

**THE  
MONTEREY  
MUNICIPAL  
CODE**

Prepared by the

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

in cooperation with the

**TENNESSEE MUNICIPAL LEAGUE**

October 1996

*Change 9*  
*October 5, 2020*

**TOWN OF MONTEREY, TENNESSEE**

**MAYOR**

J.J. Reels

**VICE MAYOR**

Mark Farley

**ALDERMEN**

James Foster  
Alex Garcia  
Charles Looper  
Amy Martin  
Nathan Walker  
Starlett Wessels  
Jim Whitaker

**RECORDER**

J.J. Reels

## PREFACE

The Monterey Municipal Code contains the codification and revision of the ordinances of the Town of Monterey, 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 town's ordinance book or the city recorder for a comprehensive and up to date review of the town's ordinances.

Following this preface is an outline of the ordinance adoption procedures, if any, prescribed by the town'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 town is kept in a separate ordinance book and forwarded to MTAS annually.
- (3) That the town agrees to reimburse MTAS for the actual costs of reproducing replacement pages for the code (no charge is made for the consultant's work, and reproduction costs are usually nominal).

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 Bobbie J. Sams, the MTAS Word Processing Specialist who did all the typing on this project, and Tracy G. Gardner, Administrative Services Assistant, is gratefully acknowledged.

Steve Lobertini  
Codification Specialist

**ORDINANCE ADOPTION PROCEDURES PRESCRIBED BY THE  
TOWN CHARTER<sup>1</sup>**

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<sup>1</sup>The Monterey town charter contains no provisions on the ordinance adoption procedures. See § 1-106 for passage of ordinances.

*Change 9*  
*October 5, 2020*

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## TITLE 1

### GENERAL ADMINISTRATION<sup>1</sup>

#### CHAPTER

1. BOARD OF MAYOR AND ALDERMEN.
2. MAYOR.
3. RECORDER.
4. CODE OF ETHICS.
5. NON-RESIDENT VOTERS.

#### CHAPTER 1

### BOARD OF MAYOR AND ALDERMEN<sup>2</sup>

#### SECTION

- 1-101. Time and place of regular meetings.
- 1-102. Failure of members to attend meetings.
- 1-103. Compensation of aldermen.
- 1-104. Order of business.
- 1-105. General rules of order.
- 1-106. Passage of ordinances.
- 1-107. Removal of officers appointed by the board.
- 1-108. Committees.

**1-101. Time and place of regular meetings.** The board of mayor and aldermen shall hold regular monthly meetings at 7:00 P.M. on the first Monday of each month at the Monterey Community Center. (1980 Code, § 1-101)

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#### <sup>1</sup>Charter references

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

#### Municipal code references

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

Fire department: title 7.

Utilities: titles 18 and 19.

Wastewater treatment: title 18.

Zoning: title 14.

#### <sup>2</sup>Charter references

Compensation: §§ 4 and 13.

Oath of office: § 4.

Powers and duties: § 4.

Qualifications: § 4.

Vacancy in office: § 4.

**1-102. Failure of members to attend meetings.** Any member of the board of aldermen who shall fail or refuse to attend the meetings of the board, unless hindered by sickness or by pressing business, for two consecutive meetings may be requested by resolution of the board to attend the next meeting thereof, and if such member fails or refuses to attend after such request and sends no reason for such failure, he shall be deemed to have resigned his office and the board by resolution may accept such resignation and proceed to fill such vacancy by the selection of some suitable person from the ward in which such vacancy exists. (1980 Code, § 1-102)

**1-103. Compensation of aldermen.** The aldermen shall each be paid twelve dollars and fifty cents (\$12.50) for attendance at each regular or called meeting of the board of mayor and aldermen, provided the compensation to each alderman shall not exceed the sum of three hundred dollars (\$300.00) per annum. (1980 Code, § 1-103, modified)

**1-104. 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) Calling the board to order.
- (2) In the absence of the mayor, election of an alderman to preside.
- (3) Reporting minutes of previous meeting.
- (4) Disposition of minutes.
- (5) Introduction of resolutions.
- (6) Introduction of ordinances.
- (7) Ordinances on 1st and 2nd readings.
- (8) Ordinances on 3rd reading.
- (9) Reports of standing committees.
- (10) Reports of special committees.
- (11) Reports of officers.
- (12) Consideration of bills and accounts.
- (13) Unfinished business.
- (14) Miscellaneous business. Under this heading may be considered all matters and business not considered under any of the preceding headings.
- (15) Adjournment. (1980 Code, § 1-104)

**1-105 General rules of order.** The rules of order and parliamentary procedure contained in Robert's Rules of Order, Newly Revised, shall govern the transaction of business by and before the 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, § 1-105, modified)

**1-106. Passage of ordinances.** All ordinances must be introduced in written form and passed on three (3) readings before becoming effective in accordance with their terms. (1980 Code,§ 1-106)

**1-107. Removal of officers appointed by the board.** Should any officer appointed by the board of mayor and aldermen of the Town of Monterey fail or refuse to perform any of the duties of his office, as provided by the charter and ordinances of the town, the mayor and aldermen may, by a majority vote, remove such officer from office. (1980 Code,§ 1-107)

**1-108. Committees.** The mayor shall, at the first regular meeting after his election and qualification or as soon thereafter as practicable, appoint the following standing committees to consist of three (3) aldermen each: First, a finance committee; second, a street committee; third, a sanitation committee; fourth, an industry committee; fifth, a fire committee; sixth, a law committee; and seventh, a buildings and grounds committee; and such other special committees as he may deem proper or as may be authorized or directed to be appointed by the board.

The mayor shall also have the power, in his discretion, at any time, to remove any member or members of any committee, or to make any changes in the personnel of any committee that he may deem necessary. However, in the event of the removal of any member of any standing committee, he shall immediately appoint another in the place of the one removed, so that all standing committees shall always be composed of three (3) aldermen. (1980 Code, § 1-108)

## CHAPTER 2

### MAYOR<sup>1</sup>

#### SECTION

- 1-201. Generally supervises town's affairs.
- 1-202. Executes town's contracts.
- 1-203. Legal counsel.
- 1-204. Compensation.

**1-201. Generally supervises town'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 town's contracts.** The mayor shall execute all contracts and conveyances authorized by the board of mayor and aldermen. (1980 Code, § 1-202)

**1-203. Legal counsel.** The mayor shall have power and authority, whenever the public welfare of the town requires it, to employ counsel to represent the town in any controversy or litigation in which the town may be involved, and to institute litigation or give proper legal advice to the officials and officers of the town, but the counsel so employed shall only receive such compensation as shall be fixed and appropriated by the board of mayor and aldermen. (1980 Code, § 1-203)

**1-204. Compensation.** The mayor shall be paid the sum of five hundred dollars (\$500.00) per annum for his services as mayor. (1980 Code, § 1-103, modified)

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<sup>1</sup>Charter references

Duties: § 3.

Oath of office: § 4.

Qualifications: § 3.

Term of office: § 3.

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

1-301. To be bonded.

1-302. To keep minutes, etc.

1-303. To perform general administrative duties, etc.

**1-301. To be bonded.** The recorder shall be bonded in the sum of ten thousand dollars (\$10,000.00), with surety acceptable to, the mayor, before assuming the duties of his office. (1980 Code, § 1-301)

**1-302. To keep minutes, etc.** The recorder shall attend all meetings of the board of mayor and aldermen. He shall keep a record of the board's proceedings in a well bound book, which shall be read by him, and after being approved by the board, shall be signed by the mayor and attested by the recorder.

It shall also be the duty of the recorder to transcribe in a well bound book, provided by the board for the purpose, all ordinances passed by the board and approved by the mayor, which book shall be subject to inspection by any person desiring to inspect it. (1980 Code, § 1-302)

**1-303. To perform general administrative duties, etc.** The recorder shall perform all administrative duties for the board of mayor and aldermen and for the town which are not expressly assigned by the charter or this code, to another corporate officer. He shall also have custody of and be responsible for maintaining all corporate bonds, records, and papers in such fireproof vault or safe as the town shall provide. (1980 Code, § 1-303)

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<sup>1</sup>Charter reference: § 7.

## CHAPTER 4

### CODE OF ETHICS<sup>1</sup>

#### SECTION

- 1-401. Applicability.
- 1-402. Definition of "personal interest."
- 1-403. Disclosure of personal interest by official with vote.
- 1-404. Disclosure of personal interest in non-voting matters.
- 1-405. Acceptance of gratuities, etc.
- 1-406. Use of information.
- 1-407. Use of municipal time, facilities, etc.
- 1-408. Use of position or authority.
- 1-409. Outside employment.
- 1-410. Ethics complaints.
- 1-411. Violations.

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<sup>1</sup>State statutes dictate many of the ethics provisions that apply to municipal officials and employees. For provisions relative to the following, see the Tennessee Code Annotated (T.C.A.) sections indicated:

Campaign finance: Tennessee Code Annotated, title 2, ch. 10.

Conflict of interests: Tennessee Code Annotated, §§ 6-54-107, 108; 12-4-101, 102.

Conflict of interests disclosure statements: Tennessee Code Annotated, § 8-50-501 and the following sections.

Consulting fee prohibition for elected municipal officials: Tennessee Code Annotated, §§ 2-10-122, 124.

Crimes involving public officials (bribery, soliciting unlawful compensation, buying and selling in regard to office): Tennessee Code Annotated, § 39-16-101 and the following sections.

Crimes of official misconduct, official oppression, misuse of official information: Tennessee Code Annotated, § 39-16-401 and the following sections.

Ouster law: Tennessee Code Annotated, § 8-47-101 and the following sections.



**1-401. Applicability.** This chapter is the code of ethics for personnel of the Town of Monterey. 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. #445, May 2007)

**1-402. Definition of personal interest.**" (1) For purposes of §§ 1-403 and 1-404, "personal interest" means:

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

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

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

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

(3) In any situation in which a personal interest is also a conflict of interest under state law, the provisions of the state law take precedence over the provisions of this chapter. (as added by Ord. #445, May 2007)

**1-403. Disclosure of personal interest by official with vote.** An official with the responsibility to vote on a measure shall disclose during the meeting at which the vote takes place, before the vote and so it appears in the minutes, any personal interest that affects or that would lead a reasonable person to infer that it affects the official's vote on the measure. In addition, the official may recuse himself<sup>1</sup> from voting on the measure. (as added by Ord. #445, May 2007)

**1-404. Disclosure of personal interest in non-voting 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 or that would lead a reasonable person to infer that it affects the exercise of the discretion shall disclose, before the exercise of the discretion when possible, the interest on a form provided by and filed with the recorder. In addition, the

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<sup>1</sup>Masculine pronouns include the feminine. Only masculine pronouns have been used for convenience and readability.

official or employee may, to the extent allowed by law, charter, ordinance, or policy, recuse himself from the exercise of discretion in the matter. (as added by Ord. #445, May 2007)

**1-405. Acceptance of gratuities, etc.** An official or employee may not accept, directly or indirectly, any money, gift, gratuity, or other consideration or favor of any kind from anyone other than the municipality:

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

(2) That might reasonably be interpreted as an attempt to influence his action, or reward him for past action, in executing municipal business. (as added by Ord. #445, May 2007)

**1-406. Use of information.** (1) An official or employee may not disclose any information obtained in his official capacity or position of employment that is made confidential under state or federal law except as authorized by law.

(2) An official or employee may not use or disclose information obtained in his official capacity or position of employment with the intent to result in financial gain for himself or any other person or entity. (as added by Ord. #445, May 2007)

**1-407. Use of municipal time, facilities, etc.** (1) An official or employee may not use or authorize the use of municipal time, facilities, equipment, or supplies for private gain or advantage to himself.

(2) An official or employee may not use or authorize the use of municipal time, facilities, equipment, or supplies for private gain or advantage to any private person or entity, except as authorized by legitimate contract or lease that is determined by the governing body to be in the best interests of the municipality. (as added by Ord. #445, May 2007)

**1-408. Use of position or authority.** (1) An official or employee may not make or attempt to make private purchases, for cash or otherwise, in the name of the municipality.

(2) An official or employee may not use or attempt to use his position to secure any privilege or exemption for himself or others that is not authorized by the charter, general law, or ordinance or policy of the municipality. (as added by Ord. #445, May 2007)

**1-409. Outside employment.** An official or employee may not accept or continue any outside employment if the work unreasonably inhibits the performance of any affirmative duty of the municipal position or conflicts with any provision of the municipality's charter or any ordinance or policy. (as added by Ord. #445, May 2007)

**1-410. Ethics complaints.** (1) The city attorney is designated as the ethics officer of the municipality. Upon the written request of an official or employee potentially affected by a provision of this chapter, the city attorney may render an oral or written advisory ethics opinion based upon this chapter and other applicable law.

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

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

(c) When a complaint of a violation of any provision of this chapter is lodged against a member of the municipality's governing body, the governing body 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 governing body determines that a complaint warrants further investigation, it shall authorize an investigation by the city attorney or another individual or entity chosen by the governing body.

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

(4) When a violation of this code of ethics also constitutes a violation of a personnel policy, rule, or regulation or a civil service policy, rule, or regulation, the violation shall be dealt with as a violation of the personnel or civil service provisions rather than as a violation of this code of ethics. (as added by Ord. #445, May 2007)

**1-411. Violations.** An elected official or appointed member of a separate municipal board, commission, committee, authority, corporation, or other instrumentality who violates any provision of this chapter is subject to punishment as provided by the municipality's charter or other applicable law and in addition is subject to censure by the governing body. An appointed official or an employee who violates any provision of this chapter is subject to disciplinary action. (as added by Ord. #445, May 2007)

**CHAPTER 5**

**NON-RESIDENT VOTERS**

**SECTION**

1-501. Non-resident voters.

**1-501. Non-resident voters.** Non-residents of the town who vote in municipal elections pursuant to § 2 of the charter shall cast their municipal ballots as absentee voters, voting by mail ballots only. (as added by Ord. #11-504, Dec. 2011)

## TITLE 2

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

#### CHAPTER

1. WELCH MEMORIAL CEMETERY.
2. CIVIL DEFENSE ORGANIZATION.
3. HISTORIC DEPOT MUSEUM BOARD.

#### CHAPTER 1

### WELCH MEMORIAL CEMETERY

#### SECTION

- 2-101. Welch Memorial Cemetery Commission created.
- 2-102. Residence requirements for commission members.
- 2-103. Appointment and tenure of commissioners.
- 2-104. Lot prices.
- 2-105. Use of funds.
- 2-106. Cemetery regulations.
- 2-107. Meetings, organization, powers, and duties, etc., of the commission, clerk, etc.
- 2-108. Superintendent's duties and compensation.
- 2-109. Clerk's duties and compensation.
- 2-110. Violations.

**2-101. Welch Memorial Cemetery Commission created.** There is hereby created a commission of three (3) members to be known as the "Welch Memorial Cemetery Commission" to have charge of the operation and maintenance of the Welch Memorial Cemetery heretofore conveyed by deed of gift from George N. Welch and wife, Effie Welch, to the Board of Mayor and Aldermen of Monterey as a memorial to John W. Welch, the father of George N. Welch, and including such additional lands adjacent to or near said cemetery as may have been or may hereafter be required by said town for the purpose of becoming a part of Welch Memorial Cemetery. (1980 Code, § 12-501)

**2-102. Residence requirements for commission members.** Any person to be appointed as a member of the commission shall either be a resident of the Town of Monterey, Tennessee, or a resident of the Monterey community

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<sup>1</sup>Municipal code reference:

Boards of adjustments and appeals: title 12, chapter 8.

Board of zoning appeals: title 14, chapter 11.

which is herein defined as all of the area surrounding said town that is within five (5) miles of the corporate limits thereof. (1980 Code, § 12-502)

**2-103. Appointment and tenure of commissioners.** The three (3) commissioners shall be appointed by the Mayor of Monterey with approval of the board of mayor and aldermen for terms of six (6) years, except that the terms of the first three (3) commissioners shall be for two (2), four (4), and six (6) years so that the term of one (1) commissioner shall expire every two (2) years. The terms of the first three (3) commissioners shall begin on January 10, 1960, and the term of one (1) commissioner shall expire on January 10 of even years thereafter with a successor to be appointed by the person holding the office of Mayor of Monterey on such date subject to approval of the board of mayor and aldermen, all commissioners to continue in office until their successors are appointed unless removed for cause. All vacancies on the commission shall be filled in the same manner as provided herein for appointments for the full term. (1980 Code, § 12-503)

**2-104. Lot prices.** The cemetery has been surveyed and laid off in sections and lots as shown by plat of record in the recorder's office. The following schedule of minimum prices for lots is adopted subject only to the exceptions hereinafter set forth, to take effect the first day of October, 2017.

The lots which are to be sold at a minimum of four hundred dollars (\$400.00) per lot, except as hereinafter provided, are designated and located in the following sections:

X-4, X-5, X-6, A-3, A-4, A-5, A-6, A-7, B-1, B-2, B-3, B-4, B-5, B-6, B-7, B-8, B-9, C-1, C-2, C-3, C-4, C-5, C-6, C-7, C-8, C-9, C-10, C-11, D-1, D-2, D-3, D-4, D-5, D-6, D-7, D-8, D-9, D-10, D-11, D-12, E-2, E-3, E-4, E-5, E-6, E-7, E-8, E-9, E-10, E-11, E-12, E-13, E-14, F-1, F-2, F-3, F-4, F-5, F-6, F-7, F-8, F-9, F-10, F-11, F-12, F-13, F-14, F-15, G-4, G-5, G-6, G-7, G-8, G-9, G-10, G-11, G-12, G-13, G-14, G-15, G-16, G-17, H-5, H-6, H-7, H-8, H-9, H-10, H-11, H-12, H-13, H-14, H-15, H-16, H-17, I-8, I-9, I-10, I-11, I-12, I-13, I-14, I-15, I-16, I-17, I-18, I-19, J-8, J-9, J-10, J-11, J-12, J-13, J-14, J-15, J-16, J-17, K-9, K-10, K-11, K-12, K-13, K-14, L-10, L-11, L-12, L-13, L-14, M-12.

Lots for which no charges are to be made, but for which receipts are to be issued one (1) at a time when needed in order that a permanent record be kept, are designed and located in the following sections.

H-18, I-18, I-19, J-18, J-19, J-20, K-17, K-18, L-15, L-16, L-17, M-13, M-14, M-15.

A total of four hundred ninety-eight (498) lots.

The commission shall, from time to time, review the schedule of lot prices and, when any change is deemed necessary or advisable, shall make recommendations to the mayor and board of aldermen covering such changes.

(Ord. #352, Aug. 1996, as replaced by Ord. #420, Dec. 2003, and Ord. #17-540, Aug. 2017 *Ch9\_10-5-20*)

**2-105. Use of funds.** (1) A minimum of fifty percent (50%) of the gross proceeds of the sale of lots shall be placed in an account to be designated as "Welch Memorial Cemetery-Perpetual Care Fund" for the perpetual care and maintenance of the cemetery. Such funds shall be transferred from the regular or general cemetery account at least once each year and more often if authorized by the commission. The commission, in its discretion, may transfer to such perpetual care fund from time to time such additional monies as may be in the regular or general cemetery fund that in its judgment are not needed for current operation and maintenance. As often as one thousand dollars (\$1,000.00) is accumulated in the perpetual care fund, the same shall be invested by the commission in high grade securities which meet the requirements of investments of a ward's funds by guardians under Tennessee law. Unless such investment shall be approved by all three (3) commissioners, it shall be approved by the mayor and two (2) commissioners before it is made.

(2) The expenses of operating, maintaining, and improving the cemetery shall be paid from the regular cemetery fund which shall be designated "Welch Memorial Cemetery-General Fund," and derived from the remainder of the proceeds from the sale of lots and from the income from investments made as herein above provided.

(3) In the event the board of mayor and aldermen deems it advisable to purchase additional lands to be incorporated in said cemetery, they may authorize the sale of not more than twenty-five percent (25%) of the securities purchased from the "Perpetual Care Fund" for such purchase, but such a sale of securities may not be made more often than once every ten (10) years. Monies on deposit in the cemetery general fund may also be used for such purchases of land when authorized by the board of mayor and aldermen. (1980 Code, § 12-505)

**2-106. Cemetery regulations.** The following regulations are hereby adopted:

(1) It shall be unlawful for any person to dig or cause to be dug any grave in the cemetery unless or until a proper certificate of ownership has been issued by a clerk of the cemetery, as hereinafter provided, and it shall also be unlawful for the clerk to issue such certificate until the purchase price of the lot or lots is paid in full.

(2) It shall be unlawful for the superintendent of the cemetery, who is to be appointed by the commission as hereinafter provided, to permit any grave to be dug or any person to be buried in the cemetery unless and until a proper certificate of ownership has been issued by the clerk.

(3) It shall be unlawful for any person to dig or cause to be dug any grave in said cemetery or to bury any person therein without first obtaining a permit in writing from the superintendent of the cemetery.

(4) It shall be unlawful for any person to erect or place or cause to be erected or placed any monument or marker in said cemetery without first obtaining a permit in writing from the superintendent of said cemetery.

(5) Title 20, chapter 1 in this code includes municipally owned cemeteries in its regulations, and shall apply to Welch Memorial Cemetery.

(6) It shall be the duty of the superintendent of the cemetery and of the cemetery commission to report any violation of said chapter 1 in title 20 and also any violation of the regulations herein above set forth to the board of mayor and aldermen promptly upon the occurrence of such violations.

(7) The cemetery commission is authorized and empowered to adopt such further regulations for the operation and maintenance of the cemetery as it deems necessary and advisable, including regulations restricting and prohibiting the planting of shrubs, flowers, or trees, the placing or installing of any structure or object in said cemetery except suitable monuments or markers, and the size and dimensions of such monuments or markers may be limited and restricted as the commission may see fit. The commission may also adopt such other regulations as it may consider necessary and proper from time to time.

All of the certificates of ownership heretofore issued for lots in the cemetery as well as those to be hereafter issued have provided and shall hereafter provide that the lots may be used for burial of the dead subject to such rules and regulations as the board of mayor and aldermen may impose and the use of all lots heretofore sold as well as those to be hereafter sold is subject to the laws and regulations contained herein and those which may be adopted by the commission pursuant to the authority herein granted. (1980 Code, § 12-506)

**2-107. Meetings, organization, powers, and duties, etc., of the commission, clerk, etc.** (1) The commission shall hold quarterly meetings, the first such meeting to be held on the second Tuesday in January, 1960, and subsequent meetings to be held on the second Tuesday of April, July, October, and January thereafter. The chairman of the commission shall have the power to call special meetings at any time.

(2) At its January meeting of even years beginning in 1960, the commission shall select one (1) of its own members as chairman to serve for the succeeding two (2) year period. The commission shall also appoint a suitable person to act as clerk of the cemetery who may or may not be a member of the commission to serve for a like period of two (2) years. The commission shall also elect or appoint a suitable person to serve as superintendent for a similar term of two (2) years and such person so elected shall not be himself a member of the commission.

(3) The commission is hereby given general supervisory powers over the Welch Memorial Cemetery and shall have the authority to procure such



materials and employ such labor as may be deemed necessary or advisable for the proper operation and maintenance of the cemetery. The commission shall also from time to time make recommendations to the board of mayor and aldermen concerning improvements of the cemetery and to make such improvements when approved by the board of mayor and aldermen. All checks or warrants drawn on either of the funds of said cemetery shall be signed by the clerk of the cemetery and countersigned by the Mayor of Monterey, Tennessee.

(4) At its first meeting the commission shall adopt appropriate by-laws applicable to the procedure to be used in its meetings and other official acts.

(5) It shall be the duty of the commission to keep and maintain the cemetery in a proper manner by planting grass, keeping it mowed, removing debris and doing all other acts necessary for keeping the cemetery neat and clean in appearance and free from defects, through its superintendent and such other employees as it may from time to time select.

(6) It shall be the duty of the commission and particularly the clerk of the cemetery to keep an accurate record of all transactions, receipts, and disbursements pertaining to the cemetery and to make an annual report to the board of mayor and aldermen of all such matters. Said report to be submitted in writing at the first meeting of the board of mayor and aldermen held in January of each year. (1980 Code, § 12-507)

**2-108. Superintendent's duties and compensation.** It shall be the duty of the superintendent of the cemetery to take active charge of the care and maintenance thereof under the direction of the commission, to issue the permits for burial and erection of monuments as herein above provided and to show lots to prospective purchasers, obtaining the block and lot numbers of the lots to be purchased and submit them to the clerk in order that certificates of ownership can be properly issued upon payment of the purchase price. The superintendent shall receive as compensation ten percent (10%) of the proceeds of lots sold during his term of office. A sale shall be deemed to have been made only when a certificate is issued for sale of such lots. (1980 Code, § 12-508)

**2-109. Clerk's duties and compensation.** (1) A record of the sale and ownership of each lot shall be kept by the clerk in a bound book such as is commonly used by corporations for stock records, and the clerk shall issue to the owner of each lot when paid for an appropriate certificate of ownership, which certificate may be surrendered to be split up into one (1) or more certificates in order to make it easy for an owner to sell if he so desires a part of his lot, and to transfer a part of the same to some friend or member of his family. A record of said split certificate shall likewise be kept by said clerk in said bound book to the end that all parties owning lots or parts of lots in the cemetery may at all times be readily ascertained and determined. Transfers of lots may be made only on the records of the clerk of the cemetery.

(2) It shall also be the duty of the clerk to keep the minutes of all meetings of the commission and the financial records of the cemetery and to make an annual report to the board of mayor and aldermen and also such other reports that the commission may from time to time require. It shall be the duty of the clerk to keep proper and adequate records of all persons buried in the cemetery and the date of interment. The clerk shall also keep adequate records of lots previously sold in order that there may be no duplicate sale of lots in the cemetery. The clerk shall receive ten percent (10%) of the gross proceeds from the sale of lots for all certificates issued by him. Before entering the duties of his office, the clerk shall provide a good and solvent bond in an amount of not less than two thousand five hundred (\$2,500.00) to be conditioned upon the proper accounting of funds in his hands and the faithful discharge of his duties as clerk, said bond to be approved by the commission. If in its judgment a higher bond is required, the commission may raise the amount of such bond. (1980 Code, § 12-509)

**2-110. Violations.** Any violation of the terms of this chapter is hereby declared to be a misdemeanor and the offender, upon conviction, shall be fined under the general penalty clause for this code. (1980 Code, § 12-510)

## CHAPTER 2

### CIVIL DEFENSE ORGANIZATION

#### SECTION

2-201. Civil defense organization created.

2-202. Authority and responsibilities.

2-203. Office of director, his authority and responsibility.

2-204. Monterey Civil Defense Corps created.

2-205. No municipal or private liability.

2-206. Expenses of civil defense.

**2-201. Civil defense organization created.** Pursuant to the authority granted by Tennessee Code Annotated, §§ 58-2-101, et seq., there is hereby created the Monterey Civil Defense Organization, which shall be an operation by the Town of Monterey, for the purpose of organizing and directing civil defense for the citizens of the entire town. All other civil defense agencies within the corporate limits of Monterey shall be considered as a total part of the town-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 as a part of the Monterey civil defense. (1980 Code, § 1-901)

**2-202. Authority and responsibilities.** (1) Authority. In accordance with federal and state enactments of law, the Monterey Civil Defense Organization is hereby authorized to assist the regular government of the town 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 peace-time man-made disasters, which might occur affecting the lives, health, safety, welfare, and property of the citizens of Monterey. The Monterey Civil Defense Organization is hereby authorized to perform such duties and functions as may be necessary on account of said disasters. The Monterey Civil Defense Organization is hereby designated the official agency to assist regular forces in time of said emergencies.

(2) Responsibilities. The Monterey Civil Defense Organization shall be responsible for preparation and readiness against enemy caused and natural emergencies arising in Monterey, to establish and co-ordinate emergency plans, forces, means, and resources, and is hereby designated the official agency to establish such emergency plans. (1980 Code, § 1-902)

**2-203. Office of director, his authority and responsibility.**

(1) Primary authority. (a) The office of the Director of Civil Defense is hereby created. The director shall have the authority to request the

declaration of the existence of an emergency by the mayor or by higher authority as appropriate.

(b) 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.

(c) 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 mayor.

(2) Responsibility of the director. The director shall be responsible to the mayor of the town for the execution of the authorities, duties, and responsibilities of the Monterey Civil Defense Organization, for the preparation of all plans and administrative regulations, and for recruitments and training of personnel. (1980 Code, § 1-903)

**2-204. Monterey Civil Defense Corps created.** The Monterey 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, § 1-904)

**2-205. No municipal or private liability.** The duties prescribed in this document are an exercise by the town of its governmental functions for the protection of the public peace, health, and safety, and neither the Town of Monterey, the agents and representatives of said town, 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 chapter 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 enemy 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, § 1-905)

**2-206. Expenses of civil defense.** No person shall have the right to expend any public funds of the town in carrying out any civil defense activities authorized by this chapter without prior approval by the board of mayor and aldermen; nor shall any person have any right to bind the town by contract, agreement, or otherwise without prior and specific approval by the board of mayor and aldermen. The Civil Defense Director shall disburse such monies as

may be provided annually by appropriation of the town for the operation of the Civil Defense Organization. Control of disbursements will be as prescribed by agreement between the treasurer of the town. He shall be responsible for the preparation and submission of a budget with recommendations as to its adoption by the town. All funds shall be disbursed upon vouchers properly executed by the Director of Civil Defense, subject to audit by the Town of Monterey. The Civil Defense Director is hereby authorized to accept federal contributions in money, equipment, or otherwise, state contributions, and is further authorized to accept contributions to the Civil Defense Organization for individuals and other organizations, such funds becoming liable for audit by the town. (1980 Code, § 1-906)

## CHAPTER 3

### HISTORIC DEPOT MUSEUM BOARD

#### SECTION

2-301. Creation and appointment of new advisory board.

2-302. Administration.

2-303. Duties and responsibilities.

2-304. Deleted.

**2-301. Creation and appointment of new advisory board.** There is hereby created and established a Monterey Historic Depot Museum Board. Said board shall initially consist of the mayor, a member of the board of mayor and aldermen to be appointed by the mayor and board of aldermen and the Monterey Cultural Administrator. Upon the initial meeting, these three (3) members shall appoint two (2) citizen appointees, one (1) citizen for two (2) years and one (1) for three (3) years, and which these two (2) citizens shall not be a Town of Monterey board member or an employee for the Town of Monterey. (as added by Ord. #468, Aug. 2009, and replaced by Ord. #12-506, March 2012)

**2-302. Administration.** The historic depot museum board shall conduct its meetings in accordance with open meeting laws of the state and keep official minutes. The mayor shall ensure that adequate administrative support is carried out to meet the below duties and responsibilities of the historic depot museum board. (as added by Ord. #468, Aug. 2009, as replaced by Ord. #12-506, March 2012)

**2-303. Duties and responsibilities.** The duties of the historic depot museum board should be to make overall recommendations to the board of mayor and aldermen and to present a budget sixty (60) days before the commencement of the fiscal year. Said budget should contain projected revenues from sales of memorabilia and services and projected expenditures related to maintenance and operations of the museum. Budget should be self-balancing and all monies are property of the Town of Monterey. Upon approval of the budget, the historic depot museum board shall adhere to all municipal and state related rules governing purchasing and budgeting. (as added by Ord. #468, Aug. 2009, as replaced by Ord. #12-506, March 2012)

**2-304. [Deleted].** (as added by Ord. #468, Aug. 2009, and deleted by Ord. #12-506, March 2012)

**TITLE 3**

**MUNICIPAL COURT**

**CHAPTER**

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

**CHAPTER 1**

**CITY JUDGE<sup>1</sup>**

**SECTION**

3-101. City judge.

**3-101. City judge.** The person designated by the board of mayor and aldermen shall preside over the city court and shall be known as the city judge. (1980 Code, § 1-501)

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<sup>1</sup>Charter reference: § 7.

## CHAPTER 2

### COURT ADMINISTRATION

#### SECTION

- 3-201. Maintenance of docket.
- 3-202. Imposition of fines and costs.
- 3-203. Disposition and report of fines and costs.
- 3-204. Disturbance of proceedings.
- 3-205. Trial and disposition of cases.
- 3-206. Failure to appear.

**3-201. Maintenance of docket.** The city judge shall keep a complete docket of all matters coming before him in his judicial capacity. The docket shall include for each defendant such information as his name; warrant and/or summons numbers; alleged offense; disposition; fines and costs imposed and whether collected; whether committed to workhouse; and all other information that may be relevant. (1980 Code, § 1-502)

**3-202. 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 and determined by him, the city judge shall impose court costs in the amount of one hundred dollars (\$100.00). In addition, the court shall levy a local litigation tax in the amount of twenty dollars (\$20.00) in all cases in which the state litigation tax is levied. (1980 Code, § 1-508, as amended by Ord. #11-491, April 2011)

**3-203. 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 town. At the end of each month he shall submit to the board of mayor and aldermen a report accounting for the collection or non-collection of all fines and costs imposed by his court during the current month and to date for the current fiscal year. (1980 Code, § 1-511)

**3-204. Disturbance of proceedings.** It shall be unlawful for any person to create any disturbance of any trial before the city court by making loud or unusual noises, by using indecorous, profane, or blasphemous language, or by any distracting conduct whatsoever. (1980 Code, § 1-512)

**3-205. Trial and disposition of cases.** Every person charged with violating a town 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)

**3-206. Failure to appear.** Any person who fails to appear in municipal court on their scheduled court date, shall be guilty of failure to appear and shall be assessed additional court costs and fines. (as added by Ord. #391, Aug. 2001)

## CHAPTER 3

### WARRANTS, SUMMONSES AND SUBPOENAS

#### SECTION

3-301. Issuance of arrest warrants.

3-302. Issuance of summonses.

3-303. Issuance of subpoenas.

**3-301. Issuance of arrest warrants.**<sup>1</sup> The city judge shall have the power to issue warrants for the arrest of persons charged with violating town ordinances.

Before putting on trial any person who has been arrested without a warrant, the city judge shall issue a warrant, setting forth the offense for which such party is to be tried, and shall cause the same to be served on such party so that he may be apprised of the offense of which he is charged. (1980 Code, § 1-503)

**3-302. Issuance of summonses.** When a complaint of an alleged ordinance violation is made to the city judge, the judge may in his discretion, in lieu of issuing an arrest warrant, issue a summons ordering the alleged offender to personally appear before the city court at a time specified therein to answer to the charges against him. The summons shall contain a brief description of the offense charged but need not set out verbatim the provisions of the ordinance alleged to have been violated. Upon failure of any person to appear before the city court as commanded in a summons lawfully served on him, the cause may be proceeded with ex parte, and the judgment of the court shall be valid and binding subject to the defendant's right of appeal. (1980 Code, § 1-504)

**3-303. Issuance of subpoenas.** The city judge may subpoena as witnesses all persons whose testimony he believes will be relevant and material to matters coming before his court, and it shall be unlawful for any person lawfully served with such a subpoena to fail or neglect to comply therewith. (1980 Code, § 1-505)

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<sup>1</sup>State law reference

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

## CHAPTER 4

### BONDS AND APPEALS

#### SECTION

3-401. Appearance bonds authorized.

3-402. Appeals.

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

**3-401. Appearance bonds authorized.** 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 time, provided such alleged offender is not drunk or otherwise in need of protective custody. (1980 Code, § 1-507)

**3-402. Appeals.** Any defendant who is dissatisfied with any judgment of the city court against him may, within ten (10) days next after such judgment is rendered appeal to the next term of the circuit court upon posting a proper appeal bond.<sup>1</sup> (1980 Code, § 1-509)

**3-403. Bond amounts, conditions, and forms.** An appearance bond in any case before the city court shall be in such amount as the city judge shall prescribe and shall be conditioned that the defendant shall appear for trial before the city court at the stated time and place. An appeal bond in any case shall be in the sum of two hundred and fifty dollars (\$250.00) and shall be conditioned that if the circuit court shall find against the appellant the fine and all costs of the trial and appeal shall be promptly paid by the defendant and/or his sureties. An appearance or appeal bond in any case may be made in the form of a cash deposit or by any corporate surety company authorized to do business in Tennessee or by two (2) private persons who individually own real property located within the county. No other type bond shall be acceptable. (1980 Code, § 1-510)

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<sup>1</sup>State law reference

Tennessee Code Annotated, § 27-5-101.

## TITLE 4

### MUNICIPAL PERSONNEL

#### CHAPTER

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

#### CHAPTER 1

### SOCIAL SECURITY FOR OFFICERS AND EMPLOYEES

#### SECTION

- 4-101. Policy and purpose as to coverage.
- 4-102. Necessary agreements to be executed.
- 4-103. Withholdings from salaries or wages.
- 4-104. Appropriations for employer's contributions.
- 4-105. Records and reports to be made.
- 4-106. Exclusions.

**4-101. Policy and purpose as to coverage.** It is hereby declared to be the policy and purpose of the Town of Monterey, to provide (as of January 1, 1954) for all eligible employees and officials of the town, 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 town shall take such action as may be required by applicable state and federal laws or regulations. (1980 Code, § 1-701)

**4-102. Necessary agreements to be executed.** The mayor is hereby authorized and directed to execute all the necessary agreements and amendments thereto with the state executive director of old age insurance, as agent or agency, to secure coverage of employees and officials as provided in the preceding section. (1980 Code, § 1-702)

**4-103. Withholdings from salaries or wages.** Withholdings from the salaries or wages of employees and officials for the purpose provided in the first section of this chapter are hereby authorized to be made in the amounts and at such times as may be required by applicable state or federal laws or regulations, and shall be paid over to the state or federal agency designated by said laws or regulations. (1980 Code, § 1-703)

**4-104. Appropriations for employer's contributions.** There shall be appropriated from available funds such amounts at such times as may be required by applicable state or federal laws or regulations for employer's contributions, and the same shall be paid over to the state or federal agency designated by said laws or regulations. (1980 Code, § 1-704)

**4-105. Records and reports to be made.** The town shall keep such records and make such reports as may be required by applicable state and federal laws or regulations. (1980 Code, § 1-705)

**4-106. Exclusions.** 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 ordinance creating any retirement system for any employee or official of the town. There is also hereby excluded from this chapter any authority to make an agreement with respect to the following listed classifications of employees and officials in all departments of the government:

- (1) Employees engaged in rendering services of an emergency nature.
- (2) Employees engaged in rendering services in positions the compensation of which is on a fee basis.
- (3) Elective officials engaged in rendering "legislative" services.
- (4) Elective officials engaged in rendering "executive" services.

Notwithstanding any provision(s) heretofore contained in the Social Security Agreement between said parties, it is now the intent and purpose of the Board of Mayor and Aldermen of the Town of Monterey, Tennessee to amend the Social Security Agreement by and between the Town of Monterey, Tennessee and the State Old Age and Survivors Insurance Agency, to exclude from it coverage group under the Federal System of Old Age, Survivors, Disability, Health Insurance, the services of election workers and election officials if the enumeration paid for such services in a calendar year is less than \$1,000 on or after January 1, 1995, ending on or before December 31, 1999, and the adjusted amount thereafter determined under Section 218(c)(8)(B) of the Social Security Act, for any calendar year commencing on or after January 1, 2000. (1980 Code, § 1-706, as amended by Ord. #338, Jan. 1995)

**CHAPTER 2****PERSONNEL RULES AND REGULATIONS<sup>1</sup>****SECTION**

- 4-201. General purpose.
- 4-202. Definitions.
- 4-203. Coverage.
- 4-204. Administration.
- 4-205. Recruitment.
- 4-206. Employment examinations.
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- 4-230. Employee job classifications and pay scales.
- 4-231. Amendment of personnel rules.
- 4-232. Sick leave.
- 4-233. Funeral leave.

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<sup>1</sup>Municipal code reference:

See chapter 3 of this title and Appendix 1 to this municipal code.

**4-201. General purpose.** It is the purpose of these rules to establish a fair and uniform system of personnel administration for all employees in order that the most effective services possible may be delivered to the citizens of the community in keeping with the social and economic needs of the citizens. It shall therefore be the policy that:

(1) Employment shall be based on merit and fitness, without regard to race, religion, national origin, political affiliations, handicaps, sex, or age.

(2) Just and equitable incentives and conditions of employment shall be established.

(3) Tenure of employees shall be subject to good behavior, satisfactory work, necessity for the performance of work, and availability of funds. (1980 Code, § 1-1001)

**4-202. Definitions.** As used in these rules, the following words and terms shall have the meanings enumerated hereinafter:

(1) "Absence without leave." An absence from duty which was not authorized or approved.

(2) "Appeals." Procedures as prescribed by these regulations for appealing disciplinary actions and other individual grievances.

(3) "Applicant." An individual who has or is applying in writing on an application form for employment with the town.

(4) "Appointment." The offer to and acceptance by a person of a position either on a regular or temporary basis.

(5) "Compensatory leave." Time off work in lieu of monetary payment of overtime worked.

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

(7) "Department." The primary organizational unit which is under the immediate charge of a department head who reports directly to the mayor.

(8) "Disciplinary action." Action which may be taken when an employee fails to follow the departmental rules and regulations or any provision of these rules and regulations.

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

(10) "Employee." Any individual who is legally employed by the town and is compensated through the town payroll.

(11) "Full-time employees." Individuals who work the equivalent of forty (40) hours or more per week for the town.

(12) "Grievance." Any employee's feeling of differences, disagreements or disputes arising between an employee and his supervisor relative to some aspect of his employment, application, or interpretation of regulations and policies or some management decision affecting him.

(13) "Immediate family." Spouse and children, and the brother, sister, parents, or step-parents and grandparents of both the employee and spouse.

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

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

(16) "Maternity leave." The excused absence without pay, after using sick and annual leave, for a period of time not to exceed six (6) months for the purpose of childbirth.

(17) "Military leave, reserve." The period of fifteen (15) working days or less per calendar year granted to employees who are members of a reserve military component.

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

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

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

(21) "Probationary period." The designated period of time after an applicant is appointed or an employee is promoted in which the employee is required to demonstrate his fitness for the position by actual performance.

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

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

(24) "Seniority." Length of service with the town as a regular employee in the classified service.

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

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

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

(28) "Transfer." Assignment of an employee from one position to another position.

(29) "Work day or work period." Scheduled number of hours an employee is required to work per day or per scheduled number of days. (1980 Code, § 1-1002)

**4-203. Coverage.** These rules and regulations shall apply only to the classified service unless otherwise specifically provided or necessarily implied.



The classified service shall include all full-time positions which are specifically placed in the exempt service. The exempt service shall include the following:

- (1) All elected officials and persons appointed to fill vacancies in elective offices.
- (2) All members of appointive boards, commissions, or committees.
- (3) City attorney.
- (4) Consultants, advisors, and counsel rendering temporary professional service.
- (5) Independent contractors.
- (6) Emergency employees who are hired to meet the immediate requirements of an emergency condition, such as extraordinary fire, flood, or earthquake which threatens life or property.
- (7) Seasonal employees who are employed by the town for not more than three (3) months during the fiscal year.
- (8) Persons rendering part-time service.
- (9) Volunteer personnel, such as volunteer firefighters; and all other personnel appointed to serve without compensation. (1980 Code, § 1-1003)

**4-204. Administration.** The mayor, or his delegated representative, shall have the basic responsibility for the personnel program. In addition to other duties as set forth in this chapter, the mayor shall:

- (1) Exercise leadership in developing a system of effective personnel administration within the municipal departments subject to this chapter.
- (2) Develop programs from improvement of employee effectiveness, including training, safety, and health.
- (3) Recruit qualified applicants for town employment and assist department heads in identifying qualified employees for promotion.
- (4) Maintain records of all employees of the municipal departments.
- (5) Perform such other duties as may be assigned by the board of mayor and aldermen. (1980 Code, § 1-1004)

**4-205. Recruitment.** Individuals shall be recruited from a wide geographic area to assure obtaining well-qualified applicants for the various types of positions. In cases where residents and non-residents are equally qualified for a position, the resident shall receive first consideration.

The mayor may, after consultation with the department head concerned, prescribe minimum qualifications as required by the nature of the work to be performed. Such requirements shall be announced to all applicants. Where certification is required, applicant will be required to obtain necessary certification within one (1) year from date of employment.

The mayor may reject any applicant when he has determined: the application was not timely filed or was not filed on the prescribed form; that the applicant does not possess the minimum qualifications; that the applicant has established an unsatisfactory employment or personnel record (as evidenced by

reference check) of such a nature as to demonstrate unsuitability for employment; that the applicant has made false statement of any material fact; that the applicant is afflicted with any mental or physical disease or defect that would prevent satisfactory performance of his duties; that the applicant is addicted to the habitual use of drugs or intoxicants; that the applicant does not reply to a mail or telephone inquiry; that the applicant fails to accept appointment within the time prescribed in the offer; that the applicant was previously employed and was removed for cause or resigned not in good standing. (1980 Code, § 1-1005)

**4-206. Employment examinations.** All appointments may be subject to competitive examination. All examinations shall fairly and impartially test those matters relative to the capacity and fitness of the applicant to discharge efficiently the duties of the positions to be filled.

Examinations may consist of one or more of the following types: an oral interview; a performance test of manual skills; a physical test of strength, agility, and fitness; a written test of mental ability; an evaluation of training and experience.

Applicants for positions may be required to undergo a medical examination to determine physical and mental fitness to perform work in the position to which appointment is to be made. All employees may be required by their department with the approval of the governing body to undergo periodic medical examinations to determine their continued physical and mental fitness to perform the work of the position in which they are employed. Determination of physical or mental fitness will be by a physician or physicians designated by the governing body. Medical examinations shall be at no expense to the employee. (1980 Code, § 1-1006)

**4-207. Appointments.** All vacancies in the classified service shall be filled through promotional appointment, original appointment, transfer, or demotion. All appointments shall be initiated by the mayor and confirmed by the board of mayor and aldermen. (1980 Code, § 1-1007)

**4-208. Promotions.** Vacancies in positions above the entrance level shall be filled by promotion whenever in the judgment of the mayor it is in the best interest of the town to do so. Promotions shall be on a competitive basis and shall give appropriate consideration to the applicant's performance, qualifications, and seniority. (1980 Code, § 1-1008)

**4-209. Transfers.** Any employee who has successfully completed his probationary period may be transferred to the same or similar position in a different department without being subject to a probationary period. (1980 Code, § 1-1009)

**4-210. Demotions.** An employee may be demoted to a position of lower grade for which he is qualified for any of the following reasons: because his position is being abolished and he would otherwise be laid off; there is a lack of funds; because another employee, returning from authorized leave granted in accordance with rules on leave, will occupy the position to which the employee is currently assigned; the employee does not possess the necessary qualifications to render satisfactory service in the position he holds, or he is removed during probation or the employee voluntarily requests such demotion. (1980 Code, § 1-1010)

**4-211. Probationary period.** The probationary period for all regular appointments, including promotional appointments, shall be for a period of six (6) months. During the probational period, the employee's supervisor will tell the employee when he is not performing satisfactorily and is not meeting probationary test period requirements.

At least ten (10) days prior to the expiration of an employee's probationary period, the department head shall notify the mayor whether the service of the employee has been satisfactory and whether he recommends that the employee continue in his position. (1980 Code, § 1-1011)

**4-212. Hours of work.** The governing body shall establish hours of work per week for each position which shall be determined in accordance with the needs of service and which shall take into account the reasonable needs of the public who may be required to do business with various departments. (1980 Code, § 1-1012)

**4-213. Attendance.** An employee shall be in attendance at regular work in accordance with these rules and with general department regulations. All departments shall keep daily attendance records of their employees. (1980 Code, § 1-1013)

**4-214. Overtime.** Overtime may be authorized by prior approval of the department head or the mayor, and will be considered compensatory time to be readjusted upon authorization. When not feasible to adjust time it will be paid as overtime at regular hourly wage. (1980 Code, § 1-1014)

**4-215. Outside employment.** No full-time employee of a municipality 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 employee's duties, or is incompatible with his municipal employment, or is likely to cast discredit upon or create embarrassment for the municipality. (1980 Code, § 1-1015)

**4-216. 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 municipality. (1980 Code, § 1-1016)

**4-217. 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, § 1-1017)

**4-218. Occupational disability or injury leave.** Occupational disability or injury leave shall be granted employees who sustain an injury or an illness during the course of their employment which is determined to be compensable under the provisions of the Worker's Compensation Act.

Employees on occupational disability leave shall receive such benefits in lieu of pay as are provided by the Worker's Compensation Act. (1980 Code, § 1-1018)

**4-219. Leave with pay.** Leave with pay may be authorized in order that employees may serve required court and jury duty, provided that such leave is reported in advance to the supervisor. In order to receive pay for such leave, the employee must deposit the money which he receives for jury duty with the municipality.

A regular employee who is a member of any military reserve component will be allowed leave of absence with pay for a period not in excess of fifteen (15) working days during one (1) year. (1980 Code, § 1-1019)

**4-220. Leave without pay.** A regular employee may be granted leave of absence without pay for a period not to exceed six (6) months for temporary sickness, disability, or for other good and sufficient reasons. Such leaves shall require the prior approval of the mayor. (1980 Code, § 1-1020)

**4-221. 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 municipality, nor shall he otherwise use or attempt to use his position to secure unwarranted privileges or exemptions for himself or others. (1980 Code, § 1-1021)

**4-222. 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 municipality is paid at such rates as are normally charged by private sources for comparable services. (1980 Code, § 1-1022)

**4-223. Acceptance of gratuities.** No municipal officer or employee shall accept any money or other consideration or favor from anyone other than the municipality 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 town business. (1980 Code, § 1-1023)

**4-224. Separations.** All separations of employees from positions in the classified service shall be designated as one of the following types and shall be accomplished in the manner indicated: resignation, layoff, disability and dismissal. At the time of separation and prior to final payment, all records, equipment, and other items of municipal property in the employee's custody shall be transferred to the department head. Any amount due to shortage in the above shall be withheld from the employee's final compensation.

(1) **Resignation.** An employee may resign by submitting in writing the reasons and the effective date, to his department head as far in advance as possible, but a minimum of two (2) weeks notice is requested. Failure to comply with this requirement may be cause for denying future employment. Unauthorized absence from work for a period of three (3) consecutive days may be considered by the department head as a resignation. Department heads shall forward all notices of resignation to the mayor immediately upon receipt.

(2) **Lay-off.** The board of mayor and aldermen may lay-off any employee when they deem it necessary by reason of shortage of funds or work, the abolition of a position, or other material changes in the duties or organization, or for related reasons which are outside the employee's control and which do not reflect discredit upon service of the employee. Temporary employees shall be laid off prior to probationary or regular employees. The order of lay-off shall be in reverse order to total continuous time served upon the date established for the lay-off to become effective.

(3) **Disability.** An employee may be separated for disability when he cannot perform required duties because of a physical or mental impairment. Action may be initiated by the employee or the municipality, but in all cases it must be supported by medical evidence acceptable to the board of mayor and aldermen. The municipality may require an examination at its expense and performed by a licensed physician of its choice. (1980 Code, § 1-1024)

**4-225. Disciplinary action.** Whenever employee performance, attitude, work habits or personal conduct fall below a desirable level, supervisors shall inform employees promptly and specifically of such lapses and shall give them counsel and assistance. If appropriate and justified, a reasonable period of time for improvement may be allowed before initiating disciplinary action. In some instances, a specific incident in and of itself may justify severe initial disciplinary action; however, the action to be taken depends on the seriousness of the incident and the whole pattern of the employee's past performance and conduct.

In situations where an oral warning has not resulted in the expected improvement, or when more severe initial action is warranted, a written reprimand may be sent to the employee, and a copy shall be placed in the employee's personnel folder.

An employee may be suspended without pay by his department head, with the approval of the mayor, not to exceed a total of thirty (30) days in any twelve (12) month period. A written statement of the reason for the suspension shall be submitted to the employee affected at least twenty-four (24) hours prior to the time the suspension becomes effective. A regular employee may be suspended without pay for a longer period pending an investigation or hearing of any charges against him. An employee determined to be innocent of the charges against him shall be returned to duty with full pay for the period of suspension. (1980 Code, § 1-1025)

**4-226. Dismissal and demotion.** The mayor may initiate action for the dismissal or demotion of employee. Reasons for dismissal or demotion may include, but shall not be limited to: misconduct; negligence; incompetency; insubordination; unauthorized absence; falsification of records; violation of any of the provisions of the charter, ordinances, or these rules; or any other justified reason.

The employee shall be furnished an advance written notice containing the nature of the proposed action, the reasons therefor and his right to appeal the charges in writing to the board of aldermen. This notice shall be furnished at least one (1) calendar week prior to the proposed effective date of the action and during this period the employee may be retained on duty status, placed on leave, or suspended with or without pay at the discretion of the mayor. If the employee fails to respond to the advance notice, the proposed action shall be submitted to the board of aldermen on the date specified for final action.

If the employee requests a hearing on the proposed action, the board of aldermen shall promptly set a date and time for the hearing and shall carefully consider all evidence presented before making a decision. The decision of the board of aldermen shall be final. (1980 Code, § 1-1026)

**4-227. Grievance procedure.** When any grievance comes to or is directed to the attention of any department head, he shall discuss within two (2)

working days all relevant circumstances with the employee and remove the causes of the grievances to the extent that he deems advisable and possesses authority, recording both the grievance and his action in writing. Failing resolution at this level, the grievance shall be carried to the mayor within five (5) working days.

Grievances which cannot be resolved by the mayor shall be referred to the board of aldermen for final determination. (1980 Code, § 1-1027)

**4-228. Holidays.** The Town of Monterey will observe the following holidays:

- (1) New Year's Day
- (2) Memorial Day
- (3) Fourth of July
- (4) Labor Day
- (5) Standing Stone Day
- (6) Thanksgiving Day
- (7) The Friday after Thanksgiving
- (8) Christmas Eve
- (9) Christmas Day

(10) Other holidays as the board of mayor and aldermen approve. To be eligible for a paid holiday the employee must be at work the day before and the day after the holiday except when on authorized annual leave. (1980 Code, § 1-1028)

**4-229. Annual leave.** Annual leave will be provided for all full-time employees of the Town of Monterey. The following schedule will be followed in determining annual leave:

- |                             |               |
|-----------------------------|---------------|
| (1) 1st year of Employment* |               |
| end of 3 months             | 1 day         |
| end of 6 months             | 1 day         |
| end of 9 months             | 2 days        |
| end of 12 months            | <u>2 days</u> |

TOTAL	6 days
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- |                             |               |
|-----------------------------|---------------|
| (2) 2nd year of Employment* |               |
| end of 3 months             | 2 days        |
| end of 6 months             | 2 days        |
| end of 9 months             | 2 days        |
| end of 12 months            | <u>2 days</u> |

TOTAL	8 days
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(3)	3rd year through 10th year of Employment*	
	end of 3 months	3 days
	end of 6 months	4 days
	end of 9 months	4 days
	end of 12 months	<u>4 days</u>
	TOTAL	15 days
(4)	11th year of Employment and Thereafter	
	end of 3 months	5 days
	end of 6 months	5 days
	end of 9 months	5 days
	end of 12 months	<u>5 days</u>
	TOTAL	20 days

(a) Years of employment begin with the first day of work with the town.

(b) Total leave days in excess of ten days for a particular year of employment must be taken by the end of that year, either as days off with pay or the employee shall be compensated with pay for the period in excess of ten days.

(c) An eligible employee may take up to two consecutive weeks of annual leave with the prior approval of the immediate supervisor.

(d) No annual leave with pay may be taken until earned and accumulated according to the attached chart.

(e) Employees who plan to use two consecutive annual leave days must have the approval of their department head and notify the city recorder two weeks prior to time off, except in the case of emergency.

(f) Part-time employees will receive a prorated amount of leave time based on the above schedule.

(g) Appropriate leave forms must be completed by the employee and approved by the supervisor before leave will be compensated. (1980 Code, § 1-1029)

**4-230. Employee job classifications and pay scales.** (1) The following pay scales and requirements are established for each employee classification:



CLASS I

<u>Job Titles</u>	<u>Pay Scale</u>	<u>Job Requirements</u>
Street Dept. New Employee	\$4.75/hr.	Pass medical exam
Garbage Dept.	After 6 mos. - \$5.00/hr.	
Mechanics	After 1 year - \$5.40/hr.	

CLASS II

<u>Job Titles</u>	<u>Pay Scale</u>	<u>Job Requirements</u>
Meter Reader	New Employee - \$5.00/hr.	Must have a high non-certified school diploma or equivalent or 4 years experience in the town's system; Must pass medical exam.
Operator	After 6 mos. - \$5.62/hr.	

CLASS III

Certified Operator	New Employee - \$5.25/hr After 6 mos. - \$5.55/hr After 18 mos. and certification - \$6.15/hr	Must have a high school diploma or equivalent; Must pass medical exam; Must obtain certification after 18 months.
Water Serviceman	New Employee - \$5.25/hr. After 6 mos. - \$5.75/hr. After 1 yr. - \$6.16/hr.	

CLASS IV

Water Clerk	New Employee - \$5.50/hr.  After 6 mos. - \$5.80/hr. After 1 yr. - \$6.69/hr.	Must have a high school diploma or equivalent; must pass medical exam; Must have proper office skills.
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CLASS V

Patrolman	New Employee-\$500.91/Bi/Wk. After 6 mos.-\$529.40 Bi/Wk. After Cert. -\$542.44 Bi/Wk. (A new employee who already	Must meet all standards set by state law; Must be at least 18 has the academy training years old; Must
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will begin at \$529.40)

have a high school diploma or equivalent; Must pass medical and mental exams; and must not have prior convictions.

(2) The pay scales established above may be modified by a uniform percentage increase or decrease as the board of aldermen may determine by resolution. (1980 Code, § 1-1030)

**4-231. Amendment of personnel rules.** Amendments or revisions to these rules may be recommended for adoption by the mayor or by any member of the board of aldermen. Such amendments or revisions of these rules shall become effective upon adoption by ordinance of the board of mayor and aldermen. (1980 Code, § 1-1031)

**4-232. Sick leave.** Sick leave is to be used for personal illness of the employee or immediate family members. Temporary employees do not receive sick leave benefits. Sick leave accrues at the rate of twenty-four (24) minutes per one (1) eight (8) hour day worked. Employees may not borrow sick leave that is not yet earned. Employees are not paid for unused sick leave at the time of separation. There is no qualifying period for accrual of sick leave. For sick leave of more than three (3) consecutive days, a certificate signed by an attending physician must be turned into the city recorder's office for reimbursement as sick leave. Sick leave days may be carried over for year to year as they accumulate. (1980 Code, § 1-1032)

**4-233. Funeral leave.** It is the policy of the Town of Monterey to provide time away from work with pay due to the death of an immediate family member. An employee shall be granted up to three days off due to the death of an immediate family member. If additional time off is required because of extenuating circumstances, arrangements should be made with the employee's immediate supervisor. Any additional time off from work shall be without pay unless the employee is approved for the use of accrued leave. (1980 Code, § 1-1033)

## CHAPTER 3<sup>1</sup>

### PERSONNEL SYSTEM

#### SECTION

- 4-301. Purpose.
- 4-302. Coverage.
- 4-303. Administration.
- 4-304. Personnel rules and regulations.
- 4-305. Records.
- 4-306. Right to contract for special services.
- 4-307. Discrimination.
- 4-308. Amendments

**4-301. Purpose.** The purpose of this chapter is to establish a system of personnel administration in the Town of Monterey that is based on merit and fitness. The system shall provide a means to select, develop, and maintain an effective municipal work force through impartially applying personnel policies and procedures free of personal and political considerations and regardless of race, color, gender, age, creed, national origin, or disability. (as added by Ord. # 364, § 1, June 1997)

**4-302. Coverage.** All offices and positions of the municipal government are classified service. All employment positions of the municipal government shall be subject to the provisions of the town charter. (as added by Ord. # 364, § 1, June 1997)

**4-303. Administration.** The personnel system shall be administered by the mayor and the personnel committee, who shall have the following duties and responsibilities:

(1) exercise leadership in developing an effective personnel administration system subject to provisions in this chapter, other ordinances, the town charter, and federal and state laws relating to personnel administration;

(2) recommend to the mayor and board of aldermen policies and procedures for recruiting, appointing, and disciplining all employees of the municipality subject to those policies as set forth in this chapter, the town charter, and the municipal code;

(3) fix and establish the number of employees in the various town departments and offices and determine the duties, authority, responsibility, and

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<sup>1</sup>Municipal code reference:

See chapter 2 of this title and Appendix 1 to this municipal code.

compensation in accordance with the policies as set forth in the town charter and code, and subject to the approval of the mayor and board of aldermen and budget limitations;

(4) foster and develop programs for improving employee effectiveness, including training, safety, and health;

(5) maintain records of all employees, subject to the provisions of this chapter of the town code, which shall include each employee's class, title, pay rates, and other relevant data;

(6) make periodic reports to the mayor and board of aldermen regarding administering the personnel system;

(7) recommend to the mayor and board of aldermen a position classification plan and install and maintain such a plan upon approval by the mayor and board of aldermen.

(8) prepare and recommend to the mayor and board of aldermen a pay plan for all municipal government employees;

(9) develop and administer such recruiting programs as may be necessary to obtain an adequate supply of competent applicants to meet the employment needs of the municipal government;

(10) be responsible for certification of payrolls; and

(11) perform such other duties and exercise such other authority in personnel administration as may be prescribed by law. (as added by Ord. #364, § 1, June 1997)

**4-304. Personnel rules and regulations.** The mayor and board of aldermen shall develop rules and regulations<sup>1</sup> necessary for effectively administering the personnel system. The mayor and board of aldermen shall adopt the rules. If the mayor and board of aldermen has taken no action within ten (10) days after receiving the draft personnel rules and regulations, they shall become effective as if they had been adopted, and shall have the full force and effect of law.

Amendments to the rules and regulations shall be made in accordance with the procedure below. Nothing in the personnel rules and regulations document shall be deemed to give employees any more property rights in their job than may already be given by the town charter. The town reserves the right to alter or change any or all of these rules without prior notice to employees. (as added by Ord. # 364, § 1, June 1997)

**4-305. Records.** The mayor shall maintain adequate records of the employment record of every employee as specified herein. (as added by Ord. #364, § 1, June 1997)

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<sup>1</sup>See Appendix 1 to this municipal code for these rules and regulations.

**4-306. Right to contract for special services.** The mayor and board of aldermen may contract with any competent agency for performing such technical services in connection with the establishment of the personnel system or with its operation as may be deemed necessary. (as added by Ord. # 364, § 1, June 1997)

**4-307. Discrimination.** No person in the classified service or seeking admission thereto shall be employed, promoted, demoted, discharged, or in any way favored or discriminated against because of political opinions or affiliations, race, color, creed, national origin, gender, age, religious belief, or disability. (as added by Ord. # 364, § 1, June 1997)

**4-308. Amendments.** Amendments or revisions of these rules may be recommended for adoption by the mayor and personnel committee. Such amendments or revisions of these rules shall become effective after approval by the mayor and board of aldermen. (as added by Ord. # 364, § 1, June 1997)

## CHAPTER 4

### OCCUPATIONAL SAFETY AND HEALTH PROGRAM

#### 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 plan.

**4-401. Title.** This section shall be known as "the occupational safety and health program plan" for the employees of the Town of Monterey. (1980 Code, § 1-801, as replaced by Ord. #412, July 2003, and Ord. #14-516, March 2014))

**4-402. Purpose.** The Town of Monterey 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 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 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.
- (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. (1980 Code, § 1-802, as replaced by Ord. #412, July 2003, and Ord. #14-516, March 2014)

**4-403. Coverage.** The provisions of the occupational safety and health program plan for the employees of the Town of Monterey shall apply to all employees of each administrative department, commission, board, division, or other agency whether part-time or full-time, seasonal or permanent. (1980 Code, § 1-803, as replaced by Ord. #412, July 2003, and Ord. #14-516, March 2014)

**4-404. Standards authorized.** The occupational safety and health standards adopted by the Monterey Board of Mayor and Aldermen 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.<sup>1</sup> (1980 Code, § 1-804, as replaced by Ord. #412, July 2003, and Ord. #14-516, March 2014)

**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 notice on the main bulletin board shall be deemed sufficient notice to employees. (as added by Ord. #412, July 2003, and replaced by Ord. #14-516, March 2014)

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<sup>1</sup>State law reference

Tennessee Code Annotated, title 50, chapter 3.

**4-406. Administration.** For the purposes of this chapter, (Name of Official or Title) is designated as the safety director of occupational safety and health 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. (as added by Ord. #412, July 2003, and replaced by Ord. #14-516, March 2014)

**4-407. Funding the program plan.** Sufficient funds for administering and staffing the program pursuant to this chapter shall be made available as authorized by the Town of Monterey. (as added by Ord. #412, July 2003, and replaced by Ord. #14-516, March 2014)



## CHAPTER 5

### INFECTIOUS DISEASE CONTROL POLICY

#### SECTION

- 4-501. Purpose.
- 4-502. Coverage.
- 4-503. Administration.
- 4-504. Definitions.
- 4-505. Policy statement.
- 4-506. General guidelines.
- 4-507. Hepatitis B vaccinations.
- 4-508. Reporting potential exposure.
- 4-509. Hepatitis B virus post-exposure management.
- 4-510. Human immunodeficiency virus post-exposure management.
- 4-511. Disability benefits.
- 4-512. Training regular employees.
- 4-513. Training high risk employees.
- 4-514. Training new employees.
- 4-515. Records and reports.
- 4-516. Legal rights of victims of communicable diseases.

**4-501. Purpose.** It is the responsibility of the Town of Monterey to provide employees a place of employment which is free from recognized hazards that may cause death or serious physical harm. In providing services to the citizens of the Town of Monterey, employees may come in contact with life-threatening infectious diseases which can be transmitted through job related activities. It is important that both citizens and employees are protected from the transmission of diseases just as it is equally important that neither is discriminated against because of basic misconceptions about various diseases and illnesses.

The purpose of this policy is to establish a comprehensive set of rules and regulations governing the prevention of discrimination and potential occupational exposure to Hepatitis B Virus (HBV), the Human Immunodeficiency Virus (HIV), and Tuberculosis (TB). (1980 Code, § 1-1201)

**4-502. Coverage.** Occupational exposures may occur in many ways, including needle sticks, cut injuries or blood spills. Several classes of employees are assumed to be at high risk for blood borne infections due to their routinely increased exposure to body fluids from potentially infected individuals. Those high risk occupations include but are not limited to:

- (1) Police and Security personnel;
- (2) Firefighters;
- (3) Sanitation and Landfill Workers;

(4) Any other employee deemed to be at high risk per this policy and an exposure determination. (1980 Code, § 1-1202)

**4-503. Administration.** This infection control policy shall be administered by the city recorder who shall have the following duties and responsibility:

(1) Exercise leadership in implementation and maintenance of an effective infection control policy subject to the provisions of this chapter, other ordinances, the town charter, and federal and state law relating to OSHA regulations;

(2) Make an exposure determination for all employee positions to determine a possible exposure to blood or other potentially infectious materials;

(3) Maintain records of all employees and incidents subject to the provisions of the chapter;

(4) Conduct periodic inspections to determine compliance with the infection control policy by municipal employees;

(5) Coordinate and document all relevant training activities in support of the infection control policy;

(6) Prepare and recommend to the board of mayor and aldermen any amendments or changes to the infection control policy;

(7) Identify any and all housekeeping operations involving substantial risk of direct exposure to potentially infectious materials and shall address the proper precautions to be taken while cleaning rooms and blood spills; and

(8) Perform such other duties and exercise such other authority as may be prescribed by the board of mayor and aldermen. (1980 Code, § 1-1203)

**4-504. Definitions.** (1) "Body fluids" - fluids that have been recognized by the Center for Disease Control as directly linked to the transmission of HIV and/or HBV and/or to which universal precautions apply: blood, semen, blood products, vaginal secretions, cerebrospinal fluid, synovial fluid, pericardial fluid, amniotic fluid, and concentrated HIV and HBV viruses.

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

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

(4) "Human Immunodeficiency Virus (HIV)" - the virus that causes acquired immunodeficiency syndrome (AIDS). HIV is transmitted through sexual contact and exposure to infected blood or blood components and perinatally from mother to neonate.

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

(6) "Universal precautions" - refers to a system of infectious disease control which assumes that every direct contact with body fluid is infectious and requires every employee exposed to direct contact with potentially infectious materials to be protected as though such body fluid were HBV or HIV infected. (1980 Code, § 1-1204)

**4-505. Policy statement.** All blood and other potentially infectious materials are infectious for several blood-borne pathogens. Some body fluids can also transmit infections. For this reason, the Center for Disease Control developed the strategy that everyone should always take particular care when there is a potential exposure. These precautions have been termed "universal precautions."

Universal precautions stress that all persons should be assumed to be infectious for HIV and/or other blood-borne pathogens. Universal precautions apply to blood, tissues, and other potentially infectious materials which contain visible blood. Universal precautions also apply to semen, (although occupational risk or exposure is quite limited), vaginal secretions, and to cerebrospinal, synovial, pleural, peritoneal, pericardial and amniotic fluids. Universal precautions do not apply to feces, nasal secretions, human breast milk, sputum, saliva, sweat, tears, urine, and vomitus unless these substances contain visible blood. (1980 Code, § 1-1205)

**4-506. General guidelines.** General guidelines which shall be used by everyone include:

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

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

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

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

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

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

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

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

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

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

(7) Place all disposable equipment (gloves, masks, etc...) in a clearly marked plastic bag. Place the bag in a second clearly marked bag (double bag). Seal and dispose of by placing in a designated "hazardous" dumpster. (1980 Code, § 1-1206)

**4-507. Hepatitis B vaccinations.** The Town of Monterey shall offer the appropriate Hepatitis B Vaccination to employee at risk of exposure free of charge and in amounts at times prescribed by standard medical practices. The vaccination shall be voluntarily administered. High risk employees who wish to take the HBV vaccination should notify their department head who shall make the appropriate arrangements through the infectious disease control coordinator. (1980 Code, § 1-1207)

**4-508. Reporting potential exposure.** Town employees shall observe the following procedures for reporting a job exposure incident that may put them at risk for HIV or HBV infections (i.e., needle sticks, blood contact on broken skin, body fluid contact with eyes or mouth, etc...):

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

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

(3) Arrangements will be made for the person to be seen by a physician as with any job-related injury.

Once an exposure has occurred, a blood sample should be drawn after consent is obtained from the individual from whom exposure occurred and tested

for Hepatitis B surface antigen (HBsAg) and/or antibody to human immunodeficiency virus (HIV antibody). Testing of the source individual should be done at a location where appropriate pretest counseling is available. Post-test counseling and referral for treatment should also be provided. (1980 Code, § 1-1208)

**4-509. Hepatitis B virus post-exposure management.** For an exposure to a source individual found to be positive for HBsAg, the worker who has not previously been given the hepatitis B vaccine should receive the vaccine series. A single dose of hepatitis B immune globulin (HBIG) is also recommended, if it can be given within seven (7) days of the exposure.

For exposure from an HBsAg-positive source to workers who have previously received the vaccine, the exposed worker should be tested for antibodies to hepatitis B surface antigen (anti-HBs), and given one dose of vaccine and one dose of HBIG if the antibody level in the worker's blood sample is inadequate (i.e., 10 SRU by RIA, negative by EIA).

If the source individual is negative for HBsAg and the worker has not been vaccinated, this opportunity should be taken to provide the hepatitis B vaccine series. HBIG administration should be considered on an individual basis when the source individual is known or suspected to be at high risk of HBV infection. Management and treatment, if any, of previously vaccinated workers who receive an exposure from a source who refuses testing or is not identifiable should be individualized. (1980 Code, § 1-1209)

**4-510. Human immunodeficiency virus post-exposure management.** For any exposure to a source individual who has AIDS, who is found to be positive for HIV infection, or who refuses testing, the worker should be counseled regarding the risk of infection and evaluated clinically and serologically for evidence of HIV infection as soon as possible after the exposure. The worker should be advised to report and seek medical evaluation for any acute febrile illness that occurs within 12 weeks after the exposure. Such an illness, particularly one characterized by fever, rash, or lymphadenopathy, may be indicative of recent HIV infection.

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

If the source individual was tested and found to be seronegative, baseline testing of the exposed worker with follow-up testing 12 weeks later may be performed if desired by the worker or recommended by the health care provider.

If the source individual cannot be identified, decisions regarding appropriate follow-up should be individualized. Serologic testing should be made available by the town to all workers who may be concerned they have been infected with HIV through an occupational exposure. (1980 Code, § 1-1210)

**4-511. Disability benefits.** Entitlement to disability benefits and other benefits available for employees who suffer from on-the-job injuries will be determined by the Tennessee Worker's Compensations Bureau in accordance with the provisions of T.C.A. 50-6-303. (1980 Code, § 1-1211)

**4-512. Training regular employees.** On an annual basis all employees shall receive training and education on precautionary measures, epidemiology, modes of transmission and prevention of HIV/HBV infection and procedures to be used if they are exposed to needle sticks or potentially infectious materials. They shall also be counseled regarding possible risks to the fetus from HIV/HBV and other associated infectious agents. (1980 Code, § 1-1212)

**4-513. Training high risk employees.** In addition to the above, high risk employees shall also receive training regarding the location and proper use of personal, protective equipment. They shall be trained concerning proper work practices and understand the concept of "universal precautions" as it applies to their work situation. (1980 Code, § 1-1213)

**4-514. Training new employees.** During the new employee's orientation to his/her job, all new employee will be trained on the effects of infectious disease prior to putting them to work. (1980 Code, § 1-1214)

**4-515. Records and reports.** (1) Reports. Occupational injury and illness records shall be maintained by the infectious disease control coordinator. Statistics shall be maintain on the OSHA-200 report. Only those work-related injuries that involve loss of consciousness, transfer to another job, restriction of work or motion, or medical treatment are required to be put on the OSHA-200.

(2) Needle sticks. Needle sticks, like any other puncture wound, are considered injuries for recordkeeping purposes due to the instantaneous nature of the event. Therefore, any needle stick requiring medical treatment (i.e. gamma globulin, hepatitis B immune globulin, hepatitis B vaccine, etc...) shall be recorded.

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

(4) Employee interviews. Should the town be inspected by the U.S. Department of Labor Office of Health Compliance, the Compliance Safety and

Health Officer may wish to interview employees. Employees are expected to cooperate fully with the Compliance Officers. (1980 Code, § 1-1215)

**4-516. Legal rights of victims of communicable diseases.** Victims of communicable diseases have the legal right to expect, and municipal employees, including police and emergency service officers are duty bound to provide, the same level of service and enforcement as any other individual would receive.

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

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

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

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

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

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

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

(8) All circumstance, not covered in this policy, that may arise concerning releasing confidential information regarding a victim, or suspected victim, of a communicable disease shall be referred directly to the appropriate department head or city attorney.

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

(10) Whenever an employee finds it necessary to notify another employee, police officer, firefighter, emergency service officer, or health care provider that a victim has or is suspected of having a communicable disease, that information shall be conveyed in a dignified, discrete and confidential manner. The person to whom the information is being conveyed should be

reminded that the information is confidential and that it should not be treated as public information.

(11) Any employee who disseminates confidential information in regard to a victim, or suspected victim of a communicable disease in violation of this policy shall be subject to serious disciplinary action and/or civil and/or criminal prosecution. (1980 Code, § 1-1216)



## CHAPTER 6

### TRAVEL REIMBURSEMENT REGULATIONS

#### SECTION

- 4-601. Purpose.
- 4-602. Enforcement.
- 4-603. Travel policy.
- 4-604. Travel reimbursement rate schedules.
- 4-605. Administrative procedures.

