(5) Regulations controlling lot area, lot width, yards, building coverage, and building height. The principal building shall be located so as to comply with the following requirements:

(a) Minimum required lot area.

(i) Dwelling units-single and multiple family 6,000 sq. ft. for the first dwelling unit plus 3,500 sq. ft. for each additional unit.

(ii) Apartments 10,000 sq. ft. for the first five (5) units plus 1,500 sq. ft. for each additional unit.

(iii) Townhouses 1,400 sq. ft. for any unit, provided, however, the overall density shall be no lower than 2,000 sq. ft. per unit.

- | | | |
|-------|--|---|
| (iv) | Other uses | As required by the board of appeals. |
| (b) | Minimum required lot width at the building line. | |
| (i) | Dwellings and apartments | 50 feet |
| (ii) | Townhouses | none |
| (iii) | Other uses | As required by the board of appeals. |
| (c) | Minimum required front yard. | |
| | All uses | 30 feet |
| (d) | Minimum required rear yard. | |
| | All uses | 15 feet |
| (e) | Minimum required side yard. | |
| (i) | Dwellings and apartments | 7 feet |
| (ii) | Townhouses | None on side with common wall, 7 feet in all other cases. |
| (f) | Minimum required side yards for side facing streets on corner lots. | |
| | All uses | 30 feet |
| (g) | Maximum lot coverage by all buildings. | |
| (i) | Dwellings and accessories | 40% |
| (ii) | Townhouses | 60% |
| (iii) | Other uses | As required by the board of appeals. |
| (h) | Maximum permitted height of structures. | |
| (i) | No building shall exceed three (3) stories or thirty-five feet (35') in height unless each side yard is increased over the required minimum by five feet (5') for every five feet (5'), or fraction thereof, of additional height over thirty-five feet (35'). | |
| (ii) | On a lot less than fifty feet (50') in width at the building line no building shall exceed one and one-half (1 1/2) stories of twenty-five feet (25') in height. | |
| (iii) | No accessory building shall exceed two (2) stories or twenty-five feet (25') in height. | |
| (iv) | Free standing poles, spires, towers, antennae and similar structures not designed for, or suitable for human occupancy may exceed the height provisions of this section provided they comply with all other codes and ordinances and provided that they are located a distance equal to their own height plus ten feet (10') from the nearest property line. | |

(6) Site plan review. Prior to issuance of a building permit for any use except single-family dwellings and duplexes on single lots, a site plan for the use and development of the entire tract shall be submitted to the planning commission and Humboldt Utilities. The site plan shall conform to the requirements provided within § 14-222. (1980 Code, § 11-304, as amended by Ord. #96-2, June 1996, Ord. #97-2, Aug. 1997, Ord. #2000-08, March 2001, Ord. #2006-01, May 2006, and replaced by Ord. #2010-01, Jan. 2010)

14-305. PRD (Planned Residential) District. The purpose of this section is to provide for greater flexibility in the development of residential districts. Within any residential districts as shown on the Zoning Map of Humboldt, Tennessee, the following regulations shall apply if a developer chooses to utilize a Planned Residential District.

(1) Definitions. (a) "Base zoning district." The zoning of the property prior to the establishment of the PRD.

(b) "Conditional zoning." The attachment of special conditions to a rezoning which are not spelled out in the text of the ordinance. Along with the devices to insure compliance, it may bind the developer to the conditions through filing a covenant.

(c) "Covenant." A private legal restriction on the use of land contained in the deed to the property or otherwise formally recorded. They can be used in rezoning restrictions to bond the land owner to use his property in a specific manner.

(d) "Density." The number of dwelling units permitted in a development.

(e) "Gross land area." All of the land area involved in the PRD.

(f) "Flexible regulations." Regulations which apply general standards to property with final decisions made shortly before development occurs. This has been a long-standing practice under subdivision regulations and increasingly is being applied under zoning. The intent is to widen the range of options available to developers and thereby lead to a better design. They recognize that the appropriate use for every parcel cannot be predetermined, as a result, policies and criteria for decision making are established often through performance standards, rather than specified uses and standards. Under most flexible techniques public officials or bodies have discretion in their decisions and frequently negotiate with developers before final approval is given. Thus, while development options are broad, development permission, once granted may be quite narrow. Among flexible zoning devices are floating zones, overlay zones, and PRDs.

(g) "Floating zone." A zoning district whose requirements are fully described in the text of the ordinance but which is unmapped. It is "anchored" to the land in response to an applicant's petition for a

rezoning, almost invariable through legislative action. The new zoning description then replaces the previous designation.

(h) "Net land area." The gross land area minus the area set aside for streets, drives, and parking.

(i) "PRD." Planned Residential Development.

(j) "Site plan." A plan drawn to scale showing uses and structures proposed for a parcel of land as required by the regulations involved. It includes at a minimum, lot line, streets, building sites, reserved open space, buildings, topography, location of existing and proposed utility lines, and etc.

(k) "Zero lot line." A development approach in which a building is sited on one (1) or more lot lines with no yard. It is possible for three (3) or four (4) sides of the building to be on the lot lines. The intent is to allow more flexibility in site design and to increase the amount of usable open space on the lot.

(2) Uses permitted. (a) All residential uses are permitted in the PRD subject to the approval of the city board of aldermen. Each development proposal shall be evaluated on its own merits, and no PRD shall be considered as setting a precedent. The applicant shall submit the intended residential use to the city board of aldermen and they shall determine if it is appropriate for the area. No residential uses are excluded from consideration. No uses are permitted outright, and are subject to review and prior approval. The city board of aldermen may require a deed covenant to enforce the approved use.

(b) Churches, schools, parks, playgrounds, and community buildings.

(c) Accessory uses and buildings customarily incidental and subordinate to the above.

(3) Area regulations. (a) Minimum PRD area. The minimum size of a parcel of land submitted for consideration as a PRD shall be two (2) acres.

(b) Required yard areas. The regulations governing the base zoning district shall apply for all yard requirements. The city board of aldermen may permit zero lot lines.

(c) Lot width. (i) For all residential uses there shall be a minimum lot width of sixty feet (60') at the front building line. Lot widths for single family attached dwellings shall be determined on the site plan and may be narrower than the minimum allowed width.

(ii) All other uses shall have a minimum lot width of one hundred feet (100') at the front building line.

(d) Density. (i) The number of dwelling units permitted in the PRD shall be determined by the following formula:

A	=	Gross land area.
B	=	Fifteen percent (15%) of land area for parking, streets, and drives.
C	=	Net land area.
D	=	Lot area requirements for single family dwellings from the base zoning district.
N	=	Number of dwelling units permitted.

$$A \times .15 = B$$

$$A - B = C$$

$$C/D = N$$

- (ii) All other uses shall be governed by the regulations established for the base zoning district.
- (c) Maximum area coverage. A maximum of forty percent (40%) of the gross land area can be covered by structures, parking and drives.
- (4) Height regulations. No building shall exceed three (3) stories or thirty-five feet (35') in height.
- (5) Off-street parking. (a) There shall be three (3) spaces for each dwelling unit.
- (b) Other uses shall be governed by § 14-308.
- (6) Screening and landscaping. (a) A minimum of sixty percent (60%) of the total land area shall be set aside as open space devoted to planting, patios, walkways, and recreation areas.
- (b) All open space areas shall be landscaped as approved by the city board of aldermen.
- (c) All fencing shall be of a wood or masonry material.
- (7) Administrative procedures for planned residential development. In establishing a Planned Residential Development District in accordance with this section the following shall be required:
- (a) Pre-submission conference with the planning staff;
 - (b) Compliance with chapter 11 of the zoning ordinance;
 - (c) A comprehensive site plan containing the following:
 - (i) Name of the development;
 - (ii) Name and address of developer;
 - (iii) Name, address and telephone number of designer;
 - (iv) Date, north arrow, and scale;
 - (v) Location of existing property lines, streets, buildings, easements, and utility lines;
 - (vi) Location and dimensions of proposed streets, easement utilities, structure and lot lines;
 - (vii) Proposed land uses and their locations;
 - (viii) Off-street parking;
 - (ix) Recreational areas;

- (x) Existing and finished contours;
- (xi) Any other information as may be required by the planning staff.
- (d) Architectural elevations;
- (e) Drainage plan;
- (f) Landscape plan;
- (g) Restrictive covenants;
- (h) Homeowner association agreements and bylaws.

(8) Every planned residential development district approved under these provisions shall be considered as an amendment to the zoning ordinance. In approving the PRD district the city board of aldermen may impose conditions relative to the standard of development. Those conditions shall be complied with before a building permit or certificates of occupancy is issued for the use of the land and/or any structure which is part of the said district and such conditions shall not be construed as conditions precedent to the approval of the zoning amendment, but shall be construed as conditions precedent to the granting of a building permit and/or certificate of occupancy.

(9) All PRDs approved in accordance with the provisions of this chapter in its original form or by subsequent amendment shall be references on the official zoning map.

(10) If favorable action is taken by the city board of aldermen on the petition for rezoning, the developer shall have one (1) year after the effective date of the PRD district rezoning to start construction. If construction has not been started in that time period the developer has one (1) month from the end of the year period to submit the PRD for re-approval. If the developer does not resubmit the PRD, the property shall automatically revert to the original zoning classification.

(11) Any unauthorized deviation from the approved site plan shall constitute a violation of the building permit authorizing construction of the development. In such cases where revisions would constitute a minor change in the site plan, the planning commission shall have the authority to authorize such changes. In all instances where a substantial change is requested or where there is any question of the magnitude or consequence of the proposed revision, such revisions shall be submitted to the planning commission and city board of aldermen for approval. (Ord. # 88-7, Sept. 1988, as amended by Ord. #2000-08, March 2001, and replaced by Ord. #2010-01, Jan. 2010)

CHAPTER 4

PROVISIONS GOVERNING BUSINESS DISTRICTS

SECTION

- 14-401. B-1 (Neighborhood Business) Districts.
- 14-402. B-2 (General Business) Districts.
- 14-403. B-3 (Central Business) District.
- 14-404. H-M (Hospital Medical) Districts.

14-401. B-1 (Neighborhood Business) Districts. Within the B-1 (Neighborhood Business) District as shown on the zoning map of Humboldt, Tennessee, the following regulations shall apply:

- (1) Uses permitted. (a) Retail sales; bakery and dairy products; drugs and pharmaceuticals; florist shops; gift shops; book stores; groceries; hardware; hobby shops; camera shops; and retail package liquor stores.
 - (b) Services: banks; savings and loan associations; barber shops; beauty shops; funeral homes; clinics; automobile service stations; laundry and dry cleaning pick up stations and self service laundry and dry cleaning facilities; medical offices; radio and television sales and service; shoe repair, restaurants.
 - (c) Churches; and, federal, state, and municipal uses.
 - (d) Advertising signs and advertising structures or lights for illuminating signs or buildings, provided they shall not be placed within the street right-of-way, nor shall they be beacon type. Portable structures with flashing lights are permissible, but there shall be no rotating light on such portable structure, nor shall there be any flashing lights on a portable structure that are red and such portable structures with flashing lights shall not be within fifty feet (50') of any street intersections and shall otherwise be in accordance with state law.
 - (e) Any accessory use or building customarily incidental to the above permitted uses.
- (2) Uses permitted on appeal. Any other use which in the opinion of the board of zoning appeals is similar in character and not detrimental to the neighborhood may be permitted on appeal.
- (3) Uses prohibited. Any use not specifically permitted or permitted on appeal in this section is prohibited.
- (4) Regulations controlling lot area, lot width, yards, building coverage, and building height.
 - (a) Minimum required lot area:
 - (i) Churches 15,000 sq. ft. or 200 sq. ft. of lot area per auditorium seating space whichever is greater.
 - (ii) Other uses No minimum requirements.

- (b) Minimum required lot width at building line:
 - (i) Gasoline service 120 feet
 - (ii) Churches 60 feet
 - (iii) Other uses No minimum requirements.
- (c) Minimum required front yard:
 - (i) Gasoline service stations 25 feet
 - (ii) Churches 30 feet
 - (iii) Other uses 25 feet
- (d) Minimum required rear yard:
 - All uses 20 feet
- (e) Minimum required side yard on each side of lot:
 - (i) Churches 15 feet
 - (ii) Other uses None required, however, if buildings do not have common or adjoining walls there shall be a side yard of at least five feet (5').
 - (iii) On lots adjacent to a residential district, all buildings shall be located so as to comply with the side yard requirement of the adjacent residential district on the side adjoining to the residential district.
- (f) Minimum required side yard for side facing street on corner lots -- 30 feet.
- (g) Installations essential to the business operation may be required to set back a greater distance from the street or alley so that any service rendered by the business will not obstruct any public way. This determination is to be made by the building inspector.
- (h) Maximum permitted height of structures:
 - (i) No building shall exceed three (3) stories or thirty-five feet (35') in height unless each side yard is increased over the required minimum by five feet (5') for every five feet (5'), or fraction thereof, of additional height over thirty-five feet (35'), not to exceed sixty-five feet (65'), however.
 - (ii) On a lot less than fifty feet (50') in width at the building line no building shall exceed one and one-half (1 1/2) stories or twenty-five feet (25') in height.
 - (iii) No accessory building shall exceed two (2) stories in height.
 - (iv) Free standing poles, spires, towers, antennae and similar structures not designed for, or suitable to human occupancy may exceed the height provisions of this section provided they comply with all other codes and ordinances and provided that they are located a distance equal to their own height plus ten feet (10') from the nearest property line.

(5) Site plan review. Prior to issuance of a building permit, a site plan for the use and development of the entire tract shall be submitted to the planning commission and Humboldt Utilities. The site plan shall conform to the requirements provided in § 14-222. (1980 Code, § 11-401, as amended by Ord. #84-12, Dec. 1984, Ord. #85-2, June 1985, Ord. #96-2, June 1996, and Ord. #2000-08, March 2001, and replaced by Ord. #2010-01, Jan. 2010)

14-402. B-2 (General Business) Districts. Within the B-2 (General Business) Districts as shown on the zoning map of Humboldt, Tennessee, the following regulations shall apply:

(1) Uses permitted. (a) Retail Sales: automobile sales; automobile parts; bakery and dairy products; drugs and pharmaceuticals; clinics, florist shops, gift shops; book stores, newspaper stand; groceries, hardware; boats and boating equipment; sporting goods; mobile home sales; paint and wallpaper stores; agricultural implements; furniture; household appliances; floor coverings and draperies; and nursery and greenhouses; beverage stores; and retail package liquor stores.

(b) Services: automobile repair; animal hospital or veterinarian clinic; commercial recreation; banks; savings and loan associations; barber and beauty shops; funeral homes; automobile service stations; laundry and dry cleaning establishments; business and professional offices; radio and television sales and service; shoe repair, motels and hotels; restaurants; trucking terminals; and moving companies.

(c) Manufacturing, processing or fabrication; manufacturing incidental to retail business or service where products are sold on the premises by producers and where not more than ten (10) operatives are employed in such manufacturing.

(d) Churches; and federal, state, and municipal uses. Non-church related group daycare homes and daycare centers subject to the following:

- (i) Minimum required lot area:
 - (A) Day care center 30,000 square feet.
 - (B) Group day care home 12,000 square feet.
- (ii) Minimum required fenced play area:
 - (A) Day care center 4,000 square feet plus 200 square feet per planned child capacity over 20 children.
 - (B) Group day care home 2,400 square feet.

(iii) The planning commission shall also specifically address the need for set back of fenced play area and buffering of the fenced play area, and may require set back and/or buffering in specific cases to protect adjacent residential uses.

(iv) If a lower level of day care operation is proposed to be expanded to a higher level of day care operation, the new day care operation shall need a new approval of use and site plan by the planning commission, and shall be subject to appropriate regulations.

(v) All outdoor play activities shall be conducted within the fenced play area.

(vi) The day care facilities, maintenance and operation shall meet the requirements of the Tennessee Department of Human Services.

(e) Advertising signs and advertising structures or lights for illuminating signs or buildings, provided they shall not be placed within the street right-of-way, nor shall they be beacon type. Portable structures with flashing lights are permissible, but there shall be no rotating light on such portable structure, nor shall there be any flashing lights on a portable structure that are red and such portable structures with flashing lights shall not be within fifty feet (50') of any street intersections and shall otherwise be in accordance with state law.

(f) Any accessory use or building customarily incidental to the above permitted uses.

(2) Uses permitted on appeal. (a) Any other use which in the opinion of the board of zoning appeals is similar in character and not detrimental to the neighborhood.

(3) Uses prohibited. Any use not specifically permitted or permitted on appeal in this section is prohibited.

(4) Regulations controlling lot area, lot width, yards, building coverage, and building height.

(a) Minimum required lot area:

(i) Churches 15,000 sq. ft. or 200 sq. ft. of lot area per auditorium seating space whichever is greater.

(ii) Other uses No minimum requirement.

(b) Minimum required lot width at building line:

(i) Gasoline service station 120 feet

(ii) Churches 100 feet

(iii) Other uses No minimum requirement.

(c) Minimum required front yard:

All uses 25 feet

(d) Minimum required rear yard:

All uses 7 feet

(e) Minimum required side yard on each side of lot:

(i) Churches 25 feet

- (ii) Other uses None required, however, if buildings do not have common or adjoining walls, there shall be a side yard of at least five feet (5').
- (iii) On lots adjoining a residential district, all buildings shall be located so as to comply with the side yard requirement of the adjacent residential district on the side adjacent to the residential district.
- (f) Minimum required side yard for side facing street on corner lots--twenty-five feet (25').
- (g) Installations essential to the business operation may be required to set back a greater distance from the street or alley so that any service rendered by the business will not obstruct any public way. This determination is to be made by the building inspector.
- (h) Maximum permitted height of structures:
 - (i) No building shall exceed three (3) stories or thirty-five feet (35') in height unless each side yard is increased over the required minimum by five feet (5') for every five feet (5'), or fraction thereof, of additional height over thirty-five feet (35'), not to exceed sixty-five feet (65'), however.
 - (ii) On a lot less than fifty feet (50') in width at the building line no building shall exceed one and one-half (1 1/2) stories or twenty-five feet (25') in height.
 - (iii) No accessory building shall exceed two (2) stories in height.
 - (iv) Free standing poles, spires, towers, antennae and similar structures not designed for, or suitable to human occupancy may exceed the height provisions of this section provided they comply with all other codes and ordinances and provided that they are located a distance equal to their own height plus ten feet (10') from the nearest property line.
- (5) Site plan review. Prior to issuance of a building permit, a site plan for the use and development of the entire tract shall be submitted to the planning commission and Humboldt Utilities. The site plan shall conform to the requirements provided in § 14-222. (1980 Code, § 11-402, as amended by Ord. #84-12, Dec. 1984, Ord. # 85-2, June 1985, Ord. #96-2, June 1996, Ord. #97-2, Aug. 1997, and Ord. #2000-08, March 2001, and replaced by Ord. #2010-01, Jan. 2010)

14-403. B-3 (Central Business) District. Within the B-3 (Central Business) District as shown on the zoning map of Humboldt, Tennessee, the following regulations shall apply:

- (1) Uses permitted. (a) Retail sales: bakery and dairy products; drugs and pharmaceuticals; florist shops; gift shops; book stores; groceries;

hardware; clothing and dry goods; hobby shops; camera shops; sporting goods; paint and wallpaper stores; furniture; household appliances; floor coverings and draperies; hats; shoes; air conditioning equipment; automobile parts; tires; jewelry stores; cloth shops; musical instruments; records and photographs; motorcycle and bicycle sales and service; department stores and general merchandise; and variety stores, automobile service stations, beverage stores, and retail package liquor stores.

(b) Services: banks; savings and loan associations; barber shops; beauty shops; clinic; laundry and dry cleaning pick up stations; self service laundry and dry cleaning; printing; business and professional offices; radio and television sales and service; shoe repair, hotels and motels; restaurants; photography studies; upholstery shops; commercial recreation, movie theaters and billiard parlors; business schools, art and music schools; driving schools; correspondence schools; beauty and barber schools; dancing schools; tailoring and dressmaking; and, watch repair.

(c) Churches, clubs and lodge halls, federal, state, and municipal uses. Non-church related group daycare homes and daycare centers subject to the following:

(i) Minimum required lot area:

- | | | |
|-----|---------------------|----------------|
| (A) | Day care center | 30,000 sq. ft. |
| (B) | Group day care home | 12,000 sq. ft. |

(ii) Minimum required fenced play area:

- | | | |
|-----|---------------------|---|
| (A) | Day care center | 4,000 sq. ft. plus
200 sq. ft. per
planned child
capacity over 20
children. |
| (B) | Group day care home | 2,400 sq. ft. |

(iii) The planning commission shall also specifically address the need for set back of fenced area and buffering of the fenced play area, and may require set back and/or buffering in specific cases to protect adjacent residential uses.

(iv) If a lower level of day care operation is proposed to be expanded to a higher level of day care operation, the new day care operation shall need a new approval of use and site plan by the planning commission, and shall be subject to appropriation regulations.

(v) All outdoor play activities shall be conducted within the fenced play area.

(vi) The day care facilities, maintenance and operation shall meet the requirements of the Tennessee Department of Human Services.

(d) Advertising signs and advertising structures or lights for illuminating signs or buildings, provided they shall not be placed within the street right-of-way, nor shall there be beacon type. Portable structures with flashing light are permissible, but there shall be no rotating light on such portable structure, nor shall there be any flashing lights or a portable structure that are red and such portable structures with flashing light shall not be within fifty feet (50') of any street intersections and shall otherwise be in accordance with state law.

(e) Any accessory use or building customarily incidental to the above permitted uses.

(2) Uses permitted on appeal. Any other use which in the opinion of the board of zoning appeals is similar in character and not detrimental to the neighborhood may be permitted on appeal.

(3) Uses prohibited. Any use not specifically permitted or permissible on appeal in this section is prohibited.

(4) Regulations controlling lot area, lot width, yards building coverage, and building height. No minimum requirements.

(5) Site plan review. Prior to issuance of a building permit, a site plan for the use and development of the entire tract shall be submitted to the planning commission and Humboldt Utilities. The site plan shall conform to the requirements provided in § 14-222. (1980 Code, § 11-403, as amended by Ord. #84-12, Dec. 1984, Ord. # 85-2, June 1985, Ord. #96-2, June 1996, Ord. #97-2, Aug. 1997, and Ord. #2000-08, March 2001, and replaced by Ord. #2010-01, Jan. 2010)

14-404. H-M (Hospital Medical) Districts. Within the H-M (Hospital Medical) Districts as shown on the zoning map of Humboldt, Tennessee, the following regulations shall apply:

(1) Uses permitted. (a) Hospitals for human care, offices, or clinics for medical or dental practice, clinical laboratories and public health administration office, medical and other technical services related to human care.

(b) Pharmacies devoted to the preparation and retailing of drugs, medicines, and surgical and orthopedic supplies.

(c) Living quarters for doctors, nurses, and interns.

(d) Nursing, convalescent, and rest homes.

(e) Any use customarily incidental to the above permitted uses.

(2) Permitted accessory uses. The sale of food, beverages, periodicals, and tobacco will not be permitted except for the convenience of the employees, patients and visitors within each hospital, clinic, or office building, and provided that any advertising of such sales shall be confined to the interior of the building and shall not be visible from the outside of such buildings. Access to any room or enclosure set aside for such sales shall be from the interior of the building only.

- (3) Uses permitted on appeal. None.
- (4) Prohibited uses. Any use not specifically permitted in this section is permitted.
- (5) Regulations controlling lot area, lot width, yards, building coverage and building height.
- (a) Minimum required lot area:
 - (i) Hospitals 5 acres.
 - (ii) Other uses None.
 - (b) Minimum required lot width at building line:
 - All uses None.
 - (c) Minimum required front yard:
 - All uses 40 feet.
 - (d) Minimum required rear yard:
 - All uses 30 feet.
 - (e) Minimum required side yard on each side of lot:
 - (i) All uses None required, however, if buildings do not have common or adjoining

Missing text?

- (i) No building shall exceed three (3) stories or thirty-five feet (35') in height unless each side yard is increased over the required minimum by five feet (5') for every five feet (5'), or fraction thereof, of additional height over thirty-five feet (35'), not to exceed sixty-five feet (65'), however.
 - (ii) On a lot less than fifty feet (50') in width at the building line no building shall exceed one and one-half (1 1/2) stories or twenty-five feet (25') in height.
 - (iii) No accessory building shall exceed two (2) stories in height.
 - (iv) Free standing poles, spires, towers, antennae and similar structures not designed for, or suitable to human occupancy may exceed the height provisions of this section provided they comply with all other codes and ordinances and provided that they are located a distance equal to their own height plus ten feet (10') from the nearest property line.
- (6) Site plan review. Prior to issuance of a building permit, a site plan for the use and development of the entire tract shall be submitted to the planning commission and Humboldt Utilities. The site plan shall conform to the requirements provided in § 14-222. (1980 Code, § 11-404, as amended by Ord. #96-2, June 1996, and Ord. #2000-08, March 2001, and replaced by Ord. #2010-01, Jan. 2010)

CHAPTER 5

PROVISIONS GOVERNING INDUSTRIAL DISTRICTS

SECTION

14-501. M-1 (Light Industrial) Districts.

14-502. M-2 (Heavy Industrial) Districts.

14-501. M-1 (Light Industrial) Districts. Within the M-1 (Light Industrial) districts as shown on the zoning map of Humboldt, Tennessee, the following regulations shall apply:

(1) Site plan prerequisite to approval (procedures). Prior to issuance of a building permit, a site plan for the use and development of the entire tract shall be submitted to the planning commission and Humboldt Utilities. The site plan shall conform to the requirements provided within § 14-222.

(2) Uses permitted. (a) Retail and wholesale sales; automobile sales and service; automobile parts; agricultural implement sales and service; lawn mower sales and service; lumber and building materials; paint; mobile home sales and service; boats and boating equipment sales and service; sporting goods; greenhouse and nursery products; hardware; motorcycle sales and service; and welding supplies.

(b) Services: animal hospital and clinics; automobile service stations; auto repair garages; truck stops; barber shops; beauty shops; laundry and dry cleaning; restaurants; truck terminals; printing; tire repair and recapping; pest extermination; sign shop; upholstery shops; plumbing and heating supply; outdoor advertising signs and structures; sheet metal shops and warehousing, including wholesale sales which are predominantly an enclosed warehouse operation but not including gravel, sand, fertilizers, or other nuisance producing goods.

(c) Manufacturing, processing or fabrication; canned or preserved fruits or vegetables; bakery products; bottling plants; candy and confectioneries; apparel and other finished products made from fabrics; drugs; footwear, except rubber; leather gloves and mittens; luggage goods, glass products, made of purchased glass; communication equipment; electronic components and accessories; professional, scientific and controlling instruments; photographic and optical goods; watches and clocks; and jewelry, silverware and plated ware.

(d) Federal, state and municipal uses.

(e) Research laboratories.

(f) Accessory use customarily incidental to any aforementioned permitted use.

(3) Uses permitted on appeal. Any other use which, in the opinion of the board of zoning appeals, is similar in character to those enumerated in subsection two (2) of this section and will not be detrimental to the district in

which located, subject to such conditions and safeguards as may be required by the board of zoning appeals.

(4) Uses prohibited. Any use not specifically permitted or permissible on appeal in this section is prohibited.

(5) Regulations controlling yards and building height.

- | | | |
|-----|---|---|
| (a) | Minimum required lot area | None |
| (b) | Minimum required front yard. | |
| | All uses | 35 feet |
| (c) | Minimum required rear yard. | |
| | All uses | 25 feet |
| (d) | Minimum required side yard on each side of lot. | |
| | All uses | 25 feet, except on lots adjacent to a residential district all buildings shall be located so as to comply with the side yard requirement of adjacent residential district on the side adjacent to the residential district. |

(e) Notwithstanding the above provision no yard will be required for that part of a lot which fronts on a railroad siding.

(f) Maximum permitted height of structures.

(i) No building shall exceed four (4) stories or forty feet (40') in height.

(ii) Free standing poles, spires, towers, antennae and similar structures may exceed the height provisions of all other codes and ordinances and provided that they are located a distance equal to their own height plus ten feet (10') from the nearest property line. (1980 Code, § 11-501, as amended by Ord. #96-2, June 1996, and Ord. #2000-08, March 2001, and replaced by Ord. #2010-01, Jan. 2010)

14-502. M-2 (Heavy Industrial) Districts. Within the M-2 (Heavy Industrial) District, as shown on the zoning map of Humboldt, Tennessee, the following regulations shall apply:

(1) Site plan review. (a) Prior to issuance of a building permit, a site plan for the use and development of the entire tract shall be submitted to the planning commission and Humboldt Utilities. The site plan shall conform to the requirements provided with § 14-222.

(2) Uses permitted. (a) Retail and wholesale sales: agricultural implement sales and service; lumber and building materials; paint; mobile home sales and services; boats and boating equipment sales and

services; sporting goods; greenhouse and nursery products; hardware; motorcycle sales and service; and welding supplies.

(b) Services: animal clinics and hospitals; automobile service stations; auto repair garages; truck stops; barber shops; beauty shops; laundry and dry cleaning; restaurants; truck terminals; printing; tire repair and recapping; pest extermination; sign shop; upholstery shop; plumbing and heating supply; outdoor advertising signs and structures; sheet metal shops; and warehousing, including wholesale sales.

(c) Manufacturing, processing or fabrication; canned or preserved fruits or vegetables; bakery products; bottling plants; candy and confectioneries; apparel and other finished products made from fabrics; drugs; footwear, except rubber; leather gloves and mittens; luggage, handbags and other personal leather goods; glass products, made of purchased glass; communication equipment; electronic components and accessories; professional, scientific and controlling instruments; photographic and optical goods; watches and clocks and jewelry, silverware and plated ware.