**4-601. Purpose.** The purpose of this chapter and referenced regulations is to bring the town 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 town employees. It's the intent of this policy to assure fair and equitable treatment to all individuals traveling on town business at town expense. (1980 Code, § 1-1301)

**4-602. Enforcement.** The chief administrative officer (CAO) of the town or his or her designee shall be responsible for the enforcement of these travel regulations. (1980 Code, § 1-1302)

**4-603. Travel policy.** (1) In the interpretation and application of this chapter, the term "traveler" or "authorized traveler" 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 town 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 town. 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 town 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 town. 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:  
--directly related to the conduct of the town business for which travel was authorized, and  
--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 town or misuse town travel funds is subject to legal action for recovery of fraudulent travel claims and/or advances.

(9) Mileage and motel expenses incurred within the town aren't ordinarily considered eligible expenses for reimbursement. (1980 Code, § 1-1303)

**4-604. Travel reimbursement rate schedules.** Authorized travelers shall be reimbursed according to the state travel regulation rates. The town's travel reimbursement rates will automatically change when the state 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. (1980 Code, § 1-1304, modified)

**4-605. Administrative procedures.** The town adopts and incorporates by reference--as if fully set out herein--the administrative procedures submitted by MTAS to, and approved by letter by, the Comptroller of the Treasury, State of Tennessee, in June 1993. A copy of the administrative procedures is on file in the office of the city recorder. (1980 Code, § 1-1305)

**TITLE 5**

**MUNICIPAL FINANCE AND TAXATION**

**CHAPTER**

1. MISCELLANEOUS.
2. REAL PROPERTY TAXES.
3. PRIVILEGE TAXES GENERALLY.
4. WHOLESALE BEER TAX.
5. HANDLING OF CORPORATE FUNDS.
6. PURCHASING PROCEDURES.

**CHAPTER 1**

**MISCELLANEOUS**

**SECTION**

5-101. Fiscal year.

**5-101. Fiscal year.** The fiscal year of the Town of Monterey shall begin on the first day of July each year and end the 30th day of the following June of each year. (1980 Code, § 6-101)

## CHAPTER 2

### REAL PROPERTY TAXES

#### SECTION

5-201. When due and payable.

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

5-203. Property tax rate.

**5-201. When due and payable.**<sup>1</sup> Taxes levied by the town against real property shall become due and payable annually on the first Monday of October of the year for which levied. (1980 Code, § 6-201)

**5-202. When delinquent--penalty and interest.**<sup>2</sup> All real property taxes shall become delinquent on and after the first day of March next after they become due and payable and shall thereupon be subject to such penalty and interest and collection procedures as are authorized and prescribed by the state law for delinquent county real property taxes.<sup>3</sup> (1980 Code, § 6-202)

<sup>1</sup>State law references

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

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

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

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

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

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

(continued...)

**5-203. Property tax rate.** (1) There shall be a property tax levy of the certified tax rate on each one-hundred dollars of taxable property, assessed at 25% for real property, 40% for commercial property, 55% for public utilities, and 30% for personal property within the corporate limits of Monterey, Tennessee. Said property taxes to be allocated on the following basis:

General Fund	\$1.02
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(2) Said property taxes shall be due and payable on the first day of October, 2004, and shall accrue interest from and after the first day of March 2005, as provided by state law. As soon after the first day of March 2005, as is practical, but in no event later than October 2005, it shall be the duty of the city clerk to present to the Putnam County Clerk and Master a certified list of all delinquent taxes, which the clerk and master shall proceed, according to law, to collect the same and make his or her return thereon no later than December 1, 2005.

(3) There is hereby levied by and for the use of the Town of Monterey, Tennessee, a business tax upon merchants and other vocations, occupations, and businesses doing business of exercising a taxable privilege as defined by the Business Tax Act of the State of Tennessee and all amendments thereto. The proceeds of the business tax levy shall accrue to the general fund.

(4) All other revenue not herein provided for shall be allocated as directed by the board of mayor and aldermen. All revenues received from the operations of the water department shall accrue to the water department.

(5) All prior year tax collections shall be allocated to the various funds on the basis of the tax rate allocation for that tax year. (Ord. #351, \_\_\_\_\_, as amended by Ord. # 367, April 1998, and replaced by Ord. #415, Sept. 2003, and Ord. #423, Nov. 2004)

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(...continued)

§ 67-5-2005.

## CHAPTER 3

### PRIVILEGE TAXES GENERALLY

#### SECTION

5-301. Tax levied.

5-302. License required.

**5-301. 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 town at the rates and in the manner prescribed by the said act. The proceeds of the privilege taxes levied herein shall accrue to the general fund. (1980 Code, § 6-301)

**5-302. License required.** No person shall exercise any such privilege within the Town of Monterey without a currently effective privilege license, which shall be issued by the recorder to each applicant therefor upon the applicant's payment of the appropriate privilege tax. (1980 Code, § 6-302)

## CHAPTER 4

WHOLESALE BEER TAX

## SECTION

5-401. To be collected.

**5-401. To be collected.** The recorder is hereby directed to take appropriate action to assure payment to the town of the wholesale beer tax levied by the "Wholesale Beer Tax Act," as set out in Tennessee Code Annotated, title 57, chapter 6.<sup>1</sup> (1980 Code, § 6-401)

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<sup>1</sup>State law reference

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

## CHAPTER 5

### HANDLING OF CORPORATE FUNDS

#### SECTION

5-501. All funds to be deposited promptly.

5-502. Street aid funds.

5-503. General funds.

5-504. Disbursements.

5-505. Recorder to keep financial records and make reports.

5-506. Chapter not applicable to water and cemetery funds.

**5-501. All funds to be deposited promptly.** All revenues received by authorized officials or employees of the Town of Monterey shall be promptly deposited in such federally insured bank or banks as may be hereafter approved and designated by appropriate resolution of the board of mayor and aldermen.

Each officer or employee depositing such funds shall take the bank's receipt for same which shall be a valid receipt to the officer or employee making such deposit. (1980 Code, § 6-501)

**5-502. Street aid funds.** All street aid funds received from the State of Tennessee shall be deposited in such approved bank or banks in an account designated as "Mayor and Aldermen of Monterey, Tennessee, Street Aid Fund Account." (1980 Code, § 6-502)

**5-503. General funds.** All funds received from licenses, taxes, fines, and costs, other funds received from the State of Tennessee, and all other monies received by the Town of Monterey, except funds received by the board of waterworks commissioners and the Welch Memorial Cemetery Account, shall be deposited in such bank or banks in an account designated "Mayor and Aldermen of Monterey, Tennessee, General Fund Account." (1980 Code, § 6-503)

**5-504. Disbursements.** All disbursements of such funds shall be approved by the board of mayor and aldermen and shall be made by checks drawn against the accounts hereinabove named, such checks to be signed by the mayor and countersigned by the recorder.

In the case of severe illness or prolonged absence of either the mayor or the recorder, the chairman of the finance committee, a standing committee appointed by the mayor, is hereby authorized to sign or countersign such checks in the place and stead of the mayor or recorder, but not for both officers on the same check. (1980 Code, § 6-504)

**5-505. Recorder to keep financial records and make reports.** The recorder shall keep adequate financial records including detailed reports of all



funds received and disbursed through the street aid fund or general fund accounts and shall make financial reports to the mayor and aldermen when called upon and, in any event, shall make a report at the regular meeting of the board of mayor and aldermen held in the months of January, April, July, and October of each year. (1980 Code, § 6-505)

**5-506. Chapter not applicable to water and cemetery funds.** This chapter shall not alter, change, or amend the fiscal procedure of the board of waterworks commissioners or that of the Welch Memorial Cemetery accounts, fiscal procedures for these departments having been previously provided for in other ordinances. (1980 Code, § 6-506)

## CHAPTER 6

### PURCHASING PROCEDURES

#### SECTION

#### 5-601. Purchasing agent and purchasing procedures

**5-601. Purchasing agent and purchasing procedures.** (1) As provided in TCA, § 6-56-301, et seq., the office of purchasing agent is hereby created and the mayor shall faithfully discharge the duties of said office or appoint an individual to make purchases for the Town of Monterey. Purchases shall be made in accordance with the Municipal Purchasing Law of 1983 and amendments thereto, this chapter, and purchasing procedures approved by the governing body.

(2) The purchasing agent, or designated representative, as provided herein, shall purchase materials, supplies, services and equipment, provide for leases and lease-purchases and dispose of surplus property in accordance with purchasing procedures approved by the governing body and filed with the city recorder.

(3) After initial approval by resolution of the board of mayor and aldermen, changes or revisions to the purchasing procedures shall be made only by resolution. (1980 Code, § 6-102)

## TITLE 6

### LAW ENFORCEMENT

#### CHAPTER

1. POLICE AND ARREST.
2. WORKHOUSE.

#### CHAPTER 1

### POLICE AND ARREST<sup>1</sup>

#### SECTION

- 6-101. Composition of police force.
- 6-102. Oath and bond of policemen.
- 6-103. Policemen subject to chief's orders.
- 6-104. Policemen to preserve law and order, etc.
- 6-105. Policemen to wear uniforms and be armed.
- 6-106. When policemen to make arrests.
- 6-107. Policemen may require assistance in making arrests.
- 6-108. Disposition of persons arrested.
- 6-109. Police department records.
- 6-110. Special police.

**6-101. Composition of police force.** The police force of the Town of Monterey shall consist of a town marshal, to be appointed by the board, who shall be chief of police, and such policemen or special policemen as may be appointed from time to time as the necessity therefor may arise. (1980 Code, § 1-401)

**6-102. Oath and bond of policemen.** Before entering upon the discharge of his duties, the marshal and each policeman shall take and subscribe to an oath of office faithfully and truly to discharge all of the duties of his office which may be required by the charter and ordinances of the town, and shall enter into a bond in the penal sum of one thousand dollars (\$1,000.00) to be approved by the mayor, payable to the mayor and aldermen of Monterey, conditioned on the faithful discharge of his duties and for the faithful accounting for and paying over of all funds which may come into or pass through his hands by virtue of his office. (1980 Code, § 1-402)

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<sup>1</sup>Municipal code reference

Traffic citations, etc.: title 15, chapter 7.

**6-103. 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, § 1-403)

**6-104. Policemen to preserve law and order, etc.** Policemen shall preserve law and order within the town. They shall patrol the town 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, § 1-404)

**6-105. 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, § 1-405)

**6-106. When policemen to make arrests.**<sup>1</sup> Unless otherwise authorized or directed in this code or other applicable law, an arrest of the person shall be made by a policeman in the following cases:

(1) Whenever he is in possession of a warrant for the arrest of the person.

(2) Whenever an offense is committed or a breach of the peace is threatened in the officer's presence by the person.

(3) Whenever a felony has in fact been committed and the officer has reasonable cause to believe the person has committed it. (1980 Code, § 1-406)

**6-107. Policemen may require assistance in making arrests.** It shall be unlawful for any person willfully to refuse to aid a policeman 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, § 1-407)

**6-108. Disposition of persons arrested.** Unless otherwise authorized by law, when a person is arrested for any offense other than one involving drunkenness, 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 is not able to post the required bond, he shall be confined. (1980 Code, § 1-408)

**6-109. Police department records.** The police department shall keep a comprehensive and detailed daily record in permanent form, showing:

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<sup>1</sup>Municipal code reference

Traffic citations, etc.: title 15, chapter 7.

- (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, § 1-409)

**6-110. Special police.** The mayor shall have power to appoint special policemen in all necessary cases. (1980 Code, § 1-410)

**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 town 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.<sup>1</sup> (1980 Code, § 1-603)

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<sup>1</sup>State law reference

Tennessee Code Annotated, § 40-24-104.

**TITLE 7****FIRE PROTECTION AND FIREWORKS<sup>1</sup>****CHAPTER**

1. FIRE DISTRICT.
2. FIRE CODE.
3. FIRE DEPARTMENT.
4. FIRE SERVICE OUTSIDE TOWN LIMITS.
5. FIREWORKS.

**CHAPTER 1****FIRE DISTRICT****SECTION**

7-101. Fire limits described.

**7-101. Fire limits described.** The corporate fire limits shall be as follows: The area bound by Crawford Avenue on the North, Elm Street on the East, Railroad Avenue on the South, and Poplar Street on the West. (1980 Code, § 7-101)

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<sup>1</sup>Municipal code reference

Building, utility and housing codes: title 12.

## CHAPTER 2

### FIRE CODE<sup>1</sup>

#### SECTION

- 7-201. Fire code adopted.
- 7-202. Enforcement.
- 7-203. Definition of "municipality."
- 7-204. Storage of explosives, flammable liquids, etc.
- 7-205. Gasoline trucks.
- 7-206. Validity of other laws.
- 7-207. Modifications.
- 7-208. Violations.

**7-201. Fire code adopted.** For the purpose of prescribing regulations governing conditions hazardous to life and property from fire or explosion, there is hereby adopted the Standard Fire Prevention Code,<sup>2</sup> 1994 edition, as recommended by the Southern Standard Building Code Congress International, Inc. One (1) copy of the fire prevention code has been placed on file with the office of the city recorder for use and inspection of the public. The fire prevention code is hereby adopted and incorporated by reference as fully as if set out at length herein, and the provisions thereof shall be controlling within the corporate limits of the Town of Monterey. (1980 Code, § 7-201, modified)

**7-202. Enforcement.** The code hereby adopted shall be enforced by the chief of the fire department. (1980 Code, § 7-202)

**7-203. Definition of "municipality."** Whenever the word "municipality" is used in the code adopted, it shall be held to mean the Town of Monterey, Tennessee. (1980 Code, § 7-203)

**7-204. Storage of explosives, flammable liquids, etc.** The limits referred to in § 1901.4.2 of the fire prevention code, in which storage of explosive materials is prohibited, are hereby declared to be the fire limits as set out in § 7-101 of this code.

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<sup>1</sup>Municipal code reference

Building, utility and housing codes: title 12.

<sup>2</sup>Copies of this code are available from the Southern Building Code Congress International, Inc., 900 Montclair Road, Birmingham, Alabama 35213-1206.



The limits referred to in § 902.1.1 of the fire prevention code, in which storage of flammable or combustible liquids in outside above ground tanks is prohibited, are hereby declared to be the fire limits as set out in § 7-101 of this code.

The limits referred to in § 906.1 of the fire prevention code, in which new bulk plants for flammable or combustible liquids are prohibited, are hereby declared to be the fire limits as set out in § 7-101 of this code.

The limits referred to in § 1701.4.2 of the fire prevention code, in which bulk storage of liquefied petroleum gas is restricted, are hereby declared to be the fire limits as set out in § 7-101 of this code. (1980 Code, § 7-204)

**7-205. Gasoline trucks.** No person shall operate or park any gasoline tank truck within the central business district or within any residential area at any time except for the purpose of and while actually engaged in the expeditious delivery of gasoline. (1980 Code, § 7-205)

**7-206. Validity of other laws.** Nothing in the fire prevention code shall be construed to prevent the enforcement of other laws, state or local, which provide more restricted limitations. (1980 Code, § 7-206)

**7-207. Modifications.** The chief of the fire department may recommend to the board of mayor and aldermen the modification of any of the provisions of the fire prevention code hereby adopted upon application in writing by any owner or lessee, or his duly authorized agent, when there are practical difficulties in the way of carrying out the strict letter of the code, provided that the spirit of the code shall be observed, public safety secured, and substantial justice done. The particulars of such modification when granted or allowed shall be contained in a resolution of the board of mayor and aldermen. (1980 Code, § 7-207)

**7-208. Violations.** It shall be unlawful for any person to violate any of the provisions of this chapter or the Standard Fire Prevention Code herein adopted, or fail to comply therewith, or violate or fail to comply with any order made thereunder. (1980 Code, § 7-208)

## CHAPTER 3

### FIRE DEPARTMENT<sup>1</sup>

#### SECTION

7-301. Establishment, equipment, and membership.

7-302. Objectives.

7-303. Organization, rules, and regulations.

7-304. Records and reports.

7-305. Tenure and compensation of members.

7-306. Chief responsible for training.

7-307. Chief to be assistant to state officer.

7-308. Chief's police powers, etc.

**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 town and shall be and remain the property of the town. 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 and the board shall approve. (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,

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<sup>1</sup>Municipal code reference

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

and work of the department. He shall submit a written report on such matters to the board 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 or discharge any other member of the fire department when he deems such action to be necessary for the good of the department.

All personnel of the fire department shall receive such compensation or reward 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 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 commerce and insurance and is subject to all the duties and obligations imposed by Tennessee Code Annotated, title 68, chapter 102, and shall be subject to the directions of the commissioner in the execution of the provisions thereof. (1980 Code, § 7-308)

**7-308. Chief's police powers, etc.** The chief shall be authorized to exercise police powers at times of fire and may summon to his assistance such additional help as he may deem necessary to abate or control the fire. Further, the fire chief shall and is hereby authorized to enforce all fire prevention provisions contained in this code. (1980 Code, § 7-309)

**CHAPTER 4****FIRE SERVICE OUTSIDE TOWN LIMITS****SECTION**

7-401. Equipment and personnel to be used only within corporate limits generally.

**7-401. Equipment and personnel to be used only within corporate limits generally.** No equipment of the fire department shall be used for fighting any fire outside the corporate limits unless the fire is on town property or, in the opinion of the chief of the fire department, is in such hazardous proximity to property owned by or located within the town as to endanger the city property or unless expressly authorized in writing by the board of mayor and aldermen. (1980 Code, § 7-307)

## CHAPTER 5

### FIREWORKS

#### SECTION

7-501. Rules and regulations of state to apply.

7-502. Districts where permissible.

7-503. Definitions of fireworks sales.

7-504. General rules and regulations.

7-505. Permits required and procedures.

7-506. Fees.

**7-501. Rules and regulations of state to apply.** Tennessee Code Annotated, §§ 66-22-101 through 66-22-116, grants to the Tennessee Department of Commerce and Insurance, Division of Fire Prevention, the statutory authority to regulate the sale of fireworks within the State of Tennessee. Said rules and regulations shall apply to the sale of fireworks in the Town of Monterey. Proof of compliance with these rules and regulations shall be furnished to the Fire Chief of the Town of Monterey, (or designated representative) upon request. (Ord. #344, Dec. 1995)

**7-502. Districts where permissible.** The sale of fireworks shall be permitted only on Routes, 70, 84, 62, 164, and Industrial Drive. The sale of fireworks along any other street is expressly prohibited. (Ord. #344, Dec. 1995)

**7-503. Definitions of fireworks sales.** (1) "Seasonal sale." The seasonal sale of fireworks shall be permitted from June 20 until July 5 and from December 10 until January 2 of any given year. Seasonal sales of fireworks shall be defined as taking place within a tent or other structure approved by the fire chief (or designated representative).

(2) "Year-round sales." The year-round sale of fireworks shall be permitted from January 1 until December 31 of any given year. Year-round sales shall be defined as taking place within a structure built in conformance with the Standard Building Code, the Monterey Zoning Ordinance, and the rules and regulations of the office of the state fire marshall. The year-round sale of fireworks from a tent or other temporary structure is expressly prohibited. (Ord. #344, Dec. 1995)

**7-504. General rules and regulations.** (1) All tents used for the sale of fireworks shall be of fire retardant material and display proof of same.

(2) All tents or other temporary structures used for the sale of fireworks shall be located a minimum of fifty (50) feet from any other structure.

(3) All tents or other temporary structures used for the sale of fireworks shall be located a minimum of fifteen (15) feet from any public street or right-of-way.

(4) All lighting and other electrical facilities used in association with tents or temporary structures shall be approved by the fire chief (or designated representative).

(5) All locations used for the sale of fireworks shall maintain on premises a fire extinguisher of at least a 2-A rating. Said extinguisher shall bare record of its inspection date and operative status.

(6) Parking shall not be permitted on public streets or in such a way as to interfere with the visibility of vehicles using said streets. (Ord. #344, Dec. 1995)

**7-505. Permits required and procedures.** Any individual or firm wishing to sell fireworks within the corporate limits of the Town of Monterey shall purchase a Monterey business license from the city clerk and a fireworks permit from the Monterey fire chief (or designated representative).

The sale of fireworks requires a permit from the Tennessee State Fire Marshall. The forms necessary to obtain such permits are available at the office of the Monterey fire chief.

Upon obtaining the permit from the office of the state fire marshall, the applicant shall present the approved application and Monterey business license to the fire chief (or designated representative). The fire chief (or designated representative) shall then inspect the site of the proposed fireworks sale. If the site is in conformance with all applicable rules and regulations, the fire chief (or designated representative) shall approve it for such use. (Ord. #344, Dec. 1995)

**7-506. Fees.** Prior to issuance of a fireworks permit by the Monterey fire chief (or designated representative), the applicant shall have paid an annual fee of \$500.00 for the year-round sale of fireworks or a fee of \$250.00 for the seasonal sale of fireworks. A permit for year-round sales shall be renewable upon presentation of a current state permit, city business license, and reinspection of the site. A separate permit for seasonal sales and appropriate fees shall be paid for each of the periods listed above. (Ord. #344, Dec. 1995, as amended by Ord. #407, March 2003)

**TITLE 8****ALCOHOLIC BEVERAGES<sup>1</sup>****CHAPTER**

1. INTOXICATING LIQUORS: ON-PREMISES CONSUMPTION.
2. INTOXICATING LIQUORS: RETAIL PACKAGE STORES.
3. BEER.

**CHAPTER 1****INTOXICATING LIQUORS: ON-PREMISES CONSUMPTION****SECTION**

- 8-101. Subject to certain statutes and regulations.
- 8-102. Terms defined.
- 8-103. Intoxicating liquors for consumption on premises.
- 8-104. Regulations and prohibited practices.
- 8-105. Revocation of beer permit reported to alcoholic beverage commission.
- 8-106. Prohibited sexual or pornographic conduct.
- 8-107. Privilege taxes.
- 8-108. Violations; penalty.

**8-101. Subject to certain statutes and regulations.** (1) The general provisions of the state law relating to intoxicating liquors, as contained in Tennessee Code Annotated, §§ 57-4-101, et seq., are hereby adopted as part of this chapter and by reference are fully incorporated in this chapter.

(2) Various rules and regulations promulgated from time to time by the Tennessee Alcoholic Beverage Commission and Department of Revenue regarding the sale of intoxicating liquors for consumption on premises are hereby adopted as a part of this chapter and by reference are fully incorporated herein.

(3) It shall be unlawful to sell wine and other alcoholic beverages as defined in Tennessee Code Annotated, § 57-4-102, to be consumed on the premises on any hotel, commercial passenger boat company, restaurant, commercial airlines, passenger trains, premiere type tourist resort or club, convention center, historic performing arts center, permanently constructed facility within an urban park center, any historic interpretive center, community theater, historic mansion house site, any restaurant in the terminal building of a commercial air carrier airport, any zoological institution, any museum, within

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<sup>1</sup>State law reference

Tennessee Code Annotated, title 57.

the corporate limits of the town, except as provided by Tennessee Code Annotated, title 57, and by the rules and regulations promulgated thereunder, and as provided in this chapter. (1980 Code, § 2-101, as replaced by Ord. #17-533, March 2017 *Ch9\_10-5-20*)

**8-102. Terms defined.** The definitions set forth in Tennessee Code Annotated, § 57-4-102, the definitions set forth in regulations promulgated by the alcoholic beverage commission. (as added by Ord. #17-533, March 2017 *Ch9\_10-5-20*)

**8-103. Intoxicating liquors for consumption on premises.** (1) No such business shall be located adjacent to a church or place of public gathering, or within one hundred feet (100') of a public school, measured by the length of a straight line drawn from the closest points of the church or school building and the front door of the building proposed for the sale of intoxicating liquors for consumption on the premises.

(2) For the purposes of this section, the terms "church" and "church building" shall not include any church building or building used for church purposes which is located on privately owned real property. "School" shall mean any primary or secondary public or private school building which is used exclusively for school purposes, and shall not include a vocational school or university. (as added by Ord. #17-533, March 2017 *Ch9\_10-5-20*)

**8-104. Regulations and prohibited practices.** It shall be unlawful for any person, firm or corporation holding a license to sell intoxicating liquors for consumption on the premises to violate the rules, regulations, and prohibited practices set forth in Tennessee Code Annotated, §§ 57-4-201 and 57-4-203, which code sections are incorporated herein as if copied verbatim in their entirety. (as added by Ord. #17-533, March 2017 *Ch9\_10-5-20*)

**8-105. Revocation of beer permit reported to alcoholic beverage commission.** When any person, firm, or corporation holds both a license to sell intoxicating liquors for consumption on the premises and a beer permit, should the beer permit be revoked or suspended, the city recorder is hereby directed to send a certified copy of the revocation to the alcoholic beverage commission pursuant to Tennessee Code Annotated, § 57-4-202(b). In addition, when the person, beer board, or board of mayor and aldermen is considering the suspension or revocation of such beer permit, consideration shall also be given to suspending the licensee's license for the sale of intoxicating liquors for consumption on the premises as provided in Tennessee Code Annotated, § 57-4-202. Said person, beer board, or board of mayor and aldermen shall have the authority to suspend the liquor license of any such person, firm, or corporation as authorized by Tennessee Code Annotated, § 57-4-202. (as added by Ord. #17-533, March 2017 *Ch9\_10-5-20*)



**8-106. Prohibited sexual or pornographic conduct.** Tennessee Code Annotated, § 57-4-204, is incorporated herein as if copied verbatim in its entirety. The Monterey Police Department is hereby authorized and directed to investigate and police the places of business holding a license to sell intoxicating liquors for consumption on premises and shall report violations to the alcoholic beverage commission as authorized by Tennessee Code Annotated, § 57-4-204(e), the board of mayor and aldermen having voted to authorize such investigations at its meeting on first Monday of month. (as added by Ord. #17-533, March 2017 *Ch9\_10-5-20*)

**8-107. Privilege taxes.** (1) Pursuant to Tennessee Code Annotated, § 57-4-301(b)(2), the town hereby levies the following taxes for the privilege of selling intoxicating liquors for consumption on the premises, which taxes shall be for municipal purposes to be paid annually to-wit:

(a)	Private club . . . . .	\$ 300.00
(b)	Hotel and motel . . . . .	\$ 1,000.00
(c)	Convention center . . . . .	\$ 500.00
(d)	Premiere type tourist resort . . . . .	\$ 1,500.00
(e)	Restaurant, according to seating capacity, on licensed premises:	
	(i) 50 through 74 seats . . . . .	\$ 500.00
	(ii) 75 through 125 seats . . . . .	\$ 600.00
	(iii) 126 through 175 seats . . . . .	\$ 750.00
	(iv) 176 through 225 seats . . . . .	\$ 800.00
	(v) 226 through 275 seats . . . . .	\$ 900.00
	(vi) 276 seats and over . . . . .	\$ 1,000.00
(f)	Historic Performing Arts Center . . . . .	\$ 300.00
(g)	Urban park center . . . . .	\$ 500.00
(h)	Commercial passenger boat company . . . . .	\$ 750.00
(i)	Historic mansion house site . . . . .	\$ 300.00
(j)	Historic interpretive center . . . . .	\$ 300.00
(k)	Community theater . . . . .	\$ 300.00
(l)	Zoological institution . . . . .	\$ 300.00
(m)	Museum . . . . .	\$ 300.00

The foregoing taxes shall be payable on the date the license is issued by the alcoholic beverage commission and the foregoing taxes shall be prorated from said date of issuance until the next following October 1, at which time, a full year's taxes shall then be due and immediately payable. If a restaurant is licensed by the commission to sell wine only, pursuant to Tennessee Code Annotated, § 57-4-101(n), the privilege tax imposed pursuant to this section shall be one-fifth (1/5) the amount specified in subsection (1)(e) above.

(2) When any licensee shall fail to pay the initial privilege tax or any annual taxes due each October 1, there shall be imposed a penalty in the amount of five percent (5%) for each month of delinquency or part thereof not

to exceed a total of twenty-five percent (25%); provided however each licensee shall have thirty (30) days from the due date before any penalty starts to accrue. Interest on the taxes shall accrue at the rate of twelve percent (12%) per annum until paid.

(3) All penalties imposed by this section and taxes provided by this section may be collected as other taxes payable to the town.

(4) Should the licensee also hold a beer permit issued by the town, a failure to pay taxes under this section shall constitute grounds for suspension or revocation of the beer permit. Repeated violations of this section will constitute grounds for permanent revocation of a beer permit. (as added by Ord. #17-533, March 2017 *Ch9\_10-5-20*)

**8-108. Violations; penalty.** Any violation of the provisions of this chapter shall, upon conviction, be punishable as a misdemeanor. Upon conviction of any person under this chapter, it shall be mandatory for the city judge to immediately certify said conviction, whether on appeal or not, directly to the Tennessee Alcoholic Beverage Commission. (as added by Ord. #17-533, March 2017 *Ch9\_10-5-20*)

## CHAPTER 2

### INTOXICATING LIQUORS: RETAIL PACKAGE STORES

#### SECTION

- 8-201. Definitions.
- 8-202. Dealers in alcoholic beverages subject to regulations.
- 8-203. Manufacture of alcoholic beverages prohibited.
- 8-204. Wholesalers.
- 8-205. Certificate of compliance a prerequisite for a retail permit.
- 8-206. Content of application for certificate of compliance.
- 8-207. Misrepresentation or concealment.
- 8-208. Restrictions on issuance of certificate of compliance.
- 8-209. Investigation fee.
- 8-210. Miscellaneous restrictions on licensees and their employees.
- 8-211. Nature and revocability of license.
- 8-212. Display of license.
- 8-213. Location of liquor store.
- 8-214. License non-transferable.
- 8-215. Limited times of operation.
- 8-216. Minors, persons visibly intoxicated, and habitual drunkards.
- 8-217. Consumption on premises prohibited.
- 8-218. Inspection fee.
- 8-219. Inspection fee reports.
- 8-220. Records to be kept by licensee.
- 8-221. Inspections.
- 8-222. Effect of failure to report and pay inspection fee.
- 8-223. Use of funds derived from inspection fees.
- 8-224. Other violations by licensee.
- 8-225. Licensee's responsibility.

**8-201. Definitions.** Whenever used in this chapter the following terms shall have the following meanings unless the context necessarily requires otherwise:

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

(2) "Applicant" means the party applying for a certificate of good moral character or a license.

(3) "Application" means the form or forms an applicant is required to file in order to obtain a certificate of good moral character or license.

(4) "Bottle" means any container, vessel, bottle or other receptacle used for holding any alcoholic beverage. "Unsealed bottle" means a bottle with the original seal, cork, cap or other enclosing device either broken or removed, or on which the federal revenue strip stamp has been broken.

(5) "Board" means the board of mayor and aldermen.

(6) "Certificate of compliance" means the certificate provided for in Tennessee Code Annotated, title 57, chapter 3, in connection with the prescribed procedure for obtaining a state liquor retailer's license.

(7) "City" means the Town of Monterey, Tennessee.

(8) "City recorder" means the city recorder of the town.

(9) "Corporate limits" means the corporate limits of the town as the same now exist or may hereafter be changed.

(10) "Distiller" means any person who owns, occupies, carries on, works, conducts or operates any distillery either by himself or by his agent.

(11) "Distillery" means and includes any place or premises wherein any alcoholic beverage is manufactured for sale.

(12) "Federal statutes" means the statutes of the United States now in effect or as they may hereafter be changed.

(13) "Inspection fee" means 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.

(14) "License" means 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 town.

(15) "Licensee" means the holder of a license.

(16) "Liquor store" means the building or the part of a building where a licensee conducts any of the business authorized by his license.

(17) "Manufacturer" means and includes a distiller, vintner and rectifier of alcoholic beverage. "Manufacture" means and includes distilling, rectifying and operating any winery or any device for the production of alcoholic beverages.

(18) "Person" means and includes an individual, partner, associate or corporation.

(19) "Rectifier" means and includes any person who rectifies, purifies or refines any alcoholic beverage by any process other than as provided for on distillery premises, and also any person who, without rectifying, purifying or refining an alcoholic beverage, shall, by mixing an alcoholic beverage with any other material, thereby manufacture any imitation thereof, or who compounds an alcoholic beverage for sale under the name of: whiskey, brandy, gin, rum, wine, spirits, cordials, bitters, or any other name.

(20) "Retail sale" or "sale at retail" means a sale of alcoholic beverage to a consumer or to any person for any purpose other than for resale.

(21) "Sale or sell" means and includes the exchange or barter of alcoholic beverage, and also any delivery made otherwise than gratuitously of

alcoholic beverage; the soliciting or receiving of an order for alcoholic beverage; the keeping, offering or exposing alcoholic beverage for sale.

(22) "State Alcoholic Beverage Commission" means 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.

(23) "State rules and regulations" means all applicable rules and regulations of the State of Tennessee 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.

(24) "State statutes" means the statutes of the State of Tennessee now in effect or as they may hereafter be changed.

(25) "Vintner" means any person who owns, occupies, carries on, works, conducts or operates any winery, either by himself or by his agent.

(26) "Wine" means the product of the normal alcoholic fermentation of the juice of fresh, sound, ripe, grapes, with the usual cellar treatment and necessary additions to correct defects due to climatic, saccharine and seasonal conditions, including also champagne sparkling and fortified wine of an alcoholic content not to exceed twenty-one percent (21%) by volume. No other product shall be called "wine" unless designated by appropriate prefixes descriptive of the fruit, or other product from which the same was predominantly produced or unless designated as an artificial or imitation wine.

(27) "Winery" means and includes any place or premises wherein wine is manufactured or brandies are distilled as the by-product of wine or where cordials are compounded.

(28) "Wholesale sale" or "sale at wholesale" means a sale to any person for purposes of resale.

(29) "Wholesaler" means any person who sells at wholesale any alcoholic beverage for the sale of which a license is required under the provisions of Tennessee Code Annotated, title 57, chapter 3.

Words importing the masculine gender shall include the feminine and neuter, and the singular shall include the plural. (1980 Code, § 2-201, as replaced by Ord. #17-533, March 2017 *Ch9\_10-5-20*)

**8-202. Dealers in alcoholic beverages subject to regulations.** It shall be unlawful for any person either to engage in the business of selling, storing, transporting, or distributing any alcoholic beverage within the corporate limits of the town or to sell, store, transport, distribute, purchase or possess any alcoholic beverage within the corporate limits of the town, except as provided by the state statutes, by the state rules and regulations, by the federal statutes and by this chapter. (as added by Ord. #17-533, March 2017 *Ch9\_10-5-20*)

**8-203. Manufacture of alcoholic beverages prohibited.** It shall be unlawful for any person to manufacture any alcoholic beverage within the

corporate limits of the town. (as added by Ord. #17-533, March 2017 *Ch9\_10-5-20*)

**8-204. Wholesalers.** Unless hereafter authorized by an ordinance of the town, no wholesaler's license shall be granted to any person for the operation within the corporate limits of the town of any business for the sale at wholesale of any alcoholic beverage. Any wholesaler, whose business is located outside the town and who holds a valid state license, and who has paid to the town all privilege taxes and fees applicable to such wholesale business, may sell, at wholesale, any alcoholic beverage to a licensee in the town 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. (as added by Ord. #17-533, March 2017 *Ch9\_10-5-20*)

**8-205. Certificate of compliance a prerequisite for a retail permit.** Certificate of compliance as required by Tennessee Code Annotated, § 57-3-208. shall be a prerequisite for a retail permit to sell alcoholic beverages in the Town of Monterey. To be eligible to apply for or to receive a certificate of compliance, an applicant must satisfy the requirements of this chapter, and of the state statutes and state rules and regulations for a holder of a state liquor retailer's license.

If the applicant is either a partnership or a corporation, then each partner of the partnership and each stockholder, director and officer of the corporation meet the eligibility requirements set forth in this section. (as added by Ord. #17-533, March 2017 *Ch9\_10-5-20*)

**8-206. Content of application for certificate of compliance.** Each applicant for a certificate of compliance shall file with the board a completed form of application, on a form to be provided by the board of mayor and aldermen, which shall contain the following information:

- (1) The name and street address of each person to have any interest, direct or indirect, in the licensee as owner, partner, or stockholder, director, officer or otherwise;
- (2) The name of the liquor store to be operated under the license;
- (3) The address of the liquor store to be operated under the license and zoning designation applicable to such location;
- (4) The agreement of each applicant to comply with the state statutes, federal statutes, this chapter and with the state rules and regulations with reference to the sale of alcoholic beverages;
- (5) The agreement of each applicant that he will be actively engaged in the retail sale of alcoholic beverages at the liquor store described in the application within one hundred twenty (120) days after the license is granted to such applicant. The application form shall be accompanied by a copy of each application, and 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 plan drawn to a scale of not less than one inch (1") equals twenty feet (20'), giving the following information:

(a) The shape, size, and location of the lot, including map and parcel number, upon which the liquor store is to be operated under the license;

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

(c) 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

(d) A certification that there is no church or place of public gathering adjacent to the proposed location and that there is no school located within one hundred feet (100') of the proposed location of the liquor store. The application form shall be signed and verified by each person to have any interest in the licensee, either as owner, partner, or stockholder, director, officer or otherwise. If, at any time, the applicable state statutes shall be changed so as to dispense with the requirements 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 board.

There shall be a statement that each applicant has been a resident of Tennessee for at least two (2) years immediately prior to the time the application is filed. If the applicant is a partnership or a corporation, each of the partners or stockholders must have been a bona fide resident of Tennessee not less than two (2) years at the time the application is filed. There shall be a limit of two (2) licenses issued and outstanding in the town. Thereafter, one (1) permit for an additional five hundred (500) residential increase in population shall be allowed. The board shall develop a lottery system to select the initial two (2) license holders and any subsequent additional license holder.

The recorder shall review each application, note any apparent questions, errors and insufficiencies and submit same to the board for consideration and action. (as added by Ord. #17-533, March 2017 *Ch9\_10-5-20*)

**8-207. Misrepresentation or concealment.** A misrepresentation or concealment of any material fact in any application shall constitute a violation of this chapter, and the board shall forthwith report such violation to the State Alcoholic Commission together with the request that the State Alcoholic Beverage Commission take action necessary to revoke or refuse to grant or renew a license to an applicant guilty of such misrepresentation or concealment. (as added by Ord. #17-533, March 2017 *Ch9\_10-5-20*)

**8-208. Restrictions on issuance of certificate of compliance.**

(1) No certificate of compliance shall be issued unless a license issued on the basis thereof to such applicant can be exercised without violating any provision of this chapter, the state statutes, the state rules and regulations or the federal statutes.

(2) The board shall not sign any certificate of compliance for any applicant until:

- (a) Such applicant's application has been filed with the board;
- (b) The location stated in the application has been approved by the board as a suitable location for the operation of a liquor store;
- (c) The application has been considered at a meeting of the board and approved by a majority vote of the entire board; and
- (d) The applicant meets the requirements set forth at Tennessee Code Annotated, § 57-3-208. (as added by Ord. #17-533, March 2017 *Ch9\_10-5-20*)

**8-209. Investigation fee.** Each application for a certificate of compliance filed with the city shall be accompanied by a one hundred dollar (\$100.00) fee payable to the town for investigating the applicant. (as added by Ord. #17-533, March 2017 *Ch9\_10-5-20*)

**8-210. Miscellaneous restrictions on licensees and their employees.** (1) No certificate of compliance 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; and it shall be unlawful for any such person to have any interest in the liquor 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.

(2) No certificate of compliance shall be issued to 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 files application therefor; provided, however, 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 provided further, that in the case of any such conviction occurring after a license has been issued and received, the said 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 as an employee, and such convicted felon shall forthwith divest himself of all interest in the business of the licensee, either as a partner, officer, director, stockholder or otherwise.

No certificate of compliance shall be issued to any person, who, within ten (10) years preceding application therefor, shall have been convicted of any offense under the state statutes, state rules and regulations, the federal



statutes, this chapter or of the statutes of any other state of the United States prohibiting or regulating the sale, possession, transportation, storing, manufacturing, or otherwise handling alcoholic beverage or who has, during said period, been engaged in business alone or with others in violation of any of the state statutes, state rules and regulations, the federal statutes or the laws, rules and regulations of any other state, county or city of the United States; and provided further, that in case of any such conviction occurring after a license has been issued and received, it shall be recommended that the said license shall be revoked.

(3) It shall be unlawful for any manufacturer or wholesaler to have any interest in the licensee's rental or revenues.

(4) It shall be unlawful for any person to have ownership in, or to be a partner in or a stockholder, director, or officer of, to participate either directly or indirectly, in the profits of, any business for which a license is granted hereunder, unless his interest in said 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 have been fully disclosed in writing by supplement to the application filed with the board and approved in writing by the board before such interest is acquired. Where such interest is owned by any person on or before the application for a license, the burden shall be upon such person to see that this section is fully complied with, whether, he himself, signs or prepares the application, or whether the same is prepared by another; or if such interest is required after the issuance of the license the burden of the required disclosure of the proposed acquisition of such interest be upon both the seller and purchaser.

(5) No licensee shall employ a person in the sale of alcoholic beverages who is not a citizen of the United States.

(6) No licensee shall employ in the storage, sale, or distribution of alcoholic beverages a person under the age of eighteen (18) years, and it shall be unlawful for any licensee to permit a minor in its place of business to engage in the storage, sale or distribution of alcoholic beverages.

(7) No licensee shall employ in the sale of alcoholic beverages any person who, within ten (10) years prior to the date of his employment, shall have been convicted of a felony involving moral turpitude and in case an employee shall be convicted he shall immediately be discharged; provided, however, 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.

(8) It shall be unlawful for a licensee to advertise by signs, window displays, posters, or any other designs intended to advertise any alcoholic beverage within the corporate limits of the town, except by signs approved by the board not larger than four feet by eight feet (4' x 8') in designating the premises as "\_\_\_\_\_ Package Store." Only two (2) such signs, and no other, shall be permitted, one (1) free standing and one (1) attached to the building.

Nothing contained herein shall prohibit any manufacturer or wholesaler from advertising in news media.

(9) No licensee shall employ or otherwise use the services of any canvasser, agent, solicitor, or representative for the purpose of receiving an order from a consumer for any alcoholic beverage at the residence 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 subsection shall not be construed as to prohibit the solicitation by a state licensed wholesaler of any order from any licensee at the licensee's premises.

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

(11) No liquor store shall be located in the town on any premises above the ground floor. Each liquor 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, however, that any liquor store adjoining the lobby of a hotel or motel may maintain an additional entrance into such lobby so long as said lobby is open to the public.

(12) 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 licensee 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 beverages in the state or in any other place; and

(b) No stock of such corporate licensee shall be transferred by sale, gift, pledge, operation of law or otherwise to any person who would not be otherwise qualified as an original stockholder of an initial corporate applicant for a license hereunder.

(13) If any licensee, for any reason, shall not be actively engaged in and keep open its liquor store during normal business hours for a period of fifteen (15) work days in any calendar year, then the city recorder shall forthwith report such fact to the State Alcoholic Beverage Commission and take such other action as may appear necessary or proper to have the license of such licensee revoked.

(14) 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 recorder. (as added by Ord. #17-533, March 2017 *Ch9\_10-5-20*)

**8-211. Nature and revocability of license.** The issuance of a license hereunder shall vest no property rights in the licensee and such license shall be a privilege subject to revocation or suspension as provided by the state statutes and state rules and regulations. In the event of any violation of the state statutes, state rules and regulation, federal statutes or of the provisions of this chapter by a licensee or by any person for whose acts the licensee is responsible, the city recorder shall forthwith report such violation to the Tennessee Alcoholic Beverage Commission or its successor and shall take such action before the Tennessee Alcoholic Beverage Commission or other appropriate state board to have the license of such licensee suspended or revoked as provided by law. (as added by Ord. #17-533, March 2017 *Ch9\_10-5-20*)

**8-212. Display of license.** 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 thereunder is being done by the licensee. (as added by Ord. #17-533, March 2017 *Ch9\_10-5-20*)

**8-213. Location of liquor store.** Liquor stores may be operated and maintained on premises within the corporate limits, but only within the following listed zones as defined in the zoning ordinance of the Town of Monterey, Tennessee, as set out on the zoning map of the town, as in effect on the date of any application for a license hereunder.

A liquor store shall not be located adjacent to a church or place of public gathering, or within one hundred feet (100') of a public school as measured in a direct line from the closest points of the church or school building to the center of the front door of the licensee's place of business. For the purposes of this section, the terms "church" and "church building" shall not include any church building or building used for church purposes which is located on privately owned real property. "School" shall mean any primary or secondary public or private school building which is used exclusively for school purposes, and shall not include a vocational school or university.

To assure that these requirements are satisfied, no original or renewal certificate of compliance for an applicant for a license shall be issued for any location until a majority of the members of the board have approved the proposed location as being suitable for a liquor store after a consideration of this matter at a meeting of the board. (as added by Ord. #17-533, March 2017 *Ch9\_10-5-20*)

**8-214. License non-transferable.** A licensee shall not sell, assign, give, pledge, or otherwise transfer his license or any interest therein to any other person. No license shall be transferred from the licensee by operation of

law through any proceedings in bankruptcy, insolvency, or receivership, or by execution, garnishment or other similar proceedings. No license shall be transferred from one (1) location to another location without the prior written approval of the board. (as added by Ord. #17-533, March 2017 *Ch9\_10-5-20*)

**8-215. Limited times of operation.** No retailer shall sell or give away any alcoholic beverages between 11:00 P.M. on Saturday night and 8:00 A.M. on Monday of each week and shall not sell, give away or otherwise disburse alcoholic beverages except between the hours of 8:00 A.M. and 11:00 P.M. Monday through Saturday. Retail stores shall not be open to the general public except during regular business hours and shall be closed for business Thanksgiving Day and Christmas Day. In addition, no retailer shall sell or give away any alcoholic beverages on Christmas, Thanksgiving Day, Labor Day, New Year's Day and the Fourth of July. In the event of an emergency, liquor stores may be closed by order of the mayor. (as added by Ord. #17-533, March 2017 *Ch9\_10-5-20*)

**8-216. Minors, persons visibly intoxicated, and habitual drunkards.** It shall be unlawful for any licensee to sell, furnish, or give away any alcoholic beverage to any person who is under twenty-one (21) years of age or to any person who is visibly intoxicated or to any person who is a habitual drunkard (any person under twenty-one (21) years of age or visibly intoxicated or a habitual drunkard being hereafter in this section referred to as "such person.") It shall be unlawful for any such person to enter or remain in a liquor store, or to loiter in the immediate vicinity of a liquor store. It shall be unlawful for a licensee to allow any such person to enter or remain in the licensee's liquor store or any part of the licensee's adjacent to the liquor store. It shall be unlawful for any such person to buy or receive any alcoholic beverage from any licensee or from any other person. It shall be unlawful for a minor to misrepresent his age in an attempt to gain admission to a liquor store or in an attempt to buy any alcoholic beverage from a licensee for the purpose of selling or giving such alcoholic beverage to such person. (as added by Ord. #17-533, March 2017 *Ch9\_10-5-20*)

**8-217. Consumption on premises prohibited.** It shall be unlawful for any licensee to sell or furnish any alcoholic beverage for consumption in such licensee's liquor store or on the premises used by the licensee in connection therewith. It shall be unlawful for any person to consume any alcoholic beverage in a liquor store or in the immediate vicinity of a liquor store. It shall be unlawful for any licensee to allow any person to consume any alcoholic beverage in such licensee's liquor store or on the premises used by the licensee in connection therewith. (as added by Ord. #17-533, March 2017 *Ch9\_10-5-20*)

**8-218. Inspection fee.** There is hereby levied on each licensee in the town an inspection fee in the amount of eight percent (8%) of the wholesale price of all alcoholic beverage supplied during each calendar month by a wholesaler to each licensee in the town. 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:

- (1) The date of the transaction;
- (2) The name and address of the wholesaler and of the licensee;
- (3) The brand name and quantity of alcoholic beverage covered by the invoice; and
- (4) The unit wholesale price and the gross wholesale price for each item listed thereon. The wholesaler's invoice shall be issued and delivered to the licensee as hereinafter provided without regard to the terms of payment or on credit or partly for cash and partly for credit. The inspection fee, computed as herein above provided, shall be collected by the wholesaler as provided for in Tennessee Code Annotated, § 57-3-502, and shall be paid to the city recorder on or before the fifteenth day of each calendar month for the preceding calendar month. (as added by Ord. #17-533, March 2017 *Ch9\_10-5-20*)

**8-219. Inspection fee reports.** The town shall prepare and make available to each licensee sufficient forms for the monthly report of the inspection fees payable by each licensee; and the city recorder is authorized to promulgate reasonable rules and regulations to facilitate the reporting and collection of inspection fees and to specify the records to be kept by each licensee. (as added by Ord. #17-533, March 2017 *Ch9\_10-5-20*)

**8-220. Records to be kept by licensee.** In addition to any records specified in the rules and regulations promulgated by the city recorder pursuant to the preceding section, each licensee shall keep on file at such licensee's liquor store the following records:

- (1) Original invoices required above for all alcoholic beverages bought by or otherwise supplied to the licensee;
- (2) Original receipts for any alcoholic beverage returned by such licensee to any wholesaler; and
- (3) 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 beverage 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 recorder gives the licensee written permission to dispose of such records at an earlier time. (as added by Ord. #17-533, March 2017 *Ch9\_10-5-20*)

**8-221. Inspections.** The city recorder or city auditor 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 city fiscal officer or city auditor and the chief of police and other police officers of the town are 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 by a fiscal officer or auditor or the inspection and examination of the premises of a liquor store, shall be a violation of this chapter and the city fiscal officer or auditor 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. (as added by Ord. #17-533, March 2017 *Ch9\_10-5-20*)

**8-222. Effect of failure to report and pay inspection fee.** The failure to pay the inspection fee and to make the required reports accurately and within the time prescribed in this chapter shall, at the sole discretion of the board, be cause for the taking of such action as is necessary to suspend the offending licensee's license for as much as thirty (30) days, or to revoke said license. (as added by Ord. #17-533, March 2017 *Ch9\_10-5-20*)

**8-223. Use of funds derived from inspection fees.** All funds derived from the inspection fees imposed herein shall be paid into the general fund of the town. The town 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 town in investigating and inspecting licensees and applicants and in seeing all provisions of this chapter are observed; and the board finds and declares that the amount of these inspections is reasonable and that the funds expected to be derived from these inspection fees will be reasonably required for said purposes. The inspection fee levied by this chapter 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 any such taxes. (as added by Ord. #17-533, March 2017 *Ch9\_10-5-20*)

**8-224. Other violations by licensee.** Any licensee who, in the operation of such licensee's liquor store, shall violate any federal statute, any state statute, or any state rule or regulation concerning the purchase, sale, receipt, possession, transportation, distribution or handling of alcoholic beverages, shall be guilty of a violation of the provisions of this chapter. (as added by Ord. #17-533, March 2017 *Ch9\_10-5-20*)

**8-225. Licensee's responsibility.** 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. (as added by Ord. #17-533, March 2017 ***Ch9\_10-5-20***)

## CHAPTER 3

### BEER<sup>1</sup>

#### SECTION

- 8-301. Authority to grant, revoke, etc., beer permits.
- 8-302. Permit required for engaging in beer business.
- 8-303. Privilege tax.
- 8-304. Applicant shall file written application containing certain specific requirements.
- 8-305. Permits issued for sale of beer within corporate limits for off-premises and on-premises consumption.
- 8-306. Sales to minors or intoxicated persons unlawful.
- 8-307. Hours and days of sale, etc., regulated.
- 8-308. Permittees not to allow minors to loiter about premises.
- 8-309. Unlawful for minor to misrepresent age.
- 8-310. The board of mayor and aldermen vested with the authority to conduct hearings on revocation or suspension of beer permits issued under this chapter.
- 8-311. Revocation or suspension of beer permits.
- 8-312. Civil penalty in lieu of revocation or suspension.
- 8-313. Loss of clerk's certification for sale to minor.
- 8-314. Violations.

**8-301. Authority to grant, revoke, etc., beer permits.** The board of mayor and aldermen is designated, appointed, and given authority for the purpose of granting, refusing, rescinding, or revoking permits for sale, storage and warehousing of beer or other alcoholic beverage with an alcoholic content not exceeding five percent (5%) of weight within the corporate limits of Monterey, Tennessee. (as added by Ord. #17-533, March 2017 *Ch9\_10-5-20*)

**8-302. Permit required for engaging in beer business.** It shall be unlawful for any person to sell, store for sale, distribute for sale, or manufacture beer without first making application to and obtaining a permit from the beer board. The application shall be made on such form as the board shall prescribe and/or furnish, and pursuant to Tennessee Code Annotated, § 57-5-101(b), and

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<sup>1</sup>Municipal code reference

Tax provisions: title 5.

State law reference

For a leading case on a municipality's authority to regulate beer, see the Tennessee Supreme Court decision in Watkins v. Naifeh 635 S.W.2d 104 (1982).



shall be accompanied by a non-refundable application fee of two hundred fifty dollars (\$250.00). Said fee shall be in the form of a cashier's check payable to the Town of Monterey. Each applicant must be a person of good moral character and certify that he has read and is familiar with the provisions of this chapter. (as added by Ord. #17-533, March 2017 *Ch9\_10-5-20*)

**8-303. Privilege tax.** There is hereby imposed on the business of selling, distributing, storing or manufacturing beer an annual privilege tax of one hundred dollars (\$100.00). Any person, firm, corporation, joint stock company, syndicate or association engaged in the sale, distribution, storage or manufacture of beer shall remit the tax on January 1, 2018, and each successive January 1, to the Town of Monterey, Tennessee. At the time a new permit is issued to any business subject to this tax, the permit holder shall be required to pay the privilege tax on a prorated basis for each month or portion thereof remaining until the next tax payment date. (as added by Ord. #17-533, March 2017 *Ch9\_10-5-20*)

**8-304. Applicant shall file written application containing certain specific requirements.** Before any permit is issued by the board of mayor and aldermen, the applicant therefor shall file with the board of mayor and aldermen a sworn petition in writing and shall establish the following:

- (1) The name and residence of the applicant.
- (2) The location of the premises at which the business shall be conducted.
- (3) The owner or owners of such premises.
- (4) That the applicant shall not engage in the sale of such beverages except at the place or places for which the board of mayor and aldermen has issued permits or permit, to such applicant
- (5) That no sale of such beverages will be made except in accordance with the permit granted.
- (6) The applicant shall state as to whether the permit for the sale of beer is sought for consumption on the premises or for sale to be carried off the premises with no consumption on the premises.
- (7) The application, if for a Class A off-premises consumption permit, is for a grocery store/convenience store; if for a Class A on-premises consumption permit is for a restaurant. All applicants shall state how many years that they have been in business at the premises to be licensed, and the straight-line distances to the closest school, the closest church, and to any other nearby place of public gathering.
- (8) That neither the applicant nor any persons employed, or to be employed by him in such distribution or sale of such beverage, has ever been convicted of any violation of the law against prohibition, sale, possession, manufacture, or transportation of intoxicating liquor, or of any crime involving moral turpitude within the past ten (10) years.

(9) That the applicant has not had a license for the sale of legalized beer or other beverages of like alcoholic content revoked.

(10) The application shall state whether the person applying will conduct the business in person, or whether he is acting as agent for any other person.

(11) That no brewer or distiller of legalized beer or any other beverage of like alcoholic content has any interest, financial or otherwise, in the premises upon or in which the business to be licensed is carried on.

(12) That no brewer or distiller of legalized beer or any other beverages of like alcoholic content has any interest, financial or otherwise, in the business which is licensed, or requested to be licensed.

(13) That the applicant will not thereafter convey or grant any brewer or distiller of legalized beer or any other beverage of like alcoholic content any interest in either the business which is licensed to be carried on, or in any other property at which such business may thereafter be carried on.

(14) That the applicant has, at the time of making such application, no indebtedness or other financial obligation to any brewer or distiller of legalized beer or other beverage of like alcoholic content, and will not, during the period such license shall be in force, contract any financial obligation to any brewer or distiller of legalized beer or other beverage of like alcoholic content other than for the purchase of such beer or other beverage of like alcoholic content.

(15) This application shall be verified by the affidavit of the applicant, made before a notary public or the city recorder, and if any false statement is made in any part of such application the permit or license granted or issued to the applicant shall be revoked by the board of mayor and aldermen. (as added by Ord. #17-533, March 2017 *Ch9\_10-5-20*)

**8-305. Permits issued for sale of beer within corporate limits for off-premises and on-premises consumption.** No permit for the sale of beer shall be issued to any person, persons, firm, corporation, joint stock company, syndicate, partnership, or association for the sale of beer or other alcoholic beverage with an alcohol content not exceeding five percent (5%) by weight within the corporate limits of Monterey, Tennessee, except as defined by the following classes of businesses:

(1) Class A off-premises consumption. To qualify for a Class A off-premises permit, an establishment must, in addition to meeting the other regulations in this chapter:

(a) Be a grocery store or a convenience type market;

(b) In either case, be primarily engaged in the sale of grocery and personal and home care and cleaning articles, but may also sell gasoline; and

(c) The business privilege sales, and ad valorem taxes are maintained in a paid status at all times, and the majority of the gross sales of said businesses are derived from the retail sales of groceries, and

which is not located within one hundred feet (100') of a church or other public gathering place, and which is not located within one hundred feet (100') of a school measured by the length of a straight line drawn from the closest points of the church, public gathering place or school building and the front door of the grocery store. No beer will be sold, warehoused, or distributed from any building other than the one (1) to which the permit is for sale in the said grocery store shall be permitted. Any beer or alcoholic beverage sold by Class A permit holder shall not be opened or consumed on the licensed premises.

(2) Class A on-premises consumption. To qualify for a Class A on-premises consumption permit, an establishment must, in addition to meeting other regulations and restrictions in this chapter:

- (a) Be primarily a restaurant or an eating place;
- (b) Be able to seat a minimum of thirty (30) people, including children, in booths and at tables, in addition to any other seating it may have;
- (c) Have all seating in the interior of the building under a permanent roof; and

(d) In addition, the monthly beer sales of any establishment which holds a Class A on-premises consumption permit shall not exceed fifty percent (50%) of the gross sales of the establishment. Any such establishment which for two (2) consecutive months or for any three (3) months in any calendar has beer sales exceeding fifty percent (50%) of its gross sales, shall have its beer permit revoked. The business privilege sales, and ad valorem taxes are maintained in a paid status at all times, and the majority of the gross sales of said businesses are derived from the retail sales of groceries, and which is not located within one hundred feet (100') of a church or other public gathering place, and which is not located within one hundred feet (100') of a school measured by the length of a straight line drawn from the closest points of the church, public gathering place or school building and the front door of the grocery store. No outside advertising of beer, or of various brands of beer, for sale on the said licensed premises shall be permitted. Any beer or alcoholic beverage. (as added by Ord. #17-533, March 2017 *Ch9\_10-5-20*)

**8-306. Sales to minors or intoxicated persons unlawful.** It shall be unlawful to sell or offer for sale any beverage falling within the provisions of this chapter to a person under the age of twenty-one (21) years or to a person in an intoxicated or partially intoxicated condition. (as added by Ord. #17-533, March 2017 *Ch9\_10-5-20*)

**8-307. Hours and days of sale, etc., regulated.** It shall be unlawful for any person, firm, corporation, joint stock company, syndicate, or association to offer for sale or sell beer or other alcoholic beverage with an alcoholic content

not exceeding five percent (5%) by weight within the corporate limits of Monterey, Tennessee, between the hours of 3:00 A.M. and 8:00 A.M. on weekdays, or between the hours of 3:00 A.M. and 8:00 A.M. on Sundays. (as added by Ord. #17-533, March 2017 *Ch9\_10-5-20*)

**8-308. Permittees not to allow minors to loiter about premises.**

It shall be unlawful for the management of any place where any beer or other beverage of like alcoholic content is sold within the corporate limits of Monterey, Tennessee, to allow any minor to loiter about such place or business and the burden of ascertaining the age of minor customers shall be upon the owner or operator of such place of business. (as added by Ord. #17-533, March 2017 *Ch9\_10-5-20*)

**8-309. Unlawful for minor to misrepresent age.** It shall be unlawful and a misdemeanor for any person under twenty-one (21) years of age to knowingly misrepresent his age in order to obtain or purchase beer within the corporate limits of the Town of Monterey, Tennessee, or to remain in a location where beer is legally being sold under the provisions of this chapter and where minors are not allowed. (as added by Ord. #17-533, March 2017 *Ch9\_10-5-20*)

**8-310. The board of mayor and aldermen vested with the authority to conduct hearings on revocation or suspension of beer permits issued under this chapter.** The Board of Mayor and Aldermen of the Town of Monterey, Tennessee, is vested with full and complete power to investigate charges against any permit holder who is cited to appear and show cause why his and/or its permit should not be suspended or revoked for the violation of the provisions of this chapter or the provisions of the state beer laws of the State of Tennessee. Complaints filed against any permit holder for the purpose of suspending or revoking such permits shall be made in writing and filed with the board of mayor and aldermen. When the board of mayor and aldermen shall have reason to believe that any permit holder shall have violated any of the provisions of this chapter or any of the provisions of the State Beer Act, the board of mayor and aldermen is authorized, in its discretion, to notify the permittee of said violations and to cite said permittee by written notice to appear and show cause why his permit should not be suspended or revoked for such violations. Said notice to appear and show cause shall state the alleged violations charged and shall be served upon the permittee either by register mail or by a member of the Police Department of the Town of Monterey. The notice shall be served upon the permittee at least ten (10) days before the date of the hearing. At the hearing, the board of mayor and aldermen shall publicly hear the evidence both in support of the charges and on behalf of the permittee. After such hearing, if the charges are sustained by the evidence, the board of mayor and aldermen, in its discretion, may suspend or revoke said permit. The action of the board of mayor and aldermen in all such hearings shall be final,

subject only to review by the court as provided in the State Beer Act. When a permit is revoked, no new permit shall be issued hereunder for the sale of beer at the same location, until the expiration of one (1) year from the date said revocation becomes final. In the event any person or persons, firm, corporation, joint stock company, syndicate, or association has its beer permit revoked for the second time for the violation of the provisions of this chapter or the State Beer Act of the State of Tennessee, then that person or persons, firm, corporation, joint stock company, syndicate, or association shall not be granted a new permit for a period of three (3) years. In the event any person or persons, firm, corporation, joint stock company, syndicate, or association has its beer permit revoked for a third violation of the provisions of this chapter or the provisions of the State Beer Act of the State of Tennessee, then that person or persons, firm, corporation, joint stock company, syndicate, or association shall never be granted a beer permit under the provisions of this chapter. (as added by Ord. #17-533, March 2017 ***Ch9\_10-5-20***)

**8-311. Revocation or suspension of beer permits.** The beer board shall have the power to revoke or suspend any beer permit issued under the provisions of this chapter when the holder thereof is guilty of making a false statement or misrepresentation in his application or of violating any of the provisions of this chapter. However, no beer permit shall be revoked or suspended until a public hearing is held by the board after reasonable notice to all the known parties in interest. Revocation or suspension proceedings may be initiated by the police chief or by any member of the beer board. Pursuant to Tennessee Code Annotated, § 57-5-608, the beer board shall not revoke or suspend the permit of a "responsible vendor" qualified under the requirements of Tennessee Code Annotated, § 67-5-606, for a clerk's illegal sale of beer to a minor if the clerk is properly certified and has attended annual meetings since the clerk's original certification, unless the vendor's status as a certified responsible vendor has been revoked by the alcoholic beverage commission. If the responsible vendor's certification has been revoked, the vendor shall be punished by the beer board as if the vendor were not certified as a responsible vendor. "Clerk" means any person working in a capacity to sell beer directly to consumers for off-premises consumption. Under Tennessee Code Annotated, § 57-6-608, the alcoholic beverage commission shall revoke a vendor's status as a responsible vendor upon notification by the beer board that the board has made a final determination that the vendor has sold beer to a minor for the second time in a consecutive twelve (12) month period. The revocation shall be for three (3) years. (as added by Ord. #17-533, March 2017 ***Ch9\_10-5-20***)

**8-312. Civil penalty in lieu of revocation or suspension.**

(1) Definition. "Responsible vendor" means a person, corporation or other entity that has been issued a permit to sell beer for off-premises consumption and has received certification by the Tennessee Alcoholic Beverage

Commission under the "Tennessee Responsible Vendor Act of 2006," Tennessee Code Annotated, §§ 57-5-601, et seq.

(2) Penalty, revocation or suspension. The beer board may, at the time it imposes a revocation or suspension, offer a permit holder that is not a responsible vendor the alternative of paying a civil penalty not to exceed two thousand five hundred dollars (\$2,500.00) for each offense of making or permitting to be made any sales to minors, or a civil penalty not to exceed one thousand dollars (\$1,000.00) for any other offense. The beer board may impose on a responsible vendor a civil penalty not to exceed one thousand dollars (\$1,000.00) for each offense of making or permitting to be made any sales to minors or for any other offense. If a civil penalty is offered as an alternative to revocation or suspension, the holder shall have seven (7) days within which to pay the civil penalty before the revocation or suspension shall be imposed. If the civil penalty is paid within that time, the revocation or suspension shall be deemed withdrawn. Payment of the civil penalty in lieu of revocation or suspension by a permit holder shall be an admission by the holder of the violation so charged and shall be paid to the exclusion of any other penalty that the town may impose. (as added by Ord. #17-533, March 2017 **Ch9\_10-5-20**)

**8-313. Loss of clerk's certification for sale to minor.** If the beer board determines that a clerk of an off-premises beer permit holder certified under Tennessee Code Annotated, § 57-5-606, sold beer to a minor, the beer board shall report the name of the clerk to the alcoholic beverage commission within fifteen (15) days of determination of the sale. The certification of the clerk shall be invalid and the clerk may not reapply for a new certificate for a period of one (1) year from the date of the beer board's determination. (as added by Ord. #17-533, March 2017 **Ch9\_10-5-20**)

**8-314. Violations.** Except as provided in § 8-313, any violation of this chapter shall constitute a civil offense and shall, upon conviction, be punishable by a penalty under the general penalty provision of this code. Each day a violation shall be allowed to continue shall constitute a separate offense. (as added by Ord. #17-533, March 2017 **Ch9\_10-5-20**)

**TITLE 9****BUSINESS, PEDDLERS, SOLICITORS, ETC.<sup>1</sup>****CHAPTER**

1. MISCELLANEOUS.
2. PEDDLERS, ETC.
3. CHARITABLE SOLICITORS.
4. POOL ROOMS.
5. CABLE TELEVISION.
6. TAXICABS.
7. YARD SALES, ETC. REGULATED.
8. ADULT-ORIENTED ESTABLISHMENTS.

**CHAPTER 1****MISCELLANEOUS****SECTION**

9-101. "Going out of business" sales.

**9-101. "Going out of business" sales.** It shall be unlawful for any person 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," "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)

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<sup>1</sup>Municipal code references

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

Junkyards: title 13.

Liquor and beer regulations: title 8.

Noise reductions: title 11.

Zoning: title 14.

## CHAPTER 2

### PEDDLERS, ETC.

#### SECTION

- 9-201. Permit required.
- 9-202. Exemptions.
- 9-203. Application for permit.
- 9-204. Issuance or refusal of permit.
- 9-205. Temporary sales permit.
- 9-206. Bond.
- 9-207. Loud noises and speaking devices.
- 9-208. Use of streets/sidewalks.
- 9-209. Exhibition of permit.
- 9-210. Enforcement and penalties.
- 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, solicitor (selling door to door for immediate or for future delivery), or temporary sales vendor, to ply his trade within the corporate limits without first obtaining a permit in compliance with the provisions of this chapter and any other town ordinance. No permit shall be transferable. (1980 Code, § 5-201, as replaced by Ord. #467, Aug. 2009)

**9-202. Exemptions.** The terms of this chapter shall not be applicable to persons selling at wholesale to dealers, nor newspaper carriers, nor to bona fide merchants who merely deliver goods in the regular course of business, nor to bona fide local charitable, religious, patriotic, philanthropic, governmental, literary/educational organizations, or to any vendor participating in a bona fide charitable fundraising event. Persons selling homegrown items, who, in fact, themselves produced the products and have not been purchased for resale, or persons having a valid, current Town of Monterey business license are exempt from fees/bond only. (1980 Code, § 5-202, as replaced by Ord. #467, Aug. 2009)

**9-203. Application for permit.** Applicants applying for a permit under this chapter shall file a sworn, written application with the city clerk's office containing the following information and such other pertinent information as may be required:

- (1) Name, date of birth, and social security number;
- (2) Driver's license or other personal identification;
- (3) Home address;



- (4) Local address, if different from home address;
- (5) Name, address and phone number of corporation, company, or organization the applicant is representing;
- (6) A copy of a "Tennessee Certificate of Registration" for the collection of state and local sales or use taxes for sale of tangible personal property or taxable services for customers in Monterey for each Monterey location for which each permit is issued;
- (7) A description of the nature of the business and the goods to be sold;
- (8) A description of any vehicles, including make and model, license plate number and county of registration being used while soliciting or peddling;
- (9) Address of premises to be occupied for the business;
- (10) Proof of zoning approval from Town of Monterey Codes Department or mayor;
- (11) Proof of permission from owner of property that business is to occupy;
- (12) The starting date and ending date of operation of the business;
- (13) The names, addresses and phone numbers of two (2) unrelated references who can certify as to the applicant's good moral reputation and business responsibility;
- (14) A sworn statement as to whether the applicant and additional assistants have been convicted of any crime (felony), or misdemeanor, or for violating any municipal ordinance; the nature of the offense; and, the punishment or penalty assessed;
- (15) The last two (2) cities or towns, if any, where the applicant transacted the business;
- (16) An application fee of twenty-five dollars (\$25.00), non-refundable, is required by the Town of Monterey to defray the cost of investigating the application. (1980 Code, § 5-203, as amended by Ord. #408, March 2003, and replaced by Ord. #467, Aug. 2009)

**9-204. Issuance or refusal of permit.** Each application shall be investigated by the town clerk's office and police department. The town clerk's office shall report the results of the investigation within seventy-two (72) hours. Each permit, permittee, or location shall not exceed one hundred eighty (180) calendar days within a calendar year. A fee of seventy dollars (\$70.00) for a minimum of a fourteen (14) day period and each additional fourteen (14) day period shall be assessed to temporary sales vendors, and any peddler, or solicitor. Each applicant must state and purchase the permit for the full term of their business. If, after issuance of a permit has expired, no additional permit shall be issued until a grace period of fourteen (14) days has been honored. (1980 Code, § 5-204, as replaced by Ord. #467, Aug. 2009)

**9-205. Temporary sales permit.** It shall be unlawful for any person to sell on a temporary basis any consumer item (new or used) or service, within the corporate limits of the Town of Monterey without first obtaining a "temporary sales permit." For the purpose of this section a "temporary sales vendor" means any person, persons or corporation who brings into any premise and exhibits stocks of merchandise (new, used or handcrafted) to the public for the purpose of selling or offering to sell merchandise, food/beverages (prepared for consumption), or offering to provide a service on a seasonal/temporary basis or providing amusement/entertainment for profit to the public. "Temporary premises" means any public or quasi-public place, including a hotel, motel, rooming house, storeroom, building or part of a building, mall, pavilion, county fairgrounds (if not sponsored by any exceptions listed in § 9-202), park, convention center, tent, parking lot, vacant lot, public streets/sidewalks (parades and etc. only), railroad car, tractor trailer or motor vehicle which is temporarily occupied for the purpose of exhibiting stocks of merchandise (new, used, or handcrafted) and/or providing a service to the public for profit to any private shareholder or individual. Premises used by a temporary sales vendor must be cleared of any merchandise/tables/display on the date their permit expires (in an effort to promote the safety/beauty of this city). Premises shall not be considered "temporary" if the same person has conducted business at said premises for more than six (6) consecutive months (open for a minimum of three (3) days per week), and have permanently affixed sanitary facilities providing for hot/cold water supply attached to an approved water/sewer system available to the public during all operating hours at the local address and premises from which the proposed sales are made. Outside flea markets and temporary display of animals (domestic or agricultural), except with the local humane society, for sale or free are prohibited. (1980 Code, § 5-205, as replaced by Ord. #467, Aug. 2009)

**9-206. Bond.** Every permittee shall file with the city clerk's office a cash bond or other approved bond (surety bond/company bond) running to the municipality in the amount of two thousand, five hundred dollars (\$2,500.00). The bond shall remain on file in the city clerk's office for a period of one (1) year and shall be conditioned that the permittee shall comply fully with all the provisions of the ordinances of the city. It shall guarantee to any citizen of the city that all money paid as a down payment and/or complete purchase will be accounted for and applied according to the representations of the permittee, and shall further guarantee to any citizen of the city doing business with said permittee that the goods purchased will be delivered and/or guaranteed according to the representations of the permittee. (1980 Code, § 5-206, as replaced by Ord. #467, Aug. 2009)

**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 (in accordance with title 11, § 11-202 of the municipal code) 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, as replaced by Ord. #467, Aug. 2009)

**9-208. Use of streets/sidewalks.** No permittee shall have any exclusive right to any location of the public streets/sidewalks, nor shall any be permitted to operate a "road block" of any kind, nor shall any be permitted a stationary location thereon, nor shall any be permitted to operate in a congested area where the operation might impede or inconvenience the public use of such streets/sidewalks. For the purpose of this chapter, the judgment of a police officer and/or codes officer, exercised in good faith, shall be deemed conclusive as to whether the area is congested and the public impeded or inconvenienced. (1980 Code, § 5-208, as replaced by Ord. #467, Aug. 2009)

**9-209. Exhibition of permit.** Permittees are required to exhibit their permit at a visible site for the inspection of any police officer, codes enforcement officer and customer/person solicited. (1980 Code, § 5-209, as replaced by Ord. #467, Aug. 2009)

**9-210. Enforcement and penalties.** (1) It shall be the duty of all policemen and/or codes officers to see that the provisions of this chapter and/or any other city ordinance that pertains are enforced.

(2) Any person violating the provisions of this chapter and/or any other city ordinance shall be punished by a fine of no more than fifty dollars (\$50.00). (1980 Code, § 5-210, as replaced by Ord. #467, Aug. 2009)

**9-211. Revocation or suspension of permit.** (1) Permits issued under the provisions of this chapter may be revoked by the city council 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, peddler, or temporary sales vendor.

(b) Any violation of this chapter or any other city ordinance that pertains.

(c) Conviction of any crime (felony) or misdemeanor.

(d) Conducting the business of peddler, solicitor, or temporary sales 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.

(e) Enter in or upon any premises or attempt to enter in or upon any premises wherein a sign or placard bearing the notice "Peddlers or Solicitors Prohibited," or similar language carrying the same meaning, is located.

(f) Enter in or upon any residential premises before 9:00 A.M. or after dusk.

(2) Notice of the hearing for revocation of a permit shall be given by the city clerk 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/her last known address at least five (5) days prior to the date set for hearing, or it shall be delivered by a police officer or codes enforcement officer in the same manner as a summons at least three (3) days prior to the date set for hearing.

(3) When reasonably necessary in the public interest the city manager may suspend a permit pending the revocation hearing. (1980 Code, § 5-211, as replaced by Ord. #467, Aug. 2009)

**9-212. Reapplication.** No permittee whose permit has been revoked shall make further application until a period of at least one (1) year has elapsed since the last revocation. (1980 Code, § 5-212, as replaced by Ord. #467, Aug. 2009)

**9-213. Expiration and renewal of permit.** Permits issued under the provisions of this chapter shall expire in no more than one hundred eighty (180) days within a calendar year. Each application expires December 31<sup>st</sup> of the year it was submitted. (1980 Code, § 5-213, as replaced by Ord. #467, Aug. 2009)

## CHAPTER 3

### CHARITABLE SOLICITORS

#### SECTION

9-301. Permit required.

9-302. Prerequisites for a permit.

9-303. Denial of a permit.

9-304. Exhibition of permit.

9-305. Number of permits per month limited for solicitations taking place within street intersections.

**9-301. 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 recorder 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, § 5-301)

**9-302. Prerequisites for a permit.** The recorder shall 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, § 5-302)

**9-303. 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, § 5-303)

**9-304. 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, § 5-304)

**9-305. Number of permits per month limited for solicitations taking place within street intersections.** Permits for street intersection solicitations within the town's corporate limits shall be issued on a first to apply basis. Only one permit per month shall be issued for solicitations to take place within the intersections of town streets. Charitable or religious organizations desiring to solicit by standing within street intersections shall be issued a permit for the specific day of the month on which solicitation is to be conducted and for specific street intersections. Each organization shall be limited to one such permit annually. The following restrictions shall apply to solicitations within street intersections:

(4) Permitted organizations shall allow no more than four (4) solicitors to be within each intersection at any one time.

(5) One solicitor at each intersection must be 21 years of age or older.

(6) The permitted organization may solicit at a maximum of three (3) intersections within the corporate limits of the town on the permitted date.

(7) Any violation of this section will be subject to a fine of not less than \$50 per incident. (as added by Ord. #425, Feb. 2005)

## CHAPTER 4

### POOL ROOMS<sup>1</sup>

#### SECTION

9-401. Hours of operation regulated.

9-402. Minors to be kept out; exception.

**9-401. Hours of operation regulated.** It shall be unlawful for any person to open, maintain, conduct, or operate any where pool tables or billiard tables are kept for public use or hire between the hours of 7:00 A.M. and 11:00 P.M. every day of the week except Sunday, on which day the lawful hours of operation shall be between 12:00 noon and 6:00 P.M. (1980 Code, § 5-401, as amended by Ord. #362, May 1997, and Ord. #388 July 2001)

**9-402. Minors to be kept out; exception.** It shall be unlawful for any person engaged regularly, or otherwise, in keeping billiard, bagatelle, or pool rooms or tables, their employees, agents, servants, or other persons for them, knowingly to permit any person under the age of eighteen (18) years to play on said tables at any game of billiards, bagatelle, pool, or other games requiring the use of cue and balls, without first having obtained the written consent of the father and mother of such minor, if living. If the father is dead, then the written consent of the mother, guardian, or other person having legal control of such minor must be obtained. If the minor is 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, § 5-402, as amended by Ord. #362, May 1997)

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<sup>1</sup>Municipal code reference  
Privilege taxes: title 5.

**CHAPTER 5**

**CABLE TELEVISION**

**SECTION**

9-501. To be furnished under franchise.

**9-501. To be furnished under franchise.** Cable television service shall be furnished to the Town of Monterey and its inhabitants under franchise as the board of mayor and aldermen shall grant. The rights, powers, duties and obligations of the Town of Monterey and its inhabitants and the grantee of the franchise shall be clearly stated in the franchise agreement which shall be binding upon the parties concerned.<sup>1</sup>

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<sup>1</sup>For complete details relating to the cable television franchise agreement see Ord. #237, in the office of the city recorder.



## CHAPTER 6

### TAXICABS

#### SECTION

- 9-601. "Taxicab" defined.
- 9-602. "Conduct a taxicab business" defined.
- 9-603. Application for taxi business.
- 9-604. Fee to be charged for each vehicle.
- 9-605. Fee to be charged for substitution/replacement of vehicles.
- 9-606. Liability insurance required.
- 9-607. Mechanical condition of vehicles.
- 9-608. Inspection of vehicles.
- 9-609. Designation of taxis.
- 9-610. License and permit required for drivers.
- 9-611. Qualifications for driver's permit.
- 9-612. Accidents.
- 9-613. Fee for driver's permit.
- 9-614. Display of driver's permit.
- 9-615. Revocation or suspension of driver's permit.
- 9-616. Rules of driver conduct.

**9-601. "Taxicab" defined.** "Taxi" means a motor vehicle regularly engaged in the business of transporting passengers for hire, donations, gratuity or any other form of remuneration, having a seating capacity with no more than seven (7) seats for passengers and not operated on a fixed route. (as added by Ord. #421, May 2004)

**9-602. "Conduct a taxicab business" defined.** The term "conduct a taxicab business" as used in this chapter shall be held to mean the use of one (1) or more taxis within the corporate limits of the Town of Monterey, by the owner thereof, for the purpose of carrying passengers for hire, either by driving the same himself or having same driven by some other person. (as added by Ord. #421, May 2004)

**9-603. Application for taxi business.** (1) Before any person, firm or corporation shall conduct a taxi business in the Town of Monterey, he shall file with the Monterey City Recorder an application for a permit to conduct such business in the town. The application shall include the name and address of the applicant; whether the applicant is an individual, firm, or corporation, and if a firm the name and address of each member thereof. The application shall also include the following: the make, model, vehicle identification number (VIN), and license number of all vehicles proposed to be used in the business; the color

scheme or insignia to be used to designate the vehicle or vehicles; experience of the applicant in the transportation of passengers; certification of the mechanical reliability and cleanliness of the vehicles; certification of liability insurance; and such other pertinent information as may be required on said form, which application shall be sworn to by the applicant and verified by the affidavits of two (2) reputable citizens of the Town of Monterey who are not related to the applicant but have been acquainted with the applicant at least two (2) years.

(2) All permits for conducting of a taxi business shall be issued and signed by the Monterey City Recorder. No taxi permits shall be issued for a longer period than one (1) calendar year. The Monterey City Recorder may issue a permit for a shorter or probationary period if, in his discretion, it deems proper and such permit is subject to cancellation at any time by the Monterey City Recorder.

(3) All permits heretofore issued shall expire on the 31<sup>st</sup> day of December; and, in order to obtain a renewal taxi permit the 31<sup>st</sup> day of December, the applicant must file a renewal application before December 1<sup>st</sup> each year. It shall be the responsibility of the applicant to insure that all fees have been paid and all vehicles have been inspected prior to December 31<sup>st</sup> of each year so that the application for renewal can be acted upon by the city recorder. Failure to comply with the provisions of this section shall result in immediate suspensions of all permits held by the taxi owner.

(4) No permits for a taxi business shall be issued unless a current business license has been obtained from the municipality. The taxi business must be conducted, within the city limits of the municipality and must be located in an area zoned for a taxi business. Permits issued under this section are nontransferable.

(5) Every taxi permitted under this chapter shall post the taxi permit in such a place in each taxi as to be in full view of all passengers while such taxi is in operation.

(6) The Town of Monterey City Recorder shall have the authority to issue administrative regulations that are not in conflict with this chapter governing the use and operation of taxis. (as added by Ord. #421, May 2004)

**9-604. Fee to be charged for each vehicle.** At the time of issuance of a permit to operate a taxi business, the holder of the permit shall pay to the city recorder a nonrefundable fee in the amount of fifty dollars (\$50) for each vehicle to be operated as a taxi. If any time the holder of a taxi permit shall desire to use any additional vehicles under the permit, he may do so only after he has made application to the city recorder for permit to use such additional vehicles, and he shall furnish to the Monterey Police Department the same information regarding such additional vehicles as required in 9-403 regarding those vehicles covered by the original permit. The holder of the permit shall pay to the

Monterey City Recorder a nonrefundable, prorated fee in the amount of fifty dollars (\$50) for each additional vehicle. (as added by Ord. #421, May 2004)

**9-605. Fee to be charged for substitution/replacement of vehicles.**

If at any time the holder of a taxi permit shall desire to substitute or replace vehicles under the permit he may do so only after he had made application to the Monterey City Recorder for a permit to use such vehicle, and he shall furnish to the Monterey Police Department the same information regarding such vehicle as required in 9-403 regarding those vehicles covered by the original permit. The holder of the permit shall pay to the Monterey City Recorder a nonrefundable fee in the amount of twenty five dollars (\$25) for the substitution or replacement of each vehicle. The fee for substitution or replacement will not be prorated. (as added by Ord. #421, May 2004)

**9-606. Liability insurance required.** No taxi permit shall be issued or renewed unless there is in full force and effect a liability insurance policy for all vehicles. This insurance policy must be approved and filed with the Monterey City Recorder before any taxi permits are issued. The insurance policy for each vehicle shall be in the amount of not less than \$50,000 for bodily injury or death per person, \$100,000 for bodily injury or death per accident and contain a provision that it shall not be canceled unless after at least twenty (20) days written notice is given by the insurer to both the insured and Monterey City Recorder. (as added by Ord. #421, May 2004)

**9-607. Mechanical condition of vehicles.** It shall be unlawful for any person to operate or permit a taxi owned or controlled by him to be operated as a vehicle for hire upon the streets of Monterey unless such taxi is equipped with proper brakes, front and rear lights, safe tires, horn, muffler, rear vision mirror, and windshield wipers, all of which shall conform to the requirements of the state motor vehicle law. Each taxi 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 opened by the passenger from the inside of the taxi without the intervention or assistance of the driver. The taxi shall be equipped with seat belts for each passenger and a State of Tennessee approved child restraint device for each child under four (4) years of age. The motor and all the 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 taxi. (as added by Ord. #421, May 2004)

**9-608. Inspection of vehicles.** (1) All taxis shall be inspected at least annually to ensure that they comply with the requirements of this chapter. The chief of police will designate the date, time and by whom the inspections shall be made.

(2) A police officer is authorized by this chapter to stop a taxi operating on the streets of the Town of Monterey when the mechanical appearance of the vehicle so warrants or to inspect said vehicle for compliance with this chapter. If said officer finds the vehicle to be in noncompliance with this chapter, he shall cite the owner and declare the taxi inoperable and not to operate on the streets of the municipality until all defects have been corrected and evidence of inspection as provided in 9-403 is provided to the chief of police. (as added by Ord. #421, May 2004)

**9-609. Designation of taxis.** Each taxi shall bear on the outside of each front door an identifying company name and the word "taxi" if not part of the company name. The marking shall be of sufficient size to be clearly visible from a distance of twenty (20) feet. Each taxi shall be designated by the permit number assigned by the Monterey City Recorder and such number shall also appear on each side of the taxi. Each taxi shall be equipped with a light on its top that identifies the vehicle as a taxi. (as added by Ord. #421, May 2004)

**9-610. License and permit required for drivers.** (1) No person shall drive a taxi unless he is in possession of a State of Tennessee Commercial Driver's License or a class "D" operator's license with an "F" endorsement and a taxi driver's permit issued by the Monterey City Recorder.

(2) No driver's permit shall be issued for a longer period than one (1) calendar year. Said driver's permit will be renewable with the taxi business date as provided in 9-403. (as added by Ord. #421, May 2004)

**9-611. Qualifications for driver's permits.** No person shall be issued a taxi driver's permit unless he complies with the following qualifications:

(1) Makes written application to the Monterey City Recorder forms provided for that purpose. That application shall contain such pertinent information as deemed necessary by the Monterey City Recorder.

(2) Is at least twenty-one (21) years of age and holds a license as required in 9-410.

(3) If of good character and has not been convicted of, pled guilty to, or entered a plea of "no contest" to any felony, drunk driving, driving under the influence of an intoxicant or drug, any drug related charge, or more than three (3) moving traffic violations within the five (5) years immediately preceding the date of application for the driver's permit.

(4) Has not been involved in more than two (2) traffic accidents during a period of five (5) years immediately preceding the date of the application for the driver's permit. (as added by Ord. #421, May 2004)

**9-612. Accidents.** All traffic accidents arising from or in connection with the operation of taxis shall be reported to the Monterey Police Department within 24 hours of the accident. (as added by Ord. #421, May 2004)

**9-613. Fee for driver's permit.** A nonrefundable fee of twenty-five dollars (\$25) shall be charged for each original or replacement driver's permit that is issued. All permits are required to be in possession of the driver while operating a taxi in the Town of Monterey. The fee for a driver's permit will not be prorated. (as added by Ord. #421, May 2004)

**9-614. Display of driver's permit.** Every driver permitted under this chapter shall post his driver's permit in such a place in his taxi as to be in full view of all passengers while such driver is operating the taxi. (as added by Ord. #421, May 2004)

**9-615. Revocation or suspension of driver's permit.** Driver's permits are non-transferable and the Monterey City Recorder may revoke or suspend any taxi 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 9-411. (as added by Ord. #421, May 2004)

**9-616. Rules of driver conduct.** (1) Taxi drivers shall deliver their passengers to their destinations by the most direct available route.

(2) No person shall be admitted to a taxi already occupied by a passenger without the consent of such other passenger.

(3) Drivers or taxis shall not receive or discharge passengers in the roadway but shall pull up to the right hand sidewalk as nearly as possible, or in the absence of a sidewalk, to the extreme right hand side of the street and there receive or discharge passengers, except upon a one-way street, where passengers may be received or discharged at either the right or left sidewalk, or side of the street in the absence of a sidewalk.

(4) It shall be unlawful for any taxi driver, while on duty, to be under the influence of, or to consume any intoxicating beverage or drug; to use profane or obscene language; to shout or call to prospective passengers; to unnecessarily blow the automobile horn; or to otherwise unreasonably disturb the peace, quiet and tranquility of the municipality in any way.

(5) No driver shall engage in selling or delivering any intoxicating liquors, alcoholic beverages, illegal drugs or any illegal act, business or purpose.

(6) It shall be unlawful to park any taxi on any street except in such places as have been specifically designated and marked by the municipality for the use of taxis. It is provided, however, that taxis may stop upon any street for the purpose of picking up or discharging passengers if such stops are made in

such manner as not to unreasonably interfere with or obstruct other traffic and provided the passenger loading or discharging is promptly accomplished.

(7) Any vehicle designated as taxi and marked to identify it as a taxi, shall not be operated by anyone without a valid taxi driver's permit for any purpose other than a taxi. (as added by Ord. #421, May 2004)

## CHAPTER 7

### YARD SALES, ETC., REGULATED

#### SECTION

- 9-701. Definitions.
- 9-702. Property permitted to be sold.
- 9-703. Permit required.
- 9-704. Permit procedure.
- 9-705. Permit conditions.
- 9-706. Hours of operation.
- 9-707. Exceptions.
- 9-708. Display of sale property.
- 9-709. Display of permit.
- 9-710. Advertising.
- 9-711. Persons exempted from chapter.
- 9-712. Violations and penalty.

**9-701. Definitions.** For the purpose of this chapter, the following terms, phrases, words, and their derivations shall have the meaning given herein.

(1) "Garage sales" shall mean and include all general sales, open to the public, conducted from or on any premises in any residential or nonresidential zone, as defined by the Zoning Code of the Town of Monterey, for the purpose of disposing of personal property including, but not limited to, all sales entitled "garage," "lawn," "yard," "attic," "porch," "room," "backyard," "patio," or "rummage" sale. This definition does not include the operation of such businesses carried on in a nonresidential zone where the person conducting the sale does so on a regular day-to-day basis. This definition shall not include a situation where no more than five (5) specific items or articles are held out for sale and all media advertisements of such sale specifically names those items to be sold.

(2) "Personal property" shall mean property which is owned, utilized and maintained by an individual or members of his or her residence and acquired in the normal course of living in or maintaining a residence. It does not include merchandise which was purchased for resale or obtained on consignment. (as added by Ord. #447, Sept. 2007)

**9-702. Property permitted to be sold.** It shall be unlawful for any person to sell or offer for sale, under authority granted by this chapter, property other than personal property. (as added by Ord. #447, Sept. 2007)

**9-703. Permit required.** No garage sale shall be conducted unless and until the individuals desiring to conduct such sale obtains a permit therefore

from the Town of Monterey Codes Department. Members of more than one (1) residence may join in obtaining a permit for a garage sale to be conducted at the residence of one (1) of them, however, such permit shall be considered as having been issued for each and all such residences. Permits may be obtained for any nonresidential location. (as added by Ord. #447, Sept. 2007)

**9-704. Permit procedure.** (1) Application. The applicant or applicants for a garage sale permit shall file a written application with the codes department setting forth the following information:

- (a) Full name and address of applicant or applicants;
- (b) The location at which the proposed garage sale is to be held;
- (c) The date or dates upon which the sale shall be held;
- (d) The date or dates of any garage sales by the same applicant or applicants within the current calendar year;
- (e) A statement that the property to be sold was owned by the applicant as his own personal property and was neither acquired nor consigned for the purpose of resale;
- (f) A statement that the applicant will fully comply with all town sign regulations and understands that no sign shall be posted on any utility pole, street sign, or other public property;
- (g) A statement that the applicant will fully comply with this and all other applicable ordinances and laws.

(2) Permit fee. An administrative processing fee of two dollars (\$2.00) for the issuance of such permit shall accompany the application.

(3) Issuance of permit. Upon the applicant complying with the terms of this chapter, the codes department shall issue a permit. (as added by Ord. #447, Sept. 2007)

**9-705. Permit conditions.** (1) The permit shall set forth and restrict the time and location of such garage sales.

(2) No more than three (3) such permits may be issued to one (1) residential location, residence and/or family household during any calendar year (January 1 through December 31).

(3) There shall be a minimum of thirty (30) days between sales at anyone residence, premise or location. If members of more than one (1) residence join in requesting a permit, then such permit shall be considered as having been issued for each and all of such residences.

(4) No more than three (3) permits may be issued for any nonresidential location during any calendar year.

(5) Failure to comply with the provisions for advertising in § 9-710 shall render a residence, premise or location ineligible for additional sales during the same calendar year. (as added by Ord. #447, Sept. 2007)



**9-706. Hours of operation.** Garage sales shall be limited in time to no more than 6:00 A.M. to 6:00 P.M. on three (3) consecutive days. (as added by Ord. #447, Sept. 2007)

**9-707. Exceptions.** (1) Inclement weather. If a garage sale is not held on the dates for which the permit is issued or is terminated during the first date of the sale because of inclement weather conditions, and an affidavit by the permit holder to this effect is submitted, the codes department shall issue another permit to the applicant for a garage sale to be conducted at the same location within thirty (30) days from the date when the first sale was to be held. No additional permit fee is required.

(2) Fourth sale permitted. A fourth garage sale shall be permitted in a calendar year if satisfactory proof of a bona fide change in ownership of the real property is first presented to the codes department. (as added by Ord. #447, Sept. 2007)

**9-708. Display of sale property.** Personal property offered for sale may be displayed within the residence, in a garage, carport, and/or in a front, side or rear yard, but only in such areas. No personal property offered for sale at a garage sale shall be displayed in any public right-of-way. A vehicle offered for sale may be displayed on a permanently constructed driveway within such front or side yard. (as added by Ord. #447, Sept. 2007)

**9-709. Display of permit.** Any permit in possession of the holder or holders of a garage sale shall be posted on the premises in a conspicuous place so as to be seen by the public, or any city official. (as added by Ord. #447, Sept. 2007)

**9-710. Advertising.** The provisions of the general sign regulations of the Town of Monterey Zoning Code shall be met and include the following:

- (1) No sign shall exceed six feet (6') sign face area.
- (2) No sign shall be placed more than five (5) days prior to sale.
- (3) All signs must be removed within three (3) days after the sale is completed.
- (4) No sign shall be placed on any utility pole, street sign, or any other public property. (as added by Ord. #447, Sept. 2007)

**9-711. Persons exempted from chapter.** The provisions of this chapter shall not apply to or affect the following:

- (1) Persons selling goods pursuant to an order of process of a court of competent jurisdiction.
- (2) Persons acting in accordance with their powers and duties as public officials.

(3) Any sale conducted by any merchant or mercantile or other business establishment on a regular day-to-day basis from or at the place of business wherein such sale would be permitted by the Town of Monterey Zoning Code, or under the protection of the nonconforming use section thereof, or any other sale conducted by a manufacture, dealer or vendor in which sale would be conducted from property zoned premises, and not otherwise prohibited by other ordinances.

(4) Any sale conducted in a non-residential zoning district by any bona fide nonprofit, charitable, eleemosynary, educational, cultural or governmental institution or organization; provided, however, that the burden of establishing the exemption under this subsection shall be on the organization or institution claiming such exemption. (as added by Ord. #447, Sept. 2007)

**9-712. Violations and penalty.** Any person found guilty of violating the terms of this chapter shall be subject to a penalty of up to fifty dollars (\$50.00) for each offense. (as added by Ord. #447, Sept. 2007)

## CHAPTER 8

### ADULT-ORIENTED ESTABLISHMENTS

#### SECTION

- 9-801. Purpose.
- 9-802. Definitions.
- 9-803. License required.
- 9-804. Application for license.
- 9-805. Standards for issuance of license.
- 9-806. Permit required.
- 9-807. Application for permit.
- 9-808. Standards for issuance of permit.
- 9-809. Fees.
- 9-810. Display of license or permit.
- 9-811. Renewal of license or permit.
- 9-812. Revocation of license or permit.
- 9-813. Hours of operation; signage.
- 9-814. Responsibilities of the operator.
- 9-815. Prohibitions and unlawful sexual acts.
- 9-816. Penalties and prosecution.
- 9-817. Severability.
- 9-818. Approval process and appeals.
- 9-819. Judicial review of town actions.

**9-801. Purpose.** It is the purpose of this chapter to regulate sexually oriented businesses in order to promote the health, safety, morals, and general welfare of the citizens of the city, and to establish reasonable and uniform regulations to prevent the deleterious secondary effects of sexually oriented businesses within the city. 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. (as added by Ord. #454, July 2008)

**9-802. Definitions.** For the purpose of this chapter, the words and phrases used herein shall have the following meanings, unless otherwise clearly indicated by the context:

- (1) "Adult bookstore" means an establishment having as a substantial portion of its stock in trade ("substantial portion" meaning over twenty percent (20%) of floor area, or over twenty percent (20%) of inventory by units or value, or over twenty percent (20%) of revenues, or an inventory of two hundred (200) or more units) in books, films, video cassettes, compact discs, computer software,

computer generated images or text, or magazines and other periodicals or publications or reproductions of any kind which are distinguished or characterized by their emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" as defined below, and in conjunction therewith have facilities for the presentation of adult entertainment, as defined below, and including adult-oriented films, movies, or live entertainment, for observation by patrons therein.

(2) "Adult cabaret" is defined to mean an establishment which features as a principle use of its business, entertainers and/or waiters and/or bartenders and/or any other employee or independent contractor, who expose to public view of the patrons within said establishment, at any time, the bare female breast below a point immediately above the top of the areola, human genitals, pubic region, or buttocks, even if partially covered by opaque material or completely covered by translucent material; including swim suits, lingerie or latex covering. Adult cabarets shall include commercial establishments which feature entertainment of an erotic nature including exotic dancers, table dancers, private dancers, strippers, male or female impersonators, or similar entertainers.

(3) "Adult-entertainment" means any exhibition of any adult-oriented: motion pictures, live performance, computer or CD Rom generated images, displays of adult-oriented images or performances derived or taken from the internet, displays or dance of any type, which has a substantial portion of such performance any actual or simulated performance of specified sexual activities or exhibition and viewing of specified anatomical areas, removal or partial removal of articles of clothing or appearing unclothed, pantomime, modeling, or any other personal service offered customers.

(4) "Adult mini-motion picture theater" means an enclosed building with a capacity of less than fifty (50) persons regularly used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas," as defined below, for observation by any means by patrons therein.

(5) "Adult motion picture theater" means an enclosed building with a capacity of fifty (50) or more persons regularly used for presenting materials having as a dominant theme or presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" as defined below, for observation by any means by patrons therein.

(6) "Adult-oriented establishment" shall include, but not be limited to, "adult bookstore," adult motion picture theaters," "adult mini-motion picture establishments," or "adult cabaret," and further means any premises to which the public patrons or members (regardless of whether or not the establishment is categorized as a private or members only club) are invited or admitted and/or which are so physically arranged as to provide booths, cubicles, rooms,

compartments or stalls separate from the common areas of the premises for the purpose of viewing adult-oriented motion pictures, or wherein an entertainer provides adult entertainment to a member of the public, a patron or a member, when such adult entertainment is held, conducted, operated or maintained for a profit, direct or indirect. An "adult-oriented establishment" further includes, without being limited to, any "adult entertainment studio" or any premises that is physically arranged and used as such, whether advertised or represented as an adult entertainment studio, rap studio, exotic dance studio, encounter studio, sensitivity studio, modeling studio or any other term of like import.

(7) "Board of mayor and aldermen" means the Board of Mayor and Aldermen of the Town of Monterey, Tennessee.

(8) "Employee" means any, and all persons including independent contractors, who work in or at or render any services directly related to the operation of an adult-oriented establishment.

(9) "Entertainer" means any person who provides entertainment within an adult-oriented establishment as defined in this section, whether or not a fee is charged or accepted for entertainment and whether or not entertainment is provided as an employee or an independent contractor.

(10) "Operator" means any person, partnership, corporation, or entity of any type or character operating, conducting or maintaining an adult-oriented establishment.

(11) "Specified anatomical areas" means:

(a) Less than completely and opaquely covered:

(i) Human genitals, pubic region;

(ii) Buttocks;

(iii) Female breasts below a point immediately above the top of the areola; and

(b) Human male genitals in an actual or simulated discernably turgid state, even if completely opaquely covered.

(12) "Specified sexual activities" means:

(a) Human genitals in a state of actual or simulated sexual stimulation or arousal;

(b) Acts or simulated acts of human masturbation, sexual intercourse or sodomy;

(c) Fondling or erotic touching of human genitals, pubic region, buttock or female breasts. (as added by Ord. #454, July 2008)

**9-803. License required.** (1) Except as provided in subsection (5) below, from and after the effective date of this chapter, no adult-oriented establishment shall be operated or maintained in the Town of Monterey without first obtaining a license to operate issued by the Town of Monterey.

(2) A license may be issued only for one (1) adult-oriented establishment located at a fixed and certain place. Any person, partnership, or

corporation which desires to operate more than one (1) adult-oriented establishment must have a license for them.

(3) No license or interest in a license may be transferred to any person, partnership, or corporation.

(4) It shall be unlawful for any entertainer, employee or operator to knowingly work in or about, or to knowingly perform any service directly related to the operation of any unlicensed adult-oriented establishment.

(5) All existing adult-oriented establishments at the time of the passage of this chapter must submit an application for a license within one hundred twenty (120) days of the passage of this chapter on second and final reading. If a license is not issued within said one hundred twenty (120) day period, then such existing adult-oriented establishment shall cease operations.

(6) No license may be issued for any location unless the premises is lawfully zoned for adult-oriented establishments and unless all requirements of the zoning ordinance are complied with.

(a) Name and addresses, including all aliases;

(b) Written proof that the individual(s) is at least eighteen (18) years of age;

(c) All residential addresses of the applicant(s) for the past three (3) years;

(d) The applicants' height, weight, color of eyes and hair;

(e) The business, occupation or employment of the applicant(s) for five (5) years immediately preceding the date of the application;

(f) Whether the applicant(s) previously operated in this or any other county, city or state under an adult-oriented establishment license or similar business license; whether the applicant(s) has ever had such a license revoked or suspended, the reason therefore, and the business entity or trade name under which the applicant operated that was subject to the suspension or revocation;

(g) All criminal statutes, whether federal or state, or city ordinance violation convictions, forfeiture of bond and pleadings of nolo contendere on all charges, except minor traffic violations;

(h) Fingerprints and two (2) portrait photographs at least two (2) inches by two (2) inches of each applicant;

(i) The address of the adult-oriented establishment to be operated by the applicant(s);

(j) The names and addresses of all persons, partnerships, limited liability entities, or corporations holding any beneficial interest in the real estate upon which such adult oriented establishment is to be operated, including but not limited to, contract purchasers or sellers, beneficiaries of land trust or lessees subletting to applicant;

(k) If the premises are leased or being purchased under contract, a copy of such lease or contract shall accompany the application;

(l) The length of time each applicant has been a resident of the Town of Monterey, or its environs, immediately preceding the date of the application;

(m) If the applicant is a limited liability entity, the applicant shall specify the name, the date and state of organization, the name and address of the registered agent and the name and address of each member of the limited liability entity;

(n) A statement by the applicant that he or she is familiar with the provisions of this chapter and is in compliance with them.

(o) All inventory, equipment, or supplies which are to be leased, purchased, held in consignment or in any other fashion kept on the premises or any part or portion thereof for storage, display, any other use therein, or in connection with the operation of said establishment, or for resale, shall be identified in writing accompanying the application specifically designating the distributor business name, address phone number, and representative's name.

(p) Evidence in form deemed sufficient to the city manager that the location for the proposed adult-oriented establishment complies with all requirements of the zoning ordinances as now existing or hereafter amended.

(3) Within ten (10) days of receiving the results of the investigation conducted by the Monterey Police Department, the police chief shall notify the applicant that his/her application is conditionally granted, denied or held for further investigation. Such additional investigation shall not exceed thirty (30) days unless otherwise agreed to by the applicant. Upon conclusion of such additional investigation, the police chief shall advise the applicant in writing whether the application is granted or denied. All licenses shall be further held pending consideration of the required special use zoning permit by the board of mayor and aldermen.

(4) Whenever an application is denied or held for further investigation, the police chief shall advise the applicant in writing of the reasons for such action. If the applicant requests a hearing within ten (10) days of receipt of notification of denial, a public hearing shall be held thereafter before the board of mayor and aldermen at which time the applicant may present evidence as to why his/her license should not be denied. The board shall hear evidence as to the basis of the denial and shall affirm or reject the denial of any application at the hearing. If any application for an adult-oriented establishment license is denied by the board of mayor and aldermen and no agreement is reached with the applicant concerning the basis for denial, the town attorney shall institute suit for declaratory judgment in the Chancery Court of Putnam County, Tennessee, within five (5) days of the date of any such denial and shall seek an immediate judicial determination of whether such license or permit may be properly denied under the law.

(5) Failure or refusal of the applicant to give any information relevant to the investigation of the application, or his or her refusal or failure to appear at any reasonable time and place for examination under oath regarding said application or his or her refusal to submit to or cooperate with any investigation required by this chapter, shall constitute an admission by the applicant that he or she is ineligible for such license and shall be grounds for denial thereof by the police chief. (as added by Ord. #454, July 2008)

**9-805. Standards for issuance of license.** (1) To receive a license to operate an adult oriented establishment, an applicant must meet the following standards:

(a) If the applicant is an individual:

(i) The applicant shall be at least eighteen (18) years of age.

(ii) The applicant shall not have been convicted of or pleaded nolo contendere to a felony or any crime involving moral turpitude, prostitution, obscenity, or other crime of a sexual nature in any jurisdiction within five (5) years immediately preceding the date of the application.

(iii) The applicant shall not have been found to have previously violated this chapter within five (5) years immediately preceding the date of the application.

(b) If the applicant is a corporation:

(i) All officers, directors and stockholders required to be named under § 9-603 shall be at least eighteen (18) years of age.

(ii) No officer, director or stockholder required to be named under § 9-603 shall have been found to have previously violated this chapter within five (5) years immediately preceding the date of application.

(c) If the applicant is a partnership, joint venture, limited liability entity, or any other type of organization where two (2) or more persons have a financial interest:

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

(ii) No persons having a financial interest in the partnership, joint venture or other type of organization shall have been convicted of or pleaded nolo contendere to a felony or any crime involving moral turpitude, prostitution, obscenity or other crime of a sexual nature in any jurisdiction within five (5) years immediately preceding the date of the application.

(iii) No persons having a financial interest in the partnership, joint venture or other type of organization shall have



been found to have previously violated this chapter within five (5) years immediately preceding the date of the application.

(2) No license shall be issued unless the Monterey Police Department has investigated the applicant's qualifications to be licensed. The results of that investigation shall be filed in writing with the police chief no later than twenty (20) days after the date of the application. (as added by Ord. #454, July 2008)

**9-606. Permit required.** (1) In addition to the license requirements previously set forth for owners and operators of "adult-oriented establishments," no person shall be an employee or entertainer in an adult-oriented establishment without first obtaining a valid permit issued by the police chief. (as added by Ord. #454, July 2008)

**9-807. Application for permit.** (1) Any person desiring to secure a permit as an employee or entertainer shall make application to the police chief. The application shall be filed in triplicate with and dated by the police chief. A copy of the application shall be distributed promptly by the police chief to the city recorder and to the applicant.

(2) The application for a permit shall be upon a form provided by the police chief. An applicant for a permit shall furnish the following information under oath:

- (a) Name and address, including all aliases;
- (b) Written proof that the individual is at least eighteen (18) years of age;
- (c) All residential addresses of the applicant for the past three (3) years;
- (d) The applicant's height, weight, color of eyes, and hair;
- (e) The business, occupation or employment of the applicant for five (5) years immediately preceding the date of the application;
- (f) Whether the applicant, while previously operating in this or any other city or state under an adult-oriented establishment permit or similar business for whom applicant was employed or associated at the time, has ever had such a permit revoked or suspended, the reason therefore, and the business entity or trade name for whom the applicant was employed or associated at the time of such suspension or revocation;
- (g) All criminal statutes, whether federal, state or city ordinance violation, convictions, forfeiture of bond and pleadings of nolo contendere on all charges, except minor traffic violations;
- (h) Fingerprints and two (2) portrait photographs at least two (2) inches by two (2) inches of the applicant;
- (i) The length of time the applicant has been a resident of the Town of Monterey, or its environs, immediately preceding the date of the application;

(j) A statement by the applicant that he or she is familiar with the provisions of this chapter and is in compliance with them.

(3) Within ten (10) days of receiving the results of the investigation conducted by the Monterey Police Department, the police chief shall notify the applicant that his application is granted, denied, or held for further investigation. Such additional investigation shall not exceed an additional thirty (30) days unless otherwise agreed to by the applicant. Upon the conclusion of such additional investigations, the police chief shall advise the applicant in writing whether the application is granted or denied.

(4) Whenever an application is denied or held for further investigation, the police chief shall advise the applicant in writing of the reasons for such action. If the applicant requests a hearing within ten (10) days of receipt of notification of denial, a public hearing shall be held thereafter before the board of mayor and aldermen at which time the applicant may present evidence bearing upon the question.

(5) Failure or refusal of the applicant to give any information relevant to the investigation of the application, or his or her refusal or failure to appear at any reasonable time and place for examination under oath regarding said application or his or her refusal to submit to or cooperate with any investigation required by this chapter, shall constitute an admission by the applicant that he or she is ineligible for such permit and shall be grounds for denial thereof by the police chief. (as added by Ord. #454, July 2008)

**9-808. Standards for issuance of permit.** (1) To receive a permit as an employee or entertainer, an applicant must meet the following standards:

(a) The applicant shall be at least eighteen (18) years of age;

(b) The applicant shall not have been convicted of or pleaded no contest to a felony or any crime involving moral turpitude or prostitution, obscenity or other crime of a sexual nature (including violation of similar adult-oriented establishment laws or ordinances) in any jurisdiction within five (5) years immediately preceding the date of the application;

(c) The applicant shall not have been found to violate any provision of this chapter within five (5) years immediately preceding the date of the application.

(2) No permit shall be issued until the Monterey Police Department has investigated the applicant's qualifications to receive a permit. The results of that investigation shall be filed in writing with the police chief not later than twenty (20) days after the date of the application. (as added by Ord. #454, July 2008)

**9-809. Fees.** (1) A license fee of five hundred dollars (\$500.00) shall be submitted with the application for a license. If the application is denied, one-half (1/2) of the fee shall be returned.

(2) A permit fee of one hundred dollars (\$100.00) shall be submitted with the application for a permit. If the application is denied, one-half (1/2) of the fee shall be returned. (as added by Ord. #454, July 2008)

**9-810. Display of license or permit.** (1) The license shall be displayed in a conspicuous public place in the adult-oriented establishment.

(2) The permit shall be carried by an employee and/or entertainer upon his or her person and shall be displayed upon request of a customer, any member of the Monterey Police Department, or any person designated by the board of mayor and aldermen. (as added by Ord. #454, July 2008)

**9-811. Renewal of license or permit.** (1) Every license issued pursuant to this chapter will terminate at the expiration of one (1) year from the date of issuance, unless sooner revoked, and must be renewed before operation is allowed in the following year. Any operator desiring to renew a license shall make application to the police chief. The application for renewal must be filed not later than sixty (60) days before the license expires. The application for renewal shall be filed in triplicate with and dated by the police chief. A copy of the application for renewal shall be distributed promptly by the police chief to the city recorder and to the operator. The application for renewal shall be a form provided by the police chief and shall contain such information and data, given under oath or affirmation, as may be required by the board of mayor and aldermen.

(2) A license renewal fee of five hundred dollars (\$500.00) shall be submitted with the application for renewal. In addition to the renewal fee, a late penalty of one hundred dollars (\$100.00) shall be assessed against the applicant who files for a renewal less than sixty (60) days before the license expires. If the application is denied, one-half (1/2) of the total fees collected shall be returned.

(3) If the Monterey Police Department is aware of any information bearing on the operator's qualifications, that information shall be filed in writing with the police chief.

(4) Every permit issued pursuant to this chapter will terminate at the expiration of one (1) year from the date of issuance unless sooner revoked, and must be renewed before an employee and/or entertainer is allowed to continue employment in an adult-oriented establishment in the following calendar year. Any employee and/or entertainer desiring to renew a permit shall make application to the police chief. The application for renewal must be filed not later than sixty (60) days before the permit expires. The application for renewal shall be filed in triplicate with and dated by the police chief. A copy of the application for renewal shall be distributed promptly by the police chief to the city recorder to the employee. The application for renewal shall be upon a form provided by the police chief and shall contain such information and data, given under oath or affirmation, as may be required by the board of mayor and aldermen.

(5) A permit renewal fee of one hundred dollars (\$100.00) shall be submitted with the application for renewal. In addition to said renewal fee, a late penalty of fifty dollars (\$50.00) shall be assessed against the applicant who files for renewal less than sixty (60) days before the license expires. If the application is denied one-half (1/2) of the fee shall be returned.

(6) If the Monterey Police Department is aware of any information bearing on the employees qualifications, that information shall be filed in writing with the police chief. (as added by Ord. #454, July 2008)

**9-812. Revocation of license or permit.** (1) The police chief shall revoke a license or permit for any of the following reasons:

(a) Discovery that false or misleading information or data was given on any application or material facts were omitted from any application.

(b) The operator, entertainer, or any employee of the operator, violates any provision of this chapter or any rule or regulation adopted by the city council pursuant to this chapter; provided, however, that in the case of a first offense by an operator where the conduct was solely that of an employee, the penalty shall not exceed a suspension of thirty (30) days if the city council shall find that the operator had no actual or constructive knowledge of such violation and could not by the exercise of due diligence have had such actual or constructive knowledge.

(c) The operator or employee becomes ineligible to obtain a license or permit.

(d) Any cost or fee required to be paid by this chapter is not paid.

(e) An operator employs an employee who does not have a permit or provide space on the premises, whether by lease or otherwise, to an independent contractor who performs or works as an entertainer without a permit.

(f) Any intoxicating liquor, cereal malt beverage, narcotic or controlled substance is allowed to be sold or consumed on the licensed premises.

(g) Any operator, employee or entertainer sells, furnishes, gives or displays, or causes to be sold, furnished, given or displayed to any minor any adult-oriented entertainment or adult-oriented material.

(h) Any operator, employee or entertainer denies access of law enforcement personnel to any portion of the licensed premises wherein adult-oriented entertainment is permitted to any portion of the licensed premises wherein adult-oriented material is displayed or sold.

(i) Any operator allows continuing violations of the rules and regulations of the Putnam County Health Department.

(j) Any operator fails to maintain the licensed premises in a clean, sanitary and safe condition.

(k) Any minor is found to be loitering about or frequenting the premises.

(2) The police chief, before revoking or suspending any license or permit, shall give the operator or employee at least ten (10) days' written notice of the charges against him or her and the opportunity for a public hearing before the board of mayor and aldermen, at which time the operator or employee may present evidence bearing upon the question. In such cases, the charges shall be specific and in writing.

(3) The transfer of a license or any interest in a license shall automatically and immediately revoke the license. The transfer of any interest in a nonindividual operator's license shall automatically and immediately revoke the license held by the operator. Such license shall thereby become null and void.

(4) Any operator or employee whose license or permit is revoked shall not be eligible to receive a license or permit for five (5) years from the date of revocation. No location or premises for which a license has been issued shall be used as an adult-oriented establishment for two (2) years from the date of revocation of the license. (as added by Ord. #454, July 2008)

**9-813. Hours of operation; signage.** (1) Adult-oriented establishments shall be open only between the hours of 11:00 A.M. and 11:00 P.M. Monday through Saturday. No adult establishment shall be open for business on any Sunday or a legal holiday as designated in Tennessee Code Annotated, § 15-1-101.

(2) All adult-oriented establishments shall be open to inspection at all reasonable times by the Monterey Police Department, the Putnam County Sheriff's Department, or such other persons as the board of mayor and aldermen may designate.

(3) **Sign design.** Due to the sensitive nature of these businesses and because signs are visible to the general public, including children, the sign for such businesses shall not exceed two (2) square feet and must be designed so as not to include descriptive wording, artwork or photography connected to said business or depicting said business activity. (as added by Ord. #454, July 2008)

**9-814. Responsibilities of the operator.** (1) The operator shall maintain a register of all employees and/or entertainers showing the name, and aliases used by the employee, home address, age, birth date, sex, height, weight, color of hair and eyes, phone numbers, social security number, date of employment and termination, and duties of each employee and such other information as may be required by the board of mayor and aldermen. The above

information on each employee shall be maintained in the register on the premises for a period of three (3) years following termination.

(2) The operator shall make the register of the employees available immediately for inspection by police upon demand of a member of the Monterey Police Department at all reasonable times.

(3) Every act or omission by an employee constituting a violation of the provisions of this chapter shall be deemed the act or omission of the operator if such act or omission occurs either with the authorization, knowledge, or approval of the operator, or as a result of the operator's negligent failure to supervise the employee's conduct, and the operator shall be punishable for such act or omission in the same manner as if the operator committed the act or caused the omission.

(4) An operator shall be responsible for the conduct of all employees and/or entertainers while on the licensed premises and any act or omission of any employees and/or entertainer constituting a violation of the provisions of this chapter shall be deemed the act or omission of the operator for purposes of determining whether the operator's license shall be revoked, suspended or renewed.

(5) There shall be posted and conspicuously displayed in the common areas of each adult-oriented establishment a list of any and all entertainment provided on the premises. Such list shall further indicate the specific fee or charge in dollar amounts for each entertainment listed. Viewing adult-oriented motion pictures shall be considered as entertainment. The operator shall make the list available immediately upon demand of the Monterey Police Department at all reasonable times.

(6) No employee of an adult-oriented establishment shall allow any minor to loiter around or to frequent an adult-oriented establishment or to allow any minor to view adult entertainment as defined herein.

(7) Every adult-oriented establishment shall be physically arranged in such a manner that the entire interior portion of the booths, cubicles, rooms or stalls, wherein adult entertainment is provided, shall be visible from the common area of the premises. Visibility shall not be blocked or obscured by doors, curtains, partitions, drapes, or any other obstruction whatsoever. It shall be unlawful to install booths, cubicles, rooms or stalls within adult-oriented establishments for whatever purpose, but especially for the purpose of secluded viewing of adult-oriented motion pictures or other types of adult entertainment.

(8) The operator shall be responsible for and shall provide that any room or area used for the purpose of viewing adult-oriented motion pictures or other types of live adult entertainment shall be readily accessible at all times and shall be continuously opened to view in its entirety.

(9) No operator, entertainer, or employee of an adult-oriented establishment shall demand or collect all or any portion of a fee for entertainment before its completion.

(10) A sign shall be conspicuously displayed in the common area of the premises, and shall read as follows:

This adult-oriented establishment is regulated by the Town of Monterey Municipal Code.

Entertainers are:

1. Not permitted to engage in any type of sexual conduct;
2. Not permitted to expose their sex organs;
3. Not permitted to demand or collect all or any portion of a fee for entertainment before its completion. (as added by Ord. #454, July 2008)

**9-815. Prohibitions and unlawful sexual acts.** (1) No operator, entertainer, or employee of an adult-oriented establishment shall permit to be performed, offer to perform, perform or allow customers, employees or entertainers to perform sexual intercourse or oral or anal copulation or other contact stimulation of the genitalia.

(2) No operator, entertainer, or employee shall encourage or permit any person upon the premises to touch, caress, or fondle the breasts, buttocks, anus or genitals of any other person.

(3) No operator, entertainer, or employee shall encourage or permit any other person upon the premises to touch, caress, or fondle his or her breasts, buttocks, anus or genitals.

(4) No operator, entertainer, employee, or customer shall be unclothed or in such attire, costume, or clothing so as to expose to view any portion of the sex organs, breasts or buttocks of said operator, entertainer, or employee with the intent to arouse or gratify the sexual desires of the operator, entertainer, employee or customer.

(5) No entertainer, employee or customer shall be permitted to have any physical contact with any other person on the premises during any performance and all performances shall only occur upon a stage at least eighteen (18") inches above the immediate floor level and removed six feet (6') from the nearest entertainer, employee and/or customer. (as added by Ord. #454, July 2008)

**9-816. Penalties and prosecution.** (1) Any person, partnership, corporation, or other business entity who is found to have violated this chapter shall be fined a definite sum not exceeding fifty dollars (\$50.00) for each violation and shall result in the suspension or revocation of any permit or license.

(2) Each violation of this chapter shall be considered a separate offense, and any violation continuing more than one (1) hour of time shall be considered a separate offense for each hour of violation. (as added by Ord. #454, July 2008)

**9-617. Severability.** If a part of this chapter is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of this chapter is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications. (as added by Ord. #454, July 2008)

**9-818. Approval process and appeals.** (1) Adult oriented business may be located in the I-1 Light Industrial District, by Special Exception only, pending review and approval of board of zoning appeals.

ADDITIONAL CONDITIONS: Adult oriented business cannot be located within five hundred feet (500') (property line to property line) of any of the following:

- (a) School, educational or school related facility;
- (b) Church, religious, church-related or church operated facility;
- (c) Public or other recreational facility;
- (d) Hospital, nursing home, elderly care facility or residential care home for aged;
- (e) Licensed day care facility or day care drop-off facility;
- (f) Boundary of a residential zone; and
- (g) Another adult-oriented business establishment.

(2) Adult oriented businesses may be permitted in the I-1 Light Industrial District as a Special Exception (Conditional Use) following a site plan being submitted and approved by the board of zoning appeals and including verification of location restriction, with appropriate conditions and safeguards. (as added by Ord. #454, July 2008)

**9-819. Judicial review of town actions.** All decisions of the town on the revocation, refusal to issue, or nonrenewal of permits shall be reviewable in the Chancery Court of Putnam County, but only as to the existence of whether or not there was substantial evidence upon which the town could base its decision. The permittee shall be prohibited from operating such business after a decision by the town to refuse to issue, revoke, or to not renew a permit until the town's decision is overturned by a court of competent jurisdiction. (as added by Ord. #454, July 2008)



**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.

**10-101. 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 feet (1,000') 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. (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 unnecessarily 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 in at least three (3) public places within the corporate limits. In either case the notice shall state that the impounded animal or fowl must be claimed within five (5) 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 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)

**10-108. Inspections of premises.** For the purpose of making inspections to ensure 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)

## CHAPTER 2

### DOGS

#### SECTION

- 10-201. Rabies vaccination and registration required.
- 10-202. Dogs to wear tags.
- 10-203. Running at large prohibited.
- 10-204. Vicious dogs to be securely restrained.
- 10-205. Noisy dogs prohibited.
- 10-206. Confinement of dogs suspected of being rabid.
- 10-207. Seizure and disposition of dogs.
- 10-208. Restraints while on owner's property.

**10-201. Rabies vaccination and registration required.** It shall be unlawful for any person to own, keep, or harbor any dog without having the same duly vaccinated against rabies and registered in accordance with the provisions of the "Tennessee Anti-Rabies Law" (Tennessee Code Annotated, §§ 68-8-101 to 68-8-114) or other applicable law. (1980 Code, § 3-201)

**10-202. Dogs to wear tags.** It shall be unlawful for any person to own, keep, or harbor any dog which does not wear a tag evidencing the vaccination and registration required by the preceding section. (1980 Code, § 3-202)

**10-203. Running at large prohibited.**<sup>1</sup> It shall be unlawful for any person knowingly to permit any dog owned by him or under his control to run at large within the corporate limits. (1980 Code, § 3-203)

**10-204. 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 to reasonably provide for the protection of other animals and persons. (1980 Code, § 3-204)

**10-205. 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, § 3-205)

**10-206. 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, the health officer or chief of

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<sup>1</sup>State law reference

Tennessee Code Annotated, §§ 68-8-108 and 68-8-109.

police may cause such dog to be confined or isolated for such time as he deems reasonably necessary to determine if such dog is rabid. (1980 Code, § 3-206)

**10-207. 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 five (5) days and redeem his dog by paying a reasonable pound fee, in accordance with a schedule approved by the board of mayor and aldermen, 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 two (2) days. No dog shall be released in any event from the pound unless or until such dog has been vaccinated and had 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 may be summarily destroyed by the health officer or any police officer.<sup>1</sup> (1980 Code, § 3-207)

**10-208. Restraints while on owner's property.** A dog or puppy may be placed on a trolley/pulley system in his/her own yard for a period of time that does not exceed twelve (12) consecutive hours per day. The dog may not be tethered for the twelve (12) hour period to a fixed post unless attended or under observation. The trolley must be at least four feet (4') off the ground and no more than seven feet (7') off the ground, and at least ten feet (10') from support to support. Tethers must have swivel connectors on both ends and allow for freedom of movement. All chains/tethers must be attached to a properly fitting buckle collar or snap collar, or to a harness (choke or pinch collars are prohibited). Chains/tethers must be less than ten percent (10%) of the dog's weight. Any tethering system shall not allow the dog or puppy to leave the owner's property. The animal must have appropriate housing as described below, access to food and water and must be safe from attack by other animals. Only one (1) dog per trolley is allowed. A dog or puppy may only be tethered or chained to a fixed object if the animal is under the observation of its owner. No puppy under the age of six (6) months shall be placed on a trolley/pulley system or tethered. Owners also have the option of providing a fence or pen for dogs that allows a minimum of one hundred (100) square feet of space per dog. All animals must have access to an appropriate shelter while in a fenced-in area or pen. The shelter must be dry and provide protection from inclement weather

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<sup>1</sup>State 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).

and the sun. An appropriate shelter includes a roof or dome, flooring that provides protection from the weather, and allows adequate room for the dog to stand, turn around and lie down. Preference is for the shelter to have a minimum of at least three (3) sides. All animals shall be afforded protection from the weather. For animals enclosed in a pen or fenced-in area, the area for eating and drinking water must be separate from the area for expelling waste. (as added by Ord. #20-838, March 2020 *Ch9\_10-5-20*)

## TITLE 11

### MUNICIPAL OFFENSES<sup>1</sup>

#### CHAPTER

1. ALCOHOL.
2. FORTUNE TELLING, ETC.
3. OFFENSES AGAINST THE PERSON.
4. OFFENSES AGAINST THE PEACE AND QUIET.
5. INTERFERENCE WITH PUBLIC OPERATIONS AND PERSONNEL.
6. FIREARMS, WEAPONS AND MISSILES.
7. TRESPASSING, MALICIOUS MISCHIEF AND INTERFERENCE WITH TRAFFIC.
8. MISCELLANEOUS.

#### CHAPTER 1

#### ALCOHOL<sup>2</sup>

#### SECTION

11-101. Drinking beer, etc., on streets, etc.

**11-101. Drinking beer, etc., on streets, etc.** It shall be unlawful for any person to drink or consume, or have an open can or bottle of beer or intoxicating liquor in or on any public street, alley, avenue, highway, sidewalk, public park, public school ground, or other public place unless the place has an appropriate permit and/or license for on premises consumption. (1980 Code, § 10-226)

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<sup>1</sup>Municipal 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.

<sup>2</sup>Municipal code reference

Sale of alcoholic beverages, including beer: title 8.

State law reference

See Tennessee Code Annotated § 33-8-203 (Arrest for Public Intoxication, cities may not pass separate legislation).

**CHAPTER 2****FORTUNE TELLING, ETC.****SECTION**

11-201. Fortune telling, etc.

**11-201. Fortune telling, etc.** It shall be unlawful for any person to conduct the business of, solicit for, or ply the trade of fortune teller, clairvoyant, hypnotist, spiritualist, palmist, phrenologist, or other mystic endowed with supernatural powers. (1980 Code, § 10-232, modified)

**CHAPTER 3**

**OFFENSES AGAINST THE PERSON**

**SECTION**

11-301. Assault and battery.

**11-301. 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)



## CHAPTER 4

### OFFENSES AGAINST THE PEACE AND QUIET

#### SECTION

11-401. Disturbing the peace.

11-402. Anti-noise regulations.

**11-401. 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)

**11-402. 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 that annoys or disturbs the peace and quiet of the neighborhood.

(1) Miscellaneous prohibited noises enumerated. The following acts, among others, are declared to be loud, disturbing, and unnecessary noises in violation of this section, but this enumeration shall not be deemed to be exclusive, namely:

(a) Blowing horns. The sounding of any horn or other device on any automobile, motorcycle, bus, streetcar, or vehicle while not in motion except as a danger signal if another vehicle is approaching, apparently out of control, or if in motion, only as a danger signal after or as brakes are being applied and deceleration of the vehicle is intended; the creation by means of any such signal device of any unreasonably loud or harsh sound; and the sounding of such device for an unnecessary and unreasonable period of time.

(b) Radios, phonographs, etc. The playing of any radio, phonograph, or any musical instrument or sound device, including but not limited to loudspeakers or other devices for reproduction or amplification of sound, either independently of or in connection with motion pictures, radio, or television, in such a manner or with such volume, 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, 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. i. The use of any automobiles, semi-truck, four-wheeler, go-cart, motorcycle, street car, or vehicles in such a manner as to cause loud and unnecessary noise.

ii. Gearing down of vehicles to decelerate, engine braking or jake braking, instead of using brakes.

iii. Automobiles idling for more than five (5) minutes.

iv. The use of any vehicle by acceleration or unnecessary braking or creating unnecessary noise otherwise known as squalling tires.

(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.

(i) Noises near schools, hospitals, churches, etc. The creation of any excessive noise on any street adjacent to any hospital or adjacent to any school, institution of learning, church, or court while the same is in session.

(j) Loading and unloading operations. The creation of any loud and excessive noise in connection with the loading or unloading of any vehicle or the opening and destruction of bales, boxes, crates, and other containers.

(k) Noises to attract attention. The use of any drum, loudspeaker, or other instrument or device emitting noise for the purpose of attracting attention to any performance, show, or sale or display of merchandise.

(l) Loudspeakers or amplifiers on vehicles. The use of mechanical loudspeakers or amplifiers on trucks or other moving or standing vehicles for advertising or other purposes.

(m) Fireworks prohibited. Firing of any type of fireworks inside the corporate limits is prohibited except five days before the 4<sup>th</sup> of July and five days after the 4<sup>th</sup> of July between the hours of 7:00 A.M. and 10:00 p.m.

(2) Exceptions. None of the terms or prohibitions hereof shall apply to or be enforced against:

(a) Municipal vehicles. Any vehicle of the town 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 town, 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 recorder. 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, § 10-231, as amended by Ord. #390, July 2001)

## CHAPTER 5

### INTERFERENCE WITH PUBLIC OPERATIONS AND PERSONNEL

#### SECTION

11-501. Escape from custody or confinement.

11-502. Impersonating a government officer or employee.

11-503. False emergency alarms.

11-504. Resisting or interfering with an officer.

11-505. Coercing people not to work.

**11-501. Escape from custody or confinement.** It shall be unlawful for any person under arrest or otherwise in custody of or confined by the town 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)

**11-502. Impersonating a government officer or employee.** No person other than an official police officer of the town 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 town. Furthermore, no person shall deceitfully impersonate or represent that he is any government officer or employee. (1980 Code, § 10-211)

**11-503. 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 act. (1980 Code, § 10-217)

**11-504. Resisting or interfering with an officer.** 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 town while such officer or employee is performing or attempting to perform his municipal duties. (1980 Code, § 10-210)

**11-505. Coercing people not to work.** It shall be unlawful for any person in association or agreement with any other person to assemble, 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 is expressly not the purpose of this section to prohibit peaceful picketing. (1980 Code, § 10-228)

**CHAPTER 6****FIREARMS, WEAPONS AND MISSILES****SECTION**

11-601. Air rifles, etc.

11-602. Throwing missiles.

11-603. Discharge of firearms.

**11-601. Air rifles, etc.** It shall be unlawful for any person in the town 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. (1980 Code, § 10-213)

**11-602. Throwing missiles.** It shall be unlawful for any person maliciously to throw any stone, snowball, bottle, or any other missile upon or at any vehicle, building, tree, or other public or private property or upon or at any person. (1980 Code, § 10-214)

**11-603. Discharge of firearms.** It shall be unlawful for any unauthorized person to discharge a firearm within the corporate limits. (1980 Code, § 10-212, modified)

## CHAPTER 7

### TRESPASSING, MALICIOUS MISCHIEF AND INTERFERENCE WITH TRAFFIC

#### SECTION

- 11-701. Trespassing.
- 11-702. Trespassing on trains.
- 11-703. Malicious mischief.
- 11-704. Interference with traffic.

**11-701. 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 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, § 10-233)

**11-702. 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 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)

**11-703. 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, § 10-224)

**11-704. 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, § 10-230)

## CHAPTER 8

### MISCELLANEOUS

#### SECTION

11-801. Abandoned refrigerators, etc.

11-802. Caves, wells, cisterns, etc.

11-803. Posting notices, etc.

11-804. Curfew for minors.

11-805. Wearing masks.

**11-801. 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, § 10-222)

**11-802. 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, § 10-229)

**11-803. Posting notices, etc.** No person shall or fasten, in any way, any show-card, poster, or other advertising device upon any public or private property unless legally authorized to do so. (1980 Code, § 10-225)

**11-804. Curfew for minors.** It shall be unlawful for any minor, under the age of eighteen (18) years, to be abroad at night between the hours of 11:00 P.M. and 5:00 A.M. unless or upon a legitimate errand for, or accompanied by, a parent, guardian, or other adult person having lawful custody of such minor. (1980 Code, § 10-223)

**11-805. 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 recorder to wear a traditional holiday costume. (1980 Code, § 10-234)

## TITLE 12

### BUILDING, UTILITY, ETC. CODES<sup>1</sup>

#### CHAPTER

1. BUILDING CODE.
2. PLUMBING CODE.
3. ELECTRICAL CODE.
4. GAS CODE.
5. PROPERTY MAINTENANCE CODE.
6. ENERGY CODE.
7. PROPERTY MAINTENANCE CODE.
8. BOARDS OF ADJUSTMENTS AND APPEALS.

#### CHAPTER 1

### BUILDING CODE<sup>2</sup>

#### SECTION

- 12-101. Building code adopted.  
12-102. Modifications.

**12-101. Building code adopted.** That a certain document, one (1) copy of which is on file in the office of the City Clerk of Monterey, being marked and designated as the International Building Code, 2006 edition, including Appendix Chapters A-J as published by the International Code Council, be and is hereby adopted as the building code of the Town of Monterey, in the State of Tennessee for regulating and governing the conditions and maintenance of all property, buildings and structures; by providing the standards for supplied utilities and facilities and other physical things and conditions essential to ensure that structures are safe, sanitary and fit for occupation and use; and the condemnation of buildings and structures unfit for human occupancy and use and the demolition of such structures as herein provided; providing for the issuance of permits and collection of fees therefore; and each and all of the regulations, provisions, penalties, conditions and terms of said building code on

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<sup>1</sup>Municipal code reference:

Light, ventilation, space and plumbing facilities ordinance: title 13, ch. 5.

<sup>2</sup>Municipal code reference:

Building permit required: § 14-903.

Chart of building valuations and fees: § 14-902(3).



file in the office of the Town of Monterey are hereby referred to, adopted, and made a part hereof, as if fully set out in this chapter, with the additions, insertions, deletions and changes, if any, prescribed in § 12-102 of this chapter. (Deleted by Ord. #339, Feb. 1995; added by Ord. #405, Nov. 2002, replaced by Ord. #429, Sept. 2005, and amended by Ord. #10-486, Jan. 2011)

**12-102. Modifications.** The following sections are hereby revised:

Section 101.1. Insert: Town of Monterey.

Section 1612.3. Insert: Town of Monterey.

Section 1612.3. Insert: Date of Issuance \_\_\_\_\_.

Section 3410.2. Insert: Date in one Location \_\_\_\_\_.

(as added by Ord. #429, Sept. 2005)

## CHAPTER 2

### PLUMBING CODE<sup>1</sup>

#### SECTION

- 12-201. Plumbing code adopted.
- 12-202. Modifications.
- 12-203. Available in recorder's office.
- 12-204. Violations.

**12-201. Plumbing code adopted.** Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506 and for the purpose of regulating plumbing installations, including alterations, repairs, equipment, appliances, fixtures, fittings, and the appurtenances thereto, within or without the town, when such plumbing is or is to be connected with the municipal water or sewerage system, the International Plumbing Code,<sup>2</sup> 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, modified, as amended by Ord. #10-484, Jan. 2011)

**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 to administer and enforce the provisions of the plumbing code. Section 107 of the plumbing code is hereby deleted.

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<sup>1</sup>Municipal code references

Cross connections: title 18.

Street excavations: title 16.

Wastewater treatment: title 18.

Water and sewer system administration: title 18.

<sup>2</sup>Copies of this code (and any amendments) may be purchased from the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213.

The schedule of recommended permit fees as set forth in "Appendix H" is amended so the fees to be charged shall be exactly half those recommended.<sup>1</sup> (1980 Code, § 4-202)

**12-203. Available in recorder'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 recorder's office and shall be kept there for the use and inspection of the public. (1980 Code, § 4-203, modified)

**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)

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<sup>1</sup>The language contained in this section refers to the Standard Plumbing Code, 1994 edition, which was replaced by Ord. #10-484, Jan. 2011)

## CHAPTER 3

### ELECTRICAL CODE<sup>1</sup>

#### SECTION

- 12-301. Electrical code adopted.
- 12-302. Available in recorder's office.
- 12-303. Permit required for doing electrical work.
- 12-304. Violations.
- 12-305. Enforcement.
- 12-306. Fees.

**12-301. Electrical code adopted.** Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506 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,<sup>2</sup> 1993 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, modified)

**12-302. Available in recorder'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 recorder's office and shall be kept there for the use and inspection of the public. (1980 Code, § 4-302, modified)

**12-303. Permit required for doing electrical work.** No electrical work shall be done within the Town of Monterey until a permit therefor has been issued by the electrical inspector. 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. (1980 Code, § 4-303)

**12-304. 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

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<sup>1</sup>Municipal code references

Fire protection, fireworks and explosives: title 7.

<sup>2</sup>Copies of this code may be purchased from the National Fire Protection Association, 1 Batterymarch Park, Quincy, Massachusetts 02269-9101.

such circumstances as not to comply with this chapter and/or the requirements and standards prescribed by the electrical code. (1980 Code, § 4-304)

**12-305. Enforcement.** The electrical inspector shall be such person as the board of mayor and aldermen shall appoint or designate. It shall be his duty to enforce compliance with this chapter and the electrical code as herein adopted by reference. He is authorized and directed to make such inspections of electrical equipment and wiring, etc., as are necessary to insure compliance with the applicable regulations, and may enter any premises or building at any reasonable time for the purpose of discharging his duties. He is authorized to refuse or discontinue electrical service to any person or place not complying with this chapter and/or the electrical code. (1980 Code, § 4-305)

**12-306. Fees.** The electrical inspector shall collect the same fees as are authorized in Tennessee Code Annotated, § 68-102-143 for electrical inspections by deputy inspectors of the state fire marshal. (1980 Code, § 4-306)

## CHAPTER 4

### GAS CODE<sup>1</sup>

#### 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. Nonliability.

**12-401. Title and definitions.** This chapter and the code herein adopted by reference shall be known as the gas code of the Town of Monterey 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

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<sup>1</sup>Municipal code reference

Gas system administration: 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 Standard Gas Code,<sup>1</sup> 1994 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 city recorder for the use and inspection of the public. (1980 Code, § 4-402, modified)

**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 city recorder a good and sufficient bond in the penal sum of one thousand dollars (\$1,000.00) 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 city recorder, 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 city recorder a nontransferable license which shall run until the first day of January next succeeding its issuance, unless sooner revoked. The person obtaining a license shall pay an annual license fee of twelve dollars and fifty cents (\$12.50) to the recorder; provided, however, any license obtained after the 1st day of July of any year shall be computed at the rate of one-half (1/2) of the annual fee.

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

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<sup>1</sup>Copies of this code (and any amendments) may be purchased from the Southern Building Code Congress International, Inc., 900 Montclair Road, Birmingham, Alabama 35213.

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)

**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 of 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 city recorder; 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 inspector 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. 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)

**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 twelve (12) inches in height, and the piping shall hold this air pressure for a period of at least fifteen (15) 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 \$1.50 for one to four outlets, inclusive, and \$0.50 for each outlet above four.

2. The fees for inspecting conversion burners, floor furnaces, boilers, or central heating plants shall be \$1.50 for each unit.

3. The fees for inspecting vented recessed heaters and water heaters shall be \$1.00 for each unit.

4. If the inspector is called back, after correction of defects noted, an additional fee of \$1.00 shall be made for each such return inspection.

5. Any and all fees shall be paid by the person to whom the permit is issued. (1980 Code, § 4-410)

**12-411. Violations and penalties.** Section 107 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. Nonliability.** This chapter shall not be construed as imposing upon the Town of Monterey 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 town, 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

### PROPERTY MAINTENANCE CODE

#### SECTION

- 12-501. Property maintenance code adopted.
- 12-502. Modifications.
- 12-503. Available in recorder's office.
- 12-504. Violations.

**12-501. Property maintenance code adopted.** Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506, and for the purpose of securing the public safety, health, and general welfare through structural strength, stability, sanitation, adequate light, and ventilation in dwellings, apartment houses, rooming houses, and buildings, structures, or premises used as such, the International Property Maintenance Code,<sup>1</sup> 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 property maintenance code. (1980 Code, § 4-501, modified, as amended by Ord. #10-484, Jan. 2011)

**12-502. Modifications.** Wherever the property maintenance code refers to the "Building Official" it shall mean the person appointed or designated by the governing body to administer and enforce the provisions of the property maintenance 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. Section 108 of the housing code is deleted.<sup>2</sup> (1980 Code, § 4-502)

**12-503. Available in recorder's office.** Pursuant to the requirements of Tennessee Code Annotated, § 6-54-502, one (1) copy of the property maintenance code has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public. (1980 Code, § 4-503, modified)

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

<sup>2</sup>The language contained in this sentence refers to the Standard Housing Code, which was replaced by Ord. #10-484, Jan. 2011.

**12-504. Violations.** It shall be unlawful for any person to violate or fail to comply with any provision of the property maintenance code as herein adopted by reference and modified. (1980 Code, § 4-504, modified)

## CHAPTER 6

### ENERGY CONSERVATION CODE<sup>1</sup>

#### SECTION

- 12-601. Energy conservation code adopted.
- 12-602. Modifications.
- 12-603. Available in recorder's office.
- 12-604. Violations and penalty.

**12-601. Energy conservation code adopted.** Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506, and for the purpose of regulating the design of buildings for adequate thermal resistance and low air leakage and the design and selection of mechanical, electrical, water-heating and illumination systems and equipment which will enable the effective use of energy in new building construction, the International Energy Conservation Code,<sup>2</sup> 2006 edition, as prepared and maintained by International Code Council, is hereby adopted and incorporated by reference as a part of this code, and is hereinafter referred to as the energy conservation code. (as amended by Ord. # 10-484, Jan. 2011)

**12-602. Modifications.** Whenever the energy conservation code refers to the "responsible government agency," it shall be deemed to be a reference to the Town of Monterey. When the "building official" is named it shall, for the purposes of the energy conservation code, mean such person as the board of mayor and aldermen shall have appointed or designated to administer and enforce the provisions of the energy conservation code.

**12-603. Available in recorder's office.** Pursuant to the requirements of the Tennessee Code Annotated, § 6-54-502, one (1) copy of the energy

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<sup>1</sup>State law reference

Tennessee Code Annotated, § 13-19-106 requires Tennessee cities either to adopt the Model Energy Code, 1992 edition, or to adopt local standards equal to or stricter than the standards in the energy code.

Municipal code references

Fire protection, fireworks, and explosives: title 7.

Planning and zoning: title 14.

Streets and other public ways and places: title 16.

Utilities and services: titles 18 and 19.

<sup>2</sup>Copies of this code (and any amendments) may be purchased from the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213.

conservation code has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public.

**12-604. Violations and penalty.** It shall be a civil offense for any person to violate or fail to comply with any provision of the energy conservation code as herein adopted by reference and modified. The violation of any section of this chapter shall be punishable by a penalty of up to five hundred dollars (\$500) for each offense. Each day a violation is allowed to continue shall constitute a separate offense.

## CHAPTER 7

### PROPERTY MAINTENANCE CODE

#### SECTION

12-701. Adoption of property maintenance code.

12-702. Modifications.

12-703. Penalty clause.

**12-701. Adoption of property maintenance code.** That a certain document, one copy of which is on file in the office of the city recorder of the Town of Monterey, being marked and designated as the International Property Maintenance Code, 2006 edition, as published by the International Code Council, be and is hereby adopted as the property maintenance code of the Town of Monterey, in the State of Tennessee; for the control of buildings and structures as herein provided; and each and all of the regulations, provisions, penalties, conditions and terms of said property maintenance code are hereby referred to, adopted, and made a part thereof, as if fully set out in this chapter, with the additions, insertions, deletions and changes, if any, prescribed in § 12-702 of this chapter. (as added by Ord. #428, Sept. 2005, and amended by Ord. #10-484, Jan. 2011)

**12-702. Modifications.** The following sections are hereby revised:

Section 101.1. Insert: Town of Monterey.

Section 103.6. Insert: Town of Monterey Schedule of Fees.

Section 303.14. Insert: March 15 to October 15.

Section 602.3. Insert: September 15 to April 15.

Section 602.4. Insert: September 15 to April 15.

(as added by Ord. #428, Sept. 2005)

**12-703. Penalty clause.** Any person who shall violate a provision of the building and property maintenance codes of the city, or fail to comply therewith, or with any of the requirements thereof, shall be prosecuted within the limits provided by state or local laws. Such fines shall be a \$50.00 per day penal fine or/and a \$500 remedial fine for each violation, and shall hereafter be cited as the Town of Monterey general penalty clause. Each day that a violation continues after due notice has been served shall be deemed a separate offense. (as added by Ord. #428, Sept. 2005)

## CHAPTER 8

### BOARDS OF ADJUSTMENTS AND APPEALS

#### SECTION

- 12-801. Definitions.
- 12-802. New construction and property maintenance boards.
- 12-803. Means of appeal-board of adjustments and appeals for new construction.
- 12-804. Means of appeal-board of adjustments and appeals for property maintenance.
- 12-805. Appeal board designations.
- 12-806. Modifications to codes adopted by reference.
- 12-807. Amendments to codes.
- 12-808. Town attorney.
- 12-809. Penalties.
- 12-810. Procedure for notification.
- 12-811. Method of service.
- 12-812. Clean-up or abatement at property owner's expense.
- 12-813. Abatement cost recovery.
- 12-814. Lien for expenses.
- 12-815. Transfer of ownership.
- 12-816. Powers conferred are supplemental.
- 12-817. Supplemental nature of this chapter.

**12-801. Definitions.** 1. Terms defined in other codes. Where terms are not defined in one municipal code, but are defined in other municipal codes, such terms shall have the meanings ascribed to them as in those codes.

2. Terms not defined. Where terms are not defined through the methods authorized by the codes, such terms shall have ordinarily accepted meanings such as the context implies.

3. Parts. Whenever the words "dwelling unit," "dwelling," "premises," "buildings," "rooming house," "rooming unit" or "story" are stated in this code, they shall be construed as though they were followed by the words "or any part thereof."

4. Code official. Shall mean building inspector, code officer, code official, building official, enforcement officer, or any officer designated by the city administrator to enforce the municipal codes and standards. (as added by Ord. #430, Nov. 2005)

**12-802. New construction and property maintenance boards.** There is hereby created the following appeals boards:

1. Town of Monterey Board of Adjustments and Appeals for New Construction. a. The board shall consist of a minimum of three members who



are qualified by experience and training to pass on matters pertaining to building construction, maintenance and safety who are not employees of the city. The code official shall be an ex-officio member but shall have no vote on any matter before the board. The board shall be appointed by the city council, and shall serve staggered and overlapping terms.

b. The board of adjustments and appeals for new construction shall annually select one of its members to serve as chairman.

c. A member shall not hear an appeal in which that member has a personal, professional or financial interest.

d. The mayor shall designate a qualified person to serve as secretary to the board. The secretary shall file a detailed record of all proceedings in the office of the city administrator.

e. Compensation of members shall be determined by law.

2. The Town of Monterey Board of Adjustments and Appeals for Property Maintenance. The board of mayor and alderman shall appoint a three member board of adjustments and appeals for property maintenance.

a. The board shall consist of a minimum of three members who are qualified by experience and training to pass on matters pertaining to property maintenance and who are not employees of the town. The code official shall be an ex-officio member but shall have no vote on any matter before the board. The board shall be appointed by the city council and shall serve staggered and overlapping terms.

b. The board of adjustments and appeals for property maintenance shall annually select one of its members to serve as chairman.

c. A member shall not hear an appeal in which that member has a personal, professional or financial interest.

d. The mayor shall designate a qualified person to serve as secretary to the board. The secretary shall file a detailed record of all proceedings in the office of the city administrator.

e. Compensation of members shall be determined by law. (as added by Ord. #430, Nov. 2005)

**12-803. Means of appeal-board of adjustments and appeals for new construction.** 1. Application for appeal. Any person directly affected by a decision of the code official or a notice or order issued under the city building codes shall have the right to appeal to the board of adjustments and appeals for new construction, provided that a written application for appeal is filed within 20 days after the day the decision, notice or order was served. An application for appeal shall be based on a claim that the true intent of the code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this code do not fully apply, or the requirements of the code are adequately

satisfied by other means, or that the strict application of any requirement of the code would cause an undue hardship.

2. Notice of meeting. The board shall meet upon notice from the chairman, within 20 days of the filing of an appeal, or at stated periodic meetings.

3. Open hearing. All hearings before the board shall be open to the public. The appellant, the appellant's representative, the code official and any person whose interests are affected shall be given an opportunity to be heard. A quorum shall consist of not less than two-thirds of the board membership.

4. Procedure. The board shall adopt and make available to the public through the secretary procedures under which a hearing will be conducted. The procedures shall not require compliance with strict rules of evidence, but shall mandate that only relevant information be received.

5. Board decision. The board shall modify or reverse the decision of the code official only by a concurring vote of a majority of the total number of appointed board members.