(d) Federal, state and municipal uses.

(e) Research laboratories.

(f) Accessory use customarily incidental to any aforementioned permitted use.

(3) Uses permitted on appeal. (a) Any other use which, in the opinion of the board of zoning appeals, is similar in character to those enumerated in subsection two (2) of this section and will not be detrimental to the district in which it is located, subject to such conditions and safeguards as may be required by the board of zoning appeals.

(b) Any of the following or other similar uses which in the opinion of the board of zoning appeals will be controlled so as not to produce injurious or obnoxious noise, vibrations, smoke, gas, fumes, odors, dust, or other objectionable conditions provided that written approval of the board of zoning appeals is obtained and subject to such conditions as the board may stipulate. Auto wrecking; bag cleaning; boiler and tank works; central mixing plant for cement, mortar, plaster or paving materials; creamery; crematory; curing; metal fabrication plant; quarry; gasoline or oil storage above ground in excess of five hundred (500) gallons; junk, scrap paper, rag storage and baling; sawmills; smelting plant; and the manufacture of acetylene, acid, alcohol, alcoholic beverages, ammonia, bleaching powder, condensed milk; chemicals, brick, pottery, terra cotta or tile, candles, disinfectants, dye stuffs, fertilizers, illuminating or heating gas (or storage of same), linseed oil, paint, oil, turpentine, varnish, soap and tar products; screws and bolts, wire and tires, or any other use which in the opinion of the board of zoning appeals can be controlled so as not to produce injurious or obnoxious noise,

vibrations, smoke, gas fumes, odors, dust or other objectionable conditions, provided that written approval of the board of zoning appeals is obtained and subject to such conditions as the board may stipulate.

(4) Uses prohibited. Any use not specifically permitted or permissible on appeal in this section is prohibited.

(5) Regulations controlling yards and building height.

(a) Minimum required lot area.

All uses None

(b) Minimum required front yard.

All uses 35 feet

(c) Minimum required rear yard.

All uses 20 feet

(d) Minimum required side yard on each side of lot.

All uses 10 feet, except on lots adjacent to a residential district; all buildings shall be located so as to comply with the side yard requirement of adjacent residential district on the side adjacent to the residential district.

(e) Notwithstanding the above provision, no yard will be required for that part of a lot which abuts on a railroad siding.

(f) Maximum permitted height of structures.

No building shall exceed five (5) stories or fifty feet (50') in height. (1980 Code, § 11-502, as amended by Ord. #96-2, June 1996, and Ord. #2000-08, March 2001, and replaced by Ord. #2010-01, Jan. 2010)

CHAPTER 6

AIRPORT HEIGHT REGULATIONS AND AIRPORT CLEAR ZONE (ACZ) DISTRICT

SECTION

- 14-601. Purpose.
- 14-602. Application of regulations.
- 14-603. Airspace obstruction zoning.
- 14-604. Land use safety zoning.
- 14-605. Marking and lighting.

14-601. Purpose. The purpose of this district is to establish regulations which will reduce or eliminate hazards to air navigation to minimize or prevent the loss of life, property damage, health and safety hazards, and government expenditures which result from air traffic accidents. (1980 Code, § 11-601, as replaced by Ord. #2010-01, Jan. 2010)

14-602. Application of regulations. (1) This district shall overlay land included within the airport hazard zones as shown on the zoning map. The regulations contained in this section shall apply to such land in addition to the regulations contained in the underlying zoning district of such land. Where there is a conflict between the provisions of this section and those of the underlying zoning district, the zone contained the more restrictive height regulations shall apply.

(2) The provisions of this section shall apply to any new use and any substantial improvement to an existing structure, when such uses and structures are located in the airport hazard zones established by this section.

(3) If a structure or tree is located in more than one (1) of the zones established by this section, the zone containing the more restrictive regulations shall apply to such structure or tree. (1980 Code, § 11-602, as replaced by Ord. #2010-01, Jan. 2010)

14-603. Airspace obstruction zoning. In order to carry out the purposes of this chapter, the following airspace zones are established, and schematically represented on the airspace obstruction zoning map. Except as otherwise provided in this chapter and except as necessary and incidental to airport operations, no structures or objects of nature growth shall be constructed, altered, maintained, or allowed to grow in any land area created in this section so as to project above any of the imaginary airspace surfaces described in this section. In those cases where an area is covered by more than one (1) height limitation, the more restrictive limitation applies:

(1) **Primary surface area.** The imaginary surface longitudinally centered on a runway extending two hundred feet (200') beyond each end. The

elevation of any point on the primary surface is the same as the elevation of the highest point on the runway centerline. The primary surface land area is that land which is directly below the primary surface.

The width of the primary surface, symmetrical about runway centerline, is:

(a) Five hundred feet (500') from Runway 4/22.

(2) Horizontal zone. All the airspace which lies directly under an imaginary horizontal surface one hundred fifty feet (150') above the established airport elevation, or a height of six hundred fifty feet (650') above mean sea level, the perimeter of which is constructed by swinging arcs of specified radii from the center of each end of the primary surface of each runway and connecting the adjacent arcs by lines tangent to those arcs. The radius of each arc is:

(a) Five thousand feet (5,000') from Runway 4/22.

The horizontal zone land area is the land which lies directly below the horizontal surface.

(3) Conical zone. All the airspace which lies directly under an imaginary surface extending upward and outward from the periphery of the horizontal surface at a slope of 20:1 for a horizontal distance of four thousand feet (4,000') as measured radially outward from the periphery of the horizontal surface.

The conical zone land area is that land which lies directly beneath the conical surface.

(4) Approach/departure zone. All the airspace which lies directly under an imaginary approach/departure surface longitudinally centered on the extended centerline at each end of the runway. The inner edge of the approach surface is at the same width and elevation as, and coincides with, the end of the primary surface.

(a) The approach/departure surface expands uniformly (flares outwardly) with a width of:

Two thousand feet (2,000') of a horizontal distance of five thousand feet (5,000') from primary surface edge of Runway 4/22.

(b) The approach departure surface inclines upward at a slope of:

20:1 for Runway 4/22.

The approach/departure zone land area is that land which lies directly beneath the approach/departure surface.

(5) Transitional zone. All the airspace which lies directly under an imaginary surface extending upward and outward perpendicular to the runway centerline (and the extended runway centerline) at a slope of 7:1 from the sides of the primary surface and from the side of the approach/departure surface until they intersect the horizontal surface of the conical surface.

The transitional zone land area is that land which lies directly beneath the transitional surface. (1980 Code, § 11-603, as replaced by Ord. #2010-01, Jan. 2010)

14-604. Land use safety zoning. (1) Safety zone boundaries. In order to carry out the purpose of this chapter as set forth above and also, in order to restrict those uses which may be hazardous to the operational safety of aircraft operating to and from the Humboldt Municipal Airport, and furthermore to limit population and building density in the critical airport areas, thereby creating sufficient open space so as to protect life and property in case of an accident, there are hereby created and established the following land use safety zones:

(a) Safety Zone A. All land in that portion of the approach zones of a runway, as defined in § 14-603(4) hereof, which extends outward from the end of primary surface a distance equal to:

(i) One thousand feet (1,000') fro runway 4/22.

(b) Safety Zone B. All land in that portion of the approach zones of a runway, as defined in § 14-603(4) hereof, which extends outward from Safety Zone A a distance equal to:

(i) Three thousand feet (3,000') for runway 4/22.

(c) Safety Zone C. All that land which is enclosed within the perimeter of the horizontal zone as defined in § 14-603(2) hereof, and which is not included in Zone A or Zone B. (as added by Ord. #2010-01, Jan. 2010)

14-605. Marking and lighting. The owner of any structure or tree which exceeds the height limits established by this section shall permit the installation, operation and maintenance thereon of such markers and lights as shall be deemed necessary by the airport manager to indicate to the operators of aircraft in the vicinity of the airport the presence of such airport hazards. Such markers and lights shall be installed, operated and maintained at the expense of the owner. (as added by Ord. #2010-01, Jan. 2010)

CHAPTER 7

FLOODPLAIN MANAGEMENT ORDINANCE

SECTION

- 14-701. Statutory authorization, findings of fact, purpose and objectives.
- 14-702. Definitions.
- 14-703. General provisions.
- 14-704. Administration.
- 14-705. Provisions for flood hazard reduction.
- 14-706. Variance procedures.
- 14-707. Legal status provisions.

14-701. Statutory authorization, findings of fact, purpose and objectives.¹ (1) Statutory authorization. The Legislature of the State of Tennessee has in Tennessee Code Annotated, §§ 13-7-201 through 13-7-210, delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the City of Humboldt, Tennessee, Mayor and Aldermen, do ordain as follows:

(2) Findings of fact. (a) The City of Humboldt, Tennessee, Mayor and its Legislative Body wishes to maintain eligibility in the National Flood Insurance Program (NFIP) and in order to do so must meet the NFIP regulations found in title 44 of the Code of Federal Regulations (CFR), ch. 1, section 60.3

(b) Areas of the City of Humboldt, Tennessee are subject to periodic inundation which could result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.

(c) Flood losses are caused by the cumulative effect of obstructions in floodplains, causing increases in flood heights and velocities; by uses in flood hazard areas which are vulnerable to floods; or construction which is inadequately elevated, floodproofed, or otherwise unprotected from flood damages.

(3) Statement of purpose. It is the purpose of this ordinance to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas. This ordinance is designed to:

¹Ord. #2007-05, "To incorporate the new model national flood insurance program floodplain"; replaced in its entirety by Ords. #2010-01 and #2010-08.

(a) Restrict or prohibit uses which are vulnerable to flooding or erosion hazards, or which result in damaging increases in erosion, flood heights, or velocities;

(b) Require that uses vulnerable to floods, including community facilities, be protected against flood damage at the time of initial construction;

(c) Control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of floodwaters;

(d) Control filling, grading, dredging and other development which may increase flood damage or erosion;

(e) Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands.

(4) Objectives. The objectives of this ordinance are:

(a) To protect human life, health, safety and property;

(b) To minimize expenditure of public funds for costly flood control projects;

(c) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

(d) To minimize prolonged business interruptions;

(e) To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in flood prone areas;

(f) To help maintain a stable tax base by providing for the sound use and development of floodprone areas to minimize blight in flood areas;

(g) To ensure that potential homebuyers are notified that property is in a floodprone area;

(h) To maintain eligibility for participation in the NFIP. (1980 Code, § 11-701, as replaced by Ord. #2010-01, Jan. 2010, and Ord. #2010-08, Oct. 2010)

14-702. Definitions. Unless specifically defined below, words or phrases used in this ordinance shall be interpreted as to give them the meaning they have in common usage and to give this ordinance its most reasonable application given its stated purpose and objectives.

(1) "Accessory structure" means a subordinate structure to the principal structure on the same lot and, for the purpose of this ordinance, shall conform to the following:

(a) Accessory structures shall only be used for parking of vehicles and storage.

(b) Accessory structures shall be designed to have low flood damage potential.

(c) Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters.

(d) Accessory structures shall be firmly anchored to prevent flotation, collapse, and lateral movement, which otherwise may result in damage to other structures.

(e) Utilities and service facilities such as electrical and heating equipment shall be elevated or otherwise protected from intrusion of floodwaters.

(2) "Act" means the statutes authorizing the National Flood Insurance Program that are incorporated in 42 U.S.C. 400-4128.

(3) "Addition (to an existing building)" means any walled and roofed expansion to the perimeter or height of a building.

(4) "Appeal" means a request for a review of the local enforcement officer's interpretation of any provision of this ordinance or a request for a variance.

(5) "Area of shallow flooding" means a designated AO or AH Zone on a community's Flood Insurance Rate Map (FIRM) with one percent (1%) or greater annual chance of flooding to an average depth of one to three feet (1-3') where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate; and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

(6) "Area of special flood-related erosion hazard" is the land within a community which is most likely to be subject to severe flood-related erosion losses. The area may be designated as Zone E on the Flood Hazard Boundary Map (FHBM). After the detailed evaluation of the special flood-related erosion hazard area in preparation for publication of the FIRM, Zone E may be further refined.

(7) "Area of special flood hazard. See "special flood hazard area."

(8) "Base flood" means the flood having a one percent (1%) chance of being equaled or exceeded in any given year. This term is also referred to as the 100-year flood or the one percent (1%) annual chance flood.

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

(10) "Building." See "structure."

(11) "Development" means any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavating, drilling operations, or storage of equipment or materials.

(12) "Elevated building" means a non-basement building built to have the lowest floor of the lowest enclosed area elevated above the ground level by means of solid foundation perimeter walls with openings sufficient to facilitate

the unimpeded movement of floodwater, pilings, columns, piers, or shear walls adequately anchored so as not to impair the structural integrity of the building during a base flood event.

(13) "Emergency flood insurance program" or "emergency program" means the program as implemented on an emergency basis in accordance with section 1336 of the Act. It is intended as a program to provide a first layer amount of insurance on all insurable structures before the effective date of the initial FIRM.

(14) "Erosion" means the process of the gradual wearing away of land masses. This peril is not "per se" covered under the program.

(15) "Exception" means a waiver from the provisions of this ordinance which relieves the applicant from the requirements of a rule, regulation, order or other determination made or issued pursuant to this ordinance.

(16) "Existing construction" means any structure for which the "start of construction" commenced before the effective date of the initial floodplain management code or ordinance adopted by the community as a basis for that community's participation in the NFIP.

(17) "Existing manufactured home park or subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, final site grading or the pouring of concrete pads) is completed before the effective date of the first floodplain management code or ordinance adopted by the community as a basis for that community's participation in the NFIP.

(18) "Existing structures" See "existing construction."

(19) "Expansion to an existing manufactured home park or subdivision" means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

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

(a) The overflow of inland or tidal waters.

(b) The unusual and rapid accumulation of runoff of surface waters from any source.

(21) "Flood elevation determination" means a determination by the Federal Emergency Management Agency (FEMA) of the water surface elevations of the base flood, that is, the flood level that has a one percent (1%) or greater chance of occurrence in any given year.

(22) "Flood elevation study" means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e., mudflow) or flood-related erosion hazards.

(23) "Flood Hazard Boundary Map (FHBM)" means an official map of a community, issued by FEMA, where the boundaries of areas of special flood hazard have been designated as Zone A.

(24) "Flood Insurance Rate Map (FIRM)" means an official map of a community, issued by FEMA, delineating the areas of special flood hazard or the risk premium zones applicable to the community.

(25) "Flood insurance study" is the official report provided by FEMA, evaluating flood hazards and containing flood profiles and water surface elevation of the base flood.

(26) "Floodplain" or "floodprone area" means any land area susceptible to being inundated by water from any source (see definition of "flooding").

(27) "Floodplain management" means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works and floodplain management regulations.

(28) "Flood protection system" means those physical structural works for which funds have been authorized, appropriated, and expended and which have been constructed specifically to modify flooding in order to reduce the extent of the area within a community subject to a "special flood hazard" and the extent of the depths of associated flooding. Such a system typically includes hurricane tidal barriers, dams, reservoirs, levees or dikes. These specialized flood modifying works are those constructed in conformance with sound engineering standards.

(29) "Floodproofing" means any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities and structures and their contents.

(30) "Flood-related erosion" means the collapse or subsidence of land along the shore of a lake or other body of water as a result of undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a flash flood, or by some similarly unusual and unforeseeable event which results in flooding.

(31) "Flood-related erosion area" or "flood-related erosion prone area" means a land area adjoining the shore of a lake or other body of water, which due to the composition of the shoreline or bank and high water levels or wind-driven currents, is likely to suffer flood-related erosion damage.

(32) "Flood-related erosion area management" means the operation of an overall program of corrective and preventive measures for reducing flood-related erosion damage, including but not limited to emergency preparedness plans, flood-related erosion control works and floodplain management regulations.

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

(34) "Freeboard" means a factor of safety usually expressed in feet above a flood level for purposes of floodplain management. "Freeboard" tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, blockage of bridge or culvert openings, and the hydrological effect of urbanization of the watershed.

(35) "Functionally dependent use" means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

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

(37) "Historic structure" means any structure that is:

(a) Listed individually in the National Register of Historic Places (a listing maintained by the U.S. Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register.

(b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

(c) Individually listed on the Tennessee Inventory of Historic Places and determined as eligible by states with historic preservation programs which have been approved by the Secretary of the Interior; or

(d) Individually listed on the City of Humboldt, Tennessee inventory of historic places and determined as eligible by communities with historic preservation programs that have been certified either:

(i) By the approved Tennessee program as determined by the Secretary of the Interior; or

(ii) Directly by the Secretary of the Interior.

(38) "Levee" means a man-made structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control or divert the flow of water so as to provide protection from temporary flooding.

(39) "Levee system" means a flood protection system which consists of a levee, or levees, and associated structures, such as closure and drainage

devices, which are constructed and operated in accordance with sound engineering practices.

(40) "Lowest floor" means the lowest floor of the lowest enclosed area, including a basement. An unfinished or flood resistant enclosure used solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance.

(41) "Manufactured home" means a structure, transportable in one (1) or more sections, which is built on a permanent chassis and designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle."

(42) "Manufactured home park or subdivision" means a parcel (or contiguous parcels) of land divided into two (2) or more manufactured home lots for rent or sale.

(43) "Map" means the Flood Hazard Boundary Map (FHBM) or the Flood Insurance Rate Map (FIRM) for a community issued by FEMA.

(44) "Mean sea level" means the average height of the sea for all stages of the tide. It is used as a reference for establishing various elevations within the floodplain. For the purposes of this ordinance, the term is synonymous with the National Geodetic Vertical Datum (NGVD) of 1929, the North American Vertical Datum (NAVD) of 1988, or other datum, to which base flood elevations shown on a community's flood insurance rate map are referenced.

(45) "National Geodetic Vertical Datum (NGVD)" means, as corrected in 1929, a vertical control used as a reference for establishing varying elevations within the floodplain.

(46) "New construction" means any structure for which the "start of construction" commenced on or after the effective date of the initial floodplain management ordinance and includes any subsequent improvements to such structure.

(47) "New manufactured home park or subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of this ordinance or the effective date of the initial floodplain management ordinance and includes any subsequent improvements to such structure.

(48) "North American Vertical Datum (NAVD)" means as corrected in 1988, a vertical control used as a reference for establishing varying elevations within the floodplain.

(49) "100-year flood" see "base flood."

(50) "Person" includes any individual or group of individuals, corporation, partnership, association, or any other entity, including state and local governments and agencies.

(51) "Reasonably safe from flooding" means base flood waters will not inundate the land or damage structures to be removed from the special flood hazard area and that any subsurface waters related to the base flood will not damage existing or proposed structures.

(52) "Recreational vehicle" means a vehicle which is:

(a) Built on a single chassis;

(b) Four hundred (400) square feet or less when measured at the largest horizontal projection;

(c) Designed to be self-propelled or permanently towable by a light duty truck;

(d) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

(53) "Regulatory floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

(54) "Riverine" means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

(55) "Special flood hazard area" is the land in the floodplain within a community subject to a one percent (1%) or greater chance of flooding in any given year. The area may be designated as Zone A on the FHBM. After detailed rate making has been completed in preparation for publication of the FIRM, Zone A usually is refined into Zones A, AO, AH, A1-30, AE or A99.

(56) "Special hazard area" means an area having special flood, mudslide (i.e., mudflow) and/or flood-related erosion hazards, and shown on an FHBM or FIRM as Zone A, AO, A1-30, AE, A99, or AH.

(57) "Start of construction" includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within one hundred (180) days of the permit date. The actual start means either the first placement of permanent construction of a structure (including a manufactured home) on a site, such as the pouring of slabs or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; and includes the placement of a manufactured home on a foundation. Permanent construction does not include initial land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds, not occupied as dwelling units or not part of the main

structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

(58) "State coordinating agency" the Tennessee Department of Economic and Community Development's Local Planning Assistance Office, as designated by the Governor of the State of Tennessee at the request of FEMA to assist in the implementation of the NFIP for the state.

(59) "Structure" for purposes of this ordinance, means a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

(60) "Substantial damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed fifty percent (50%) of the market value of the structure before the damage occurred.

(61) "Substantial improvement" means:

(a) Any reconstruction, rehabilitation, addition, alteration or other improvement of a structure in which the cost equals or exceeds fifty percent (50%) of the market value of the structure before the "start of construction" of the initial improvement. This term includes structures which have incurred "substantial damage," regardless of the actual repair work performed. The market value of the structure should be:

(i) The appraised value of the structure prior to the start of the initial improvement; or

(ii) In the case of substantial damage, the value of the structure prior to the damage occurring.

(b) The term does not, however, include either:

(i) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been pre-identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions and not solely triggered by an improvement or repair project; or

(ii) Any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure."

(62) "Substantially improved existing manufactured home parks or subdivisions" is where the repair, reconstruction, rehabilitation or improvement of the streets, utilities and pads equals or exceeds fifty percent (50%) of the value of the streets, utilities and pads before the repair, reconstruction or improvement commenced.

(63) "Variance" is a grant of relief from the requirements of this ordinance.

(64) "Violation" means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certification, or other evidence of compliance required in this ordinance is presumed to be in violation until such time as that documentation is provided.

(65) "Water surface elevation" means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, the North American Vertical Datum (NAVD) of 1988, or other datum, where specified, of floods of various magnitudes and frequencies in the floodplains of riverine areas. (1980 Code, § 11-702, as replaced by Ord. #2010-01, Jan. 2010, and Ord. #2010-08, Oct. 2010)

14-703. General provisions. (1) Application. This ordinance shall apply to all areas within the incorporated area of the City of Humboldt, Tennessee.

(2) Basis for establishing the areas of special flood hazard. The Areas of Special Flood Hazard identified on the incorporated areas Gibson County, Tennessee, as identified by FEMA, and in its Flood Insurance Study (FIS) Number 47053CV001A and Flood Insurance Rate Map (FIRM), Community Panel Numbers 47053C0380D, 47053C0381D, 47053C0382D, 47053C0383D, 47053C0384D, 47053C0390D, 47053C0392D, 47053C0395D, 47053C0405D, and 47053C0415D, dated November 5, 2008; the areas of special flood hazard identified on the Madison County, Tennessee, Federal Emergency Management Agency Flood Insurance Study (FIS) Number 47113CV00A and Madison County, Tennessee and incorporated areas (Humboldt) Flood Insurance Rate Map Numbers 47113C0020E and 47113C0040E, dated August 3, 2009, along with all supporting technical data, are adopted by reference and declared to be a part of this ordinance.

(3) Requirement for development permit. A development permit shall be required in conformity with this ordinance prior to the commencement of any development activities.

(4) Compliance. No land, structure or use shall hereafter be located, extended, converted or structurally altered without full compliance with the terms of this ordinance and other applicable regulations.

(5) Abrogation and greater restrictions. This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants or deed restrictions. However, where this ordinance conflicts or overlaps with another regulatory instrument, whichever imposes the more stringent restrictions shall prevail.

(6) Interpretation. In the interpretation and application of this ordinance, all provisions shall be:

- (a) Considered as minimum requirements;
- (b) Liberally construed in favor of the governing body; and
- (c) Deemed neither to limit nor repeal any other powers granted under Tennessee statutes.

(7) Warning and disclaimer of liability. The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of the City of Humboldt, Tennessee or by any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder.

(8) Penalties for violation. Violation of the provisions of this ordinance or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance shall constitute a misdemeanor punishable as other misdemeanors as provided by law. Any person who violates this ordinance or fails to comply with any of its requirements shall, upon adjudication therefore, be fined as prescribed by Tennessee statutes, and in addition, shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the City of Humboldt, Tennessee from taking such other lawful actions to prevent or remedy any violation. (1980 Code, § 11-703, as replaced by Ord. #2010-01, Jan. 2010, and Ord. #2010-08, Oct. 2010)

14-704. Administration. (1) Designation of ordinance administrator. The building inspector is hereby appointed as the administrator to implement the provisions of this ordinance.

(2) Permit procedures. Application for a development permit shall be made to the administrator on forms furnished by the community prior to any development activities. The development permit may include, but is not limited to the following: plans in duplicate drawn to scale and showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, earthen fill placement, storage of materials or equipment, and drainage facilities. Specifically, the following information is required:

(a) Application stage. (i) Elevation in relation to mean sea level of the proposed lowest floor, including basement, of all buildings where base flood elevations are available, or to certain height above the highest adjacent grade when applicable under this ordinance.

(ii) Elevation in relation to mean sea level to which any non-residential building will be floodproofed where base flood elevations are available, or to certain height above the highest adjacent grade when applicable under this ordinance.

(iii) A FEMA floodproofing certificate from a Tennessee registered professional engineer or architect that the proposed non-

residential floodproofed building will meet the floodproofing criteria in § 14-705(1) and (2).

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

(b) Construction stage. Within AE Zones, where base flood elevation data is available, any lowest floor certification made relative to mean sea level shall be prepared by or under the direct supervision of, a Tennessee registered land surveyor and certified by same. The administrator shall record the elevation of the lowest floor on the development permit. When floodproofing is utilized for a non-residential building, said certification shall be prepared by, or under the direct supervision of, a Tennessee registered professional engineer or architect and certified by same.

Within approximate A Zones, where base flood elevation data is not available, the elevation of the lowest floor shall be determined as the measurement of the lowest floor of the building relative to the highest adjacent grade. The administrator shall record the elevation of the lowest floor on the development permit. When floodproofing is utilized for a non-residential building, said certification shall be prepared by, or under the direct supervision of, a Tennessee registered professional engineer or architect and certified by same.

For all new construction and substantial improvements, the permit holder shall provide to the administrator an as-built certification of the lowest floor elevation or floodproofing level upon the completion of the lowest floor or floodproofing.

Any work undertaken prior to submission of the certification shall be at the permit holder's risk. The administrator shall review the above-referenced certification data. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further work being allowed to proceed. Failure to submit the certification or failure to make said corrections required hereby, shall be cause to issue a stop-work order for the project.

(3) Duties and responsibilities of the administrator. Duties of the administrator shall include, but not be limited to, the following:

(a) Review all development permits to assure that the permit requirements of this ordinance have been satisfied, and that proposed building sites will be reasonably safe from flooding.

(b) Review proposed development to assure that all necessary permits have been received from those governmental agencies from which approval is required by federal or state law, including section 404 of the Federal Water Pollution Control Act Amendments of 2972, 33 U.S.C. 1334.

(c) Notify adjacent communities and the Tennessee Department of Economic and Community Development, Local Planning Assistance

Office, prior to any alteration or relocation of a watercourse and submit evidence of such notification to FEMA.

(d) For any altered or relocated watercourse, submit engineering data/analysis within six (6) months to FEMA to ensure accuracy of community FIRM's through the letter of map revision process.

(e) Assure that the flood carrying capacity within an altered or relocated portion of any watercourse is maintained.

(f) Record the elevation, in relation to mean sea level or the highest adjacent grade, where applicable, of the lowest floor (including basement) of all new and substantially improved buildings, in accordance with § 14-704(2).

(g) Record the actual elevation, in relation to mean sea level or the highest adjacent grade, where applicable to which the new and substantially improved buildings have been floodproofed, in accordance with § 14-704(e).

(h) When floodproofing is utilized for a nonresidential structure, obtain certification of design criteria from a Tennessee registered professional engineer or architect, in accordance with § 14-704(2).

(i) Where interpretation is needed as to the exact location of boundaries of the areas of special flood hazard (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), make the necessary interpretation. Any person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this ordinance.

(j) When base flood elevation data and floodway data have not been provided by FEMA, obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal, state, or other sources, including data developed as a result of these regulations, as criteria for requiring that new construction, substantial improvements, or other development in Zone A on the City of Humboldt, Tennessee FIRM meet the requirements of this ordinance.

(k) Maintain all records pertaining to the provisions of this ordinance in the office of the administrator and shall be open for public inspection. Permits issued under the provisions of this ordinance shall be maintained in a separate file or marked for expedited retrieval within combined files. (as added by Ord. #2010-01, Jan. 2010, and replaced by Ord. #2010-08, Oct. 2010)

14-705. Provisions for flood hazard reduction. (1) General standards. In all areas of special flood hazard, the following provisions are required:

(a) New construction and substantial improvements shall be anchored to prevent flotation, collapse and lateral movement of the structure;

(b) Manufactured homes shall be installed using methods and practices that minimize flood damage. They must be elevated and anchored to prevent flotation, collapse and lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State of Tennessee and local anchoring requirements for resisting wind forces.

(c) New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage;

(d) New construction and substantial improvements shall be constructed by methods and practices that minimize flood damage;

(e) All electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;

(f) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;

(g) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters;

(h) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding;

(i) Any alteration, repair, reconstruction or improvements to a building that is in compliance with the provisions of this ordinance, shall meet the requirements of "new construction" as contained in this ordinance;

(j) Any alteration, repair, reconstruction or improvements to a building that is not in compliance with the provisions of this ordinance, shall be undertaken only if said non-conformity is not further extended or replaced;

(k) All new construction and substantial improvement proposals shall provide copies of all necessary federal and state permits, including section 404 of the Federal Water Pollution Control Act amendments of 1972, 33 U.S.C. 1334;

(l) All subdivision proposals and other proposed new development proposals shall meet the standards of § 14-705(2);

(m) When proposed new construction and substantial improvements are partially located in an area of special flood hazard, the entire structure shall meet the standards for new construction;

(n) When proposed new construction and substantial improvements are located in multiple flood hazard risk zones or in a flood

hazard risk zone with multiple base flood elevations, the entire structure shall meet the standards for the most hazardous flood hazard risk zone and the highest base flood elevation.