6. Records and copies. The decision of the board shall be recorded. Copies shall be furnished to the appellant and to the code official.

7. Administration. The code official shall take immediate action in accordance with the decision of the board.

8. Court review. Any person, whether or not a previous party of the appeal, shall have the right to apply to the appropriate court for a writ of certiorari to correct errors of law. Application for review shall be made in the manner and time required by law following the filing of the decision in the office of the city administrator.

9. Stays of enforcement. Appeals of notice and orders (other than imminent danger notices) shall stay the enforcement of the notice and order until the appeal is heard by the appeals board. (as added by Ord. #430, Nov. 2005)

**12-804. Means of appeal-board of adjustments and appeals for property maintenance.** 1. Application for appeal. Any person directly affected by a decision of the code official or a notice or order issued under the city property maintenance codes shall have the right to appeal to the board of adjustments and appeals for property maintenance, provided that a written application for appeal is filed within 20 days (5 days for weeds and grass) after the day the decision, notice or order was served. An application for appeal shall be based on a claim that the true intent of the code or the rules legally adopted therein have been incorrectly interpreted, the provisions of this code do not fully apply, or the requirements of the code are adequately satisfied by other means, or that the strict application of any requirement of the code would cause an undue hardship.

2. Notice of meeting. The board shall meet upon notice from the chairman, within 20 days of the filing of an appeal, or at stated periodic meetings.

3. Open hearing. All hearings before the board shall be open to the public. The appellant, the appellant's representative, the code official and any person whose interests are affected shall be given an opportunity to be heard. A quorum shall consist of not less than two-thirds of the board membership.

4. Procedure. The board shall adopt and make available to the public through the secretary procedures under which a hearing will be conducted. The procedures shall not require compliance with strict rules of evidence, but shall mandate that only relevant information be received.

5. Board decision. The board shall modify or reverse the decision of the code official only by a concurring vote of a majority of the total number of appointed board members.

6. Records and copies. The decision of the board shall be recorded. Copies shall be furnished to the appellant and to the code official.

7. Administration. The code official shall take immediate action in accordance with the decision of the board.

8. Court review. Any person, whether or not a previous party of the appeal, shall have the right to apply to the appropriate court for a writ of certiorari to correct errors of law. Application for review shall be made in the manner and time required by law following the filing of the decision in the office of the city administrator.

9. Stays of enforcement. Appeals of notice and orders (other than imminent danger notices) shall stay the enforcement of the notice and order until the appeal is heard by the appeal board. (as added by Ord. #430, Nov. 2005)

**12-805. Appeal board designations.**<sup>1</sup> 1. The board of adjustments and appeals for new construction is hereby designated as the board of adjustments and appeals for the following codes:

- a. International Building Code, 2003 edition
- b. International Residential Code, 2003 edition
- c. International Plumbing Code, 2003 edition
- d. International Fuel Gas Code, 2003 edition
- e. International Mechanical Code, 2003 edition
- f. International Fire Code, 2003 edition
- g. International Electric Code, 2003 edition

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<sup>1</sup>Ord. #10-484 repealed several codes listed in this section below and adopted later editions of the same codes. See §§ 12-101, 12-201, 12-501, 12-601 and 12-701.

2. The board of adjustments and appeals for property maintenance is hereby designated as the board of adjustments and appeals for the following codes:

- a. International Property Maintenance Code, 2003 edition.
- b. Title 13-Property Maintenance Regulations: Chapter 1, Miscellaneous regulations; Chapter 2, Junkyards. (as added by Ord. #430, Nov. 2005)

**12-806. Modifications to codes adopted by reference.**<sup>1</sup> The following provisions from codes adopted by reference are amended as follows:

1. International Building Code, 2003 edition. Delete Section 112 Board of Appeals in its entirety (112.1 through 112.3). Insert § 12-803, "There is hereby created the following appeal board" of this chapter.

2. International Gas Code, 2003 edition. Delete Section 109 Means of Appeal in its entirety (109.1 through 109.7). Insert § 12-803, "There is hereby created the following appeal board" of this chapter.

3. International Plumbing Code, 2003 edition. Delete Section 109 Means of Appeal in its entirety (109.1 through 109.7). Insert § 12-803, "There is hereby created the following appeal board" of this chapter.

4. International Fire Code, 2003 edition. Delete Section 108 Board of Appeals in its entirety (108.1 through 108.3). Insert § 12-803, "There is hereby created the following appeal board" of this chapter.

5. International Mechanical Code, 2003 edition. Delete Section 109 Means of Appeal in its entirety (109.1 through 109.7). Insert § 12-803, "There is hereby created the following appeal board" of this chapter.

6. International Residential Code, 2003 edition. Delete Section R112 Board of Appeal in its entirety (R112.1 through R112.4). Insert § 12-803, "There is hereby created the following appeal board" of this chapter.

7. International Electric Code, 2003 edition. Delete Section 1101 Means of Appeal in its entirety (1101, 1102, 1103). Insert § 12-803, "There is hereby created the following appeal board" of this chapter.

8. International Property Maintenance, 2003 edition. Delete Section 111 Means of Appeal in its entirety (111 - 111.8). Insert § 12-804, "There is hereby created the following appeal board" of this chapter. (as added by Ord. #430, Nov. 2005)

**12-807. Amendments to codes.** Code amendments recommended by the respective code associations shall be incorporated by reference as provided in the codes. The building official may adopt administrative regulations that incorporate by reference such subsequent changes and amendments thereof,

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<sup>1</sup>Ord. #10-484 changed certain codes contained in title 12. See §§ 12-101, 12-201, 12-501, 12-601 and 12-701.

properly identified as to date and source, as may be adopted by the agency or association which promulgated the code. Such amendment shall become effective upon the expiration of ninety (90) calendar days or after the second official meeting of the municipal governing body following the publication of the regulations, whichever is later, unless within that period of time a resolution disapproving such administrative regulations has been adopted by the municipal governing body. (as added by Ord. #430, Nov. 2005)

**12-808. Town attorney.** The recorder is authorized to employ the town attorney to assist the code official (building inspector, fire inspector, code enforcer, etc.) in the enforcement of notices and orders of the appeals boards and the building official. The city attorney may prosecute all persons failing to comply with the terms of the notices and orders as provided for in various building and property maintenance codes adopted by the city. The recorder may direct that the city attorney appear at hearings to assist the code official. The city attorney shall bring suit to collect all municipal liens, assessments, or costs incurred by the city in repairing or causing to be vacated or demolished as directed by the city building official. He shall take such other legal action as is necessary to carry out the terms and provisions of the building and property maintenance codes. (as added by Ord. #430, Nov. 2005)

**12-809. Penalties.** Any person who shall violate a provision of the building and property maintenance codes of the city, or fail to comply therewith, or with any of the requirements thereof, shall be prosecuted within the limits provided by state or local laws. Such fines shall be \$50.00 per day penal fines and \$500 in remedial fines for each violation, and shall hereafter be cited as the Town of Monterey general penalty clause. Each day that a violation continues after due notice has been served shall be deemed a separate offense. (as added by Ord. #430, Nov. 2005)

**12-810. Procedure for notification.** The following procedure shall be used for notifications of violations, notices, and orders of the building official or code official:

1. **Grass, weeds, trash, brush.** It shall be unlawful for any person to fail to comply with an order by the code official to cut weeds and grass within five (5) days when it has reached a height of over ten (10) inches.

a. **Notice to owner or to person or persons responsible.** Whenever the code official determines that there has been or has grounds to believe a violation has occurred, notice shall be given to the owner or the person or persons responsible therefore in the manner prescribed herein.

b. **Failure to comply.** If the property owner of record fails or refuses to mow the grass or weeds as directed within five (5) days after receiving the notice, the code officer shall immediately cause the

condition to be remedied and the cost thereof shall be assessed against the owner of the property. A 10% charge will be added to cover administrative expenses. Upon the filing of the notice with the office of the register of deeds in Putnam County, the costs shall be a lien on the property in favor of the city, second only to liens of the state, county, and municipality for taxes, any lien of the city for special assessments, and any valid lien, right, or interest in such property duly recorded or duly perfected by filing, prior to the filing of such notice. These costs shall be placed on the tax rolls of the municipality as a lien and shall be added to property tax bills to be collected at the same time and in the same manner as property taxes are collected. If the owner fails to pay the costs, they may be collected at the same time and in the same manner as delinquent property taxes are collected and shall be subject to the same penalty and interest as delinquent property taxes.

c. Form of notice. Such notice shall be in accordance with all of the following:

- i. Be in writing.
- ii. Include a description of the real estate sufficient for identification.
- iii. Include a statement of the violation or violations and why the notice is being issued.
- iv. Include a correction order allowing five (5) days time to bring property to municipal standards.
- v. Inform the property owner of the right to appeal.

2. Junked vehicles on private property. It shall be unlawful for any person to fail to comply with an order by the code official to remove junked and disabled vehicles within five (5) days from the date the notice is received.

a. Notice to owner or to person or persons responsible. Whenever the code official determines that there has been or has grounds to believe a violation has occurred, notice shall be given to the owner or the person or persons responsible therefore in the manner prescribed herein.

b. Failure to comply. If the property owner of record fails or refuses to remove the junked or disabled vehicles within the time stated in the notice, the code officer shall issue a citation for the accused violator to appear in city court to answer the charges.

c. Form of notice. Such notice shall be in accordance with all of the following:

- i. Be in writing.
- ii. Include a description of the real estate sufficient for identification.
- iii. Include a statement of the violation or violations and why the notice is being issued.

iv. Include a correction order allowing five (5) days time to remove the junked or disabled vehicle.

v. Inform the property owner of the right to appeal.

In the event that a ruling does not appear to be in the city's best interest, the city recorder, at her discretion, may direct that an appeal be filed by the city attorney.

3. Building maintenance and structures. a. Whenever a petition is filed with the public officer by a public authority or by at least five (5) residents of the city charging that any structure is unfit for human occupancy or use, or whenever it appears to the public officer (on his own motion) that any structure is unfit for human occupation or use, the public officer shall, if his preliminary investigation discloses a basis for such charges, issue and cause to be served upon the owner of, and parties in interest of, such structure a complaint stating the charges in that respect and containing a notice that a hearing will be held before the public officer at a place therein fixed, not less than ten (10) days nor more than thirty (30) days after the service of the complaint; and the owner and parties in interest shall have the right to file an answer to the complaint and to appear in person, or otherwise, and give testimony at the time and place fixed in the complaint; and the rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the public officer.

b. If, after such notice and hearing as provided for in the preceding section, the public officer determines that the structure under consideration is unfit for human occupancy or use, he shall state in writing his finding of fact in support of such determination and shall issue and cause to be served upon the owner thereof an order:

i. If the repair, alteration or improvement of the structure can be made at a reasonable cost in relation to the value of the structure (not exceeding fifty percent (50%) of the reasonable value), requiring the owner, during the time specified in the order, to repair, alter, or improve such structure to render it fit for human occupancy or use or to vacate and close the structure for human occupancy or use; or

ii. If the repair, alteration or improvement of said structure cannot be made at a reasonable cost in relation to the value of the structure (not to exceed fifty percent (50%) of the value of the premises, requiring the owner within the time specified in the order, to remove or demolish such structure.

c. When the estimated cost of repair exceeds fifty percent (50%) in the judgment of the code officer, and the owner insists on making repairs and improvements instead of demolition, he shall submit plans and specifications by a licensed architect or engineer for review and

approval of the building official. The building official may issue a permit and allow the repairs in compliance with city standards.

d. If the owner fails to repair, alter, improve or to vacate and close the structure as specified in the preceding sections hereof, the public officer may cause such structure to be vacated and closed; and the public officer shall 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 occupancy or use; the use or occupation of this building for human occupancy or use is prohibited and unlawful." The public officer may issue a citation for the owner to appear before the city court to answer the complaint.

e. If the owner fails to comply with an order, as specified above, to remove or demolish the structure, the public officer may cause such structure to be removed and demolished. The public officer shall immediately file a lien for the recovery of costs or the city attorney may be directed by the city administrator to initiate legal proceedings for the recovery of cost.

f. Lien for expenses. The amount of the cost of such repairs, alterations or improvements, or vacating and closing, or removal or demolition by the public officer shall, upon the filing of the notice with the office of the register of deeds of Putnam County, be a lien on the property in favor of the municipality, second only to liens of the state, county and municipality for taxes, any lien of the municipality for special assessments, and any valid lien, right, or interest in such property duly recorded or duly perfected by filing, prior to the filing of such notice. These costs shall be placed upon the tax rolls of the Town of Monterey as a lien and shall be added to property tax bills to be collected at the same time and in the same manner as property taxes are collected. If the owner fails to pay the costs, they may be collected at the same time and in the same manner as delinquent property taxes are collected and shall be subject to the same penalty and interest as delinquent property taxes. Nothing in this section shall be construed to impair or limit in any way the power of the Town of Monterey to define and declare nuisances and to cause their removal or abatement, by summary proceedings or otherwise. (as added by Ord. #430, Nov. 2005)

**12-811. Method of service.** Notices shall be deemed to be properly served if a copy thereof is:

1. Delivered personally;
2. Sent by certified or first-class mail addressed to the last known address; or
3. If the notice is returned showing that the letter was not delivered, a copy thereof shall be posted in a conspicuous place in or about the structure affected by such notice.



4. Whenever the code official has condemned a structure or equipment under the provisions of the codes, notice shall in addition to the above outlined procedure, also be posted in a conspicuous place in or about the structure affected by such notice and served on the owner or the person or persons responsible for the structure or equipment.

If the whereabouts of such person or persons is unknown and the same cannot be ascertained by the public officer in the exercise of reasonable diligence, the public officer shall make an affidavit to that effect. Then the serving of such complaint or order upon such persons may be made by publishing the same once each week for two (2) consecutive weeks in a newspaper printed and published in the city. In addition, 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 record in the Register's Office of Putnam County, Tennessee, and such shall have the same force and effect as other lis pendens notices provided by law. (as added by Ord. #430, Nov. 2005)

**12-812. Clean-up or abatement at property owner's expense.** If the property owner of record fails or refuses to remedy the condition within ten (10) days after receiving the notice (twenty (20) days if the owner is a carrier engaged in the transportation of property or is a utility transmitting communications, electricity, gas, liquids, steam, sewage, or other materials), the code official shall immediately cause the condition to be remedied or removed at a cost in conformity with reasonable standards, and the cost thereof shall be assessed against the owner of the property. A 10% charge will be added to cover administrative expenses. (as added by Ord. #430, Nov. 2005)

**12-813. Abatement cost recovery.** Whenever an abatement is performed at the expense of the city, a statement shall be mailed to the registered owners outlining the cost of remediation and such cost shall be due and payable within thirty days. The city may at its discretion cause a lien to be placed upon the property at the same time of billing. A copy of the statement shall be provided to the city recorder and such shall be recorded as an account receivable on the books of the city. All payments shall be directed to the city recorder for proper entry. The city recorder may direct the city attorney to take legal action to recover costs. (as added by Ord. #430, Nov. 2005)

**12-814. Lien for expenses.** The amount of the cost of repairs, alterations or improvements, or vacating and closing, or removal or demolition by the public officer shall, upon the filing of the notice with the office of the register of deeds of Putnam County, be a lien on the property in favor of the municipality, second only to liens of the state, county and municipality for taxes, any lien of the municipality for special assessments, and any valid lien, right, or interest in such property duly recorded or duly perfected by filing, prior to the filing of such notice. These costs shall be placed upon the tax rolls of the Town

of Monterey as a lien and shall be added to property tax bills to be collected at the same time and in the same manner as property taxes are collected. If the owner fails to pay the costs, they may be collected at the same time and in the same manner as delinquent property taxes are collected and shall be subject to the same penalty and interest as delinquent property taxes. If the structure is removed or demolished by the public officer and the materials in his judgment have any significant market value, he shall sell the materials of such structure 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 of Putnam County by the public officer, shall be secured in such manner as may be directed by such court, and shall be disbursed by such court provided, however, that nothing in this section shall be construed to impair or limit in any way the power of the Town of Monterey to define and declare nuisances and to cause their removal or abatement, by summary proceedings or otherwise.

The city recorder shall maintain a record of liens that indicate the date and nature of the lien, the amount of the lien, and the date the lien is released. The code official shall assist the recorder in maintaining the record. The building official shall be responsible for notifying the recorder of all liens filed. It is critical that satisfied liens are promptly and properly released. (as added by Ord. #430, Nov. 2005)

**12-815. Transfer of ownership.** It shall be unlawful for the owner of any dwelling unit or structure who has received a compliance order or upon whom a notice of violation has been served to sell, transfer, mortgage, lease or otherwise dispose of such dwelling unit or structure to another until the provisions of the compliance order or notice of violation have been complied with, or until such owner shall first furnish the grantee, transferee, mortgagee or lessee a true copy of any compliance order or notice of violation issued by the code official and shall finish to the code official a signed and notarized statement from the grantee, transferee, mortgagee or lessee, acknowledging the receipt of such compliance order or notice of violation and fully accepting the responsibility without condition for making the corrections or repairs required by such compliance order or notice of violation. (as added by Ord. #430, Nov. 2005)

**12-816. Powers conferred are supplemental.** This ordinance shall not be construed to abrogate or impair the powers of the city with regard to the enforcement of the provisions of its charter or any other ordinances or regulations, nor to prevent or punish violations thereof, and the powers conferred by this ordinance shall be in addition and supplemental to the powers conferred by the charter and other laws. (as added by Ord. #430, Nov. 2005)

**12-817. Supplemental nature of this chapter.** The provisions of this chapter are in addition and supplemental to, and not in substitution for, any

other provision in the municipal charter, the municipal code of ordinances or other applicable law which permits the city to proceed against an owner, tenant or occupant of property who is in violation of municipal codes. (as added by Ord. #430, Nov. 2005)

## TITLE 13

### PROPERTY MAINTENANCE REGULATIONS<sup>1</sup>

#### CHAPTER

1. MISCELLANEOUS.
2. JUNKYARDS.
3. REHABILITATION OR DEMOLITION OF UNFIT STRUCTURES.
4. MINIMUM PROPERTY MAINTENANCE REQUIREMENTS.
5. LIGHT, VENTILATION, SPACE AND PLUMBING FACILITIES  
ORDINANCE.

#### CHAPTER 1

#### MISCELLANEOUS

#### SECTION

- 13-101. Health officer.
- 13-102. Smoke, soot, cinders, etc.
- 13-103. Stagnant water.
- 13-104. Weeds.
- 13-105. Dead animals.
- 13-106. Health and sanitation nuisances.
- 13-107. House trailers.

**13-101. Health officer.** The "health officer" shall be such municipal, county, or state officer as the board of mayor and aldermen shall appoint or designate to administer and enforce health and sanitation regulations within the town. (1980 Code, § 8-101)

**13-102. 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, § 8-105)

**13-103. 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 to effectively prevent the breeding of mosquitoes. (1980 Code, § 8-106)

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<sup>1</sup>Municipal code references  
 Animal control: title 10.  
 Littering streets, etc.: § 16-107.

**13-104. 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 recorder or chief of police to cut such vegetation when it has reached a height of over one (1) foot. (1980 Code, § 8-107)

**13-105. Dead animals.** Any person owning or having possession of any dead animal not intended for use as food shall promptly bury the same or notify the health officer and dispose of such animal in such manner as the health officer shall direct. (1980 Code, § 8-108)

**13-106. Health and sanitation nuisances.** It shall be unlawful for any person to permit any premises owned, occupied, or controlled by him to become or remain in a filthy condition, or permit the use or occupation of same in such a manner as to create noxious or offensive smells and odors in connection therewith, or to allow the accumulation or creation of unwholesome and offensive matter or the breeding of flies, rodents, or other vermin on the premises to the menace of the public health or the annoyance of people residing within the vicinity. (1980 Code, § 8-109)

**13-107. House trailers.** It shall be unlawful for any person to park, locate, or occupy any house trailer or portable building unless it complies with all plumbing, electrical, sanitary, and building provisions applicable to stationary structures and the proposed location conforms to the zoning provisions of the town and unless a permit therefor shall have been first duly issued by the building official, as provided for in the building code. (1980 Code, § 8-104)

**CHAPTER 2****JUNKYARDS****SECTION**

## 13-201. Junkyards.

**13-201. Junkyards.**<sup>1</sup> 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, § 8-110)

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<sup>1</sup>State 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

### REHABILITATION OR DEMOLITION OF UNFIT STRUCTURES

#### SECTION

- 13-301. Findings of board.
- 13-302. Definitions.
- 13-303. "Public officer" designated; powers.
- 13-304. Initiation of proceedings; hearings.
- 13-305. Orders to owners of unfit structures.
- 13-306. When public officer may repair, etc.
- 13-307. When public officer may remove or demolish.
- 13-308. Lien for expenses; sale of salvaged materials; other powers not limited.
- 13-309. Basis for a finding of unfitness.
- 13-310. Service of complaints or orders.
- 13-311. Enjoining enforcement of orders.
- 13-312. Additional powers of public officer.
- 13-313. Powers conferred are supplemental.
- 13-314. Structures unfit for human habitation deemed unlawful.

**13-301. Findings of board.** Pursuant to Tennessee Code Annotated, § 13-21-101, et seq., the board of mayor and aldermen finds that there exists in the town structures which are unfit for human occupation 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 and morals, or otherwise inimical to the welfare of the residents of the town. (as added by Ord. #410, May 2003)

**13-302. Definitions.** (1) "Dwelling" means any building or structure, or part thereof, used and occupied for human occupation or use or intended to be so used, and includes any outhouses and appurtenances belonging thereto or usually enjoyed therewith.

(2) "Governing body" shall mean the board of mayor and aldermen charged with governing the town.

(3) "Municipality" shall mean the Town of Monterey, Tennessee, and the areas encompassed within existing town limits or as hereafter annexed.

(4) "Owner" shall mean the holder of title in fee simple and every mortgagee of record.

(5) "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.

(6) "Place of public accommodation" means any building or structure in which goods are supplied or services performed, or in which the trade of the general public is solicited.

(7) "Public authority" shall mean any housing authority or any officer who is in charge of any department or branch of the government of the town or state relating to health, fire, building regulations, or other activities concerning structures in the town.

(8) "Public officer" shall mean the officer or officers who are authorized by this chapter to exercise the powers prescribed herein and pursuant to Tennessee Code Annotated, § 13-21-101, et seq.

(9) "Structure" means any dwelling or place of public accommodation or vacant building or structure suitable as a dwelling or place of public accommodation. (as added by Ord. #410, May 2003)

**13-303. "Public officer" designated; powers.** There is hereby designated and appointed a "public officer," to be the building inspector of the town, to exercise the powers prescribed by this chapter, which powers shall be supplemental to all others held by the building inspector. (as added by Ord. #410, May 2003)

**13-304. Initiation of proceedings; hearings.** Whenever a petition is filed with the public officer by a public authority or by at least five (5) residents of the town charging that any structure is unfit for human occupancy or use, or whenever it appears to the public officer (on his own motion) that any structure is unfit for human occupation or use, the public officer shall, if his preliminary investigation discloses a basis for such charges, issue and cause to be served upon the owner of, and parties in interest of, such structure a complaint stating the charges in that respect and containing a notice that a hearing will be held before the public officer (or his designated agent) at a place therein fixed, not less than ten (10) days nor more than thirty (30) days after the service of the complaint; and the owner and parties in interest shall have the right to file an answer to the complaint and to appear in person, or otherwise, and give testimony at the time and place fixed in the complaint; and the rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the public officer. (as added by Ord. #410, May 2003)

**13-305. Orders to owners of unfit structures.** If, after such notice and hearing as provided for in the preceding section, the public officer determines that the structure under consideration is unfit for human occupation or use, he shall state in writing his finding 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 structure can be made at a reasonable cost in relation to the value of the structure (not exceeding



fifty percent [50%] of the reasonable value), requiring the owner, within the time specified in the order, to repair, alter, or improve such structure to render it fit for human occupation or use or to vacate and close the structure for human occupation or use; or

(2) If the repair, alteration or improvement of said structure cannot be made at a reasonable cost in relation to the value of the structure (not to exceed fifty percent 50% of the value of the premises), requiring the owner within the time specified in the order, to remove or demolish such structure. (as added by Ord. #410, May 2003)

**13-306. When public officer may repair, etc.** If the owner fails to comply with the order to repair, alter, or improve or to vacate and close the structure as specified in the preceding section hereof, the public officer may cause such structure to be repaired, altered, or improved, or to be vacated and closed; and the public officer 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 occupation or use. The use or occupation of this building for human occupation or use is prohibited and unlawful." (as added by Ord. #410, May 2003)

**13-307. When public officer may remove or demolish.** If the owner fails to comply with an order, as specified above, to remove or demolish the structure, the public officer may cause such structure to be removed and demolished. (as added by Ord. #410, May 2003)

**13-308. Lien for expenses; sale of salvaged materials; other powers not limited.** The amount of the cost of such repairs, alterations or improvements, or vacating and closing, or removal or demolition by the public officer shall be assessed against the owner of the property, and shall upon the filing of the notice with the office of the register of deeds of Putnam County, be a lien on the property in favor of the municipality, second only to liens of the state, Putnam County and municipality for taxes, any lien of the municipality for special assessments, and any valid lien, right, or interest in such property duly recorded or duly perfected by filing, prior to the filing of such notice. These costs shall be collected by the municipal tax collector or Putnam County trustee at the same time and in the same manner as property taxes are collected. If the owner fails to pay the costs, they may be collected at the same time and in the same manner as delinquent property taxes are collected and shall be subject to the same penalty and interest as delinquent property taxes. In addition, the municipality may collect the costs assessed against the owner through an action for debt filed in any court of competent jurisdiction. The municipality may bring one (1) action for debt against more than one or all of the owners of properties against whom said costs have been assessed and the fact that multiple owners have been joined in one (1) action shall not be considered by the court as a

misjoinder of parties. If the structure is removed or demolished by the public officer, he shall sell the materials of such structure 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 of Putnam County by the public officer, shall be secured in such manner as may be directed by such court, and shall be disbursed by such court to the person found to be entitled thereto by final order or decree of such court. Nothing in this section shall be construed to impair or limit in any way the power of the town of to define and declare nuisances and to cause their removal or abatement, by summary proceedings or otherwise. (as added by Ord. #410, May 2003)

**13-309. Basis for a finding of unfitness.** The public officer defined herein shall have the power and may determine that a structure is unfit for human occupation and use if he finds that conditions exist in such structure which are dangerous or injurious to the health, safety or morals of the occupants or users of such structure, the occupants or users of neighboring structures or other residents of the Town of. Such conditions may include the following (without limiting the generality of the foregoing): defects therein increasing the hazards of fire, accident, or other calamities; lack of adequate ventilation, light, or sanitary facilities; dilapidation; disrepair; structural defects; or uncleanness. (as added by Ord. #410, May 2003)

**13-310. Service of complaints or orders.** Complaints or orders issued by the public officer pursuant to this chapter shall be served upon persons, either personally or by registered mail, but if the whereabouts of such persons are unknown and the same cannot be ascertained by the public officer in the exercise of reasonable diligence, and the public officer shall make an affidavit to that effect, then the serving of such complaint or order upon such persons may be made by publishing the same once each week for two (2) consecutive weeks in a newspaper printed and published in the town. In addition, a copy of such complaint or order shall be posted in a conspicuous place on premises affected by the complaint or order. A copy of such complaint or order shall also be filed for record in the Register's Office of Putnam County, Tennessee, and such filing shall have the same force and effect as other lis pendens notices provided by law. (as added by Ord. #410, May 2003)

**13-311. Enjoining enforcement of orders.** Any person affected by an order issued by the public officer served pursuant to this chapter may file a bill in chancery court for an injunction restraining the public officer from carrying out the provisions of the order, and the court may, upon the filing of such suit, issue a temporary injunction restraining the public officer pending the final disposition of the cause; provided, however, that within sixty (60) days after the posting and service of the order of the public officer, such person shall file such bill in the court. The remedy provided herein shall be the exclusive remedy and

no person affected by an order of the public officer shall be entitled to recover any damages for action taken pursuant to any order of the public officer, or because of noncompliance by such person with any order of the public officer. (as added by Ord. #410, May 2003)

**13-312. Additional powers of public officer.** The public officer, in order to carry out and effectuate the purposes and provisions of this chapter, shall have the following powers in addition to those otherwise granted herein:

- (1) To investigate conditions of the structures in the town in order to determine which structures therein are unfit for human occupation or use;
- (2) To administer oaths, affirmations, examine witnesses and receive evidence;
- (3) To enter upon premises for the purpose of making examination, provided that such entry 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; and
- (5) To delegate any of his functions and powers under this chapter to such officers and agents as he may designate. (as added by Ord. #410, May 2003)

**13-313. Powers conferred are supplemental.** This chapter shall not be construed to abrogate or impair the powers of the town with regard to the enforcement of the provisions of its charter or any other ordinances or regulations, nor to prevent or punish violations thereof, and the powers conferred by this chapter shall be in addition and supplemental to the powers conferred by the charter and other laws. (as added by Ord. #410, May 2003)

**13-314. Structures unfit for human habitation deemed unlawful.** It shall be unlawful for any owner of record to create, maintain or permit to be maintained in the town structures which are unfit for human occupation 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 and morals, or otherwise inimical to the welfare of the residents of the town. Violations of this section shall subject the offender to a penalty of up to five hundred dollars (\$500) for each offense. Each day a violation is allowed to continue shall constitute a separate offense. (as added by Ord. #410, May 2003)

## CHAPTER 4

### MINIMUM PROPERTY MAINTENANCE REQUIREMENTS

#### SECTION

13-401. Definitions.

13-402. Duty to maintain property.

13-403. Enforcement.

13-404. Appeals.

**13-401. Definitions.** As used in the interpretation and application of this chapter, the following words shall have the meanings indicated:

(1) "Junk" means discarded, broken or disabled material including, but not limited to, furniture, appliances, tools, machinery, or other items that are not in functioning condition.

(2) "Litter" means discarded waste materials, including but not limited to, paper wrappings, packaging materials, discarded or used bottles and cans, scrap lumber and other building materials, broken or discarded furniture, household furnishings and equipment.

(3) "Owner" means any person owning property in Monterey, Tennessee, as shown on the real property records of Putnam County or on the current assessment roll for taxes, and shall also mean any lessee, tenant or other person having control or possession of the property.

(4) "Property" means land and any buildings or structures located thereon.

(5) "Trash" means waste food products and other household garbage. (as added by Ord. #411, May 2003)

**13-402. Duty to maintain property.** No person owning, leasing, renting, occupying, being in possession or having charge or any property in the town, including vacant lots, shall maintain or allow to be maintained on such property, except as may be permitted by any other town ordinance, any of the following conditions visible from any public street or alley:

(1) Junk, litter and trash;

(2) Outdoor nuisances dangerous to children, including but not limited to abandoned, broken or neglected equipment, machinery, or any appliance with a latching door;

(3) Shopping carts in any front yard, side yard, rear yard or vacant lot of any property;

(4) Dead, decayed, diseased or hazardous trees, or any other vegetation a majority of which (excluding vegetation located in flowerbeds, or trees, or shrubbery, or existing hayfields) exceeds twelve (12) inches in height, or which is dangerous to public health, safety and welfare, located in any front yard, side yard, rear yard, or upon any vacant lot;

(5) Graffiti or signs, not in compliance with the town zoning ordinance, on the exterior of any building, fence or other structure in any front yard, side yard or rear yard or vacant lot;

(6) Vehicle parts or other articles of personal property which are discarded or left in a state of partial construction or repair in any front yard, side yard, rear yard or vacant lot;

(7) Utility trailers or unmounted campertops located in any front yard except in the driveway;

(8) Any accumulation of weeds, brambles, berry vines, or other vegetation which is overgrowing any structure which exceeds an average height of three (3) feet, other than maintained landscaping, or any accumulation of junk, litter, trash, dead organic matter, debris, offal, rat harborages, stagnant water, combustible materials or vegetation, and similar materials or conditions constituting fire, health or safety hazard. (as added by Ord. #411, May 2003)

**13-403. Enforcement.** (1) Notice to property owner. It shall be the duty of the Zoning Compliance Official of the Town of Monterey, Tennessee, to serve notice upon the property owner of record in violation of § 13-402 above. The property owner shall be notified in writing specifying the nature of the violation, specifying the corrective measures to be taken, and require compliance within not less than 5 days nor more than 30 days. The notice may be served upon the owner(s) of the premises where the violation is located by:

- (a) Posting notice in plain view on the property in violation, or
- (b) Sending notice by certified mail.

The date the notice is posted or received by the offender shall serve as the beginning of the specified time period allowing for corrective action.

(2) Failure to take corrective action. Failure by the property owner to take corrective action to bring the property within compliance of § 13-402 above shall constitute a violation of this chapter and be a civil offense. The zoning compliance official and/or any designated person charged with the enforcement of this chapter may then take the following actions:

(a) Pursuant to Tennessee Code Annotated, § 7-63-101, the zoning compliance official is authorized to issue ordinance summons for violations of this chapter on private property. The zoning compliance official shall upon the complaint of any citizen, or acting on his own information, investigate complaints directly related to land use and public health on private property. If after such investigation, the building official finds violations of this chapter 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. If the offender refuses to sign the agreement to appear, the zoning compliance official may

- (i) Request the town judge to issue a summons, or

(ii) 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, or

(b) If the owner or owners of the premises fails or refuses to comply with the order issued by the zoning compliance official within the time period specified by the letter of notification, as provided herein, such failure or refusal shall be deemed a violation of the provisions of this chapter and said owner or owners shall be subject to the penalties herein provided. The zoning compliance official that is charged with enforcing this code, or the inspector's duly authorized representatives may enter onto such premises and take corrective action specified by the letter of notification so that the nuisance identified by said letter is removed or abated. Upon completion of the corrective action carried out by the Town of Monterey as authorized herein, the actual costs of such action, plus a fee of fifteen percent (15%) for administrative costs, shall be due from the owner or owners of said property to the Town of Monterey and said costs shall be billed to the owner or owners of said property. If said bill is not paid in full within sixty (60) days after the date of mailing, a ten percent (10%) penalty shall be added and said costs and penalties shall be placed on the tax rolls of the Town of Monterey as a lien upon said property and collected in the same manner as other town taxes are collected.

(3) Penalty for violations. Any person violating this chapter shall be subject to a civil penalty of \$1.00 to \$500.00 for each separate violation of this chapter. Each day the violation of this chapter continues shall be considered a separate violation.

(4) Supplemental nature of this section. The provisions of this section are in addition and supplemental to, and not in substitution for, any other provision in the town charter, the municipal code of ordinances, or other applicable law which permits the town to proceed against an owner, tenant or occupant of property who has created, maintained, or permitted to be maintained on such property the growth of vines, grass, weeds, underbrush, and/or the accumulation of the debris, trash, litter, or garbage or any combination of the preceding elements, under its charter, any other provision of the municipal code of ordinances or any other applicable law. (as added by Ord. #411, May 2003)

**13-404. Appeals.** Appeals of any provision of this chapter by the owner or owners of the premises shall be submitted in writing to the Town of Monterey. When the owner or owners of the premises is ordered to correct the violation, the appeal must be submitted within the time period for corrective action specified in the letter of notification. If determined by the Town of

Monterey that a hearing is in order, the hearing will be held at the regularly scheduled meeting of the town. Owner or owners of premises in question will be notified personally OR by sending said notice by certified mail of the decision for a hearing. If a hearing is warranted, the date and time of such hearing will be included in the letter of notification. (as added by Ord. #411, May 2003)

## CHAPTER 5

### LIGHT, VENTILATION, SPACE AND PLUMBING FACILITIES ORDINANCE<sup>1</sup>

#### SECTION

- 13-501. General.
- 13-502. Definition.
- 13-503. Light.
- 13-504. Ventilation.
- 13-505. Dwelling unit limitations.
- 13-506. Space requirements.
- 13-507. Toilet and lavatory.
- 13-508. Enforcement.
- 13-509. Penalty.
- 13-510. Remedies.
- 13-511. Appeals.

**13-501. General.** (1) Scope. The provisions of this ordinance shall govern the minimum conditions and standards for the light, ventilation, space and plumbing facilities for the occupancy of a structure. All light, ventilation, space and plumbing conditions shall comply with the requirements herein prescribed insofar as they are applicable.

(2) Responsibility. The owner of the structure shall provide and maintain such light, ventilation, space and plumbing conditions in compliance with these requirements. A person shall not let to another for occupancy or use any premises, which does not comply with the following requirements of this ordinance. (as added by Ord. #418, Oct. 2003)

**13-502. Definition.** 1. "Habitable room." Any room used or intended to be used for sleeping, cooking, living or eating purposes, excluding such enclosed spaces as closets, pantries, bath or toilet facilities, service rooms, corridors, laundries, unfinished attics, foyers, storage space, utility rooms or similar spaces. All habitable rooms must have an egress window.

2. "Occupant." Any person whose primary sleeping quarters are located within the dwelling unit. (as added by Ord. #418, Oct. 2003)

**13-503. Light.** 1. General. All spaces or rooms shall be provided sufficient light so as not to endanger health and safety.

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<sup>1</sup>Municipal code reference:

Building, utilities, etc. codes: title 12.



2. Habitable rooms. Every habitable room shall have at least one (1) window facing directly to the outdoors. The minimum window area, measured between stops, for every habitable room shall be a minimum of eight per cent (8%) of the floor area of such room, except in kitchens when artificial light may be provided in accordance with the provisions of the building code.

3. Common halls and stairways. Every common hall and stairway in every building, other than single-family dwellings, shall be adequately lighted at all times with an illumination of at least a sixty (60) watt light bulb. Such illumination shall be provided throughout the normally traveled stairs and passageways.

4. Other spaces. All other spaces shall be provided with natural or artificial light of sufficient intensity and so distributed as to permit the maintenance of sanitary conditions, and the safe use of the space and the appliances, equipment and fixtures. (as added by Ord. #418, Oct. 2003)

**13-504. Ventilation.** 1. General. All spaces or rooms shall be provided sufficient natural or mechanical ventilation so as not to endanger health and safety. Where mechanical ventilation is provided in lieu of the natural ventilation, the mechanical ventilating system shall be maintained in operation during the occupancy of any structure or portion thereof.

2. Exception. A kitchen with all electric appliances which contains neither an openable window nor mechanical ventilation shall not be subject to these requirements provided that:

a. The kitchen is in a location which would prohibit the installation of a window in an exterior wall; and

b. The installation of a mechanical ventilation system would be infeasible due to structural considerations.

Every habitable room shall have at least one (1) window, which can be easily opened to adequately ventilate the room.

3. Toilet rooms. Every bathroom and toilet room shall comply with the light and ventilation requirements for habitable rooms except that a window shall not be required in bathrooms or toilet rooms equipped with a natural or approved mechanical ventilation system.

4. Cooking facilities. Cooking shall not be permitted in any sleeping room, and a cooking facility or appliance shall not be permitted to be present in a sleeping room. (as added by Ord. #418, Oct. 2003)

**13-505. Dwelling unit limitations.** 1. Separation of units. Dwelling units shall be separate and apart from each other. Sleeping rooms shall not be used as the only means of access to other sleeping rooms or habitable spaces.

2. Basement rooms. Basement rooms partially below grade shall not be used for living purposes unless:

a. Floors and walls are watertight and so insulated as to prevent entry of moisture and drafts; and

- b. Total window area is in accordance with this ordinance; and
- c. Required minimum window area of every habitable room is entirely above the grade of the ground adjoining the window area. (as added by Ord. #418, Oct. 2003)

**13-506. Space requirements.** 1. Dwelling units. Every dwelling unit shall contain a minimum gross floor area of not less than two hundred fifty (250) square feet for the first occupant, and one hundred fifty (150) square feet for each additional occupant. The floor area shall be calculated on the basis of the total area of all habitable rooms.

2. Area for sleeping purposes. Every room occupied for sleeping purposes by one (1) person shall contain at least seventy (70) square feet of floor area, and every room occupied for sleeping purposes by more than one (1) person shall contain at least fifty (50) square feet of floor area for each occupant thereof. (as added by Ord. #418, Oct. 2003)

**13-507. Toilet and lavatory.** Every dwelling shall contain within its walls, a room separate from habitable rooms, which affords privacy and has a toilet with cold running water and a lavatory and bathtub or shower supplied with hot and cold running water. There shall be a minimum of one toilet, lavatory and bathtub or shower for every seven (7) persons occupying the premises. (as added by Ord. #418, Oct. 2003)

**13-508. Enforcement.** The party designated by the Monterey Board of Mayor and Aldermen shall enforce this ordinance and shall have the authority to make inspection of buildings or premises necessary to carry out the duties of enforcement. (as added by Ord. #418, Oct. 2003)

**13-509. Penalty.** Any property owner and/or tenant violating this ordinance shall be guilty of a misdemeanor and upon conviction shall be fined not more than fifty (\$50.00) dollars per day for each day's violation. Payment of the fine shall not constitute compliance. If the violation occurs for more than thirty (30) days the dwelling shall be deemed uninhabitable, be unoccupied and padlocked. (as added by Ord. #418, Oct. 2003)

**13-510. Remedies.** If any dwelling is used in violation of this ordinance the enforcement official may institute injunction, mandamus, or other appropriate action in proceeding to remedy the violation. (as added by Ord. #418, Oct. 2003)

**13-511. Appeals.** Any person or persons aggrieved by the requirements set forth in this ordinance may file an appeal with the board of mayor and aldermen seeking relief from its requirements. (as added by Ord. #418, Oct. 2003)

## TITLE 14

### ZONING AND LAND USE CONTROL

#### CHAPTER

1. MUNICIPAL PLANNING COMMISSION.
2. GENERAL ZONING PROVISIONS.
3. PARKING, ACCESS, AND OFF-STREET LOADING AND UNLOADING REQUIREMENTS.
4. ZONING DISTRICTS AND MAP.
5. SPECIFIC DISTRICT REGULATIONS.
6. SUPPLEMENTARY REGULATIONS.
7. ADMINISTRATION AND ENFORCEMENT.
8. [REPEALED AND RESERVED.]
9. [REPEALED AND RESERVED.]
10. [REPEALED.]
11. BOARD OF ZONING APPEALS.
12. MUNICIPAL FLOODPLAIN ZONING ORDINANCE.

#### CHAPTER 1

### MUNICIPAL PLANNING COMMISSION

#### SECTION

- 14-101. Creation and membership.  
 14-102. Organization, powers, duties, etc.  
 14-103. Powers.

**14-101. Creation and membership.** Pursuant to the provisions of Tennessee Code Annotated, § 13-4-101 there is hereby created a municipal planning commission, hereinafter referred to as the planning commission. The planning commission shall consist of seven (7) members; two of these shall be the mayor and an aldermen selected by the board of mayor and aldermen; the other five (5) 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 five (5) members appointed by the mayor shall be for five (5) years each. The five (5) members first appointed shall be appointed for terms of one, two, three, four, and five years respectively so that the term of one member expires each year. The terms of the mayor and the member selected by the board of mayor and aldermen shall run concurrently their terms of office. Any vacancy in an appointive membership shall be filled for the unexpired term by the mayor. (1980 Code, § 11-101)

**14-102. Organization, powers, duties, etc.** The planning commission shall be organized and shall carry out its powers, functions, and duties in

accordance with all applicable provisions of Tennessee Code Annotated, title 13. (1980 Code, § 11-102)

**14-103. Powers.** The municipal planning commission shall also have the following powers and duties as formerly exercised by the board of zoning appeals<sup>1</sup>:

(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 zoning compliance officer or other administrative official in the carrying out or enforcement of any provision of chapters 2 through 10 of this title, and to interpret the zoning map and ordinance.

(2) Special exceptions. To hear and decide applications for special exceptions upon which the municipal planning commission is specifically authorized to pass.

(3) Variance. To hear and decide applications for variance from the terms of chapters 2 through 10 of this title, but shall grant variances 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 10 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 chapters 2 through 10 of this title would result in practical difficulties to or undue hardship upon the owner of such property; provided that such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of chapters 2 through 10 of this title.

(a) In granting a variance the municipal planning commission 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 purpose of chapters 2 through 10 of this title.

(b) Before any variance is granted it shall be shown that special circumstances attached to the property do not generally apply to other property in the neighborhood. (1980 Code, § 11-1004, as amended by Ord. #340, Feb. 1995, and Ord. #348, April 1996)

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<sup>1</sup>Ord. #348, April 1996, available in the recorder's office, abolished the board of zoning appeals and transferred its powers and duties to the municipal planning commission.

Ord. #368, July 1998, as provided in this code as title 14, chapter 11, re-established the board of zoning appeals.

## CHAPTER 2

### GENERAL ZONING PROVISIONS<sup>1</sup>

#### SECTION

- 14-201. Short title
- 14-202. Purpose.
- 14-203. Construction of language.
- 14-204. Definitions.
- 14-205. General provisions.
- 14-206--14-216. [Deleted.]

**14-201. Short title.** Chapters 2 through 7 of Title 14 of the Monterey Municipal Code shall be known as the "Official Zoning Code of the Town of Monterey, Tennessee" and the map herein referred to, which is identified by the title "Official Zoning Map of the Town of Monterey, Tennessee," dated August 7, 2006, shall be made a part of Chapters 2 through 7 of Title 14 of the Monterey Municipal Code. (1980 Code, § 11-201, as replaced by Ord. #441, Sept. 2006)

**14-202. Purpose.** This Official Zoning Code is enacted for the following purposes:

#### 14-202.1

To promote and protect the public health, safety, morals, comfort, convenience, and general welfare of the people;

#### 14-202.2

To divide the municipality into zones and districts restricting and regulating therein the location, construction, reconstruction, alteration, and use of buildings, structures, and land for residence, business, commercial, industrial, and other specified uses;

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<sup>1</sup>The provisions in chapters 2 through 7 of this title were taken from Ord. #441 as amended. Chapters 8, 9 and 10 were repealed and reserved for future use. As set forth in Ord. #441, sections and subsections, including punctuation and numbering methods have been retained in their entirety. Some format changes were incorporated to make this title consistent with the Monterey Municipal Code. No substantive changes have been made unless authorized by ordinance.

## 14-202.3

To protect the character and maintain the stability of residential, business, commercial, and industrial areas within the planning region, and to promote the orderly and beneficial development of such areas;

## 14-202.4

To provide adequate light, air, privacy, and convenience of access to property;

## 14-202.5

To regulate the intensity of open spaces surrounding buildings that are necessary to provide adequate light and air and protect the public health;

## 14-202.6

To establish building lines and the location of buildings designated for residential, business, commercial, industrial, or other uses within such lines;

## 14-202.7

To fix reasonable standards to which buildings or structures shall conform;

## 14-202.8

To prohibit uses, buildings, or structures which are incompatible with the character of development or the permitted uses within specified zoning districts;

## 14-202.9

To prevent such additions to, and alterations or remodeling of, existing buildings or structures as would not comply with the restrictions and limitations imposed hereunder;

## 14-202.10

To limit congestion in the public streets and so protect the public health, safety, convenience, and general welfare by providing for the off-street parking of motor vehicles and for the loading and unloading of commercial vehicles;

## 14-202.11

To provide protection against fire, explosion, noxious fumes, and other hazards in the interest of the public health, safety, comfort, and general welfare;

## 14-202.12

To prevent overcrowding of land and undue concentration of structures so far as is possible and appropriate in each district by regulating the use and the bulk of buildings in relation to the land surrounding them;

## 14-202.13

To conserve the taxable value of land and buildings throughout the planning area;

## 14-202.14

To provide for the gradual elimination of those uses of land, buildings and structures which do not conform to the standards of the districts in which they are respectively located and which are adversely affecting the development and taxable value of property in each district;

## 14-202.15

To define and limit the powers and duties of the administrative officers and bodies as provided herein;

## 14-202.16

To protect and in general allow for the beneficial uses of property in a like manner to that which was permitted under the previous zoning regulations (Ord. #374, as amended);

## 14-202.17

These general purposes include the specific purposes stated in the various chapters throughout this Official Zoning Code. (1980 Code, § 11-202, as replaced by Ord. #441, Sept. 2006)

**14-203. Construction of language.** For the purposes of this Official Zoning Code, certain terms or words shall be interpreted as follows:

## 14-203.1

The words SHALL or MUST are always mandatory and not discretionary.

## 14-203.2

The word MAY is permissive.

## 14-203.3

Words used in the present tense include the future tense, and words used in the singular include the plural, and the plural the singular, unless the context clearly indicates the contrary.

## 14-203.4

The word PERSON includes a firm, association, organization, partnership, trust, company, or corporation as well as an individual.

## 14-203.5

The phrase USED FOR shall include the phrases ARRANGED FOR, DESIGNED FOR, INTENDED FOR, MAINTAINED FOR, and OCCUPIED FOR.

## 14-203.6

The word LOT shall include the words, PLOT, PIECE, or PARCEL.

## 14-203.7

Unless the context clearly indicates to the contrary conjunctions shall be interpreted as follows:

14-203.7A AND indicates that all connected items, conditions, provisions, or events shall apply.

14-203.7B OR indicates that the connected items, conditions, provisions, or events shall apply.

14-203.7C EITHER...OR indicates that the connected items, conditions, or events shall apply singly but not in combination. (1980 Code, § 11-203, as replaced by Ord. #441, Sept. 2006)

**14-204. Definitions.** Except where definitions are specifically included in various chapters and sections, certain words in the text of this Official Zoning Code shall be interpreted in accordance with the provisions set forth in this section. Where words have not been defined, the standard dictionary definition shall prevail.

## 14-204.1

ACCESSORY APARTMENT -- A separate and complete dwelling unit that is contained within the structure of a single-family dwelling unit.

## 14-204.2

ACCESSORY USE OR STRUCTURE -- A use or structure on the same lot with, and of a nature customarily incidental, appropriate and subordinate to, the principal use or structure.

## 14-204.3

ACTIVITY -- The performance of a function or operation which constitutes the use of land.



14-204.4

ALLEY -- A narrow service way providing a secondary public means of access to abutting property.

14-204.5

ALTERNATIVE TOWER STRUCTURE shall mean man-made trees, clock towers, bell steeples, light poles and similar alternative design mounting structures that conceal the presence of antennas or towers and are architecturally compatible with the area.

14-204.6

ANTENNA shall mean any exterior transmitting or receiving device mounted on a tower, building, or structure and used in communications that radiate or capture electromagnetic waves, digital signals, analog signals, radio frequencies (excluding radar signals), wireless telecommunications signals or other communications signals.

14-204.7

BACKHAUL NETWORK shall mean the lines that connect a provider's towers/cell sites to one or more cellular telephone switching offices or long distance providers, or the public switched telephone network.

14-204.8

BED AND BREAKFAST INN -- A dwelling or portion thereof, where short term lodging rooms and meals are provided. The owner/operator of the inn shall live in the dwelling.

14-204.9

BUFFER AREA -- A landscaped area intended to separate and obstruct the view of two (2) adjacent land uses or properties from one another.

14-204.10

BOARDING OR ROOMING HOUSE -- Any dwelling in which three (3) or more persons, either individually or as families, are housed or lodged for hire with or without meals.

14-204.11

BUILDING -- A structure having a roof supported by columns or walls and intended for housing, shelter, or enclosure of goods or persons.

14-204.12

BUILDING AREA -- The total area taken on a horizontal plane at the average ground elevation of the principal building and all accessory buildings.

14-204.13

BUILDING LINE -- The line, parallel to the street line, that passes through the point of the principal building nearest the front lot line.

14-204.14

BUILDING PERMIT -- A permit required under the Town of Monterey Municipal Code prior to the commencement of certain types of construction.

14-204.15

CUSTOMARY HOME OCCUPATION -- An occupation, profession, activity or use having traditional acceptance as being one customarily carried on in the home, provided that such occupation be clearly incidental and secondary to the residential use and which does not alter the exterior of the property or affect the residential character of the neighborhood.

14-204.16

CO-LOCATION shall mean when one (1) or more antenna or transmitter is located on a single tower.

14-204.17

DAYCARE CENTER -- A building or structure where care, protection, and supervision are provided, on a regular schedule, at least twice a week to more than seven (7) children, including the children of the adult provider.

14-204.18

DAYCARE HOME -- A private residence where care, protection, and supervision are provided, for a fee, at least twice a week to no more than seven (7) children, including children of the adult provider.

14-204.19

DEVELOPER -- An individual, firm, corporation, association, partnership or trust involved in commencing proceedings to effect development of land for himself or others.

14-204.20

DEVELOPMENT -- Any man-made change to improved or unimproved real estate including but not limited to buildings or other structures, mining, dredging, filling, paving, excavating, or drilling operations. Agricultural activities such as plowing or cultivating and gardening activities are not included in this definition of development.

14-204.21

DWELLING -- A building or portion thereof, designed or used exclusively for residential occupancy.

14-204.21A DWELLING, SINGLE-FAMILY -- A detached residence designed for or occupied by one (1) family only.

14-204.21B DWELLING, TWO-FAMILY -- A residence designed for or occupied by two (2) families only, with separate housekeeping, cooking, and sanitary facilities for each.

14-204.21C DWELLING, MULTI-FAMILY -- A residence designed for or occupied by three (3) or more families, with separate housekeeping, cooking, and sanitary facilities for each. The term includes cooperative apartments, condominiums, and the like.

14-204.22

DWELLING UNIT -- A room or rooms connected together constituting a separate, independent housekeeping establishment for one (1) family only, for owner occupancy rental and/or lease, and containing cooking, living, sleeping, and sanitation facilities.

14-204.23

EASEMENT -- A grant by a property owner to the public, a corporation or persons for use of land for specific purposes.

14-204.24

FAA shall mean the Federal Aviation Administration.

14-204.25

FAMILY -- One (1) or more persons occupying a premises and living as a single, nonprofit housekeeping unit, as distinguished from a group occupying a hotel, club, fraternity, rooming house, motel, or other structures designed for transient residence.

14-204.26

FCC shall mean the Federal Communications Commission.

14-204.27

GROSS DENSITY -- The ratio derived by dividing the number of dwellings by the gross site area.

14-204.28

GROSS SITE AREA -- The total area of the site within the boundaries shown on a plat of survey and described by a legal description for the site.

14-204.29

GROUP HOME -- A residence operated by a public or private agency which may provide a program of services in addition to room and board which has continuous supervision. When appropriate Tennessee Code Annotated, § 13-24-102 shall apply.

14-204.30

HEIGHT shall mean, when referring to a tower or other structure, the distance measured from the finished grade of the parcel to the highest point on the tower or other structure, including the base pad and any other antenna.

14-204.31

HEIGHT OF BUILDING -- The vertical distance from the established average sidewalk grade, or street grade, or finished grade at the building line, whichever is the highest, to the highest point of the building, excluding spires, towers, domes not for human occupancy, flag poles, masts, or aerials.

14-204.32

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 one (1) principal building and its accessory buildings and including the open spaces required in this Official Zoning Code. All lots shall front on and have access to a street.

14-204.32A LOT CORNER -- A lot abutting on and at the intersection of two (2) or more streets.

14-204.32B LOT DEPTH -- Depth of a lot shall be considered to be the distance between the midpoints of straight lines connecting the foremost points of the side lot lines in front and the rearmost points of the side lot lines in the rear.

14-204.32C LOT FRONTAGE -- The front of a lot shall be construed to be the portion nearest to the street.

14-204.32D LOT LINE -- The boundary dividing a given lot from a street, an alley, or adjacent lots.

14-204.32E LOT OF RECORD -- A lot which is part of a subdivision legally recorded in the Office of the Putnum County Register of Deeds, or a lot or parcel described by metes and bounds, the description of which has been so recorded.

14-204.32F LOT WIDTH -- The distance between the side boundaries of the lot measured at the front building line.

14-204.33

SINGLE-WIDE MOBILE HOME (HOUSE TRAILER) -- A detached one-family dwelling unit with all of the following characteristics:

14-204.33A Designed for long-term occupancy and containing sleeping accommodations, a flush toilet, a tub or shower, and kitchen facilities, with plumbing and electrical connections provided for attachment to utility systems.

14-204.33B Designed to be transported after fabrication on its own wheels, or detachable wheels, or on a flat bed or other trailer.

14-204.33C Arriving at the site where it is to be occupied as a dwelling complete, often including major appliances and furniture, and ready for occupancy except for minor or incidental unpacking and assembly operations, location on foundation support, connection to utilities, and the like.

Mobile home dwellings do not include camping trailers, commercial mobile structures, motor homes, recreational vehicles, travel trailers, truck campers or similar units designed to provide temporary living quarters.

14-204.34

MOBILE HOME (TRAILER) PARK -- A parcel of land under single ownership designed for or which is intended to be used for the accommodation of mobile homes (trailers) for dwelling purposes.

14-204.35

NONCONFORMING USE -- A building, structure, or use of land existing at the time of enactment or amendment of this Official Zoning Code, and which does not conform to the regulations of the zone in which it is located.

14-204.36

PRE-EXISTING TOWERS AND ANTENNAS shall mean any tower or antenna on which a permit has been properly issued prior to the effective date of the ordinance comprising this chapter.

14-204.37

PRINCIPAL BUILDING -- A building which contains the principal activity or use located on a lot which it is situated.

14-204.38

RESIDENCE -- A building or part of a building containing one (1) or more dwelling units, including one-family, two-family, or multi-family dwellings and mobile homes.

14-204.39

SCREENING (SEE ALSO BUFFER AREA) -- The method by which a view of one (1) site from another adjacent site is shielded, concealed or hidden. Screening techniques include fences, walls, trees, hedges, shrubs, or other landscaping, berms or other features.

14-204.40

SETBACK LINE -- The required minimum horizontal distance between the building line and the related front, side or rear property line.

14-204.41

SIGN -- An attached or free-standing structure conveying some information, knowledge or idea to the public.

14-204.42

SPECIAL EXCEPTION (USE PERMITTED ON APPEAL) -- A special exception is a use that would not be appropriate generally or without restrictions in a particular zoning district but which, if controlled as to the number, area, location, or relation to the neighborhood would promote the public health, safety, welfare, order, comfort, convenience, appearance or prosperity. The location of such uses is subject to the approval of the Town of Monterey Board of Zoning Appeals.

14-204.43

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 shall be counted as a story if its ceiling is over six feet (6') above the average level of the finished ground surface adjoining

the exterior walls of such story, or if it is used for business or dwelling purposes.

## 14-204.44

STREET -- A publicly maintained right-of-way, other than an alley, which affords a primary access to abutting property.

14-204.44A CENTERLINE OF STREET -- That line surveyed and monumented by the Town of Monterey as the centerline of the street, or if such centerline has not been surveyed, that line running midway between the outside curbs or ditches of such street.

14-204.44B STREET LINE -- The property line which bounds the right-of-way set aside for use as a street. Where a sidewalk exists and locations of the property line is questioned, the side of the sidewalk farthest from the traveled street shall be considered the street line.

## 14-204.45

STRUCTURE -- Anything constructed or erected with a fixed location on the ground, or attached to something having a fixed location on the ground. Among other things, structures include buildings, towers, walls, fences, billboards, and ground signs.

## 14-204.46

TOWER shall mean any structure that is designed and constructed primarily for the purpose of supporting one or more antennas for telephone, radio and similar communication purposes, including self-supporting lattice towers, guyed towers or monopole towers. The term includes radio and television transmission towers, personal communications service towers (PCS), microwave towers, common-carrier towers, cellular telephone towers, alternative tower structures, specialized mobile radio, paging, and the like. This definition does not include any structures erected solely for residential, non-commercial individual use, such as television antennas, satellite dishes or uses as defined in § 14-604.10, subsections A through G of the Town of Monterey Zoning Code.

## 14-204.47

USE -- The specific purpose for which land or building is designed, arranged, intended, or for which it is or may be occupied or maintained. The term "permitted use" or its equivalent shall not be deemed to include any nonconforming use.

## 14-204.48

VARIANCE -- A variance is a relaxation of the terms of the Official Zoning Code where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of the Official Zoning Code would result in unnecessary and undue hardship. As used in this Official Zoning Code, a variance is authorized only for height, area, and size of structure or size of yards and open spaces; establishment or expansion of a use otherwise prohibited shall not be allowed by variance, nor shall a variance be granted because of the presence of nonconformities in the zoning district or uses in an adjoining zoning district.

## 14-204.48.1

VEHICLE OR TRAILER SIGN – A permanent or temporary sign affixed, painted on, or placed in or on any vehicle, trailer, or other device capable of being driven or towed, which is displayed in public view so that the primary purpose is to attract the attention of the public, rather than to serve the business or the owner thereof in a manner which is customary for said vehicle or trailer.

## 14-204.49

WIRELESS COMMUNICATION ANTENNA ARRAY (ANTENNA ARRAY) shall mean one or more rods, panels, or discs or similar devices used for the transmission or reception of radio frequency (RF) signals through electromagnetic energy, which may include omni-directional antenna (whip), directional antenna (panel) and parabolic antenna (dish).

## 14-204.50

WIRELESS COMMUNICATION FACILITY shall mean an unstaffed facility for the transmission and/or reception of radio frequency (RF) signals through electromagnetic energy usually consisting of an equipment shelter or cabinet, a support tower or other structure used to achieve the necessary elevation, and the transmission and reception devices or antenna.

## 14-204.51

YARD -- A required open space 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.



- 14-204.51A YARD, FRONT -- The yard extending across the entire width of the lot between the front lot line and the nearest part of the principal building, including covered porches.
- 14-204.51B YARD, REAR -- The yard extending across the entire width of the lot between the rear lot line and the nearest part of the principal building, including carports and covered porches.
- 14-204.51C YARD, SIDE -- 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 carports and covered porches. (1980 Code, § 11-204, as replaced by Ord. #441, Sept. 2006, and amended by Ord. #12-507, July 2012)

**14-205. General provisions.** For the purpose of this Official Zoning Code there shall be certain general provisions which shall apply, except as specifically noted, to the municipality as a whole.

14-205.1 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, except as hereafter provided.

14-205.2 NONCONFORMING LOTS AND NONCONFORMING USES OF LAND

Any nonconforming use which existed lawfully at the time of enactment of this Official Zoning Code and which remains nonconforming and any use which shall become nonconforming upon enactment of this Zoning Code or any subsequent amendments thereto may be continued subject to the following provisions.

14-205.2A Nonconforming Lots of Record

In any district in which single-family dwellings are permitted, notwithstanding limitations imposed by other provisions of this Zoning Code, a single-family dwelling and customary accessory buildings may be erected on any single lot of record at the effective date of adoption or amendment of this Zoning Code. Such lot must be in separate ownership and not of continuous frontage with other lots in the same ownership. This provision shall apply even though such lot fails to meet the requirements for the area or

width, or both, that are generally applicable in the district, provided that yard dimensions and other requirements not involving area or width, or both, of the lot shall conform to the regulations for the district in which such lot is located. Variance of area, width, and yard requirements shall be obtained only through action of the Board of Zoning Appeals.

If two (2) or more lots or combinations of lots and portions of lots with continuous frontage in single ownership area of record at the time of passage or amendment of this Official Zoning Code, and if all or part of the lots do not meet the requirements for lot width and area as established by this Official Zoning Code, the lands involved shall be considered to be an undivided parcel for the purposes of this Official Zoning Code, and no portion of said parcel shall be used or sold which does not meet lot width and area requirements established by this Official Zoning Code, nor shall any division of the parcel be made which leaves remaining any lot with width or area below the requirements stated in this Official Zoning Code.

#### 14-205.2B Change of Nonconforming Use

##### 1. General Provisions

For the purpose of this Official Zoning Code, a change in use is a change to another use either under the same activity type or any other activity type or major class of activity; however, a change in occupancy or ownership shall not, by itself, constitute a change of use.

##### 2. Change to a Conforming Use

A nonconforming use may be changed to any conforming use, and the applicable bulk regulations and accessory off-street parking requirements shall apply to such change of use or to alterations made in order to accommodate such conforming use.

Whenever a nonconforming use is changed to a conforming use, such use shall not thereafter be changed to a nonconforming use.

##### 3. Change to Another Nonconforming Use

An existing nonconforming use of a building may be changed to a conforming use or to another nonconforming use of the same classification; provided, however, the establishment of another nonconforming use of the same classification shall be subject to 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 protect the area.

14-205.2C Expansion of Nonconforming Uses

Nonconforming industrial, commercial, or business uses may construct additional facilities that would allow the operations of the establishments to be expanded provided that there is enough space to meet the area requirements of the district and provided that it is done in accordance with the regulations specified in Tennessee Code Annotated, § 13-7-208. The property on which the expansion will take place must be owned by such industry or business situated within the area which is affected by the change in zoning.

Acquisition of additional land for the purpose of expanding the existing industry or business shall not be permitted.

14-205.2D Destruction and Restoration of Nonconforming Uses

1. Nonconforming industrial, commercial, or other business establishments shall be allowed to destroy present facilities and reconstruct new facilities necessary to the conduct of such industry or business in accordance with the regulations specified in Tennessee Code Annotated, § 13-7-208.
2. Any nonconforming industrial, commercial, or business use that is destroyed by fire or other natural disaster may be reconstructed provided that all provisions of Tennessee Code Annotated, § 13-7-208, are followed.

14-205.2E Discontinuance

When a nonconforming use is discontinued for a period of one (1) year, then the land or building or other structure shall thereafter be used only for a conforming use. Intent to resume action operations shall not affect the foregoing provision.

### 14-205.3 NUMBER OF PRINCIPAL BUILDINGS ON A LOT

In all residential districts only one (1) principal building and its customary accessory buildings shall be erected on any individual lot. This provision shall not apply to legally located multi-family dwellings nor legally located mobile home parks.

### 14-205.4 PUBLIC STREET FRONTAGE

No building shall be erected on any residential lot which does not abut at least one (1) public street for at least fifty feet (50'), except on a permanent dead-end street (cul de sac) where the minimum public street frontage shall be thirty feet (30'). No building shall be erected on any nonresidential lot which does not abut at least one (1) public street for at least twenty-five feet (25').

### 14-205.5 REAR YARD ABUTS 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, center line of the street property line as required for adjacent properties which front on that street.

### 14-205.6 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 of the Official Zoning Code are not maintained. This section shall not apply when a portion of a lot is acquired for a public purpose.

### 14-205.7 OBSTRUCTION TO VISION AT STREET INTERSECTION PROHIBITED

On a corner lot within the area formed by the right-of-way lines of the intersecting or intercepting streets adjoining said corner lot and a line joining points on such right-of-way lines at a distance of twenty-five feet (25') from the point of intersection, there shall be no obstruction to vision between their height of two feet (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, § 11-205, as replaced by Ord. #441, Sept. 2006)

**14-206--14-216.** (1980 Code, §§ 11-206--11-216, as deleted by Ord. #441, Sept. 2006)

## CHAPTER 3

### PARKING, ACCESS, AND OFF-STREET LOADING AND UNLOADING REQUIREMENTS

#### SECTION

- 14-301. Off-street automobile storage (parking).
- 14-302. Access control.
- 14-303. Off-street loading and unloading requirements.

**14-301. Off-street automobile storage (parking).** In all zoning districts there shall be provided at such time any building or structure is erected or enlarged or increased in capacity, off-street parking spaces. The number of parking spaces provided shall meet the minimum requirements for the specific uses as set forth below. For uses not specifically mentioned herein, off-street parking requirements shall be determined by the Board of Zoning Appeals. Parking requirements determined herein by square footage are based on gross square feet. For uses resulting in a fractional requirement the fraction shall be rounded off to the higher whole number.

#### 14-301.1 MINIMUM OFF-STREET PARKING REQUIREMENTS

##### 14-301.1A Residential Uses

1. Single-Family Dwelling -- Three (3) spaces per dwelling unit.
2. Two-Family Dwelling -- Three (3) spaces per dwelling unit.
3. Multi-Family Dwelling -- Two and one-half (2.5) spaces per dwelling unit.
4. Mobile Home on Individual Lot -- Three (3) spaces per dwelling unit.
5. Mobile Home Park -- Two (2) spaces per dwelling unit.
6. Elderly Housing -- One and one-half (1.5) spaces per dwelling unit.

##### 14.301.1B Public, Semi-Public and Office Facilities

1. Cemetery -- Parking on private drives, plus one (1) space per employee.
2. Charitable, Fraternal or Social Organization -- One (1) space per four (4) persons to capacity.
3. Church or Similar Place of Worship -- One (1) space per four (4) seats to capacity.

4. Community Center -- One (1) space per two hundred fifty (250) square feet, plus one (1) space per employee.
5. Day-Care Center -- One (1) space per four (4) children, plus one (1) space per employee.
6. Funeral Home -- One (1) space per four (4) seats to capacity.
7. Group Home -- One (1) space per bedroom or sleeping room.
8. Hospital -- One (1) space per two (2) beds intended for patient use, plus one (1) space per employee on largest shift.
9. Medical Clinic for Human Care -- Three (3) spaces per doctor, plus one (1) space per employee.
10. Nursing Home -- One (1) space per four (4) beds intended for patient use, plus one (1) space per employee.
11. Office -- One (1) space per three hundred (300) square feet.
12. Postsecondary Educational Institution -- One (1) space per five (5) students, plus one (1) space per employee.
13. Retirement Center -- One and one-half (1.5) spaces per dwelling unit.
14. School (K-12) -- K-9: one (1) space per classroom, plus one (1) space per employee; 9-12: One (1) space per four (4) students, plus one (1) space per employee.
15. Temporary Care Facility -- One (1) space per four (4) patients, plus one (1) space per employee.

14-301.1C Business and Personal Services

1. Appliance Repair -- One (1) space per three hundred (300) square feet, plus one (1) space per employee.
2. Barber and Beauty Service -- One (1) space per two hundred (200) square feet, plus one (1) space per employee.
3. Bed and Breakfast -- Three (3) spaces for the principal dwelling, plus one (1) space per rented room.
4. Coin-operated Cleaning and Laundry -- One (1) space per two hundred (200) square feet.
5. Convenience Storage -- One (1) space per one thousand (1,000) square feet.
6. Copy Service -- One (1) space per two hundred (200) square feet.
7. Dry Cleaning and Laundry Pickup -- One (1) space per two hundred (200) square feet.
8. Dry Cleaning and Laundry Service -- One (1) space per two hundred (200) square feet.
9. Electrical Repair -- One (1) space per three hundred (300) square feet, plus one (1) space per employee.

10. Employment Agency -- One (1) space per two hundred (200) square feet.
11. Equipment Rental -- One (1) space per two hundred (200) square feet, plus one (1) space per employee.
12. Exterminating Service -- One (1) space per five hundred (500) square feet.
13. Financial Service -- One (1) space per two hundred (200) square feet, plus each drive-through lane shall have a stacking length to accommodate a minimum of six (6) vehicles.
14. Gunsmith -- One (1) space per two hundred (200) square feet.
15. Hotel -- One (1) space per rented room, plus one (1) space per four (4) persons to capacity of meeting and/or banquet rooms.
16. Industrial Equipment Repair -- One (1) space per five hundred (500) square feet.
17. Insurance Agency -- One (1) space per two hundred (200) square feet.
18. Interior Decorating -- One (1) space per two hundred (200) square feet.
19. Legal Service -- One (1) space per two hundred (200) square feet.
20. Locksmith -- One (1) space per two hundred (200) square feet.
21. Motel. One (1) space per rented room, plus one (1) space per four (4) persons to capacity of meeting and/or banquet rooms.
22. Office Equipment Repair -- One (1) space per three hundred (300) square feet, plus one (1) space per employee.
23. Photographic Service -- One (1) space per two hundred (200) square feet.
24. Real Estate Agency -- One (1) space per two hundred (200) square feet.
25. Self-Service Storage -- Two (2) spaces, plus one (1) additional space per two hundred (200) storage cubicles, plus meeting the provision of § 14-604.5 of this Zoning Code.
26. Shoe Repair -- One (1) space per three hundred (300) square feet, plus one (1) space per employee.
27. Small Engine and Motor Repair -- One (1) space per three hundred (300) square feet, plus one (1) space per employee.
28. Tailoring -- One (1) space per two hundred (200) square feet.
29. Taxidermist -- One (1) space per three hundred (300) square feet.

30. Upholstery Service -- One (1) space per two hundred (200) square feet.
31. Veterinary Service (Indoor) -- One (1) space per five hundred (500) square feet, plus one (1) space per employee.
32. Veterinary Service (Outdoor) -- One (1) space per one thousand (1,000) square feet, plus one (1) space per employee.
33. For developments in which the tenants have not been determined, one (1) space per two hundred (200) square feet shall be provided.
34. For developments which also provide drive-through service, a stacking length to accommodate a minimum of five (5) vehicles per lane shall be provided, unless otherwise required herein.

14-301.1D Retail and Wholesale Trade

1. Agricultural Supply -- One (1) space per five hundred (500) square feet.
2. Apparel Shop -- One (1) space per two hundred (200) square feet.
3. Appliance Sales -- One (1) space per five hundred (500) square feet.
4. Automotive Sales -- One (1) space per five hundred (500) square feet, plus two (2) spaces per service bay.
5. Automotive Parts Supply -- One (1) space per three hundred (300) square feet.
6. Bakery (Retail) -- One (1) space per two hundred (200) square feet.
7. Bakery (Wholesale) -- Two (2) spaces per employee.
8. Bookstore -- One (1) space per two hundred (200) square feet.
9. Building Materials -- One (1) space per two hundred (200) square feet, plus one (1) space per employee.
10. Cabinet Sales -- One (1) space per five hundred (500) square feet.
11. Camera and Photographic Supply -- One (1) space per two hundred (200) square feet.
12. Caterer -- One (1) space per two hundred (200) square feet.
13. Confectionery -- One (1) space per two hundred (200) square feet.
14. Department Store -- One (1) space per two hundred (200) square feet.



15. Drapery Sales -- One (1) space per five hundred (500) square feet.
16. Drugstore -- One (1) space per two hundred (200) square feet.
17. Fertilizer Sales (Bulk) -- One (1) space per five hundred (500) square feet.
18. Fertilizer Sales (Packaged) -- One (1) space per five hundred (500) square feet.
19. Florist (Retail) -- One (1) space per two hundred (200) square feet.
20. Florist (Wholesale) -- Two (2) spaces per employee.
21. Fruit Market -- One (1) space per two hundred (200) square feet.
22. Furniture Sales -- One (1) space per five hundred (500) square feet.
23. Gift Shop -- One (1) space per two hundred (200) square feet.
24. Grocery Store -- One (1) space per one hundred (100) square feet, plus one (1) space per two hundred (200) square feet of storage area.
25. Handicrafts -- One (1) space per five hundred (500) square feet.
26. Hardware -- One (1) space per two hundred (200) square feet.
27. Heavy Machinery Sales -- One (1) space per five hundred (500) square feet, plus one (1) space per employee.
28. Industrial Supplies -- One (1) space per five hundred (500) square feet, plus one (1) space per employee.
29. Jewelry -- One (1) space per two hundred (200) square feet.
30. Marine Supply -- One (1) space per five hundred (500) square feet, plus one (1) space per employee.
31. Meat Market -- One (1) space per two hundred (200) square feet.
32. Mobile Home Sales -- One (1) space per five hundred (500) square feet.
33. Motorcycle Sales -- One (1) space per five hundred (500) square feet.
34. Music Store -- One (1) space per two hundred (200) square feet.
35. Nursery and Garden Centers -- One (1) space per two hundred (200) square feet, plus one (1) space per employee.
36. Office Supplies -- One (1) space per two hundred (200) square feet.