(2) Specific standards. In all areas of special flood hazard, the following provisions, in addition to those set forth in § 14-705(1), are required:

(a) Residential structures. In AE Zones where base flood elevation data is available, new construction and substantial improvement of any residential building (or manufactured home) shall have the lowest floor, including basement, elevated to no lower than one foot (1') above the base flood elevation. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate equalization of flood hydrostatic forces on both sides of exterior walls shall be provided in accordance with the standards of this section: "Enclosures."

Within approximate A Zones where base flood elevations have not been established and where alternative data is not available, the administrator shall require the lowest floor of a building to be elevated to a level of at least three feet (3') above the highest adjacent grade (as defined in § 14-702). Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate equalization of flood hydrostatic forces on both sides of exterior walls shall be provided in accordance with the standards of this section: "Enclosures."

(b) Non-residential structures. In AE Zones, where base flood elevation data is available, new construction and substantial improvement of any commercial, industrial, or non-residential building, shall have the lowest floor, including basement, elevated or floodproofed to no lower than one foot (1') above the level of the base flood elevation. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate equalization of flood hydrostatic forces on both sides of exterior walls shall be provided in accordance with the standards of this section: "Enclosures."

In approximate A Zones, where base flood elevations have not been established and where alternative data is not available, new construction and substantial improvement of any commercial, industrial, or non-residential building, shall have the lowest floor, including basement, elevated or floodproofed to no lower than three feet (3') above the highest adjacent grade (as defined in § 14-702). Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate equalization of flood hydrostatic forces on both sides of exterior walls shall be provided in accordance with the standards of this section: "Enclosures."

Non-residential buildings located in all A Zones may be floodproofed, in lieu of being elevated, provided that all areas of the building below the required elevation are watertight, with walls

substantially impermeable to the passage of water, and are built with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. A Tennessee registered professional engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions above, and shall provide such certification to the administrator as set forth in § 14-704(2).

(c) Enclosures. All new construction and substantial improvements that include fully enclosed areas formed by foundation and other exterior walls below the lowest floor that are subject to flooding, shall be designed to preclude finished living space and designed to allow for the entry and exit of flood waters to automatically equalize hydrostatic flood forces on exterior walls.

(i) Designs for complying with this requirement must either be certified by a Tennessee professional engineer or architect or meet or exceed the following minimum criteria.

(A) Provide a minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding;

(B) The bottom of all openings shall be no higher than one foot (1') above the finished grade;

(C) Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwaters in both directions.

(ii) The enclosed area shall be the minimum necessary to allow for parking of vehicles, storage or building access.

(iii) The interior portion of such enclosed area shall not be finished or partitioned into separate rooms in such a way as to impede the movement of floodwaters and all such partitions shall comply with the provisions of § 14-705(2).

(d) Standards for manufactured homes and recreational vehicles. (i) All manufactured homes placed, or substantially improved on:

(A) Individual lots or parcels;

(B) In expansions to existing manufactured home parks and subdivisions; or

(C) In new or substantially improved manufactured home parks or subdivisions, must meet all the requirements of new construction.

(ii) All manufactured homes placed or substantially improved in an existing manufactured home park or subdivision must be elevated so that either:

(A) In AE Zones, with base flood elevations, the lowest floor of the manufactured home is elevated on a

permanent foundation to no lower than one foot (1') above the level of the base flood elevation; or

(B) In approximate A Zones, without base flood elevations, the manufactured home chassis is elevated and supported by reinforced piers (or other foundation elements of at least equivalent strength) that are at least three feet (3') in height above the highest adjacent grade (as defined in § 14-702).

(iii) Any manufactured home, which has incurred "substantial damage" as the result of a flood, must meet the standards of § 14-705(1) and (2).

(iv) All manufactured homes must be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.

(v) All recreational vehicles placed in an identified special flood hazard area must either:

(A) Be on the site for fewer than one hundred eighty (180) consecutive days;

(B) Be fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is licensed, on its wheels or jacking system, attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached structures or additions); or

(C) The recreational vehicle must meet all the requirements for a new construction.

(e) Standards for subdivisions and other proposed new developed proposals. Subdivisions and other proposed new developments, including manufactured home parks, shall be reviewed to determine whether such proposals will be reasonably safe from flooding.

(i) All subdivision and other proposed new development proposals shall be consistent with the need to minimize flood damage.

(ii) All subdivision and other proposed new development proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage.

(iii) All subdivision and other proposed new development proposals shall have adequate drainage provided to reduce exposure to flood hazards.

(iv) In all approximate A Zones require that all new subdivision proposals and other proposed developments (including proposals for manufactured home parks and subdivisions) greater than fifty (50) lots or five (5) acres, whichever is the lesser, include within such proposals base flood elevation data (See § 14-705(5)).

(3) Standards for special flood hazard areas with established base flood elevations and with floodways designated. Located within the special flood hazard areas established in § 14-703(2), are areas designated as floodways. A floodway may be an extremely hazardous area due to the velocity of floodwaters, debris or erosion potential. In addition, the area must remain free of encroachment in order to allow for the discharge of the base flood without increased flood heights and velocities. Therefore, the following provisions shall apply:

(a) Encroachments are prohibited, including earthen fill material, new construction, substantial improvements or other development within the regulatory floodway. Development may be permitted however, provided it is demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practices that the cumulative effect of the proposed encroachments or new development shall not result in any increase in the water surface elevation of the base flood elevation, velocities, or floodway widths during the occurrence of a base flood discharge at any point within the community. A Tennessee registered professional engineer must provide supporting technical data, using the same methodologies as in the effective flood insurance study for the City of Humboldt, Tennessee and certification, thereof.

(b) New construction and substantial improvements of buildings, where permitted, shall comply with all applicable flood hazard reduction provisions of § 14-705(1) and (2).

(4) Standards for areas of special flood hazard zones AE with established base flood elevations but without floodways designated. Located within the special flood hazard areas established in § 14-703(2), where streams exist with base flood data provided but where no floodways have been designated (Zones AE), the following provisions apply:

(a) No encroachments, including fill material, new construction and substantial improvements shall be located within areas of special flood hazard, unless certification by a Tennessee registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, will not increase the water surface elevation of the base flood more than one foot (1') at any point within the community. The engineering certification should be supported by technical data that conforms to standard hydraulic engineering principals.

(b) New construction and substantial improvements of buildings, where permitted, shall comply with all applicable flood hazard reduction provisions of § 14-705(1) and (2).

(5) Standards for streams without established base flood elevations and floodways (A Zones). Located within the special flood hazard areas established in § 14-703(2), where streams exist, but no base flood data has been

provided and where a floodway has not been delineated, the following provisions shall apply:

(a) The administrator shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from any federal, state, or other sources, including data developed as a result of these regulations (see (b) below), as criteria for requiring that new construction, substantial improvements, or other development in approximate A Zones meet the requirements of § 14-705(1) and (2).

(b) Require that all new subdivision proposals and other proposed developments (including proposals for manufactured home parks and subdivisions) greater than fifty (50) lots or five (5) acres, whichever is the lesser, include within such proposals base flood elevation data.

(c) Within approximate A Zones, where base flood elevations have not been established and where such data is not available from other sources, require the lowest floor of a building to be elevated or floodproofed to a level of at least three feet (3') above the highest adjacent grade (as defined in § 14-702). All applicable data including elevations or floodproofing certifications shall be recorded as set forth in § 14-704(2). Openings sufficient to facilitate automatic equalization of hydrostatic flood forces on exterior walls shall be provided in accordance with the standards of § 14-705(2).

(d) Within approximate A Zones, where base flood elevations have not been established and where such data is not available from other sources, no encroachments, including structures or fill material, shall be located within an area equal to the width of the stream or twenty feet (20'), whichever is greater, measured from the top of the stream bank, unless certification by a Tennessee registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot (1') at any point within the City of Humboldt, Tennessee. The engineering certification should be supported by technical data that conforms to standard hydraulic engineering principles.

(e) New construction and substantial improvements of buildings, where permitted, shall comply with all applicable flood hazard reduction provisions of § 14-705(1) and (2). Within approximate A Zones, require that those regulations of § 14-705(2) dealing with the alteration or relocation of a watercourse, assuring watercourse carrying capacities are maintained and manufactured homes provisions are complied with as required.

(6) Standards for areas of shallow flooding (AO and AH Zones). Located within the special flood hazard areas established in § 14-703(2), are areas designated as shallow flooding areas. These areas have special flood

hazards associated with base flood depths of one to three feet (1-3') where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate; therefore, the following provisions, in addition to those set forth in § 14-705(1) and (2) apply:

(a) All new construction and substantial improvements of residential and nonresidential buildings shall have the lowest floor, including basement, elevated to at least one foot (1') above as many feet as the depth number specified on the FIRM's, in feet, above the highest adjacent grade. If no flood depth number is specified on the FIRM, the lowest floor, including basement, shall be elevated to at least three feet (3') above the highest adjacent grade. Openings sufficient to facilitate automatic equalization of hydrostatic flood forces on exterior walls shall be provided in accordance with standards of § 14-705(2).

(b) All new construction and substantial improvements of non-residential buildings may be floodproofed in lieu of elevation. The structure together with attendant utility and sanitary facilities must be floodproofed and designed watertight to be completely floodproofed to at least one foot (1') above the flood depth number specified on the FIRM, with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. If no depth number is specified on the FIRM, the structure shall be floodproofed to at least three feet (3') above the highest adjacent grade. A Tennessee registered professional engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this ordinance and shall provide such certification to the administrator as set forth above and as required in accordance with § 14-704(2).

(c) Adequate drainage paths shall be provided around slopes to guide floodwaters around and away from proposed structures.

(7) Standards for areas protected by flood protection system (A99 Zones). Located within the areas of special flood hazard established in § 14-703(2), are areas of the 100-year floodplain protected by a flood protection system but where base flood elevations have not been determined. Within these areas (A99 Zones) all provisions of §§ 14-704 and 14-705 shall apply.

(8) Standards for unmapped streams. Located within the City of Humboldt, Tennessee, are unmapped streams where areas of special flood hazard are neither indicated nor identified. Adjacent to such streams, the following provisions shall apply:

(a) No encroachments including fill material or other development including structures shall be located within an area of at least equal to twice the width of the stream, measured from the top of each stream bank, unless certification by a Tennessee registered

professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot (1') at any point within the locality.

(b) When a new flood hazard risk zone, and base flood elevation and floodway data is available, new construction and substantial improvements shall meet the standards established in accordance with §§ 14-704 and 14-705. (as added by Ord. #2010-01, Jan. 2010, and replaced by Ord. #2010-08, Oct. 2010)

14-706. Variance procedures. (1) Municipal board of zoning appeals.

(a) Authority. The City of Humboldt, Tennessee Municipal Board of Zoning Appeals shall hear and decide appeals and requests for variances from the requirements of this ordinance.

(b) Procedure. Meetings of the municipal board of zoning appeals shall be held at such times, as the board shall determine. All meetings of the municipal board of zoning appeals shall be open to the public. The municipal board of zoning appeals shall adopt rules of procedure and shall keep records of applications and actions thereof, which shall be a public record. Compensation of the members of the municipal board of zoning appeals shall be set by the legislative body.

(c) Appeals; how taken. An appeal to the municipal board of zoning appeals may be taken by any person, firm or corporation aggrieved or by any governmental officer, department, or bureau affected by any decision of the administrator based in whole or in part upon the provisions of this ordinance. Such appeal shall be taken by filing with the municipal board of zoning appeals a notice of appeal, specifying the grounds thereof. In all cases where an appeal is made by a property owner or other interested party, a fee of seventy-five dollars (\$75.00) for the cost of publishing a notice of such hearings shall be paid by the appellant. The administrator shall transmit to the municipal board of zoning appeals all papers constituting the record upon which the appeal action was taken. The municipal board of zoning appeals shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to parties in interest and decide the same within a reasonable time which shall not be more than fifteen (15) days from the date of the hearing. At the hearing, any person or party may appear and be heard in person or by agent or by attorney.

(d) Powers. The municipal board of zoning appeals shall have the following powers:

(i) Administrative review. To hear and decide appeals where it is alleged by the applicant that there is error in any order, requirement, permit, decision, determination, or refusal made by

the administrator or other administrative official in carrying out or enforcement of any provisions of this ordinance.

(ii) Variance procedures. In the case of a request for a variance the following shall apply:

(A) The City of Humboldt, Tennessee Municipal Board of Zoning Appeals shall hear and decide appeals and requests for variances from the requirements of this ordinance.

(B) Variances may be issued for the repair or rehabilitation of historic structures as defined, herein, upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary deviation from the requirements of this ordinance to preserve the historic character and design of the structure.

(C) In passing upon such applications, the municipal board of zoning appeals shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this ordinance, and:

(1) The danger that materials may be swept onto other property to the injury of others;

(2) The danger to life and property due to flooding or erosion;

(3) The susceptibility of the proposed facility and its contents to flood damage;

(4) The importance of the services provided by the proposed facility to the community;

(5) The necessity of the facility to a waterfront location, in the case of a functionally dependent use;

(6) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;

(7) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;

(8) The safety of access to the property in times of flood for ordinary and emergency vehicles;

(9) The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site;

(10) The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, water systems, and streets and bridges.

(D) Upon consideration of the factors listed above, and the purposes of this ordinance, the municipal board of zoning appeals may attach such conditions to the granting of variances, as it deems necessary to effectuate the purposes of this ordinance.

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

(2) Conditions for variances. (a) Variances shall be issued upon a determination that the variance is the minimum relief necessary, considering the flood hazard and the factors listed in § 14-706(1).

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

(c) Any applicant to whom a variance is granted shall be given written notice that the issuance of a variance to construct a structure below the base flood elevation will result in increased premium rates for flood insurance (as high as twenty-five dollars (\$25.00) for one hundred dollars (\$100.00)) coverage, and that such construction below the base flood elevation increases risks to life and property.

(d) The administrator shall maintain the records of all appeal actions and report any variances to FEMA upon request. (as added by Ord. #2010-01, Jan. 2010, and replaced by Ord. #2010-08, Oct. 2010)

14-707. Legal status provisions. (1) Conflict with other ordinances. In case of conflict between this ordinance or any part thereof, and the whole or part of any existing or future ordinance of the City of Humboldt, Tennessee, the most restrictive shall in all cases apply.

(2) Severability. If any section, clause, provision, or portion of this ordinance shall be held to be invalid or unconstitutional by any court of competent jurisdiction, such holding shall not affect any other section, clause, provision, or portion of this ordinance which is not of itself invalid or unconstitutional.

(3) Effective date. This ordinance shall become effective immediately after its passage, in accordance with the Charter of the City of Humboldt,

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Tennessee, and the public welfare demanding it. (as added by Ord. #2010-01, Jan. 2010, and replaced by Ord. #2010-08, Oct. 2010)

CHAPTER 8

EXCEPTIONS AND MODIFICATIONS

SECTION

14-801. Lot of record.

14-802. Front yards.

14-803. Group housing project.

14-804. [Deleted.]

14-805. [Deleted.]

14-801. Lot of record. Where the owner of a lot consisting of one (1) or more adjacent lots of official record at the time of the adoption of the provisions of chapters 2 through 12 of this title, does not own sufficient land to enable him to conform to the yard or other requirements hereof, an application may be submitted to the board of zoning appeals for a variance from the terms of chapters 2 through 12 of this title, in accordance with § 14-804. Such lot may be used as a building site, provided, however, that the yard and other requirements of the district are complied with as closely as is possible in the opinion of the board of zoning appeals. (Ord. #92-10, Nov. 1992, as amended by Ord. #95-11, Dec. 1995, and Ord. #97-2, Aug. 1997, and replaced by Ord. #2010-01, Jan. 2010)

14-802. Front yards. The front yard requirements of chapters 2 through 12 of this title shall not apply to any lot where the average depth of existing front yards on developed lots, located within the one hundred feet (100') on each side of such lot and within the same block and zoning district and fronting on the same street as such lots, is less than the minimum required front yard depth. In such case, the minimum front yard shall be the average of the existing front yard depths on the developed lots. (Ord. #92-10, Nov. 1992, as replaced by Ord. #2010-01, Jan. 2010)

14-803. Group housing project. In the case of a group housing project of two (2) or more buildings to be constructed on a plot of ground not subdivided into the customary street and lots, and which will not be subdivided or where the existing or contemplated street and lot layout make it impracticable to apply the requirements of chapters 2 through 12 of this title to the individual building units in such housing projects, the application of the terms hereof may be varied by the board of zoning appeals in a manner that will be in harmony with the character of the neighborhood, will insure substantially the same character of occupancy and an intensity of land use no higher and a standard of open space no lower than that permitted by chapters 2 through 12 of this title in the district in which the proposed project is to be located. However, in no case shall the board of zoning appeals authorize a use prohibited in the district in which the

project is to be located, or a smaller area per family than the minimum required in such district, or a greater height, or a larger coverage than the requirements of chapters 2 through 9 of this title permit in such district. (Ord. #92-10, Nov. 1992, as amended by Ord. #2007-05, Sept. 2007, and replaced by Ord. #2010-01, Jan. 2010)

14-804. [Deleted.] (Ord. #92-10, Nov. 1992, as deleted by Ord. #2010-01, Jan. 2010)

14-805. [Deleted.] (Ord. #92-10, Nov. 1992, as deleted by Ord. #2010-01, Jan. 2010)

CHAPTER 9

ENFORCEMENT

SECTION

14-901. Enforcing officer.

14-902. Building permits and certificates of occupancy.

14-903. Remedies.

14-904. [Deleted.]

14-901. Enforcing officer. The provisions of chapters 2 through 12 of this title shall be administered and enforced by a building inspector, appointed by the board of mayor and aldermen who shall have the power to make inspection of buildings or premises necessary to carry out his duties in the enforcement of chapters 2 through 12 of this title. (1980 Code, § 11-801, as replaced by Ord. #2010-01, Jan. 2010)

14-902. Building permits and certificates of occupancy.

(1) Building permit required. It shall be unlawful to commence the excavation for the construction of any building, including accessory buildings, or to commence the moving or alteration of any building, including accessory buildings until the building inspector has issued a building permit for such work.

(2) Issuance of building permit. In applying to the building inspector for a building permit, the applicant shall submit a dimensional sketch or a scale plan indicating the shape, size, height and location on the lot of all buildings to be erected, altered or moved and of any building already on the lot. He shall also state the existing and intended use of all such buildings and supply such other information for determining whether the provisions of chapters 2 through 12 of this title are being observed. If the proposed excavation or construction as set forth in the application are in conformity with the provisions hereby and other ordinances of the City of Humboldt, Tennessee, then in force, the building inspector shall issue a building permit for such excavation or construction. If a building permit is refused, the building inspector shall state such refusal in writing with the cause. The issuance of a permit shall in no case be construed as waiving any provisions of chapters 2 through 12 of this title. A building permit shall become void six (6) months from the date of issuance unless substantial progress has been made by that date on the project described therein.

(3) Certificate of occupancy. No land or building or part thereof hereafter erected or altered in its use of structure shall be used until the building inspector shall have issued a certification of occupancy stating that such land, building or part thereof and the proposed use thereof are found to be in conformity with the provisions of chapters 2 through 12 of this title. Within

three (3) days after notification that a building or premises or part thereof is ready for occupancy or use, it shall be the duty of the building inspector to make a final inspection thereof and to issue a certification of occupancy if the land, building or part thereof and the proposed use thereof are found to conform with the provisions hereof, or, if such certificate is refused, to state such refusal in writing with the cause.

(4) Records. A complete record of such application, sketches, and plans shall be maintained in the office of the building inspector. (1980 Code, § 11-802, as replaced by Ord. #2010-01, Jan. 2010)

14-903. Remedies. In case any building or structure is erected, constructed, reconstructed, repaired, converted, or maintained, or any building structure, or land is used in the violation of chapters 2 through 12 of this title, the building inspector or any other appropriate authority, or any adjacent or neighboring property owner who would be damaged by such violation, in addition to other remedies may institute injunction, mandamus, or other appropriate action in proceeding to prevent the occupancy or use of such building, structure or land. (1980 Code, § 11-803, as replaced by Ord. #2010-01, Jan. 2010)

14-904. [Deleted.] (1980 Code, § 11-804, as deleted by Ord. #2010-01, Jan. 2010)

CHAPTER 10**BOARD OF ZONING APPEALS****SECTION**

14-1001. Creation and appointment.

14-1002. Procedure.

14-1003. Appeals; how taken.

14-1004. Powers.

14-1001. Creation and appointment. A board of zoning appeals is hereby established in accordance with Tennessee Code Annotated, volume 3 same being section 5, chapter 44 of the Public Acts of Tennessee of 1935. The board of zoning appeals shall consist of five (5) members. At least one (1) of whom is a member of the Humboldt Municipal Planning Commission. They shall be appointed by the mayor and Humboldt Municipal Planning Commission. They shall be appointed by the mayor and confirmed by a majority vote of the board of mayor and aldermen. The term of membership shall be three (3) years except that the initial individual appointments to the board shall be terms of one (1), two (2) and three (3) years respectively. Vacancies shall be filled for any unexpired term by the mayor in conformity by the board of mayor and aldermen. (1980 Code, § 11-901, as replaced by Ord. #2010-01, Jan. 2010)

14-1002. Procedure. Meetings of the board of zoning appeals shall be held at the call of the chairman, and at such other times as the board may determine. All meetings of the board shall be open to the public. The board shall adopt rules of procedures and shall keep records of applications and action thereon, which shall be a public record. (1980 Code, § 11-902, as replaced by Ord. #2010-01, Jan. 2010)

14-1003. Appeals; how taken. An appeal to the board of zoning appeals may be taken by any persons, firm or corporation aggrieved, or by a governmental officer, department, board or bureau affected by any decision of the building inspector based in whole or in part upon the provisions of chapters 2 through 12 of this title. Such appeals shall be taken by filing with the board of zoning appeals a notice of appeal, specifying the grounds thereof. The building inspector shall transmit to the board all papers constituting the record upon which the action appeals was taken. The board shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to the parties of interest, and decide the same within a reasonable time which shall not be more than fifteen (15) days from the date of the hearing. Any person or party may appear at the hearing and be heard in person, by agent or by attorney. (1980 Code, § 11-903, as replaced by Ord. #2010-01, Jan. 2010)

14-1004. Powers. The board of zoning appeals shall have the following powers:

(1) Administrative review. To hear and decide appeals where it is alleged by the appellant that there is error in any order, requirement, permit, decision, determination or refusal made by the building inspector or other administrative official in the carrying out or enforcement of any provision of chapters 2 through 12 of this title.

(2) Special exceptions. To hear and decide applications for special exceptions upon which the board of zoning appeals is specifically authorized to pass.

(3) Variance. To hear and decide application for variance from the terms of chapters 2 through 12 of this title, but only where by reason of exceptional narrowness, shallowness or shape of a specific piece of property which at the time of the adoption of the provisions of chapters 2 through 12 of this title was a lot of record; or where by reason of exceptional topographic conditions or other extraordinary or exceptional situations or conditions of a piece of property the strict application of the provisions of this ordinance would result in exceptional practical difficulties to or exceptional and undue hardship upon the owner of such property, provided that such relief may be granted without detriment to the public good and the intent and purpose of chapters 2 through 12 of this title. Financial disadvantage to the property owner is no proof of hardship within the purpose of zoning.

In granting a variance the board may attach thereto such conditions regarding the location, character and other features of the proposed building, structure or use as it may deem advisable in furtherance of the purposes of chapters 2 through 12 of this title.

Before any variance is granted it shall be shown that circumstances are attached to the property which do not generally apply to other property in the neighborhood. (as added by Ord. #2010-01, Jan. 2010)

CHAPTER 11

AMENDMENT

SECTION

14-1101. Zoning amendment petition.

14-1102. Planning commission review.

14-1103. Public hearing on proposed amendment.

14-1104. [Deleted.]

14-1105. [Deleted.]

14-1101. Zoning amendment petition. The board of mayor and aldermen of Humboldt, Tennessee may amend the regulations, restrictions, boundaries, or any provisions of chapters 2 through 12 of this title. Any member of the board of mayor and aldermen may introduce such amendment, or any official board or any other person may present a petition to the board of mayor and aldermen requesting an amendment or amendments to chapters 2 through 12 of this title. (Ord. #2001-02, May 2001, as replaced by Ord. #2010-01, Jan. 2010)

14-1102. Planning commission review. No such amendment shall become effective unless the same be first submitted for approval, disapproval or suggestions from the city planning commission. If the city planning commission within thirty (30) days after such submission disapproves, it shall require the favorable vote of a majority of the entire membership of the board of mayor and aldermen to become effective. If the city planning commission neither approves or disapproves such proposed amendment within thirty-five (35) days after such submission, the absence of action shall be considered as approval of the proposed amendment. (Ord. #2001-02, May 2001, as replaced by Ord. #2010-01, Jan. 2010)

14-1103. Public hearing on proposed amendment. Upon the introduction of an amendment to chapters 2 through 12 of this title or upon the receipt of a petition to amend chapters 2 through 12 of this title, the board of mayor and aldermen shall publish a notice of such request for an amendment, together with the notice of time set for hearing by the board of mayor and aldermen on the requested change. Said notice shall be published in some newspaper of general circulation in the City of Humboldt, Tennessee. Said hearing by the board of mayor and aldermen shall take place not sooner than fifteen (15) days after the date of publication of such notice. (Ord. #2001-02, May 2001, as replaced by Ord. #2010-01, Jan. 2010)

14-1104. [Deleted.] (Ord. #2001-02, May 2001, as deleted by Ord. #2010-01, Jan. 2010)

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14-1105. [Deleted.] (Ord. #2001-02, May 2001, as deleted by Ord. #2010-01, Jan. 2010)

CHAPTER 12

LEGAL STATUS PROVISIONS

SECTION

14-1201. Conflict with other ordinances.

14-1202. Validity.

14-1203. Effective date.

14-1204.--14-1215. [Deleted.]

14-1201. Conflict. In case of conflict between this ordinance or any part thereof, and the whole part of any existing or future ordinance of the City of Humboldt, Tennessee, the most restrictive shall in all cases apply. (Ord. #96-3, June 1996, as replaced by Ord. #2010-01, Jan. 2010)

14-1202. Validity. If any section, clause or portion of this ordinance shall be held to be invalid or unconstitutional by any court of competent jurisdiction, such holding shall not affect any other section, clause, provision, or portion of this ordinance which is not of itself invalid or unconstitutional. (Ord. #96-3, June 1996, as replaced by Ord. #2010-01, Jan. 2010)

14-1203. Effective date. This ordinance shall take effect and be in force immediately after adoption, the public welfare requiring it. (Ord. #96-3, June 1996, as replaced by Ord. #2010-01, Jan. 2010)

14-1204.--14-1215. [Deleted.] (Ord. #96-3, June 1996, as deleted by Ord. #2010-01, Jan. 2010)

TITLE 15

MOTOR VEHICLES, TRAFFIC AND PARKING¹

CHAPTER

1. MISCELLANEOUS PROVISIONS.
2. SPEED LIMITS.
3. TURNING MOVEMENTS.
4. STOPPING AND YIELDING.
5. PARKING.
6. VEHICLE REGISTRATION.
7. STORAGE AND REPAIR OF DISABLED VEHICLES.
8. ENFORCEMENT.

CHAPTER 1

MISCELLANEOUS PROVISIONS²

SECTION

- 15-101. Motor vehicle requirements.
- 15-102. Authorized emergency vehicles defined.
- 15-103. Operation of authorized emergency vehicles.
- 15-104. Following emergency vehicles.
- 15-105. Running over fire hoses, etc.
- 15-106. Driving on streets closed for repairs, etc.
- 15-107. Reckless driving.
- 15-108. Operation of motor vehicles in public non-road areas.
- 15-109. Unlaned streets.
- 15-110. Laned streets.
- 15-111. Yellow lines.

¹Municipal code references

Excavations and obstructions in streets, etc.: title 16.
Highway right of entry permit: § 12-105.

²State law references

Under Tennessee Code Annotated, § 55-10-307, the following offenses are exclusively state offenses and must be tried in a state court or a court having state jurisdiction: driving while intoxicated or drugged, as prohibited by Tennessee Code Annotated, § 55-10-401; failing to stop after a traffic accident, as prohibited by Tennessee Code Annotated, § 55-10-101, et seq.; driving while license is suspended or revoked, as prohibited by Tennessee Code Annotated, § 55-7-116; and drag racing, as prohibited by Tennessee Code Annotated, § 55-10-501.

- 15-112. Miscellaneous traffic-control signs, etc.
- 15-113. General requirements for traffic-control signs, etc.
- 15-114. Unauthorized traffic-control signs, etc.
- 15-115. Presumption with respect to traffic-control signs, etc.
- 15-116. School safety patrols.
- 15-117. Driving through funerals or other processions.
- 15-118. Damaging pavements.
- 15-119. Clinging to vehicles in motion.
- 15-120. Riding on outside of vehicles.
- 15-121. Backing vehicles.
- 15-122. Projections from the rear of vehicles.
- 15-123. Causing unnecessary noise.
- 15-124. Vehicles and operators to be licensed.
- 15-125. Passing.
- 15-126. Bicycle riders, etc.
- 15-127. Regulation of wrecker service.
- 15-128. Compliance with disabled drivers law required.
- 15-129. 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. (1980 Code, § 9-101)

15-102. 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. (1980 Code, § 9-102)

15-103. Operation of authorized emergency vehicles.¹ (1) The driver of an authorized emergency vehicle, when responding to an emergency call, or when in the pursuit of an actual or suspected violator of the law, or when responding to but not upon returning from a fire alarm, may exercise the privileges set forth in this section, subject to the conditions herein stated.