37. Optical Goods -- One (1) space per two hundred (200) square feet.
38. Pet Shop -- One (1) space per three hundred (300) square feet.
39. Petroleum Bulk Sales and Storage -- One (1) space per five hundred (500) square feet, plus one (1) space per employee.
40. Restaurant -- One (1) space per one hundred (100) square feet, plus one (1) space per employee based on the largest work shift.
41. Restaurant (Drive-In) -- Two (2) spaces per three (3) seats to capacity.
42. Restaurant (Drive-Through) -- Each drive-through lane shall have a stacking length to accommodate fifteen (15) vehicles, plus one (1) space per employee based on the largest work shift, plus one (1) space per one hundred (100) square feet if on-site dining is also provided.
43. Sporting Goods -- One (1) space per two hundred (200) square feet.
44. Tavern -- One (1) space per fifty (50) square feet, plus one (1) space per employee based on the largest work shift.
45. Used Merchandise (Antiques) -- One (1) space per five hundred (500) square feet.
46. Used Merchandise (Flea Market) -- One (1) space per rented area.
47. Used Merchandise (General) -- One (1) space per five hundred (500) square feet.
48. Video Rental -- One (1) space per fifty (50) square feet, plus one (1) space per employee.
49. For developments in which the tenants have not been determined, one (1) space per two hundred (200) square feet shall be provided.
50. For developments which also provide drive-through service, a stacking length to accommodate a minimum of five (5) vehicles per lane shall be provided, unless otherwise required herein.

14-301.1E Automotive and Transportation Services

1. Automotive Paint Shop -- One (1) space per two hundred (200) square feet.
2. Automotive Rentals -- One (1) space per five hundred (500) square feet.
3. Automotive Repair Shop -- One (1) space per two hundred (200) square feet.

4. Automotive Tire Repair -- One (1) space per two hundred (200) square feet.
5. Bus Terminal -- One (1) space per one hundred (100) square feet of waiting room area, plus one (1) space per vehicle used in the operation.
6. Car Wash -- Parking and waiting space equivalent to three (3) times the service capacity of the use.
7. Cold Storage Plant -- One (1) space per employee based on the largest work shift.
8. Gasoline Service Station -- Four (4) spaces per employee, plus one (1) space per gasoline pump.
9. Grain Elevator -- One (1) space per employee based on the largest work shift.
10. Motorcycle Repair -- Two (2) spaces per employee.
11. Storage Warehouse and Yard -- Two (2) spaces per employee.
12. Taxicab Stand -- One (1) space per employee, plus one (1) space per vehicle used in the operation.
13. Transfer or Storage Terminal -- One (1) space per employee based on the largest work shift.
14. Travel Agency -- One (1) space per three hundred (300) square feet.
15. Trucking Terminal -- Two (2) spaces per employee, plus one (1) space per vehicle used in the operation.
16. Wrecker Service -- One (1) space per employee, plus one (1) space per vehicle used in the operation.

14-301.1F Amusement and Recreational Services

1. Club or Lodge -- One (1) space per four (4) persons to capacity.
2. Private Recreational Facility -- One (1) space per four (4) expected patrons at maximum capacity.
3. Indoor Motion Picture Theater -- One (1) space per three (3) seats to capacity.
4. Park and Recreational Services -- One (1) space per four (4) expected patrons at maximum capacity.
5. Stadium or Coliseum -- One (1) space per four (4) persons to capacity.
6. Transient Amusement Enterprises -- One (1) space per four (4) expected patrons at maximum capacity.

14-301.1G Manufacturing Mining, Construction and Industrial Uses

All--One (1) space per employee based on the largest work shift, plus one (1) space per vehicle used in the operation.

## 14-301.2 CERTIFICATION OF MINIMUM PARKING REQUIREMENTS

Each application for a building permit shall include information as to the location and dimensions of off-street parking and loading space and the means of ingress and egress to such space. This information shall be in sufficient detail to enable the building inspector to determine whether or not the requirements of this section are met.

## 14-301.3 COMBINATION OF REQUIRED PARKING SPACE

The required parking space for any number of separate uses may be combined in one lot but the required space assigned to one use may not be assigned to another use, except that the parking space required for churches, theaters, or assembly halls whose peak attendance will be at night or on Sundays may be assigned to a use which will be closed at night or on Sundays.

## 14-301.4 OFF-SITE PARKING

14-301.4A If the vehicle parking spaces required by this section cannot be reasonably provided on the same lot on which the principal use is conducted, then the Board of Zoning Appeals may approve the location of a portion of the parking required for a use on another site.

14-301.4B Off-site parking shall be located within three hundred feet (300') of the use which it serves, measured as the shortest practical walking distance from the nearest off-site parking space to the nearest entrance to the building or use which it serves.

14-301.4C In determining whether to approve off-site parking, the Board of Zoning Appeals shall consider all relevant factors, including:

1. The location of the use and the proposed off-site parking.
2. Existing and potential parking demand created by other uses in the vicinity.
3. The characteristics of the use, including employee and customer parking demand, hours of operation and projected convenience and frequency of use of the off-site parking.

4. Adequacy, convenience and safety of pedestrian access between the proposed off-site parking and the use.
5. Traffic patterns on adjacent streets and proposed access to the off-site parking.

14-301.4D A written agreement between the owner of the off-site parking area and the owner of the use assuring the continued availability and usability of off-site parking shall be submitted to the Board of Zoning Appeals prior to approval of off-site parking.

14-301.4E Handicapped parking spaces shall be provided on the same lot on which the principle use is conducted.

14-301.5 DESIGN REQUIREMENTS FOR PARKING SPACES AND LOTS

Parking spaces and lots shall be designed and constructed in accordance with the following minimum standards and requirements:

14-301.5A Except for parcels of land devoted to one- and two-family residential uses, all areas devoted to off-street parking shall be so designed and be of such size that no vehicle is required to back into a public street to obtain egress.

14-301.5B Off-street parking shall meet the following parking requirements for spaces and aisles as shown on the parking illustration at the end of this section. Note: ninety degree (90°) parking shall be no less than nine feet (9') in width by nineteen feet (19') in length for a total area of one hundred seventy-one (171) square feet. Forty-five (45°), sixty (60°) and ninety degrees (90°) are recommended for angled parking. Thirty degree (30°) parking is discouraged.

14-301.5C Ingress and egress points for all off-street parking lots shall comply with the access control requirements of § 14-302 of this Official Zoning Code.

14-301.5D All off-street parking lots (multi-family residential, commercial and industrial development) shall be surfaced with asphalt or concrete and be so constructed to provide for adequate drainage and prevent the release of dust.

14-301.5E Grades within the paved area of a parking lot shall at no place be less than one percent (1%) nor more than five percent (5%).

Grades of driveways or entrances from a public street serving a parking lot shall at no point exceed eight percent (8%).

- 14-301.5F Off-street parking areas containing twenty-five (25) or more parking spaces shall be subdivided into sub-lots containing not more than twenty-five (25) parking spaces separated by landscaped strips of five feet (5') in width.
- 14-301.5G Off-street parking areas containing ten (10) or more parking spaces shall have landscaped strips with broken screening in conformance with § 14-601 of this Official Zoning Code along the perimeter except where driveways are provided for access to adjoining streets, drives, or properties.
- 14-301.5H Interior landscaped strips shall be a minimum of five feet (5') in width and planted with acceptable indigenous landscaping materials.
1. It shall be the obligation of the occupant(s) of each building, structure or use on whose premises landscaped strips are located to maintain said landscaped strips.
  2. Failure to properly maintain landscaped strips shall be a violation of this Official Zoning Code, punishable as a misdemeanor under the provisions of the Town of Monterey Municipal Code.
- 14-301.5I Continuous curbing or individual wheel stops shall be provided where the front of a parking space is adjacent to the perimeter of the parking lots.
- 14-301.5J Any lighting used to illuminate off-street parking lots shall be so arranged to prevent direct glare onto any public or private property or streets.

#### 14-301.6 SPECIAL PROVISIONS FOR HANDICAPPED PARKING

When required, parking spaces for the handicapped shall be provided in conformance with the provisions of the Americans with Disabilities Act (ADA) and/or other applicable federal or state law.

#### 14-301.7 LIMITED COMMERCIAL DISTRICT EXEMPTED

The provisions of § 14-301 shall not apply to any building, structure or use located in the C-1 Limited Commercial District provided, however,

that any off-street parking and loading, if provided at the option of the owner of any building, structure or use, shall comply with the minimum off-street parking requirements (§ 14-302.1B, C, D, E and F) and design requirements of § 14-301.5 of this section. (1980 Code, § 11-301, as amended by Ord. #371, Sept. 1998, replaced by Ord. #441, Sept. 2006, and amended by Ord. #473, Aug. 2010, Ord. #477, Aug. 2010, and Ord. #10-486, Feb. 2011)

**14-302. 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:

14-302.1

A point of access for vehicles onto a street, excluding the necessary turning radius, shall not exceed twenty-five feet (25') in width in a residential district or thirty feet (30') in width in any other district. A point of access of forty feet (40') in width in a commercial or industrial district may be permitted by the Board of Zoning Appeals in cases where a high volume of tractor trailer vehicular traffic is anticipated.

14-302.2

There shall be no more than two (2) points of access to any one (1) public street for each four hundred feet (400') of lot frontage, or fraction thereof; provided, however, that 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.

14-302.3

Where two (2) driveways are provided for one (1) lot frontage, the clear distance between driveways shall not be less than twenty-five feet (25').

14-302.4

No point of access shall be allowed within thirty (30) feet of the right-of-way line of any public intersection.

14-302.5

No curbs on city streets or rights-of-way shall be cut or altered without approval of the Monterey Street Department, or if a state highway, a permit must be obtained from the Tennessee Department of Transportation.

14-302.6

Cases requiring variances relative to the above provisions 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 engagement would require that vehicles back directly into a public street. (1980 Code, § 11-302, as amended by Ord. #371, Sept. 1998, and replaced by Ord. #441, Sept. 2006)

**14-303. Off-street loading and unloading requirements.** In all districts in which a structure of three thousand (3,000) square feet or more is located, which requires deliveries or shipments, off-street loading and unloading space shall be provided meeting the following requirements:

14-303.1 LOCATION

14-303.1A Loading/unloading spaces shall be located on the same lot as the building or structure on which they serve.

14-303.1B No loading/unloading space shall be located in any required front yard.

14-303.1C All loading/unloading spaces shall have access to a public or private alley or if there is no alley, to a public street.

14-303.2 DESIGN STANDARDS AND USE

14-303.2A Off-street loading/unloading berths for industrial or manufacturing uses shall be at least twelve feet (12') wide and at least fifty feet (50') long, exclusive of access or maneuvering space. For all other uses off-street loading/unloading berths shall be at least twelve feet (12') wide and at least thirty feet (30') long, exclusive of access or maneuvering space.

14-303.2B A minimum of fifteen feet (15') overhead clearance and adequate means for ingress and egress shall be provided for off-street loading/unloading spaces.

14-303.2C At no time shall part of a truck, van or other vehicle be allowed to extend onto a sidewalk, into the right-of-way or onto a public thoroughfare in order to deliver, load or unload goods.

14-303.2D Off-street loading/unloading berths shall be marked and shall be paved with asphalt or concrete and be so constructed to provide for adequate drainage and prevent the release of dust.

14-303.2E No off-street loading/unloading space shall be substituted for any parking space.



14-303.3 REQUIRED NUMBER OF LOADING AND UNLOADING SPACES

Off-street loading and unloading spaces shall be based on gross floor area, excluding enclosed or covered areas used for loading and unloading, and the number of berths required shall be determined by the following table:

GROSS SQUARE FEET OF STRUCTURE	MINIMUM NUMBER OF BERTHS REQUIRED
3,000 -- 10,000	1
10,000 -- 25,000	2
25,001 -- 90,000	3
90,001 -- 155,000	4
155,001 -- 240,000	5
240,001 -- 325,000	6
325,001 -- 410,000	7
410,001 -- 500,000	8
Each 100,000 above 500,000	1

(as added by Ord. #441, Sept. 2006)

## CHAPTER 4

### ZONING DISTRICTS AND MAP

#### SECTION

- 14-401. Establishment of districts.
- 14-402. Provision for official zoning map.
- 14-403. Replacement of official zoning map.
- 14-404. Rules for interpretation of district boundaries.
- 14-405. Annexation of territory.

**14-401. Establishment of districts.** For the purpose of this Official Zoning Code, the Town of Monterey is hereby divided into zoning districts, as follows:

- R-1, Low Density Residential District
  - R-2, High Density Residential District
  - C-1, Limited Commercial District
  - C-2, General Commercial District
  - I-1, Light Industrial District
  - I-2, Heavy Industrial District
  - R-R, Rural Residential
- (1980 Code, § 11-401, as amended by Ord. #340, Feb. 1995, and replaced by Ord. #441, Sept. 2006)

**14-402. Provision for official zoning map.**

14-402.1

The boundaries of the above zoning districts are hereby established as shown on the map entitled, "Official Zoning Map of the Town of Monterey, Tennessee," \_\_\_\_\_, 2005, which is a part of the Official Zoning Code and which is on file in the Office of the Town of Monterey City Clerk.

14-402.2

If, in accordance with the provisions of this Official Zoning Code and Tennessee Code Annotated, §§ 13-7-201 through 13-7-210, changes are made in district boundaries or other matter portrayed on the Official Zoning Map, such changes shall be made on the Official Zoning Map, promptly after the amendment has been approved by the Board of Mayor and Aldermen, together with an entry on the Official Zoning Map showing the date of such change.

## 14-402.3

No changes of any nature shall be made in the Official Zoning Map or matter shown thereon except in conformity with the procedures set forth in this Official Zoning Code. Any unauthorized change of whatever kind by any person or persons shall be considered a violation of this Code and punishable as provided under § 14-710 of this Official Zoning Code.

## 14-402.4

Regardless of the existence of purported copies of the Official Zoning Map which may from time to time be made or published, the Official Zoning Map which shall be located in the Monterey City Hall shall be the final authority as to the current zoning status of land and water areas, buildings, and other structures in the municipality. (1980 Code, § 11-402, as replaced by Ord. #441, Sept. 2006)

**14-403. Replacement of official zoning map.** In the event that the Official Zoning Map becomes damaged, destroyed, lost or difficult to interpret because of the nature or number of changes and additions, the Board of Mayor and Aldermen may, by ordinance, adopt a new Official Zoning Map which shall supersede the prior Official Zoning Map. The new Official Zoning Map may correct drafting or other errors or omissions on the prior Official Zoning Map, but no such correction shall have the effect of amending the original Official Zoning Code or any subsequent amendment thereof.

Unless the prior Official Zoning Map has been lost, or has been totally destroyed, the prior map or any significant parts thereof remaining, shall be preserved, together with all available records pertaining to its adoption or amendment. (1980 Code, § 11-403, as replaced by Ord. #441, Sept. 2006)

**14-404. Rules for interpretation of district boundaries.**

## 14-404.1

District boundaries, unless otherwise indicated on the Official Zoning Map, shall be platted lot lines, the center line of streets or alleys, midway between railroad tracks, the center lines of streams, rivers or other bodies of water, or the corporate limit lines as they exist at the time of the enactment of this Official Zoning Code.

## 14-404.2

Where a district boundary divides a lot existing at the time this Official Zoning Code takes effect and the major portion of said lot is in the less restricted district, the regulations relative to that district may extend as well to such portion of said lot as is not more than twenty feet (20') within the more restricted districts.

## 14-404.3

Any questions concerning the exact locations of district boundaries shall be determined by the Board of Zoning Appeals. (as added by Ord. #441, Sept. 2006)

**14-405. Annexation of territory.**

## 14-405.1

All territory which may hereafter be annexed to the Town of Monterey shall be considered by the planning commission and assigned an appropriate zoning classification based on the existing land use, the long-range plans of the community, and the land use of the contiguous property inside the previous city limits. If a zoning classification is not assigned to a territory at the time of annexation, such territory shall be considered to be in the R-1 Low Density Residential District until otherwise classified.

## 14-405.2

Annexed territory and the subsequent zoning of such territory shall be reflected on the zoning map of the Town of Monterey, Tennessee, in the manner described in § 14-402 of this Official Zoning Code. (as added by Ord. #441, Sept. 2006)

**CHAPTER 5****SPECIFIC DISTRICT REGULATIONS****SECTION**

- 14-501. R-1 Low Density Residential District.
- 14-502. R-2 High Density Residential District.
- 14-503. C-1 Limited Commercial District.
- 14-504. C-2 General Commercial District.
- 14-505. I-1 Light Industrial District.
- 14-506. I-2 Heavy Industrial District.
- 14-507. R-R Rural-Residential Districts.
- 14-508. R-3 Residential District.
- 14-509. Planned Residential District (PRD).

**14-501. R-1 Low Density Residential District.****14-501.1 GENERAL DESCRIPTION**

The purpose of the R-1 District is to provide a low density residential environment having good access to schools, public water and sewer, and other community services, but well separated from other incompatible uses and activities.

**14-501.2 PERMITTED USES**

14-501.2A Single-family detached dwellings; excluding mobile homes.

14-501.2B Accessory buildings or uses customarily incidental to aforementioned permitted uses. Such uses may include noncommercial gardens and greenhouses, tool sheds, unattached carports and garages, swimming pools (subject to the conditions of § 14-604.4 of this Official Zoning Code, gazebos and the like).

14-501.2C Television, radio, and satellite dish antennas when in compliance with conditions specified in § 14-604.10 of this Official Zoning Code.

14-501.2D Temporary structures, subject to the provisions of § 14-608 of this Official Zoning Code.

**14-501.3 USES PERMITTED ON APPEAL (SPECIAL EXCEPTIONS)**

After public notice and hearing and subject to appropriate conditions and safeguards, the Board of Zoning Appeals may permit as special exceptions:

14-501.3A Bed and breakfast establishments and the renting of rooms by the residents on premises provided that the floor area used for said purpose may not exceed fifty percent (50%) of total habitable floor area of the dwelling, and provided that the following additional conditions are complied with:

1. Three (3) off-street parking spaces shall be provided for the residence plus one (1) additional space for each room offered for rent. Required additional parking shall not be allowed in any front yard.
2. Signs associated with bed and breakfast establishments shall meet the requirements of § 14-609 of the Official Zoning Code.

14-501.3B Accessory apartments meeting the following conditions:

1. Only one (1) accessory apartment per single-family dwelling shall be permitted.
2. The accessory apartment shall be located within or connected to the single-family dwelling and shall be a clearly subordinate part thereof.
3. The accessory apartment shall not exceed twenty-five percent (25%) of the gross floor area of the principal dwelling; shall not be larger than eight hundred (800) square feet; and shall not contain more than two (2) bedrooms.
4. The principal dwelling shall be owner-occupied.
5. All exterior entrances to the accessory apartment shall be made from the rear or side of the principal dwelling.
6. Two (2) additional off-street parking spaces shall be provided.
7. The accessory apartment shall conform with all applicable housing and building codes.
8. A floor plan and site plan depicting all proposed changes to the single-family dwelling shall be submitted.

14-501.3C Public utilities such as water, sewer, gas, electric, cable TV and telephone but limited to those facilities necessary to serve the immediate neighborhood and excluding general office buildings, warehouses and storage areas. Opaque screening in conformance with § 14-601 of this Official Zoning Code shall be provided along all shared lot lines.

14-501.3D Municipal fire or police substation subject to the following conditions:

1. Sites shall contain a minimum of one (1) acre and have a minimum street frontage of one-hundred fifty feet (150').
2. They shall be located on an arterial or collector street only.
3. Such facilities shall be set back a minimum of fifty feet (50') from all lot lines.
4. Opaque screening in conformance with § 14-601 of this Official Zoning Code shall be provided along all lot lines adjoining residential properties.
5. Off-street parking shall be provided for all anticipated equipment, employees and visitors.

14-501.3E Where this district adjoins a commercial or industrial district without an intervening street, but with or without an intervening alley, off-street parking lots in connection with nearby commercial or industrial uses, provided:

1. Such parking lots may be permitted only between the commercial or industrial district and the nearest street in the residential district.
2. Opaque screening in conformance with § 14-601 of this Official Zoning Code shall be provided along edges of portions of such lots adjoining residential districts as the Board of Zoning Appeals may direct.
3. The design requirements for parking spaces and lots in § 14-301.5 of this Official Zoning Code shall be complied with.
4. No source of illumination for such lots shall be directly visible from any window in any residence in the residential district.
5. There shall be no movement of vehicles on such lots between the hours of 10:00 P.M. and 6:00 A.M. and the Board of Zoning Appeals may impose greater limitations.
6. There shall be no sales or service activity on such lots.

14-501.3F Churches and other places of worship, public parks and public recreational facilities, daycare homes for the care of up to seven children, and customary home occupations.

14-501.4 USES PROHIBITED

- 14-501.4A Mobile homes on individual lots; mobile home parks; two-family dwellings; and multi-family dwellings.
- 14-501.4B Storage or overnight parking of commercial or industrial vehicles.
- 14-501.4C Commercial and industrial uses.
- 14-501.4D Outdoor storage of any type, except that in connection with and on the premise of active building and/or land developments.
- 14-501.4E Any other use or structure not specifically permitted or permitted on appeal.

14-501.5 MINIMUM LOT AREA, WIDTH, AND YARD REQUIREMENTS

The principal building shall be located so as to comply with the following requirements:

- 14-501.5A Minimum lot area . . . . . 10,000 sq. ft.
- 14-501.5B Minimum lot width at building line . . . . . 80 ft.
- 14-501.5C Minimum depth of front yard (from ROW) . . . . . 30 ft.
- 14-501.5D Minimum depth of rear yard . . . . . 20 ft.
- 14-501.5E Minimum interior side yard:
  - 1. One or two story building . . . . . 15 ft.
  - 2. Three story building . . . . . 20 ft.

14-501.5F The minimum widths of side yards on corner lots along an intersecting street shall be fifty percent (50%) greater than the minimum side yard requirements of the district in which the lot is located. Side yard accessory buildings shall also comply with this setback from the intersecting street.

14-501.6 LOCATION OF ACCESSORY BUILDINGS

Accessory buildings shall meet the following provisions:

- 14-501.6A No accessory building shall be erected in any required front or side yard.



14-501.6B Accessory buildings shall not cover more than twenty percent (20%) of the required rear yard.

14-501.6C Minimum setback from other buildings . . . . . 15 ft.

14-501.6D Minimum setback from all lot lines . . . . . 5 ft.

14-501.6E Minimum setback for street side corner lots . . . . . 25 ft.

14-501.6F Maximum height . . . . . 1 story or 18 ft.

14-501.7 MAXIMUM BUILDING AREA

On any lot the area occupied by all buildings, including accessory buildings, shall not exceed twenty-five percent (25%) of the total area of such lot.

14-501.8 PARKING REQUIREMENTS

Uses in the R-1 District shall conform with the provisions of § 14-301 of this Official Zoning Code.

14-501.9 ACCESS REQUIREMENTS

Uses in the R-1 District shall conform with the provisions of § 14-302 of this Official Zoning Code.

14-501.10 MAXIMUM BUILDING HEIGHT

No structure in the R-1 District shall exceed thirty-five feet (35') or three (3) stories in building height.

14-501.11 SIGN REQUIREMENTS

No billboards or similar off-premise advertising structures are allowed in the R-1 District; all other signs and similar advertising structures shall conform with the provisions of § 14-609 of the Official Zoning Code.

14-501.12 PLOT PLAN OR SITE PLAN REQUIREMENTS

All developments in the R-1 District requiring building permits shall conform with the applicable plot plan requirements in § 14-609 of this Official Zoning Code or site plan requirements in § 14-705 of this Official Zoning Code. (1980 Code, §11-501, as replaced by Ord. #441, Sept. 2006 and amended by Ord. #446, Aug. 2007, and Ord. #11-502, Aug. 2011)

**14-502. R-2 High Density Residential District.****14-502.1 GENERAL DESCRIPTION**

The purpose of the R-2 District is to provide a high density residential environment having good access to schools, public water and sewer, and other community services, but well separated from other incompatible uses and activities.

Within the R-2 High Density Residential District, as shown on the Official Town of Monterey Zoning Map, the following regulations shall apply:

**14-502.2 PERMITTED USES**

14-502.2A Single-family detached and two-family attached dwellings.

14-502.2B Accessory apartments for single-family detached dwellings when in conformance with the provisions of § 14-501.3A of this Official Zoning Code.

14-502.2C Multi-family dwellings and apartments; provided an application and site plan as required in § 14-602.1 of this Official Zoning Code are submitted to and approved by the Building Inspector and provided the development standards required in § 14-602.2 of this Official Zoning Code are complied with.

14-502.2D Accessory buildings or uses customarily incidental to aforementioned permitted uses. Such uses may include noncommercial gardens and greenhouses, tool sheds, unattached garages and carports, swimming pools (subject to the provisions of § 14-604.4 of this Official Zoning Code) and the like.

14-502.2E Television, radio, and satellite dish antennas when in compliance with the provisions of § 14-604.10 of this Official Zoning Code.

14-502.2F Temporary structures, subject to the provisions of § 14-608 of this Official Zoning Code.

14-502.2G Elderly housing and residential homes for the aged provided the application and site plan requirements and development standards for multi-family dwellings as specified in § 14-602 of this Official Zoning Code are complied with, provided the minimum lot requirements for multi-family dwellings as specified in § 14-503.5 of this Official Zoning Code are complied with, and provided the

parking requirements of § 14-301.1A(6) of this Official Zoning Code are complied with.

**14-502.3 USES PERMITTED ON APPEAL (SPECIAL EXCEPTIONS)**

After public notice and hearing and subject to appropriate conditions and safeguards to protect the character of the neighborhood, the Board of Zoning Appeals may permit as special exceptions:

- 14-502.3A Mobile home parks subject to meeting the requirements and standards of § 14-603 of the Official Zoning Code.
- 14-502.3B Bed and breakfast establishments and the renting of rooms by the residents on premises provided that the floor area used for said purpose may not exceed fifty percent (50%) of total habitable floor area of the dwelling, and provided that the following additional conditions are complied with:
1. Three (3) off-street parking spaces shall be provided for the residence plus one (1) additional space for each room offered for rent. Required additional parking shall not be allowed in any front yard.
  2. Signs associated with bed and breakfast establishments shall meet the requirements of § 14-609 of the Official Zoning Code.
- 14-502.3C Churches and other places of worship provided that the conditions specified in § 14-604.7 of this Official Zoning Code are complied with.
- 14-502.3D Schools offering general education courses provided that the conditions specified in § 14-604.8 of this Official Zoning Code are complied with.
- 14-502.3E Public parks and public recreational facilities provided that the conditions specified in § 14-502.3E of this Official Zoning Code are complied with.
- 14-502.3F Public utilities such as water, sewer, gas, electric, cable TV and telephone but limited to those facilities necessary to serve the immediate neighborhood and excluding general office buildings, warehouses, and storage areas. Opaque screening in conformance with § 14-601 of this Official Zoning Code shall be provided along all shared lot lines.

- 14-502.3G Municipal uses such as fire or police substations provided that the conditions specified in § 14-502.3G of this Official Zoning Code are complied with.
- 14-502.3H Daycare home for the care of up to seven (7) children, provided they meet the minimum standards established by the Tennessee Department of Human Services for such facilities and provided that the conditions specified in § 14-604.9 of this Official Zoning Code are complied with.
- 14-502.3I Customary home occupations provided that the conditions specified in § 14-604.3 of this Official Zoning Code are complied with.
- 14-502.3J Parking lots. Where this district adjoins a commercial or industrial district without an intervening street, but with or without an intervening alley, off-street parking lots in connection with nearby commercial or industrial uses, provided that the conditions specified in § 14-502.3J of this Official Zoning Code are complied with.
- 14-502.3K Tea rooms, provided the conditions specified in § 14-502.3K of this Official Zoning Code are complied with.
- 14-502.4 USES PROHIBITED
- 14-502.4A Mobile homes on individual lots.
- 14-502.4B Storage or long-term parking of commercial or industrial vehicles.
- 14-502.4C Outdoor storage of any type, except that in connection with and on the premise of active building and/or land development.
- 14-502.4D Any other use or structure not specifically permitted or permitted on appeal.
- 14-502.5 MINIMUM LOT AREA, WIDTH, AND YARD REQUIREMENTS  
The principal building shall be located so as to comply with the following requirements:
- 14-502.5A Minimum lot area single family dwelling unit . . . . . 7,600 sq. ft.
- 14-502.5B Each additional dwelling unit . . . . . 3,000 sq. ft.

- 14-502.5C Minimum lot width at building line:
- 1. Single-family dwelling . . . . . 60 ft.
  - 2. Two-family dwelling . . . . . 80 ft.
  - 3. Multi-family dwelling . . . . . 100 ft.

14-502.5D Minimum depth of front yard . . . . . 35 ft.

14-502.5E Minimum depth of rear yard . . . . . 20 ft.

14-502.5F Minimum interior side yard:

- 1. Single-family dwelling . . . . . 10 ft.
- 2. Two-family dwelling . . . . . 15 ft.
- 3. Multi-family dwelling . . . . . 20 ft.

14-502.5G Minimum side yard for street side corner lots . . . . . 35 ft.

14-502.6 LOCATION OF ACCESSORY BUILDINGS

Accessory buildings shall meet the following provisions:

14-502.6A No accessory building shall be erected in any required front or side yard.

14-502.6B Accessory buildings shall not cover more than twenty percent (20%) of the required rear yard.

14-502.6C Minimum setback from other buildings . . . . . 10 ft.

14-502.6D Minimum setback from all lot lines . . . . . 5 ft.

14-502.6E Minimum setback for street side corner lots . . . . . 35 ft.

14-502.6F Minimum setback from alleyways . . . . . 2 ft.

14-502.6G Maximum height . . . . . 1 story or 18 ft.

14-502.7 MAXIMUM BUILDING AREA

On any lot the area occupied by all buildings, including accessory buildings, shall not exceed thirty percent (30%) of the total area of such lot.

**14-502.8 PARKING REQUIREMENTS**

Uses in the R-2 District shall conform with the provisions of § 14-301 of this Official Zoning Code.

**14-502.9 ACCESS REQUIREMENTS**

Uses in the R-2 District shall conform with the provisions of § 14-302 of this Official Zoning Code.

**14-502.10 MAXIMUM BUILDING HEIGHT**

No structure in the R-2 District shall exceed thirty-five feet (35') or three (3) stories in building height.

**14-502.11 SIGN REQUIREMENTS**

No billboards or similar off-premise advertising structures are allowed in the R-2 District, all other signs or similar advertising structures shall conform with the provisions of § 14-609 of the Official Zoning Code.

**14-502.12 PLOT PLAN OR SITE PLAN REQUIREMENTS**

All developments in the R-2 District requiring building permits shall conform with the applicable plot plan requirements in § 14-704 of this Official Zoning Code or site plan requirements in § 14-705 of this Official Zoning Code. (as added by Ord. #441, Sept. 2006, and amended by Ord. #11-502, Aug. 2011)

**14-503. C-1 Limited Commercial District.****14-503.1 GENERAL DESCRIPTION**

The purpose of the C-1 District is to provide an area for the conduct of community and regional retail and service business of an indoor and intensive nature, especially for those sales and service uses which require a central location, which generate substantial pedestrian traffic, and which are mutually benefitted by close proximity to other uses of a similar nature.

Within the C-1 Limited District, as shown on the Official Zoning Map, the following regulations shall apply:

**14-503.2 PERMITTED USES**

**14-503.2A** Business and personal services but limited to the following types of establishments: Appliance repair, barber and beauty shops, coin operated cleaning and laundry, copy service, day care centers, dry cleaning and laundry pickup, employment agency, financial service, fitness center and spa, insurance agency, interior

decorating, legal service, locksmith, office equipment repair, photographic service, real estate agency, shoe repair, tanning facilities, tailoring, travel agencies and similar uses.

- 14-503.2B Retail trade but limited to the following types of establishments: Antique shop, apparel shop, appliance shop, bakery-retail, bookstore, camera and photographic supply, caterer, confectionery, drapery sales, drug store, electronic shop, florist-retail, fruit market, furniture-retail, gift shop, grocery store-retail, handicrafts, hardware, jewelry, meat market, music store, office supplies, optical goods, restaurant, sporting goods, video sales and rental, and similar uses.
- 14-503.2C Professional offices for doctors, dentists, lawyers, architects, artists, engineers and the like.
- 14-503.2D Federal, state, county and municipal uses except outside storage areas.
- 14-503.2E Public and semi-public uses; but limited to the following types of establishments: Church or similar place of worship, charitable, fraternal or social organization.
- 14-503.2F Off-street parking lots meeting the design requirements of § 14-301.5 of this Official Zoning Code.
- 14-503.2G Amusement and recreational services; but limited to the following types of establishments: Club or lodge, indoor theater, public parks, and private recreational facility.
- 14-503.2H Accessory structures and uses incidental and subordinate to the principal structure.
- 14-503.2I Temporary structures, subject to the provisions of § 14-608 of this Official Zoning Code.
- 14-503.3 **USES PERMITTED ON APPEAL (SPECIAL EXCEPTIONS)**  
After public notice and hearing and subject to appropriate conditions and safeguards, the Board of Zoning Appeals may permit as special exceptions:
- 14-503.3A Multi-family apartments and mixed commercial/multi-family apartments (new construction or rehabilitation of existing

structure) provided that the following conditions are complied with:

1. The off-street parking requirements of § 14-301 of this Official Zoning Code shall be complied with.
2. A minimum square footage per dwelling unit of six hundred fifty (650) square feet for a one-bedroom unit, eight hundred (800) square feet for a two-bedroom unit, and one thousand (1,000) square feet for a three-bedroom unit shall be provided.
3. All municipal building and fire codes shall be adhered to.
4. All new residential construction shall meet the minimum lot area, width and yard requirements as required in the R-2 High Density Residential District.

14-503.3B Limited manufacturing for an on-premise business or service provided the following conditions are complied with:

1. The manufacturing area shall not occupy more than forty percent (40%) of the floor area.
2. No more than five (5) operators shall be employed.
3. All municipal building and fire codes shall be adhered to.

14-503.3C Automobile sales (new and used) and automobile rentals provided the following conditions are complied with:

1. Shall be in conformance with the provisions of § 14-601 of this Official Zoning Code.
2. Shall not be located on public street of a classification of less than major collector status.
3. Shall be in conformance with the provisions of § 14-604.6 of this Official Zoning Code.

14-503.4 USES PROHIBITED

14-503.4A Outdoor storage of any type, except that in connection with and on the premise of active building and/or land developments.

14-503.4B Any other use or structure not specifically permitted or permitted on appeal.

14-503.5 MINIMUM LOT AREA WIDTH AND YARD REQUIREMENTS  
All buildings or structures hereafter constructed in the C-1 District shall be located so as to comply with the following requirements:



- 14-503.5A On corner lots in the C-1 District, no obstruction to vision shall hereafter be placed or erected in such a manner as to materially impede visibility between a height of two feet (2') and ten feet (10') above the grades of the intersecting streets at their point of intersection in an area defined by the street lines adjoining said corner lot and a line joining points along said street lines twenty-five feet (25') from the point of intersection.
- 14-503.5B Unless otherwise provided or required to meet other provisions, no front, rear or side yard setback is required in the C-1 District. If a new building is being constructed outside of the downtown central business district, the front, rear and side setbacks shall meet the standards as indicated in the C-2 District.
- 14-503.5C On lots adjacent to a residential district, all buildings or structures shall be located so as to conform with the side and/or rear yard requirements of the adjacent residential district.
- 14-503.6 **MAXIMUM BUILDING AREA**  
None except as necessary to meet all other requirements.
- 14-503.7 **SCREENING REQUIREMENTS**  
Where a lot line is shared with an adjacent residential lot, the owner of the commercial lot shall provide opaque screening in conformance with § 14-601 of this Official Zoning Code along the entire shared lot line or lines so as to provide a pleasant buffer between the two (2) different but contiguous land uses.
- 14-503.8 **PARKING REQUIREMENTS**  
None unless required under other provisions.
- 14-503.9 **ACCESS REQUIREMENTS**  
Uses in the C-1 District shall conform with the provisions of § 14-302 of this Official Zoning Code.
- 14-503.10 **MAXIMUM BUILDING HEIGHT**  
A building height of fifty feet (50') or four (4) stories may be permitted if automatic sprinkler systems and dry stand pipes with external fire department connections are provided. No other structure shall exceed thirty-five feet (35') or three (3) stories in building height.
- 14-503.11 **SIGN REQUIREMENTS**  
All signs and similar advertising structures in the C-1 District shall conform with the provisions of § 14-609 of the Official Zoning Code.

#### 14-503.12 SITE PLAN REVIEW REQUIREMENTS

Uses in the C-1 District shall conform with the provisions of § 14-705 of this Official Zoning Code. (as added by Ord. #441, Sept. 2006, and amended by Ord. #482, Sept. 2010)

#### **14-504. C-2 General Commercial District.**

##### 14-504.1 GENERAL DESCRIPTION

The purpose of the C-2 District is to provide an area for the conduct of community and regional retail and service business dealing predominantly in those goods transportable by private auto and for those creating a substantial amount of automobile traffic. It is intended that such areas have properties of sufficient size so that activities performed thereon will not interfere with traffic circulation.

Within the C-2 General Commercial District, as shown on the Official Zoning Map, the following regulations shall apply:

##### 14-504.2 PERMITTED USES

- 14-504.2A Business and personal services; all those permitted in the C-1 Limited Commercial District and including the following types of establishments: Dry cleaning and laundry service, electrical repair, equipment rental, exterminating service, gunsmith, hotel and motels, small engine and motor repair, upholstering service, veterinary service-indoor, and similar uses.
- 14-504.2B Retail and wholesale trade; all those permitted in the C-1 Limited Commercial District and including the following types of establishments: Automotive parts store, building materials, cabinet sales, department store, fertilizer sales-packaged, florist-wholesale, furniture sales, motorcycle sales, nursery and garden centers-retail, pet shop, restaurant-drive-in, and similar uses.
- 14-504.2C Public and semi-public uses, including the following types of establishments: Cemetery (subject to the provisions of § 14-604.2 of this Official Zoning Code), charitable, fraternal or social organization, church or similar place of worship, (when in compliance with the conditions specified in § 14-604.7 of this Official Zoning Code), community center, daycare center, funeral home, general office buildings, group homes, hospital, medical clinic, nursing home, schools, (when in compliance with the conditions specified in § 14-604.8 of this Official Zoning Code), retirement center, temporary care facility and similar uses.

- 14-504.2D Professional offices for doctors, dentists, lawyers, architects, artists, engineers and the like.
- 14-504.2E Federal, state, county and municipal uses.
- 14-504.2F Automotive and transportation services, limited to the following types of establishments: Automotive tire sales and tire repair, car wash, gasoline station (with no above ground storage of flammable material in excess of 500 gallons and subject to the provisions of §§ 14-604.1 and 14-604.6 of this Official Zoning Code), off-street parking lots (meeting the design requirements of § 14-301.5 of this Official Zoning Code), taxicab stand, and similar uses.
- 14-504.2G Amusement and recreational services; all those permitted in the C-1 Limited Commercial District and including the following types of establishments: health and physical fitness clubs.
- 14-504.2H Light manufacturing; limited to the following types of establishments: Commercial printing, laboratories, optical instruments and lenses, and similar uses.
- 14-504.2I Limited manufacturing for an on-premise business or service provided the following conditions are complied with:
1. The manufacturing area shall not occupy more than forty-nine percent (49%) of the floor area.
  2. No more than ten (10) operators shall be employed.
- 14-504.2J Newspaper, radio and television stations.
- 14-504.2K Accessory structures and uses incidental and subordinate to the principal structure.
- 14-504.2L Temporary structures, subject to the provisions of § 14-608 of this Official Zoning Code.
- 14-504.3 **USES PERMITTED ON APPEAL (SPECIAL EXCEPTIONS)**  
After public notice and hearing and subject to appropriate conditions and safeguards, the Board of Zoning Appeals may permit as special exceptions:
- 14-504.3A Multi-family residential provided the following conditions are complied with:

1. The minimum lot area, width and yard requirements as required in the R-2 High Density Residential District of this Official Zoning Code shall be complied with.
2. The off-street parking requirements of § 14-301 of this Official Zoning Code shall be complied with.
3. The required standards of § 14-602 of this Official Zoning Code shall be complied with.

14-504.3B Automobile sales (new and used) and automobile rentals provided the following conditions are complied with:

1. Shall not be located adjacent to any residential district.
2. Shall not be located on public street of a classification of less than major collector status.
3. Shall be in conformance with the provisions of § 14-604.6 of this Official Zoning Code.

14-504.3C Automobile repair shops provided the following conditions are complied with:

1. Shall not be located adjacent to any residential district.
2. Shall be in conformance with the provisions of § 14-604.6 of this Official Zoning Code.

14-504.3D Agriculture supply provided the following conditions are complied with:

1. Shall not be located adjacent to any residential district.
2. Shall not have any unpackaged fertilizer, feed, grain or pesticide storage nor any bulk fertilizer, feed, grain or pesticide sales.
3. No milling, grinding or mixing of materials shall be permitted.
4. No feed lots or stockyards shall be permitted.

14-504.3E Self-service storage facilities (mini-warehouses) provided the following conditions are complied with:

1. The sale or auction of any item as a self-service storage facility is specifically prohibited.
2. Shall not be located on public street of a classification of less than major collector status.
3. The standards of § 14-604.5 of this Official Zoning Code shall be complied with.

14-504.3F Marine supply, including boat sales and service, provided the following conditions are complied with:

- 1. Shall not be located adjacent to any residential district.
- 2. Shall not be located on public streets of a classification of less than major collector status.
- 3. Shall be in conformance with the provisions of § 14-604.6 of this Official Zoning Code.

14-504.4 USES PROHIBITED

14-504.4A Outdoor storage of any type, except that in connection with and on the premise of active building and/or land developments and except that permitted under the provisions of § 14-604.6 of this Official Zoning Code.

14-504.4B Any other use or structure not specifically permitted or permitted on appeal.

14-504.5 MINIMUM LOT AREA, WIDTH AND YARD REQUIREMENTS  
All buildings or structures, including accessory structures, hereafter constructed in the C-2 District shall be located so as to comply with the following requirements:

14-504.5A Minimum lot requirements . . . . . None except as necessary to meet all other requirements.

14-504.5B Minimum depth of front yard . . . . . 40 ft.

14-504.5C Minimum depth of rear yard . . . . . 15 ft.

14-504.5D Minimum side yard on one side . . . . . 15 ft.

14-504.5E Minimum side yard for street side corner lots . . . . . 40 ft.

14-504.5F On lots adjacent to a residential district all buildings or structures shall be located so as to conform with the side and/or rear yard requirements of the adjacent residential district.

14-504.6 MAXIMUM BUILDING AREA  
None except as necessary to meet all other requirements.

**14-504.7 SCREENING REQUIREMENTS**

Where a lot line is shared with an adjacent residential lot the owner of the commercial lot shall provide semi-opaque screening in conformance with § 14-601 of this Official Zoning Code along the entire shared lot line or lines so as to provide a pleasant buffer between the two (2) different but contiguous land uses.

**14-504.8 PARKING REQUIREMENTS**

Uses in the C-2 District shall conform with the provisions of § 14-301 of this Official Zoning Code.

**14-504.9 ACCESS REQUIREMENTS**

Uses in the C-2 District shall conform with the provisions of § 14-302 of this Official Zoning Code.

**14-504.10 OFF-STREET LOADING AND UNLOADING SPACE REQUIREMENTS**

Uses in the C-2 District shall conform with the provisions of § 14-303 of this Official Zoning Code.

**14-504.11 MAXIMUM BUILDING HEIGHT**

No structure in the C-2 District shall exceed thirty-five feet (35') or three (3) stories in building height.

**14-504.12 SIGN REQUIREMENTS**

All signs and similar advertising structures in the C-2 District shall conform with the provisions of § 14-609 of the Official Zoning Code.

**14-504.13 SITE PLAN REVIEW REQUIREMENTS**

Uses in the C-2 District shall conform with the provisions of § 14-705 of this Official Zoning Code. (as added by Ord. #441, Sept. 2006)

**14-505. I-1 Light Industrial District.****14-505.1 GENERAL DESCRIPTION**

The purpose of the I-1 District is to provide an area in which the principal use of land is for light manufacturing and assembly plants, processing, storage, warehousing, wholesaling, and distribution. It is the intent that uses shall be restricted to activities that are safe and not a nuisance due to dust, fumes, noise, odor, refuse matter, smoke, vibration, water-carried waste or other adverse effects on surrounding areas.

Within the I-1, Light Industrial District, as shown on the Official Town of Monterey Zoning Map, the following regulations shall apply:

## 14-505.2 PERMITTED USES

- 14-505.2A Light industrial and manufacturing uses; all those permitted in the C-2 District and including the following types of establishments: apparel, appliance assembly, bakeries, beverage products, bottling machinery, dairy products, electronic devices and instruments, engineering, medical, and scientific instruments, excelsior, food products, furniture, glass and glassware, ice plant, industrial laundries, insulation products, jewelry products, laboratories, machine assembly, metal working machinery, motor vehicle and equipment assembly, musical instruments, office and computer equipment, optical instruments and lenses, paper products, pharmaceuticals, plastic products assembly, boat manufacturing and repair, sign manufacturing, textiles, textile machinery, tobacco products, toys, amusements, sporting and athletic goods, upholstering, watches and clocks, welding, and wood products, provided that any industrial or manufacturing use that may cause injurious or obnoxious noise, vibrations, smoke, gas fumes, odor, dust, fire hazard, or other objectionable conditions, shall be required to show that the proposed location, construction, and operation will not injure or disturb adjoining properties.
- 14-505.2B General office buildings.
- 14-505.2C Vocational learning and training centers, trade schools.
- 14-505.2D Day care facilities when located in connection with and on the same premises as permitted, principal uses and when used solely for the care of dependents of employees of said principal use.
- 14-505.2E Gasoline service stations, (meeting the provisions of §§ 14-604.1 and 14-604.6 of this Official Zoning Code) automobile tire repair, motorcycle repair.
- 14-505.2F General contractors and specialty contractors.
- 14-505.2G Building materials and supplies.
- 14-505.2H Transfer or storage terminal, truck terminal and freight handling, packing and crating services.
- 14-505.2I Nursery-wholesale.

- 14-505.2J Restaurants when primarily intended to serve the needs of the industrial community.
- 14-505.2K Industrial machinery and supplies sales, heavy equipment sales.
- 14-505.2L Warehousing, cold storage plant, distribution center, self-service storage facilities (meeting the provisions of § 14-604.5 of this Official Zoning Code).
- 14-505.2M Veterinarian hospitals and kennels.
- 14-505.2N Agriculture supplies and equipment sales and repairs.
- 14-505.2O Public utility structures, fire and police stations.
- 14-505.2P Accessory uses and structures.
- 14-505.2Q Temporary structures, subject to the provisions of § 14-608 of this Official Zoning Code.
- 14-505.3 USES PERMITTED ON APPEAL (SPECIAL EXCEPTIONS)  
After public notice and hearing and subject to appropriate conditions and safeguards, the Board of Zoning Appeals may permit as special exceptions:
- 14-505.3A Day care center provided that the following conditions are complied with:
1. Shall meet the minimum standards established by the Tennessee Department of Human Services.
  2. Outdoor play space shall be fenced or otherwise enclosed to a minimum height of four feet (4') on all sides.
- 14-505.3B Public parks and public recreational facilities meeting the following conditions:
1. A minimum lot area of one-half ( $\frac{1}{2}$ ) acre with a minimum lot width of fifty feet (50') at the building setback line shall be provided.
  2. The minimum depth of the front yard shall be thirty-five feet (35') and the minimum depth of the side and rear yards shall be twenty-five feet (25'). The minimum side yard on the street side of corner lots shall be thirty-five feet (35').



3. The maximum lot coverage for all enclosed buildings shall be ten percent (10%).

14-505.3C Petroleum products dealers and wholesalers provided that the following conditions are complied with:

1. Shall not be located adjacent to any residential district.
2. Shall be in conformance with all federal, state or local environmental, fire, safety or other applicable codes or laws.
3. Above ground storage of flammable materials shall be a minimum of one-hundred feet (100') from all property lines.

14-505.3D Outside storage of materials provided that the following conditions are complied with:

1. Shall be fenced and shall be screened with opaque screening in conformance with § 14-601 of this Official Zoning Code.
2. Shall be located in the rear yard only.
3. Shall be located on the same property as the principal use.

14-505.3E Correctional or holding facilities:

1. Shall not be located on property adjacent to any residential district.
2. Shall not have an adverse effect on any surrounding properties.
3. Shall meet minimum standards of all applicable federal, state, and municipal regulations for a facility of this nature.

14-505.4 USES PROHIBITED

14-505.4A Outside storage of unscreened materials.

14-505.4B Any use determined by the Building Inspector to be potentially noxious, dangerous or offensive to adjacent uses by reason of odor, smoke, noise, glare, fumes, gas, vibration, threat of fire or explosion, or other similar reasons to be incompatible with the character of the I-1 District.

14-505.4C Any other use or structure not specifically permitted or permitted on appeal.

14-505.5 MINIMUM LOT AREA, WIDTH AND YARD REQUIREMENTS

All buildings or structures, including accessory structures, hereafter constructed in the I-1 District shall be located so as to comply with the following requirements:

14-505.5A Minimum lot requirements . . . . . None except as necessary to meet all other requirements.

14-505.5B Minimum depth of front yard . . . . . 45 ft.

14-505.5C Minimum depth of rear yard . . . . . 20 ft.

14-505.5D Minimum depth of side yard each side . . . . . 20 ft.

14-505.5E On lots adjacent to a residential district, all rear and side yard setback requirements of the adjacent residential district, in greater than required in the industrial district, shall be provided:

14-505.6 MAXIMUM BUILDING AREA

None except as necessary to meet all other requirements.

14-505.7 SCREENING REQUIREMENTS

Where a lot line is shared with an adjoining residential lot the owner of the industrial lot shall provide opaque screening in conformance with § 14-601 of this Official Zoning Code along the entire shared lot line so as to provide a pleasant screen between the two (2) different but contiguous land uses.

14-505.8 PARKING REQUIREMENTS

Uses in the I-1 District shall conform with the provisions of § 14-301 of this Official Zoning Code.

14-505.9 ACCESS REQUIREMENTS

Uses in the I-1 District shall conform with the provisions of § 14-302 of this Official Zoning Code.

14-505.10 OFF-STREET LOADING AND UNLOADING SPACE REQUIREMENTS

Uses in the I-1 District shall conform with the provisions of § 14-303 of this Official Zoning Code.

14-505.11 MAXIMUM BUILDING HEIGHT

A building height of fifty feet (50') or four (4) stories may be permitted if automatic sprinkler systems and dry stand pipes with external fire

department connections are provided. No other structure shall exceed thirty-five feet (35') or three (3) stories in building height.

14-505.12 SIGN REQUIREMENTS

All signs and similar advertising structures in the I-1 District shall conform with the provisions of § 14-609 of the Official Zoning Code.

14-505.13 SITE PLAN REVIEW REQUIREMENTS

Uses in the I-1 District shall conform with the provisions of § 14-705 of this Official Zoning Code. (as added by Ord. #441, Sept. 2006, and amended by Ord. #450, March 2008)

**14-506. I-2 Heavy Industrial District.**

14-506.1 GENERAL DESCRIPTION

The purpose of the I-2 District is to provide an area in which the principal use of land is for heavy manufacturing and assembly plants and processing. It is the intent of this district to provide an area for industrial activities of an intensive nature by reason of volume of raw materials or freight, scale of operation, type of structure required, or other similar characteristics requiring locations relatively well segregated from non-industrial uses.

Within the I-2, Heavy Industrial District, as shown on the Official Town of Monterey Zoning Map, the following regulations shall apply:

14-506.2 PERMITTED USES

14-506.2A Light industrial and manufacturing uses: all those permitted in the I-1 Light Industrial District and subject to the same conditions or provisions, if any.

14-506.2B Gasoline service stations (meeting the provisions of §§ 14-604.1 and 14-604.6 of this Official Zoning Code), automobile tire repair, motorcycle repair.

14-506.2C General contractors and specialty contractors; building materials and supplies.

14-506.2D Transfer or storage terminal, truck terminal and freight handling, packing and crating services.

- 14-506.2E Warehousing cold storage plant, storage yard, distribution center, self-service storage facilities (meeting the provisions of § 14-604.5 of this Official Zoning Code).
- 14-506.2F Industrial machinery and supplies sales, heavy equipment sales.
- 14-506.2G Nursery wholesale.
- 14-506.2H Veterinarian hospitals and kennels.
- 14-506.2I Agriculture supplies and equipment sales and repairs.
- 14-506.2J Public utility structures, fire and police stations.
- 14-506.2K Accessory uses and structures.
- 14-506.2L Temporary structures, subject to the provisions of § 14-608 of this Official Zoning Code.
- 14-506.2M Day care facilities when located in connection with and on the same premises as permitted principal uses and when used solely for the care of dependents of employees of said principal use.
- 14-506.3 USES PERMITTED ON APPEAL (SPECIAL EXCEPTIONS)  
After public notice and hearing and subject to appropriate conditions and safeguards, the Board of Zoning Appeals may permit as special exceptions:
- 14-506.3A Extensive and heavy industrial and manufacturing uses; but limited to the following uses: abrasive products; asphaltic cement plants; cement and/or concrete plants; chemical and allied products; clay, pottery, terra cotta and tile products; grain milling; junkyards, hard surface floor coverings, kiln drying operations; leather goods, machine shop, paints and allied products; paper and allied products; petroleum products dealers and wholesalers, rubber and miscellaneous plastic products; saw mills; slaughtering of animals; provided the following conditions are complied with:
1. Shall not be located adjacent to any residential district.
  2. Shall not have an adverse affect on any surrounding properties.
  3. All federal, state or other permits for air pollution standards, ground water and emissions must be obtained and kept up-to-date.

- 4. Access shall be provided only from streets of a classification of no less than minor arterial classification or an industrial access road from a minor arterial.
- 5. Outside storage shall be fenced and shall be screened with opaque screening in conformance with § 14-601 of this Official Zoning Code.

14-506.3B Day care centers provided that the following conditions are complied with:

- 1. Shall meet the minimum standards established by the Tennessee Department of Human Services.
- 2. Outdoor play space shall be fenced or otherwise enclosed to a minimum height of four feet (4') on all sides.

14-506.3C Outside storage of materials provided that the following conditions are complied with:

- 1. Shall be fenced and shall be screened with opaque screening in conformance with § 14-601 of this Official Zoning Code.
- 2. Shall be located in the rear yard only.
- 3. Shall be located on the same property as the principal use.

14-506.4 USES PROHIBITED

14-506.4A Outside storage of unscreened materials.

14-506.4B Any use determined by the Building Inspector to be potentially noxious, dangerous or offensive to adjacent uses by reason of odor, smoke, noise, glare, fumes, gas, vibration, threat of fire or explosion, or other similar reasons to be incompatible with the character of the I-2 District.

14-506.4C Any other use or structure not specifically permitted or permitted on appeal.

14-506.5 MINIMUM LOT AREA, WIDTH AND YARD REQUIREMENTS  
All buildings or structures, including accessory structures, hereafter constructed in the I-2 District shall be located so as to comply with the following requirements:

14-506.5A Minimum lot requirements . . . . . None except as necessary to meet all other requirements.

14-506.5B Minimum depth of front yard . . . . . 45 ft.

14-506.5C Minimum depth of rear yard . . . . . 50 ft.

14-506.5D Minimum depth of side yard each side . . . . . 50 ft.

14-506.6 MAXIMUM BUILDING AREA

None, except as necessary to meet all other requirements.

14-506.7 SCREENING REQUIREMENTS

Where a lot line is shared with an adjoining residential lot, the owner of the industrial lot shall provide opaque screening in conformance with § 14-601 of this Official Zoning Code along the entire shared lot line so as to provide a pleasant screen between the two (2) different but contiguous land uses.

14-506.8 PARKING REQUIREMENTS

Uses in the I-2 District shall conform with the provisions of § 14-301 of this Official Zoning Code.

14-506.9 ACCESS REQUIREMENTS

Uses in the I-2 District shall conform with the provisions of § 14-302 of this Official Zoning Code.

14-506.10 OFF-STREET LOADING AND UNLOADING SPACE REQUIREMENTS

Uses in the I-2 District shall conform with the provisions of § 14-303 of this Official Zoning Code.

14-506.11 MAXIMUM BUILDING HEIGHT

A building height of fifty feet (50') or four (4) stories may be permitted if automatic sprinkler systems and dry stand pipes with external fire department connections are provided. No other structure shall exceed thirty-five feet (35') or three (3) stories in building height.

14-506.12 SIGN REQUIREMENTS

All signs and similar advertising structures in the I-2 District shall conform with the provisions of § 14-609 of the Official Zoning Code.

14-506.13 SITE PLAN REVIEW REQUIREMENTS

Uses in the I-2 District shall conform with the provisions of § 14-705 of this Official Zoning Code. (as added by Ord. #441, Sept. 2006)

**14-507. R-R Rural-Residential Districts.**

**14-507.1 GENERAL DESCRIPTION**

The purpose of the R-R Districts is to provide areas for agriculture and agriculturally oriented uses and structures in a low density environment, having good access to schools, public water and sewer, and other community services, but well separated from other incompatible uses and activities.

Within the Rural-Residential Districts the following regulations shall apply:

**14-507.2 PERMITTED USES**

14-507.2A Farm homes, and single-family detached dwellings, excluding mobile homes.

14-507.2B Barns, greenhouses, and other structures as accessory buildings customary incidental to the aforementioned permitted uses.

14-507.2C Farms for the growing and storage of farm products such as nursery stock, vegetables, fruits, and grain.

14-507.2D Churches and other places of worship, and parish houses.

14-507.2E Essential utility services and facilities.

14-507.2F Temporary structures, subject to the provisions of § 14-608 of this Official Zoning Code.

**14-507.3 USES PERMITTED ON APPEAL (SPECIAL EXCEPTIONS)**

After public notice and hearing, and subject to appropriate safe conditions and safeguard, the Board of Zoning Appeals may permit as special exceptions:

14-507.3A Public libraries, schools offering general education courses, golf courses, public parks, and other public recreational facilities, municipal, county, state, or federal uses, except general office buildings, public utilities, except storage and warehouse areas, cemeteries, and philanthropic institutions and clubs, except a club, the chief activity of which is customarily carried out as a business.

14-507.3B Bed and breakfast establishments by the family residing on the premises (see § 14-503.3A).

- 14-507.3C Customary Home Occupations, including professional offices (except medical or dental clinics), studios, in-home day care centers for no more than seven (7) children (§ 14-604.9), or other customary incidental home occupations. All home occupations subject to specific requirements in Article VI, section).
- 14-507.3D Telecommunication towers and stations as required in § 14-604.10A.
- 14-507.3E Campgrounds and RV Parks (subject to Board of Zoning Appeals approval of a site plan conforming with the applicable plot plan requirements in § 14-704 of this Official Zoning Code).
- 14-507.4 USES PROHIBITED
- 14-507.4A Mobile homes.
- 14-507.4B Any other use or structure not specifically permitted or permitted on appeal.
- 14-507.5 MINIMUM LOT AREA, WIDTH, AND YARD REQUIREMENTS
- 14-507.5A Minimum lot width at building line . . . . . 75 ft.
- 14-507.5B Minimum depth of front yard:
  - a. Local Street . . . . . 40 ft.
  - b. Collector Street . . . . . 50 ft.
  - c. Arterial Street . . . . . 60 ft.
- 14-507.5C Minimum depth of rear yard . . . . . 30 ft.
- 14-507.5D Minimum width of side yard on each side:
  - a. One or two story building . . . . . 25 ft.
  - b. Three story building . . . . . 35 ft.
- 14-507.5E Minimum width of side yards on corner lots . . . . . 40 ft.
- 14-507.6 LOCATION OF ACCESSORY BUILDINGS  
 Accessory buildings shall meet the following provisions:
- 14-507.6A No accessory building shall be erected in any required front or side yard.



14-507.6B Accessory buildings shall not cover more than thirty percent (30%) of the required rear yard.

14-507.6C Minimum setback from other buildings . . . . . 15 ft.

14-507.6D Minimum setback from all lot lines . . . . . 5 ft.

14-507.6E Minimum setback for street side corner lots . . . . . 40 ft.

14-507.6F Maximum height . . . . . one story or 18 ft.

14-507.7 MAXIMUM BUILDING AREA

On any lot, the area occupied by all buildings, including accessory buildings, shall not exceed twenty-five feet (25') of the total area of such lot.

14-507.8 PARKING REQUIREMENTS

Uses in the R-R District shall conform with provisions of § 14-302 of this Official Zoning Code.

14-507.9 ACCESS REQUIREMENTS

Uses in the R-R District shall conform with provisions of § 14-302 of this Official Zoning Code.

14-507.10 MAXIMUM BUILDING HEIGHT

No structure in the R-R District shall exceed thirty-five feet (35') or three (3) stories in building height.

14-507.11 SIGN REQUIREMENTS

No billboards or similar off-premise advertising structures are allowed in the R-R District; all other signs and similar advertising structures shall conform with the provisions of § 14-609 of the Official Zoning Code.

14-507.12 PLOT PLAN OR SITE PLAN REQUIREMENTS

All development in the R-R District requiring building permits shall conform with the applicable plot plan requirements in § 14-704 of this Official Zoning Code. (as added by Ord. #441, Sept. 2006, and amended by Ord. #16-531, June 2016)

**14-508. R-3 Residential District.**

14-508.1 GENERAL DESCRIPTION

The purpose of the R-3 District is to provide a high density residential environment having good access to schools, public water and sewer, and

other community services, but well separated from other incompatible uses and activities.

Within the R-3 High Density Residential District, as shown on the Official Town of Monterey Zoning Map, the following regulations shall apply:

14-508.2 PERMITTED USES

14-508.2A Single-family detached and two-family attached dwellings.

14-508.2B Accessory apartments for single-family detached dwellings when in conformance with the provisions of § 14-501.3A of this Official Zoning Code.

14-508.2C Multi-family dwellings and apartments; provided an application and site plan as required in § 14-602.1 of this Official Zoning Code are submitted to and approved by the Building Inspector and provided the development standards required in § 14-602.2 of this Official Zoning Code are complied with.

14-508.2D Accessory buildings or uses customarily incidental to aforementioned permitted uses. Such uses may include noncommercial gardens and greenhouses, tool sheds, unattached garages and carports, swimming pools (subject to the provisions of § 14-604.4 of this Official Zoning Code) and the like.

14-508.2E Television, radio, and satellite dish antennas when in compliance with the provisions of § 14-604.10 of this Official Zoning Code.

14-508.2F Temporary structures, subject to the provisions of § 14-608 of this Official Zoning Code.

14-508.3 USES PERMITTED ON APPEAL (SPECIAL EXCEPTIONS)

After public notice and hearing and subject to appropriate conditions and safeguards to protect the character of the neighborhood, the Board of Zoning Appeals may permit as special exceptions:

14-508.3A Churches and other places of worship provided that the conditions specified in § 14-604.7 of this Official Zoning Code are complied with.

- 14-508.3B Schools offering general education courses provided that the conditions specified in § 14-604.8 of this Official Zoning Code are complied with.
- 14-508.3C Public parks and public recreational facilities provided that the conditions specified in § 14-502.3E of this Official Zoning Code are complied with.
- 14-508.3D Public utilities such as water, sewer, gas, electric, cable TV and telephone but limited to those facilities necessary to serve the immediate neighborhood and excluding general office buildings, warehouses, and storage areas. Opaque screening in conformance with § 14-601 of this Official Zoning Code shall be provided along all shared lot lines
- 14-508.3E Municipal uses such as fire or police substations provided that the conditions specified in § 14-502.3G of this Official Zoning Code are complied with.
- 14-508.3F Customary home occupations provided that the conditions specified in § 14-604.3 of this Official Zoning Code are complied with.
- 14-508.3G Parking lots. Where this district adjoins a commercial or industrial district without an intervening street, but with or without an intervening alley, off-street parking lots in connection with nearby commercial or industrial uses, provided that the conditions specified in § 14-502.3J of this Official Zoning Code are complied with.
- 14-508.4 USES PROHIBITED
- 14-508.4A Mobile Home Parks as well as Mobile homes on individual lots
- 14-508.4B Storage or long-term parking of commercial or industrial vehicles.
- 14-508.4C Outdoor storage of any type, except that in connection with and on the premise of active building and/or land development.
- 14-508.4D Any other use or structure not specifically permitted or permitted on appeal.
- 14-508.5 MINIMUM LOT AREA, WIDTH, AND YARD REQUIREMENTS

The principal building shall be located so as to comply with the following requirements:

- 14-508.5A Minimum lot area single-family dwelling unit . . . . . 5,000 sq. ft.
- 14-508.5B Each additional dwelling unit . . . . . 1,500 sq. ft.
- 14-508.5C Minimum lot width at building line:
1. Single-family dwelling . . . . . 60 ft.
  2. Two-family dwelling . . . . . 80 ft.
  3. Multi-family dwelling . . . . . 100 ft.
- 14-508.5D Minimum depth of front yard . . . . . 35 ft.
- 14-508.5E Minimum depth of rear yard . . . . . 15 ft.
- 14-508.5F Minimum interior side yard:
1. Single-family dwelling . . . . . 10 ft.
  2. Two-family dwelling . . . . . 15 ft.
  3. Multi-family dwelling . . . . . 20 ft.
- 14-508.5G Minimum side yard for street side corner lots . . . . . 25 ft.
- 14-508.6 LOCATION OF ACCESSORY BUILDINGS  
Accessory buildings shall meet the following provisions:
- 14-508.6A No accessory building shall be erected in any required front or side yard.
- 14-508.6B Accessory buildings shall not cover more than twenty percent (20%) of the required rear yard.
- 14-508.6C Minimum setback from other buildings . . . . . 10 ft.
- 14-508.6D Minimum setback from all lot lines . . . . . 5 ft.
- 14-508.6E Minimum setback for street side corner lots . . . . . 35 ft.
- 14-508.6F Minimum setback from alleyways . . . . . 2 ft.
- 14-508.6F Maximum height . . . . . 1 story or 18 ft.

**14-508.7 MAXIMUM BUILDING AREA**

On any lot the area occupied by all buildings, including accessory buildings, shall not exceed thirty percent (30%) of the total area of such lot. Usable open space provided for each dwelling unit of not less than two hundred (200) sq. ft.

**14-508.8 PARKING REQUIREMENTS**

Uses in the R-3 District shall conform to the provisions of § 14-301 of this Official Zoning Code.

**14-508.9 ACCESS REQUIREMENTS**

Uses in the R-3 District shall conform to the provisions of § 14-302 of this Official Zoning Code.

**14-508.10 MAXIMUM BUILDING HEIGHT**

No structure in the R-3 District shall exceed thirty-five feet (35') or three (3) stories in building height.

**14-508.11 SIGN REQUIREMENTS**

No billboards or similar off-premise advertising structures are allowed in the R-3 District, all other signs or similar advertising structures shall conform to the provisions of the R-2 District requirements of § 14-609 of the Official Zoning Code.

**14-508.12 PLOT PLAN OR SITE PLAN REQUIREMENTS**

All developments in the R-3 District requiring building permits shall conform to the applicable plot plan requirements in § 14-704 of this Official Zoning Code or site plan requirements in § 14-705 of this Official Zoning Code. (as added by Ord. #15-527, Aug. 2015)

**14-509. Planned Residential District (PRD).****14-509.1 GENERAL DESCRIPTION**

A Planned Residential Development is an apartment or townhouse complex, condominiums, or other special housing development, where two (2) or more housing units are grouped together in two (2) or more buildings, are either sold or rented, with or without accessory structures providing recreational, cultural or other activities for residents therein. Planned Residential Development can also include single-family site-built homes designed as "zero lot line" or "patio home" concept.

The PRD is intended to encourage flexibility and innovation in land use in residential developments. Through careful planning, such districts will provide for the best use of the site consistent with the goals of protecting

and embracing the natural environment. At the same time, it is intended that projects within any PRD provide a compatible blending with surrounding development, minimizing such negative impacts as land use conflicts, traffic congestion, and excessive demands on existing or proposed public facilities.

14-509.2 PERMITTED USES

14-509.2A Single-family detached and two-family attached dwellings.

14-509.2B Accessory apartments for single-family detached dwellings when in conformance with the provisions of § 14-501.3A of this Official Zoning Code.

14-509.2C Two-family dwellings; multi-family dwellings; condominiums; efficiency apartments.

14-509.2D Accessory buildings or uses customarily incidental to aforementioned permitted uses. Such uses may include noncommercial gardens and greenhouses, tool sheds, unattached garages and carports, swimming pools (subject to the provisions of § 14-604.4 of this Official Zoning Code), children's play areas, gazebos, and the like.

14-509.2E Public, private and parochial schools and childcare centers.

14-509.2F Recreational and community assembly facilities intended for the primary use and convenience of the residents within the PRD and their guests.

14-509.2G Public parks and recreational facilities, churches and similar places of worship.

14-509.3 USES PERMITTED ON REVIEW

Upon review and approval by the Monterey Planning Commission, neighborhood commercial activities may be permitted subject to the following conditions:

14-509.3A No commercial activities will be permitted within any PRD containing fewer than two hundred (200) dwelling units.

14-509.3B All commercial facilities must be designed as an integral part of the development; external advertising or other characteristics

which would alter the residential scenic quality, noise level, or traffic load shall not be permitted.

14-509.3C The commercial activities permitted within a PRD shall not in the aggregate exceed more than four percent (4%) of the total floor area within such development, provided further that the maximum floor area devoted to any single activity shall not exceed 3,000 square feet.

14-509.3D All commercial facilities authorized must be intended for the primary use and convenience of the residents within the PRD District and their guests.

14-509.4 USES PROHIBITED

14-509.4A Mobile Home Parks as well as mobile homes on individual lots.

14-509.4B Storage or long-term parking of commercial or industrial vehicles.

14-509.4C Outdoor storage of any type, except that in connection with and on the premise of active building and/or land development.

14-509.4D Any other use or structure not specifically permitted or permitted on appeal.

14-509.5 MINIMUM AREA REQUIREMENTS

No property considered for a PRD shall be less than five (5) acres in size. At the time of application for a PRD, the entire tract of land for which rezoning is requested shall be under the control of a single individual, partnership or corporation.

14-509.6 MAXIMUM DENSITY

The maximum number of dwelling units in any PRD shall be computed by multiplying the gross acreage to be developed by twenty-one (21), excluding any area to be developed as a church, school, child care center, or commercial use (as approved by the Planning Commission.)

14-509.7 Minimum Yard Requirements

14-509.7A Perimeter Yard Requirements

1. The required minimum front yard shall be seventy-five feet (75') unless a Screen/Buffer Yard as specified in § 14-601 is provided, in which case the minimum front yard shall be fifty feet (50').

2. The required minimum rear and side yards shall be fifty feet (50') unless a Screen/Buffer Yard as specified in § 14-601 of this Zoning Code is provided, in which case the minimum rear and side yards shall be thirty feet (30').

#### 14-509.7B Interior Yard Requirements

1. The required minimum front yard off any interior street within a PRD shall be ten feet (10'). Provided, however, should a Final PRD Plan or Final Subdivision Plat depict a setback greater than the minimum, then the setback depicted on the Final Plan or Plat shall apply.
2. The required minimum rear and side yards, unless such yard is adjacent to the perimeter of the area zoned as PRD, shall be zero (0) except if the Final PRD Plan or Final Subdivision Plat depict a setback greater than the minimum, then the setback depicted on the Final Plan or Plat shall apply.
3. The spacing of all structures shall comply with § 14-509.8.
4. Fire hydrants shall be spaced so as to be at a point no further than five hundred feet (500') from the most remote point of any residential structure that is to be protected by the hydrant. In the case of non-residential, non-accessory structures, this maximum distance shall not exceed four hundred feet (400').

#### 14-509.8 SPACING OF STRUCTURES

- A. The location of all structures shall be as shown on the Final PRD Plan.
- B. The proposed location of all structures shall not be detrimental to existing or prospective adjacent uses or to the existing or prospective development of the neighborhood.
- C. There shall be a minimum distance between detached structures as follows:
  - a. One and two stories -- 15 feet
  - b. Three stories -- 20 feet
- D. No individual residential structure shall extend more than two hundred feet (200') in length.

#### 14-509.9 PARKING REQUIREMENTS

Uses in the PRD shall conform to the provisions of § 14-301 of this Official Zoning Code.



#### 14-509.10 ACCESS REQUIREMENTS

Access to each single-family dwelling unit or to buildings containing multi-family dwelling units under individual ownership shall be provided via a public right-of-way or a private driveway owned by the individual in fee simple or in common ownership with the other residents of the PRD.

Access to buildings containing multi-family dwelling units not owned by their occupants shall be provided via a public right-of-way.

Access and circulation shall adequately provide for firefighting and emergency vehicles, furniture moving vans, garbage collection and deliveries.

#### 14-509.11 MAXIMUM BUILDING HEIGHT

No structure in the PRD shall exceed thirty-five feet (35') or three (3) stories in building height.

#### 14-509.12 COMMON OPEN SPACE

##### 1. Quantity of Common Open Space

A minimum of twenty-five percent (25%) of the acreage within any PRD District shall be set aside for use as common open space.

##### 2. Reduction in Common Open Space Requirement

The Planning Commission may permit a one (1) to one (1) reduction in the percentage of acreage set aside for use as common open space in a PRD District when all or a portion of the development is to be subdivided into lots for individual ownership. The reduction in the percentage shall not exceed the total land area preserved as yard areas within the individual lots.

##### 3. Quality and Improvement of Common Open Space

a. No open space may be accepted as common open space under the provisions of this Zoning Code unless the location, shape, size and character of the open area is suitable for use of residents in the PRD.

b. Common open space must be for amenity or recreational purposes. The uses authorized for the common open space must be appropriated to the scale and character of the PRD considering its size, density, topography, and the number and type of dwelling units to be provided.

- c. The development schedule, which is part of the Preliminary PRD Plan, must coordinate improvement of common open space with construction of residential dwellings so that such space becomes available as dwelling units are occupied.
  - d. The developer shall submit a Financial Guarantee in form of an irrevocable letter of credit, cash, or certified check as assurance that the buildings, structures, and improvements identified as common open space will be completed.
4. Maintenance of Common Open Space  
All common open space shall be preserved for its intended purpose as expressed in the Final PRD Plan. The developer shall choose one or a combination of the following methods of administering common open space.
- a. Public dedication to the city of the common open space. This method is subject to formal acceptance by the city.
  - b. Establishment of an association or non-profit corporation of all individuals or corporations owning property within the PRD to insure maintenance of all common open space.
5. Pedestrian Circulation  
A pedestrian circulation system is required. The system and its related walkways shall be separated as completely as possible from the vehicular street system in order to provide separation of pedestrian and vehicular movement. This separation shall include, when deemed necessary by the Planning Commission, pedestrian underpasses and overpasses in the vicinity of schools, playgrounds, residential uses, and other neighborhood uses that generate a considerable amount of pedestrian traffic. Sidewalks shall be constructed of concrete.

#### 14-509.13 SIGN REQUIREMENTS

No billboards or similar off-premise advertising structures are allowed in the PRD, all other signs or similar advertising structures shall conform to the provisions of the R-2 District requirements of § 14-609 of the Official Zoning Code.