(2) The driver of an authorized emergency vehicle may park or stand, irrespective of the provisions of this title; proceed past a red or stop signal or stop sign, but only after slowing down to ascertain that the intersection is clear; exceed the maximum speed limit and disregard regulations governing direction

¹Municipal code reference

Operation of other vehicle upon the approach of emergency vehicles:
§ 15-401.

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. (1980 Code, § 9-103)

15-104. Following emergency vehicles. No driver of any vehicle shall follow any authorized emergency vehicle apparently traveling in response to an emergency call closer than five hundred (500) feet or drive or park any vehicle within the block where fire apparatus has stopped in answer to a fire alarm. (1980 Code, § 9-104)

15-105. 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. (1980 Code, § 9-105)

15-106. 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. (1980 Code, § 9-106)

15-107. 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. (1980 Code, § 9-107)

15-108. Operation of motor vehicles in public non-road areas. It shall be unlawful for any person to operate a motor vehicle off any roadway or parking area on any public area within the corporate limits of the City of Humboldt or any public property owned and maintained by the City of Humboldt outside the corporate limits; provided, however, that this section shall not apply to any employee of the city or persons under contract with the city who

are operating any motor vehicle for the maintenance or upkeep of the public area. (1980 Code, § 9-108)

15-109. 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.

(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. (1980 Code, § 9-110)

15-110. 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. (1980 Code, § 9-111)

15-111. 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. (1980 Code, § 9-112)

15-112. Miscellaneous traffic-control signs, etc.¹ It shall be unlawful for any pedestrian or the operator of any vehicle to violate or fail to comply with any traffic-control sign, signal, marking, or device placed or erected by the state or the 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. (1980 Code, § 9-113)

¹Municipal code references

Stop signs, yield signs, flashing signals, traffic control signals generally: §§ 15-405--15-408.

15-113. General requirements for traffic-control signs, etc. All traffic-control signs, signals, markings, and devices shall conform to the latest revision of the Manual on Uniform Traffic Control Devices for Streets and Highways, published by the U. S. Department of Transportation, Federal Highway Administration, and shall, so far as practicable, be uniform as to type and location throughout the city. This section shall not be construed as being mandatory but is merely directive. (1980 Code, § 9-114)

15-114. 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. (1980 Code, § 9-115)

15-115. Presumption with respect to traffic-control signs, etc. When a traffic-control sign, signal, marking, or device has been placed, the presumption shall be that it is official and that it has been lawfully placed by the proper authority. All presently installed traffic-control signs, signals, markings, and devices are hereby expressly authorized, ratified, approved, and made official. (1980 Code, § 9-116)

15-116. School safety patrols. All motorists and pedestrians shall obey the directions or signals of school safety patrols when such patrols are assigned under the authority of the chief of police and are acting in accordance with instructions; provided, that such persons giving any order, signal, or direction shall at the time be wearing some insignia and/or using authorized flags for giving signals. (1980 Code, § 9-117)

15-117. 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. (1980 Code, § 9-118)

15-118. Damaging pavements. No person shall operate or cause to be operated upon any street of the city any vehicle, motor propelled or otherwise, which by reason of its weight or the character of its wheels, tires, or track is likely to damage the surface or foundation of the street. (1980 Code, § 9-119)

15-119. 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. (1980 Code, § 9-120)

15-120. Riding on outside of vehicles. It shall be unlawful for any person to ride, or for the owner or operator of any motor vehicle being operated on a street, alley, or other public way or place to permit any person to ride on any portion of such vehicle not designed or intended for the use of passengers. This section shall not apply to persons engaged in the necessary discharge of lawful duties nor to persons riding in the load-carrying space of trucks. (1980 Code, § 9-121)

15-121. 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. (1980 Code, § 9-122)

15-122. 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 (1/2) hour after sunset and one-half (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. (1980 Code, § 9-123)

15-123. 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. (1980 Code, § 9-124)

15-124. 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." (1980 Code, § 9-125)

15-125. Passing. Except when overtaking and passing on the right is permitted, the driver of a vehicle passing another vehicle proceeding in the same direction shall pass to the left thereof at a safe distance and shall not again drive to the right side of the street until safely clear of the overtaken vehicle. The driver of the overtaken vehicle shall give way to the right in favor of the overtaking vehicle on audible signal and shall not increase the speed of his vehicle until completely passed by the overtaking vehicle.

When the street is wide enough, the driver of a vehicle may overtake and pass upon the right of another vehicle which is making or about to make a left turn.

The driver of a vehicle may overtake and pass another vehicle proceeding in the same direction either upon the left or upon the right on a street of sufficient width for four (4) or more lanes of moving traffic when such movement can be made in safety.

No person shall drive off the pavement or upon the shoulder of the street in overtaking or passing on the right.

When any vehicle has stopped at a marked crosswalk or at an intersection to permit a pedestrian to cross the street, no operator of any other vehicle approaching from the rear shall overtake and pass such stopped vehicle.

No vehicle operator shall attempt to pass another vehicle proceeding in the same direction unless he can see that the way ahead is sufficiently clear and unobstructed to enable him to make the movement in safety. (1980 Code, § 9-126)

15-126. Bicycle riders, etc. Every person riding or operating a bicycle, motorcycle, or motor driven cycle shall be subject to the provisions of all traffic ordinances, rules, and regulations of the 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, or motor driven cycles.

No person operating or riding a bicycle, motorcycle, or motor driven cycle shall ride other than upon or astride the permanent and regular seat attached thereto, nor shall the operator carry any other person upon such vehicle other than upon a firmly attached and regular seat thereon.

No bicycle, motorcycle, or motor driven cycle shall be used to carry more persons at one time than the number for which it is designed and equipped. No person operating a bicycle, motorcycle, or motor driven cycle shall carry any package, bundle, or article which prevents the rider from keeping both hands upon the handlebar.

No person under the age of sixteen (16) years shall operate any motorcycle or motor driven cycle while any other person is a passenger upon said motor vehicle.

All motorcycles and motor driven cycles operated on public ways within the corporate limits shall be equipped with crash bars approved by the state's commissioner of safety.

Each driver of a motorcycle or motor driven cycle 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.

Every motorcycle or motor driven cycle operated upon any public way within the corporate limits shall be equipped with a windshield of a type approved by the state's commissioner of safety or, in the alternative, the operator and any passenger on any such motorcycle or motor driven cycle shall be required to wear safety goggles of a type approved by the state's commissioner of safety for the purpose of preventing any flying object from striking the operator or any passenger in the eyes.

It shall be unlawful for any person to operate or ride on any vehicle in violation of this section, and it shall also be unlawful for any parent or guardian knowingly to permit any minor to operate a motorcycle or motor driven cycle in violation of this section. (1980 Code, § 9-127)

15-127. Regulation of wrecker service. Wrecker service within the City of Humboldt shall be regulated by the Humboldt Police Department. If no specific wrecker service is requested by the party whose vehicle is to be towed, or his agent, the police department shall call a wrecker service from a list of qualified wrecker services, to be called in rotation.

If an unsolicited wrecker service arrives at the scene, it shall be fined \$50.00 for the first offense; \$75.00 for the second offense; and \$100.00 for the third offense with a six month suspension from the call list.

The Humboldt Police Department shall establish wrecker service standards, to be approved by the board of mayor and aldermen, a copy of which shall be furnished to each wrecker service. (Ord. #86-06, Sept. 1986)

15-128. Compliance with disabled drivers law required. (1) Every vehicle operated within the corporate limits must be in compliance with the disabled drivers law.

(2) For the purposes of this section, "unauthorized use of disabled parking or placard" means:

(a) (i) Any person, except a person who meets the requirements for the issuance of a distinguishing placard or license plate, a disabled veteran's license plate, or who meets the requirements of § 55-21-105(d), who parks in any parking space designated with the wheelchair disabled sign, commits a misdemeanor, punishable by a fine of fifty dollars (\$50.00) plus court costs.

(ii) In addition to the fine imposed pursuant to subsection (a)(i), a vehicle which does not display a disabled license plate or placard, and which is parked in any parking space designated with the wheelchair disabled sign, is subject to being towed. When a vehicle has been towed or removed pursuant to this subdivision (a)(ii), it shall be released to its owner, or person lawful possession, upon demand; provided, that such person making demand for return pays all reasonable towing and storage charges and that such demand is made during the operating hours of the towing company.

(iii) It is also a violation of this subsection (a) for any vehicle to park a motor vehicle so that a portion of such vehicle encroaches into a disabled parking space in a manner which restricts, or reasonably could restrict, a person confined to a

wheelchair from exiting or entering a motor vehicle properly parked within such disabled parking space.

(iv) After July 1, 1992, signs designating disabled parking shall indicate that unauthorized or improperly parked vehicles may be towed and the driver fined fifty dollars (\$50.00) plus court costs, and shall also provide the name and telephone number of the towing company or the name and telephone number of the property owner, lessee or agent in control of the property.

(b) Notwithstanding any other provision of law to the contrary, the provisions of subsection (a) shall be enforced by state and local authorities in their respective jurisdictions, whether violations occur on public or private property, in the same manner used to enforce other parking laws.

(c) (i) Any person not meeting the requirements of § 55-21-203 who uses a disabled placard to obtain parking commits a misdemeanor. The disabled placard used to obtain parking by a person not meeting the requirements of § 55-21-103 shall be subject to forfeiture and confiscation by state and local authorities in their respective jurisdiction.

(ii) If a state or local law enforcement officer observes a violation of this subsection (c), such officer may confiscate the disabled placard. To recover such placard, a driver must demonstrate by a preponderance of evidence that such driver was complying with § 55-21-103, at the time of the confiscation.

(d) Any persons who unlawfully sells, copies, duplicates, manufactures, or assists in the sale, copying, duplicating or manufacturing of a disabled placard commits a Class A misdemeanor, punishable by a minimum one thousand dollar (\$1,000.00) fine and imprisonment for a time in the discretion of the court.

(e) Any person who is not a disabled driver as prescribed in § 55-21-102, and who willfully and falsely represents himself as meeting the requirements to obtain either a permanent or temporary placard commits a Class A misdemeanor, punishable only by a fine of not more than one thousand dollars (\$1,000.00). (as added by Ord. #2006-03, Aug. 2006)

15-128. Compliance with financial responsibility law required.

(1) Every vehicle operated within the corporate limits must be in compliance with the financial responsibility law.

(2) 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.

(3) For the purposes of this section, "financial responsibility" means:

(a) Documentation, such as declaration page of an insurance policy, an insurance binder, or an insurance card from an insurance company authorized to do business in Tennessee, stating that a policy of insurance meeting the requirements of the Tennessee Financial Responsibility Law of 1977, compiled in Tennessee Code Annotated, chapter 12, title 55, has been issued;

(b) A certificate, valid for one (1) year, issued by the commissioner of safety, stating that a cash deposit or bond in the amount required by the Tennessee Financial Responsibility Law of 1977, compiled in Tennessee Code Annotated, title 12, title 55, has been paid or filed with the commissioner, or has qualified as a self-insurer under Tennessee Code Annotated, § 55-12-111; or

(c) The motor vehicle being operated at the time of the violation was owned by a carrier subject to the jurisdiction of the department of safety or the interstate commerce commission, or was owned by the United States, the State of Tennessee, or any political subdivision thereof, and that such motor vehicle was being operated with the owner's consent.

(4) 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 fifty dollars (\$50.00) plus court costs. 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.

(5) 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. #2006-04, Aug. 2006)

CHAPTER 2

SPEED LIMITS

SECTION

- 15-201. In general.
- 15-202. At intersections.
- 15-203. In school zones.
- 15-204. In congested areas.

15-201. In general. It shall be unlawful for any person to operate or drive a motor vehicle upon any highway or street at a rate of speed in excess of thirty (30) miles per hour except where official signs have been posted indicating other speed limits, in which cases the posted speed limit shall apply. (1980 Code, § 9-201)

15-202. At intersections. It shall be unlawful for any person to 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. (1980 Code, § 9-202)

15-203. In school zones. Generally, pursuant to Tennessee Code Annotated, §§ 55-8-152 special speed limits in school zones shall be enacted based on an engineering investigation; shall not be less than fifteen (15) miles per hour; and shall be in effect only when proper signs are posted with a warning flasher or flashers in operation. It shall be unlawful for any person to violate any such special speed limit enacted and in effect in accordance with this paragraph.

When the board of mayor and aldermen has not established special speed limits as provided for above, any person who shall drive at a speed exceeding fifteen (15) miles per hour when passing a school during a recess period when a warning flasher or flashers are in operation, or during a period of forty (40) minutes before the opening hour of a school or a period of forty (40) minutes after the closing hour of a school, while children are actually going to or leaving school, shall be prima facie guilty of reckless driving. (1980 Code, § 9-203)

15-204. In congested areas. It shall be unlawful for any person to operate or drive a motor vehicle through any congested area at a rate of speed in excess of any posted speed limit when such speed limit has been posted by authority of the city. (1980 Code, § 9-204)

CHAPTER 3

TURNING MOVEMENTS

SECTION

15-301. Generally.

15-302. Right turns.

15-303. Left turns on two-way roadways.

15-304. Left turns on other than two-way roadways.

15-305. U-turns.

15-301. Generally. No person operating a motor vehicle shall make any turning movement which might affect any pedestrian or the operation of any other vehicle without first ascertaining that such movement can be made in safety and signaling his intention in accordance with the requirements of the state law.¹ (1980 Code, § 9-301)

15-302. 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. (1980 Code, § 9-302)

15-303. 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 lines of the two roadways. (1980 Code, § 9-303)

15-304. 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. (1980 Code, § 9-304)

15-305. U-turns. U-turns are prohibited. (1980 Code, § 9-305)

¹State law reference

Tennessee Code Annotated, § 55-8-143.

CHAPTER 4

STOPPING AND YIELDING

SECTION

- 15-401. Upon approach of authorized emergency vehicles.
- 15-402. When emerging from alleys, etc.
- 15-403. To prevent obstructing an intersection.
- 15-404. At railroad crossings.
- 15-405. At "stop" signs.
- 15-406. At "yield" signs.
- 15-407. At traffic-control signals generally.
- 15-408. At flashing traffic-control signals.
- 15-409. Stops to be signaled.

15-401. Upon approach of authorized emergency vehicles.¹ Upon the immediate approach of an authorized emergency vehicle making use of audible and/or visual signals meeting the requirements of the laws of this state, or of a police vehicle properly and lawfully making use of an audible signal only, the driver of every other vehicle shall immediately drive to a position parallel to, and as close as possible to, the right hand edge or curb of the roadway clear of any intersection and shall stop and remain in such position until the authorized emergency vehicle has passed, except when otherwise directed by a police officer. (1980 Code, § 9-401)

15-402. 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. (1980 Code, § 9-402)

15-403. 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. (1980 Code, § 9-403)

¹Municipal code reference

Special privileges of emergency vehicles: title 15, chapter 1.

15-404. At railroad crossings. Any driver of a vehicle approaching a railroad grade crossing shall stop within not less than fifteen (15) feet from the nearest rail of such railroad and shall not proceed further while any of the following conditions exist:

(1) A clearly visible electrical or mechanical signal device gives warning of the approach of a railroad train.

(2) A crossing gate is lowered or a human flagman signals the approach of a railroad train.

(3) A railroad train is approaching within a proximately fifteen hundred (1500) feet of the highway crossing and is emitting an audible signal indicating its approach.

(4) An approaching railroad train is plainly visible and is in hazardous proximity to the crossing. (1980 Code, § 9-404)

15-405. 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. (1980 Code, § 9-405)

15-406. 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. (1980 Code, § 9-406)

15-407. At traffic-control signals generally. Traffic-control signals exhibiting the words "Go," "Caution," or "Stop," or exhibiting different colored lights successively one at a time, or with arrows, shall show the following colors only and shall apply to drivers of vehicles and pedestrians as follows:

(1) Green alone, or "Go":

(a) Vehicular traffic facing the signal may proceed straight through or turn right or left unless a sign at such place prohibits such turn. But vehicular traffic, including vehicles turning right or left, shall yield the right of way to other vehicles and to pedestrians lawfully within the intersection or an adjacent crosswalk at the time such signal is exhibited.

(b) Pedestrians facing the signal may proceed across the roadway within any marked or unmarked crosswalk.

(2) Steady yellow alone, or "Caution":

(a) Vehicular traffic facing the signal is thereby warned that the red or "Stop" signal will be exhibited immediately thereafter and such vehicular traffic shall not enter or be crossing the intersection when the red or "Stop" signal is exhibited.

(b) Pedestrians facing such signal shall not enter the roadway.

(3) Steady red alone, or "Stop":

(a) Vehicular traffic facing the signal shall stop before entering the crosswalk on the near side of the intersection or, if none, then before entering the intersection and shall remain standing until green or "Go" is shown alone. Provided, however, that a right turn on a red signal shall be permitted at all intersections within the 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.

(4) Steady red with green arrow:

(a) Vehicular traffic facing such signal may cautiously enter the intersection only to make the movement indicated by such arrow but shall yield the right of way to pedestrians lawfully within a crosswalk and to other traffic lawfully using the intersection.

(b) Pedestrians facing such signal shall not enter the roadway.

(5) In the event an official traffic-control signal is erected and maintained at a place other than an intersection, the provisions of this section shall be applicable except as to those provisions which by their nature can have no application. Any stop required shall be made at a sign or marking on the pavement indicating where the stop shall be made, but in the absence of any such sign or marking the stop shall be made a vehicle length short of the signal. (1980 Code, § 9-407)

15-408. At flashing traffic-control signals. (1) Whenever an illuminated flashing red or yellow signal is used in a traffic sign or signal placed or erected in the city, it shall require obedience by vehicular traffic as follows:

(a) Flashing red (stop signal). When a red lens is illuminated with intermittent flashes, drivers of vehicles shall stop before entering the nearest crosswalk at an intersection or at a limit line when marked, or if none, then before entering the intersection, and the right to proceed shall be subject to the rules applicable after making a stop at a stop sign.

(b) Flashing yellow (caution signal). When a yellow lens is illuminated with intermittent flashes, drivers of vehicles may proceed through the intersection or past such signal only with caution.

(2) This section shall not apply at railroad grade crossings. Conduct of drivers of vehicles approaching railroad grade crossings shall be governed by the rules set forth in § 15-404 of this chapter. (1980 Code, § 9-408)

15-409. Stops to be signaled. No person operating a motor vehicle shall stop such vehicle, whether in obedience to a traffic sign or signal or otherwise, without first signaling his intention in accordance with the requirements of the state law,¹ except in an emergency. (1980 Code, § 9-409)

¹State law reference
Tennessee Code Annotated, § 55-8-143.

CHAPTER 5

PARKING

SECTION

- 15-501. Generally.
- 15-502. Angle parking.
- 15-503. Occupancy of more than one space.
- 15-504. Where prohibited.
- 15-505. Loading and unloading zones.
- 15-506. Regulation by time limit.
- 15-507. Unlawful parking in limited parking spaces.
- 15-508. Unlawful to occupy more than one limited parking space.
- 15-509. Presumption with respect to illegal parking.
- 15-510. Parking of trucks, trailers, etc. on streets.

15-501. Generally. No person shall leave any motor vehicle unattended on any street without first setting the brakes thereon, stopping the motor, removing the ignition key, and turning the front wheels of such vehicle toward the nearest curb or gutter of the street.

Except as hereinafter provided, every vehicle parked upon a street within the city 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.

Notwithstanding anything else in this code to the contrary, no person shall park or leave a vehicle parked on any public street or alley within the fire limits between the hours of 1:00 A.M. and 5:00 A.M. or on any other public street or alley for more than seventy-two (72) consecutive hours without the prior approval of the chief of police.

Furthermore, no person shall wash, grease, or work on any vehicle, except to make repairs necessitated by an emergency, while such vehicle is parked on a public street. (1980 Code, § 9-501)

15-502. Angle parking. On those streets which have been signed or marked by the city 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. (1980 Code, § 9-502)

15-503. 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. (1980 Code, § 9-503)

15-504. 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.
- (2) In front of a public or private driveway.
- (3) Within an intersection or within fifteen (15) feet thereof.
- (4) On or across a curb, including that area between the curb and sidewalk.
- (5) Within fifteen (15) feet of a fire hydrant.
- (6) Within a pedestrian crosswalk.
- (7) Within fifty (50) feet of a railroad crossing.
- (8) Within twenty (20) feet 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 (75) feet of the entrance.
- (9) Alongside or opposite any street excavation or obstruction when other traffic would be obstructed.
- (10) On the roadway side of any vehicle stopped or parked at the edge or curb of a street.
- (11) Upon any bridge.
- (12) Alongside any curb painted yellow or red by the city. (1980 Code, § 9-504)

15-505. 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 city as a loading and unloading zone. (1980 Code, § 9-505)

15-506. Regulation by time limit. Where signs have been erected designating limited parking areas where two (2) hour parking is allowed, between the hours of 8:00 A.M. and 6:00 P.M. on all days except Sundays and holidays declared by the board of mayor and aldermen, parking shall be limited to two (2) consecutive hours. (1980 Code, § 9-506)

15-507. Unlawful parking in limited parking spaces. It shall be unlawful for the owner or operator of any vehicle to park or allow his vehicle to be parked in a limited parking space for more than two (2) hours. (1980 Code, § 9-507)

15-508. Unlawful to occupy more than one limited parking space. It shall be unlawful for the owner or operator of any vehicle to park or allow his vehicle to be parked across any line or marking designating a limited parking space or otherwise so that such vehicle is not entirely within the designated space. (1980 Code, § 9-508)

15-509. 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. (1980 Code, § 9-509)

15-510. Parking of trucks, trailers, etc. on streets. (1) No person shall park or leave standing on any public street or other right of way in the City of Humboldt, the following vehicles:

(a) A truck with a gross weight capacity in excess of ten thousand (10,000) pounds;

(b) A trailer or wagon of any kind or description, whether or not the trailer is attached to, or is capable of being attached to, a tractor or to any other kind of vehicle;

(c) Recreational vehicle, camper, mobile home, whether or not such vehicle is self-propelled, and no matter for what purpose it is used.

(2) For the purposes of the application and enforcement of this section, the term "trailer" shall include, but is not limited to, any vehicle that is designated to be pulled or pushed by another vehicle, including, but not limited to a highway or road trailer used or designed to be used in a tractor-trailer combination, boat trailer, lawn and lawn and garden service trailer, utility trailer, and wagon.

(3) The prohibition in this section shall not apply to any vehicle or trailer which is parked or left standing for the purpose of loading or unloading its cargo, nor to any service or delivery vehicle or trailer during the actual period of the service or delivery. (Ord. #2002-01, July 2002)

CHAPTER 6**VEHICLE REGISTRATION****SECTION**

15-601. Registration.

15-602. Issuance of certificate of registration.

15-603. Fees.

15-604. Enforcement.

15-601. Registration. Before the owner of any automobile, truck, or any other self-propelled vehicle shall operate or allow such vehicle to be operated regularly on any street, avenue, or alley within the corporate limits, he shall register such vehicle with the city. A written application shall be filed with the mayor and shall specify the motor number, make, and model of such vehicle, the name and residence of the owner and shall contain a certificate that the vehicle is in a good and safe operating condition. The applicant shall agree that no person shall operate such vehicle unless duly authorized so to do in accordance with the laws of the State of Tennessee. Such application shall be made annually, not later than March 31st of each year. (1980 Code, § 9-601)

15-602. Issuance of certificate of registration. Upon the presentation of an application containing the information, statements, and agreements set out in § 15-601, the mayor shall issue to the owner a certificate of registration and a regulation tag or emblem, and the tag or emblem shall be attached to the windshield or other conspicuous part of the vehicle and shall continue to be conspicuously displayed at all times.

Automobile dealers making application for and receiving a certificate of registration and tag or emblem for one car used as a demonstrator, and paying the fee therefor, annually, may transfer said tag or emblem to other cars used only as demonstrators without making further application or paying an additional fee.

Any owner of motor transport trucks or buses having a terminal in Humboldt shall not be required to register and pay the fee for such vehicles used exclusively, or practically exclusively, for long hauls; provided, that any such owner shall be required to register any motor vehicle used to unload or distribute loads within the corporate limits and shall pay the required fee on any such vehicle. (1980 Code, § 9-602)

15-603. Fees. The following registration fees shall be paid annually:

- | | |
|---|---------|
| (1) Automobiles, trucks, and other similar type vehicles: | \$30.00 |
|---|---------|

- | | | |
|-----|--|----------|
| (2) | Motorcycles, motorscooters, and other similar
type vehicles | \$ 25.00 |
|-----|--|----------|

Initial annual registration fees for new residents of the City of Humboldt or for initial applicants who become subject to vehicle registration during the calendar year shall be determined on a prorated basis of three dollars (\$3.00) per month at the time of registration for vehicles in category 1 above and two dollars (\$2.00) per month at the time of registration for vehicles in category 2 above. Prorated fees will include the monthly amount for the month in which registration occurs and the monthly amount for the remaining months in the calendar year. (For example, if registration of an automobile, a category 1 vehicle, occurs in February, the fee would be thirty-three dollars (\$33.00); if in October, the fee would be nine dollars (\$9.00).

Proration applies to initial registrants only; persons subject to registration on or before January 1 of any succeeding year must pay the full annual registration fee regardless of when they pay the registration fee. (Ord. #93-12, Dec. 1993, as amended by Ord. #96-7, Sept. 1996)

15-604. Enforcement. This chapter shall apply to any person, firm, partnership, or corporation residing within the corporate limits or who has a principal place of business within the corporate limits.

The mayor shall have the right to deny a certificate of registration to any owner who fails to comply with the application requirements of this chapter or to any owner of a vehicle which is patently unsafe for operation. (1980 Code, § 9-604)

CHAPTER 7

STORAGE AND REPAIR OF DISABLED VEHICLES¹

SECTION

15-701. Definition.

15-702. Storage, etc., prohibited.

15-703. Violation of zoning ordinance prohibited.

15-704. Exceptions.

15-705. Enforcement.

15-701. Definition. A disabled motor vehicle shall mean any vehicle which is incapable of being self-propelled upon the public streets, or which does not meet the requirements for operation upon the public streets, including a current license. (1980 Code, § 9-701)

15-702. Storage, etc., prohibited. No person shall permit any disabled motor vehicle to be parked, stored, placed, or allowed to remain within the city in violation of the provisions of this chapter or code. Disabled motor vehicles shall not be permitted in the rights of way of the streets, alleys, or highways within the city; provided, however, that this shall not apply to towing or similar transporting of such vehicles; and provided further, that a reasonable time (not to exceed twenty-four (24) hours from the time of disability) shall be permitted for the removal or servicing of a disabled vehicle in an emergency caused by accident or sudden breakdown of the vehicle. (1980 Code, § 9-702)

15-703. Violation of zoning ordinance prohibited. Disabled motor vehicles shall not be permitted in a front yard as defined by the zoning ordinance of the city; provided, however, that a reasonable time (not to exceed twenty-four (24) hours from the time of disability) shall be permitted for the removal or servicing of a disabled vehicle in any emergency caused by accident or sudden breakdown of the vehicle. (1980 Code, § 9-703)

15-704. Exceptions. One disabled motor vehicle may be permitted in a side or rear yard of a residential, commercial, or industrial lot as an accessory use to the main use of the lot; provided, that such vehicle is not located in any open space required by the zoning laws. Service and repair work may be performed on such vehicle, and incidental thereto, parts, tools, and equipment may be stored and used. Nothing contained herein shall be construed as

¹Municipal code references

Junked vehicles on public and private property: title 13, chapter 3.

Junkyards: title 13, chapter 2.

authorizing the disassembling, teardown, or scrapping of a motor vehicle, or to permit one motor vehicle to be scavenged or stripped for parts for use on another motor vehicle. Provided, however, that a disabled vehicle shall not be permitted to remain outside a building for a period in excess of thirty (30) days on any lot used for residential purposes or on that portion of any lot within twenty (20) feet of an abutting lot used for residential purposes. (1980 Code, § 9-704)

15-705. Enforcement. Any policeman of the City of Humboldt will report to the mayor any violation of the provisions of this chapter, and the mayor, after inspection, will notify the property owner or person responsible for the property to remedy the condition within ten days. Should the condition not be remedied within the time specified in such notice, the mayor shall cause the condition to be remedied at the expense of the City of Humboldt and the cost thereof shall become a lien upon both the real property and the disabled motor vehicle, the lien to be satisfied as any other delinquent tax lien. Provided further, as an alternative for enforcing this chapter, that if the conditions should not be remedied within the time specified in such notice, the mayor shall have the power to have the disabled motor vehicle and accessories thereto taken away by the city, and after advertising the same for sale by one notice in the local newspaper, shall proceed to sell the same at either public or private sale, and the city shall retain the proceeds from such sale. (1980 Code, § 9-705)

CHAPTER 8

ENFORCEMENT

SECTION

- 15-801. Issuance of traffic citations.
- 15-802. Failure to obey citation.
- 15-803. Illegal parking.
- 15-804. Impoundment of vehicles.
- 15-805. Disposal of "abandoned motor vehicles."