#### 14-509.14 PLOT PLAN OR SITE PLAN REQUIREMENTS

All developments in the PRD requiring building permits shall conform to the applicable plot plan requirements in § 14-704 of this Official Zoning Code or site plan requirements in § 14-705 of this Official Zoning Code.

#### 14-509.15 PROCESS FOR DEVELOPMENT AND APPROVAL

Summary: After a pre-application conference is held, the developer may proceed with drafting a Preliminary PRD Plan. The purpose of the Preliminary PRD Plan is to require enough information to illustrate the intent of the developer without necessitating considerable expense on his part. A recommendation for rezoning from the Planning Commission shall be made, based on the information presented in the Preliminary PRD Plan, to the City Council. After the Council has approved rezoning to PRD, then the developer will proceed with the development of a detailed Final PRD Plan. The Final PRD Plan is submitted to the Planning Commission for final approval.

After final approval is obtained, the developer will register the Final PRD Plan and proceed with construction. A Final Subdivision Plat, if applicable, will be approved and registered before transfer of units.

##### 14-509.15A Pre-Application Conference

The developer is required to confer with the Planning Staff prior to submission of the Preliminary PRD Plan to the Planning Commission. The purpose of the conference is to exchange information and guidance concerning the process for approval and the provisions of the PRD Zoning District. Discussions will concern, but not be limited to, the site, the proposed development, the effect on community facilities, and the proposed schedule for planning and construction of the PRD.

##### 14-509.15B Submission of the Preliminary PRD Plan

1. The Preliminary PRD Plan shall include a Schematic Map Plan and Written Statement.

The Schematic Map Plan shall be drawn to a scale of not less than one inch = one hundred feet (1" = 100') and shall include the following information:

- a. Location and name of proposed development.
- b. Location sketch map depicting relationship of PRD to area.
- c. Approximate North point, graphic scale, and date.
- d. Acreage of site.
- e. Existing zoning of site and area within three hundred feet (300') of site.
- f. Existing and proposed land uses, and approximate location, size and density of buildings and other structures, both existing and proposed.

- g. The location of existing and proposed property lines, streets, watercourses, railroads, sewer lines, water lines, drainage pipes, bridges, culverts, and easements for existing utilities and other features.
- h. Proposed vehicular and pedestrian circulation system.
- i. Existing topographic and hydrographic features of the site, drawn with contours at vertical intervals of not more than five feet (5').
- j. Public uses, including schools, parks, playgrounds and other open spaces, and common open spaces, structures and uses for the occupants of the PRD.

The Written Statement shall include:

- a. Information about the physical characteristics of the surrounding area and developments within three hundred feet (300') of the site.
  - b. Types of structures and improvements as a means of explaining the general PRD character of the proposed PRD.
  - c. Expected Development Schedule, including approximate date when construction will begin; the approximate stages of the project and approximate starting dates for each stage; the rate of development; and the area and location of open space that will be provided with each stage.
  - d. Proposed covenants, grants of easement or other restrictions to be imposed upon the use of the land, including common open space areas, buildings, and other structures within the PRD.
  - e. Any other supportive information that cannot be shown graphically.
2. Two (2) copies of the Preliminary PRD Plan must be submitted to the Planning Commission. The Preliminary PRD Plan will not be accepted for consideration until all information described above has been submitted. The Preliminary PRD Plan will be taken for a minimum one-month study period for Planning Staff review for compliance with the provisions and requirements of this Zoning Code. The Planning Commission will take action on the Preliminary PRD Plan within sixty (60) days of formal acceptance of the application and plan for study. The Planning Commission will advertise by means of a legal notice, the date, time, and place of the meeting at which the

Planning Commission will consider approval of the Preliminary PRD Plan.

3. The Planning Commission shall submit the application and the Preliminary PRD Plan to the City Council, with its recommendations as to approval, disapproval, desirable changes and/or special conditions and safeguards.
4. Upon receipt of the Preliminary PRD Plan and the Planning Commission's recommendations, the City Council will set a date for the Public Hearing. After holding the Public Hearing and reviewing the Preliminary PRD Plan, the application for rezoning and the Planning Commission's recommendations, the City Council will consider enactment of the rezoning ordinance for the site of the proposed PRD.
5. No building permits may be issued and no final plat may be approved on land within the PRD site until the Planning Commission has approved the Final PRD Plan.
6. **Expiration of Preliminary PRD Plan**  
Approval of the Preliminary PRD Plan will expire six (6) months after the effective date of the rezoning action of the City Council, if no Final PRD Plan has been submitted to and approved by the Planning Commission. Extensions, totaling no more than eighteen (18) months after the effective date of rezoning action by the City Council, may be granted by the Planning Commission upon written request by the developer, stating the reasons for needing the extension.

14-509.15C Submission of Final PRD Plan and Preliminary Subdivision Plat

1. In cases involving the proposed transfer of land within the PRD, a Preliminary Subdivision Plat will be required with the submission of the Final PRD Plan, which will be reviewed by the Planning Commission for compliance with the Preliminary PRD Plan and with the requirements of this Zoning Code. The Preliminary Subdivision Plat must conform to the requirements of the Subdivision Regulations.
2. The Final PRD Plan shall substantially conform to the Preliminary PRD Plan, and will be submitted for the entire PRD. The number of dwelling units shown on the Preliminary PRD Plan shall not be exceeded. The developer may choose to construct the PRD in stages or sections, each of which must be clearly identified on the Final PRD Plan.
3. The Planning Commission's approval of the Final PRD Plan and Preliminary Subdivision Plat is required before construction can begin. After receiving approval of the Final

PRD Plan from the Planning Commission, the developer is required to register the Final PRD Plan in the Office of the Putnam County Register.

4. The Final PRD Plan must include the following information:
  - a. Engineering drawings and maps drawn at a scale of not more than one inch = fifty feet (1" = 50').
  - b. Finished topography of the site, with contours of not more than five foot (5') vertical intervals.
  - c. Circulation diagram(s) indicating movement of vehicles, goods and pedestrians within the PRD area, and to and from existing thoroughfares. The following should also be included with the circulation plan:
    - 1) Street and sidewalk layout.
    - 2) Street widths of pavement and right-of-way.
    - 3) Street cross-sections.
    - 4) Any proposed special engineering features and/or traffic regulation devices.
  - d. Off-street parking and loading plan, with groundcoverage of parking areas indicated.
  - e. Areas to be conveyed, dedicated, or reserved for parks, parkways, and other public or semi-public open space uses and including any improvements which are to be deeded as part of the common use area.
  - f. Each building site and common open area, including the location, height and bulk of all buildings and structures, landscaping and other improvements. Also, the type, use and number of units for each structure, and elevation and perspective drawings of structures are required.
  - g. Proposed utilities including sewers, both sanitary and storm, gas lines, water lines, and electric lines showing connections to existing systems, and easements for such. Also, the locations of fire hydrants must be shown.
  - h. Location, function and ownership of all open spaces, except those open spaces included in fee-simple lots.
  - i. Final drafts of all proposed covenants and grants of easement, particularly those pertaining to common open space.
  - j. Computations of coverage by all buildings, structures, recreational facilities and parking lots within the PRD.
  - k. Development Schedule indicating:

- 1) The approximate date when construction of the project can be expected to begin.
  - 2) Outline of each phase or stage of the construction of the development, with a tabulation of proposed densities to be allocated to each stage.
  - 3) The approximate date when construction of each stage or phase can be expected to begin.
  - 4) The anticipated rate of development.
  - 5) The approximate dates when each stage in the development will be completed.
  - 6) The area, location and degree of development of common open space that will be provided at each stage.
5. Minor amendments to the Final PRD Plan may be submitted to the Planning Commission for review and approval. If the planning staff determines that the amendment is substantially different from the Preliminary PRD Plan and/or involves a change in the intent of the character of the PRD, then the amendment will require a Public Hearing to be held.
6. PRD Rezoning Repealed When Final PRD Plan Is Not Submitted
- When a Final PRO Plan is not submitted to and approved by the Planning Commission within eighteen (18) months after the effective date of the rezoning action of the City Council, said rezoning action shall be repealed.

#### 14-509.15D Construction

1. Building permits shall not be issued before the Final PRD Plan has been approved and recorded.
2. If a subdivision plat is required, transfer of real property within the PRD is not permitted until a Final Subdivision Plat has been approved and recorded.
3. If construction of required improvements is to be carried out in phases or stages, then the Planning Commission may accept a Financial Guarantee in Lieu of Improvements, as specified in the Subdivision Regulations. The Financial Guarantee may be reduced to a Maintenance Bond upon the completion of each stage or phase.
4. The Maintenance Bond must be of sufficient amount and duration (not to exceed five (5) years) to cover the maintenance of the improvements of each phase or section

until the entire PRD is completed and/or responsibility of maintenance has been transferred.

14-509.15E Final Subdivision Plat

1. A Final Subdivision Plat, conforming to the Subdivision Regulations, must be submitted to the Planning Commission for review and approval by one of the following methods:
  - a. After completion of construction of all streets, utilities, and any other areas, buildings or structures to be dedicated to a public agency.
  - b. After submitting a Financial Guarantee, in an amount to be determined by the Planning Commission, to cover the cost of construction of any and all improvements to be dedicated to a public agency, such as streets and utilities.
2. The Final Subdivision Plat must be recorded in the Office of the Putnam County Register, before transfer of ownership of units in the PRD. (as added by Ord. #15-529, Jan. 2016)



## CHAPTER 6

### SUPPLEMENTARY REGULATIONS<sup>1</sup>

#### SECTION

- 14-601. Screening requirements.
- 14-602. Multi-family housing.
- 14-603. Mobile home parks.
- 14-604. Special standards for certain uses.
- 14-605. Parking, storage, and use of major recreational equipment, vehicles and trucks.
- 14-606. Fences, walls, and hedges.
- 14-607. Front yard setback line exemptions.
- 14-608. Temporary structures.
- 14-609. General sign regulations.

**14-601. Screening requirements.** The following regulations shall apply for all uses requiring screening.

#### 14-601.1 PLAN REQUIRED

For all uses requiring screening, a plan for such shall be submitted with the required site plan.

#### 14-601.2 DESCRIPTION OF SCREENS

- 14-601.2A Opaque Screen -- A screen that is opaque from the ground to a height of at least six feet (6'), with intermittent visual obstructions from the opaque portion to a height of at least twenty feet (20'). An opaque screen is intended to exclude all visual contact between uses and to create a strong impression of special separation. The opaque screen may be composed of a wall, fence, landscaped earth berm, planted vegetation, or existing vegetation. Compliance of planted vegetative screens or natural vegetation will be judged on the basis of the average mature height and density of foliage of the subject species, or field observation of existing vegetation. The opaque portion of the screen must be opaque in all seasons of the year. At maturity, the portion of intermittent visual obstructions should not contain any completely unobstructed openings more

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<sup>1</sup>For the purpose of the Official Zoning Code these supplementary regulations shall apply to specific, to several or to all districts. These regulations pertain to certain specific uses, authorize certain exemptions, or relate to unusual conditions.

than ten feet (10') wide. The portion of intermittent visual obstructions may contain deciduous plants. Suggested planting patterns that will achieve this standard are depicted on Illustration 1.

- 14-601.2B Semi-Opaque Screen -- A screen that is opaque from the ground to a height of three feet (3), with intermittent visual obstruction from above the opaque portion to a height of at least twenty feet (20'). The semi-opaque screen is intended to partially block visual contact between uses and to create a strong impression of the separation of spaces. The semi-opaque screen may be composed of a wall, fence, landscaped earth berm, planted vegetation, or existing vegetation. Compliance of planted vegetative screens or natural vegetation will be judged on the basis of the average mature height and density of foliage of the subject species, or field observation of existing vegetation. At maturity, the portion of intermittent visual obstructions should not contain any completely unobstructed openings more than ten feet (10') wide. The zone of intermittent visual obstruction may contain deciduous plants. Suggested planting patterns which will achieve this standard are depicted on Illustration 2.
- 14-601.2C Broken Screen -- A screen composed of intermittent visual obstructions from the ground to a height of at least twenty feet (20'). The broken screen is intended to create the impression of a separation of spaces without necessarily eliminating visual contact between the spaces. It may be composed of a wall, fence, landscaped earth berm, planted vegetation, or existing vegetation. Compliance of planted vegetative screens or natural vegetation will be judged on the basis of the average mature height and density of foliage of the subject species, or field observation of existing vegetation. The screen may contain deciduous plants. Suggested planting patterns which will achieve this standard are depicted on Illustration 3.
- 14-601.3 STANDARDS FOR SCREENING MATERIALS
- 14-601.3A When fences or walls are utilized in screening, they shall be constructed of materials compatible with the principal building.
- 14-601.3B When earthen berms are utilized in screening, they shall be seeded and/or sodded.

- 14-601.3C Trees and shrubbery shall be of a species common to Monterey shall be hardy, and proper care shall be taken in planting.
- 14-601.4 MAINTENANCE OF SCREENING
- 14-601.4A It shall be the obligation of the owner(s) of each building, structure or use on whose premises required screening is located to maintain said screening.
- 14-601.4B Failure to properly maintain required screening shall be a violation of this Official Zoning Code, punishable as a misdemeanor or under the provisions of the Town of Monterey Municipal Code. (1980 Code, § 11-601, as replaced by Ord. #441, Sept. 2006)

Illustration 1  
Typical Opaque Screens



**Small trees planted 30 ft. on center with 6 ft. high evergreen screening shrubbery planted 4 ft. on center.**



Large trees planted 40 ft. on center with 6 ft. high redwood fence.



Tall evergreen trees, stagger planted, with branches touching ground.

Illustration 2  
Typical Semi-Opaque Screens



Small trees planted 30 ft. on center with 3 ft. high stone wall.



Small trees planted 20 - 30 ft. on center on 3 ft. high earth berm.



Large trees planted 40 ft. on center with 3 ft. high evergreen  
hedge shrubbery planted 3 ft. on center.

Illustration 3  
Typical Broken Screens



Small trees planted 30 ft. on center.



Small trees planted 30 ft. on center with split rail fence.



Large trees planted 40 ft. on center with assorted shrubbery.

**14-602. Multi-family housing.****14-602.1 APPLICATION AND SITE PLAN REQUIRED**

To provide a maximum flexibility in design and to ensure a minimum standard of site development for multi-family housing developments of two (2) or more residential structures on a single lot or tract of land, not subdivided an application shall be submitted to the planning commission consisting of a site plan drawn to a scale no smaller than 1" = 50' setting forth therein the geographical location, boundaries, surrounding development, drainage, buildings and structures, parking facilities, points of access to public streets, easements, sanitation, facilities including the location and size of water and sewer lines, location of fire hydrants, and any other information as the planning commission may require.

**14-602.2 REQUIRED STANDARDS FOR MULTI-FAMILY HOUSING DEVELOPMENTS**

Multi-family housing developments of two (2) or more residential structures on a single lot or tract of land, not subdivided shall meet the following required standards for development:

**14-602.2A Location.**

1. The site shall comprise a single lot or tract of land except where divided by public streets.
2. The site shall abut a public street.

**14-602.2B Area Requirements**

All area and setback requirements of the applicable zoning districts shall be complied with.

**14-602.2C Design**

1. Internal Streets
  - (a) The maximum grade on any street shall be twelve percent (12%) except that no more than three percent (3%) grade shall be permitted within fifty feet (50') of any intersection with a public street.
  - (b) Where feasible, all street intersections shall be at right angles.
2. Public Street Access



- (a) The minimum distance between access points along public street frontage shall be one-hundred feet (100').
- (b) The minimum distance between an access point and the nearest right-of-way line of a public street intersection shall be one-hundred feet (100').

#### 14-602.2D Required Improvements

1. Internal Streets
  - (a) Streets shall be privately constructed and maintained.
  - (b) Streets shall be constructed to meet the standards for street construction in the Town of Monterey Subdivision Regulations.
2. Water and Sewer Systems

All multi-family housing developments shall be serviced by public water and sewer systems on trunk lines not less than six inches (6").
3. Fire Protection

Fire hydrant protection shall be provided so that no building unit is located further than five-hundred feet (500') from a fire hydrant or as approved by the Monterey Fire Department. All fire hydrants shall have adequate pressure.
4. Storage of Refuse
  - (a) The storage of refuse shall be done in such a manner as to meet all applicable provisions of the Monterey Municipal Code.
  - (b) All central refuse disposal areas shall be approved by the Monterey Sanitation Department, shall be maintained in such a manner as to meet all applicable health codes and requirements, and shall be screened from view.
5. Service Buildings

Service buildings housing laundry, sanitation, or other facilities for use by occupants shall be permanent structures complying with all applicable building codes. (1980 Code, § 11-602, as amended by Ord. #359, Jan. 1997, and Ord. #360, June 1997, and replaced by Ord. #441, Sept. 2006)

**14-603. Mobile home parks.**

## 14-603.1 GENERAL REQUIREMENTS

For the purpose of this Official Zoning Code the following regulations shall apply to all mobile home parks within the corporate limits of the Town of Monterey.

## 14-603.2 REQUIREMENTS FOR MOBILE HOME PARKS

14-603.2A License Required -- It shall be unlawful for any person or persons to maintain or operate within the corporate limits of the Town of Monterey any mobile home park unless such person or persons shall first obtain from Monterey City Hall a license therefor.

Said license shall not be transferable.

1. License Fees -- An annual license fee for each mobile home park shall be submitted to the Monterey City Hall.
2. Application for License -- An application for a mobile home park license shall be filed with Monterey City Hall upon forms provided by said office. Applications shall be in writing, signed by the applicant, filed in triplicate, and shall contain the following:
  - (a) Name and address of the applicant.
  - (b) Location and legal description of the mobile home park.
  - (c) Complete site plan of the proposed park, including plans and specifications of all buildings and other improvements constructed or to be constructed within the mobile home park. Said plan shall show compliance with the standards set forth in § 14-603.3C and shall be drawn to a scale showing at a minimum the number and arrangement of all plot spaces, setbacks, access to public streets, driveways, sidewalks, drainage, sanitation facilities including the location and size of water and sewer lines, fire hydrants, and refuse collection facilities. The plan shall also show any other planned facilities.
  - (d) Any further information as may be required by the Building Inspector to enable him to determine if the proposed mobile home park shall comply with all applicable provisions of this Official Zoning Code.

3. Review of Application for License

The Building Inspector and the planning commission staff and other appropriate municipal officials if necessary, shall review and inspect the application, plans and specifications. If the proposed mobile home park is found to be in compliance with all applicable provisions of this Official Zoning Code and all other applicable ordinances or statutes, the Building Inspector shall approve the application and authorize the issuance of such license.

4. Posting of License

The license certificate shall be conspicuously posted in the office of, or on the premises of, the mobile home park at all times.

5. Register of Occupants

It shall be the duty of the licensee to keep a register containing a record of all mobile home owners and occupants located within the mobile home park. The register shall contain the following information:

- (a) Name and address of each occupant;
- (b) The make, model, and year of all automobiles and mobile homes;
- (c) The license number and owner of each mobile home and automobile by which it is towed if applicable;
- (d) The state issuing such license;
- (e) The date of arrival and departure of each mobile home.

The park shall keep the register available for inspection at all times by law enforcement officers, public health officials, and any other official whose duties necessitate acquisition of the information contained in the register.

6. Revocation of License

The Building Inspector and/or Health Officer shall make periodic inspections of the park to assure compliance with this Official Zoning Code. In case of noncompliance with this Official Zoning Code, the Building Inspector and/or Health Officer shall serve warning to the licensee. Thereafter upon failure of the licensee to remove said violation, the Building Inspector and/or Health Officer shall

recommend to the Board of Mayor and Aldermen revocation of the offending parks' license. The Board shall hold a hearing on the matter and upon determination of noncompliance shall revoke said license. The license may be reissued if the circumstances leading to the revocation have been remedied and the park can be maintained and operated in full compliance with the law.

14-603.2C Standards for Mobile Home Parks

All mobile home parks shall comply with the following standards:

1. Age of Mobile Homes
  - (a) No mobile home may be set in the Town of Monterey more than five (5) years old and must meet all local building standards.
  
2. Drainage and Flood Hazard Requirements
  - (a) All mobile home parks shall be located on a well-drained site, property graded to insure rapid drainage and freedom from stagnant pools of water.
  
3. Individual Plot Size Requirements
  - (a) Individual plot spaces for mobile homes shall be clearly defined and mobile home parks provided so that the center line of pads are located not closer than forty feet (40') apart.
  - (b) Minimum plot width . . . . . 40 ft.
  - (c) Minimum plot depth . . . . . 100 ft.
  - (d) No more than seventy-five percent (75%) of the mobile home plot gross area shall be covered by the mobile home and its accessory structures.
  
4. Setback and Screening Requirements
  - (a) All mobile homes shall be parked so that there will be a minimum of twenty feet (20') between mobile homes or any attachment such as a garage or porch.
  - (b) The minimum front yard setback from the interior access drive shall be ten feet (10').
  - (c) No mobile home or any attachments shall be located closer than thirty feet (30') from the right-of-way of any public

street or highway or from any mobile home park property line.

- (d) A buffer strip of not less than ten feet (10') in width, separate from any individual plot space with semi-opaque screening in conformance with § 14-601 of this Official Zoning Code shall be provided along all property lines of the park except across ingress and egress points to public streets.

## 5. Public Utilities Requirements

Each individual mobile home space shall contain electrical, water, and wastewater connections for individual mobile home units and shall meet the following standards:

- (a) Electrical -- An electrical outlet supplying at least 110/220 volts shall be provided for each mobile home space, and shall be weather proof and accessible to the parked mobile home. All electrical installations shall be in compliance with the National Electrical Code, and shall satisfy all requirements of the Monterey Electric Department and the Building Inspector.
- (b) Water Supply -- All mobile home parks shall be connected to the municipal water supply with a system approved by the Tennessee Department of Environment and Conservation and each mobile home space shall be provided with an adequate outlet. All water line installations shall be inspected by appropriate officials from the Monterey Water Department.
- (c) Wastewater -- All mobile home parks shall be connected to the municipal sewer system in a manner approved by the Tennessee Department of Environment and Conservation and each mobile home space shall be provided with an adequate outlet. All plumbing installations shall be in compliance with existing ordinances and shall be inspected by the appropriate officials from the Monterey Wastewater Department.

## 6. Refuse: Storage, Collection and Disposal Requirements

Storage, collection, and disposal of refuse in mobile home parks shall be approved by the Sanitation Department of the Town of Monterey and shall be done in such a manner as to meet all applicable provisions of the Monterey Municipal Code.

7. Public Health, Sanitary and Anchoring Requirements

All public health, sanitary, and anchoring requirements prescribed by Tennessee Code Annotated must be adhered to.

8. Fire Protection

All mobile home parks shall be subject to the rules and regulations of the Monterey Municipal Fire Department. At a minimum fire hydrant protection shall be provided so that no mobile home is located further than five-hundred feet (500') from a fire hydrant. All fire hydrants shall have adequate pressure.

9. Access Roads and Parking Requirements

- (a) All mobile home parks shall contain a private interior drive of at least twenty feet (20') in width. Said drive shall be surfaced with asphalt or concrete.
- (b) All mobile home plots, common recreation and other facilities in the park shall have access only from the interior access drive. Said mobile home plot access to the interior access drive shall be a minimum of thirty feet (30') in width.
- (c) All interior access drives shall be lighted by a minimum of one-hundred seventy-five (175) watt lamps at intervals of one-hundred feet (100'), mounted on utility poles.
- (d) Each mobile home plot shall contain two (2) parking spaces per dwelling unit. Said parking spaces shall be located off the interior access drive.

10. Sidewalk Requirements

Where service buildings are included in mobile home parks, sidewalks shall be provided to the service buildings. Sidewalks shall not be smaller than two feet (2') in width and shall be adequately lighted at night.

11. Additions to Mobile Homes Prohibited

No permanent additions of any kind shall be built onto, nor become a part of, any mobile home. (1980 Code, § 11-603, as amended by Ord. #359, Jan. 1997, Ord. #360, Jan. 1997, and Ord. #394, Oct. 2001, and replaced by Ord. #441, Sept. 2006)

**14-604. Special standards for certain uses.** To accomplish the purposes of this Official Zoning Code, special consideration is hereby given to certain uses. These uses shall comply with the following requirements in addition to those of the zoning district in which they may be located.

**14-604.1 GASOLINE SERVICE STATIONS**

The following regulations shall apply to all gasoline service stations:

- 14-604.1A All buildings shall comply with all required setbacks in the applicable zoning district.
- 14-604.1B All gasoline pumps and canopies shall not be located closer than twenty feet (20') to any street right-of-way line.
- 14-604.1C When other uses are combined with a gasoline service station, such as video rental, deli, or grocery, additional parking, based on the other uses, shall be provided.

**14-604.2 CEMETERIES**

The following regulations shall apply to all cemeteries:

- 14-604.2A The site proposed for a cemetery shall not interfere with the development of a system of streets and in addition shall have direct access to a thoroughfare.
- 14-604.2B Any new cemetery shall be located on a site containing not less than twenty (20) acres.
- 14-604.2C All structures and facilities including but not limited to mausoleums, graves, burial lots, monuments, and maintenance buildings shall be set back at least thirty feet (30') from any property line or street right-of-way.
- 14-604.2D All required yards shall be landscaped and maintained.
- 14-604.2E Proposals for cemeteries shall be approved by the planning commission.

**14-604.3 CUSTOMARY HOME OCCUPATIONS**

The following regulations shall apply for all permitted customary home occupations:

- 14-604.3A A customary home occupation is a gainful occupation or profession conducted by members of a family residing full-time on the

premises and conducted entirely within the principal dwelling unit.

- 14-604.3B No more than twenty-five percent (25%) of the total habitable floor area of the dwelling shall be devoted to such use.
- 14-604.3C Shall be conducted entirely within the principal dwelling unit and no alterations to any buildings shall indicate from the exterior that the building is being utilized for any purpose other than a residential unit, including permitted accessory buildings.
- 14-604.3D No stock in trade shall be displayed and no equipment or materials used in the occupation shall be stored outside the dwelling.
- 14-604.3E Only one (1) person, not a resident of the premises, shall be employed.
- 14-604.3F Neither retail nor manufacturing business shall be permitted.
- 14-604.3G No outdoor repair work shall be permitted.
- 14-604.3H Additional off-street parking shall be provided for the non-resident employee and for the parking of anticipated clients. Required parking shall not be permitted in any front yard.
- 14-604.3I All structures used for customary home occupations shall be in conformance with the sign requirements as established in § 14-609 of the Official Zoning Code.
- 14-604.3J Special approval shall not be transferable to another owner.

#### 14-604.4 SWIMMING POOLS

The following regulations shall apply to all private swimming pools:

- 14-604.4A No swimming pool or part thereof, including aprons, walks, and equipment rooms, shall protrude into any required front or side open space.
- 14-604.4B The swimming pool area shall be walled or fenced so as to prevent uncontrolled access by children and pets from the street or from adjacent properties. Said fence or wall shall be not less than five feet (5') in height and maintained in good condition.



**14-604.5 SELF-SERVICE STORAGE FACILITIES (MINI-WAREHOUSES)**

The following regulations shall apply to all self-service storage facilities:

- 14-604.5A Parking shall be provided by parking/driving lanes adjacent to the storage buildings. These lanes shall be at least twenty-six feet (26') wide when storage cubicles open onto one (1) side of the lane only and at least thirty feet (30') wide when cubicles open onto both sides of the lane. Said lane shall be surfaced with asphalt or concrete.
- 14-604.5B A minimum of two (2) parking spaces plus one (1) additional space for every two-hundred (200) storage cubicles shall be located adjacent to the project office.
- 14-604.5C No self-service storage facility shall exceed eighteen feet (18') in height.
- 14-604.5D The sale or auction of any item is specifically prohibited.
- 14-604.5E The storage of flammable liquids, highly combustible or explosive materials, or hazardous chemicals is specifically prohibited and all rental contracts shall include clauses prohibiting such storage.
- 14-604.5F The servicing or repair of motor vehicles, boats, trailers, lawnmowers or any similar equipment is specifically prohibited.

**14-604.6 SERVICING, STORAGE, REPAIR OR SALES OF MOTOR VEHICLES**

The following regulations shall apply to all motor vehicles, garages, sales lots, service stations, and similar structures and uses involved in the servicing, storage, repair or sales of motor vehicles:

- 14-604.6A No public street, parking area, sidewalk, or way shall be used for the storage or parking of motor vehicles in connection with the activities of such establishments, except for normal parking by individual private owners or operators of such vehicles.
- 14-604.6B No operation in connection with such establishments shall be carried on in such a manner which impedes free flow of vehicular or pedestrian traffic in normal courses on public ways.
- 14-604.6C No motor vehicle shall be parked in such a manner as to block visibility at intersecting streets.

- 14-604.6D No repair of motor vehicles or parts thereof shall be made outside of garages, service stations, body shops, or other buildings used for such purposes (except such minor repairs as are normally completed while the customer waits at the premises).
- 14-604.6E All motor vehicles being handled or stored in an area visible from a public street or way shall be maintained in such condition that they can be moved under their own power.
- 14-604.6F Motor vehicles unable to be moved under their own power may be temporarily stored (sixty (60) days or less) in completely enclosed storage yards. These yards shall be provided with opaque screening as provided in § 14-601 of this Official Zoning Code in such a manner that no vehicle or portion thereof is visible from any street or public way, or from ground level of any adjacent property. The storage yard shall be located on the same premises as the motor vehicle repair or service establishment. The maximum number of vehicles allowed in any storage yard is ten (10).
- 14-604.6G It shall be the responsibility of the owner or operator of any motor vehicle repair or service establishment to keep accurate and verifiable records as to the date any vehicle being stored in a storage yard is placed on said yard. Failure to keep such records will create the presumption that the vehicle or vehicles stored on the yard have been there in excess of sixty (60) days and are in violation of this Official Zoning Code.
- 14-604.7 CHURCHES AND OTHER PLACES OF WORSHIP  
The following regulations shall apply to all permitted churches and other places of worship:
- 14-604.7A A minimum lot area of two (2) acres with a minimum lot width of two-hundred feet (200') at the building setback line shall be provided.
- 14-604.7B The minimum depth of the front yard shall be seventy-five feet (75'), and the minimum depth of the side and rear yards shall be fifty feet (50'). The minimum side yard on street side of corner lots shall be seventy-five feet (75').
- 14-604.7C The maximum lot coverage for the principal structure and all accessory structures shall be thirty percent (30%).

14-604.7D When parking areas are adjacent to residential lots, buffer strips of ten feet (10') in width with semi-opaque screening in conformance with § 14-601 of this Official Zoning Code along all shared lot lines shall be provided.

14-604.8 SCHOOLS

The following regulations shall apply to all permitted schools offering general education courses:

14-604.8A A minimum lot area of five (5) acres with a minimum lot width of three-hundred feet (300') at the building setback line shall be provided.

14-604.8B The minimum depth of the front, rear, side yards and side yards on street side of corner lots shall be one-hundred feet (100').

14-604.8C The maximum lot coverage for all buildings shall be thirty percent (30%).

14-604.8D All accessory structures and portable classrooms shall be located in the rear yard only. Portable classrooms shall be temporary in nature and subject to annual review by the Board of Zoning Appeals.

14-604.8E When parking areas are adjacent to residential lots, buffer strips ten feet (10') in width with semi-opaque screening in conformance with § 14-601 of this Official Zoning Code shall be provided along all shared lot lines.

14-604.9 DAY CARE HOMES

The following regulations shall apply to all permitted day care homes for the care of up to seven (7) children:

14-604.9A The child day care use will be clearly incidental to the residential use of the dwelling and shall not change the essential residential character of the dwelling.

14-604.9B Outdoor play space shall not be permitted within the front yard area and shall be fenced or otherwise enclosed on all sides and shall not include driveways, parking areas or land unsuited for children's play space.

14-604.9C There shall be a fence with the minimum height of four (4) feet surrounding the play space.

- 14-604.9D Operator of a child day care home must be the owner and reside on subject property.
- 14-604.9E Child day care homes, nurseries or kindergartens shall be located within the main structure on the lot and shall not utilize more than fifty percent (50%) of the gross floor area of the main structure.
- 14-604.9F Special approval shall not be transferable to another owner.
- 14-604.10 TELEVISION, RADIO, AND SATELLITE DISH ANTENNAS  
The following regulations shall apply to all permitted television, radio, and satellite dish antennas:
- 14-604.10A All ground mounted television, radio and satellite dish antennas shall be located in the rear yard only and no dish antenna shall be more than ten feet (10') in diameter.
- 14-604.10B All installations must comply with all accessory use yard, height, bulk, and setback requirements specified within the district.
- 14-604.10C Antennas that are roof-mounted shall not extend higher than ten feet (10') above the peak of the roof. No roof-mounted dish antenna shall exceed twenty-four inches (24") in diameter.
- 14-604.10D All installations shall be located to prevent obstruction of the antenna's reception window from potential permitted development on adjoining properties.
- 14-604.10E All installations shall employ (to the extent possible) materials and colors that blend with the surroundings.
- 14-604.10F Antennas shall be installed and maintained in compliance with the requirements of the municipality's building codes.
- 14-604.10G No television or radio antenna shall exceed forty-five feet (45') in height.
- 14-604.11 WIRELESS COMMUNICATION FACILITIES AND ANTENNAE ARRAYS

## SECTION 2 APPLICABILITY

All new towers or antennas as defined by this ordinance within the corporate limits of Monterey shall be subject to these regulations, except as follows:

- a. Pre-existing towers and pre-existing antennas shall not be required to meet this ordinance, other than the requirements of state and federal regulations.
- b. The requirements set forth in this ordinance shall govern the location of towers that exceed, and antennas that are installed at a height in excess of, the height limitations for commercial and industrial zoning districts.
- c. Antennas or towers located on property owned, leased, or otherwise controlled by the governing authority shall be exempt from the requirements of this ordinance, provided a license or lease authorizing such antenna or tower has been reviewed and approved by the governing authority.

## SECTION 3 REQUIREMENTS

Each applicant for an antenna and/or tower shall provide to Monterey City Hall and the Planning Commission, prior to Council consideration, the following:

Engineering Report Prepared by a professional engineer licensed by the State of Tennessee describing the height and design of the tower, demonstrating the tower's compliance with applicable structural standards, and all building, electrical and fire codes; and describing the tower's capacity, including the number and type of antennas it can accommodate shall be submitted to Monterey City Hall.

When an antenna is proposed to be mounted on an existing structure, the report shall indicate the existing structure's suitability and capability to accept the antenna and the proposed method for affixing the antenna to the structure. Complete details of all fixtures and couplings and the precise point of attachment shall be indicated.

Written Report That adequately reports on the inventory of existing towers and antenna sites within a one-mile (1-mile) radius from the proposed site, outlining the opportunities for shared use as an alternative to the proposed use, and shall be submitted to Monterey City Hall. The applicant must illustrate that the proposed tower or antenna can not be accommodated on an existing approved tower or facility due to one (1) or more of the following reasons:

- ✓ Unwillingness of the owner to share the facility.

- ✓ The equipment would exceed the structural capacity of the existing approved tower and facilities.
- ✓ The planned equipment would cause frequency interference with other existing or planned equipment, which can not be reasonably prevented.
- ✓ Existing or approved towers or facilities do not have space on which proposed equipment can be placed so it can function effectively.
- ✓ Other reasons make it impractical to place the proposed equipment by the applicant on existing towers or facilities.

Site Plan Shall be submitted to Monterey City Hall and approved by the Building Inspector prior to the issuance of a permit. The following standards shall be used in the design of the facilities:

- Setbacks

The minimum setbacks on all sides shall be equal to the height of the tower plus an additional twenty feet (20'), including any antennas or appurtenances, as measured from ground level. This setback shall be considered a fall zone. The fall zone setback requirement may be reduced or waived provided it can be demonstrated in a report prepared by a professional engineer licensed in the State of Tennessee that the communication tower will collapse if it falls and it is determined by administrative review that the tower does not pose a safety threat to adjacent property owners in the event of collapse. In such cases, the setback shall be equal to the distance specified in the engineer report of a minimum of fifty feet (50'), whichever is greater. In addition, no communication tower shall be located closer than one-hundred feet (100') from an existing residential structure. Setbacks shall be measured from the base of the tower, or guy-wire supports for lattice towers, to the property line. For ground structure associated with the tower and located at the same site the minimum setback on all sides shall be fifty feet (50').
- Landscaping and Screening

The visual impacts of the facility shall be mitigated from nearby viewers by provision of an opaque screen as defined in Chapter 6, Supplementary Regulations, § 14-601.2A, within a landscaped strip no less than four feet (4') wide located outside the perimeter fence. Sites may be exempted from these requirements provided the Building Inspector finds the vegetation or topography of the site provides a natural buffer.
- Perimeter Fencing

A chain-link fence or solid wall not less than eight feet (8') in height consisting of at least six feet (6') of material plus two feet (2') of barbed wire on the top of fence measured from finished grade of site shall be

provided around the facility. Access to the facility shall be limited to a locked gate.

- Lighting  
All artificial lighting deemed necessary or required by federal regulations shall be shielded and oriented inward within the facility so as not to project on the surrounding properties.
- Visual Effects  
All towers shall either maintain galvanized steel finish or, subject to any applicable standards of the FAA, be painted a neutral color, so as to reduce visual obtrusiveness.
- Standards  
All towers must meet or exceed current standards and regulations of the FAA, the FCC and any other agency of the state or federal government with the authority to regulate towers or antenna arrays. If such standards and/or regulations are changed, the owners of the towers and/or antennas shall bring towers and/or antennas into compliance with revised standards within six (6) months of the effective date of such standards and/or regulations unless a different compliance schedule is mandated by the controlling state or federal agency. Failure to bring towers and antennas into compliance shall constitute grounds for removal of the tower or antenna at the owner's expense.
- Removal of Obsolete or Unused Facilities  
All obsolete or unused communication facilities shall be removed by the property owner within six (6) months of cessation of use. The applicant shall submit an executed Removal Agreement to ensure compliance with this requirement.
- Facility Changes  
Any changes to antenna, reception, or transmitting devices shall require review in the same manner as the existing facility was originally approved.
- Signs and Advertising  
The use of any portion of a tower for signs or advertising purposes including banners, streamers, etc. is prohibited except as needed for warning or identification.

- Equipment Storage  
Mobile or immobile equipment not used in direct support of a tower facility shall not be stored or parked on site unless repairs are being made.
- Maintenance  
Adequate inspection and maintenance shall be performed to insure the structural integrity of the facility and to prevent deteriorious conditions from occurring on the site. An annual report regarding the structural integrity of the facility shall be prepared by a professional engineer licensed by the State of Tennessee and submitted to Monterey City Hall.
- Road Access  
All access roads, including necessary drainage facilities, shall be constructed to meet the street construction specifications of the Monterey Subdivision Regulations, except if allowed to be reduced by administrative review of the Public Works Director or other applicable city official.

#### 14-604.12 Columbaria

A columbarium is defined as an indoor or outdoor wall containing niches. A niche is defined as a recessed compartment designed to hold urns. Columbaria may be an entire building, a room, a wall along a corridor or a series of special alcoves or halls in a mausoleum, chapel, or other buildings located in a cemetery or on other dedicated property. Niches come in many sizes with a selection of fronts such as glass, marble, bronze, granite or mosaic. Glass fronts may be clear, tinted, frosted or etched. Some columbarium niches are designed for specific size urns while others may contain a double size space for two urns or even larger niches for multiple urns. Some clear glass fronted niches allow meaningful memorabilia to be placed inside along with the urn. The following regulations shall apply to all columbaria:

14-604.12A Columbaria are considered accessory uses at cemeteries

14-604.12B Indoor or enclosed columbaria are subject to meeting the minimum yard requirements of a principal building or structure within the zoning district. A columbarium within any residential zoning district shall be located only within in a structure enclosed on all sides.

14-604.12C Columbaria used as an accessory to a church or similar place of worship shall upon discontinuance of the religious assembly use, be relocated in compliance with all applicable State laws.



- 14-604.12D Landscaping shall be provided at a ratio of two (2) square feet of landscaping for each square foot of columbarium area.
- 14-604.12E Outdoor columbaria shall not exceed forty-two inches (42") in height.
- 14-604.12F Outdoor columbaria shall be set back no less than fifty feet (50') from adjacent property.
- 14-604.12G Columbaria shall be prohibited in all residential districts, except as allowed at cemeteries and churches. (1980 Code, § 11-604, as replaced by Ord. #441, Sept. 2006, and amended by Ord. #15-528, Aug. 2015)

**14-605. Parking, storage, and use of major recreational equipment, vehicles, and trucks.**

14-605.1

In the R-R, R-1 and R-2 Residential Districts no vehicles or trailers of any kind or type without current license plates shall be parked or stored only in a completely enclosed building.

14-605.2

In the R-R, R-1, and R-2 Districts, no major recreational equipment (including boats and boat trailers, travel trailers, partial travel trailer units, and the like, and equipment used for transporting such) shall be parked or stored in any front yard or in any required side yard except for periods not to exceed twenty-four (24) hours during loading and unloading. No such recreational equipment shall be used for living, sleeping, or housekeeping purposes when parked or stored on a residential lot, or in any location not approved for such use.

14-605.3

In R-R, R-1, and R-2 Districts, no truck of a rated capacity of greater than three-fourths (3/4) ton nor any parcel or other truck painted with any sign nor any other vehicle or heavy equipment may be parked on any lot or in the public right-of-way adjacent to any lot overnight nor stored or parked while loading or unloading for periods in excess of twenty-four (24) hours except in an enclosed building. (1980 Code, § 11-605, as replaced by Ord. #441, Sept. 2006)

**14-606. Fences, walls and hedges.** Notwithstanding other provisions of this Official Zoning Code, fences, walls, and hedges may be permitted in any required yard, or along the edge of any yard, provided that no fence, wall, or

hedge along the sides or front edge of any front yard shall cause any impairment to vision or create safety hazards at any street intersection. (1980 Code, § 11-606, as amended by Ord. #340, Feb. 1995, and Ord. #361, Jan. 1997, and replaced by Ord. #441, Sept. 2006)

**14-607. Front yard setback line exemptions.** The setback requirement of this Official Zoning Code for dwellings shall not apply to any lot where the average depth of existing setbacks on the developed lots located within one-hundred feet (100') on each side of such lot is less than the minimum required front yard depth. In such cases, the front yard setback may be less than required but not less than the average of the existing depth for front yards on developed lots within one-hundred feet (100'). In residential districts, however, the setback shall in no case be less than thirty feet (30') from the center line of the street. (1980 Code, § 11-607, as replaced by Ord. #441, Sept. 2006)

**14-608. Temporary uses.**

The regulations contained in this section are necessary to govern the operation of certain transitory or seasonal uses, non-permanent in nature.

- 14-608.A. Application for a Temporary Use Permit shall be made to the Town of Monterey and shall contain the following information:
1. A site plan for the proposed temporary use.
  2. A description of the proposed use.
  3. Sufficient information to determine the yard requirements, setbacks, sanitary facilities, and availability of parking space to service the proposed use.
- 14-608.B. The following uses are deemed to be temporary uses and shall also be subject to the specific regulations and time limits which follow and to the regulations of any district in which such use is located:
1. Christmas Tree Sale - In any district, a Temporary Use Permit may be issued for the display and open-lot sales of Christmas trees, but such permit shall be issued for a period of not longer than thirty (30) days.
  2. Festivals / Street Fairs / Non-profit Fundraising Events / Non-vending Organizations - In any non-residential district, a Temporary Use Permit may be issued for Festivals / Street Fairs / Nonprofit Fundraising Events / Non-vending Organizations, but such permit shall be issued for a period of not longer than five (5) days. The local event coordinator, board, or designated representative organizing these events must come before the Monterey Municipal Planning

Commission to obtain approval for the event and authorization to issue permits to participants within said event.

3. Fourth of July Fireworks Sale - In any Commercial District, a Temporary Use Permit may be issued for the display and open tent sales of Fireworks for not longer than twenty-one (21) days prior and not longer than seven days following the Fourth of July Holiday, but such permit shall be issued for a period of not longer than thirty (30) days.
4. Tent Sales - In any Commercial District, a Temporary Use Permit may be issued for an on premise tent sale for any business. No tents shall be located within any required front, side or rear yard. No Tent shall impede ingress/egress or be placed in a way to prohibit access to any fire lane. Tent sales shall be limited to no more than fourteen (14) consecutive days and shall be limited to no more than three (3) sales per calendar year on any individual lot or parcel. There shall be a minimum of thirty (30) consecutive days between tent sales on any individual lot or parcel.
5. Outdoor Display and Sales Areas - At any Commercial Retail Establishment in any Commercial District, a Temporary Use Permit may be issued for outdoor display and sales areas. The number of required off-street parking spaces shall not be reduced by any outdoor display or sales area. No outdoor display or sales area shall be located within any required front, side or rear yard. This provision shall not apply to any legally located and permitted vehicle sales establishment. No outdoor display or sales area shall impede ingress/egress or be placed in a way to prohibit access to any fire lane.
6. Temporary Buildings - In any district, a Temporary Use Permit may be issued for a contractor's temporary office and equipment sheds incidental to a construction project. Such office or shed shall not contain sleeping or cooking accommodations. Such permit shall be valid for not more than one year but may be renewed a maximum of two (2) one (1) year extensions. However, such office or shed shall be removed upon completion of the construction project or upon expiration of Temporary Use Permit, whichever occurs sooner.
7. Real Estate Sales Office - In any district, a Temporary Use Permit may be issued for a temporary real estate sales office in any new subdivision which has been approved in accordance with the provisions of the Ordinance regulating

subdivisions. Such office shall contain no sleeping or cooking accommodations. Such permit shall be valid for not more than one (1) year, but, may be renewed a maximum of three (3) one (1) year extensions. Such office shall be removed upon completion of the development of the subdivision or upon expiration of the Temporary Use Permit, whichever occurs sooner.

8. Religious/Non-profit Tent Use - In any district, a Temporary Use Permit may be issued for a tent or other temporary structure to house religious/non-profit activities, but such permit shall be valid for not more than thirty (30) days during any calendar year.
9. Portable Storage Container - In any Residential or Commercial District, a Temporary Use Permit shall be required for a portable storage container and issued subject to the following requirements:
  - A. The use of a portable storage container shall be limited to no more than sixty (60) consecutive days in any year. In the event the owner of the property suffers a catastrophic loss due to fire, flood or other physical calamity occurring on the property in question, the Temporary Use Permit may be extended for additional two week periods upon a showing of need. There shall be no more than three (3) extensions of any Temporary Use Permit. An exception to this shall be made if the portable storage container is being used as temporary storage when work requiring a building or demolition permit is being done to structures or buildings on the property. In such cases, the use of the portable storage container shall not exceed the period for which the building or demolition permit has been issued.
  - B. Portable storage containers shall not be placed in a public right-of-way, or located so as to interfere with traffic visibility.
  - C. Portable storage containers shall not be placed in the front yard of the main building, unless there is a physical hardship or characteristic of the property that will not allow the placement of the container in any other location.
10. Additional Temporary Uses - In addition to the temporary uses and structures listed above, a temporary use permit may be issued by the Town of Monterey, after the Monterey Planning Commission has reviewed and approved the

request, for other temporary uses and structures that are substantially similar to a temporary use or structure listed above and not intended to become permanent. Additionally, a permit may be issued if the planning commission determines that such use or structure is not incompatible with the surrounding land uses and proper care has been taken to protect surrounding development, traffic patterns, and the environment, as well as applicable licenses or permits required by state law or deemed necessary by the Monterey Municipal Planning Commission for the health and welfare of the community. Such permit may be valid for not more than one (1) year, but may be renewed a maximum of two (2) one (1) year extensions.

All existing Temporary Structures at the time of the signing of this Ordinance will be considered "Fathered In," and will be allowed to continue to operate inside the Monterey City Limits, as long as their permits are current. (1980 Code, § 11-608, as amended by Ord. #340, Feb. 1995, and replaced by Ord. #441, Sept. 2006, and Ord. #12-512, April 2014)

**14-609. General sign regulations.** These provisions are established as a reasonable and impartial method of regulating signs and similar advertising structures in order to insure light, air, and open space, to reduce hazards at intersections, to protect property values of the entire city, and to enhance the aesthetics of the community. In addition to regulations indicated for individual districts elsewhere in this zoning ordinance, the following regulations apply in groups of districts or generally in all districts as specified.

14-609A. Sign Permit Required

For all signs allowed in any residential, commercial or industrial zoning district as shown on the Official Zoning Map of the Town of Monterey, Tennessee or with any residential, commercial or industrial use, the following regulations unless otherwise noted herein shall apply:

- 14-609A.1 An application for a sign permit shall be submitted to Monterey City Hall on forms furnished by the office and approved prior to the erection, relocation, major alteration or modification or any sign located in the Town of Monterey.
- 14-609B. The application for a sign permit shall contain the following information:
1. Name, address and telephone number of applicant.

2. Location of building, structure or lot to which or upon which the sign is to be located.
3. Affidavit from property owner, if different from sign owner, indicating approval for sign location.
4. Name of person, firm, corporation or association that will be erecting the sign.
5. Evidence of liability insurance policy or bond responsibility for sign erection.
6. Brief description, sketch or drawing of the proposed sign, including all dimensions and estimated cost.
7. Evidence of setback compliance for all freestanding sign structures. Determination of setbacks shall be as specified for the established zoning districts in title 14 of the Monterey Municipal Zoning Ordinance.
8. Engineered drawings for any sign exceeding twenty feet (20') in height or one hundred fifty (150) square feet in sign face area. Engineered drawings may be required for other signs if determined as necessary by the town's Building Inspector.
9. Evidence of receipt of Electrical Inspection Permit for any sign requiring electrical power (issued by Volunteer Energy) and evidence of such sign being approved and stamped by Underwriters Laboratory (UL number shall be provided).
10. A sign permit fee shall be submitted to the Town of Monterey with the application for the sign permit. The permit fee shall be based on the square footage of sign face area, per sign face, as follows:
  - a. On-Premise Signs: No fee required.
  - b. Off-Premise Signs:
    - i. Less than 100 square feet of sign face area: \$0.50 per square foot with a minimum fee of \$15.00
    - ii. 100 to 250 square feet of sign face area: \$1.00 per square foot
    - iii. Greater than 250 square feet of sign face area: \$2.00 per square foot

For applications involving multiple signs, the permit fee shall be calculated separately for each sign.

An annual inspection fee for all Off-Premise Signs and Billboards shall be levied by the Town of Monterey in the amount of fifty dollars (\$50.00). An invoice for annual inspections will be distributed to all off-premise sign owners within the Town of Monterey on July 1 of each year

beginning one (1) year after the sign was initially permitted and installed. The annual inspection will determine that continued maintenance and safety standards are met. Annual inspection fees shall be paid to the Town of Monterey within sixty (60) days of receipt of invoice. Failure to pay the annual fee within the allotted time will result in violation of this municipal code and any such sign shall be considered an illegal sign subject to conditions of § 14-609H.

11. Sign permits shall become null and void six (6) months from the date of issuance if the work authorized under the sign permit has not been commenced by that time.
12. Inspections Required  
Inspections by the Town Building Inspector shall be completed on all footers and upon completion of the final installation of a sign. A minimum notification of twenty-four (24) hours shall be provided to the Town's Building Inspector prior to any required inspection. The State Electrical Inspector shall inspect signs requiring electricity.
13. Certificate of Approval Required  
No sign shall be considered in compliance with these regulations until such time as a Certificate of Approval has been issued. A Certificate of Approval shall be issued on the date that the final inspection of the sign is completed and approved by the Town's Building Inspector.

14-609C. General Regulations for all Districts

For all zoning districts as shown on the Official Zoning Map of the Town of Monterey, Tennessee the following regulations for signs and similar advertising structures shall apply:

- (a) No sign shall be located in such a manner so as to obstruct free or clear vision, or otherwise cause hazards for vehicular or pedestrian traffic by reason of location, shape, illumination or color.
- (b) No sign shall be erected, replaced or relocated so as to prevent free use of any required door, window, fire escape, emergency exit or standpipe.
- (c) No sign shall be located on, or attached to, any public property except public signs authorized by the Town of Monterey or the State of Tennessee.
- (d) No sign shall be located on or overhanging any public rights-of-way, except for certain signs specifically permitted in the C-1 Limited Commercial District.

- (e) Setbacks for all signs shall be measured from the leading edge of the sign as determined by the Town's Building Inspector.
- (f) No sign shall be painted or attached to any trees, rocks, utility poles, guy wires, street name signs, warning and regulatory signs, and the like.
- (g) No sign shall have blinking, flashing, or fluttering lights or other illuminating device which has a changing light intensity, brightness, or color. Signs or portions of signs designed primarily for the display of time and temperature and on premise message centers are specifically excluded from the provisions of this paragraph.
- (h) No sign shall be placed in such a manner as to impede visibility between a height of two feet (2') and ten feet (10') above street level of intersecting streets at their point of intersection in an area defined by the street lines adjoining the corner lot and a line joining points along said street lines fifty feet (50') from the point of intersection.
- (i) All signs designed or equipped to be connected to electricity in any way shall be approved and stamped by Underwriters Laboratory, and shall not be connected to any source of electrical power until such connection meets all applicable city and state codes.
- (j) All signs shall be erected, replaced, or relocated in accordance with the Town of Monterey Municipal Code.
- (k) Vehicle or trailer signs—The following provisions shall apply for all vehicle or trailer signs:
  1. The parking or placing of a vehicle or trailer sign on a public right-of-way, public property or private property so as to be visible from a public right-of-way where the apparent purpose is to advertise as an off-premise sign is prohibited.
  2. No vehicle or trailer sign shall be parked or placed off or away from the premise that owns it, except during the normal course of business, such as deliveries, picking up merchandise, or service calls.
  3. When a vehicle or trailer sign is parked or placed on the premise that owns it such signs shall be parked or placed in a designated parking space.
  4. This section is not intended to prohibit signs that are placed on a vehicle to advertise the sale or lease of that vehicle or to prohibit signs placed on business vehicles also utilized for personal use, including personal vehicles with magnets, decals, or painted graphics.



## 14-609D. Signs Allowed in all Districts

The following signs do not require sign permits and are allowed in all zoning districts:

- (a) Signs established by, or by order of, any governmental agency.
- (b) Directional signs for parking and loading areas, entrance and exit signs not exceeding twelve (12) square feet in area nor three feet (3') in height, however, no such signs shall have the effect of obstructing ingress and egress visibility.
- (c) Real estate signs during the time the property on which the sign is located is listed for sale, lease or auction. Such signs shall not exceed nine (9) square feet in sign face area or any individual lot of record located in any residential district and shall not exceed thirty-two (32) square feet in any non-residential district. Such signs shall be removed within fourteen (14) days after the transaction is completed. Off-premise real estate signs, including directional and open house signs, are permitted for one seven (7) consecutive day period during any twelve (12) consecutive month period. Auction signs shall be permitted when in compliance with the provisions of § 11.213.5(n) of this Municipal Code.
- (d) Political signs displayed on private property with the consent of the owner for a time period of sixty (60) days prior to a general election or primary election. Such signs shall not exceed nine (9) square feet in sign face area in any residential district nor thirty-two (32) square feet in any non-residential district. Such signs shall be removed seven (7) days after the completion of said primary or general election. The owner of the property on which the sign is located shall be responsible for its removal and shall be subject to the penalty and remedy provisions of §§ 11-705 and 11-706 of this Municipal Code for failure to comply with the provisions herein stated. These provisions shall not restrict the use of legal off-premise billboards as political signs.
- (e) Construction signs, not exceeding thirty-two (32) square feet in sign face area, from the date of issuance of a building permit to a date thirty (30) days after the final inspection on the building project.
- (f) Signs denoting the future home of or future location of a particular use or structure, not exceeding thirty-two (32) square feet of sign face area, for a period of ninety (90) days prior to the issuance of a building permit through the building permit period. Such signs shall be immediately removed if no building permit is issued within ninety (90) days of the sign being erected.
- (g) Garage or yard sale signs, not exceeding six (6) square feet in sign face area, for a period of five (5) days prior to and during a garage

sale or yard sale. Such signs shall be removed within twenty-four (24) hours after the sale is completed.

- (h) On-premise promotional signs for new subdivisions limited to one (1) sign per subdivision. Such signs shall not exceed thirty-two (32) square feet in sign face area and shall be removed when eighty percent (80%) of the subdivision lots have been sold.

#### 14-609E. Signs Allowed in Residential Districts

In R-R, R-1 and R-2 Residential Districts, as shown on the Official Zoning Map of the Town of Monterey, Tennessee, the following regulations for signs and similar advertising structures shall apply:

- (a) Nameplates indicating name, address, house numbers, announcement of boarders or roomers are allowed but shall not exceed two (2) square feet in sign area. No more than one (1) such sign per lot or parcel shall be allowed.
- (b) Signs posted on property relating to private parking, trespassing, or dangerous animals are allowed but shall not exceed two (2) square feet in sign area. No more than two (2) such signs per lot or parcel shall be allowed.
- (c) For multi-family complexes, apartment buildings, and mobile home parks, identification signs not exceeding sixteen (16) square feet in sign area are allowed.
- (d) Signs announcing customary home occupations are prohibited, unless granted by the Town of Monterey Board of Zoning Appeals.
- (e) Church, school, childcare, or public building bulletin boards or identification signs are allowed but shall not exceed fifty (50) square feet in sign area.
- (f) No sign shall be placed closer than ten feet (10') to any property right-of-way line.
- (g) For a subdivision consisting of ten (10) or more lots or a multi-family development consisting of eight (8) or more dwelling units, two (2) permanent signs identifying the development of each major vehicular entrance are allowed, provided that the location and setback requirements of the Monterey Subdivision Regulations are complied with, and provided that such signs do not exceed eight feet (8') in height and sixty-four (64) square feet in area.
- (h) For existing nonconforming commercial or industrial uses located in residential districts, on-premise business signs are allowed provided the provisions of districts, on-premise business signs are allowed provided the provisions of § 14-609 of this Municipal Code are complied with.
- (i) Flashing or intermittent illumination is prohibited.
- (j) Mobile or portable signs are prohibited.

- (k) Billboards and similar off-premise signs are prohibited.

14-609F. Signs Allowed in Commercial and Industrial Districts

In the C-1 and C-2 and I-1 and I-2 Districts, as shown on the Official Zoning Map of the Town of Monterey, Tennessee, the following regulations for signs and similar advertising structures shall apply:

- (a) All signs allowed in Residential Districts, subject to the same regulations, are allowed.
- (b) Each commercial and industrial premise with less than four hundred feet (400') of frontage on any one (1) public street, regardless of the number of commercial or industrial establishments on such premise, shall be allowed one (1) on-premise freestanding business sign structure per public street frontage, but in no case shall more than two (2) freestanding sign structures be permitted on any premise regardless of the number of street frontages.
- (c) Each commercial and industrial premise with greater than four hundred feet (400') of frontage on any one (1) public street, regardless of the number of commercial or industrial establishments on such premise, shall be allowed two (2) on-premise freestanding business sign structures per public street frontage, but in no case shall more than three (3) freestanding sign structures be permitted on any premise regardless of the number of street frontages.
- (d) The following provisions shall apply for all on-premise freestanding signs:
  - 1. For commercial and industrial premises with fifty feet (50') or less frontage on a public street or located in the C-1 Limited Business District the maximum sign face area of any freestanding sign shall not exceed fifty (50) square feet.
  - 2. For commercial and industrial premises with greater than fifty feet (50') but less than one hundred feet (100') of frontage on a public street the maximum sign face area of any freestanding sign shall not exceed one hundred (100) square feet in total sign face area.
  - 3. For commercial and industrial premises with one hundred feet (100') or greater of frontage on a public street the maximum sign face area of any freestanding sign shall not exceed two hundred fifty (250) square feet of total sign face area.
  - 4. In cases where a commercial or industrial premise is allowed two (2) freestanding signs, the aggregate sign face

area of both signs shall not exceed four hundred (400) square feet. In cases where a commercial or industrial premise is allowed three (3) freestanding signs, the aggregate sign face area of all signs shall not exceed five hundred (500) square feet.

5. No on-premise freestanding sign shall be located closer than one hundred feet (100') from any other on-premise freestanding sign located on the same premise as measured in a radius from the center of the sign base.
6. No part of any on-premise freestanding sign shall be placed closer than twenty-five feet (25') from any other on-premise located on a different premise or any off-premise freestanding sign as measured from the center of the sign base.
7. No on-premise sign between the height of two feet (2') and eight feet (8') above street level shall be located closer than fifteen feet (15') to the right-of-way of any public street.
8. No on-premise sign with a support structure, pole or pole cover of a width greater than two feet (2') shall be placed closer than fifteen feet (15') to the right-of-way of any public street.
9. No on-premise sign shall be located closer than five feet (5') to the right-of-way of any public street.
10. No part of any on-premise freestanding sign located in the C-1 Limited Business District shall be higher than twenty feet (20') from street level at a point nearest the sign.
11. No part of any on-premise freestanding sign located in the C-1 and C-2, I-1 and I-2 Districts shall be higher than thirty-five feet (35') from street level at a point nearest the sign; except that for any lot or parcel located within five hundred feet (500') of the closest right-of-way of Interstate 40 and located in the C-1 or C-2 districts, the maximum height shall be one hundred feet (100') from street level at a point nearest the on-premise freestanding sign.

- (e) Each commercial or industrial establishment shall be allowed wall signs for on-premise advertising on each outside wall provided that such signs in total shall not exceed fifty percent (50%) of the area of the face of the wall upon which the sign is erected, or portion of the wall occupied by the commercial or industrial establishment, whichever is less, and further provided that if more than one (1) outside wall is utilized for signs then no mansard roof sign shall be allowed.

- (f) Each commercial or industrial establishment shall be allowed one (1) mansard sign for on-premise advertising provided that only one (1) outside wall is used to place signs. No mansard sign shall exceed twenty-five percent (25%) of the area of the face of the building upon which it is erected, or portion of the face of the building occupied by the commercial or industrial establishment. Where mansard and wall signs are used in combination they shall not in total exceed fifty percent (50%) of the face of the building.
- (g) No sign attached to the building shall be allowed to extend above the highest portion of the roof or facade.
- (h) Each commercial or industrial establishment shall be allowed one (1) projecting sign provided that such sign shall not exceed twenty (20) square feet in sign face area and shall not extend above any portion of the roof of the building occupied.
- (i) Each commercial or industrial establishment shall be allowed fascia signs provided that such signs do not exceed two feet (2') in height and do not extend above the highest portion of the roof.
- (j) Awning, canopy, marquee and under-awning signs are permitted for commercial and industrial establishments. Under-awning signs shall not exceed four (4) square feet in sign face area and shall be placed at least seven feet (7') above the sidewalk or ground level so as to not constitute a hazard or impediment to pedestrians.
- (k) For structures located in the C-1 Limited Business District directly abutting the public right-of-way, awning, canopy, or marquee signs overhanging the public right-of-way are allowed provided that no such sign shall be closer than two feet (2') to any street pavement line and provided that no such sign shall obstruct free or clear vision or otherwise cause hazards for vehicular or pedestrian traffic.
- (l) Mobile or portable signs are permitted only in the C-2 District and only under the following terms and conditions:
  - 1. Only one (1) mobile or portable sign shall be allowed per premise.
  - 2. Mobile or portable signs shall only be allowed for two (2) periods, not to exceed fourteen (14) days each, during any calendar year (January 1--December 31).
  - 3. A special permit is required for any mobile or portable sign.
- (m) Banners and other temporary on-premise signs are permitted only under the following terms and conditions:
  - 1. No freestanding banners or other temporary on-premise freestanding signs shall be permitted.

2. Each individual establishment shall be allowed one (1) banner or other temporary on-premise sign attached to a wall, fascia, mansard, roof, canopy or awning.
  3. No individual banner or other temporary on-premise sign shall exceed one hundred (100) square feet in sign face area.
  4. All banners and other temporary on-premise signs shall be well maintained. Any damaged signs shall be immediately repaired, replaced or removed.
- (n) For events of public interest, no more than four (4) temporary off-premise signs shall be allowed, provided that no such sign shall exceed thirty-two (32) square feet in area and provided that such signs shall not be erected more than fourteen (14) consecutive days prior to the scheduled event and provided that such signs shall be removed within three (3) consecutive days following the event.
- (o) Billboards and similar off-premise signs are prohibited in the C-1 and I-1 Districts.
- (p) All other billboards and similar off-premise signs shall be permitted only in the C-2 District under the following terms and conditions:
1. No off-premise sign shall be located within fifteen hundred feet (1,500') of any other off-premise sign on the same side of the street as measured along a line parallel to such street; this spacing does not prohibit back to back signs on the same structure.
  2. No off-premise sign shall be located within five hundred feet (500') of any other off-premise sign on the opposite side of the street or on a different street as measured in a radius from the center of the sign base; this spacing does not prohibit back to back signs on the same structure.
  3. No off-premise sign shall be erected or placed closer than three hundred feet (300') from the nearest property line of any property that is zoned residential and has frontage on the same side of the street as the off-premise sign.
  4. No off-premise sign shall be located closer than one hundred feet (100') from any street intersection as measured from the leading edge of the sign.
  5. No off-premise sign shall be located closer than twenty-five feet (25') from any on-premise sign as measured from the center of the sign base.
  6. No off-premise sign shall have a display surface area exceeding three hundred (300) square feet.

7. No off-premise sign shall exceed fifty feet (50') in height as measured from the uppermost portion of the display surface area to the finished grade at street level.
8. The sign face shall consist of a single panel and only one (1) side or face shall be used in determining the display surface area.
9. Back-to-back panels of the same shape and dimensions are allowed when the panels are mounted parallel to one another or are placed at an angle between panels not exceeding forty-five (45) degrees. No display surface area shall be allowed between back-to-back panels.
10. No multiple panels, stacked or side-by-side panels are permitted.
11. All off-premise signs shall be of monopole type construction. No off-premise sign shall be attached to the walls or roofs of any building.
12. No portable signs are allowed for off-premise advertising.
13. No off-premise sign between the height of two feet (2') and eight feet (8') above street level shall be located closer than fifteen feet (15') to the right-of-way of any public street.
14. No off-premise sign shall be located closer than five feet (5') to the right-of-way of any public street.

#### 14-609G Sign Maintenance

For all signs and similar advertising structures, including any existing conforming or nonconforming signs, the following regulations shall apply:

- (a) All signs, support structures, braces, guys, anchors, and electrical equipment shall be kept in safe repair and shall be well maintained.
- (b) All signs and support structures shall be maintained in such a manner so as to allow a clear and unobstructed view of traffic when approaching an intersection or exiting or entering private property.
- (c) The area around all signs shall be properly maintained, clear of brush, trees and other obstacles so as to make signs readily visible.
- (d) All burned out bulbs or damaged panels shall be promptly replaced.
- (e) All sign copy shall be maintained securely to the sign face and all missing copy shall be replaced.
- (f) Any sign or similar advertising structure failing to meet the requirements of this section shall be repaired or removed within thirty (30) days after receipt of notification from the Town's Building Inspector.

14-609H. Removal of Abandoned, Illegal, Nonconforming or Obsolete Signs.  
The following provisions shall apply for the removal of abandoned, illegal nonconforming, or obsolete signs:

- (a) Abandoned or obsolete signs or sign structures, including any nonconforming on-premise or off-premise sign or sign structure, shall be removed within ninety (90) days of written notification by the Town's Building Inspector.
- (b) Any sign that is declared to be an illegal sign, one that is erected or placed in violation of this Municipal Code or other applicable code, shall be removed immediately.
- (c) When fifty percent (50%) or more of the sign structure of any nonconforming sign is removed, (including poles, cabinet or support structure), the sign structure shall only be replaced so as to comply with all applicable provisions of this Municipal Code.
- (d) Any sign or sign structure found by the Town's Building Inspector to present an immediate danger to the public shall be immediately repaired or removed.
- (e) Any obsolete sign panel or sign copy which identifies, describes, directs attention to, or gives directions for locating any business or establishment no longer in operation, or advertises any product no longer being marketed shall be removed within thirty (30) days after becoming obsolete. Covering obsolete sign panels or sign copy with any material is specifically prohibited.
- (f) Freestanding sign structures used in conjunction with a building or portion of a building that is vacant shall be considered as abandoned upon one (1) year of the building or portion of the building becoming vacant and shall be removed.
- (g) The owner or lessee of the property on which the sign is located shall be responsible for its removal and shall be subject to the general penalties clause of this Municipal Code for failure to comply with the provisions stated herein.
- (h) All nonconforming signs which existed lawfully at the time of the enactment of the Official Municipal Code shall be allowed to remain and shall be considered as having nonconforming use status. Mobile or portable signs shall not have nonconforming use status. (as added by Ord. #441, Sept. 2006, and amended by Ord. #12-507, July 2012, Ord. #12-510, Oct. 2012, and Ord. #14-518, May 2014)



## CHAPTER 7

### ADMINISTRATION AND ENFORCEMENT

#### SECTION

- 14-701. Building inspector.
- 14-702. Application of official zoning code.
- 14-703. Building permits required.
- 14-704. Plot plan required.
- 14-705. Site plan required.
- 14-706. Certificate of occupancy required.
- 14-707. Board of zoning appeals--establishment and procedure.
- 14-708. Board of zoning appeals--powers and duties.
- 14-709. Amendments to zoning ordinance.
- 14-710. Penalties.
- 14-711. Remedies.
- 14-712. Validity.

**14-701. Building inspector.** The provisions of this Official Zoning Code shall be administered and enforced by a Building Inspector as designated by the Monterey Board of Mayor and Aldermen. The Building Inspector may be provided with the assistance of such other persons as the Monterey Board of Mayor and Aldermen may direct

#### 14-701.1 DUTIES OF THE BUILDING INSPECTOR

The Building Inspector shall administer and enforce this Official Zoning Code and in addition he shall perform the following duties:

- 14-701.1A Issue all building permits and make and maintain records thereof;
- 14-701.1B Issue all certificates of occupancy and make and maintain records thereof;
- 14-701.1C Issue and renew, where applicable and appropriate, all temporary use permits and make and maintain records thereof;
- 14-701.1D Maintain and keep current zoning maps, and records of amendments thereto;
- 14-701.1E Conduct inspections as prescribed by this Official Zoning Code, and such other inspections as are necessary to ensure compliance with the various provisions of this Official Zoning Code;

14-701.1F Receive, file and forward to the planning commission and the staff planner all applications and site plans for applicable uses, and all applications for amendments to this Official Zoning Code;

14-701.1G Receive, file and forward to the Board of Zoning Appeals and the staff planner all applications for special exceptions, variances or other matters, on which the Board is required to review under the provisions of this Official Zoning Code.

#### 14-701.2 POWERS OF THE BUILDING INSPECTOR

The Building Inspector shall have the following powers:

14-701.2A The power to grant building permits and certificate of occupancy permits;

14-701.2B The power to make inspections of buildings or premises necessary to carry out his duties in the enforcement of this Official Zoning Code;

14-701.2C It shall be unlawful for the Building Inspector to approve any plan or issue any permits or certificates of occupancy for any excavation or construction until he has inspected such plans in detail and found them to conform with this Official Zoning Code;

14-701.2D Under no circumstances is the Building Inspector permitted to make changes in this Official Zoning Code nor to vary the terms or provisions in carrying out his duties.

#### 14-701.3 RIGHT OF ENTRY UPON LAND

The Building Inspector or persons engaged by him to perform tests or other duties may enter upon any land within the jurisdiction of the city for the purpose of performing tests, making examinations, or surveys, and placing or removing public notices as may be required by this Official Zoning Code. (1980 Code, § 11-701, as replaced by Ord. #441, Sept. 2006)

**14-702. Application of official zoning code.** Except as otherwise provided, no structure or land shall after the effective date of the Official Zoning Code be used and no structure or part thereof shall be erected, made addition to, or moved unless in conformity with the regulations herein specified for the district in which it is located. In their interpretation and application, the provisions of the Official Zoning Code shall be considered minimum requirements adopted for the promotion of public health, safety, convenience, order, prosperity, and general welfare of the community. Where other ordinances or regulations impose greater restrictions than those specified

herein, compliance with such other ordinances or regulations is mandatory. (1980 Code, § 11-702, as replaced by Ord. #441, Sept. 2006)

**14-703. Building permits required.**

14-703.1

It shall be unlawful to commence the excavation for or the construction of any building or other structure, including accessory structures, to commence the moving of or addition to any structure, including accessory structures or to commence the filing of land until the Building Inspector has issued for such work, a building permit containing a statement that the plans, specifications and intended use of such structure in all respects conform with the provisions of the Official Zoning Code.

14-703.2

Application for a building permit shall be made in writing to the Building Inspector on forms provided for that purpose. The Building Inspector may revoke a permit or approval, issued under the provisions of this Official Zoning Code, in case there has been any false statement or misrepresentation as to the material fact in the application.

14-703.3 **BUILDING PERMIT DOES NOT WAIVE PROVISIONS**

The issuance of a building permit shall, in no case, be construed as waiving any provisions of this Official Zoning Code. The Building Inspector may revoke a building permit upon determination that the construction or activity for which the permit was issued is in violation of or not in conformity with the provisions of this Official Zoning Code.

14-703.4 **EXPIRATION OF BUILDING PERMIT**

Building permits shall be void one-hundred eighty (180) days from the date of issue unless substantial progress on the project has been made by that time. (1980 Code, § 11-703, as replaced by Ord. #441, Sept. 2006)

**14-704. Plot plan required.** The Building Inspector shall require that every application for a building permit for excavation, construction, moving, or addition for or of a single or two-family dwelling (including mobile homes located on individual lots) shall be accompanied by a plot plan.

14-704.1 **REQUIRED CONTENTS OF PLOT PLAN**

The plot plan shall show the following in sufficient detail to enable the Building Inspector to ascertain whether the proposed development is in conformance with this Official Zoning Code.

14-704.1A The actual shape, location, and dimensions of the lot.

- 14-704.1B The shape, size, and location of all buildings or other structures to be erected, altered or moved, and of any building or other structure already on the lot.
- 14-704.1C The existing and intended use of the lot and of all such buildings or other structures upon it, including the number of dwelling units the building is intended to accommodate.
- 14-704.1D Such other information concerning the lot or adjoining lots as may be essential for determining whether the provisions of this Official Zoning Code are being observed.

14-704.2 REVIEW OF PLOT PLAN

All plot plans shall be reviewed by the Building Inspector and, if necessary, the staff planner. A period of up to ten (10) working days shall be allowed for the review of the plot plan, unless more time is determined to be needed by the Building Inspector.

14-704.3 APPROVAL OF PLOT PLAN

If the proposed development is found to be in conformity with the provisions of this Official Zoning Code, the Building Inspector shall issue a building permit.

14-704.4 DISAPPROVAL OF PLOT PLAN

If the proposed development is found not to be in conformity with the provisions of this Official Zoning Code, a building permit shall not be issued and the Building Inspector shall state in writing on the application the cause for such disapproval. (1980 Code, § 11-704, as replaced by Ord. #441, Sept. 2006)

**14-705. Site plan required.** The Building Inspector shall require that every application for a building permit for excavation, construction, moving or addition, except for single and two-family dwellings, shall be accompanied by a site plan or plat of the proposed development.