15-801. Issuance of traffic citations.¹ When a police officer halts a traffic violator other than for the purpose of giving a warning or when based on personal investigation, such officer has reasonable and probable grounds to believe that a person has violated any traffic ordinance, and does not take such person into custody under arrest, he shall take the name, address and operators drivers license number of said persons the license number of the motor vehicle involved, and such other pertinent information as may be necessary and shall issue to that person a written traffic citation containing a notice to appear 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 and address. (1980 Code, § 9-801)

15-802. 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. (1980 Code, § 9-802)

15-803. Illegal parking. Whenever any motor vehicle without a driver is found parked or stopped in violation of any of the restrictions imposed by this code, the officer finding such vehicle shall take its license number and may take any other information displayed on the vehicle which may identify its user, and shall conspicuously affix to such vehicle a citation for the driver and/or owner to answer for the violation within ten (10) days during the hours and at a place specified in the citation. For parking violations the offender may waive his right to a judicial hearing and have the charges disposed of out of court, but the fines shall be five dollars (\$5.00) within thirty (30) days, and the offender will be

¹State law reference

Tennessee Code Annotated, § 7-63-101, et seq.

subject to the general penalty clause of this code thereafter. (1980 Code, § 9-803)

15-804. 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. Any impounded vehicle shall be stored until the owner or other person entitled thereto claims it, gives satisfactory evidence of ownership or right to possession, and pays all applicable fees and costs, or until it is otherwise lawfully disposed of. The fee for impounding a vehicle shall be five dollars (\$5.00) and the storage cost shall be one dollar (\$1.00) for each twenty-four (24) hour period or fraction thereof that the vehicle is stored. (1980 Code, § 9-804)

15-805. Disposal of "abandoned motor vehicles." "Abandoned motor vehicles" as defined by Tennessee Code Annotated, § 55-16-103, shall be impounded and disposed of by the police department in accordance with Tennessee Code Annotated, §§ 55-16-103 through 55-16-109. (1980 Code, § 9-805)

TITLE 16

STREETS AND SIDEWALKS, ETC¹

CHAPTER

1. MISCELLANEOUS.
2. EXCAVATIONS AND CUTS.

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, etc.
- 16-109. Abutting occupants to keep sidewalks clean, etc.
- 16-110. Parades, etc., regulated.
- 16-111. Operation of trains at crossings regulated.
- 16-112. Animals and vehicles on sidewalks.
- 16-113. Fires in streets, etc.
- 16-114. Soliciting, etc., along parade routes.

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.

It shall be unlawful for any person or persons to so position themselves or congregate on the streets or sidewalks of the city as to block or impede entrance to any public or private property, store, place of business, or public or private office or building. (1980 Code, § 12-101)

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

¹Municipal code reference

Related motor vehicle and traffic regulations: title 15.

property to project over any street, alley, or sidewalk at a height of less than fourteen (14) feet. (1980 Code, § 12-102)

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, sign, or other obstruction which prevents persons driving vehicles on public streets or alleys from obtaining a clear view of traffic when approaching an intersection. (1980 Code, § 12-103)

16-104. Projecting signs and awnings, etc., restricted.

Signs, awnings, or other structures which project over any street or other public way shall be erected subject to the requirements of the building code.¹ (1980 Code, § 12-104)

16-105. Banners and signs across streets and alleys restricted.

It shall be unlawful for any person to place or have placed any banner or sign across or above any public street or alley except when expressly authorized by the board of mayor and aldermen. (1980 Code, § 12-105)

16-106. Gates or doors opening over streets, alleys, or sidewalks prohibited.

It shall be unlawful for any person owning or occupying property to allow any gate or door to swing open upon or over any street, alley, or sidewalk except when required by law. (1980 Code, § 12-106)

16-107. Littering streets, alleys, or sidewalks prohibited.

It shall be unlawful for any person to litter, place, throw, track, or allow to fall on any street, alley, or sidewalk any refuse, glass, tacks, mud, or other objects or materials which are unsightly or which obstruct or tend to limit or interfere with the use of such public ways and places for their intended purposes. (1980 Code, § 12-107)

16-108. Obstruction of drainage ditches, etc.

(1) It shall be unlawful for any person to permit or cause the obstruction of any drainage ditch in any public right of way.

(2) It shall be unlawful for any person to alter the flow of surface waters on public streets or rights of way, whether by laying storm sewers, laying culverts, making fills or otherwise, without first obtaining written permission and approval from the designated representative of the board of mayor and aldermen.

¹Municipal code reference

Building code: title 12, chapter 1.

(3) Any person found to have violated the provisions of this section shall be served by the city with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violation and make the necessary corrections.

(4) Any person who shall continue any violation beyond the time limit provided for in § 16-108(3) shall be guilty of a misdemeanor.

(5) Any person violating the provisions of this section shall become liable to the city for any expense, loss, or damage occasioned to the city by reason of such violation, including any expenses incurred in correcting such violation. (1980 Code, § 12-108)

16-109. Abutting occupants to keep sidewalks clean, etc. The occupants of property abutting on a sidewalk are required to keep the sidewalk clean. Also, immediately after a snow or sleet, such occupants are required to remove all accumulated snow and ice from the abutting sidewalk. (1980 Code, § 12-109)

16-110. Parades, etc., regulated. It shall be unlawful for any person, club, organization, or other group to hold any meeting, parade, demonstration, or exhibition on the public streets without some responsible representative first securing a permit from the mayor. No permit shall be issued by the mayor unless such activity will not unreasonably interfere with traffic and unless such representative shall agree to see to the immediate cleaning up of all litter which shall be left on the streets as a result of the activity. Furthermore, it shall be unlawful for any person obtaining such a permit to fail to carry out his agreement to clean up the resulting litter immediately. (1980 Code, § 12-110)

16-111. Operation of trains at crossings regulated. No person shall operate any railroad train across any street or alley without giving a warning of its approach as required by state law; nor shall he make such crossing at a speed in excess of twenty-five (25) miles per hour. It shall also be unlawful to stop a railroad train so as to block or obstruct any street or alley for a period of more than five (5) consecutive minutes. (1980 Code, § 12-111)

16-112. Animals and vehicles on sidewalks. It shall be unlawful for any person to ride, lead, or tie any animal, or ride, push, pull, or place any vehicle across or upon any sidewalk in such manner as unreasonably to interfere with or inconvenience pedestrians using the sidewalk. It shall also be unlawful for any person knowingly to allow any minor under his control to violate this section. (1980 Code, § 12-112)

16-113. Fires in streets, etc. It shall be unlawful for any person to set or contribute to any fire in any public street, alley, or sidewalk. (1980 Code, § 12-113)

16-114. Soliciting, etc., along parade routes. It shall be unlawful for any person, firm, association, or corporation to solicit, sell, or dispense food, drink, or other goods on the public streets or alleys along the route and during the time of any parade for which the City of Humboldt has issued a permit, whether said solicitation, sale, or dispensation is from a fixed position, from conveyances, or on foot. (1980 Code, § 12-114)

CHAPTER 2

EXCAVATIONS AND CUTS¹

SECTION

- 16-201. Permit required.
- 16-202. Applications.
- 16-203. Fee.
- 16-204. Deposit or bond.
- 16-205. Manner of excavating--barricades and lights--temporary sidewalks.
- 16-206. Restoration of streets, etc.
- 16-207. Insurance.
- 16-208. Time limits.
- 16-209. Supervision.
- 16-210. Driveway curb cuts.

16-201. Permit required. It shall be unlawful for any person, firm, corporation, association, or others, to make any excavation in any street, alley, or public place, or to tunnel under any street, alley, or public place without having first obtained a permit as herein required, and without complying with the provisions of this chapter; and it shall also be unlawful to violate, or vary from, the terms of any such permit; provided, however, any person maintaining pipes, lines, or other underground facilities in or under the surface of any street may proceed with an opening without a permit when emergency circumstances demand the work to be done immediately and a permit cannot reasonably and practicably be obtained beforehand. The person shall thereafter apply for a permit on the first regular business day on which the office of the mayor is open for business, and said permit shall be retroactive to the date when the work was begun. (1980 Code, § 12-201)

16-202. Applications. Applications for such permits shall be made to the mayor, or such person as he may designate to receive such applications, and shall state thereon the location of the intended excavation or tunnel, the size thereof, the purpose thereof, the person, firm, corporation, association, or others doing the actual excavating, the name of the person, firm, corporation, association, or others for whom the work is being done, and shall contain an agreement that the applicant will comply with all ordinances and laws relating

¹State law reference

This chapter was patterned substantially after the ordinance upheld by the Tennessee Supreme Court in the case of City of Paris, Tennessee v. Paris-Henry County Public Utility District, 207 Tenn. 388, 340 S.W.2d 885 (1960).

to the work to be done. Such application shall be rejected or approved by the mayor within twenty-four (24) hours of its filing. (1980 Code, § 12-202)

16-203. Fee. The fee for such permits shall be two dollars (\$2.00) for excavations which do not exceed twenty-five (25) square feet in area or tunnels not exceeding twenty-five (25) feet in length; and twenty-five cents (\$.25) for each additional square foot in the case of excavations, or lineal foot in the case of tunnels; but not to exceed one hundred dollars (\$100.00) for any permit. (1980 Code, § 12-203)

16-204. Deposit or bond. No such permit shall be issued unless and until the applicant therefor has deposited with the mayor a cash deposit. The deposit shall be in the sum of twenty-five dollars (\$25.00) if no pavement is involved or seventy-five dollars (\$75.00) 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 mayor 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 mayor a surety bond in such form and amount as the mayor shall deem adequate to cover the costs to the city if the applicant fails to make proper restoration. (1980 Code, § 12-204)

16-205. Manner of excavating--barricades and lights--temporary sidewalks. Any person, firm, corporation, association, or others making any excavation or tunnel shall do so according to the terms and conditions of the application and permit authorizing the work to be done. Sufficient and proper barricades and lights shall be maintained to protect persons and property from injury by or because of the excavation being made. If any sidewalk is blocked by any such work, a temporary sidewalk shall be constructed and provided which shall be safe for travel and convenient for users. (1980 Code, § 12-205)

16-206. Restoration of streets, etc. Any person, firm, corporation, association, or others making any excavation or tunnel in or under any street, alley, or public place in the City of Humboldt shall restore said street, alley, or public place to its original condition except for the surfacing, which shall be done by the town, but shall be paid for by such person, firm, corporation, association, or others promptly upon the completion of the work for which the excavation or tunnel was made. In case of unreasonable delay in restoring the street, alley, or public place, the mayor shall give notice to the person, firm, corporation,

association, or others that unless the excavation or tunnel is refilled properly within a specified reasonable period of time, the city will do the work and charge the expense of doing the same to such person, firm, corporation, association, or others. If within the specified time the conditions of the above notice have not been complied with, the work shall be done by the city, an accurate account of the expense involved shall be kept, and the total cost shall be charged to the person, firm, corporation, association, or others who made the excavation or tunnel. (1980 Code, § 12-206)

16-207. Insurance. In addition to making the deposit or giving the bond hereinbefore required to insure that proper restoration is made, each person applying for an excavation permit shall file a certificate of insurance indicating that he is insured against claims for damages for personal injury as well as against claims for property damage which may arise from or out of the performance of the work, whether such performance be by himself, his subcontractor, or anyone directly or indirectly employed by him. Such insurance shall cover collapse, explosive hazards, and underground work by equipment on the street, and shall include protection against liability arising from completed operations. The amount of the insurance shall be prescribed by the mayor in accordance with the nature of the risk involved; provided, however, that the liability insurance for bodily injury shall not be less than \$100,000 for each person and \$300,000 for each accident, and for property damages not less than \$25,000 for any one (1) accident, and a \$75,000 aggregate. (1980 Code, § 12-207)

16-208. Time limits. Each application for a permit shall state the length of time it is estimated will elapse from the commencement of the work until the restoration of the surface of the ground or pavement, or until the refill is made ready for the pavement to be put on by the city if the city restores such surface pavement. It shall be unlawful to fail to comply with this time limitation unless permission for an extension of time is granted by the mayor. (1980 Code, § 12-208)

16-209. Supervision. The mayor shall from time to time inspect all excavations and tunnels being made in or under any public street, alley, or other public place in the city and see to the enforcement of the provisions of this chapter. Notice shall be given to him at least ten (10) hours before the work of refilling any such excavation or tunnel commences. (1980 Code, § 12-209)

16-210. Driveway curb cuts. No one shall cut, build, or maintain a driveway across a curb or sidewalk without first obtaining a permit from the mayor. Such a permit will not be issued when the contemplated driveway is to be so located or constructed as to create an unreasonable hazard to pedestrian and/or vehicular traffic. No driveway shall exceed thirty-five (35) feet in width at its outer or street edge and when two (2) or more adjoining driveways are

provided for the same property a safety island of not less than ten (10) feet in width at its outer or street edge shall be provided. Driveway aprons shall not extend out into the street. (1980 Code, § 12-210)

TITLE 17**REFUSE AND TRASH DISPOSAL****CHAPTER****1. COLLECTION AND STORAGE.****CHAPTER 1****COLLECTION AND STORAGE****SECTION**

- 17-101. Definitions.
- 17-102. Preparation for collection.
- 17-103. Location of containers.
- 17-104. Industrial and building wastes.
- 17-105. Dead animals.
- 17-106. Restrictions on hauling.
- 17-107. Prohibited acts.
- 17-108. Method of billing.
- 17-109. Schedule of charges.
- 17-110. Enforcement.
- 17-111. Classification, adjustment and reclassification.
- 17-112. Containers to be removed from curb within 48 hours of collection.

17-101. Definitions. (1) The term "garbage" shall mean all putrescible wastes, except sewage and body wastes, including discarded particles of food and meat, vegetable and animal offal, kitchen wastes in general, and tin cans, bottles, paper and other containers, paper, or any other materials that contain or have attached thereto any putrescible residue, but excluding industrial wastes and by-products.

(2) The term "small dead animals" shall mean the carcasses of fowls and animals no larger than a dog.

(3) The term "industrial wastes" shall mean wastes and by-products of manufacturing and processing establishments.

(4) The term "building wastes" shall mean discarded materials incident to and resulting from construction or repair of buildings and clearing of land for new construction, such as, but not limited to, rock, brick, metal, wood, glass, trees, brush, and vegetation, when such materials are in greater quantity than can be placed in one container.

(5) The term "refuse" shall mean all other wastes, such as tin cans, metal, stone, brick, wood, glass, bottles, paper, cordage, ashes, household rubbish, tree limbs, brush, leaves, lawn trimmings, weeds, flowers, other vegetation, and any other non-classified trash or discarded materials.

(6) The term "garbage container" shall mean a watertight can of solid and durable material, of not more than thirty-two gallons capacity and not less than twenty (20) gallons capacity, equipped with lifting handles, or bail, and having a tight-fitting lid with a handle. A garbage container or any other container must not have any inside structures, such as bands or reinforcing angles, that will prevent or impede the free discharge of its contents, and shall not have any jagged or sharp edges that might injure a person handling it.

(7) The term "person" shall mean any natural person, firm, company, partnership, cooperative, association, corporation, or any other legal entity.

(8) The masculine shall include the feminine and neuter genders.

(9) The term "city" shall mean the City of Humboldt.

(10) The term "sanitary engineer" shall mean the mayor or some person expressly designated by him to act as such.

(11) The term "commercial waste" shall mean garbage and not included in the definition of "industrial waste" and "building waste" as herein defined.

(12) The term "residential class" and symbol "RC" shall mean all accounts requesting garbage and/or refuse collection from places of dwelling as opposed to places of commercial business within the city limits.

(13) The term "commercial class" and symbol "CC" shall mean all accounts requesting garbage and/or refuse collection from businesses within the City limits.

(14) The term "outside residential" and symbol "OR" shall mean all accounts requesting garbage and/or refuse collection from places of dwelling outside the city limits.

(15) The term "outside commercial" and symbol "OC" shall mean all accounts requesting garbage and/or refuse collection from commercial businesses outside the city limits.

(16) The term "sanitation committee" shall mean that committee appointed by the mayor to oversee the sanitation department.

(17) The term "service" shall mean the act of collecting and disposing the garbage or refuse from any account. (Ord. #87-02, ___)

17-102. Preparation for collection. Materials and wastes to be collected by the sanitation crew of the city shall be prepared as follows:

(1) All garbage must be placed in garbage containers. Containers not meeting the specifications of this chapter may be confiscated. Garbage shall be well wrapped in paper bags, newspapers or other suitable materials. No liquids shall be placed in containers.

(2) Refuse, if not placed in the garbage container, shall be placed in another container in such a manner as to prevent the contents from spilling or blowing out, except that tree limbs and brush may be cut in lengths not to exceed four feet and shall be prepared for easy handling. Tree limbs larger than one inch in diameter will be collected only on special order. Such collection shall be on an actual cost basis, the minimum fee to be \$10.50. Business and

commercial establishments shall break down boxes and cartons and securely tie them in bundles. Refuse containers may be confiscated when they fail to meet the specifications of this chapter.

(3) The combined weight of garbage containers and the contents shall not exceed seventy-five (75) pounds except for containers for commercial waste.

(4) It shall be the responsibility of the head of every family occupying a dwelling unit, or the owners, or agents therefor, to provide sufficient garbage and refuse containers at proper locations for the collection of garbage and refuse. The lids of all garbage containers shall at all times be kept secure and fastened so that flies and other insects cannot have access to the contents thereof, and said lids shall be removed only while being filled or emptied as the case may be.

(5) It shall be the duty of the person in charge of each business and commercial establishment to provide satisfactory containers and to place them in proper locations. (Ord. #87-02, ___)

17-103. Location of containers. (1) Where alleys are used by collecting trucks, containers shall be placed on the alley line in such a position as not to intrude upon the traveled portion of the alley. If a fence without a gate separates an alley from the yard where containers are located, a platform for the containers shall be so constructed that its top shall be level with and adjoining the top of the fence. Such platforms must be constructed entirely back of the property line and no part of same may be in an alley.

(2) Where streets are used by collecting trucks, containers shall be placed in the rear of the dwelling unit or business and commercial establishment, so as not to be visible from the street, but in a convenient and easily accessible location.

(3) Tree limbs and brush bundled separately shall be placed either in alleys, where they are used by collecting trucks, or, if alleys are not available and streets are used by collecting trucks, then adjacent to and back of the curb, or adjacent to and back of the ditch if there is no curb.

(4) Commercial waste shall be placed in containers supplied by the city in locations on or near each commercial customer, which location shall be selected by the city. (Ord. #87-02, ___)

17-104. Industrial and building wastes. The person creating or in possession of industrial or building wastes shall be responsible for disposal of such wastes in such manner and at such places as the sanitary engineer shall approve, and such wastes shall not be collected as a part of the city's refuse and garbage collection service. (Ord. #87-02, ___)

17-105. Dead animals. The sanitary department upon call will pick up small dead animals, which shall not be placed in garbage or refuse containers. The person owning or in possession of large dead animals shall be responsible

for their prompt disposal in such a manner as the sanitary engineer shall direct. (Ord. #87-02, ___)

17-106. Restrictions on hauling. No person, other than employees of the sanitary department, may collect or haul any garbage or refuse. (Ord. #8-702, ___)

17-107. Prohibited acts. (1) It shall be unlawful for any person without permission of the owner to place garbage or refuse in the container of another person.

(2) It shall be unlawful to place, deposit, dump, or throw any garbage, refuse, dead animals, or industrial or building wastes:

(a) On public or private property except under the provisions of this chapter except as provided in subsection (9) hereof.

(b) On lots or land, vacant or occupied.

(c) On or in any gutter, street, sidewalk, or other public property.

(3) It shall be unlawful for any person to permit garbage, refuse, dead animals, or any other waste to remain on his property except under the provisions of this chapter. A violation of this provision shall constitute a nuisance.

(4) It shall be unlawful for any person to permit weeds, grass, or other vegetation to grow or to remain on lots or land, occupied or vacant, or upon any abutting sidewalks, curb, or street so as to become offensive, or emanate offensive and obnoxious odors, or become a breeding place for flies or insects, or become a potential menace to public health. A violation of this provision shall constitute a nuisance.

(5) Should the sanitary engineer find that a nuisance is being committed he shall notify the person in charge of such property either in person or by registered mail to take immediate steps to remedy the nuisance. If no action is taken within three (3) days, the sanitary department may correct the nuisance, at the expense of the property owner, said expense to become a lien upon the property to be collected as any delinquent tax.

(6) It shall be unlawful to dispose of body wastes or sewage in any manner except through the city sewerage system, unless otherwise specifically approved by the sanitary engineer.

(7) It shall be unlawful for any person, firm, partnership, association, or corporation to use the City of Humboldt sanitary sewer system, or any part thereof, for the purpose of collecting and disposing of rain water or surface water of any type, or to make any connection, including gutter spouts, to said sewer system for any purpose other than disposal of sewage.

(8) It shall be unlawful to burn garbage or refuse or other waste materials within the corporate limits.

(9) The city may from time to time by appropriate resolution adopted by the board of mayor and aldermen designate locations available to the public for the disposal of residential, commercial, industrial, and building wastes but under the following conditions:

- (a) By the payment of the fees as provided by this chapter.
- (b) That the transporting vehicle be enclosed, or covered as to prevent the spilling of garbage or refuse.
- (c) That it be unloaded at a spot designated by the person in charge of the location. (Ord. #87-02, ___)

17-108. Method of billing. Charges for the collection of residential and commercial garbage and refuse collection service shall be made monthly and billed through central service association of the gas and water billings. Charges for disposal of garbage at locations provided for in § 17-107(9) shall be due at the time of disposal. (Ord. #87-02, ___)

17-109. Schedule of charges. (1) Garbage and refuse collection service shall be furnished by the city according to the following rate schedule:

- (a) Residential Class ("RC"): one pick-up per week--\$12.00 per month;
- (b) Commercial Class ("CC"): one pick-up per week--\$14.50 per month;
- (c) Outside Residential ("OR"): one pick-up per week--\$14.00 per month;
- (d) Outside Commercial ("OC"): one pick-up per week--\$25.00 per month.

(2) Dumpster and additional services charges. For commercial establishments utilizing dumpster pick-up, the following rates shall apply:

- (a) Commercial Class ("CC"): standard rate of one dumpster with one service per week--\$15.00 per month;
 - (i) Each additional dumpster--\$15.00 per month;
 - (ii) Each additional service--\$15.00 per month;
 - (iii) Every account shall be designated by number from 11 through 99. The first digit refers to the number of dumpsters utilized by that account. The second number refers to the number of services per dumpster. (E.g. "CC 22" shall mean two dumpsters and two services for a rate of \$60.00 per month.)
- (b) Outside Commercial ("OC"): standard rate of one dumpster with one service--\$25.00 per month.
 - (i) Each additional dumpster--\$25.00 per month;
 - (ii) Each additional service--\$25.00 per month;
 - (iii) Every account shall be designated by number from 11 through 99. The first digit refers to the number of dumpsters utilized by that account. The second number refers to the number

of services per dumpster. (E.g. "OC 13" shall mean one dumpster and three services for a rate of \$75.00 per month.) (Ord. #87-02, _____, as amended by Ord. #88-5, and Ord. #91-10, Aug. 1991)

17-110. Enforcement. Enforcement of the provisions of this chapter shall be the responsibility of the mayor acting with such assistants and clerical help as shall from time to time be authorized by the board of mayor and aldermen. (Ord. #87-02, _____)

17-111. Classification, adjustment and reclassification.

(1) Subsequent customers requesting solid waste pick-up other than residential customers will be base rated by existing sanitation committee.

(2) Any special rate classification other than those set out in § 17-109 shall be determined by the sanitation committee.

(3) Any or all rate adjustments or reclassifications of customers must be authorized by means of written notice from the city sanitation superintendent or official to the utility department via standard form. (Ord. #87-02, _____)

17-112. Containers to be removed from curb within 48 hours of collection. (1) All residents of the City of Humboldt who avail themselves of the city's curbside garbage pick up shall remove the containers used for their garbage within forty-eight (48) hours of said pick up.

(2) A violation of this section shall be punishable by a penalty of five dollars (\$5) for the first offense, fifteen dollars (\$15) for the second offense, twenty five dollars (\$25) for the third offense and fifty dollars (\$50) for the fourth offense and every offense thereafter.

(3) The penalty shall be waived in cases in which the resident was unable to move the container due to their absence from the city or was called away by an emergency. (Ord. #95-10, Sept. 1995)

TITLE 18

WATER AND SEWERS¹

CHAPTER

1. WATER AND SEWERS.
2. SEWER USE ORDINANCE.
3. CROSS-CONNECTIONS, AUXILIARY INTAKES, ETC.

CHAPTER 1

WATER AND SEWERS

SECTION

- 18-101. Application and scope.
- 18-102. Definitions.
- 18-103. Obtaining service.
- 18-104. Application and contract for service.
- 18-105. Service charges for temporary service.
- 18-106. Connection charges.
- 18-107. Meters.
- 18-108. Meter tests.
- 18-109. Schedule of rates.
- 18-110. Multiple services through a single meter.
- 18-111. Billing.
- 18-112. Discontinuance or refusal of service.
- 18-113. Re-connection charge.
- 18-114. Termination of service by customer.
- 18-115. Access to customers' premises.
- 18-116. Inspections.
- 18-117. Customer's responsibility for system's property.
- 18-118. Customer's responsibility for violations.
- 18-119. Supply and resale of water.
- 18-120. Unauthorized use of or interference with water supply.
- 18-121. Limited use of unmetered private fire line.
- 18-122. Damages to property due to water pressure.
- 18-123. Liability for cutoff failures.
- 18-124. Restricted use of water.

¹Municipal code references

Building, utility and housing codes: title 12.

Refuse disposal: title 17.

18-125. Interruption of service.

18-126. Digging wells unlawful; exception.

18-101. Application and scope. These rules and regulations are a part of all contracts for receiving water and/or sewer service from the Humboldt Water and Sewer Department and shall apply whether the service is based upon contract, agreement, signed application, or otherwise. (1980 Code, § 13-101)

18-102. Definitions. (1) "Customer" means any person, firm, or corporation who receives water and/or sewer service from the water and sewer department under either an express or implied contract.

(2) "Household" means any two (2) or more persons living together as a family group.

(3) "Service line" shall consist of the pipe line extending from any water main of the water and sewer department to private property. Where a meter and meter box are located on private property, the service line shall be construed to include the pipe line extending from the department's water main to and including the meter and meter box.

(4) "Discount date" shall mean the date ten (10) days after the date of the bill, except when some other date is provided by contract. The discount date is the last date upon which water and/or sewer bills can be paid at net rates.

(5) "Dwelling" means any single structure, with auxiliary buildings, occupied by one or more persons or households for residential purposes.

(6) "Premise" means any structure or group of structures operated as a single business or enterprise, provided, however, the term "premise" shall not include more than one (1) dwelling. (1980 Code, § 13-102)

18-103. Obtaining service. A formal application for either original or additional service must be made and be approved by the water and sewer department before connection or meter installation orders will be issued and work performed.

A minimum deposit of five dollars (\$5.00) for domestic customers and twenty-five dollars (\$25.00) for all other classes of customers will be required before service is commenced. However, at the discretion of the management, additional deposits may be required in an amount not to exceed the estimated two and one-half (2 1/2) months bill under applicable rates. Upon discontinuance of service, any meter deposit will be applied to any bill that remains unpaid at the end of a thirty (30) day period. (1980 Code, § 13-103)

18-104. Application and contract for service. Each prospective customer desiring water and/or sewer service will be required to sign a standard form of contract for one (1) year before service is supplied. If, for any reason, a customer, after signing a contract for water and/or sewer service, does not take the service by reason of not occupying the premises or otherwise, or if service is

discontinued before the expiration of twelve (12) months at the request of the customer, he shall reimburse the water and sewer department the sum of one dollar (\$1.00) for the expense incurred in setting and removing meter.

The receipt of a prospective customer s application for service, regardless of whether or not accompanied by a deposit, shall not obligate the water and sewer department to render the service applied for. If the service applied for cannot be supplied in accordance with these rules and regulations and general practice, the liability of the water and sewer department to the applicant for such service shall be limited to the return of any deposit made by such applicant. (1980 Code, § 13-104)

18-105. Service charges for temporary service. Customers requiring temporary service shall pay all costs for connection and disconnection incidental to the supplying and removing of service in addition to the regular charge for water used. (1980 Code, § 13-105)

18-106. Connection charges. (1) Water. Service lines will be laid by the water and sewer department, and the location of such lines will be determined by the department.

The water and sewer department will tap main, make connection, and run fifty (50) feet of service line to meter at the following rates:

	<u>Inside</u>	<u>Outside</u>
3/4" Connection and Meter	\$ 85.00	\$110.00
1" Connection and Meter	100.00	125.00
1 1/2" Connection and Meter	125.00	150.00
2" Connection and Meter	175.00	200.00

Where the service line from tap on water main to meter location is in excess of the allowable fifty (50) feet, the additional piping will be installed on a labor and material cost basis.

(2) Sewer. All applicants for sewer service shall pay a connection fee of thirty-five dollars (\$35.00) where taps are made on sewer mains that have been laid by the city at the expense of the city. (1980 Code, § 13-106)

18-107. Meters. All meters shall be installed, tested, repaired, and removed only by the water and sewer department.

No one shall do anything which will in any way interfere with or prevent the operation of a meter. No one shall tamper with or work on a water meter without the written permission of the department. No one shall install any pipe or other device which will cause water to pass through or around a meter without the passage of such water being registered fully by the meter. (1980 Code, § 13-107)

18-108. Meter tests. The water and sewer department will, at its own expense, make routine tests of meters when it considers such tests desirable.

In testing meters, the water passing through a meter will be weighed or measured at various rates of discharge and under varying pressures. To be considered accurate, the meter registration shall check with the weighed or measured amounts of water within the percentage shown in the following table:

<u>Meter Size</u>	<u>Percentage</u>
5/8", 3/4", 1", 2"	2%
3"	3%
4"	4%
6"	5%

The water and sewer department will also make tests or inspections of its meters at the request of the customer. However, if a test requested by a customer shows a meter to be accurate within the limits stated above, the customer shall pay a meter testing charge in the amount stated in the following table:

<u>Meter Size</u>	<u>Test Charge</u>
5/8", 3/4", 1"	\$ 2.00
1-1/2", 2"	5.00
3"	8.00
4"	12.00
6" and over	20.00

If such test shows a meter not to be accurate within such limits, the cost of such meter test shall be borne by the water and sewer department. (1980 Code, § 13-108)

18-109. Schedule of rates. All water and sewer service furnished by the water and sewer department shall be measured or estimated in gallons to the nearest multiple of 1,000, and sewer service shall be furnished under such rate schedules as the city may from time to time adopt by appropriate ordinance or resolution. (1980 Code, § 13-109)

18-110. Multiple services through a single meter. No customer shall supply water and/or sewer service to more than one dwelling or premise from a single service line and meter without first obtaining the written permission of the water and sewer department.