14-705.1 REQUIRED CONTENTS OF SITE PLAN

The site plan or plat shall be prepared to scale by an engineer, architect or other technical personnel approved by the Building Inspector and shall show the following in sufficient detail to enable the Building Inspector to ascertain whether the proposed development is in conformance with the Official Zoning Code.

- 14-705.1A Actual shape, location, and dimensions of the lot to be built upon.

- 14-705.1B Topography of existing and finished grades.
- 14-705.1C Shape, size, and location of all buildings or other structures to be erected, added to, or moved and of any buildings or other structures already on the lot.
- 14-705.1D Existing and intended use of all such buildings or other structures.
- 14-705.1E Location and design of off-street parking, points of access, off-street loading areas and of pedestrian circulation.
- 14-705.1F Location and size of nearest water line, sewer line, fire hydrant, and any other public utilities.
- 14-705.1G Plans for the provisions of water service, fire hydrants, sewer service and any other public utilities.
- 14-705.1H Minimum required front, side and rear yard setback lines.
- 14-705.1I All easements with dimensions and designated as to type (examples: public utilities, drainage and public access).
- 14-705.1J Plans for storm water drainage.
- 14-705.1K All identified floodable areas; if applicable.
- 14-705.1L Location and dimensions of all signs.
- 14-705.1M Location and type of landscape screening, if applicable.
- 14-705.1N Any other information concerning the lot or adjoining lots as may be necessary for determining whether the provisions of the Official Zoning Code are observed.

#### 14-705.2 REVIEW OF SITE PLANS

All site plans or plats shall be reviewed by the Building Inspector and the staff planner, and by the appropriate Municipal Department heads (including streets, water and wastewater, electric, fire and police) if deemed necessary due to the nature or extent of the proposed development. A period of up to ten (10) working days shall be allowed for the review of the site plan.

**14-705.3 APPROVAL OF SITE PLANS**

If the proposed development is found to be in conformity with the provisions of this Official Zoning Code, the Building Inspector shall issue a building permit.

**14-705.4 DISAPPROVAL OF SITE PLANS**

If the proposed development is found not to be in conformity with the provisions of this Official Zoning Code, a building permit shall not be issued and the Building Inspector shall state in writing on the application the cause for such disapproval. (1980 Code, § 11-705, as replaced by Ord. #441, Sept. 2006)

**14-706. Certificate of occupancy required.****14-706.1**

No land or building or other structure or part thereof hereafter erected, moved, added to, or changed in its use shall be used until the Building Inspector shall have issued a certificate of occupancy stating that such land, structure, or part thereof is found to be in conformity with the provisions of the Official Zoning Code.

**14-706.2**

Within seven (7) 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 certificate of occupancy, if the building or premises or part thereof is found to conform with the provisions of the Official Zoning Code, or; if such certificate is refused, to state the refusal in writing with the cause for such refusal. (1980 Code, § 11-706, as replaced by Ord. #441, Sept. 2006)

**14-707. Board of zoning appeals--establishment and procedure.****14-707.1 ESTABLISHMENT AND APPOINTMENT**

A Board of Zoning Appeals is hereby established in accordance with Tennessee Code Annotated, §§ 13-7-205 through 13-7-207. As permitted by Tennessee Code Annotated, § 13-7-205, the seven (7) appointed members of the Monterey Municipal Planning Commission is hereby designated as the Monterey Board of Zoning Appeals. Members 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 five (5) years except that the initial individual appointments to the board shall be for terms of one (1), two (2), three (3), four (4) and five (5) years respectively.

Vacancies shall be filled for any unexpired term by the Mayor in confirmation by the Board of Mayor and Aldermen.

14-707.2 CONFLICT OF INTEREST

Any member of the Board of Zoning Appeals who shall have direct or an indirect interest in any property which is the subject matter of or affected by a decision of the Board shall be disqualified from participating in the discussion, decision, and proceedings of the Board in connection therewith. The burden for revealing any such conflict rests with individual members of the Board. Failure to reveal any such conflict shall constitute grounds for immediate removal from the Board for cause.

14-707.3 PROCEEDINGS OF THE BOARD OF ZONING APPEALS

14-707.3A The Board of Zoning Appeals shall adopt rules necessary to the conduct of its affairs and in keeping with the provisions of this Official Zoning Code. Meetings shall be held at the call of the chairman and at such other times as the Board may determine. The chairman, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings shall be open to the public.

14-707.3B The Board of Zoning Appeals shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be a public record and be immediately filed with official records of the Board.

14-707.4 HEARINGS AND APPEALS

14-707.4A An appeal to the Board of Zoning Appeals may be taken by any person, firm, or corporation aggrieved, or by any governmental officer, department board, or bureau affected by any decision of the Building Inspector, based in whole or in part upon the provision of this ordinance. Such appeal shall be taken by filing with the Board of Zoning Appeals a notice of appeal, specifying the grounds thereof.

14-707.4B The Building Inspector shall transmit to the Board all papers constituting the record upon which the appeal was taken. The Board shall fix a reasonable time for the hearing of the appeal, give due notice to the parties of interest, and decide the same

within a reasonable time. Upon the hearing, any person, or party may appear in person, by agent, or by attorney.

14-707.5      **LIABILITY OF MEMBERS OF THE BOARD OF ZONING APPEALS AND THE BUILDING INSPECTOR**

Any member of the Board of Zoning Appeals, the Building Inspector, or other employee charged with the enforcement of this Official Zoning Code acting for the Town of Monterey in the discharge of his duties, shall not thereby render himself liable personally, and he is hereby relieved from all personal liability and shall be held harmless by the Town of Monterey of any damage that may accrue to persons or property as the result of any act required or permitted in the proper discharge of their duties. Any suit brought against any Board member, the Building Inspector, or employees charged with the enforcement of any provision of this Official Zoning Code shall be defended by legal representative furnished by the Town of Monterey until the final termination of such proceedings. (as added by Ord. #441, Sept. 2006, and amended by Ord. #11-497, July 2011)

**14-708. Board of zoning appeals--powers and duties.** The Monterey Board of Zoning Appeals shall have the following powers and duties:

14-708.1      **ADMINISTRATIVE REVIEW OR INTERPRETATION**

The Board of Zoning Appeals shall interpret the Official Zoning Code or Zoning Map and pass upon disputed questions of lot lines or district boundary lines or similar questions as they arise in the administration of this Official Zoning Code. The Board of Zoning Appeals shall also 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 any other administrative official in carrying out or enforcing any provision of this Official Zoning Code, or in his interpretation of the zoning map.

14-708.1A      Application Required -- An application shall be filed with the Board of Zoning Appeals. Said application shall specify the grounds for requesting the administrative review or interpretation.

14-708.1B      Application Fee Required -- A non-refundable fee of twenty-five dollars (\$25.00) shall be paid to the Town of Monterey with each application for a request for an administrative review or interpretation from the Board of Zoning Appeals to defray costs of notices, the hearing and any miscellaneous expenses.

14-708.1C      Public Hearing and Notice Required -- A public hearing for the purpose of soliciting public comments concerning the application



shall be held and public notice of reasonable time shall be given in advance of said hearing. Notice of the public hearing shall be published once in a newspaper of general circulation prior to the hearing and due public notice shall be given to the parties in interest.

14-708.2 **SPECIAL EXCEPTIONS (USES PERMITTED ON APPEAL)**

The Board of Zoning Appeals may hear and decide only such special exceptions as it is specifically authorized to pass on by the terms of the "Uses Permitted on Appeals" Sections of this Official Zoning Code; to decide such questions as are involved in determining whether special exceptions should be granted; and to grant special exceptions with such conditions and safeguards as are appropriate under this Official Zoning Code; or to deny special exceptions when not in harmony with the purpose and intent of this Official Zoning Code.

14-708.2A Application Required -- An application shall be filed with the Board of Zoning Appeals for review. Said application shall show the location and intended use of the site, the names of the property owners, existing land uses of all adjacent properties, and any other material pertinent to the request which the Board of Zoning Appeals may require.

14-708.2B Application Fee Required -- A nonrefundable fee of twenty-five dollars (\$25.00) shall be paid to the Town of Monterey with each application for a request for a special exception from the Board of Zoning Appeals to defray costs of notices, the hearing, and any miscellaneous expenses.

14-708.2C Public Hearing and Notice Required -- A public hearing for the purpose of soliciting public comments concerning the application shall be held and public notice of reasonable time shall be given in advance of said hearing. Notice of the public hearing shall be published once in a newspaper of general circulation prior to the hearing and due notice shall be given to the parties in interest.

14-708.2D General Provisions Governing Special Exceptions -- Before any special exception shall be issued, the Board of Zoning Appeals shall certify compliance with the specific rules governing individual exceptions and that satisfactory provision and arrangement has been made concerning the following general requirements:

1. It is so designed, located and proposed to be operated so that the public health, safety, and welfare will be protected;

2. It will not adversely affect other property in the area in which it is located;
3. It is within the provision of "Uses Permitted on Appeal" as set forth in this Official Zoning Code; and
4. It conforms to all applicable provisions of this Official Zoning Code for the district in which it is to be located.

14-708.2E Conditions and Safeguards -- In granting any special exception, the Board of Zoning Appeals may prescribe appropriate conditions and safeguards in conformity with this Official Zoning Code. Violation of such conditions and safeguards, when made a part of the terms under which the special exception is granted, shall be deemed a violation of this Official Zoning Code.

14-708.2F Validity of Plans -- All approved plans, conditions, restrictions, and rules made a part of the approval of the Board of Zoning Appeals shall constitute certification on the part of the applicant that the proposed use shall conform to such regulations at all times.

14-708.2G Time Limit Prescribed -- The Board of Zoning Appeals shall prescribe a time limit within which the action for which the special exception is required shall be begun or completed, or both, however, in no case shall more than one (1) year pass before the action is begun. Failure to begin or complete, or both, such action within the prescribed time limit shall void the special exception.

### 14-708.3 VARIANCES

The Board of Zoning Appeals has the authority to hear and decide applications for variances from the terms of this Official Zoning Code as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this Official Zoning Code would result in unnecessary hardship. In exercising its powers, the Board of Zoning Appeals may, so long as such action is in conformity with the terms of this Official Zoning Code, reverse, affirm, or modify the order, requirement, decision, or determination as set forth in the regulations of this Official Zoning Code, and to that end shall have the powers of the administrative official from whom the appeal is taken.

14-708.3A Application Required -- An application shall be filed with the Board of Zoning Appeals for consideration. Said application shall show the location and intended variance of the site, the names of the property owners, existing land uses of all adjacent properties, and any other material pertinent to the request which the Board of Zoning Appeals may require.

- 14-708.3B Application Fee Required -- A nonrefundable fee of twenty-five dollars (\$25.00) shall be paid to the Town of Monterey with each application for a request for a variance by the Board of Zoning Appeals to defray costs of notices, the hearing and any miscellaneous expenses.
- 14-708.3C Public Hearing and Notice Required -- A public hearing for the purpose of soliciting public comments concerning the application shall be held and public notice of reasonable time shall be given in advance of said hearing. Notice of the public hearing shall be published once in a newspaper of general circulation prior to the hearing and due notice shall be given to the parties in interest.
- 14-708.3D General Standards for Variances -- In granting a variance, the Board of Zoning Appeals shall ascertain that the following criteria are met:
1. The particular physical surroundings, shape, or topographic conditions of the specific property involved would result in a particular hardship upon the owner as distinguished from a mere inconvenience, if the strict application of this Official Zoning Code were carried out;
  2. The conditions upon which the petition for a variance is based would not be applicable, generally, to other property within the same district;
  3. The variance will not authorize in a zoning district activities other than those permitted by this Official Zoning Code;
  4. Financial returns only shall not be considered as a basis for granting a variance;
  5. The alleged difficulty or hardship has not been created by any person having an interest in the property after the effective date of this Official Zoning Code;
  6. That granting the variance requested will not confer on the applicant any special privilege that is denied by this Official Zoning Code to other lands, structures, or buildings in the same district;
  7. That variance is the minimum variance that will make possible the reasonable use of the land, building, or structure;
  8. The granting of the variance will not be detrimental to the public welfare or injurious to other property or improvements in the area in which property is located; and
  9. The proposed variance will not impair an adequate supply of light and air to adjacent property, substantially increase

the congestion in the public streets, increase the danger of fire, endanger the public safety, or substantially diminish or impair property values within the area.

- 14-708.3E Non-Conformity Does Not Constitute Grounds for Granting a Variance -- No nonconforming use of neighboring lands, structures, or buildings in the same district, and no permitted or nonconforming use of lands, structures or buildings in other districts shall be considered grounds for the issuance of a variance.
- 14-708.3F Prohibition of Use Variances -- Under no circumstances shall the Board of Zoning Appeals grant a variance to allow a use not permissible under the terms of this Official Zoning Code in the district involved, or any use expressly or by implication prohibited by the terms of this Official Zoning Code in said district.
- 14-708.3G Conditions and Restrictions -- The Board may impose such conditions and restrictions upon the premises benefitted by a variance as may be necessary to comply with the provisions set out in this Official Zoning Code to reduce or minimize the injurious effect to such variation upon surrounding property and better carry out the general intent of this Official Zoning Code. Violations of such conditions and restrictions, when made a part of the terms under which the variance is granted, shall be deemed a violation of this Official Zoning Code.
- 14-708.3H Time Limit Prescribed -- The Board of Zoning Appeals shall prescribe a time limit within which the action for which the variance is required shall be begun or completed, or both, however, in no case shall more than one (1) year pass before the action is begun. Failure to begin or complete, or both, such action within the prescribed time limit shall void the variance.
- 14-708.3I Variance Appeals -- Any person or agency aggrieved by a decision of the Board of Zoning Appeals on a variance may appeal by certiorari to a court of competent jurisdiction. The judgment and findings of the Board on all questions of fact that may be involved in any appeal, cause, hearing or proceeding under this chapter shall be final and subject to review only for illegality or want of jurisdiction. (as added by Ord. #441, Sept. 2006)

**14-709. Amendments to zoning ordinance.****14-709.1 PROCEDURE**

The regulations, the number, or boundaries of districts established by the Official Zoning Code may be amended, supplemented, changed, modified, or repealed by the Board of Mayor and Aldermen after holding a public hearing, fifteen (15) days notice of which has been given in the local newspaper; but in accordance with Tennessee Code Annotated, § 13-7-204, no amendment shall become effective unless it is first submitted to and approved by the Monterey Municipal Planning Commission, or if disapproved, shall receive a majority vote of the entire Board of Mayor and Aldermen.

**14-709.2 APPLICATION AND FEE**

14-709.2A Any person desiring to bring a request for an amendment to the Official Zoning Code shall first submit an application for such a request. Said application shall state the purpose of the amendment and any other information or material pertinent to the request which the planning commission or Board of Mayor and Aldermen may require.

14-709.2B A nonrefundable fee of twenty-five dollars (\$25.00) shall be paid to the Town of Monterey with each application requesting an amendment to the Official Zoning Code to defray costs of notices, public hearings, and any miscellaneous expenses. (as added by Ord. #441, Sept. 2006)

**14-710. Penalties.** Any person violating any provisions of this Official Zoning Code shall be guilty of a misdemeanor, punishable as other misdemeanors as provided by law. (as added by Ord. #441, Sept. 2006)

**14-711. Remedies.** In case any building or other structure is erected, constructed, added to, moved or converted, or any building, structure, or land is used in violation of the Official Zoning Code, the Building Inspector or any other appropriate authority or any adjacent or neighboring property owner who would be specifically damaged by such violation, in addition to other remedies, may institute injunction, mandamus, or appropriate action or proceeding to prevent such unlawful erected, construction, addition, conversion, moving, or use; or to correct or abate such violation; or to prevent occupancy of such building structure or land. (as added by Ord. #441, Sept. 2006)

**14-712. Validity.** Should any section, clause, or provision of this Official Zoning Code be declared by a court of competent jurisdiction to be

unconstitutional or invalid, this judgment shall not affect the validity of the Official Zoning Code as a whole or any other part other than the part judged invalid. (as added by Ord. #441, Sept. 2006)

**CHAPTER 8**

**[REPEALED AND RESERVED FOR FUTURE USE]<sup>1</sup>**

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<sup>1</sup>§§ 14-801--14-806 were repealed and Chapter 8 reserved by Ord. #441, Sept. 2006.

**CHAPTER 9**

**[REPEALED AND RESERVED FOR FUTURE USE]<sup>1</sup>**

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<sup>1</sup>§§ 14-901--14-907 were repealed and Chapter 9 reserved by Ord. #441, Sept. 2006.



**CHAPTER 10**

**[REPEALED]<sup>1</sup>**

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<sup>1</sup>§§ 14-1001--14-1004 were repealed by Ord. #441, Sept. 2006.

## CHAPTER 11

### BOARD OF ZONING APPEALS

#### SECTION

- 14-1101. Creation and appointment.
- 14-1102. Procedure.
- 14-1103. Appeals: how taken.
- 14-1104. Powers.
- 14-1105. Fees.

**14-1101. Creation and appointment.** A board of zoning appeals is hereby established in accordance with Tennessee Code Annotated, §§ 13-07-205, 13-7-208, and 13-7-207. The board of zoning appeals shall consist of three (3) members, at least one (1) of whom shall be a member of the Monterey Municipal Planning Commission. They shall be nominated by the mayor and appointment 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. Any vacancy shall be filled for the unexpired term by nomination by the mayor, and confirmation by the board of mayor and aldermen. (as added by Ord. #368, July 1998)

**14-1102. 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 procedure and shall keep records of applications and other action thereon which shall be a public record. (as added by Ord. #368, July 1998)

**14-1103. Appeals: how taken.** An appeal to the board of zoning appeals may be taken by any person, firm, or corporation aggrieved, or by any governmental officer, department, board, or bureau affected by any decision of the zoning compliance officer based in whole or in part upon the provisions of chapters 2 through 11 of this title. Such appeal shall be taken by filing an application with the board of zoning appeals, specifying the grounds thereof.

The zoning compliance officer shall transmit to the board all papers constituting the record upon which the action appealed 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. At the hearing any person or party may appear and be heard in person, by agent, or by attorney. (as added by Ord. #368, July 1998)

**14-1104. Powers.** The board of zoning appeals shall have the following powers and duties:

(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 zoning compliance officer or other administrative official in the carrying out or enforcement of any provision of chapters 2 through 10 of this title, and to interpret the zoning map and ordinance.

(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 applications for variance from the terms of chapters 2 through 10 of this title, but shall grant variances 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 10 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 chapters 2 through 10 of this title would result in practical difficulties to or undue hardship upon the owner of such property; provided that such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of chapters 2 through 10 of this title.

(a) In granting a variance the board of zoning appeals 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 purpose of chapters 2 through 10 of this title.

(b) Before any variance is granted it shall be shown that special circumstances attached to the property do not generally apply to other property in the neighborhood. (as added by Ord. #368, July 1998)

**14-1105. Fee.** Fees of twenty-five dollars (\$25) shall be paid when submitting an application to zoning compliance officer or office manager, said fee to defray costs of notices, the hearing, and any other miscellaneous expenses. (as added by Ord. #368, July 1998)

**CHAPTER 12****MUNICIPAL FLOODPLAIN ZONING ORDINANCE****SECTION**

14-1201. Municipal floodplain zoning.

**14-1201. Municipal floodplain zoning.** The Town of Monterey, Tennessee wishes to maintain eligibility in the National Flood Insurance Program (NFIP). The municipal floodplain zoning ordinance (and any amendments) may be examined in its entirety in the office of the recorder. (as added by Ord. #10-485, January 2011)

## TITLE 15

### MOTOR VEHICLES, TRAFFIC AND PARKING<sup>1</sup>

#### CHAPTER

1. MISCELLANEOUS.
2. EMERGENCY VEHICLES.
3. SPEED LIMITS.
4. TURNING MOVEMENTS.
5. STOPPING AND YIELDING.
6. PARKING.
7. ENFORCEMENT.

#### CHAPTER 1

#### MISCELLANEOUS<sup>2</sup>

#### SECTION

- 15-101. Motor vehicle requirements.
- 15-102. Driving on streets closed for repairs, etc.
- 15-103. Reckless driving.
- 15-104. One-way streets.
- 15-105. Unlaned streets.
- 15-106. Laned streets.
- 15-107. Yellow lines.
- 15-108. Miscellaneous traffic-control signs, etc.
- 15-109. General requirements for traffic-control signs, etc.
- 15-110. Unauthorized traffic-control signs, etc.
- 15-111. Presumption with respect to traffic-control signs, etc.
- 15-112. School safety patrols.

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<sup>1</sup>Municipal code reference

Excavations and obstructions in streets, etc.: title 16.

<sup>2</sup>State law references

Under Tennessee Code Annotated, § 55-10-307, the following offenses are exclusively state offenses and must be tried in a state court or a court having state jurisdiction: driving while intoxicated or drugged, as prohibited by Tennessee Code Annotated, § 55-10-401; failing to stop after a traffic accident, as prohibited by Tennessee Code Annotated, § 55-10-101, et seq.; driving while license is suspended or revoked, as prohibited by Tennessee Code Annotated, § 55-7-116; and drag racing, as prohibited by Tennessee Code Annotated, § 55-10-501.

- 15-113. Driving through funerals or other processions.
- 15-114. Clinging to vehicles in motion.
- 15-115. Riding on outside of vehicles.
- 15-116. Backing vehicles.
- 15-117. Projections from the rear of vehicles.
- 15-118. Causing unnecessary noise.
- 15-119. Vehicles and operators to be licensed.
- 15-120. Passing.
- 15-121. Damaging pavements.
- 15-122. Bicycle riders, etc.
- 15-123. Compliance with financial responsibility law required.
- 15-124. Seat belt law.
- 15-125. Child restraint seat belt law.
- 15-126. Disabled driver law.
- 15-127. Noise violation law.
- 15-128. Adoption of state traffic statutes and regulations.
- 15-129. Establishment and operation of drivers' education course.

**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. 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 purposes. (1980 Code, § 9-106)

**15-103. Reckless driving.** Irrespective of the posted speed limit, no person, including operators of emergency vehicles, shall drive any vehicle in willful or wanton disregard for the safety of persons or property. (1980 Code, § 9-107)

**15-104. One-way streets.** On any street for one-way traffic with posted signs indicating the authorized direction of travel at all intersections offering access thereto, no person shall operate any vehicle except in the indicated direction. (1980 Code, § 9-108)

**15-105. Unlaned streets.** (1) Upon all unlaned streets of sufficient width, a vehicle shall be driven upon the right half of the street except:

- (a) When lawfully overtaking and passing another vehicle proceeding in the same direction.

(b) When the right half of a roadway is closed to traffic while under construction or repair.

(c) Upon a roadway designated and signposted by the town for one-way traffic.

(2) All vehicles proceeding at less than the normal speed of traffic at the time and place and under the conditions then existing shall be driven as close as practicable to the right hand curb or edge of the roadway, except when overtaking and passing another vehicle proceeding in the same direction or when preparing for a left turn. (1980 Code, § 9-109)

**15-106. Laned streets.** On streets marked with traffic lanes, it shall be unlawful for the operator of any vehicle to fail or refuse to keep his vehicle within the boundaries of the proper lane for his direction of travel except when lawfully passing another vehicle or preparatory to making a lawful turning movement.

On two (2) lane and three (3) lane streets, the proper lane for travel shall be the right hand lane unless otherwise clearly marked. On streets with four (4) or more lanes, either of the right hand lanes shall be available for use except that traffic moving at less than the normal rate of speed shall use the extreme right hand lane. On one-way streets either lane may be lawfully used in the absence of markings to the contrary. (1980 Code, § 9-110)

**15-107. Yellow lines.** On streets with a yellow line placed to the right of any lane line or center line, such yellow line shall designate a no-passing zone, and no operator shall drive his vehicle or any part thereof across or to the left of such yellow line except when necessary to make a lawful left turn from such street. (1980 Code, § 9-111)

**15-108. Miscellaneous traffic-control signs, etc.**<sup>1</sup> It shall be unlawful for any pedestrian or the operator of any vehicle to violate or fail to comply with any traffic-control sign, signal, marking, or device placed or erected by the state or the town unless otherwise directed by a police officer.

It shall be unlawful for any pedestrian or the operator of any vehicle to willfully violate or fail to comply with the reasonable directions of any police officer. (1980 Code, § 9-112)

**15-109. 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

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<sup>1</sup>Municipal code references

Stop signs, yield signs, flashing signals, pedestrian control signs, traffic control signals generally: §§ 15-505--15-508.

Highways,<sup>1</sup> 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 town. This section shall not be construed as being mandatory but is merely directive. (1980 Code, § 9-113)

**15-110. Unauthorized traffic-control signs, etc.** No person shall place, maintain, or display upon or in view of any street, any unauthorized sign, signal, marking, or device which purports to be or is an imitation of or resembles an official traffic-control sign, signal, marking, or device or railroad sign or signal, or which attempts to control the movement of traffic or parking of vehicles, or which hides from view or interferes with the effectiveness of any official traffic-control sign, signal, marking, or device or any railroad sign or signal. (1980 Code, § 9-114)

**15-111. Presumption with respect to traffic-control signs, etc.** When a traffic-control sign, signal, marking, or device has been placed, the presumption shall be that it is official and that it has been lawfully placed by the proper municipal authority. (1980 Code, § 9-115)

**15-112. School safety patrols.** All motorists and pedestrians shall obey the directions or signals of school safety patrols when such patrols are assigned under the authority of the 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, § 9-116)

**15-113. Driving through funerals or other processions.** Except when otherwise directed by a police officer, no driver of a vehicle shall drive between the vehicles comprising a funeral or other authorized procession while they are in motion and when such vehicles are conspicuously designated. (1980 Code, § 9-117)

**15-114. Clinging to vehicles in motion.** It shall be unlawful for any person traveling upon any bicycle, motorcycle, coaster, sled, roller skates, or any other vehicle to cling to, or attach himself or his vehicle to any other moving vehicle upon any street, alley, or other public way or place. (1980 Code, § 9-119)

**15-115. Riding on outside of vehicles.** It shall be unlawful for any person to ride, or for the owner or operator of any motor vehicle being operated on a street, alley, or other public way or place, to permit any person to ride on

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<sup>1</sup>This manual may be obtained from the Superintendent of Documents, U. S. Government Printing Office, Washington, D.C. 20402.



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, § 9-120)

**15-116. Backing vehicles.** The driver of a vehicle shall not back the same unless such movement can be made with reasonable safety and without interfering with other traffic. (1980 Code, § 9-121)

**15-117. Projections from the rear of vehicles.** Whenever the load or any projecting portion of any vehicle shall extend beyond the rear of the bed or body thereof, the operator shall display at the end of such load or projection, in such position as to be clearly visible from the rear of such vehicle, a red flag being not less than twelve (12) inches square. Between one-half (½) hour after sunset and one-half (½) 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, § 9-122)

**15-118. Causing unnecessary noise.** It shall be unlawful for any person to cause unnecessary noise by unnecessarily sounding the horn, "racing" the motor, or causing the "screeching" or "squealing" of the tires on any motor vehicle. (1980 Code, § 9-123)

**15-119. Vehicles and operators to be licensed.** It shall be unlawful for any person to operate a motor vehicle in violation of the "Tennessee Motor Vehicle Title and Registration Law" or the "Uniform Motor Vehicle Operators' and Chauffeurs' License Law." (1980 Code, § 9-124)

**15-120. Passing.** Except when overtaking and passing on the right is permitted, the driver of a vehicle passing another vehicle proceeding in the same direction shall pass to the left thereof at a safe distance and shall not again drive to the right side of the street until safely clear of the overtaken vehicle. The driver of the overtaken vehicle shall give way to the right in favor of the overtaking vehicle on audible signal and shall not increase the speed of his vehicle until completely passed by the overtaking vehicle.

When the street is wide enough, the driver of a vehicle may overtake and pass upon the right of another vehicle which is making or about to make a left turn.

The driver of a vehicle may overtake and pass another vehicle proceeding in the same direction either upon the left or upon the right on a street of sufficient width for four (4) or more lanes of moving traffic when such movement can be made in safety.

No person shall drive off the pavement or upon the shoulder of the street in overtaking or passing on the right.

When any vehicle has stopped at a marked crosswalk or at an intersection to permit a pedestrian to cross the street, 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, § 9-125)

**15-121. Damaging pavements.** No person shall operate upon any street of the town any vehicle, motor propelled or otherwise, which by reason of its weight or the character of its wheels or track is likely to damage the surface or foundation of the street. (1980 Code, § 9-118)

**15-122. 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 town 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. (1980 Code, § 9-126)

**15-123. Compliance with financial responsibility law required.**

(1) Every vehicle operated with 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 the declaration page of an insurance policy, an insurance binder, or an insurance card from an insurance company authorized to do business in Tennessee, stating that a policy of insurance meeting the requirements of the Tennessee Financial

Responsibility Law of 1977, compiled in Tennessee Code Annotated, chapter 12, title 55, has been issued;

(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, chapter 12, title 55, has been paid or filed with the commissioner, or has qualified as a self-insurer under Tennessee Code Annotated, § 55-12-111; or

(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 offence to fail to provide evidence of financial responsibility pursuant to this section. Any violation of this section is punishable by a civil penalty of up to fifty dollars (\$50). 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. #419, Dec. 2003)

**15-124. Seat belt law**. All violations of state regulations Tennessee Code Annotated, §§ 55-9-601 thru 55-9-610 committed within the corporate limits of the municipality and which are defined by state law are hereby designated and declared to be offenses against the Town of Monterey, also. (as added by Ord. #432, Nov. 2005)

**15-125. Child restraint seat belt law**. All violations of state regulations Tennessee Code Annotated, §§ 55-9-601 thru 55-9-610 committed within the corporate limits of the municipality and which are defined by state law are hereby designated and declared to be offenses against the Town of Monterey, also. (as added by Ord. #433, Nov. 2005)

**15-126. Disabled driver law**. All violations of state regulations Tennessee Code Annotated, §§ 55-21-101 thru 55-21-151 committed within the corporate limits of the municipality and which are defined by state law are hereby designated and declared to be offenses against the Town of Monterey, also. (as added by Ord. #434, Nov. 2005)

**15-127. Noise violation law.** All violations of state regulations Tennessee Code Annotated, §§ 55-9-193 committed within the corporate limits of the municipality and which are defined by state law are hereby designated and declared to be offenses against the Town of Monterey. (as added by Ord. #435, Nov. 2005)

**15-128. Adoption of state traffic statutes and regulations.** All violations of state regulations for the operation of vehicles committed within the corporate limits of the municipality and which are defined by state law are hereby designated and declared to be offenses against the Town of Monterey, also. This provision shall not apply to any offenses in which the state courts have exclusive jurisdiction. (as added by Ord. #436, Nov. 2005)

**15-129. Establishment and operation of drivers' education course.**

(1) The terms and provisions as set forth in Tennessee Code Annotated, § 55-10-301 and all amendments thereof, are hereby adopted and ratified as though copied verbatim herein, together with all future amendments of this state law are made a part hereof by reference.

(2) Violators of any provisions of Tennessee Code Annotated, title 55, chapters 8 and 9 or chapter 10, §§ 1-5, may be required, at the discretion of the court, to attend a driver education course approved by the state department of safety in addition to or in lieu of any portion of other penalty proposed.

(3) There is hereby established a driver education or improvement program for the town as provided by Tennessee Code Annotated, § 55-10-301.

(4) The police department, under the supervision of the city judge, is hereby authorized and directed to operate and conduct a driver education or improvement course.

(5) A reasonable fee of one hundred dollars (\$100.00) shall be assessed for the driver education course to each person who attends, however, no one shall be refused admittance for inability to pay.

(6) The town court clerk shall provide a list of approved entities in Putnam County to any person ordered to attend a driver education or improvement course.

(7) The provisions of subsection (2) shall not apply to any person who holds a Class A, B or C license and is charged with any violation, except a parking violation, in any type of motor vehicle.

(8) This section shall take effect fourteen (14) days from and after its final passage, the public welfare requiring it. (as added by Ord. #11-493, June 2011)

## CHAPTER 2

### EMERGENCY VEHICLES

#### SECTION

- 15-201. Authorized emergency vehicles defined.
- 15-202. Operation of authorized emergency vehicles.
- 15-203. Following emergency vehicles.
- 15-204. Running over fire hoses, etc.

**15-201. Authorized emergency vehicles defined.** Authorized emergency vehicles shall be fire department vehicles, police vehicles, and such ambulances and other emergency vehicles as are designated by the chief of police. (1980 Code, § 9-102)

**15-202. Operation of authorized emergency vehicles.**<sup>1</sup> (1) The driver of an authorized emergency vehicle, when responding to an emergency call, or when in the pursuit of an actual or suspected violator of the law, or when responding to but not upon returning from a fire alarm, may exercise the privileges set forth in this section, subject to the conditions herein stated.

(2) The driver of an authorized emergency vehicle may park or stand, irrespective of the provisions of this title; proceed past a red or stop signal or stop sign, but only after slowing down to ascertain that the intersection is clear; exceed the maximum speed limit and disregard regulations governing direction of movement or turning in specified directions so long as he does not endanger life or property.

(3) The exemptions herein granted for an authorized emergency vehicle shall apply only when the driver of any such vehicle while in motion sounds an audible signal by bell, siren, or exhaust whistle and when the vehicle is equipped with at least one (1) lighted lamp displaying a red light visible under normal atmospheric conditions from a distance of 500 feet to the front of such vehicle, except that an authorized emergency vehicle operated as a police vehicle need not be equipped with or display a red light visible from in front of the vehicle.

(4) The foregoing provisions shall not relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons, nor shall such provisions protect the driver from the consequences of his reckless disregard for the safety of others. (1980 Code, § 9-103)

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<sup>1</sup>Municipal code reference

Operation of other vehicle upon the approach of emergency vehicles:  
§ 15-501.

**15-203. Following emergency vehicles.** No driver of any vehicle shall follow any authorized emergency vehicle apparently travelling in response to an emergency call closer than five hundred (500) feet or drive or park such vehicle within the block where fire apparatus has stopped in answer to a fire alarm. (1980 Code, § 9-104)

**15-204. Running over fire hoses, etc.** It shall be unlawful for any person to drive over any hose lines or other equipment of the fire department except in obedience to the direction of a fireman or policeman. (1980 Code, § 9-105)

## CHAPTER 3

### SPEED LIMITS

#### SECTION

15-301. In general.

15-302. At intersections.

15-303. In school zones.

15-304. In congested areas.

**15-301. In general.** It shall be unlawful for any person to operate or drive a motor vehicle upon any highway or street at a rate 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)

**15-302. At intersections.** It shall be unlawful for any person to operate or drive a motor vehicle through any intersection at a rate of speed in excess of fifteen (15) miles per hour unless such person is driving on a street regulated by traffic-control signals or signs which require traffic to stop or yield on the intersecting streets. (1980 Code, § 9-202)

**15-303. In school zones.** Generally, pursuant to Tennessee Code Annotated, § 55-8-153, 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)

**15-304. 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 town. (1980 Code, § 9-204)

## CHAPTER 4

### TURNING MOVEMENTS

#### SECTION

15-401. Generally.

15-402. Right turns.

15-403. Left turns on two-way roadways.

15-404. Left turns on other than two-way roadways.

15-405. U-turns.

**15-401. Generally.** No person operating a motor vehicle shall make any turning movement which might affect any pedestrian or the operation of any other vehicle without first ascertaining that such movement can be made in safety and signaling his intention in accordance with the requirements of the state law.<sup>1</sup> (1980 Code, § 9-301)

**15-402. Right turns.** Both the approach for a right turn and a right turn shall be made as close as practicable to the right hand curb or edge of the roadway. (1980 Code, § 9-302)

**15-403. Left turns on two-way roadways.** At any intersection where traffic is permitted to move in both directions on each roadway entering the intersection, an approach for a left turn shall be made in that portion of the right half of the roadway nearest the center line thereof and by passing to the right of the intersection of the center lines of the two roadways. (1980 Code, § 9-303)

**15-404. Left turns on other than two-way roadways.** At any intersection where traffic is restricted to one direction on one or more of the roadways, the driver of a vehicle intending to turn left at any such intersection shall approach the intersection in the extreme left hand lane lawfully available to traffic moving in the direction of travel of such vehicle and after entering the intersection the left turn shall be made so as to leave the intersection, as nearly as practicable, in the left hand lane lawfully available to traffic moving in such direction upon the roadway being entered. (1980 Code, § 9-304)

**15-405. U-turns.** U-turns are prohibited. (1980 Code, § 9-305)

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<sup>1</sup>State law reference

Tennessee Code Annotated, § 55-8-143.



## CHAPTER 5

### STOPPING AND YIELDING

#### SECTION

- 15-501. Upon approach of authorized emergency vehicles.
- 15-502. When emerging from alleys, etc.
- 15-503. To prevent obstructing an intersection.
- 15-504. At railroad crossings.
- 15-505. At "stop" signs.
- 15-506. At "yield" signs.
- 15-507. At traffic-control signals generally.
- 15-508. At flashing traffic-control signals.
- 15-509. Stops to be signaled.

**15-501. Upon approach of authorized emergency vehicles.**<sup>1</sup> Upon the immediate approach of an authorized emergency vehicle making use of audible and/or visual signals meeting the requirements of the laws of this state, or of a police vehicle properly and lawfully making use of an audible signal only, the driver of every other vehicle shall immediately drive to a position parallel to, and as close as possible to, the right hand edge or curb of the roadway clear of any intersection and shall stop and remain in such position until the authorized emergency vehicle has passed, except when otherwise directed by a police officer. (1980 Code, § 9-401)

**15-502. When emerging from alleys, etc.** The drivers of all vehicles emerging from alleys, parking lots, driveways, or buildings shall stop such vehicles immediately prior to driving onto any sidewalk or street. They shall not proceed to drive onto the sidewalk or street until they can safely do so without colliding or interfering with approaching pedestrians or vehicles. (1980 Code, § 9-402)

**15-503. To prevent obstructing an intersection.** No driver shall enter any intersection or marked crosswalk unless there is sufficient space on the other side of such intersection or crosswalk to accommodate the vehicle he is operating without obstructing the passage of traffic in or on the intersecting street or crosswalk. This provision shall be effective notwithstanding any traffic-control signal indication to proceed. (1980 Code, § 9-403)

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<sup>1</sup>Municipal code reference

Special privileges of emergency vehicles: title 15, chapter 2.

**15-504. At 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 approximately 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)

**15-505. 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)

**15-506. 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)

**15-507. 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 town, 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 town at intersections which the town 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)

**15-508. 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 town 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 § 15-504 of this code. (1980 Code, § 9-408)

**15-509. Stops to be signaled.** No person operating a motor vehicle shall stop such vehicle, whether in obedience to a traffic sign or signal or otherwise, without first signaling his intention in accordance with the requirements of the state law,<sup>1</sup> except in an emergency. (1980 Code, § 9-409)

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<sup>1</sup>State law reference  
Tennessee Code Annotated, § 55-8-143.

## CHAPTER 6

### PARKING

#### SECTION

- 15-601. Generally.
- 15-602. Angle parking.
- 15-603. Occupancy of more than one space.
- 15-604. Where prohibited.
- 15-605. Loading and unloading zones.
- 15-606. Presumption with respect to illegal parking.
- 15-607. Area of limited time parking.
- 15-608. Unlawful parking in limited time spaces.

**15-601. Generally.** No person shall leave any motor vehicle unattended on any street without first setting the brakes thereon, stopping the motor, removing the ignition key, and turning the front wheels of such vehicle toward the nearest curb or gutter of the street.

Except as hereinafter provided, every vehicle parked upon a street within the Town of Monterey shall be so parked that its right wheels are approximately parallel to and within eighteen (18) inches of the right edge or curb of the street. On one-way streets where the town has not placed signs prohibiting the same, vehicles may be permitted to park on the left side of the street, and in such cases the left wheels shall be required to be within eighteen (18) inches of the left edge or curb of the street.

Notwithstanding anything else in this code to the contrary, no person shall park or leave a vehicle parked on any public street or alley within the fire limits between the hours of 12:00 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, as amended by Ord. #397, Nov. 2001)

**15-602. Angle parking.** On those streets which have been signed or marked by the town 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)

**15-603. Occupancy of more than one space.** No person shall park a vehicle in any designated parking space so that any part of such vehicle occupies more than one such space or protrudes beyond the official markings on the

street or curb designating such space unless the vehicle is too large to be parked within a single designated space. (1980 Code, § 9-503)

**15-604. Where prohibited.** No person shall park a vehicle in violation of any sign placed or erected by the state or town, nor:

- (1) On a sidewalk; provided, however, a bicycle may be parked on a sidewalk if it does not impede the normal and reasonable movement of pedestrians or other traffic;
- (2) In front of a public or private driveway;
- (3) Within an intersection or within fifteen feet (15') thereof;
- (4) Within fifteen feet(15') of a fire hydrant;
- (5) Within a pedestrian crosswalk;
- (6) Within ten feet (10') of a crosswalk at an intersection;
- (7) Within thirty feet (30') upon the approach of any flashing beacon, stop sign or traffic control signal located at the side of a roadway;
- (8) Within fifty feet (50') of the nearest rail of a railroad crossing;
- (9) Within twenty feet (20') of the driveway entrance to any fire station, and on the side of the street opposite the entrance to any fire station within seventy five feet (75') of such entrance when properly signposted;
- (10) Alongside or opposite any street excavation or obstruction when stopping, standing or parking would obstruct traffic;
- (11) On the roadway side of any vehicle stopped or parked at the edge or curb of a street;
- (12) Upon any bridge or other elevated structure upon a highway;
- (13) In a parking space clearly identified by an official sign as being reserved for the physically handicapped, unless, however, the person driving the vehicle is
  - (a) Physically handicapped, or
  - (b) Parking such vehicle for the benefit of a physically handicapped person.

A vehicle parking in such a place shall display a certificate of identification or a disabled veteran's license plate issued under Tennessee Code Annotated, title 55, chapter 21; and

- (14) Alongside any curb painted yellow or red by the town. (1980 Code, § 9-504, as amended by Ord. #397, Nov. 2001)

**15-605. Loading and unloading zones.** No person shall park a vehicle for any purpose or period of time other than for the two (2) hour parking time limit for loading or unloading passengers or merchandise in any place marked by the town as a loading or unloading zone. (1980 Code, § 9-505, as amended by Ord. #397, Nov. 2001)

**15-606. Presumption with respect to illegal parking.** When any unoccupied vehicle is found parked in violation of any provision of this chapter, there shall be a prima facie presumption that the registered owner of the vehicle is responsible for such illegal parking. (1980 Code, § 9-506)

**15-607. Area of limited time parking.** On the following streets, Poplar, between Depot Street and Commercial Ave., on Holly Street between Depot Street and Crawford and on Chestnut from Depot Street to Commercial Avenue, parking shall be regulated between the hours of 8:00 A.M. to 5:00 P.M. Monday through Friday, with the exception of holidays. (as added by Ord. #397, Nov. 2001)

**15-608. Unlawful parking in limited time spaces.** It shall be unlawful for the owner or operator of any vehicle to park in a designated parking space regulated by a limited-time sign for more than the maximum period of time indicated on the sign. The maximum time permitted in a limited time space is two (2) hours. (as added by Ord. #397, Nov. 2001)

## CHAPTER 7

### ENFORCEMENT

#### SECTION

- 15-701. Issuance of traffic citations.
- 15-702. Failure to obey citation.
- 15-703. Illegal parking.
- 15-704. Impoundment of vehicles.
- 15-705. Deposit of license in lieu of bail.
- 15-706. Violation and penalty.

**15-701. Issuance of traffic citations.**<sup>1</sup> When a police officer halts a traffic violator other than for the purpose of giving a warning, and does not take such person into custody under arrest, he shall take the name, address, and operator's license number of said person, the license number of the motor vehicle involved, and such other pertinent information as may be necessary, and shall issue to him a written traffic citation containing a notice to answer to the charge against him in the city court at a specified time. The officer, upon receiving the written promise of the alleged violator to answer as specified in the citation, shall release such person from custody. It shall be unlawful for any alleged violator to give false or misleading information as to his name or address. (1980 Code, § 9-602)

**15-702. Failure to obey citation.** It shall be unlawful for any person to violate his written promise to appear in court after giving said promise to an officer upon the issuance of a traffic citation, regardless of the disposition of the charge for which the citation was originally issued. (1980 Code, § 9-603)

**15-703. Illegal parking.** Whenever any motor vehicle without a driver is found parked or stopped in violation of any of the restrictions imposed by this code, the officer finding such vehicle shall take its license number and may take any other information displayed on the vehicle which may identify its user, and shall conspicuously affix to such vehicle a citation for the driver and/or owner to answer for the violation within ten (10) days during the hours and at a place specified in the citation. (1980 Code, § 9-604)

**15-704. Impoundment of vehicles.** Members of the police department are hereby authorized, when reasonably necessary to prevent obstruction of traffic, to remove from the streets and impound any vehicle whose operator is

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<sup>1</sup>State law reference

Tennessee Code Annotated, § 7-63-101, et seq.



arrested or any vehicle which is illegally parked, abandoned, or otherwise parked so as to constitute an obstruction or hazard to normal traffic. Any vehicle left parked on any street or alley for more than seventy-two (72) consecutive hours without permission from the chief of police shall be presumed to have been abandoned if the owner cannot be located after a reasonable investigation. Such an impounded vehicle shall be stored until the owner claims it, gives satisfactory evidence of ownership, and pays all applicable fines and costs. The fee for impounding a vehicle shall be five dollars (\$5.00) and a storage cost of one dollar (\$1.00) per day shall also be charged. (1980 Code, § 9-601)

**15-705. Deposit of license in lieu of bail.** Pursuant to Tennessee Code Annotated, §§ 55-50-801--55-50-805, whenever any person lawfully possessed of a chauffeur's or operator's license theretofore issued to him by the Department of Safety, State of Tennessee, or under the driver licensing laws of any other state or territory or the District of Columbia, is issued a citation or arrested and charged with a violation of any municipal ordinance regulating traffic, except those ordinances which call for the mandatory revocation of an operator's or chauffeur's license for any period of time, said person shall have the option of depositing his chauffeur's or operator's license with the office or court demanding bail in lieu of any other security required for his appearance in the city court in answer to any such charge before said court.

All town officers and employees shall comply fully with the requirements of Tennessee Code Annotated, §§ 55-50-801--55-50-805 and any implementing orders of the Department of Safety, State of Tennessee. (1980 Code, § 9-605)

**15-706. Violation and penalty.** Any violation of this title shall be a civil offense punishable as follows:

(1) Traffic citations. Traffic citations shall be punishable by a civil penalty up to fifty dollars (\$50.00) for each separate offense.

(2) Parking citations. For parking violations, the offender may, within ten (10) days, have the charge against him disposed of by paying to the city recorder a fine of three dollars (\$3.00) provided he waives his right to a judicial hearing. If he appears and waives his right to a judicial hearing after ten (10) days but before a warrant is issued for his arrest, his civil penalty shall be five dollars (\$5.00).

## TITLE 16

### STREETS AND SIDEWALKS, ETC<sup>1</sup>

#### CHAPTER

1. MISCELLANEOUS.
2. EXCAVATIONS AND CUTS.
3. CONSTRUCTION OF SIDEWALKS BY PROPERTY OWNERS.

#### CHAPTER 1

#### MISCELLANEOUS

#### SECTION

- 16-101. Obstructing streets, alleys, or sidewalks prohibited.
- 16-102. Trees projecting over streets, etc., regulated.
- 16-103. Trees, etc., obstructing view at intersections prohibited.
- 16-104. Projecting signs and awnings, etc., restricted.
- 16-105. Banners and signs across streets and alleys restricted.
- 16-106. Gates or doors opening over streets, alleys, or sidewalks prohibited.
- 16-107. Littering streets, alleys, or sidewalks prohibited.
- 16-108. Obstruction of drainage ditches.
- 16-109. Abutting occupants to keep sidewalks clean, etc.
- 16-110. Parades regulated.
- 16-111. Operation of trains at crossings regulated.
- 16-112. Animals and vehicles on sidewalks.
- 16-113. Fires in streets, etc.
- 16-114. Heavy trucks on Crossville Street.

**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. (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 property to project out over any street, alley at a height of less than fourteen (14) feet. (1980 Code, § 12-102)

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<sup>1</sup>Municipal code reference

Related motor vehicle and traffic regulations: title 15.

**16-103. Trees, etc., obstructing view at intersections prohibited.**

It shall be unlawful for any property owner or occupant to have or maintain on his property any tree, hedge, billboard, or other obstruction which prevents 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. (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 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.** It shall be unlawful for any person to permit or cause the obstruction of any drainage ditch in any public right of way. (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 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 recorder. No permit shall be issued by the recorder 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. It shall 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, modified)

**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. Heavy trucks on Crossville Street.** (1) It shall be unlawful for any person to operate upon Crossville Street any freight motor vehicle, tractor-trailer, or semi-trailer with a gross rated weight of more than twenty-four thousand pounds (24,000) during school days from 7:30 A.M. to 8:30 A.M. and 2:30 P.M. to 3:30 P.M.

(2) Exceptions to this ordinance include the following:

- Emergency vehicles.
- School buses.
- Construction-related vehicles in the performance of temporary activities.
- Trucks owned or operated by the city, the county, other governmental entities, or any utility in the conduct of official business.
- Any such truck under contract with the city, county, other governmental entity, or utility in the occasional conduct of official business.

(3) Any person who violates any provision of this section shall be subject to a fine of up to fifty dollars (\$50.00) per occurrence. (as added by Ord. #14-517, March 2014)

## CHAPTER 2

### EXCAVATIONS AND CUTS<sup>1</sup>

#### 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 recorder 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 recorder, 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

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<sup>1</sup>State law reference

This chapter was patterned substantially after the ordinance upheld by the Tennessee Supreme Court in the case of City of Paris, Tennessee v. Paris-Henry County Public Utility District, 207 Tenn. 388, 340 S.W.2d 885 (1960).

to the work to be done. Such application shall be rejected or approved by the recorder 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 recorder 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 recorder 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 town of relaying the surface of the ground or pavement, and of making the refill if this is done by the town 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 recorder a surety bond in such form and amount as the recorder shall deem adequate to cover the costs to the town 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 this town 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 promptly upon completion by such person, firm, corporation, association, or others for which the excavation or tunnel was made. In case of unreasonable delay in restoring the street, alley, or public place, the recorder 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 town 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 town, 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 recorder 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 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 town if the town 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 recorder. (1980 Code, § 12-208)

**16-209. Supervision.** The recorder 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 town 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 recorder. 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)



## CHAPTER 3

### CONSTRUCTION OF SIDEWALKS BY PROPERTY OWNERS

#### SECTION

16-301. Construction of sidewalks by property owners.

16-302. Materials, specifications, and grades for sidewalks.

16-303. Notice and time limitations for construction of sidewalks.

16-304. Construction by town upon failure of property owner to comply with notice, specifications, etc.

**16-301. Construction of sidewalks by property owners.** All property owners in the Town of Monterey, Tennessee, shall be required to construct such concrete sidewalks in front of their property as may be deemed necessary in the discretion of the board of mayor and aldermen. (1980 Code, § 12-301)

**16-302. Materials, specifications, and grades for sidewalks.** Sidewalks shall be built of such material and under such specifications as are prescribed by the board of mayor and aldermen and upon a grade line established by the board of mayor and aldermen. (1980 Code, § 12-302)

**16-303. Notice and time limitations for construction of sidewalks.** When it is deemed necessary by the board of mayor and aldermen that sidewalks shall be built, the police department shall serve notice on the property owner or owners affected. The notice shall specify the material to be used and the grade line to be established. Such property owner or owners shall be required to begin construction of such sidewalks within fifteen (15) days of such notice and shall complete construction of such sidewalks within forty-five (45) days from the date of such notice. (1980 Code, § 12-303)

**16-304. Construction by town upon failure of property owner to comply with notice, specifications, etc.** Upon failure of any property owner or owners to comply with the notice to construct sidewalks as herein set out, the board of mayor and aldermen shall proceed to construct or contract the building of such sidewalks and shall pay for same from the general fund of the Town of Monterey, Tennessee. Such amount so paid shall become a lien indebtedness against the abutting property owner or owners and shall be collectible at the rate of 25% per year plus the legal rate of interest, but should the property owner or owners elect, they may retire the debt as soon as they desire to keep from paying interest on such debt. Such debt will be collectible the same as town taxes.

Should any property owner or owners construct any sidewalks not in accordance with the grade established for such sidewalks, or the prescribed material and workmanship as prescribed by the board of mayor and aldermen,

the board shall have the privilege of removing such inferior sidewalks and reconstructing same according to specifications. All expenses thus incurred by the town shall become a lien indebtedness collectible as above set out in the preceding paragraph. (1980 Code, § 12-304)

**TITLE 17**

**REFUSE AND TRASH DISPOSAL<sup>1</sup>**

**CHAPTER**

**1. REFUSE.**

**CHAPTER 1**

**REFUSE**

**SECTION**

- 17-101. Refuse defined.
- 17-102. Premises to be kept clean.
- 17-103. Storage.
- 17-104. Location of containers.
- 17-105. Disturbing containers.
- 17-106. Collection.
- 17-107. Collection vehicles.
- 17-108. Disposal.
- 17-109. Refuse collection and/or disposal fees.

**17-101. Refuse defined.** Refuse shall mean and include garbage, rubbish, leaves, brush, and refuse as those terms are generally defined except that dead animals and fowls, body wastes, hot ashes, rocks, concrete, bricks, and similar materials are expressly excluded therefrom and shall not be stored therewith. (1980 Code, § 8-201)

**17-102. Premises to be kept clean.** All persons within the Town of Monterey are required to keep their premises in a clean and sanitary condition, free from accumulations of refuse except when stored as provided in this chapter. (1980 Code, § 8-202)

**17-103. Storage.** Each owner, occupant, or other responsible person using or occupying any building or other premises within the Town of Monterey where refuse accumulates or is likely to accumulate, shall provide and keep covered an adequate number of refuse containers. The refuse containers shall be strong, durable, and rodent and insect proof. They shall each have a capacity of not less than twenty (20) nor more than thirty-two (32) gallons, except that this maximum capacity shall not apply to larger containers which the town handles mechanically. Furthermore, except for containers which the town

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<sup>1</sup>Municipal code reference

Property maintenance regulations: title 13.

handles mechanically, the combined weight of any refuse container and its contents shall not exceed seventy-five (75) pounds. No refuse shall be placed in a refuse container until such refuse has been drained of all free liquids. Tree trimmings, hedge clippings, and similar materials shall be cut to a length not to exceed four (4) feet and shall be securely tied in individual bundles weighing not more than seventy-five (75) pounds each and being not more than two (2) feet thick before being deposited for collection. (1980 Code, § 8-203)

**17-104. Location of containers.** Where alleys are used by the town's refuse collectors, containers shall be placed on or within six (6) feet of the alley line in such a position as not to intrude upon the traveled portion of the alley. Where streets are used by the refuse collectors, containers shall be placed adjacent to and back of the curb, or adjacent to and back of the ditch or street line if there is no curb, at such times as shall be scheduled by the town for the collection of refuse therefrom. As soon as practicable after such containers have been emptied they shall be removed by the owner to within, or to the rear of, his premises and away from the street line until the next scheduled time for collection. (1980 Code, § 8-204)

**17-105. Disturbing containers.** No unauthorized person shall uncover, rifle, pilfer, dig into, turn over, or in any other manner disturb or use any refuse container belonging to another. This section shall not be construed to prohibit the use of public refuse containers for their intended purpose. (1980 Code, § 8-205)

**17-106. Collection.** All refuse accumulated within the corporate limits shall be collected, conveyed, and disposed of under the supervision of such officer as the board of mayor and aldermen shall designate. Collections shall be made regularly in accordance with an announced schedule. (1980 Code, § 8-206)

**17-107. Collection vehicles.** The collection of refuse shall be by means of vehicles with beds constructed of impervious materials which are easily cleanable and so constructed that there will be no leakage of liquids draining from the refuse onto the streets and alleys. Furthermore, all refuse collection vehicles shall utilize closed beds or such coverings as will effectively prevent the scattering of refuse over the streets or alleys. (1980 Code, § 8-207)

**17-108. Disposal.** The disposal of refuse in any quantity by any person in any place, public or private, other than at the site or sites designated for refuse disposal by the board of mayor and aldermen is expressly prohibited. (1980 Code, § 8-208)

**17-109. Refuse collection and/or disposal fees.** The schedule of refuse rates shall be as follows:

(a) Residential monthly refuse charge.

1 PICKUP PER WEEK

Residential	\$ 11.91
Dumpster 4 cubic yard	\$ 91.14
Dumpster 5 cubic yard	\$114.05
Dumpster 6 cubic yard	\$136.97
Dumpster 7 cubic yard	\$159.89

2 PICKUPS PER WEEK

Residential	\$ 23.82
Dumpster 4 cubic yard	\$182.28
Dumpster 5 cubic yard	\$228.10
Dumpster 6 cubic yard	\$273.94
Dumpster 7 cubic yard	\$319.78

3 PICKUPS PER WEEK

Residential	\$ 33.12
Dumpster 4 cubic yard	\$273.42
Dumpster 5 cubic yard	\$342.15
Dumpster 6 cubic yard	\$410.91
Dumpster 7 cubic yard	\$479.67

(b) In addition to §§ 17-101 through 17-108 above the office manager is authorized and directed to institute collection mechanisms, rules, and regulations and means as shall be deemed by the board to be efficient, appropriate and expedient to effect collection.

(c) Deposits for each garbage can at the residence or business of fifty dollars (\$50.00). This deposit shall remain with the town until said resident leaves the town limits of Monterey and at that time, as long as the town obtains the numbered garbage can that was leased to said tenant, the deposit shall be reimbursed to said tenant.

Dumpster rentals for debris or residential cleanup will be one hundred dollars (\$100.00) for thirty (30) days. During that thirty (30) day period if the Town of Monterey needs to empty the dumpster, at the customer's request, there will be an additional fifty dollars (\$50.00) charge per dump.

(2) Penalty for non payment. (a) It is unlawful to refuse or neglect to pay the monthly residential garbage service user fee when billed. Each user shall be given ten (10) days from the billing date to make payment to the city.

(b) Each thirty (30) day period that the service remains unpaid shall subject the owner or the tenant, whichever is the user, to a separate fifty dollar (\$50.00) civil fine for non payment. (as added by Ord. #461, March 2009, and amended by Ord. #483, Oct. 2010, Ord. #11-498, July 2011, Ord. #15-525, July 2015, and Ord. #16-534, June 2016)

## TITLE 18

### WATER AND SEWERS<sup>1</sup>

#### CHAPTER

1. GENERAL WASTEWATER REGULATIONS.
2. INDUSTRIAL/COMMERCIAL WASTEWATER REGULATIONS.
3. SEWAGE AND HUMAN EXCRETA DISPOSAL.
4. CROSS-CONNECTIONS, AUXILIARY INTAKES, ETC.

#### CHAPTER 1

### GENERAL WASTEWATER REGULATIONS

#### SECTION

- 18-101. Purpose and policy.
- 18-102. Water and sewer monthly rates.
- 18-103. Definitions.
- 18-104. Proper waste disposal required.
- 18-105. Private domestic wastewater disposal.
- 18-106. Connection to public sewers.
- 18-107. Septic tank effluent pump or grinder pump wastewater systems.
- 18-108. Regulation of holding tank waste disposal or trucked in waste.
- 18-109. Discharge regulations.
- 18-110. Enforcement and abatement.
- 18-111--18-115. Deleted.

**18-101. Purpose and policy.** This chapter sets forth uniform requirements for users of the Town of Monterey, Tennessee, wastewater treatment system and enables the town to comply with the Federal Clean Water Act and the State Water Quality Control Act and rules adopted pursuant to these acts. The objectives of this chapter are:

- (1) To protect public health;
- (2) To prevent the introduction of pollutants into the municipal wastewater treatment facility, which will interfere with the system operation;
- (3) To prevent the introduction of pollutants into the wastewater treatment facility that will pass through the facility, inadequately treated, into the receiving waters, or otherwise be incompatible with the treatment facility;

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<sup>1</sup>Municipal code references

Building, utility and residential codes: title 12.

Refuse disposal: title 17.

(4) To protect facility personnel who may be affected by wastewater and sludge in the course of their employment and the general public;

(5) To promote reuse and recycling of industrial wastewater and sludge from the facility;

(6) To provide for fees for the equitable distribution of the cost of operation, maintenance, and improvement of the facility; and

(7) To enable the town to comply with its National Pollution Discharge Elimination System (NPDES) permit conditions, sludge and biosolid use and disposal requirement, and any other federal or state industrial pretreatment rules to which the facility is subject.

In meeting these objectives, this chapter provides that all persons in the service area of the Town of Monterey must have adequate wastewater treatment either in the form of a connection to the municipal wastewater treatment system or, where the system is not available, an appropriate private disposal system.

This chapter shall apply to all users inside or outside the town who are, by implied contract or written agreement with the town, dischargers of applicable wastewater to the wastewater treatment facility. Chapter 2 provides for the issuance of permits to system users, for monitoring, compliance, and enforcement activities; establishes administrative review procedures for industrial users or other users whose discharge can interfere with or cause violations to occur at the wastewater treatment facility. Chapter 2 details permitting requirements including the setting of fees for the full and equitable distribution of costs resulting from the operation, maintenance, and capital recovery of the wastewater treatment system and from other activities required by the enforcement and administrative program established herein. (1980 Code, § 13-101, as replaced by Ord. #17-542, Jan. 2018 *Ch9\_10-5-20* and Ord. #18-548, Oct. 2018 *Ch9\_10-5-20*)

**18-102. Water and sewer monthly rates.** The schedule of water and sewer rates shall be as follows:

(1) Residential water monthly base facility charge (inside city).

<u>Gallons Metered</u>	<u>2020</u>
0-2,000 gallons	\$16.75
2,000+ gallons (per 1,000 gallons)	\$5.80

(2) Residential water monthly base facility charge (outside city).

<u>Gallons Metered</u>	<u>2020</u>
0-2,000 gallons	\$26.25



<u>Gallons Metered</u>	<u>2020</u>
2,000+ gallons (per 1,000 gallons)	\$9.00

(3) Residential water monthly base facility charge (Phifer Mountain Service area-outside).

<u>Gallons Metered</u>	<u>2020</u>
0-2,000 gallons	\$29.50
2,000+ gallons (per 1,000 gallons)	\$9.00

(4) Commercial, industrial, governmental entities and water districts shall be charged the following water monthly fee based on the size of the water service to the water user.

<u>0-2,000 Gallons Metered</u>	<u>Service Size</u>	<u>Charge</u>
	3/4 inch	\$17.90
	1 inch	\$35.13
	2 inch	\$70.30
	3 inch	\$105.44
	4 inch	\$140.60
	6 inch	\$210.88
	8 inch	\$281.19
	10 inch	\$351.48

<u>Gallons Metered</u>	<u>2020</u>
2,000+ gallons	\$3.68

Customers having more than one (1) dwelling unit per connection shall pay an additional fee of six dollars and sixty-eight cents (\$6.68) per dwelling unit per month for all dwelling units in excess of one (1) dwelling unit per service.

(5) Sewer rate. The charge for sewer service will be an amount equal to one hundred ten percent (110%) of the charges for water service (including commercial meter charges) whether inside or outside the city limits. Additionally, industrial customers, customers using the water for other than

sanitary sewer purposes, shall be charged a sewer surcharge of fifty-four cents (\$0.54) per one thousand (1,000) gallons of water used.

(6) Fire hydrant rental. Fire hydrant rental shall be six dollars and sixty-eight cents (\$6.68) per month.

Single-family residential customers which obtain sewage treatment from the Monterey Waterworks System, but obtain water, either in part or in whole, from a source other than the Monterey Waterworks System, will be billed for sewage treatment based on the same rates as residential customers who obtain water from the Monterey Waterworks System. The amount of sewage treated will be determined by an accurate metering device to meter water or sewer at the discretion of the Town of Monterey.

Commercial multiple dwelling units, and industrial and commercial customers which obtain sewage treatment from the Monterey Waterworks System, but obtain water, either in part or in whole, from a source other than the Monterey Waterworks System, will be billed for sewage treatment based on the same rate as those commercial and industrial customers who obtain water from the Monterey Waterworks System. The amount of sewage treated will be determined by an accurate metering device to meter water or sewer at the discretion of the Town of Monterey. (1980 Code, § 13-102, as amended by Ord. #385, May 2001, and replaced by Ord. #387, June 2001, Ord. #406, Dec. 2002, Ord. #460, March 2009, Ord. #11-499, July 2011, Ord. #13-514, Sept. 2013, and Ord. #15-523, June 2015, as replaced by Ord. #17-542, Jan. 2018 *Ch9\_10-5-20* and Ord. #18-548, Oct. 2018 *Ch9\_10-5-20* and Ord. #20-839, June 2020 *Ch9\_10-5-20*)

**18-103. Definitions.** Unless the context specifically indicates otherwise, the following terms and phrases, as used in this chapter, shall have the meanings hereinafter designated:

(1) "Administrator." The administrator or the United States Environmental Protection Agency.

(2) "Act or the Act." The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended and found in 33 U.S.C. §§ 1251, et seq.

(3) "Approval authority." The Tennessee Department of Environment and Conservation, Division of Water Pollution Control.

(4) "Authorized or Duly Authorized Representative of industrial user."

(a) If the user is a corporation:

(i) The president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any person who performs similar policy or decision-making functions for the corporation; or

(ii) The manager of one (1) or more manufacturing, production, or operating facilities; provided the manager is authorized to make management decisions that govern the

operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiate and direct other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for individual wastewater discharge permit requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

(b) If the user is a partnership or sole proprietorship: a general partner or proprietor, respectively.

(c) If the user is a federal, state, or local governmental agency: a director or highest official appointed or designated to oversee the operation and performance of the activities of the governmental facility, or their designee.

(d) The individual described in subsections (4)(a) to (4)(c) above, may designate a duly authorized representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to the town.

(5) "Best Management Practices" or "BMPs." Schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in § 18-109 of this chapter. "BMPs" also include treatment requirement, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.

(6) "Biochemical Oxygen Demand (BOD)." The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure for five (5) days at twenty degrees Centigrade (20°C) expressed in terms of weight and concentration (milligrams per liter (mg/l)).

(7) "Building sewer." A sewer conveying wastewater from the premises of a user to the publicly owned sewer collection system.

(8) "Categorical standards." The National Categorical Pretreatment Standards or Pretreatment Standard as found in 40 CFR chapter I, subchapter N, parts 405-471.

(9) "Town." The Board of Mayor and Aldermen, Town of Monterey, Tennessee.

(10) "Commissioner." The commissioner of environment and conservation or the commissioner's duly authorized representative and, in the event of the commissioner's absence or a vacancy in the office of commissioner, the deputy commissioner.

(11) "Compatible pollutant." BOD, suspended solids, pH, fecal coliform bacteria, and such additional pollutants as are now or may in the future be specified and controlled in the town's NPDES permit for its wastewater treatment works where sewer works have been designed and used to reduce or remove such pollutants.

(12) "Composite sample." A sample composed of two (2) or more discrete samples. The aggregate sample will reflect the average water quality covering the compositing or sample period.

(13) "Control authority." The term "control authority" shall refer to the "approval authority," defined herein above; or the local hearing authority if the town has an approved pretreatment program under the provisions of 40 CFR § 403.11.

(14) "Cooling water." The water discharge from any use such as air conditioning, cooling, or refrigeration, or to which the only pollutant added is heat.

(15) "Customer." Any individual, partnership, corporation, association, or group who receives sewer service from the town under either an express or implied contract requiring payment to the town for such service.

(16) "Daily maximum." The arithmetic average of all effluent samples for a pollutant (except pH) collected during a calendar day. The daily maximum for pH is the highest value tested during a twenty-four (24) hour calendar day.

(17) "Daily maximum limit." The maximum allowable discharge limit of a pollutant during a calendar day. Where the limit is expressed in units of mass, the limit is the maximum amount of total mass of the pollutant that can be discharged during the calendar day. Where the limit is expressed in concentration, it is the arithmetic average of all concentration measurements taken during the calendar day.

(18) "Direct discharge." The discharge of treated or untreated wastewater directly to the waters of the State of Tennessee.

(19) "Domestic wastewater." Wastewater that is generated by a single family, apartment or other dwelling unit or dwelling unit equivalent or commercial establishment containing sanitary facilities for the disposal of wastewater and used for residential or commercial purposes only.

(20) "Environmental Protection Agency," or "EPA." The U.S. Environmental Protection Agency, or where appropriate, the term may also be used as a designation for the administrator or other duly authorized official of the said agency.

(21) "Garbage." Solid wastes generated from any domestic, commercial or industrial source.

(22) "Grab sample." A sample which is taken from a waste stream on a one (1) time basis with no regard to the flow in the waste stream and is collected over a period of time not to exceed fifteen (15) minutes. Grab sampling procedure: Where composite sampling is not an appropriate sampling technique, a grab sample(s) shall be taken to obtain influent and effluent operational data.

Collection of influent grab samples should precede collection of effluent samples by approximately one (1) detention period. The detention period is to be based on a twenty-four (24) hour average daily flow value. The average daily flow used will be based upon the average of the daily flows during the same month of the previous year. Grab samples will be required, for example, where the parameters being evaluated are those, such as cyanide and phenol, which may not be held for any extended period because of biological, chemical or physical interactions which take place after sample collection and affect the results.

(23) "Grease interceptor." An interceptor whose rated flow is fifty (50) g.p.m. (gallons per minute) or less and is generally located inside the building.

(24) "Grease trap." An interceptor whose rated flow is fifty (50) g.p.m. or more and is located outside the building.

(25) "Holding tank waste." Any waste from holding tanks such as vessels, chemical toilets, campers, trailers, septic tanks, and vacuum-pump tank trucks.

(26) "Incompatible pollutant." Any pollutant which is not a "compatible pollutant" as defined in this section.

(27) "Indirect discharge." The introduction of pollutants into the WWF from any non-domestic source.

(28) "Industrial user." A source of indirect discharge which does not constitute a "discharge of pollutants" under regulations issued pursuant to section 402 of the Act (33 U.S.C. §1342).

(29) "Industrial wastes." Any liquid, solid, or gaseous substance, or combination thereof, or form of energy including heat, resulting from any process of industry, manufacture, trade, food processing or preparation, or business or from the development of any natural resource.

(30) "Instantaneous limit." The maximum concentration of a pollutant allowed to be discharged at any time, determined from the analysis of any discrete or composited sample collected, independent of the industrial flow rate and the duration of the sampling event.

(31) "Interceptor." A device designed and installed to separate and retain for removal, by automatic or manual means, deleterious, hazardous or undesirable matter from normal wastes, while permitting normal sewage or waste to discharge into the drainage system by gravity.

(32) "Interference." A discharge that, alone or in conjunction with a discharge or discharges from other sources, inhibits or disrupts the WWF, its treatment processes or operations, or its sludge processes, use or disposal, or exceeds the design capacity of the treatment works or collection system.

(33) "Local administrative officer." The chief administrative officer of the local hearing authority.

(34) "Local hearing authority." The board of mayor and aldermen or such person or persons appointed by the board to administer and enforce the provisions of this chapter and conduct hearings pursuant to § 18-205.

(35) "National categorical pretreatment standard or pretreatment standard." Any regulation containing pollutant discharge limits promulgated by the EPA in accordance with section 307(b) and (c) of the Act (33 U.S.C. § 1347) which applies to a specific category of industrial users.

(36) "NAICS, North American Industrial Classification System." A system of industrial classification jointly agreed upon by Canada, Mexico and the United States. It replaces the Standard Industrial Classification (SIC) System.

(37) "New source." (a) Any building, structure, facility or installation from which there is or may be a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under section 307(c) of the Clean Water Act which will be applicable to such source if such standards are thereafter promulgated in accordance with that section; provided that:

(i) The building structure, facility or installation is constructed at a site at which no other source is located;

(ii) The building, structure, facility or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or

(iii) The production or wastewater generating processes of the building, structure, facility or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is engaged in the same general type of activity as the existing source should be considered.

(b) Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility, or installation meeting the criteria of subsections (37)(a)(ii) or (37)(a)(iii) above, but otherwise alters, replaces, or adds to existing process or production equipment.

(c) Construction of a new source as defined under this subsection (37) has commenced if the owner or operator has:

(i) Begun, or caused to begin as part of a continuous onsite construction program:

(A) Any placement, assembly, or installation of facilities or equipment; or

(B) Significant site preparation work including cleaning, excavation or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment.

(ii) Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or

contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this subsection (37).

(38) "NPDES (National Pollution Discharge Elimination System)." The program for issuing, conditioning, and denying permits for the discharge of pollutants from point sources into navigable waters, the contiguous zone, and the oceans pursuant to section 402 of the Clean Water Act as amended.

(39) "Pass-through." A discharge which exits the Wastewater Facility (WWF) into waters of the state in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the WWF's NPDES permit including an increase in the magnitude or duration of a violation.

(40) "Person." Any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or any other legal entity, or their legal representatives, agents, or assigns. The masculine gender shall include the feminine and the singular shall include the plural where indicated by the context.

(41) "pH." The logarithm (base 10) of the reciprocal of the concentration of hydrogen ions expressed in grams per liter of solution.

(42) "Pollution." The man-made or man-induced alteration of the chemical, physical, biological, and radiological integrity of water.

(43) "Pollutant." Any dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, medical waste, chemical wastes, biological materials, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt, and industrial, municipal, and agricultural waste and certain characteristics of wastewater (e.g., pH, temperature, turbidity, color, BOD, COD, toxicity, or odor discharge into water).

(44) "Pretreatment or treatment." The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into a POTW. The reduction or alteration can be obtained by physical, chemical, biological processes, or process changes or other means, except through dilution as prohibited by 40 CFR § 403.6(d).

(45) "Pretreatment coordinator." The person designated by the local administrative officer or his authorized representative to supervise the operation of the pretreatment program.

(46) "Pretreatment requirements." Any substantive or procedural requirement related to pretreatment other than a national pretreatment standard imposed on an industrial user.

(47) "Pretreatment standards or standards." A prohibited discharge standard, categorical pretreatment standard and local limit.

(48) "Publicly owned treatment works (POTW)." A treatment works as defined by section 212 of the Act (33 U.S.C. § 1292) which is owned in this instance by the municipality (as defined by section 502(4) of the Act). This definition includes any devices and systems used in the storage, treatment, recycling and reclamation of municipal sewage or industrial wastes of a liquid nature. It also includes sewers, pipes and other conveyances only if they convey wastewater to a POTW treatment plant. The term also means the municipality as defined in section 502(4) of the Act, which has jurisdiction over the indirect discharges to and the discharges from such a treatment works. See "WWF, Wastewater Facility," found in subsection (63) below.

(49) "Shall" is mandatory; "May" is permissive.

(50) "Significant industrial user." The term significant industrial user means:

(a) All industrial users subject to categorical pretreatment standards under 40 CFR § 403.6 and 40 CFR chapter I, subchapter N; and

(b) Any other industrial user that: discharges an average of twenty-five thousand (25,000) gallons per day or more of process wastewater to the WWF (excluding sanitary, non-contact cooling and boiler blowdown wastewater); contributes a process waste-stream which makes up five percent (5%) or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or is designated as such by the control authority as defined in 40 CFR § 403.12(a) on the basis that the industrial user has a reasonable potential for adversely affecting the WWF's operation or for violating any pretreatment standard or requirement (in accordance with 40 CFR § 403.8(f)(6)).