Where the water and sewer department allows more than one dwelling or premise to be served through a single service line and meter, the amount of water used by all the dwellings and premises served through a single service line and meter shall be allocated to each separate dwelling or premise served.

The water and/or sewer charges for each such dwelling or premise thus served shall be computed just as if each such dwelling or premise had received through a separately metered service the amount of water so allocated to it, such computation to be made at the city's applicable water rates schedule, including the provisions as to minimum bills. The separate charges for each dwelling or premise served through a single service line and meter shall then be added together, and the sum thereof shall be billed to the customer in whose name the service is supplied. (1980 Code, § 13-110)

18-111. Billing. Bills for residential water and sewer service will be rendered monthly.

Bills for commercial and industrial service may be rendered weekly, semimonthly, or monthly, at the option of the water and sewer department.

Water and/or sewer bills must be paid on or before the discount date shown thereon to obtain the net rate; otherwise the gross rate shall apply. Failure to receive a bill will not release a customer from payment obligation, nor extend the discount date.

In the event a bill is not paid on or before the discount date, a written notice shall be mailed to the customer. The notice shall advise the customer that his service may be discontinued without further notice if the bill is not paid on or before five (5) days after the discount date. The water and sewer department shall not be liable for any damages resulting from discontinuing service under the provisions of this section, even though payment of the bill is made at any time on the day that service is actually discontinued.

Should the final date of payment of bill at the net rate fall on Sunday or a holiday, the business day next following the final date will be the last day to obtain the net rate. A net remittance received by mail after the time limit for payment at the net rate will be accepted by the water and sewer department if the envelope is date-stamped on or before the final date for payment of the net amount.

If a meter fails to register properly, or if a meter is removed to be tested or repaired, or if water is received other than through a meter, the water and sewer department reserves the right to render an estimated bill based on the best information available. (1980 Code, § 13-111)

18-112. Discontinuance or refusal of service. The water and sewer department shall have the right to discontinue service or to refuse to connect service for a violation of, or a failure to comply with, any of the following:

- (1) These rules and regulations.
- (2) The customer's application for service.
- (3) The customer's contract for service.

Such right to discontinue service shall apply to all service received through a single connection or service, even though more than one (1) customer

or tenant is furnished service therefrom, and even though the delinquency or violation is limited to only one such customer or tenant.

Discontinuance of service by the water and sewer department for any cause stated in these rules and regulations shall not release the customer from liability for service already received or from liability for payments that thereafter become due under other provisions of the customer's contract. (1980 Code, § 13-112)

18-113. Re-connection charge. Whenever service has been discontinued as provided for above, a re-connection charge of one dollar (\$1.00) shall be collected by the water and sewer department before service is restored. (1980 Code, § 13-113)

18-114. Termination of service by customer. Customers who have fulfilled their contract terms and wish to discontinue service must give at least three (3) days written notice to that effect unless the contract specifies otherwise. Notice to discontinue service prior to the expiration of a contract term will not relieve the customer from any minimum or guaranteed payment under such contract or applicable rate schedule.

When service is being furnished to an occupant of premises under a contract not in the occupant's name, the water and sewer department reserves the right to impose the following conditions on the right of the customer to discontinue service under such a contract:

(1) Written notice of the customer's desire for such service to be discontinued may be required; and the water and sewer department shall have the right to continue such service for a period of not to exceed ten (10) days after receipt of such written notice, during which time the customer shall be responsible for all charges for such service. If the water and sewer department should continue service after such ten (10) day period subsequent to the receipt of the customer's written notice to discontinue service, the customer shall not be responsible for charges for any service furnished after the expiration of such ten (10) day period.

(2) During such ten (10) day period, or thereafter, the occupant of premises to which service has been ordered discontinued by a customer other than such occupant, may be allowed by the water and sewer department to enter into a contract for service in the occupant's own name upon the occupant's complying with these rules and regulations with respect to a new application for service. (1980 Code, § 13-114)

18-115. Access to customers' premises. The water and sewer department's identified representatives and employees shall be granted access to all customers' premises at all reasonable times for the purpose of reading meters, for testing, inspecting, repairing, removing, and replacing all equipment belonging to the department, and for inspecting customer's plumbing and

premises generally in order to secure compliance with these rules and regulations. (1980 Code, § 13-115)

18-116. Inspections. The water and sewer department shall have the right, but shall not be obligated, to inspect any installation or plumbing system before water and/or sewer service is furnished or at any later time. The department reserves the right to refuse service or to discontinue service to any premises not meeting standards fixed by municipal ordinances regulating building and plumbing, or not in accordance with any special contract, these rules and regulations, or other requirements of the city.

Any failure to inspect or reject a customer's installation or plumbing system shall not render the water and sewer department liable or responsible for any loss or damage which might have been avoided had such inspection or rejection been made. (1980 Code, § 13-116)

18-117. Customer's responsibility for system's property. Except as herein elsewhere expressly provided, all meters, service connections, and other equipment furnished by or for the water and sewer department shall be and remain the property of the city. Each customer shall provide space for and exercise proper care to protect the property of the city on his premises. In the event of loss or damage to such property arising from the neglect of a customer properly to care for same, the cost of necessary repairs or replacements shall be paid by the customer. (1980 Code, § 13-117)

18-118. Customer's responsibility for violations. Where the water and sewer department furnishes water and/or sewer service to a customer, such customer shall be responsible for all violations of these rules and regulations which occur on the premises so served. Personal participation by the customer in any such violations shall not be necessary to impose such personal responsibility on him. (1980 Code, § 13-118)

18-119. Supply and resale of water. All water shall be supplied within the city exclusively by the water and sewer department and no customer shall, directly or indirectly, sell, sublet, assign, or otherwise dispose of the water or any part thereof, except with written permission from the water and sewer department. (1980 Code, § 13-119)

18-120. Unauthorized use of or interference with water supply. No person shall turn on or turn off any of the water and sewer department's stop cocks, valves, hydrants, spigots, or fire plugs without permission or authority from the department. Any person guilty of violating this section shall be charged at the applicable rate for the estimated amount of water used in addition to any criminal liability to which he may be subject. (1980 Code, § 13-120)

18-121. Limited use of unmetered private fire line. Where a private fire line is not metered, no water shall be used from such line or from any fire hydrant thereon, except to fight fire or except when being inspected in the presence of an authorized agent of the water and sewer department.

All private fire hydrants shall be sealed by the department, and shall be inspected at regular intervals to see that they are in proper condition and that no water is being used therefrom in violation of these rules and regulations. When the seal is broken on account of fire, or for any other reason, the customer taking such service shall immediately give the department a written notice of such occurrence. (1980 Code, § 13-121)

18-122. Damages to property due to water pressure. The water and sewer department shall not be liable to any customer for damages caused to his plumbing or property by high pressure, low pressure, or fluctuations in pressure in the department's water mains. (1980 Code, § 13-122)

18-123. Liability for cutoff failures. The water and sewer department's liability shall be limited to the forfeiture of the right to charge a customer for water that is not used but is received from a service line under any of the following circumstances:

(1) After receipt of at least ten (10) days' written notice to cut off a water service, the department has failed to cut off such service.

(2) The department has attempted to cut off a service but such service has not been completely cut off.

(3) The department has completely cut off a service, but subsequently, the cutoff develops a leak or is turned on again so that water enters the customer's pipes from the department's main.

Except to the extent stated above, the department shall not be liable for any loss or damage resulting from cutoff failures. If a customer wishes to avoid possible damage for cutoff failures, the customer shall rely exclusively on privately owned cutoffs and not on the department's cutoff. Also, the customer (and not the department) shall be responsible for seeing that his plumbing is properly drained and is kept properly drained, after his water service has been cut off. (1980 Code, § 13-123)

18-124. Restricted use of water. In times of emergencies or in times of water shortage, the water and sewer department reserves the right to restrict the purposes for which water may be used by a customer and the amount of water which a customer may use. (1980 Code, § 13-124)

18-125. Interruption of service. The water and sewer department will endeavor to furnish continuous water and sewer service, but does not guarantee to the customer any fixed pressure or continuous service. The department shall not be liable for any damages for any interruption of service whatsoever.

In connection with the operation, maintenance, repair, and extension of the municipal water and sewer systems, the water supply may be shut off without notice when necessary or desirable and each customer must be prepared for such emergencies. The department shall not be liable for any damages from such interruption of service or for damages from the resumption of service without notice after any such interruption. (1980 Code, § 13-125)

18-126. Digging wells unlawful; exception. It shall hereafter be unlawful for any person to dig wells upon any premises where there is a water main in front of, to the rear of, or on either side of said premises.

However, upon application of any property owner or tenant and upon resolution adopted by the board of public utility of the City of Humboldt, the digging of wells and the use of the water therefrom may be permitted should the utility board find that the digging and maintenance of such a well will not create any unsanitary condition which might be detrimental to the health, morals, comfort, safety, convenience, and welfare of the other inhabitants of the city. (1980 Code, § 13-126)

CHAPTER 2

SEWER USE ORDINANCE¹

SECTION

18-201. Adopted.

18-202--18-220. [Deleted.]

18-201. Adopted. The updated Humboldt Utilities and Sewer Use Ordinance and Enforcement Response Plan is hereby adopted and incorporated by reference as a part of this code.² (1980 Code, § 8-301, as replaced by Ord. #2013-04, June 2013)

18-202--18-220. [Deleted.] (1980 Code, §§ 8-302--8-320, as deleted by Ord. #2013-04, June 2013)

¹Municipal code reference
Plumbing code: title 12, chapter 2.

²Ord. #2013-04 is available for review in the city treasurer's office

CHAPTER 3

CROSS-CONNECTIONS, AUXILIARY INTAKES, ETC.

SECTION

- 18-301. Definitions.
- 18-302. System to comply with state regulations.
- 18-303. All cross-connections must be approved.
- 18-304. Statement of unapproved connections.
- 18-305. Inspections.
- 18-306. Right to enter upon premises.
- 18-307. Reasonable time to comply.
- 18-308. Protective device.
- 18-309. Potable water system protected.
- 18-310. Requirement to apply to all premises served.
- 18-311. Penalty.

18-301. Definitions. The following definitions and terms shall apply in the interpretation and enforcement of this chapter:

(1) "Public water system." The waterworks system which furnishes water to the City of Humboldt for general use and which is recognized as a public water system by the Tennessee Department of Health and Environment.

(2) "Cross-connection." Any physical arrangement whereby a public water system is connected, directly or indirectly, with any other water supply system, sewer, drain, conduit, pool, storage reservoir, plumbing fixture, or other device which contains, or may contain, contaminated water, sewage, or other waste or liquid of unknown or unsafe quality which may be capable of imparting contamination to the public water system as a result of backflow. By-pass arrangements, jumper connections, removable sections, swivel or changeover devices through which, or because of which, backflow could occur are considered to be cross-connections.

(3) "Auxiliary intake." Any piping connection or other device whereby water may be secured from a source other than that normally used.

(4) "By-pass." Any system of piping or other arrangement whereby the water may be diverted around any part or portion of a water purification plant.

(5) "Inter-connection." Any system of piping or other arrangement whereby the public water system is connected directly with a sewer, drain, conduit, pool, storage reservoir, or other device which does or may contain sewage or other waste or liquid which would be capable of imparting contamination to the public water system.

(6) "Person." Any individual, corporation, company, association, partnership, state, municipality, utility district, water cooperative, or Federal Agency. (Ord. #86-03, June 1986)

18-302. System to comply with state regulations. The City of Humboldt Public Water System is to comply with Tennessee Code Annotated, §§ 68-221-701 through 68-221-720, as well as the Rules and Regulations for Public Water Systems, legally adopted in accordance with this code, which pertain to cross-connections, auxiliary intakes, by-passes, and interconnections, and establish an effective on-going program to control these undesirable water uses. (Ord. #86-03, June 1986)

18-303. All cross-connections must be approved. It shall be unlawful for any person to cause a cross-connection to be made or allow one to exist for any purpose whatsoever unless the construction and operation of same have been approved by the Tennessee Department of Health and Environment, and the operation of such cross-connections, auxiliary intake, by-pass or interconnection is at all time under the direct supervision of the General Manager of the City of Humboldt Public Water System. (Ord. #86-03, June 1986)

18-304. Statement of unapproved connections. 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 General Manager of the City of Humboldt Public Water System, a statement of the non-existence of unapproved or unauthorized cross-connections, auxiliary intakes, by-passes, or interconnections. Such statement shall also contain an agreement that no cross-connection, auxiliary intake, by-pass, or inter-connection will be permitted upon the premises. (Ord. #86-03, June 1986)

18-305. Inspections. It shall be the duty of the General Manager of the City of Humboldt Public Water System to cause inspections to be made of all properties served by the public water supply where cross-connections with the public water supply are deemed possible. The frequency of inspections and re-inspections based on potential health hazards involved, shall be established by the General Manager of the City of Humboldt Public Water System and as approved by the Tennessee Department of Health and Environment. (Ord. #86-03, June 1986)

18-306. Right to enter upon premises. That the General Manager of the Public Water System, or authorized representative, shall have the right to enter at any reasonable time, any property served by a connection to the City of Humboldt Public Water System for the purpose of inspecting the piping system or systems therein for cross-connections, auxiliary intakes, by-passes, or inter-connections. On request, the owner, lessee, or occupant of any property so served shall furnish to the inspection agency any pertinent information

regarding the piping system or systems on such property. The refusal of such information or refusal of access, when requested, shall be deemed evidence of the presence of cross-connections. (Ord. #86-03, June 1986)

18-307. Reasonable time to comply. That any person who now has cross-connections, auxiliary intakes, bypasses, or inter-connections in violation of the provisions of this chapter shall be allowed a reasonable time within which to comply with provisions of this chapter. After a thorough investigation of existing conditions and an appraisal of time required to complete the work, the amount of time shall be designated by the General Manager of the City of Humboldt Public Water System.

The failure to correct conditions threatening the safety of the public water system as prohibited by this chapter and the Tennessee Code Annotated, § 68-221-711, within a reasonable time and within the time limits set by the City of Humboldt Public Water System, shall be grounds of denial of water service. If proper protection has not been provided after a reasonable time, the utility shall give the customer legal notification that water service is to be discontinued, and physically separate the public water system from the customers on-site piping system in such a manner that the two systems cannot again be connected by an unauthorized person.

Where cross-connections, inter-connections, auxiliary intakes, or by-passes are found that constitutes an extreme hazard of immediate concern of contaminating the public water system, the management of the water system shall require that immediate corrective action be taken to eliminate the threat to the public water system. Immediate steps shall be taken to disconnect the public water system from the on-site piping system unless the imminent hazard(s) is corrected immediately. (Ord. #86-03, June 1986)

18-308. Protective device. (1) Where the nature of use of the water supplied a premises by the water system is such that it is deemed:

- (a) Impractical to provide an effective air-gap separation;
- (b) That the owner and/or occupant of the premises cannot, or is not willing, to demonstrate to the official in charge of the water system, or his designated representative that the water use and protective features of the plumbing are such as to propose no threat to the safety or potability of the water system;
- (c) That the nature and mode of operation within a premises are such that frequent alterations are made to the plumbing;
- (d) There is a likelihood that protective measures may be subverted, altered, or disconnected.

(2) The General Manager of the City of Humboldt Public Water System, or his designated representative, shall require the use of an approved protective device on the service line serving the premises to assure that any contamination that may originate in the customer's premises is contained

therein. The protective devices shall be reduced pressure zone type backflow preventer approved by the Tennessee Department of Health and Environment as to manufacture, model, and size. The method of installation of backflow protective devices shall be approved by the General Manager of the City of Humboldt Public Water System prior to installation and shall comply with the criteria set forth by the Tennessee Department of Health and Environment. The installation shall be at the expense of the owner or occupant of the premises.

(3) Personnel of the City of Humboldt Public Water System shall have the right to inspect and test the device or devices on an annual basis or whenever deemed necessary by the General Manager of the City of Humboldt Public Water System, or his designated representative. Water service shall not be disrupted to test the device without the knowledge of the occupant of the premises.

(4) Where the use of water is critical to the continuance of normal operations or protection of life, property, or equipment, duplicate units shall be provided to avoid the necessity of discontinuing water service to test or repair the protective device or devices. Where it is found that only one unit has been installed and the continuance of service is critical, the General Manager of the City of Humboldt Public Water System shall notify, in writing, the occupant of the premises of plans to discontinue water service and arrange for a mutually acceptable time to test and/or repair the device. The water system shall require the occupant of the premises to make all repairs indicated promptly, to keep the unit(s) working properly, and the expense of such repairs shall be borne by the owner or occupant of the premises. Repairs shall be made by qualified personnel, acceptable to the General Manager of the City of Humboldt Public Water System.

(5) The failure to maintain backflow prevention device(s) in proper working order shall be grounds for discontinuing water service to a premises. Likewise the removal, bypassing, or altering the protective device(s) or the installation thereof so as to render the device(s) ineffective shall constitute grounds for discontinuance of water service. Water service to such premises shall not be restored until the customer has corrected or eliminated such conditions or defects to the satisfaction of the City of Humboldt Public Water System. (Ord. #86-03, June 1986)

18-309. Potable water system protected. The potable water system made available to premises served by the public water system shall be protected from possible contamination as specified herein. Any water outlet which could be used for potable or domestic purposes and which is not supplied by the potable system must be labeled in a conspicuous manner as:

WATER UNSAFE
FOR DRINKING

Minimum acceptable sign shall have black letters at least one-inch high located on a red background. (Ord. #86-03, June 1986)

18-310. Requirement to apply to all premises served. The requirements contained herein shall apply to all premises served by the City of Humboldt Public Water System whether located inside or outside the Corporate Limits and are hereby made a part of the conditions required to be met for the City to provide water services to any premises. Such action, being essential for the protection of water distribution system against the entrance of contamination which may render the water unsafe healthwise, or otherwise undesirable, shall be enforced rigidly without regard to location of the premises, whether inside or outside the City of Humboldt Corporate Limits. (Ord. #86-03, June 1986)

18-311. Penalty. Any person who neglects or refuses to comply with any of the provisions of this chapter shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than ten dollars (\$10) nor more than one hundred dollars (\$100), and each day of continued violation after conviction shall constitute a separate offense. (Ord. #86-03, June 1986)

TITLE 19**ELECTRICITY AND GAS****CHAPTER**

1. ELECTRICAL SERVICE.
2. GAS.

CHAPTER 1**ELECTRICAL SERVICE¹****SECTION**

- 19-101. Application for service.
- 19-102. Deposit.
- 19-103. Point of delivery.
- 19-104. Customer's wiring--standards.
- 19-105. Inspections.
- 19-106. Underground service lines.
- 19-107. Customer's responsibility for electric department's property.
- 19-108. Right of access.
- 19-109. Billing.
- 19-110. Discontinuance of service by the electric department.
- 19-111. Reconnection charge.
- 19-112. Termination of contract by customer.
- 19-113. Service charges for temporary service.
- 19-114. Interruption of service.
- 19-115. Voltage fluctuations caused by the customer.
- 19-116. Additional load.
- 19-117. Standby and resale service.
- 19-118. Notice of trouble.
- 19-119. Non-standard service.
- 19-120. Meter tests.
- 19-121. Relocation of outdoor lighting facilities.
- 19-122. Billing adjusted to standard periods.
- 19-123. Scope.

¹Municipal code reference

Electrical code: title 12, chapter 3.

The provisions in this chapter (except when otherwise specifically indicated) are taken from the city's power contract with TVA, dated June, 1958, and amended July 31, 1967.

19-124. Conflict.

19-125. Tampering with electric meters, etc.

19-101. Application for service. Each prospective customer desiring electric service may be required to sign the electric department's standard form of application for service or contract before service is supplied by the city. (1980 Code, § 13-201)

19-102. Deposit. A deposit or suitable guarantee approximately equal to twice the average monthly bill may be required of any customer before electric service is supplied. The electric department may at its option return a deposit to the customer after one (1) year. Upon termination of service, the deposit may be applied by the electric department against unpaid bills of the customer, and if any balance remains after such application is made, said balance shall be refunded to the customer. (1980 Code, § 13-202)

19-103. Point of delivery. The point of delivery is the point, as designated by the electric department, on the customer's premises where current is to be delivered to his building or premises. All wiring and equipment beyond this point of delivery shall be provided and maintained by the customer at no expense to the electric department. (1980 Code, § 13-203)

19-104. Customer's wiring--standards. All wiring of the customer must conform to the electric department's requirements and accepted modern standards, as exemplified by the requirements of the National Electrical Safety Code and the National Electrical Code. (1980 Code, § 13-204)

19-105. Inspections. The electric department shall have the right, but shall not be obligated, to inspect any installation before electricity is introduced or at any time, and reserves the right to reject any wiring or appliances not in accordance with the electric department's standards; but such inspection or failure to inspect or reject shall not render the electric department liable or responsible for any loss or damage resulting from defects in the installation, wiring, or appliances, or from accidents which may occur upon the customer's premises. (1980 Code, § 13-205)

19-106. Underground service lines. Customers desiring underground service lines from the electric department's overhead system must bear the excess cost incident thereto. Specifications and terms for such construction will be furnished by the electric department on request. (1980 Code, § 13-206)

19-107. Customer's responsibility for electric department's property. All meters, service connections, and other equipment furnished by the electric department shall be and remain the property of the electric

department. The customer shall provide a space for and exercise proper care to protect the property of the electric department on its premises, and, in the event of loss or damage to such property arising from neglect of the customer to care for same, the cost of the necessary repairs or replacements shall be paid by the customer. (1980 Code, § 13-207)

19-108. Right of access. The electric department's identified employees shall have access to the customer's premises at all reasonable times for the purpose of reading meters, testing, repairing, removing, or exchanging any or all equipment belonging to the electric department. (1980 Code, § 13-208)

19-109. Billing. Bills will be rendered monthly and shall be paid within ten (10) days from date of bill at the office of the electric department. Failure to receive a bill will not release the customer from the payment obligation. Should bills not be paid as above, the electric department may at any time thereafter, upon five (5) days' written notice to the customer, discontinue service. Bills paid on or before the final date of payment shall be payable at the net rates, but thereafter the gross rates shall apply, as provided in the schedule of rates and charges. Should the final date for payment of the bill at the net rates fall on a Sunday or holiday, the business day next following the final date will be held as a day of grace for delivery of payment. Net rate remittances received by mail after the time limit for payment of said net rates will be accepted by the electric department if the incoming envelope bears United States Post Office date stamp of the final date for payment of the net amount or any date prior thereto. (1980 Code, § 13-209)

19-110. Discontinuance of service by the electric department. The electric department may refuse to connect or may discontinue service for the violation of any of its rules and regulations, or for violation of any of the provisions of the schedule of rates and charges, or of the application of the customer or contract with the customer. The electric department may discontinue service to the customer for the theft of current or the appearance of current theft devices on the premises of the customer. The discontinuance of service by the electric department for any causes as stated in this rule does not release the customer from his obligation to the electric department for the payment of minimum bills as specified in the application of the customer or the contract with the customer. (1980 Code, § 13-210)

19-111. Reconnection charge. Whenever service has been discontinued by the electric department, as provided above, or a trip is made for the purpose of discontinuing service, a charge of not less than one dollar (\$1.00) may be collected by the electric department before service is restored. (1980 Code, § 13-211)

19-112. Termination of contract by customer. Customers who have fulfilled their contract terms and wish to discontinue service must give at least three (3) days' written notice to that effect, unless the contract specifies otherwise. Notice to discontinue service prior to the expiration of the contract term will not relieve the customer from any minimum or guaranteed payment under any contract or rate. (1980 Code, § 13-212)

19-113. Service charges for temporary service. Customers requiring electric service on a temporary basis may be required by the electric department to pay all costs for connection and disconnection incidental to the supplying and removing of service. This rule applies to circuses, carnivals, fairs, temporary construction, and the like. (1980 Code, § 13-213)

19-114. Interruption of service. The electric department will use reasonable diligence in supplying current, but shall not be liable for a breach of contract in the event of, or for loss, injury, or damage to persons or property resulting from interruptions in service, excessive or inadequate voltage, single-phasing, or otherwise unsatisfactory service, whether or not caused by negligence. (1980 Code, § 13-214)

19-115. Voltage fluctuations caused by the customer. Electric service must not be used in such a manner as to cause unusual fluctuations or disturbances to the electric department's system. The electric department may require the customer, at his own expense, to install suitable apparatus which will reasonably limit such fluctuations. (1980 Code, § 13-215)

19-116. Additional load. The service connection, transformers, meters, and equipment supplied by the electric department for each customer have a definite capacity, and no addition to the equipment or load connected thereto will be allowed except by consent of the electric department. Failure to give notice of additions or changes in load, and to obtain the electric department's consent for same, shall render the customer liable for any damage to any of the electric department's lines or equipment caused by the additional or changed installation. (1980 Code, § 13-216)

19-117. Standby and resale service. All purchased electric service (other than emergency or standby service) used on the premises of the customer shall be supplied exclusively by the electric department, and the customer shall not, directly or indirectly, sell, sublet, assign, or otherwise dispose of the electric service or any part thereof. (1980 Code, § 13-217)

19-118. Notice of trouble. The customer shall notify the electric department immediately should the service be unsatisfactory for any reason, or should there be any defects, trouble, or accidents affecting the supply of

electricity. Such notices, if verbal, should be confirmed in writing. (1980 Code, § 13-218)

19-119. Non-standard service. The customer shall pay the cost of any special installation necessary to meet his peculiar requirements for service at other than standard voltages, or for the supply of closer voltage regulations than required by standard practice. (1980 Code, § 13-219)

19-120. Meter tests. The electric department will, at its own expense, make periodical tests and inspections of its meters in order to maintain a high standard of accuracy. The electric department will make additional tests or inspections of its meters at the request of the customer. If tests made at the customer's request show that the meter is accurate within two percent (2%), slow or fast, no adjustment will be made in the customer's bill, and the testing charge of one dollar (\$1.00) per meter will be paid by the customer. In case the test shows the meter to be in excess of two percent (2%), fast or slow, an adjustment shall be made in the customer's bill over a period of not over thirty (30) days prior to the date of such test, and the cost of making the test shall be borne by the electric department. (1980 Code, § 13-220)

19-121. Relocation of outdoor lighting facilities. The electric department shall, at the request of the customer, relocate or change existing electric department-owned equipment. The customer shall reimburse the electric department for such changes at actual cost, including appropriate overheads. (1980 Code, § 13-221)

19-122. Billing adjusted to standard periods. The demand charges and the blocks in the energy charges set forth in the rate schedules are based on billing periods of approximately one (1) month. In the case of the first billing of new accounts (temporary service, cotton gins, and other seasonal customers excepted) and final billings of all accounts (temporary service excepted) where the period covered by the billing involves fractions of a month, the demand charges and the blocks of the energy charge will be adjusted to a basis proportionate with the period of time during which service is extended. (1980 Code, § 13-222)

19-123. Scope. This chapter is a part of all contracts for receiving electric service from the electric department, and applies to all service received from the electric department, whether the service is based upon contract, agreement, signed application, or otherwise. A copy of the provisions in this chapter, together with a copy of the electric department's schedule of rates and charges, shall be kept open to inspection at the offices of the electric department. (1980 Code, § 13-223)

19-124. Conflict. In case of conflict between any provision of any rate schedule and the provisions in this chapter, the rate schedule shall apply. (1980 Code, § 13-224)

19-125. Tampering with electric meters, etc. It shall be unlawful for any person to tamper with, or interfere with, the operation of any electric meter through which electricity is supplied by the City of Humboldt, Tennessee, or to in any way tamper with or interfere with any of the electric facilities of the city or to make improper connections thereto so as to evade, or attempt to evade, the payment of lawful service and connection charges to the city.

Any person tampering with or interfering with the electric facilities of the city shall be presumed to have done so with the intent to evade or attempt to evade the payment of lawful service and connection charges to the city. (1980 Code, § 13-225)

CHAPTER 2

GAS¹

SECTION

- 19-201. Application and scope.
- 19-202. Regulations.
- 19-203. Schedule of rates.
- 19-204. Connection charges.
- 19-205. Discontinuance or refusal of service.
- 19-206. Access to customers' premises.
- 19-207. Inspections.
- 19-208. Customer's responsibility for system's property.
- 19-209. Customers' responsibility for violations.

19-201. Application and scope. These rules and regulations are a part of all contracts for receiving gas service through the facilities of the Humboldt Gas Utility and shall apply whether the service is based upon contract, agreement, signed application, or otherwise. (1980 Code, § 13-301)

19-202. Regulations. The following regulations shall apply to all consumers under each and all of the rate schedules as adopted by the city from time to time.

(1) Gas supplied by the Humboldt Gas Utility is for the exclusive use of the customer and shall not be resold or shared with others.

(2) Prompt payment discount. The prompt payment discount is the difference between the gross and net rates, and is allowed on all bills paid within ten (10) days from the date on which due and payable.

(3) Contract period. Service shall be for a period of not less than one (1) year. If service is discontinued before the expiration of twelve (12) months, a charge of one dollar (\$1.00) shall be made to cover the cost of disconnecting meter.

(4) Bills will customarily be rendered once a month and will be subject to the prompt payment discount for a period of ten (10) days following the due date, which shall be specified on the bill, and which due date shall be not less than ten (10) days from the date the bill is postmarked. If not paid at the end of the discount period, the customer will be served with a seven (7) days notice of discontinuance of service, at the expiration of which notice the service may be discontinued by the utility and the deposit applied toward the final bill.

¹Municipal reference
Gas code: title 12, chapter 4.

(5) Notice by customer to discontinue gas service must be given in writing or in person at the office of the utility at least twenty-four (24) hours in advance. The customer shall be responsible for all gas consumed until such notice has been given and a reasonable time allowed to read the meter. (1980 Code, § 13-302)

19-203. Schedule of rates.¹ All gas furnished by the gas utility shall be furnished under such rate schedules as the city may from time to time adopt by ordinance. (1980 Code, § 13-303)

19-204. Connection charges. (1) The utility will install, without charge to a residential consumer who will require gas during each month of the year, a gas pipe line from the meter to the consumer's property line not to exceed one hundred (100) feet in length, and such consumer will pay to the utility for the installation of any such line in excess of one hundred (100) feet the sum of seventy-five cents (75¢) per foot.

(2) Service lines from the property line to the meter for any other class of consumer shall be installed by the utility at the expense of the consumer and at a charge of seventy-five cents (75¢) per foot. (1980 Code, § 13-304)

19-205. Discontinuance or refusal of service. The gas utility shall have the right to discontinue service or to refuse to connect service for a violation of, or a failure to comply with, any of the following:

- (1) These rules and regulations.
- (2) The customer's application for service.
- (3) The customer's contract for service.

Such right to discontinue service shall apply to all service received through a single connection or service, even though more than one (1) customer or tenant is furnished service therefrom, and even though the delinquency or violation is limited to only one such customer or tenant.

Discontinuance of service by the utility for any cause stated in these rules and regulations shall not release the customer from liability for service already received or from liability for payments that thereafter become due under other provisions of the customer's contract. (1980 Code, § 13-305)

19-206. Access to customers' premises. The gas utility's identified representatives and employees shall be granted access to all customers' premises at all reasonable times for the purpose of reading meters, for testing, inspecting, repairing, removing, and replacing all equipment belonging to the

¹Ordinances prescribing rates and charges for gas service are of record in the office of the secretary of the board of mayor and aldermen.

utility, and for inspecting customers' premises generally in order to secure compliance with these rules and regulations. (1980 Code, § 13-306)

19-207. Inspections. The gas utility shall have the right, but shall not be obligated, to inspect any installation or system before gas service is furnished or at any later time. The utility reserves the right to refuse service or to discontinue service to any premises not meeting standards fixed by municipal ordinances regulating gas, or not in accordance with any special contract, these rules and regulations, or other requirements of the city.

Any failure to inspect or reject a customer's installation or system shall not render the utility liable or responsible for any loss or damage which might have been avoided had such inspection or rejection been made. (1980 Code, § 13-307)

19-208. Customer's responsibility for system's property. Except as herein elsewhere expressly provided, all meters, service connections, and other equipment furnished by or for the utility shall be and remain the property of the city. Each customer shall provide space for and exercise proper care to protect the property of the city on his premises. In the event of loss or damage to such property arising from the neglect of a customer properly to care for same, the cost of necessary repairs or replacements shall be paid by the customer. (1980 Code, § 13-308)

19-209. Customers' responsibility for violations. Where the city furnishes gas service to a customer, such customer shall be responsible for all violations of these rules and regulations which occur on the premises so served. Personal participation by the customer in any such violations shall not be necessary to impose such personal responsibility on him. (1980 Code, § 13-309)

TITLE 20

MISCELLANEOUS

CHAPTER

1. TREE SURGEONS.
2. FAIR HOUSING ORDINANCE.

CHAPTER 1

TREE SURGEONS

SECTION

- 20-101. Definition.
- 20-102. Permit and business license required.
- 20-103. Permit requirements.
- 20-104. Surgeons shall be responsible for removal of debris.
- 20-105. Unlawful to leave debris in streets or on sidewalks.
- 20-106. Violations.
- 20-107. Surgeons to be insured.

20-101. Definition. "Tree surgeon." Shall include any person, firm, corporation or partnership, whether as owner, agent or partner who is professionally engaged for hire in the business of trimming, cutting or removing trees within the City of Humboldt. (Ord. #98-7, July 1998)

20-102. Permit and business license required. No tree surgeon shall engage in such business without a permit and city business license. (Ord. #98-7, July 1998)

20-103. Permit requirements. (1) A permit shall be issued for each individual location. Said permit shall not have a duration of more than ten (10) days from issuance.

(2) A fee of ten dollars (\$10.00) shall be collected for the issuance of each permit.

(3) The applicant for such permit shall submit to the city clerk a written affidavit of application containing the following information:

(a) Name of the applicant.

(b) Complete permanent business address and, if applicable, the residential address. (Ord. #98-7, July 1998)

20-104. Surgeons shall be responsible for removal of debris. All tree surgeons shall be responsible for the removal of all debris resulting from their activities. (Ord. #98-7, July 1998)

20-105. Unlawful to leave debris in streets or on sidewalks. It shall be unlawful for any tree surgeon to leave any debris along the right-of-way of public street or sidewalk of the City of Humboldt. (Ord. #98-7, July 1998)

20-106. Violations. A violation of this chapter is punishable by penalty of fifty dollars (\$50.00), to be paid by tree surgeon. Each day the debris is allowed to remain shall constitute a new and separate offense. (Ord. #98-7, July 1998)

20-107. Surgeons to be insured. All tree surgeons shall be insured for \$500,000. (Ord. #98-7, July 1998)

CHAPTER 2

FAIR HOUSING ORDINANCE

SECTION

- 20-201. Definitions.
- 20-202. Unlawful practice.
- 20-203. Discrimination in the sale or rental of housing.
- 20-204. Discrimination in the financing of housing.
- 20-205. Discrimination in the provision of brokerage services.
- 20-206. Exemption.
- 20-207. Administration.
- 20-208. Education and conciliation.
- 20-209. Enforcement.
- 20-210. Investigation; subpoenas; giving of evidence.
- 20-211. Enforcement by private persons.

20-201. Definitions. (1) "Discriminatory housing practice" means an act that is unlawful under §§ 20-203, 20-204, or 20-205.

(2) "Dwelling" means any building, structure, or portion thereof which is occupied as, or designed or intended for occupancy as a residence by one or more families, and any vacant land which is offered for sale or lease for the construction or location thereon of any such building, structure, or portion thereof.

(3) "Family" includes a single individual.

(4) "Person" includes one or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, receivers, and judiciaries.

(5) "To rent" includes to lease, to sublease, to let and otherwise to grant for a consideration the right to occupy premises owned by the occupant. (Ord. #2001-03, Aug. 2001)

20-202. Unlawful practice. Subject to the provisions of subsection (2) and § 20-206, the prohibitions against discrimination in the sale or rental of housing set forth in § 20-203 shall apply to:

(1) All dwellings except as exempted by subsection (2).

(2) Nothing in § 20-203 shall apply to:

(a) Any single-family house sold or rented by an owner: Provided that such private individual owner does not own more than three (3) such single-family houses at any one (1) time: Provided further that in the case of the sale of any such single-family house by a private individual owner not residing in such house at the time of such sale or who was not the most recent resident of such house prior to such sale, the

exemption granted by this subsection shall apply only with respect to one (1) such sale within any twenty-four (24) month period: Provided further that such bona fide private individual owner does not own any interest in, nor is there owned or reserved on his behalf, under any express or voluntary agreement, title to or any right to all or a portion of the proceeds from the sale or rental of, more than three (3) such single-family houses at any one (1) time: Provided further that the sale or rental of any such single-family house shall be excepted from the application of this title only if such house is sold or rented

(i) Without the use in any manner of the sale or rental facilities or the sales or rental services of any real estate broker, agent, or salesman, or of such facilities or services of any person in the business of selling or renting dwellings, or of any employee or agent of any such broker, agent, salesman, or person and

(ii) Without the publication, posting or mailing, after notice of any advertisement or written notice in violation of § 20-203(3) of this chapter, but nothing in this proviso shall prohibit the use of attorneys, escrow agents, abstractors, title companies, and other such professional assistance as necessary to perfect or transfer the title, or

(b) Rooms or units in dwellings containing living quarters occupied or intended to be occupied by no more than four (4) families living independently of each other, if the owner actually maintains and occupies one of such living quarters as his residence.

(3) For the purposes of subsection (2), a person shall be deemed to be in the business of selling or renting dwellings if:

(a) He has, within the preceding twelve (12) months, participated as principal in three (3) or more transactions involving the sale or rental of any dwelling or any interest therein, or

(b) He has, within the preceding twelve (12) months, participated as agent, other than in the sale of his own personal residence in providing sales or rental facilities or sales or rental services in two (2) or more transactions involving the sale or rental of any dwelling or any interest therein, or

(c) He is the owner of any dwelling designed or intended for occupancy by, or occupied by, five (5) or more families. (Ord. #2001-03, Aug. 2001)

20-203. Discrimination in the sale or rental of housing. As made applicable by § 20-202 and except as exempted by §§ 20-202(2) and 20-206, it shall be unlawful:

(1) To refuse to sell or rent after the making of a bona fide offer, or to refuse to negotiate for the sale or rental of, or otherwise make unavailable or

deny, a dwelling to any person because of race, color, religion, sex, national origin, familial status or disability.

(2) To discriminate against any person in the terms, conditions or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith, because of race, color, religion, sex, national origin, familial status or disability.

(3) To make, print, or publish, or cause to be made, printed, or published any notice, statement, or advertisement, with respect to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination based on race, color, religion, sex, national origin, familial status or disability, or an intention to make any such preference, limitation, or discrimination.

(4) To represent to any person because of race, color, religion, sex, national origin, familial status or disability that any dwelling is not available for inspection, sale, or rental when such dwelling is in fact so available.

(5) For profit, to induce or attempt to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, sex, national origin, familial status or disability.

(6) To refuse to permit, at the expense of the person with a disability, reasonable modifications of existing premises occupied or to be occupied by that person if such modifications are necessary to afford that person full enjoyment of the premises.

(7) To refuse to make reasonable accommodations in rules, policies, practices, or service, when such accommodations are necessary to afford a person with a disability equal opportunity to use and enjoy a dwelling. (Ord. #2001-03, Aug. 2001)

20-204. Discrimination in the financing of housing. It shall be unlawful for any bank, building and loan association, insurance company or other corporation, association, firm or enterprise whose business consists in whole or in part in the making of commercial real estate loans, to deny a loan or other financial assistance to a person applying therefore for the purpose of purchasing, constructing, improving, repairing, or maintaining a dwelling, or to discriminate against him in the fixing of the amount, interest rate, duration, or other terms or conditions of such loan or other financial assistance, because of the race, color, religion, sex, national origin, familial status or disability of such person or of any race, color, religion, sex, national origin, familial status or disability of such person or of any person associated with him in connection with such loan or other financial assistance or the purposes of such loan or other financial assistance, or of the present or prospective owners, lessees, tenants, or occupants of the dwelling or dwellings in relation to which such loan or other financial assistance is to be made or given: Provided, that nothing contained in this section shall impair the scope or effectiveness of the exception contained in § 20-202(2). (Ord. #2001-03, Aug. 2001)

20-205. Discrimination in the provision of brokerage services. It shall be unlawful to deny any person access to or membership or participation in any multiple listing service, real estate brokers organization or other service, organization, or facility relating to the business of selling or renting dwellings, or to discriminate against him in the terms of conditions of such access, membership, or participation, on account of race, color, religion, sex, national origin, familial status or disability. (Ord. #2001-03, Aug. 2001)

20-206. Exemption. Nothing in this ordinance shall prohibit a religious organization, association, or society, or any non-profit institution or organization operated, supervised or controlled by or in conjunction with a religious organization, association, or society, from limiting the sale, rental or occupancy of dwellings which it owns or operates for other than a commercial purpose to persons of the same religion, or from giving preference to such persons, unless membership in such religion is restricted on account of race, color, sex, national origin, familial status or disability. Nor shall anything in this ordinance prohibit a private club not in fact open to the public, which as an incident to its primary purpose or purposes provides lodgings which it owns or operates for other than a commercial purpose, from limiting the rental or occupancy of such lodgings to its members or from giving preference to its members. (Ord. #2001-03, Aug. 2001)

20-207. Administration. (1) The authority and responsibility for administering this Act shall be in the Mayor of Humboldt.

(2) The mayor may delegate any of these functions, duties, and powers to employees of the community or to boards of such employees, including functions, duties, and powers with respect to investigating, conciliating, hearing, determining, ordering, certifying, reporting or otherwise acting as to any work, business, or matter under this ordinance. The mayor shall be rule prescribe such rights of appeal from the decisions of his hearing examiners to other hearing examiners or to other officers in the community, to boards of officers or to himself, as shall be appropriate and in accordance with law.

(3) All executive departments and agencies shall administer their programs and activities relating to housing and urban development in a manner affirmatively to further the purposes of this ordinance and shall cooperate with the mayor to further such purposes. (Ord. #2001-03, Aug. 2001)

20-208. Education and conciliation. Immediately after the enactment of this ordinance, the mayor shall commence such educational and conciliatory activities as will further the purposes of this ordinance. He shall call conferences of persons in the housing industry and other interested parties to acquaint them with the provisions of this ordinance and his suggested means of implementing it, and shall endeavor with their advice to work out programs of voluntary compliance and of enforcement. (Ord. #2001-03, Aug. 2001)

20-209. Enforcement. (1) Any person who claims to have been injured by a discriminatory housing practice or who believes that he will be irrevocably injured by a discriminatory housing practice that is about to occur (hereafter "person aggrieved") may file a complaint with the mayor or Tennessee Human Rights Commission. Complaints shall be in writing and shall contain such information and be in such form as the mayor or Tennessee Human Rights Commission shall furnish a copy of the same to the person or persons who allegedly committed or is about to commit the alleged discriminatory housing practice. Within thirty (30) days after receiving a complaint, or within thirty (30) days after the expiration of any period of reference under subsection (3), the mayor or Tennessee Human Rights Commission shall investigate the complaint and give notice in writing to the person aggrieved whether he intends to resolve it. If the mayor or Tennessee Human Rights Commission decides to resolve the complaints, he shall proceed to try to eliminate or correct the alleged discriminatory housing practice by information methods of conference, conciliation, and persuasion. Nothing said or done in the course of such informal endeavors may be made public or used as evidence in a subsequent proceeding under this ordinance without the written consent of the persons concerned. Any employee of the mayor or Tennessee Human Rights Commission who shall make public any information in violation of this provision shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not more than one thousand dollars (\$1,000.00) or imprisoned not more than one (1) year.

(2) A complaint under subsection (1) shall be filed within one hundred and eighty (180) days after the alleged discriminatory housing practice occurred. Complaints shall be in writing and shall state the facts upon which the allegations of a discriminatory housing practice are based. Complaints may be reasonably and fairly amended at any time. A respondent may file an answer to the complaint against him and with the leave of the mayor or Tennessee Human Rights Commission, which shall be granted whenever it would be reasonable and fair to do so, may amend his answer at any time. Both complaints and answers shall be verified.

(3) If within thirty (30) days after a complaint is filed with the mayor or Tennessee Human Rights Commission, the mayor or Tennessee Human Rights Commission has been unable to obtain voluntary compliance with this ordinance, the person aggrieved may, within thirty (30) days thereafter, file a complaint with the Secretary of the Department of Housing and Urban Development. The mayor or Tennessee Human Rights Commission will assist in this filing.

(4) If the mayor or Tennessee Human Rights Commission has been unable to obtain voluntary compliance within thirty (30) days of the complaint, the person aggrieved may, within thirty (30) days hereafter commence a civil action in any appropriate court, against the respondent named in the complaint, to enforce the rights granted or protected by this ordinance, insofar as such

rights relate to the subject of the complaint. If the court finds that a discriminatory housing practice has occurred or is about to occur, the court may enjoin the respondent from engaging in such practice or order such affirmative action as may be appropriate.

(5) In any proceeding brought pursuant to this section, the burden of proof shall be on the complaint.

(6) Whenever an action filed by an individual shall come to trial, the mayor or Tennessee Human Rights Commission shall immediately terminate all efforts to obtain voluntary compliance. (Ord. #2001-03, Aug. 2001)

20-210. Investigation; subpoenas; giving of evidence. (1) In conducting an investigation, the mayor or Tennessee Human Rights Commission shall have access at all reasonable times to premises, records, documents, individuals, and other evidence or possible sources of evidence and may examine, record, and copy such materials and take and record the testimony or statements of such persons as are reasonably necessary for the furtherance of the investigation: Provided, however, that the mayor or Tennessee Human Rights Commission first complies with the provisions of the Fourth Amendment relating to unreasonable searches and seizures. The mayor or Tennessee Human Rights Commission may issue subpoenas to compel his access to or the production of such materials, or the appearance of such persons, and may issue interrogatories to a respondent, to the same extent and subject to the same limitations as would apply if the subpoenas or interrogatories were issued or served in aid of a civil action in the United States District Court of the district in which the investigation is taking place. The mayor or Tennessee Human Rights Commission may administer oaths.

(2) Upon written application to the mayor or Tennessee Human Rights Commission, a respondent shall be entitled to the issuance of a reasonable number of subpoenas by and in the name of the mayor or Tennessee Human Rights Commission himself. Subpoenas issued at the request of a respondent shall show on their face the name and address of such respondent and shall state that they were issued at his request.

(3) Witnesses summoned by subpoena of the mayor or Tennessee Human Rights Commission shall be entitled to the same witness and mileage fees as are witnesses in proceedings in United States district courts. Fees payable to the witness summoned by a subpoena issued at the request of a respondent shall be paid by him.

(4) Within five (5) days after service of a subpoena upon any person, such person may petition the mayor or Tennessee Human Rights Commission to revoke or modify the subpoena. The mayor or Tennessee Human Rights Commission shall grant the petition if he finds that the subpoena requires appearance or attendance at an unreasonable time or place, that requires production of evidence which does not relate to any matter under investigation,

that it does not describe with sufficient particularity the evidence to be produced, that compliance would be unduly onerous, or for other good reason.

(5) In case of contumacy or refusal to obey a subpoena, the mayor or Tennessee Human Rights Commission or other person at whose request it was issued may petition for its enforcement in the municipal or state court for the district in which the person to whom the subpoena was addressed resides, was served, or transacts business.

(6) Any person who willfully fails or neglects to attend and testify or to answer any lawful inquiry or to produce records, documents, or other evidence, if in his power to do so, in obedience to the subpoena or lawful order of the mayor or Tennessee Human Rights Commission shall be fined not more than one thousand dollars (\$1,000.00) or imprisoned not more than one (1) year, or both. Any person who, with intent thereby to mislead the mayor or Tennessee Human Rights Commission, shall make or cause to be made any false entry or statement of fact in any report, account, record, or other document submitted to the mayor or Tennessee Human Rights Commission pursuant to his subpoena or other order, or shall willfully neglect or fail to make or cause to be made full, true, and correct entries in such reports, accounts, records, or other documents, or shall willfully mutilate, alter, or by any other means falsify any documentary evidence, shall be fined not more than one thousand dollars (\$1,000.00) or imprisoned not more than one (1) year, or both.

(7) The city or Tennessee Human Rights Commission attorney shall conduct all litigation in which the mayor or Tennessee Human Rights Commission participates as a party or as amicus pursuant to this ordinance. (Ord. #2001-03, Aug. 2001)

20-211. Enforcement by private persons. (1) The rights granted by §§ 20-202 through 20-205 may be enforced by civil actions in state or local courts of general jurisdiction. A civil action shall be commenced within one hundred and eighty (180) days after the alleged discriminatory housing practice occurred: Provided, however, that the court shall continue such civil case brought to this or § 20-209(4) from time to time before bringing it to trial or renting dwellings; or

(2) Any person because he is or has been, or in order to intimidate such person or any other person or any class of persons from:

(a) Participating, without discrimination on account of race, color, religion, sex, national origin, familial status or disability, in any of the activities, services, organizations or facilities; or

(b) Affording another person or class of persons opportunity or protection so as to participate, or

(3) Any citizen because he is or has been or in order to encourage such citizen or any other citizen from lawfully aiding or encouraging other persons to participate, without discrimination on account of race, color, religion, sex, national origin, familial status or disability, in any of the activities, services,

organizations or facilities, or participating lawfully in speech or peaceful assembly opposing any denial of the opportunity to so participate shall be fined not more than one thousand dollars (\$1,000.00), or imprisoned not more than one (1) year, or both; and, if bodily injury results, shall be fined not more than ten thousand dollars (\$10,000.00), or imprisoned not more than ten (10) years, or both; and, if death results, shall be subject to imprisonment for any term of years or for life. (Ord. #2001-03, Aug. 2001)

APPENDIX 2

OCCUPATIONAL SAFETY AND HEALTH PROGRAM FOR
EMPLOYEES OF THE CITY OF HUMBOLDT

- I. PURPOSE AND COVERAGE.
- II. DEFINITIONS.
- III. EMPLOYER'S RIGHTS AND DUTIES.
- IV. EMPLOYEE'S RIGHTS AND DUTIES.
- V. ADMINISTRATION.
- VI. STANDARDS AUTHORIZED.
- VII. VARIANCE PROCEDURE.
- VIII. RECORDKEEPING AND REPORTING.
- IX. EMPLOYEE COMPLAINT PROCEDURE.
- X. EDUCATION AND TRAINING.
- XI. GENERAL INSPECTION PROCEDURES.
- XII. IMMINENT DANGER PROCEDURES.
- XIII. ABATEMENT ORDERS AND HEARINGS.
- XIV. PENALTIES.
- XV. CONFIDENTIALITY OF PRIVILEGED INFORMATION.
- XVI. DISCRIMINATION INVESTIGATIONS AND SANCTIONS.
- XVII. COMPLIANCE WITH OTHER LAWS NOT EXCUSED.

APPENDICES

- I. WORK LOCATIONS.
- II. NOTICE TO ALL EMPLOYEES.
- III. PROGRAM PLAN BUDGET.
- IV. ACCIDENT REPORTING PROCEDURES.

I. PURPOSE AND COVERAGE.

The purpose of this plan is to provide guidelines and procedures for implementing the Occupational Safety and Health Program Plan for the employees of the City of Humboldt.

This plan is applicable to all employees, part-time or full-time, seasonal or permanent.

The City of Humboldt in electing to update and maintain an effective Occupational Safety and Health Program Plan for its employees:

- a. Provide a safe and healthful place and condition of employment.

- b. Require the use of safety equipment, personal protective equipment, and other devices where reasonably necessary to protect employees.
- c. Make, keep, preserve, and make available to the Commissioner of Labor and Workforce Development, his designated representatives, or persons within the Department of Labor and Workforce Development to whom such responsibilities have been delegated, including the Safety Director of the Division of Occupational Safety and Health, adequate records of all occupational accidents and illnesses and personal injuries for proper evaluation and necessary corrective action as required.
- d. Consult with the Commissioner of Labor and Workforce Development or his designated representative with regard to the adequacy of the form and content of such records.
- e. Consult with the Commissioner of Labor and Workforce Development regarding safety and health problems which are considered to be unusual or peculiar and are such that they cannot be resolved under an occupational safety and health standard promulgated by the State.
- f. Assist the Commissioner of Labor and Workforce Development or his monitoring activities to determine Program Plan effectiveness and compliance with the occupational safety and health standards.
- g. Make a report to the Commissioner of Labor and Workforce Development annually, or as may otherwise be required, including information on occupational accidents, injuries, and illnesses and accomplishments and progress made toward achieving the goals of the Occupational Safety and Health Program Plan.
- h. Provide reasonable opportunity for and encourage the participation of employees in the effectuation of the objectives of this Program Plan, including the opportunity to make anonymous complaints concerning conditions or practices which may be injurious to employees safety and health. (Ord. #2003-05, Aug. 2003, as replaced by Ord. #2013-02, April 2013)

II. DEFINITIONS.

For the purposes of this Program Plan, the following definitions apply:

- a. **COMMISSIONER OF LABOR AND WORKFORCE DEVELOPMENT** means the chief executive officer of the Tennessee Department of Labor and Workforce Development. This includes any person appointed, designated, or deputized to perform the duties or to exercise the powers assigned to the Commissioner of Labor and Workforce Development.

- b. EMPLOYER means the City of Humboldt and includes each administrative department, board, commission, division, or other agency of the City of Humboldt.
- c. SAFETY DIRECTOR means the person designated by the establishing ordinance, or executive order to perform duties or to exercise powers assigned so as to plan, develop, and administer the Occupational Safety and Health Program Plan for the employees of the City of Humboldt.
- d. INSPECTOR(S) means the individual(s) appointed or designated by the Safety Director to conduct inspections provided for herein. If no such compliance inspector(s) is appointed, inspections shall be conducted by the Safety Director.
- e. APPOINTING AUTHORITY means any official or group of officials of the employer having legally designated powers of appointment, employment, or removal therefrom for a specific department, board, commission, division, or other agency of this employer.
- f. EMPLOYEE means any person performing services for this employer and listed on the payroll of this employer, either as part-time, full-time, seasonal, or permanent. This definition shall not include independent contractors, their agents, servants, and employees.
- g. PERSON means one or more individuals, partnerships, associations, corporations, business trusts, or legal representatives of any organized group of persons.
- h. STANDARD means an occupational safety and health standard promulgated by the Commissioner of Labor and Workforce Development in accordance with Section VI(6) of the Tennessee Occupational Safety and Health Act of 1972 which requires conditions or the adoption of the use of one or more practices, means, methods, operations, or processes or the use of equipment or personal protective equipment necessary or appropriate to provide safe and healthful conditions and places of employment.
- i. IMMINENT DANGER means any conditions or practices in any place of employment which are such that a hazard exists which could reasonably be expected to cause death or serious physical harm immediately or before the imminence of such hazard can be eliminated through normal compliance enforcement procedures.
- j. ESTABLISHMENT or WORKSITE means a single physical location under the control of this employer where business is conducted, services are rendered, or industrial type operations are performed.
- k. SERIOUS INJURY or HARM means that type of harm that would cause permanent or prolonged impairment of the body in that:

1. A part of the body would be permanently removed (e.g., amputation of an arm, leg, finger(s); loss of an eye) or rendered functionally useless or substantially reduced in efficiency on or off the job (e.g., leg shattered so severely that mobility would be permanently reduced); or
2. A part of an internal body system would be inhibited in its normal performance or function to such a degree as to shorten life or cause reduction in physical or mental efficiency (e.g., lung impairment causing shortness of breath).

On the other hand, simple fractures, cuts, bruises, concussions, or similar injuries would not fit either of these categories and would not constitute a serious physical harm.

- l. ACT or TOSH Act shall mean the Tennessee Occupational Safety and Health Act of 1972.
- m. GOVERNING BODY means the Board of Aldermen of the City of Humboldt.
- n. CHIEF EXECUTIVE OFFICER means the Mayor of the City of Humboldt. (Ord. #2003-05, Aug. 2003, as replaced by Ord. #2013-02, April 2013)

III. EMPLOYER'S RIGHTS AND DUTIES.

Rights and duties of the employer shall include, but are not limited to, the following provisions:

- a. Employer shall furnish to each employee conditions of employment and a place of employment free from recognized hazards that are causing or are likely to cause death or serious injury or harm to employees.
- b. Employer shall comply with occupational safety and health standards and regulations promulgated pursuant to Section VI(6) of the Tennessee Occupational Safety and Health Act of 1972.
- c. Employer shall refrain from and unreasonable restraint on the right of the Commissioner of Labor and Workforce Development to inspect the employer's place(s) of business. Employer shall assist the Commissioner of Labor and Workforce Development in the performance of their monitoring duties by supplying or by making available information, personnel, or aids reasonably necessary to the effective conduct of the monitoring activity.
- d. Employer is entitled to participate in the development of standards by submission of comments on proposed standards, participation in hearing on proposed standards, or by requesting the

development of standards on a given issue under Section 6 of the Tennessee Occupational Safety and Health Act of 1972.

- e. Employer is entitled to request an order granting a variance from an occupational safety and health standard.
- f. Employer is entitled to protection of its legally privileged communication.
- g. Employer shall inspect all work sites to insure the provisions of this Program Plan are complied with and carried out.
- h. Employer shall notify and inform any employee who has been or is being exposed in a biologically significant manner to harmful agents or material in excess of the applicable standard and of corrective action being taken.
- i. Employer shall notify all employees of their rights and duties under this Program Plan. (Ord. #2003-05, Aug. 2003, as replaced by Ord. #2013-02, April 2013)

IV. EMPLOYEE'S RIGHTS AND DUTIES.

Rights and duties of employees shall include, but are not limited to, the following provisions:

- a. Each employee shall comply with occupational safety and health act standards and all rules, regulations, and orders issued pursuant to this Program Plan and the Tennessee Occupational Safety and Health Act of 1972 which are applicable to his or her own actions and conduct.
- b. Each employee shall be notified by the placing of a notice upon bulletin boards, or other places of common passage, of any application for a permanent or temporary order granting the employer a variance from any provision of the TOSH Act or any standard or regulation promulgated under the Act.
- c. Each employee shall be given the opportunity to participate in any hearing which concerns an application by the employer for a variance from a standard or regulation promulgated under the Act.
- d. Any employee who may be adversely affected by a standard or variance issued pursuant to the Act or this Program Plan may file a petition with the Commissioner of Labor and Workforce Development or whoever is responsible for the promulgation of the standard or the granting of the variance.
- e. Any employee who has been exposed or is being exposed to toxic materials or harmful physical agents in concentrations or at levels in excess of that provided for by any applicable standard shall be provided by the employer with information on any significant hazards to which they are or have been exposed, relevant

- symptoms, and proper conditions for safe use or exposure. Employees shall also be informed of corrective action being taken.
- f. Subject to regulations issued pursuant to this Program Plan, any employee or authorized representative of employees shall be given the right to request an inspection and to consult with the Safety Director or Inspector at the time of the physical inspection of the worksite.
 - g. Any employee may bring to the attention of the Safety Director any violation or suspected violations of the standards or any other health or safety hazards.
 - h. No employee shall be discharged or discriminated against because such employee has filed any complaint or instituted or caused to be instituted any proceeding or inspection under or relating to this Program Plan.
 - i. Any employee who believes that he or she has been discriminated against or discharged in violation of subsection (h) of this section may file a complaint alleging such discrimination with the Safety Director. Such employee may also, within thirty (30) days after such violation occurs, file a complaint with the Commissioner of Labor and Workforce Development alleging such discrimination.
 - j. Nothing in this or any other provisions of this Program Plan shall be deemed to authorize or require any employee to undergo medical examination, immunization, or treatment for those who object thereto on religious grounds, except where such is necessary for the protection of the health or safety or others or when a medical examination may be reasonably required for performance of a specific job.
 - k. Employees shall report any accident, injury, or illness resulting from their job, however minor it may seem to be, to their supervisor or the Safety Director within twenty-four (24) hours after the occurrence. (Ord. #2003-05, Aug. 2003, as replaced by Ord. #2013-02, April 2013)

V. ADMINISTRATION.

- a. The Safety Director is designated to perform duties or to exercise powers assigned so as to administer this Occupational Safety and Health Program Plan.
 - 1. The Safety Director may designate person or persons as he deems necessary to carry out his powers, duties, and responsibilities under this Program Plan.

2. The Safety Director may delegate the power to make inspections, provided procedures employed are as effective as those employed by the Safety Director.
 3. The Safety Director shall employ measures to coordinate, to the extent possible, activities of all departments to promote efficiency and to minimize any inconvenience under this Program Plan.
 4. The Safety Director may request qualified technical personnel from any department or section of government to assist him in making compliance inspections, accident investigations, or as he may otherwise deem necessary and appropriate in order to carry out his duties under this Program Plan.
 5. The Safety Director shall prepare the report to the Commissioner of Labor and Workforce Development required by subsection (g) of Section 1 of this plan.
 6. The Safety Director shall make or cause to be made periodic and follow-up inspections of all facilities and work sites where employees of this employer are employed. He shall make recommendations to correct any hazards or exposures observed. He shall make or cause to be made any inspections required by complaints submitted by employees or inspections requested by employees.
 7. The Safety Director shall assist any officials of the employer in the investigation of occupational accidents or illnesses.
 8. The Safety Director shall maintain or cause to be maintained records required under Section VII of this plan.
 9. **The Safety Director shall, in the eventuality that there is a fatality or an accident resulting in the hospitalization of three or more employees insure that the Commissioner of Labor and Workforce Development receives notification of the occurrence within eight (8) hours.**
- b. The administrative or operational head of each department, division, board, or other agency of this employer shall be responsible for the implementation of this Occupational Safety and Health Program Plan within their respective areas.
1. The administrative or operational head shall follow the directions of the Safety Director on all issues involving occupational safety and health of employees as set forth in this plan.
 2. The administrative or operational head shall comply with all abatement orders issued in accordance with the

provisions of this plan or request a review of the order with the Safety Director within the abatement period.

3. The administrative or operational head should make periodic safety surveys of the establishment under his jurisdiction to become aware of hazards or standards violations that may exist and make an attempt to immediately correct such hazards or violations.
4. The administrative or operational head shall investigate all occupational accidents, injuries, or illnesses reported to him. He shall report such accidents, injuries, or illnesses to the Safety Director along with his findings and/or recommendations in accordance with APPENDIX IV of this plan. (Ord. #2003-05, Aug. 2003, as replaced by Ord. #2013-02, April 2013)

VI. STANDARDS AUTHORIZED.

The standards adopted under this Program Plan are the applicable standards developed and promulgated under Section VI (6) of the Tennessee Occupational Safety and Health Act of 1972. Additional standards may be promulgated by the governing body of this employer as that body may deem necessary for the safety and health of employees. Note: 29 CFR 1910 General Industry Regulations; 29 CFR 1926 Construction Industry Regulations; and the Rules of Tennessee Department of Labor and Workforce Development Occupational Safety and Health, CHAPTER 0800-01-1 through CHAPTER 0800-01-11 are the standards and rules invoked. (Ord. #2003-05, Aug. 2003, as replaced by Ord. #2013-02, April 2013)

VII. VARIANCE PROCEDURE.

The Safety Director may apply for a variance as a result of a complaint from an employee or of his knowledge of certain hazards or exposures. The Safety Director should definitely believe that a variance is needed before the application for a variance is submitted to the Commissioner of Labor and Workforce Development.

The procedure for applying for a variance to the adopted safety and health standards is as follows:

- a. The application for a variance shall be prepared in writing and shall contain:

1. A specification of the standard or portion thereof from which the variance is sought.
 2. A detailed statement of the reason(s) why the employer is unable to comply with the standard supported by representations by qualified personnel having first-hand knowledge of the facts represented.
 3. A statement of the steps employer has taken and will take (with specific date) to protect employees against the hazard covered by the standard.
 4. A statement of when the employer expects to comply and what steps have or will be taken (with dates specified) to come into compliance with the standard.
 5. A certification that the employer has informed employees, their authorized representative(s), and/or interested parties by giving them a copy of the request, posting a statement summarizing the application (to include the location of a copy available for examination) at the places where employees notices are normally posted and by other appropriate means. The certification shall contain a description of the means actually used to inform employees and that employees have been informed of their right to petition the Commissioner of Labor and Workforce Development for a hearing.
- b. The application for a variance should be sent to the Commissioner of Labor and Workforce Development by registered or certified mail.
- c. The Commissioner of Labor and Workforce Development will review the application for a variance and may deny the request or issue an order granting the variance. An order granting a variance shall be issued only if it has been established that:
1. The employer:
 - i. Is unable to comply with the standard by the effective date because of unavailability of professional or technical personnel or materials and equipment required or necessary construction or alteration of facilities or technology.
 - ii. Has taken all available steps to safeguard employees against the hazard(s) covered by the standard.
 - iii. Has an effective Program Plan for coming into compliance with the standard as quickly as possible.

2. The employee is engaged in an experimental Program Plan as described in subsection (b), section 13 of the Act.
- d. A variance may be granted for a period of no longer than is required to achieve compliance or one (1) year, whichever is shorter.
- e. Upon receipt of an application for an order granting a variance, the Commissioner to whom such application is addressed may issue an interim order granting such a variance for the purpose of permitting time for an orderly consideration of such application. No such interim order may be effective for longer than one hundred eighty (180) days.
- f. The order or interim order granting a variance shall be posted at the worksite and employees notified of such order by the same means used to inform them of the application for said variance (see subsection (a)(5) of this section). (Ord. #2003-05, Aug. 2003, as replaced by Ord. #2013-02, April 2013)

VIII. RECORDKEEPING AND REPORTING.

Recording and reporting of all occupational accident, injuries, and illnesses shall be in accordance with instructions and on forms prescribed in the booklet. You can get a copy of the Forms for Recordkeeping from the internet. Go to www.osha.gov and click on Recordkeeping Forms located on the home page.

The position responsible for recordkeeping is shown on the SAFETY AND HEALTH ORGANIZATIONAL CHART, Appendix IV to this plan.

Details of how reports of occupational accidents, injuries, and illnesses will reach the recordkeeper are specified by ACCIDENT REPORTING PROCEDURES, Appendix IV to this plan. The Rule of Tennessee Department of Labor and Workforce Development Occupational Safety and Health, OCCUPATIONAL SAFETY AND HEALTH RECORDKEEPING AND REPORTING, CHAPTER 0800-01-03, as authorized by T.C.A., Title 50. (Ord. #2003-05, Aug. 2003, as replaced by Ord. #2013-02, April 2013)

IX. EMPLOYEE COMPLAINT PROCEDURE.

If any employee feels that he/she is assigned to work in conditions which might affect his/her health, safety, or general welfare at the present time or at any time in the future, he/she should report the condition to the Safety Director.

- a. The complaint should be in the form of a letter and give details on the condition(s) and how the employees believes it affects or will affect his/her health, safety, or general welfare. The employee should sign the letter but need not do so if he/she wishes to remain anonymous (see subsection (h) of Section 1 of this plan).
- b. Upon receipt of the complaint letter, the Safety Director will evaluate the condition(s) and institute any corrective action, if warranted. Within ten (10) working days following the receipt of the complaint, the Safety Director will answer the complaint in writing stating whether or not the complaint is deemed to be valid and if no, why not, what action has been or will be taken to correct or abate the condition(s), and giving a designated time period for correction or abatement. Answers to anonymous complaints will be posted upon bulletin boards or other places of common passage where the anonymous complaint may be reasonably expected to be seen by the complainant for a period of three (3) working days.
- c. If the complainant finds the reply not satisfactory because it was held to be invalid, the corrective action is felt to be insufficient, or the time period for correction is felt to be too long, he/she may forward a letter to the Chief Executive Officer or to the governing body explaining the condition(s) cited in his/her original complaint and why he/she believes the answer to be inappropriate or insufficient.
- d. The Chief Executive Officer or a representative of the governing body will evaluate the complaint and will begin to take action to correct or abate the condition(s) through arbitration or administrative sanctions or may find the complaint to be invalid. An answer will be sent to the complainant within ten (10) working days following receipt of the complaint or the next regularly scheduled meeting of the governing body following receipt of the complaint explaining decisions made and action taken or to be taken.
- e. After the above steps have been followed and the complainant is still not satisfied with the results, he/she may then file a complaint with the Commissioner of Labor and Workforce Development. Any complaint filed with the Commissioner of Labor and Workforce Development in such cases shall include copies of all related correspondence with the Safety Director and the Chief Executive Officer or the representative of the governing body.
- f. Copies of all complaint and answers thereto will be filed by the Safety Director who shall make them available to the Commissioner of Labor and Workforce Development or his designated representative upon request. (Ord. #2003-05, Aug. 2003, as replaced by Ord. #2013-02, April 2013)

X. EDUCATION AND TRAINING.

a. Safety Director and/or Compliance Inspector(s):

1. Arrangements will be made for the Safety Director and/or Compliance Inspector(s) to attend training seminars, workshops, etc., conducted by the State of Tennessee or other agencies. A list of Seminars can be obtained.
2. Access will be made to reference materials such as 29 CFR 1910 General Industry Regulations; 29 CFR 1926 Construction Industry Regulations; The Rules of Tennessee Department of Labor and Workforce Development Occupational Safety and Health, and other equipment/supplies, deemed necessary for use in conducting compliance inspections, conducting local training, wiring technical reports, and informing officials, supervisors, and employees of the existence of safety and health hazards will be furnished.

b. All Employees (including supervisory personnel):

A suitable safety and health training program for employees will be established. This program will, as a minimum:

1. Instruct each employee in the recognition and avoidance of hazards or unsafe conditions and of standards and regulations applicable to the employees work environment to control or eliminate any hazards, unsafe conditions, or other exposures to occupational illness or injury.
2. Instruct employees who are required to handle or use poisons, acids, caustics, toxicant, flammable liquids, or gases including explosives, and other harmful substances in the proper handling procedures and use of such items and make them aware of the personal protective measures, person hygiene, etc., which may be required.
3. Instruct employees who may be exposed to environments where harmful plants or animals are present, of the hazards of the environment, how to best avoid injury or exposure, and the first aid procedures to be followed in the event of injury or exposure.
4. Instruct all employees of the common deadly hazards and how to avoid them, such as Falls; Equipment Turnover;

Electrocution; Struck by/Caught In; Trench Case In; Heat Stress and Drowning.

5. Instruct employees on hazards and dangers of confined or enclosed spaces.
 - i. Confined or enclosed space means space having a limited means of egress and which is subject to the accumulation of toxic or flammable contaminants or has an oxygen deficient atmosphere. Confined or enclosed spaces include, but are not limited to, storage tanks, boilers, ventilation or exhaust ducts, sewers, underground utility accesses, tunnels, pipelines, and open top spaces more than four feet (4') in depth such as pits, tubs, vaults, and vessels.
 - ii. Employees will be given general instruction on hazards involved, precautions to be taken, and on use of personal protective and emergency equipment required. They shall also be instructed on all specific standards or regulations that apply to work in dangerous or potentially dangerous areas.
 - iii. The immediate supervisor of any employee who must perform work in a confined or enclosed space shall be responsible for instructing employees on danger of hazards which may be present, precautions to be taken, and use of personal protective and emergency equipment immediately prior to their entry into such an area and shall require use of appropriate personal protective equipment. (Ord. #2003-05, Aug. 2003, as replaced by Ord. #2013-02, April 2013)

XI. GENERAL INSPECTION PROCEDURES.

It is the intention of the governing body and responsible officials to have an Occupational Safety and Health Program Plan that will insure the welfare of employees. In order to be aware of hazards, periodic inspections must be performed. These inspections will enable the finding of hazards or unsafe conditions or operations that will need correction in order to maintain safe and healthful work sites. Inspections made on a pre-designated basis may not yield the desired results. Inspections will be conducted, therefore, on a random basis at intervals not to exceed thirty (30) calendar days.

- a. In order to carry out the purposes of this Ordinance, the Safety Director and/or Compliance Inspector(s), if appointed, is authorized:
 1. To enter at any reasonable time, any establishment, facility, or worksite where work is being performed by an employee when such establishment, facility, or worksite is under the jurisdiction of the employer; and
 2. To inspect and investigate during regular working hours and at other reasonable times, within reasonable limits, and in a reasonable manner, any such place of employment and all pertinent conditions, processes, structures, machines, apparatus, devices, equipment, and materials therein, and to question privately any supervisor, operator, agent, or employee working therein.
- b. If an imminent danger situation is found, alleged, or otherwise brought to the attention of the Safety Director or Inspector during a routine inspection, he shall immediately inspect the imminent danger situation in accordance with Section XII of this plan before inspecting the remaining portions of the establishment, facility, or worksite.
- c. An administrative representative of the employer and a representative authorized by the employees shall be given an opportunity to consult with and/or to accompany the Safety Director or Inspector during the physical inspection of any worksite for the purpose of aiding such inspection.
- d. The right of accompaniment may be denied any person whose conduct interferes with a full and orderly inspection.
- e. The conduct of the inspection shall be such as to preclude unreasonable disruptions of the operation(s) of the workplace.
- f. Interviews of employees during the course of the inspection may be made when such interviews are considered essential to investigative techniques.
- g. Advance Notice of Inspections.
 1. Generally, advance notice of inspections will not be given as this precludes the opportunity to make minor or temporary

- adjustments in an attempt to create misleading impression of conditions in an establishment.
2. There may be occasions when advance notice of inspections will be necessary in order to conduct an effective inspection or investigation. When advance notice of inspection is given, employees or their authorized representative(s) will also be given notice of the inspection.
- h. The Safety Director need not personally make an inspection of each and every worksite once every thirty (30) days. He may delegate the responsibility for such inspections to supervisors or other personnel provided:
1. Inspections conducted by supervisors or other personnel are at least as effective as those made by the Safety Director.
 2. Records are made of the inspections, any discrepancies found and corrective actions taken. This information is forwarded to the Safety Director.
- i. The Safety Director shall maintain records of inspections to include identification of worksite inspected, date of inspection, description of violations of standards or other unsafe conditions or practices found, and corrective action taken toward abatement. Those inspection records shall be subject to review by the Commissioner of Labor and Workforce Development or his authorized representative. (Ord. #2003-05, Aug. 2003, as replaced by Ord. #2013-02, April 2013)

XII. IMMINENT DANGER PROCEDURES.

- a. Any discovery, any allegation, or any report of imminent danger shall be handled in accordance with the following procedures:
1. The Safety Director shall immediately be informed of the alleged imminent danger situation and he shall immediately ascertain whether there is a reasonable basis for the allegation.
 2. If the alleged imminent danger situation is determined to have merit by the Safety Director, he shall make or cause to be made an immediate inspection of the alleged imminent danger location.
 3. As soon as it is concluded from such inspection that conditions or practices exist which constitutes an imminent danger, the Safety Director or Compliance Inspector shall

attempt to have the danger corrected. All employees at the location shall be informed of the danger and the supervisor or person in charge of the worksite shall be requested to remove employees from the area, if deemed necessary.

4. The administrative or operational head of the workplace in which the imminent danger exists, or his authorized representative, shall be responsible for determining the manner in which the imminent danger situation will be abated. This shall be done in cooperation with the Safety Director or Compliance Inspector and to the mutual satisfaction of all parties involved.
 5. The imminent danger shall be deemed abated if:
 - i. The imminence of the danger has been eliminated by removal of employees from the area of danger.
 - ii. Conditions or practices which resulted in the imminent danger have been eliminated or corrected to the point where an unsafe condition or practice no longer exists.
 6. A written report shall be made by or to the Safety Director describing in detail the imminent danger and its abatement. This report will be maintained by the Safety Director in accordance with subsection (i) of Section XI of this plan.
- b. Refusal to Abate.
1. Any refusal to abate an imminent danger situation shall be reported to the Safety Director and Chief Executive Officer immediately.
 2. The Safety Director and/or Chief Executive Officer shall take whatever action may be necessary to achieve abatement. (Ord. #2003-05, Aug. 2003, as replaced by Ord. #2013-02, April 2013)

XIII. ABATEMENT ORDERS AND HEARINGS.

- a. Whenever, as a result of an inspection or investigation, the Safety Director or Compliance Inspector(s) finds that a worksite is not in compliance with the standards, rules or regulations pursuant to this plan and is unable to negotiate abatement with the administrative or operational head of the worksite within a reasonable period of time, the Safety Director shall:

1. Issue an abatement order to the head of the worksite.
 2. Post or cause to be posted, a copy of the abatement order at or near each location referred to in the abatement order.
- b. Abatement orders shall contain the following information:
1. The standard, rule, or regulation which was found to be violated.
 2. A description of the nature and location of the violation.
 3. A description of what is required to abate or correct the violation.
 4. A reasonable period of time during which the violation must be abated or corrected.
- c. At any time within ten (10) days after receipt of an abatement order, anyone affected by the order may advise the Safety Director in writing of any objections to the terms and conditions of the order. Upon receipt of such objections, the Safety Director shall act promptly to hold a hearing with all interested and/or responsible parties in an effort to resolve any objections. Following such hearing, the Safety Director shall, within three (3) working days, issue an abatement order and such subsequent order shall be binding on all parties and shall be final. (Ord. #2003-05, Aug. 2003, as replaced by Ord. #2013-02, April 2013)

XIV. PENALTIES.

- a. No civil or criminal penalties shall be issued against any official, employee, or any other person for failure to comply with safety and health standards or any rules or regulations issued pursuant to this Program Plan.
- b. Any employee, regardless of status, who willfully and/or repeatedly violates, or causes to be violated, any safety and health standard, rule, or regulation or any abatement order shall be subject to disciplinary action by the appointing authority. It shall be the duty of the appointing authority to administer discipline by taking action in one of the following ways as appropriate and warranted:
 1. Oral reprimand.
 2. Written reprimand.
 3. Suspension for three (3) or more working days.
 4. Termination of employment. (Ord. #2003-05, Aug. 2003, as replaced by Ord. #2013-02, April 2013)

XV. CONFIDENTIALITY OF PRIVILEGED INFORMATION.

All information obtained by or reported to the Safety Director pursuant to this plan of operation or the legislation (ordinance, or executive order) enabling this Occupational Safety and Health Program Plan which contains or might reveal information which is otherwise privileged shall be considered confidential. Such information may be disclosed to other officials or employees concerned with carrying out this Program Plan or when relevant in any proceeding under this Program Plan. Such information may also be disclosed to the Commissioner of Labor and Workforce Development or their authorized representatives in carrying out their duties under the Tennessee Occupational Safety and Health Act of 1972. (Ord. #2003-05, Aug. 2003, as replaced by Ord. #2013-02, April 2013)

XVI. DISCRIMINATION INVESTIGATIONS AND SANCTIONS.

The Rule of Tennessee Department of Labor and Workforce Development Occupational Safety and Health, DISCRIMINATION AGAINST EMPLOYEES EXERCISING RIGHTS UNDER THE OCCUPATIONAL SAFETY AND HEALTH ACT of 1972 0800-01-08, as authorized by T.C.A., Title 50. The agency agrees that any employee who believes they have been discriminated against or discharged in violation of Tenn. Code Ann. § 50-3-409 can file a complaint with their agency or Safety Director within 30 days, after the alleged discrimination occurred. Also, the agency agrees the employee has a right to file their complaint with the Commissioner of Labor and Workforce Development may investigate such complaints, make recommendations, and/or issue a written notification of a violation. (Ord. #2003-05, Aug. 2003, as replaced by Ord. #2013-02, April 2013)

XVII. COMPLIANCE WITH OTHER LAWS NOT EXCUSED.

- a. Compliance with any other law, statute, ordinance, or executive order, which regulates safety and health in employment and places of employment, shall not excuse the employer, if the employee, or any other person from compliance with the provisions of this Program Plan.
- b. Compliance with any provisions of this Program Plan or any standard rule, regulation, or order issued pursuant to this Program Plan shall not excuse the employer, the employee, or any other person from compliance with the law, statute, ordinance, or executive order, as applicable, regulating and promoting safety and health unless such law, statute, ordinance, or executive order, as applicable, is specifically repealed.

Change 1, June 2, 2014

APP 2-19

Signature: Safety Director, City of Humboldt

Date

(as added by Ord. #2013-02, April 2013)

**APPENDIX-I WORK LOCATIONS
(ORGANIZATIONAL CHART)**

City of Humboldt
1421 Osborne Street
Humboldt, TN 38343
731-784-2511

Mayor's Office - 7 employees
Building Inspector - 1 employee
Airport - 1 employee
Safety - 1 employee
Police - 32 employees
Fire - 24 employees
Street Department - 13 employees
Rabies Control - 1 employee
Shop - 1 employee
Cemetery - 1 employee
Park - 5 employees
Library - 6 employees
Senior Citizens Center - 5 employees

TOTAL NUMBER OF EMPLOYEES: 98

APPENDIX-II NOTICE TO ALL EMPLOYEES

NOTICE TO ALL EMPLOYEES OF CITY OF HUMBOLDT

The Tennessee Occupational Safety and Health Act of 1972 provide job safety and health protection for Tennessee workers through the promotion of safe and healthful working conditions. Under a plan reviewed by the Tennessee Department of Labor and Workforce Development, this government, as an employer, is responsible for administering the Act to its employees. Safety and health standards are the same as State standards and jobsite inspections will be conducted to insure compliance with the Act.

Employees shall be furnished conditions of employment and a place of employment free from recognized hazards that are causing or are likely to cause death or serious injury or harm to employees.

Each employee shall comply with occupational safety and health standards and all rules, regulations, and orders issued pursuant to this Program Plan which are applicable to his or her own actions and conduct.

Each employee shall be notified by the placing upon bulletin boards or other places of common passage of any application for a temporary variance from any standard or regulation.

Each employee shall be given the opportunity to participate in any hearing which concerns an application for a variance from a standard.

Any employee who may be adversely affected by a standard or variance issued pursuant to this Program Plan may file a petition with the Safety Director.

Any employee who has been exposed or is being exposed to toxic materials or harmful physical agents in concentrations or at levels in excess of that provided for by an applicable standard shall be notified by the employer and informed of such exposure and corrective action being taken.

Subject to regulations issued pursuant to this Program Plan, any employee or authorized representative(s) of employees shall be given the right to request an inspection.

No employee shall be discharged or discriminated against because such employee has filed any complaint or instituted or caused to be instituted any proceedings or inspection under, or relating to, this Program Plan.

Change 1, June 2, 2014

APP 2-22

Any employee who believes he or she has been discriminated against or discharged in violation of these sections may, within thirty (30) days after such violation occurs, have an opportunity to appear before the Mayor for assistance in obtaining relief or to file a complaint with the Commissioner of Labor and Workforce Development alleging such discrimination.

A copy of the Occupational Safety and Health Program Plan for the Employees of the City of Humboldt is available for inspection by any employee at the Municipal Building during regular office hours.

s/ Allen Barker

Mayor

Date: 4-22-13

APPENDIX- III PROGRAM PLAN BUDGET

STATEMENT OF FINANCIAL RESOURCE AVAILABILITY

Be assured that the City of Humboldt has sufficient financial resources available or will make sufficient financial resources available as may be required in order to administer and staff its Occupational Safety and Health Program Plan and to comply with standards.

APPENDIX - IV ACCIDENT REPORTING PROCEDURES

(1-15) Employees shall report all accidents, injuries, or illnesses directly to the Safety Director as soon as possible, but not later than twenty-four (24) hours after the occurrence. Such reports may be verbal or in writing. All fatalities or accidents involving the hospitalization of three (3) or more employees shall be reported to the Safety Director and/or record keeper immediately, either by telephone or verbally, and will be followed by a written report within four (4) hours after their occurrence. The Safety Director will insure completion of required reports and records in accordance with Section VIII of the basic plan.

(16-50) Employees shall report all accidents, injuries, or illnesses to their supervisor as soon as possible, but not later than two (2) hours after the occurrence. All fatalities or accidents involving the hospitalization of three (3) or more employees shall be reported to the Safety Director and/or record keeper immediately, either by telephone or verbally, and will be followed by a written report within four (4) hours after their occurrence. The supervisor will investigate the accident or illness, complete an accident report, and forward the accident report to the Safety Director and/or record keeper within twenty-four (24) hours of the time the accident or injury occurred or the time of the first report of the illness.

(51-250) Employees shall report all accidents, injuries, or illnesses to their supervisors as soon as possible, but not later than two (2) hours after the occurrence. The supervisor will provide the Safety Director and/or record keeper with the name of the injured or ill employee and a brief description of the accident or illness by telephone as soon as possible, but not later than four (4) hours, after the accident or injury occurred or the time of the first report of the illness. All fatalities or accidents involving the hospitalization of three (3) or more employees shall be reported to the Safety Director and/or record keeper immediately, either by telephone or verbally, and will be followed by a written report within four (4) hours after their occurrence. The supervisor will then make a thorough investigation of the accident or illness (with the assistance of the Safety Director or Compliance Inspector, if necessary) and will complete a written report on the accident or illness and forward it to the Safety Director within seventy-two (72) hours after the accident, injury, or first report of illness and will provide one (1) copy of the written report to the recordkeeper.

(251-Plus) Employees shall report all accidents, injuries, or illnesses to their supervisors as soon as possible, but not later than two (2) hours after their occurrence. The supervisor will provide the administrative head of the department with a verbal or telephone report of the accident as soon as possible, but not later than four (4) hours, after the accident. If the accident involves loss

of consciousness, a fatality, broken bones, severed body member, or third degree burns, the Safety Director will be notified by telephone immediately and will be given the name of the injured, a description of the injury, and a brief description of how the accident occurred. The supervisor will then make a thorough investigation of the accident or illness (with the assistance of the Safety Director or Compliance Inspector, if necessary) and will complete a written report on the accident or illness and forward it to the Safety Director within seventy-two (72) hours after the accident injury, or first report of illness and will provide one (1) copy of the written report to the record keeper.

Since Workers Compensation Form 6A or OSHA NO. 301 Form must be completed; all reports submitted in writing to the person responsible for recordkeeping shall include the following information as a minimum:

1. Accident location, if different from employer's mailing address and state whether accident occurred on premises owned or operated by employer.
2. Name, social security number, home address, age, sex, and occupation (regular job title) of injured or ill employee.
3. Title of the department or division in which the injured or ill employee is normally employed.
4. Specific description of what the employee was doing when injured.
5. Specific description of how the accident occurred.
6. A description of the injury or illness in detail and the part of the body affected.
7. Name of the object or substance which directly injured the employee.
8. Date and time of injury or diagnosis of illness.
9. Name and address of physician, if applicable.
10. If employee was hospitalized, name and address of hospital.
11. Date of report.

ORDINANCE NO. 2004-05**AN ORDINANCE ADOPTING AND ENACTING A CODIFICATION AND REVISION OF THE ORDINANCES OF THE CITY OF HUMBOLDT TENNESSEE.**

WHEREAS some of the ordinances of the City of Humboldt are obsolete, and

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

WHEREAS the Board of Mayor and Aldermen of the City of Humboldt, 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 "Humboldt Municipal Code," now, therefore:

BE IT ORDAINED BY THE BOARD OF MAYOR AND ALDERMEN OF THE CITY OF HUMBOLDT, 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, are ordained and adopted as the "Humboldt 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."¹

When a civil penalty is imposed on any person for violating any provision of the municipal code and such person defaults on payment of such penalty, he may be required to perform hard labor, within or without the workhouse, to the

¹State law reference

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

extent that his physical condition shall permit, until such civil penalty is discharged by payment, or until such person, being credited with such sum as may be prescribed for each day's hard labor, has fully discharged said penalty.

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

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

Section 7. Reproduction and amendment of code. The municipal code shall be reproduced in loose-leaf form. The board of mayor and aldermen, by motion or resolution, shall fix, and change from time to time as considered necessary, the prices to be charged for copies of the municipal code and revisions thereto. After adoption of the municipal code, each ordinance affecting the code shall be adopted as amending, adding, or deleting, by numbers, specific chapters or sections of said code. Periodically thereafter all affected pages of the municipal code shall be revised to reflect such amended, added, or deleted material and shall be distributed to 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 recorder's office for public use and inspection at all reasonable times.

Section 10. Date of effect. This ordinance shall take effect from and after its final passage, the public welfare requiring it, and the municipal code, including all the codes and ordinances therein adopted by reference, shall be effective on and after that date.

Passed 1st reading, August 23, 2004.

Passed 2nd reading, September 20, 2004.

Allen Barker
Mayor

William T. Moody
Secretary to Board of Alderman