(51) "Significant noncompliance." Per 0400-40-14-.08(6)(b)8:

(a) "Chronic violations of wastewater discharge limits," defined here as those in which sixty-six percent (66%) or more of all of the measurements taken for each parameter taken during a six (6) month period exceed (by any magnitude) a numeric pretreatment standard or requirement, including instantaneous limit.

(b) "Technical Review Criteria (TRC) violations," defined here as those in which thirty-three percent (33%) or more of all of the measurements for each pollutant parameter taken during a six (6) month period equal or exceed the product of the numeric pretreatment standard or requirement, including instantaneous limits multiplied by the applicable TRC (TRC=1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH). TRC calculations for pH are not required.

(c) Any other violation of a pretreatment standard or requirement (daily maximum or longer-term average, instantaneous limit, or narrative standard) that the WWF determines has caused, alone or in combination with other discharges, interference or pass through



(including endangering the health of WWF personnel or the general public).

(d) Any discharge of a pollutant that has caused imminent endangerment to human health, welfare or to the environment or has resulted in the WWF's exercise of its emergency authority under § 18-205(1)(b)(i)(D), Emergency Order, to halt or prevent such a discharge.

(e) Failure to meet, within ninety (90) days after the schedule date, a compliance schedule milestone contained in a local control mechanism or enforcement order for starting construction, completing construction, or attaining final compliance.

(f) Failure to provide, within forty-five (45) days after their due date, required reports such as baseline monitoring reports, ninety (90) day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules.

(g) Failure to accurately report noncompliance.

(h) Any other violation or group of violations, which may include a violation of best management practices, which the WWF determines will adversely affect the operation or implementation of the local pretreatment program.

(i) Continuously monitored pH violations that exceed limits for a time period greater than fifty (50) minutes or exceed limits by more than 0.5 s.u. more than eight (8) times in four (4) hours.

(52) "Slug." Any discharge of a non-routine, episodic nature, including but not limited to an accidental spill or a non-customary batch discharge, which has a reasonable potential to cause interference or pass-through, or in any other way violate the WWF's regulations, local limits, or permit conditions.

(53) "Standard Industrial Classification (SIC)." A classification pursuant to the Standard Industrial Classification Manual issued by the Executive Office of the President, Office of Management and Budget, 1972.

(54) "State." The State of Tennessee.

(55) "Storm sewer or storm drain." A pipe or conduit which carries storm and surface waters and drainage, but excludes sewage and industrial wastes. It may, however, carry cooling waters and unpolluted waters, upon approval of the superintendent.

(56) "Stormwater." Any flow occurring during or following any form of natural precipitation and resulting therefrom.

(57) "Superintendent." The local administrative officer or person designated by him to supervise the operation of the publicly owned treatment works and who is charged with certain duties and responsibilities by this chapter, or his duly authorized representative.

(58) "Suspended solids." The total suspended matter that floats on the surface of, or is suspended in, water, wastewater, or other liquids and that is removable by laboratory filtering.

(59) "Toxic pollutant." Any pollutant or combination of pollutants listed as toxic in regulations published by the Administrator of the Environmental Protection Agency under the provision of CWA 307(a) or other Acts.

(60) "Twenty-four (24) hour flow proportional composite sample." A sample consisting of several sample portions collected during a twenty-four (24) hour period in which the portions of a sample are proportioned to the flow and combined to form a representative sample.

(61) "User." The owner, tenant or occupant of any lot or parcel of land connected to a sanitary sewer, or for which a sanitary sewer line is available if a municipality levies a sewer charge on the basis of such availability, Tennessee Code Annotated, § 68-221-201.

(62) "Wastewater." The liquid and water-carried industrial or domestic wastes from dwellings, commercial buildings, industrial facilities, and institutions, whether treated or untreated, which is contributed into or permitted to enter the WWF.

(63) "Wastewater facility." Any or all of the following: the collection/transmission system, treatment plant, and the reuse or disposal system, which is owned by any person. This definition includes any devices and systems used in the storage, treatment, recycling and reclamation of municipal sewage or industrial waste of a liquid nature. It also includes sewers, pipes and other conveyances only if they convey wastewater to a WWF treatment plant. The term also means the municipality as defined in section 502(4) of the Federal Clean Water Act, which has jurisdiction over the indirect discharges to and the discharges from such a treatment works. WWF was formally known as a POTW, or Publicly Owned Treatment Works.

(64) "Waters of the state." All streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems, and other bodies of accumulation of water, surface or underground, natural or artificial, public or private, that are contained within, flow through, or border upon the state or any portion thereof.

(65) "0400-40-14." Chapter 0400-40-14 of the Rules and Regulations of the State of Tennessee, Pretreatment Requirements. (1980 Code, § 13-103, as replaced by Ord. #17-542, Jan. 2018 **Ch9\_10-5-20**, and Ord. #18-548, Oct. 2018 **Ch9\_10-5-20**)

**18-104. Proper waste disposal required.** (1) It shall be unlawful for any person to place, deposit, or permit to be deposited in any unsanitary manner on public or private property within the service area of the town any human or animal excrement, garbage, or other objectionable waste.

(2) It shall be unlawful to discharge to any waters of the state within the service area of the town any sewage or other polluted waters, except where suitable treatment has been provided in accordance with provisions of this ordinance or town or state regulations.

(3) Except as herein provided, it shall be unlawful to construct or maintain any privy, privy vault, cesspool, or other facility intended or used for the disposal of sewage.

(4) Except as provided in subsection (6) below, the owner of all houses, buildings, or properties used for human occupancy, employment, recreation, or other purposes situated within the service area in which there is now located or may in the future be located a public sanitary sewer, is hereby required at his expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper private or public sewer in accordance with the provisions of this chapter. Where public sewer is available property owners shall, within sixty (60) days after date of official notice to do so, connect to the public sewer. Service is considered "available" when a public sewer main is located in an easement, right-of-way, road or public access way which abuts the property.

(5) Where a public sanitary sewer is not available under the provisions of subsection (4) above, the building sewer shall be connected to a private sewage disposal system complying with the provisions of § 18-105 of this chapter.

(6) The owner of a manufacturing facility may discharge wastewater to the waters of the state; provided that he obtains an NPDES permit and meets all requirements of the Federal Clean Water Act, the NPDES permit, and any other applicable local, state, or federal statutes and regulations. (1980 Code, § 13-104, as replaced by Ord. #17-542, Jan. 2018 *Ch9\_10-5-20*, and Ord. #18-548, Oct. 2018 *Ch9\_10-5-20*)

**18-105. Private domestic wastewater disposal.** (1) Availability.

(a) Where a public sanitary sewer is not available under the provisions of § 18-104(4), the building sewer shall be connected, until the public sewer is available, to a private wastewater disposal system complying with the provisions of the applicable local and state regulations.

(b) The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times, at no expense to the town. When it becomes necessary to clean septic tanks, the sludge may be disposed of only according to applicable federal and state regulations.

(c) Where a public sewer becomes available, the building sewer shall be connected to said sewer within sixty (60) days after date of official notice from the town to do so.

(2) Requirements. (a) The type, capacity, location and layout of a private sewerage disposal system shall comply with all local or state regulations. Before commencement of construction of a private sewerage disposal system, the owner shall first obtain a written approval from the county health department. The application for such approval shall be made on a form furnished by the county health department which the

applicant shall supplement with any plans or specifications that the department has requested.

(b) Approval for a private sewerage disposal system shall not become effective until the installation is completed to the satisfaction of the local and state authorities, who shall be allowed to inspect the work at any stage of construction.

(c) The type, capacity, location, and layout of a private sewage disposal system shall comply with all recommendations of the Tennessee Department of Environment and Conservation, and the county health department. No septic tank or cesspool shall be permitted to discharge to waters of Tennessee.

(d) No statement contained in this chapter shall be construed to interfere with any additional or future requirements that may be imposed by the town and the county health department. (1980 Code, § 13-105, as replaced by Ord. #17-542, Jan. 2018 *Ch9\_10-5-20*, and Ord. #18-548, Oct. 2018 *Ch9\_10-5-20*)

**18-106. Connection to public sewers.** (1) Application for service.

(a) There shall be two (2) classifications of service:

(i) Residential; and

(ii) Service to commercial, industrial and other non-residential establishments.

In either case, the owner or his agent shall make application for connection on a special form furnished by the town. Applicants for service to commercial and industrial establishments shall be required to furnish information about all waste producing activities, wastewater characteristics and constituents. The application shall be supplemented by any plans, specifications or other information considered pertinent in the judgment of the superintendent. Details regarding commercial and industrial permits include, but are not limited to, those required by this chapter. Service connection fees for establishing new sewer service are paid to the town. Industrial user discharge permit fees may also apply. The receipt by the town of a prospective customer's application for connection shall not obligate the town to render the connection. If the service applied for cannot be supplied in accordance with this chapter and the town's rules and regulations and general practice, or state and federal requirement, the connection charge will be refunded in full, and there shall be no liability of the town to the applicant for such service.

(b) Users shall notify the town of any proposed new introduction of wastewater constituents or any proposed change in the volume or character of the wastewater being discharged to the system a minimum of sixty (60) days prior to the change. The town may deny or limit this new introduction or change based upon the information submitted in the notification.

(2) Prohibited connections. No person shall make connections of roof downspouts, sump pumps, basement wall seepage or floor seepage, exterior foundation drains, area way drains, or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer. Any such connections which already exist on the effective date of this chapter shall be completely and permanently disconnected within sixty (60) days of the effective day of this chapter. The owners of any building sewer having such connections, leaks or defects shall bear all of the costs incidental to removal of such sources. Pipes, sumps and pumps for such sources of groundwater shall be separate from the sanitary sewer.

(3) Physical connection to public sewer. (a) No person shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenance thereof. The town shall make all connections to the public sewer upon the property owner first submitting a connection application to the town.

The connection application shall be supplemented by any plans, specifications or other information considered pertinent in the judgment of the superintendent. A service connection fee shall be paid to the town at the time the application is filed.

The applicant is responsible for excavation and installation of the building sewer which is located on private property. The town will inspect the installation prior to backfilling and make the connection to the public sewer.

(b) All costs and expenses incident to the installation, connection, and inspection of the building sewer shall be borne by the owner including all service and connection fees. The owner shall indemnify the town from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

(c) A separate and independent building sewer shall be provided for every building; except where one (1) building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, courtyard, or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one (1) building sewer. Where property is subdivided and buildings use a common building sewer are now located on separate properties, the building sewers must be separated within sixty (60) days.

(d) Old building sewers may be used in connection with new buildings only when they are found, on examination and tested by the superintendent to meet all requirements of this chapter. All others may be sealed to the specifications of the superintendent.

(e) Building sewers shall conform to the following requirements:

(i) The minimum size of a building sewer shall be as follows: Conventional sewer system - Four inches (4").

(ii) The minimum depth of a building sewer shall be eighteen inches (18").

(iii) Building sewers shall be laid on the following grades: Four inch (4") sewers - one-eighth inch (1/8") per foot.

Larger building sewers shall be laid on a grade that will produce a velocity when flowing full of at least two feet (2') per second.

(iv) Building sewers shall be installed in uniform alignment at uniform slopes.

(v) Building sewers shall be constructed only of polyvinyl chloride pipe schedule 40 or better. Joints shall be solvent welded or compression gaskets designed for the type of pipe used. No other joints shall be acceptable.

(vi) Cleanouts shall be provided to allow cleaning in the direction of flow. A cleanout shall be located five feet (5') outside of the building, as it crosses the property line and one (1) at each change of direction of the building sewer which is greater than forty-five degrees (45°). Additional cleanouts shall be placed not more than seventy-five feet (75') apart in horizontal building sewers of six inch (6") nominal diameter and not more than one hundred feet (100') apart for larger pipes. Cleanouts shall be extended to or above the finished grade level directly above the place where the cleanout is installed and protected from damage. A "Y" (wye) and one-eighth (1/8) bend shall be used for the cleanout base. Cleanouts shall not be smaller than four inches (4"). Blockages on the property owner's side of the property line cleanout are the responsibility of the property owner.

(vii) Connections of building sewers to the public sewer system shall be made only by the town and shall be made at the appropriate existing wyes or tee branch using compression type couplings or collar type rubber joint with stainless steel bands. Where existing wye or tee branches are not available, connections of building services shall be made by either removing a length of pipe and replacing it with a wye or tee fitting using flexible neoprene adapters with stainless steel bands of a type approved by the superintendent. Bedding must support pipe to prevent damage or sagging. All such connections shall be made gastight and watertight.

(viii) In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by an approved pump system

according to § 18-107 and discharged to the building sewer at the expense of the owner.

(ix) The methods to be used in excavating, placing of pipe, jointing, testing, backfilling the trench, or other activities in the construction of a building sewer which have not been described above shall conform to the requirements of the building and plumbing code or other applicable rules and regulations of the town or to the procedures set forth in appropriate specifications by the ASTM. Any deviation from the prescribed procedures and materials must be approved by the superintendent before installation.

(x) An installed building sewer shall be gastight and watertight.

(f) All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the town.

(g) No person shall make connection of roof downspouts, exterior foundation drains, areaway drains, basement drains, sump pumps, or other sources of surface runoff or groundwater to a building directly or indirectly to a public sanitary sewer.

(h) Inspection of connections.

(i) The sewer connection and all building sewers from the building to the public sewer main line shall be inspected, before the underground portion is covered, by the superintendent or his authorized representative.

(ii) The applicant for discharge shall notify the superintendent when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the superintendent or his representative.

(4) Maintenance of building sewers. Each individual property owner shall be entirely responsible for the construction, maintenance, repair or replacement of the building sewer as deemed necessary by the superintendent to meet specifications of the town. Owners failing to maintain or repair building sewers or who allow stormwater or groundwater to enter the sanitary sewer may face enforcement action by the superintendent up to and including discontinuation of water and sewer service.

(5) Sewer extensions. All expansion or extension of the public sewer constructed by property owners or developers must follow policies and procedures developed by the town. In the absence of policies and procedures the expansion or extension of the public sewer must be approved in writing by the superintendent or manager of the wastewater collection system. All plans and construction must follow the latest edition

of Tennessee Design Criteria for Sewerage Works, located at <http://www.state.tn.us/environment/wpc/publications/>. Contractors must provide the superintendent or manager with as-built drawing and documentation that all mandrel, pressure and vacuum tests as specified in design criteria were acceptable prior to use of the lines. Contractor's one (1) year warranty period begins with occupancy or first permanent use of the lines. Contractors are responsible for all maintenance and repairs during the warranty period and final inspections as specified by the superintendent or manager. The superintendent or manager must give written approval to the contractor to acknowledge transfer of ownership to the town. Failure to construct or repair lines to acceptable standards could result in denial or discontinuation of sewer service. (1980 Code, § 13-106, as replaced by Ord. #17-542, Jan. 2018 *Ch9\_10-5-20*, and Ord. #18-548, Oct. 2018 *Ch9\_10-5-20*)

**18-107. Septic tank effluent pump or grinder pump wastewater systems.** When connection of building sewers to the public sewer by gravity flow lines is impossible due to elevation differences or other encumbrances, Septic Tank Effluent Pump (STEP) or Grinder Pump (GP) systems may be installed subject to the regulations of the town.

(1) Equipment requirements. (a) Septic tanks shall be of watertight construction and must be approved by the town.

(b) Pumps must be approved by the town and shall be maintained by the owner.

(2) Installation requirements. Location of tanks, pumps, and effluent lines shall be subject to the approval of the town. Installation shall follow design criteria for STEP and GP systems as provided by the manufacturer and superintendent.

(3) Costs. STEP and GP equipment for new construction shall be purchased and installed at the developer's, homeowner's, or business owner's expense according to the specification of the town and connection will be made to the town sewer only after inspection and approval of the town.

(4) Ownership and easements. Homeowners or developers shall provide the town with access to perform necessary inspections.

(5) Use of STEP and GP systems. (a) Home or business owners shall follow the STEP and GP users guide provided by the superintendent.

(b) Home or business owners shall provide an electrical connection that meets specifications and shall provide electrical power.

(c) Home or business owners shall be responsible for maintenance of drain lines from the building to the STEP and GP tank.

(d) Prohibited uses of the STEP and GP system.

(i) Connection of roof guttering, sump pumps or surface drains.

(ii) Disposal of toxic household substances.

(iii) Use of garbage grinders or disposers.



(iv) Discharge of pet hair, lint, or home vacuum water.

(v) Discharge of fats, grease, and oil.

(6) Tank cleaning. Solids removal from the septic tank shall be the responsibility of the owner.

(7) Additional charges. The town shall provide inspections and approvals at no cost to the owner. (1980 Code, § 13-107, as replaced by Ord. #402, Aug. 2002, Ord. #17-542, Jan. 2018 *Ch9\_10-5-20*, and Ord. #18-548, Oct. 2018 *Ch9\_10-5-20*)

**18-108. Regulation of holding tank waste disposal or trucked in waste**. (1) No person, firm, association or corporation shall haul in or truck in to the WWF any type of domestic, commercial or industrial waste unless such person, firm, association, or corporation obtains a written approval from the town to perform such acts or services.

Any person, firm, association, or corporation desiring a permit to perform such services shall file an application on the prescribed form. Upon any such application, said permit shall be issued by the superintendent when the conditions of this chapter have been met and providing the superintendent is satisfied the applicant has adequate and proper equipment to perform the services contemplated in a safe and competent manner.

(2) Fees. For each permit issued under the provisions of this chapter the applicant shall agree in writing by the provisions of this section and pay an annual service charge to the town to be set as specified in § 18-207 of this title. Any such permit granted shall be for a specified period of time, and shall continue in full force and effect from the time issued until the expiration date, unless sooner revoked, and shall be nontransferable. The number of the permit granted hereunder shall be plainly painted in three-inch (3") permanent letters on each side of each motor vehicle used in the conduct of the business permitted hereunder.

(3) Designated disposal locations. The superintendent shall designate approved locations for the emptying and cleansing of all equipment used in the performance of the services rendered under the permit herein provided for, and it shall be a violation hereof for any person, firm, association or corporation to empty or clean such equipment at any place other than a place so designated. The superintendent may refuse to accept any truckload of waste at his discretion where it appears that the waste could interfere with the operation of the WWF.

(4) Revocation of permit. Failure to comply with all the provisions of the permit or this chapter shall be sufficient cause for the revocation of such permit by the superintendent. The possession within the service area by any person of any motor vehicle equipped with a body type and accessories of a nature and design capable of serving a septic tank of wastewater or excreta disposal system cleaning unit shall be prima facie evidence that such person is engaged in the business of cleaning, draining, or flushing septic tanks or other

wastewater or excreta disposal systems within the service area of the Town of Monterey.

(5) Trucked in waste. This subsection (5) includes waste from trucks, railcars, barges, etc., or temporally pumped waste, all of which are prohibited without a permit issued by the superintendent. This approval may require testing, flow monitoring and record keeping. (1980 Code, § 13-108, as amended by Ord. #387, June 2001, and replaced by Ord. #402, Aug. 2002, as replaced by Ord. #17-542, Jan. 2018 **Ch9\_10-5-20**, and Ord. #18-548, Oct. 2018 **Ch9\_10-5-20**)

**18-109. Discharge regulations.** (1) General discharge prohibitions. No user shall contribute or cause to be contributed, directly or indirectly, any pollutant or wastewater which will pass through or interfere with the operation and performance of the WWF. These general prohibitions apply to all such users of a WWF whether or not the user is subject to national categorical pretreatment standards or any other national, state, or local pretreatment standards or requirements. Violations of these general and specific prohibitions or the provisions of this section may result in the issuance of an industrial pretreatment permit, surcharges, discontinuance of water and/or sewer service and other fines and provisions of §§ 18-110 or 18-205. A user may not contribute the following substances to any WWF:

(a) Any liquids, solids, or gases which by reason of their nature or quantity are, or may be, sufficient either alone or by interaction with other substances to cause fire or explosion or be injurious in any other way to the WWF or to the operation of the WWF. Prohibited flammable materials including, but not limited to, wastestreams with a closed cup flash point of less than one hundred forty degrees Fahrenheit (140°F) or sixty degrees Centigrade (60°C) using the test methods specified in 40 CFR § 261.21. Prohibited materials include, but are not limited to, gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromate, carbides, hydrides and sulfides and any other substances which the town, the state or EPA has notified the user is a fire hazard or a hazard to the system.

(b) Any wastewater having a pH less than 5.5 or higher than 9.5 or wastewater having any other corrosive property capable of causing damage or hazard to structures, equipment, and/or personnel of the WWF.

(c) Solid or viscous substances which may cause obstruction to the flow in a sewer or other interference with the operation of the wastewater treatment facilities including, but not limited to: grease, garbage with particles greater than one-half inch (½") in any dimension, waste from animal slaughter, ashes, cinders, sand, spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags, spent

grains, spent hops, waste paper, wood, plastics, mud, or glass grinding or polishing wastes.

(d) Any pollutants, including oxygen demanding pollutants (BOD, etc.) released at a flow rate and/or pollutant concentration which will cause interference to the WWF.

(e) Any wastewater having a temperature which will inhibit biological activity in the WWF treatment plant resulting in interference, but in no case wastewater with a temperature at the introduction into the WWF which exceeds forty degrees Centigrade or one hundred four degrees Fahrenheit (40°C or 104°F) unless approved by the State of Tennessee.

(f) Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin in amounts that will cause interference or pass through.

(g) Pollutants which result in the presence of toxic gases, vapors, or fumes within the WWF in a quantity that may cause acute worker health and safety problems.

(h) Any wastewater containing any toxic pollutants, chemical elements, or compounds in sufficient quantity, either singly or by interaction with other pollutants, to injure or interfere with any wastewater treatment process, constitute a hazard to humans, including wastewater plant and collection system operators, or animals, create a toxic effect in the receiving waters of the WWF, or to exceed the limitation set forth in a categorical pretreatment standard. A toxic pollutant shall include, but not be limited to, any pollutant identified pursuant to section 307(a) of the Act.

(i) Any trucked or hauled pollutants except at discharge points designated by the WWF.

(j) Any substance which may cause the WWF's effluent or any other product of the WWF, such as residues, sludges, or scums, to be unsuitable for reclamation and reuse or to interfere with the reclamation process. In no case shall a substance discharged to the WWF cause the WWF to be in non-compliance with sludge use or disposal criteria, 40 CFR 503, guidelines, or regulations developed under section 405 of the Act; any criteria, guidelines, or regulations affecting sludge use or disposal developed pursuant to the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act, or state criteria applicable to the sludge management method being used.

(k) Any substances which will cause the WWF to violate its NPDES permit or the receiving water quality standards.

(l) Any wastewater causing discoloration of the wastewater treatment plant effluent to the extent that the receiving stream water quality requirements would be violated, such as, but not limited to, dye wastes and vegetable tanning solutions.

(m) Any waters or wastes causing an unusual volume of flow or concentration of waste constituting "slug" as defined herein.

(n) Any waters containing any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the superintendent in compliance with applicable state or federal regulations.

(o) Any wastewater which causes a hazard to human life or creates a public nuisance.

(p) Any waters or wastes containing animal or vegetable fats, wax, grease, or oil, whether emulsified or not, which cause accumulations of solidified fat in pipes, lift stations and pumping equipment, or interfere at the treatment plant.

(q) Detergents, surfactants, surface-acting agents or other substances which may cause excessive foaming at the WWF or pass through of foam.

(r) Wastewater causing, alone or in conjunction with other sources, the WWF to fail toxicity tests.

(s) Any stormwater, surface water, groundwater, roof runoff, subsurface drainage, uncontaminated cooling water, or unpolluted industrial process waters to any sanitary sewer. Stormwater and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as storm sewers, or to a natural outlet approved by the superintendent and the Tennessee Department of Environment and Conservation. Industrial cooling water or unpolluted process waters may be discharged, on approval of the superintendent and the Tennessee Department of Environment and Conservation, to a storm sewer or natural outlet.

(2) Local limits. In addition to the general and specific prohibitions listed in this section, users permitted according to chapter 2 may be subject to numeric and best management practices as additional restrictions to their wastewater discharge in order to protect the WWF from interference or protect the receiving waters from pass through contamination.

(3) Restrictions on wastewater strength. No person or user shall discharge wastewater which exceeds the set of standards provided in Table A - Plant Protection Criteria, unless specifically allowed by their discharge permit according to chapter 2 of this chapter. Dilution of any wastewater discharge for the purpose of satisfying these requirements shall be considered in violation of this chapter.

**Table A - Plant Protection Criteria**

<u>Parameter</u>	<u>Maximum Concentration (ug/l)</u>
Benzene	15.00
Cadmium	1.512

<b>Parameter</b>	<b>Maximum Concentration (ug/l)</b>
Carbon tetrachloride	150.00
Chloroform	314.81
Chromium III	1039.17
Chromium IV	24.44
Copper	70.55
Cyanide	12.68
Ethylbenzene	20.00
Lead	17.9769
Mercury	0.10
Methylene Chloride	166.67
Molybdenum	4.823
Naphthalene	3.45
Nickel	26.366
Phenol	555.56
Selenium	3.6118
Silver	14.71
Tetrachloroethylene	138.89
Toluene	214.29
Total Phthalate	146.59
Trichlorethylene	166.67
1, 1, 1-Trichloroethane	272.73
1, 2 Transdichloroethylene	50.00
Zinc	115.352

(4) Fats, oils and grease traps and interceptors. (a) Fat, Oil and Grease (FOG), waste food, and sand interceptors. FOG, waste food and sand interceptors shall be installed when, in the opinion of the superintendent, they are necessary for the proper handling of liquid

wastes containing fats, oils, and grease, any flammable wastes, ground food waste, sand, soil, and solids, or other harmful ingredients in excessive amount which impact the wastewater collection system. Such interceptors shall not be required for single-family residences, but may be required on multiple-family residences. All interceptors shall be of a type and capacity approved by the superintendent, and shall be located as to be readily and easily accessible for cleaning and inspection.

(b) Fat, oil, grease, and food waste. (i) New construction and renovation. Upon construction or renovation, all restaurants, cafeterias, hotels, motels, hospitals, nursing homes, schools, grocery stores, prisons, jails, churches, camps, caterers, manufacturing plants and any other sewer users who discharge applicable waste shall submit a FOG and food waste control plan that will effectively control the discharge of FOG and food waste.

(ii) Existing structures. All existing restaurants, cafeterias, hotels, motels, hospitals, nursing homes, schools, grocery stores, prisons, jails, churches, camps, caterers, manufacturing plants and any other sewer users who discharge applicable waste shall be required to submit a plan for control of FOG and food waste if and when the superintendent determines that FOG and food waste are causing excessive loading, plugging, damage or potential problems to structures or equipment in the public sewer system.

(iii) Implementation of plan. After approval of the FOG plan by the superintendent the sewer user must:

(A) Implement the plan within a reasonable amount of time; and

(B) Service and maintain the equipment in order to prevent impact upon the sewer collection system and treatment facility. If, in the opinion of the superintendent, the user continues to impact the collection system and treatment plan, additional pretreatment may be required, including a requirement to meet numeric limits and have surcharges applied.

(c) Sand, soil, and oil interceptors. All car washes, truck washes, garages, service stations and other sources of sand, soil, and oil shall install effective sand, soil, and oil interceptors. These interceptors shall be sized to effectively remove sand, soil, and oil at the expected flow rates. The interceptors shall be cleaned on a regular basis to prevent impact upon the wastewater collection and treatment system. Owners whose interceptors are deemed to be ineffective by the superintendent may be asked to change the cleaning frequency or to increase the size of the interceptors. Owners or operators of washing facilities will prevent the inflow of rainwater into the sanitary sewers.

(d) Laundries. Commercial laundries shall be equipped with an interceptor with a wire basket or similar device, removable for cleaning, that prevents passage into the sewer system of solids one-half inches ( $\frac{1}{2}$ " ) or larger in size such as strings, rags, buttons, or other solids detrimental to the system.

(e) Control equipment. The equipment of facilities installed to control FOG, food waste, sand and soil, must be designed in accordance with the Tennessee Department of Environment and Conservation engineering standards or applicable town guidelines. Underground equipment shall be tightly sealed to prevent inflow of rainwater and easily accessible to allow regular maintenance. Control equipment shall be maintained by the owner or operator of the facility so as to prevent a stoppage of the public sewer, and the accumulation of FOG in the lines, pump stations and treatment plant. If the town is required to clean out the public sewer lines as a result of a stoppage resulting from poorly maintained control equipment, the property owner shall be required to refund the labor, equipment, materials and overhead costs to the town. Nothing in this subsection shall be construed to prohibit or restrict any other remedy the town has under this chapter, or state or federal law. The town retains the right to inspect and approve installation of control equipment.

(f) Solvents prohibited. The use of degreasing or line cleaning products containing petroleum based solvents is prohibited. The use of other products for the purpose of keeping FOG dissolved or suspended until it has traveled into the collection system of the town is prohibited.

(g) The superintendent may use industrial wastewater discharge permits under § 18-202 to regulate the discharge of fat, oil and grease. (1980 Code, § 13-109, as replaced by Ord. #377, July 1999, Ord. #387, June 2001, Ord. #17-542, Jan. 2018 *Ch9\_10-5-20*, and Ord. #18-548, Oct. 2018 *Ch9\_10-5-20*)

**18-110. Enforcement and abatement.** Violators of these wastewater regulations may be cited to town court, general sessions court, chancery court, or other court of competent jurisdiction, face fines, have sewer service terminated or the town may seek further remedies as needed to protect the collection system, treatment plant, receiving stream and public health including the issuance of discharge permits according to chapter 2. Repeated or continuous violation of this chapter is declared to be a public nuisance and may result in legal action against the property owner and/or occupant and the service line disconnected from sewer main. Upon notice by the superintendent that a violation has or is occurring, the user shall immediately take steps to stop or correct the violation. The town may take any or all the following remedies:

(1) Cite the user to town or general sessions court, where each day of violation shall constitute a separate offense.

(2) In an emergency situation where the superintendent has determined that immediate action is needed to protect the public health, safety or welfare, a public water supply or the facilities of the sewerage system, the superintendent may discontinue water service or disconnect sewer service.

(3) File a lawsuit in chancery court or any other court of competent jurisdiction seeking damages against the user, and further seeking an injunction prohibiting further violations by user.

(4) Seek further remedies as needed to protect the public health, safety or welfare, the public water supply or the facilities of the sewerage system. (1980 Code, § 13-110, as replaced by Ord. #402, Aug. 2002, Ord. #17-542, Jan. 2018 *Ch9\_10-5-20*, and Ord. #18-548, Oct. 2018 *Ch9\_10-5-20*)

**18-111–18-115. Deleted.** (1980 Code, §§ 13-111 through 13-115, as deleted by Ord. #17-542, Jan. 2018 *Ch9\_10-5-20*)



## CHAPTER 2

### INDUSTRIAL/COMMERCIAL WASTEWATER REGULATIONS

#### SECTION

- 18-201. Industrial pretreatment.
- 18-202. Discharge permits.
- 18-203. Industrial user additional requirements.
- 18-204. Reporting requirements.
- 18-205. Enforcement response plan.
- 18-206. Enforcement response guide table.
- 18-207. Fees and billing.
- 18-208. Validity.
- 18-209--18-212. Deleted.

**18-201. Industrial pretreatment.** In order to comply with Federal Industrial Pretreatment Rules 40 CFR 403 and Tennessee Pretreatment Rules 0400-40-14 and to fulfill the purpose and policy of this chapter the following regulations are adopted.

(1) User discharge restrictions. All system users must follow the general and specific discharge regulations specified in § 18-109.

(2) Users wishing to discharge pollutants at higher concentrations than Table A - Plant Protection Criteria of § 18-109, or those dischargers who are classified as significant industrial users will be required to meet the requirements of this chapter. Users who discharge waste which falls under the criteria specified in this chapter and who fail to or refuse to follow the provisions shall face termination of service and/or enforcement action specified in § 18-205.

(3) Discharge regulation. Discharges to the sewer system shall be regulated through use of a permitting system. The permitting system may include any or all of the following activities: completion of survey/application forms, issuance of permits, oversight of users monitoring and permit compliance, use of compliance schedules, inspections of industrial processes, wastewater processing, and chemical storage, public notice of permit system changes and public notice of users found in significant noncompliance.

(4) Discharge permits shall limit concentrations of discharge pollutants to those levels that are established as Table B - Local Limits or other applicable state and federal pretreatment rules which may take effect after the passage of this chapter.

**Table B - Local Limits**

<b><u>Pollutant</u></b>	<b><u>Daily Maximum Limitation (mg/l)</u></b>
Arsenic	0.010
Benzene	0.080
Cadmium	0.007
Carbon Tetrachloride	0.920
Chloroform	1.890
Chromium III	0.606
Chromium IV	0.0125
Copper	0.274
Cyanide	0.031
Ethylbenzene	0.110
Lead	0.090
Mercury	0.000184
Methylene Chloride	0.842
Molybdenum	0.001245
Naphthalene	0.005
Nickel	0.096
Phenol	3.137
Selenium	0.0204
Silver	0.0439
Tetrachloroethylene	0.850
Toluene	1.293
Total Phthalate	0.380
Trichlorethylene	1.018
1, 1, 1-Trichloroethane	1.659

**Table B - Local Limits**

<u>Pollutant</u>	<u>Daily Maximum Limitation (mg/l)</u>
1, 2 Transdichloroethylene	0.3045
Zinc	0.274

\*Based on twenty-four (24) hour flow proportional composite samples unless specified otherwise.

(5) Surcharge limits and maximum concentrations. Dischargers of high strength waste may be subject to surcharges based on the following surcharge limits. Maximum concentrations may also be established for some users.

**Table C - Surcharge and Threshold**

<u>Parameter</u>	<u>Surcharge Threshold (mg/l)*</u>	<u>Daily Maximum Limitation (mg/l)**</u>
Ammonia nitrogen	32	32
Oil & grease	100	100
MBAS	10	20
BOD	300	700
Suspended solids	300	700

\*Exceedance of the Surcharge Threshold is not a violation subject to enforcement.

\*\*Exceedance of Daily Maximum Limitation can be subject to enforcement.

(6) Protection of treatment plant influent. The pretreatment coordinator shall monitor the treatment works influent for each parameter in Table A - Plant Protection Criteria. Industrial users shall be subject to reporting and monitoring requirements regarding these parameters as set forth in this chapter. In the event that the influent at the WWF reaches or exceeds the levels established by Table A or subsequent criteria calculated as a result of changes in pass through limits issued by the Tennessee Department of Environment and Conservation, the pretreatment coordinator shall initiate technical studies to determine the cause of the influent violation and shall recommend to the town the necessary remedial measures, including, but not limited to, recommending the establishment of new or revised local limits, best management practices, or other criteria used to protect the WWF. The pretreatment coordinator shall also

recommend changes to any of these criteria in the event that: the WWF effluent standards are changed, there are changes in any applicable law or regulation affecting same, or changes are needed for more effective operation of the WWF.

(7) User inventory. The superintendent will maintain an up-to-date inventory of users whose waste does or may fall into the requirements of this chapter, and will notify the users of their status.

(8) Right to establish more restrictive criteria. No statement in this chapter is intended or may be construed to prohibit the pretreatment coordinator from establishing specific wastewater discharge criteria which are more restrictive when wastes are determined to be harmful or destructive to the facilities of the WWF or to create a public nuisance, or to cause the discharge of the WWF to violate effluent or stream quality standards, or to interfere with the use or handling of sludge, or to pass through the WWF resulting in a violation of the NPDES permit, or to exceed industrial pretreatment standards for discharge to municipal wastewater treatment systems as imposed or as may be imposed by the Tennessee Department of Environment and Conservation and/or the United States Environmental Protection Agency. (Ord. #336, Nov. 1994, as replaced by Ord. #409, March 2003, Ord. #17-542, Jan. 2018 *Ch9\_10-5-20*, and Ord. #18-548, Oct. 2018 *Ch9\_10-5-20*)

**18-202. Discharge permits.** (1) Application for discharge of commercial or industrial wastewater. All users or prospective users which generate commercial or industrial wastewater shall make application to the superintendent for connection to the municipal wastewater treatment system. It may be determined through the application that a user needs a discharge permit according to the provisions of federal and state laws and regulations. Applications shall be required from all new dischargers as well as for any existing discharger desiring additional service or where there is a planned change in the industrial or wastewater treatment process. Connection to the town sewer or changes in the industrial process or wastewater treatment process shall not be made until the application is received and approved by the superintendent, the building sewer is installed in accordance with § 18-106 and an inspection has been performed by the superintendent or his representative.

The receipt by the town of a prospective customer's application for connection shall not obligate the town to render the connection. If the service applied for cannot be supplied in accordance with this chapter and the town's rules and regulations and general practice, the connection charge will be refunded in full, and there shall be no liability of the town to the applicant for such service.

(2) Industrial wastewater discharge permits. (a) General requirements. All industrial users proposing to connect to or contribute to the WWF shall apply for service and apply for a discharge permit before connecting to or contributing to the WWF. All existing industrial users connected to or contributing to the WWF may be required

to apply for a permit within one hundred eighty (180) days after the effective date of this chapter.

(b) Applications. Applications for wastewater discharge permits shall be required as follows:

(i) Users required by the superintendent to obtain a wastewater discharge permit shall complete and file with the pretreatment coordinator, an application on a prescribed form accompanied by the appropriate fee.

(ii) The application shall be in the prescribed form of the town and shall include, but not be limited to, the following information: name, address, and SIC/NAICS number of applicant; wastewater volume; wastewater constituents and characteristic, including, but not limited to, those mentioned in §§ 18-109 and 18-201 discharge variations — daily, monthly, seasonal and thirty (30) minute peaks; a description of all chemicals handled on the premises, each product produced by type, amount, process or processes and rate of production, type and amount of raw materials, number and type of employees, hours of operation, site plans, floor plans, mechanical and plumbing plans and details showing all sewers and appurtenances by size, location and elevation; a description of existing and proposed pretreatment and/or equalization facilities and any other information deemed necessary by the pretreatment coordinator.

(iii) Any user who elects or is required to construct new or additional facilities for pretreatment shall as part of the application for wastewater discharge permit submit plans, specifications and other pertinent information relative to the proposed construction to the pretreatment coordinator for approval. A wastewater discharge permit shall not be issued until such plans and specifications are approved. Approval of such plans and specifications shall in no way relieve the user from the responsibility of modifying the facility as necessary to produce an effluent acceptable to the town under the provisions of this chapter.

(iv) If additional pretreatment and/or operations and maintenance will be required to meet the pretreatment standards, the application shall include the shortest schedule by which the user will provide such additional pretreatment. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. For the purpose of this subsection (2)(b)(iv), "pretreatment standard," shall include either a national pretreatment standard or a pretreatment standard imposed by this chapter.

(v) The town will evaluate the data furnished by the user and may require additional information. After evaluation and acceptance of the data furnished, the town may issue a wastewater discharge permit subject to terms and conditions provided herein.

(vi) The receipt by the town of a prospective customer's application for wastewater discharge permit shall not obligate the town to render the wastewater collection and treatment service. If the service applied for cannot be supplied in accordance with this chapter or the town's rules and regulations and general practice, the application shall be rejected and there shall be no liability of the town to the applicant of such service.

(vii) The pretreatment coordinator will act only on applications containing all the information required in this section. Persons who have filed incomplete applications will be notified by the pretreatment coordinator that the application is deficient and the nature of such deficiency and will be given thirty (30) days to correct the deficiency. If the deficiency is not corrected within thirty (30) days or within such extended period as allowed by the local administrative officer, the local administrative officer shall deny the application and notify the applicant in writing of such action.

(viii) Applications shall be signed by the duly authorized representative.

(c) Permit conditions. Wastewater discharge permits shall be expressly subject to all provisions of this chapter and all other applicable regulations, user charges and fees established by the town.

(i) Permits shall contain the following:

(A) Statement of duration;

(B) Provisions of transfer;

(C) Effluent limits, including best management practices, based on applicable pretreatment standards in this chapter, state rules, categorical pretreatment standards, local, state, and federal laws;

(D) Self monitoring, sampling, reporting, notification, and record-keeping requirements. These requirements shall include an identification of pollutants (or best management practice) to be monitored, sampling location, sampling frequency, and sample type based on federal, state, and local law;

(E) Statement of applicable civil and criminal penalties for violations of pretreatment standards and the requirements of any applicable compliance schedule. Such schedules shall not extend the compliance date beyond the applicable federal deadlines;

(F) Requirements to control slug discharges, if determined by the WWF to be necessary; and

(G) Requirement to notify the WWF immediately if changes in the user's processes affect the potential for a slug discharge.

(ii) Additionally, permits may contain the following:

(A) The unit charge or schedule of user charges and fees for the wastewater to be discharged to a community sewer;

(B) Requirements for installation and maintenance of inspection and sampling facilities;

(C) Compliance schedules;

(D) Requirements for submission of technical reports or discharge reports;

(E) Requirements for maintaining and retaining plant records relating to wastewater discharge as specified by the town, and affording town access thereto;

(F) Requirements for notification of the town sixty (60) days prior to implementing any substantial change in the volume or character of the wastewater constituents being introduced into the wastewater treatment system, and of any changes in industrial processes that would affect wastewater quality or quantity;

(G) Prohibition of bypassing pretreatment or pretreatment equipment;

(H) Effluent mass loading restrictions; and/or

(I) Other conditions as deemed appropriate by the town to ensure compliance with this chapter.

(d) Permit modification. The terms and conditions of the permit may be subject to modification by the pretreatment coordinator during the term of the permit as limitations or requirements are modified or other just cause exists. The user shall be informed of any proposed changes in this permit at least sixty (60) days prior to the effective date of change. Except in the case where federal deadlines are shorter, in which case the federal rule must be followed. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.

(e) Permit duration. Permits shall be issued for a specified time period, not to exceed five (5) years. A permit may be issued for a period less than a year or may be stated to expire on a specific date. The user shall apply for permit renewal a minimum of one hundred eighty (180) days prior to the expiration of the user's existing permit.

(f) Permit transfer. Wastewater discharge permits are issued to a specific user for a specific operation. A wastewater discharge permit

shall not be reassigned or transferred or sold to a new owner, new user, different premises, or a new or changed operation without the written approval of the town. Any succeeding owner or user shall also comply with the terms and conditions of the existing permit. The permit holder must provide the new owner with a copy of the current permit.

(g) **Revocation of permit.** Any permit issued under the provisions of this chapter is subject to be modified, suspended, or revoked in whole or in part during its term for cause including, but not limited to, the following:

(i) Violation of any terms or conditions of the wastewater discharge permit or other applicable federal, state, or local law or regulation.

(ii) Obtaining a permit by misrepresentation or failure to disclose fully all relevant facts.

(iii) A change in:

(A) Any condition that requires either a temporary or permanent reduction or elimination of the permitted discharge;

(B) Strength, volume, or timing of discharges; and/or

(C) Addition or change in process lines generating wastewater.

(iv) Intentional failure of a user to accurately report the discharge constituents and characteristics or to report significant changes in plant operations or wastewater characteristics.

(3) **Confidential information.** All information and data on a user obtained from reports, questionnaires, permit applications, permits and monitoring programs and from inspection shall be available to the public or any governmental agency without restriction unless the user specifically requests and is able to demonstrate to the satisfaction of the pretreatment coordinator that the release of such information would divulge information, processes, or methods of production entitled to protection as trade secrets of the users.

When requested by the person furnishing the report, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public, but shall be made available to governmental agencies for use; related to this chapter or the town's or user's NPDES permit; provided, however, that such portions of a report shall be available for use by the state or any state agency in judicial review or enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics will not be recognized as confidential information.

Information accepted by the pretreatment coordinator as confidential shall not be transmitted to any governmental agency or to the general public by the pretreatment coordinator until and unless prior and adequate notification



is given to the user. (Ord. #336, Nov. 1994, as replaced by Ord. #409, March 2003, Ord. #17-542, Jan. 2018 *Ch9\_10-5-20*, and Ord. #18-548, Oct. 2018 *Ch9\_10-5-20*)

**18-203. Industrial user additional requirements.** (1) Monitoring facilities. The installation of a monitoring facility shall be required for all industrial users. A monitoring facility shall be a manhole or other suitable facility approved by the pretreatment coordinator.

When, in the judgment of the pretreatment coordinator, there is a significant difference in wastewater constituents and characteristics produced by different operations of a single user the pretreatment coordinator may require that separate monitoring facilities be installed for each separate source of discharge.

Monitoring facilities that are required to be installed shall be constructed and maintained at the user's expense. The purpose of the facility is to enable inspection, sampling and flow measurement of wastewater produced by a user. If sampling or metering equipment is also required by the pretreatment coordinator, it shall be provided and installed at the user's expense.

The monitoring facility will normally be required to be located on the user's premises outside of the building. The pretreatment coordinator may, however, when such a location would be impractical or cause undue hardship on the user, allow the facility to be constructed in the public street right-of-way with the approval of the public agency having jurisdiction of that right-of-way and located so that it will not be obstructed by landscaping or parked vehicles.

There shall be ample room in or near such sampling manhole or facility to allow accurate sampling and preparation of samples for analysis. The facility, sampling, and measuring equipment shall be maintained at all times in a safe and proper operating condition at the expenses of the user.

(2) Sample methods. All samples collected and analyzed pursuant to this regulation shall be conducted using protocols (including appropriate preservation) specified in the current edition of 40 CFR 136 and appropriate EPA guidance. Multiple grab samples collected during a twenty-four (24) hour period may be composited prior to the analysis as follows: For cyanide, total phenol, and sulfide the samples may be composited in the laboratory or in the field; for volatile organics and oil and grease the samples may be composited in the laboratory. Composite samples for other parameters unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized by the control authority, as appropriate.

(3) Representative sampling and housekeeping. All wastewater samples must be representative of the user's discharge. Wastewater monitoring and flow measuring facilities shall be properly operated, kept clean, and in good working order at all times. The failure of the user to keep its monitoring facilities in good working order shall not be grounds for the user to claim that sample results are unrepresentative of its discharge.

(4) Proper operation and maintenance. The user shall at all times properly operate and maintain the equipment and facilities associated with spill control, wastewater collection, treatment, sampling and discharge. Proper operation and maintenance includes adequate process control as well as adequate testing and monitoring quality assurance.

(5) Inspection and sampling. The town may inspect the facilities of any user to ascertain whether the purpose of this chapter is being met and all requirements are being complied with. Persons or occupants of premises where wastewater is created or discharged shall allow the town or its representative ready access at all reasonable times to all parts of the premises for the purpose of inspection, sampling, records examination and copying or in the performance of any of its duties. The town, approval authority and EPA shall have the right to set up on the user's property such devices as are necessary to conduct sampling inspection, compliance monitoring and/or metering operations. The town will utilize qualified town personnel or a private laboratory to conduct compliance monitoring. Where a user has security measures in force which would require proper identification and clearance before entry into their premises, the user shall make necessary arrangements with their security guards so that upon presentation of suitable identification, personnel from the town, approval authority and EPA will be permitted to enter, without delay, for the purposes of performing their specific responsibility.

(6) Safety. While performing the necessary work on private properties, the pretreatment coordinator or duly authorized employees of the town shall observe all safety rules applicable to the premises established by the company and the company shall be held harmless for injury or death to the town employees and the town shall indemnify the company against loss or damage to its property by town employees and against liability claims and demands for personal injury or property damage asserted against the company and growing out of the monitoring and sampling operation, except as such may be caused by negligence or failure of the company to maintain safe conditions.

(7) New sources. New sources of discharges to the WWF shall have in full operation all pollution control equipment at start up of the industrial process and be in full compliance of effluent standards within ninety (90) days of start up of the industrial process.

(8) Slug discharge evaluations. Evaluations will be conducted of each significant industrial user according to the state and federal regulations. Where it is determined that a slug discharge control plan is needed, the user shall prepare that plan according to the appropriate regulatory guidance.

(9) Accidental discharges or slug discharges. (a) Protection from accidental or slug discharge. All industrial users shall provide such facilities and institute such procedures as are reasonably necessary to prevent or minimize the potential for accidental or slug discharge into the WWF of waste regulated by this chapter from liquid or raw material storage areas, from truck and rail car loading and unloading areas, from

in-plant transfer or processing and materials handling areas, and from diked areas or holding ponds of any waste regulated by this chapter. Detailed plans showing the facilities and operating procedures shall be submitted to the pretreatment coordinator before the facility is constructed.

The review and approval of such plans and operating procedures will in no way relieve the user from the responsibility of modifying the facility to provide the protection necessary to meet the requirements of this chapter.

(b) Notification of accidental discharge or slug discharge. Any person causing or suffering from any accidental discharge or slug discharge shall immediately notify the pretreatment coordinator in person, or by the telephone to enable countermeasures to be taken by the pretreatment coordinator to minimize damage to the WWF, the health and welfare of the public, and the environment.

This notification shall be followed, within five (5) days of the date of occurrence, by a detailed written statement describing the cause of the accidental discharge and the measures being taken to prevent future occurrence.

Such notification shall not relieve the user of liability for any expense, loss, or damage to the WWF, fish kills, or any other damage to person or property; nor shall such notification relieve the user of any fines, civil penalties, or other liability which may be imposed by this chapter or state or federal law.

(c) Notice to employees. A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees whom to call in the event of a dangerous discharge. Employers shall ensure that all employees who may cause or suffer such a dangerous discharge to occur are advised of the emergency notification procedure. (Ord. #336, Nov. 1994, as replaced by Ord. #409, March 2003, Ord. #17-542, Jan. 2018 *Ch9\_10-5-20*, and Ord. #18-548, Oct. 2018 *Ch9\_10-5-20*)

**18-204. Reporting requirements.** Users, whether permitted or non-permitted may be required to submit reports detailing the nature and characteristics of their discharges according to the following subsections. Failure to make a requested report in the specified time is a violation subject to enforcement actions under § 18-205.

(1) Baseline monitoring report. (a) Within either one hundred eighty (180) days after the effective date of a categorical pretreatment standard, or the final administrative decision on a category determination under Tennessee Rule 0400-40-14-.06(l)(d), whichever is later, existing categorical industrial users currently discharging to or scheduled to discharge to the WWF shall submit to the superintendent a report which

contains the information listed in subsection (1)(b) below. At least ninety (90) days prior to commencement of their discharge, new sources, and sources that become categorical industrial users subsequent to the promulgation of an applicable categorical standard, shall submit to the superintendent a report which contains the information listed in subsection (1)(b), below. A new source shall report the method of pretreatment it intends to use to meet applicable categorical standards. A new source also shall give estimates of its anticipated flow and quantity of pollutants to be discharged.

(b) Users described above shall submit the information set forth below.

(i) Identifying Information. The user name, address of the facility including the name of operators and owners.

(ii) Permit information. A listing of any environmental control permits held by or for the facility.

(iii) Description of operations. A brief description of the nature, average rate of production (including each product produced by type, amount, processes, and rate of production), and standard industrial classifications of the operation(s) carried out by such user. This description should include a schematic process diagram, which indicates points of discharge to the WWF from the regulated processes.

(iv) Flow measurement. Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined wastestream formula.

(v) Measurement of pollutants.

(A) The categorical pretreatment standards applicable to each regulated process and any new categorically regulated processes for existing sources.

(B) The results of sampling and analysis identifying the nature and concentration, and/or mass, where required by the standard or by the superintendent, of regulated pollutants in the discharge from each regulated process.

(C) Instantaneous, daily maximum, and long-term average concentrations, or mass, where required, shall be reported.

(D) The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in 40 CFR 136 and amendments, unless otherwise specified in an applicable categorical standard. Where the standard requires compliance with a BMP or

pollution prevention alternative, the user shall submit documentation as required by the superintendent or the applicable standards to determine compliance with the standard.

(E) The user shall take a minimum of one (1) representative sample to compile that data necessary to comply with the requirements of this subsection (1)(b).

(F) Samples should be taken immediately downstream from pretreatment facilities if such exist or immediately downstream from the regulated process if no pretreatment exists. If other wastewaters are mixed with the regulated wastewater prior to pretreatment the User should measure the flows and concentrations necessary to allow use of the combined waste-stream formula to evaluate compliance with the pretreatment standards.

(G) Sampling and analysis shall be performed in accordance with 40 CFR 136 or other approved methods;

(H) The superintendent may allow the submission of a baseline report which utilizes only historical data so long as the data provides information sufficient to determine the need for industrial pretreatment measures.

(I) The baseline report shall indicate the time, date and place of sampling and methods of analysis, and shall certify that such sampling and analysis is representative of normal work cycles and expected pollutant discharges to the WWF.

(c) Compliance certification. A statement, reviewed by the user's duly authorized representative and certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis, and, if not, whether additional Operation and Maintenance (O&M) and/or additional pretreatment is required to meet the pretreatment standards and requirements.

(d) Compliance schedule. If additional pretreatment and/or O&M will be required to meet the pretreatment standards, the shortest schedule by which the user will provide such additional pretreatment and/or O&M must be provided. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. A compliance schedule pursuant to this section must meet the requirements set out in § 18-204(2).

(e) Signature and report certification. All baseline monitoring reports must be certified in accordance with § 18-204(14) and signed by the duly authorized representative.

(2) Compliance schedule progress reports. The following conditions shall apply to the compliance schedule required by § 18-204(1)(d):

(a) The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (such events include, but are not limited to, hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, and beginning and conducting routine operation).

(b) No increment referred to above shall exceed nine (9) months.

(c) The user shall submit a progress report to the superintendent no later than fourteen (14) days following each date in the schedule and the final date of compliance including, at a minimum, whether or not it complied with the increment of progress, the reason for any delay, and, if appropriate, the steps being taken by the user to return to the established schedule.

(d) In no event shall more than nine (9) months elapse between such progress reports to the superintendent.

(3) Reports on compliance with categorical pretreatment standard deadline. Within ninety (90) days following the date for final compliance with applicable categorical pretreatment standards, or in the case of a new source following commencement of the introduction of wastewater into the WWF, any user subject to such pretreatment standards and requirements shall submit to the superintendent a report containing the information described in section § 18-204(1)(b)(iv) and (v). For all other users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the user's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with subsection (14) below. All sampling will be done in conformance with subsection (11) below.

(4) Periodic compliance reports. (a) All significant industrial users must, at a frequency determined by the superintendent, submit no less than twice per year (April 10 and October 10) reports indicating the nature, concentration of pollutants in the discharge which are limited by pretreatment standards and the measured or estimated average and maximum daily flows for the reporting period. In cases where the pretreatment standard requires compliance with a Best Management Practice (BMP) or pollution prevention alternative, the user must submit documentation required by the superintendent or the pretreatment standard necessary to determine the compliance status of the user.

(b) All periodic compliance reports must be signed and certified in accordance with this chapter.

(c) All wastewater samples must be representative of the user's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order

at all times. The failure of a user to keep its monitoring facility in good working order shall not be grounds for the user to claim that sample results are unrepresentative of its discharge.

(d) If a user subject to the reporting requirement in this section monitors any regulated pollutant at the appropriate sampling location more frequently than required by the superintendent, using the procedures prescribed in subsection (11) below, the results of this monitoring shall be included in the report.

(5) Reports of changed conditions. Each user must notify the superintendent of any significant changes to the user's operations or system which might alter the nature, quality, or volume of its wastewater at least sixty (60) days before the change.

(a) The superintendent may require the user to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application under § 18-201.

(b) The superintendent may issue an individual wastewater discharge permit under § 18-202 or modify an existing wastewater discharge permit under § 18-202 in response to changed conditions or anticipated changed conditions.

(6) Report of potential problems. (a) In the case of any discharge, including, but not limited to, accidental discharges, discharges of a non-routine, episodic nature, a non-customary batch discharge, a slug discharge or slug load, that might cause potential problems for the POTW, the user shall immediately telephone and notify the superintendent of the incident. This notification shall include the location of the discharge, type of waste, concentration and volume, if known, and corrective actions taken by the user.

(b) Within five (5) days following such discharge, the user shall, unless waived by the superintendent, submit a detailed written report describing the cause(s) of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability which might be incurred as a result of damage to the WWF, natural resources, or any other damage to person or property; nor shall such notification relieve the user of any fines, penalties, or other liability which may be imposed pursuant to this chapter.

(c) A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees who to call in the event of a discharge described in subsection (6)(a) above. Employers shall ensure that all employees who could cause such a discharge to occur are advised of the emergency notification procedure.

(d) Significant industrial users are required to notify the superintendent immediately of any changes at its facility affecting the potential for a slug discharge.

(7) Reports from unpermitted users. All users not required to obtain an individual wastewater discharge permit shall provide appropriate reports to the superintendent as the superintendent may require to determine users status as non-permitted.

(8) Notice of violations/repeat sampling and reporting. Where a violation has occurred, another sample shall be conducted within thirty (30) days of becoming aware of the violation, either a repeat sample or a regularly scheduled sample that falls within the required time frame. If sampling performed by a user indicates a violation, the user must notify the superintendent within twenty-four (24) hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the superintendent within thirty (30) days after becoming aware of the violation. Resampling by the industrial user is not required if the town performs sampling at the user's facility at least once a month, or if the town performs sampling at the user's facility between the time when the initial sampling was conducted and the time when the user or the town receives the results of this sampling, or if the town has performed the sampling and analysis in lieu of the industrial user.

(9) Notification of the discharge of hazardous waste. (a) Any user who commences the discharge of hazardous waste shall notify the POTW, the EPA Regional Waste Management Division Director, and state hazardous waste authorities, in writing, of any discharge into the POTW of a substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR part 261. Such notification must include the name of the hazardous waste as set forth in 40 CFR part 261, the EPA hazardous waste number, and the type of discharge (continuous, batch, or other). If the user discharges more than one hundred (100) kilograms of such waste per calendar month to the POTW, the notification also shall contain the following information to the extent such information is known and readily available to the user: an identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the wastestream discharged during that calendar month, and an estimation of the mass of constituents in the wastestream expected to be discharged during the following twelve (12) months. All notifications must take place no later than one hundred and eighty (180) days after the discharge commences. Any notification under this subsection (9)(a) need be submitted only once for each hazardous waste discharged. However, notifications of changed conditions must be submitted under § 18-204(5). The notification requirement in this section does not apply to pollutants already reported by users subject to



categorical pretreatment standards under the self-monitoring requirements of §§ 18-204(1), 18-204(3), and 18-204(4).

(b) Dischargers are exempt from the requirements of subsection (9)(a) above during a calendar month in which they discharge no more than fifteen (15) kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specified in 40 CFR §§ 261.30(d) and 261.33(e). Discharge of more than fifteen (15) kilograms of non-acute hazardous wastes in a calendar month, or of any quantity of acute hazardous wastes as specified in 40 CFR §§ 261.30(d) and 261.33(e), requires a one (1) time notification. Subsequent months during which the user discharges more than such quantities of any hazardous waste do not require additional notification.

(c) In the case of any new regulations under section 3001 of RCRA identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the user must notify the Superintendent, the EPA Regional Waste Management Waste Division Director, and state hazardous waste authorities of the discharge of such substance within ninety (90) days of the effective date of such regulations.

(d) In the case of any notification made under this section, the user shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.

(e) This provision does not create a right to discharge any substance not otherwise permitted to be discharged by this chapter, a permit issued there under, or any applicable federal or state law.

(10) Analytical requirements. All pollutant analyses, including sampling techniques, to be submitted as part of a wastewater discharge permit application or report shall be performed in accordance with the techniques prescribed in 40 CFR part 136 and amendments thereto, unless otherwise specified in an applicable categorical pretreatment standard. If 40 CFR part 136 does not contain sampling or analytical techniques for the pollutant in question, or where the EPA determines that the part 136 sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analyses shall be performed by using validated analytical methods or any other applicable sampling and analytical procedures, including procedures suggested by the Superintendent or other parties approved by EPA.

(11) Sample collection. Samples collected to satisfy reporting requirements must be based on data obtained through appropriate sampling and analysis performed during the period covered by the report, based on data that is representative of conditions occurring during the reporting period.

(a) Except as indicated in subsections (11)(b) and (11)(c) below, the user must collect wastewater samples using twenty-four (24) hour flow-proportional composite sampling techniques, unless time-proportional composite sampling or grab sampling is authorized by

the superintendent. Where time-proportional composite sampling or grab sampling is authorized by the town, the samples must be representative of the discharge. Using protocols (including appropriate preservation) specified in 40 CFR part 136 and appropriate EPA guidance, multiple grab samples collected during a twenty-four (24) hour period may be composited prior to the analysis as follows: for cyanide, total phenols, and sulfides the samples may be composited in the laboratory or in the field; for volatile organics and oil and grease, the samples may be composited in the laboratory. Composite samples for other parameters unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized by the town, as appropriate. In addition, grab samples may be required to show compliance with instantaneous limits

(b) Samples for oil and grease, temperature, pH, cyanide, total phenols, sulfides, and volatile organic compounds must be obtained using grab collection techniques.

(c) For sampling required in support of baseline monitoring and ninety (90) day compliance reports required in subsections (1) and (3) above, a minimum of four (4) grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide and volatile organic compounds for facilities for which historical sampling data do not exist; for facilities for which historical sampling data are available, the superintendent may authorize a lower minimum. For the reports required by subsection (4) of this section, the industrial user is required to collect the number of grab samples necessary to assess and assure compliance with applicable pretreatment standards and requirements.

(12) Date of receipt of reports. Written reports will be deemed to have been submitted on the date postmarked. For reports which are not mailed, the date of receipt of the report shall govern.

(13) Recordkeeping. Users subject to the reporting requirements of this chapter shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this chapter, any additional records of information obtained pursuant to monitoring activities undertaken by the user independent of such requirements, and documentation associated with best management practices established under § 18-208. Records shall include the date, exact place, method, and time of sampling, and the name of the person(s) taking the samples; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses. These records shall remain available for a period of at least three (3) years. This period shall be automatically extended for the duration of any litigation concerning the user or the town, or where the user has been specifically notified of a longer retention period by the superintendent.

(14) Certification statements. Signature and certification. All reports associated with compliance with the pretreatment program shall be signed by the duly authorized representative and shall have the following certification statement attached:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

Reports required to have signatures and certification statement include permit applications, periodic reports, compliance schedules, baseline monitoring, reports of accidental or slug discharges, and any other written report that may be used to determine water quality and compliance with local, state, and federal requirements. (Ord. #336, Nov. 1994, as replaced by Ord. #409, March 2003, Ord. #17-542, Jan. 2018 *Ch9\_10-5-20*, and Ord. #18-548, Oct. 2018 *Ch9\_10-5-20*)

**18-205. Enforcement response plan.** Under the authority of Tennessee Code Annotated, §§ 69-3-123, et seq.:

(1) Complaints: notification of violation: orders.

(a) (i) Whenever the local administrative officer has reason to believe that a violation of any provision of the Monterey Wastewater Regulations, pretreatment program, or of orders of the local hearing authority issued under it has occurred, is occurring, or is about to occur, the local administrative officer may cause a written complaint to be served upon the alleged violator or violators.

(ii) The complaint shall specify the provision or provisions of the pretreatment program or order alleged to be violated or about to be violated and the facts alleged to constitute a violation, may order that necessary corrective action be taken within a reasonable time to be prescribed in the order, and shall inform the violators of the opportunity for a hearing before the local hearing authority.

(iii) Any such order shall become final and not subject to review unless the alleged violators request by written petition a hearing before the local hearing authority as provided in § 18-205(2), no later than thirty (30) days after the date the order is served; provided, that the local hearing authority may review

the final order as provided in Tennessee Code Annotated, § 69-3-123(a)(3).

(iv) Notification of violation. Notwithstanding the provisions of subsections (1)(a)(i) through (1)(a)(iii) above, whenever the pretreatment coordinator finds that any user has violated or is violating this chapter, a wastewater discharge permit or order issued hereunder, or any other pretreatment requirements, the town or its agent may serve upon the user a written notice of violation. Within fifteen (15) days of the receipt of this notice, the user shall submit to the pretreatment coordinator an explanation of the violation and a plan for its satisfactory correction and prevention including specific actions. Submission of this plan in no way relieves the user of liability for any violations occurring before or after receipt of the notice of violation. Nothing in this section limits the authority of the town to take any action, including emergency actions or any other enforcement action, without first issuing a notice of violation.

(b) (i) When the local administrative officer finds that a user has violated or continues to violate this chapter, wastewater discharge permits, any order issued hereunder, or any other pretreatment standard or requirement, he may issue one (1) of the following orders. These orders are not prerequisite to taking any other action against the user.

(A) Compliance order. An order to the user responsible for the discharge directing that the user come into compliance within a specified time. If the user does not come into compliance within the specified time, sewer service shall be discontinued unless adequate treatment facilities, devices, or other related appurtenances are installed and properly operated. Compliance orders may also contain other requirements to address the noncompliance, including additional self-monitoring, and management practices designed to minimize the amount of pollutants discharged to the sewer. A compliance order may not extend the deadline for compliance established for a federal pretreatment standard or requirement, nor does a compliance order release the user of liability for any violation, including any continuing violation.

(B) Cease and desist order. An order to the user directing it to cease all such violations and directing it to immediately comply with all requirements and take needed remedial or preventive action to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge.

(C) Consent order. Assurances of voluntary compliance, or other documents establishing an agreement with the user responsible for noncompliance, including specific action to be taken by the user to correct the noncompliance within a time period specified in the order.

(D) Emergency order. (1) Whenever the local administrative officer finds that an emergency exists imperatively requiring immediate action to protect the public health, safety, or welfare, the health of animals, fish or aquatic life, a public water supply, or the facilities of the WWF, the local administrative officer may, without prior notice, issue an order reciting the existence of such an emergency and requiring that any action be taken as the local administrative officer deems necessary to meet the emergency.

(2) If the violator fails to respond or is unable to respond to the order, the local administrative officer may take any emergency action as the local administrative officer deems necessary, or contract with a qualified person or persons to carry out the emergency measures. The local administrative officer may assess the person or persons responsible for the emergency condition for actual costs incurred by the town in meeting the emergency.

(ii) Appeals from orders of the local administrative officer.

(A) Any user affected by any order of the local administrative officer in interpreting or implementing the provisions of this chapter may file with the local administrative officer a written request for reconsideration within thirty (30) days of the order, setting forth in detail the facts supporting the user's request for reconsideration.

(B) If the ruling made by the local administrative officer is unsatisfactory to the person requesting reconsideration, he may, within thirty (30) days, file a written petition with the local hearing authority as provided in subsection (2) below. The local administrative officer's order shall remain in effect during the period of reconsideration.

(c) Except as otherwise expressly provided, any notice, complaint, order, or other instrument issued by or under authority of this section may be served on any named person personally, by the local

administrative officer or any person designated by the local administrative officer, or service may be made in accordance with Tennessee statutes authorizing service of process in civil action. Proof of service shall be filed in the office of the local administrative officer.

(2) Hearings. (a) Any hearing or rehearing brought before the local hearing authority shall be conducted in accordance with the following:

(i) Upon receipt of a written petition from the alleged violator pursuant to this subsection (2)(a), the local administrative officer shall give the petitioner thirty (30) days' written notice of the time and place of the hearing, but in no case shall the hearing be held more than sixty (60) days from the receipt of the written petition, unless the local administrative officer and the petitioner agree to a postponement;

(ii) The hearing may be conducted by the local hearing authority at a regular or special meeting. A quorum of the local hearing authority must be present at the regular or special meeting to conduct the hearing;

(iii) A verbatim record of the proceedings of the hearings shall be taken and filed with the local hearing authority, together with the findings of fact and conclusions of law made under subdivision (2)(a)(vi) below. The recorded transcript shall be made available to the petitioner or any party to a hearing upon payment of a charge set by the local administrative officer to cover the costs of preparation;

(iv) In connection with the hearing, the chair shall issue subpoenas in response to any reasonable request by any party to the hearing requiring the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in the hearing. In case of contumacy or refusal to obey a notice of hearing or subpoena issued under this section, the Chancery Court of Putnam County has jurisdiction upon the application of the local hearing authority or the local administrative officer to issue an order requiring the person to appear and testify or produce evidence as the case may require, and any failure to obey an order of the court may be punished by such court as contempt;

(v) Any member of the local hearing authority may administer oaths and examine witnesses;

(vi) On the basis of the evidence produced at the hearing, the local hearing authority shall make findings of fact and conclusions of law and enter decisions and orders that, in its opinion, will best further the purposes of the pretreatment program. It shall provide written notice of its decisions and orders to the alleged violator. The order issued under this subsection (2)(a) shall be issued by the person or persons designated by the

chair no later than thirty (30) days following the close of the hearing;

(vii) The decision of the local hearing authority becomes final and binding on all parties unless appealed to the courts as provided in subsection (2)(b) below.

(viii) Any person to whom an emergency order is directed (§ 18-205(1)(b)(i)(D)) shall comply immediately, but on petition to the local hearing authority will be afforded a hearing as soon as possible. In no case will the hearing be held later than three (3) days from the receipt of the petition by the local hearing authority.

(b) An appeal may be taken from any final order or other final determination of the local hearing authority by any party who is or may be adversely affected, including the pretreatment agency. Appeal must be made to the chancery court under the common law writ of certiorari set out in Tennessee Code Annotated, §§ 27-8-101, et seq. within sixty (60) days from the date the order or determination is made.

(c) Show cause hearing. Notwithstanding the provisions of subsections (2)(a) or (2)(b) above, the pretreatment coordinator may order any user that causes or contributes to violation(s) of this chapter, wastewater discharge permits, or orders issued hereunder, or any other pretreatment standard or requirements, to appear before the local administrative officer and show cause why a proposed enforcement action should not be taken. Notice shall be served on the user specifying the time and place for the meeting, the proposed enforcement action, the reasons for the action, and a request that the user show cause why the proposed enforcement action should be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least ten (10) days prior to the hearing. The notice may be served on any authorized representative of the user. Whether or not the user appears as ordered, immediate enforcement action may be pursued following the hearing date. A show cause hearing shall not be prerequisite for taking any other action against the user. A show cause hearing may be requested by the discharger prior to revocation of a discharge permit or termination of service.

(3) Violations, administrative civil penalty. Under the authority of Tennessee Code Annotated, § 69-3-125:

(a) (i) Any person, including, but not limited to, industrial users, who does any of the following acts or omissions is subject to a civil penalty of up to ten thousand dollars (\$10,000.00) per day for each day during which the act or omission continues or occurs:

(A) Unauthorized discharge, discharging without a permit;

(B) Violates an effluent standard or limitation;

(C) Violates the terms or conditions of a permit;

- (D) Fails to complete a filing requirement;
- (E) Fails to allow or perform an entry, inspection, monitoring or reporting requirement;
- (F) Fails to pay user or cost recovery charges; or
- (G) Violates a final determination or order of the local hearing authority or the local administrative officer.

(ii) Any administrative civil penalty must be assessed in the following manner:

(A) The local administrative officer may issue an assessment against any person or industrial user responsible for the violation;

(B) Any person or industrial user against whom an assessment has been issued may secure a review of the assessment by filing with the local administrative officer a written petition setting forth the grounds and reasons for the violator's objections and asking for a hearing in the matter involved before the local hearing authority and, if a petition for review of the assessment is not filed within thirty (30) days after the date the assessment is served, the violator is deemed to have consented to the assessment and it becomes final;

(C) Whenever any assessment has become final because of a person's failure to appeal the assessment, the local administrative officer may apply to the appropriate court for a judgment and seek execution of the judgment, and the court, in such proceedings, shall treat a failure to appeal the assessment as a confession of judgment in the amount of the assessment;

(D) In assessing the civil penalty the local administrative officer may consider the following factors:

(1) Whether the civil penalty imposed will be a substantial economic deterrent to the illegal activity;

(2) Damages to the pretreatment agency, including compensation for the damage or destruction of the facilities of the publicly owned treatment works, and also including any penalties, costs and attorneys' fees incurred by the pretreatment agency as the result of the illegal activity, as well as the expenses involved in enforcing this section and the costs involved in rectifying any damages;

(3) Cause of the discharge or violation;



(4) The severity of the discharge and its effect upon the facilities of the publicly owned treatment works and upon the quality and quantity of the receiving waters;

(5) Effectiveness of action taken by the violator to cease the violation;

(6) The technical and economic reasonableness of reducing or eliminating the discharge; and

(7) The economic benefit gained by the violator.

(E) The local administrative officer may institute proceedings for assessment in the chancery court of the county in which all or part of the pollution or violation occurred, in the name of the pretreatment agency.

(iii) The local hearing authority may establish by regulation a schedule of the amount of civil penalty which can be assessed by the local administrative officer for certain specific violations or categories of violations.

(iv) Assessments may be added to the user's next scheduled sewer service charge and the local administrative officer shall have such other collection remedies as may be available for other service charges and fees.

(b) Any civil penalty assessed to a violator pursuant to this section may be in addition to any civil penalty assessed by the commissioner for violations of Tennessee Code Annotated, § 69-3-115(a)(1)(F). However, the sum of penalties imposed by this section and by Tennessee Code Annotated, § 69-3-115(a), shall not exceed ten thousand dollars (\$10,000.00) per day for each day during which the act or omission continues or occurs.

(4) Assessment for noncompliance with program permits or orders.

(a) The local administrative officer may assess the liability of any polluter or violator for damages to the town resulting from any person's or industrial user's pollution or violation, failure, or neglect in complying with any permits or orders issued pursuant to the provisions of the pretreatment program or this section.

(b) If an appeal from such assessment is not made to the local hearing authority by the polluter or violator within thirty (30) days of notification of such assessment, the polluter or violator shall be deemed to have consented to the assessment, and it shall become final.

(c) Damages may include any expenses incurred in investigating and enforcing the pretreatment program of this section, in removing, correcting, and terminating any pollution, and also compensation for any actual damages caused by the pollution or violation.

(d) Whenever any assessment has become final because of a person's failure to appeal within the time provided, the local administrative officer may apply to the appropriate court for a judgment, and seek execution on the judgment. The court, in its proceedings, shall treat the failure to appeal the assessment as a confession of judgment in the amount of the assessment.

(5) Judicial proceedings and relief. The local administrative officer may initiate proceedings in the chancery court of the county in which the activities occurred against any person or industrial user who is alleged to have violated or is about to violate the pretreatment program, this section, or orders of the local hearing authority or local administrative officer. In the action, the local administrative officer may seek, and the court may grant, injunctive relief and any other relief available in law or equity.

(6) Termination of discharge. In addition to the revocation of permit provisions in § 18-202(2)(g) of this chapter, users are subject to termination of their wastewater discharge for violations of a wastewater discharge permit, or orders issued hereunder, or for any of the following conditions:

- (a) Violation of wastewater discharge permit conditions.
- (b) Failure to accurately report the wastewater constituents and characteristics of its discharge.
- (c) Failure to report significant changes in operations or wastewater volume, constituents and characteristics prior to discharge.
- (d) Refusal of reasonable access to the user's premises for the purpose of inspection, monitoring or sampling.
- (e) Violation of the pretreatment standards in the general discharge prohibitions in § 18-109 of chapter 1.
- (f) Failure to properly submit an industrial waste survey when requested by the pretreatment coordination superintendent.

The user will be notified of the proposed termination of its discharge and be offered an opportunity to show cause, as provided in subsection (2)(c) above, why the proposed action should not be taken.

(7) Disposition of damage payments and penalties—special fund. All damages and/or penalties assessed and collected under the provisions of this section shall be placed in a special fund by the pretreatment agency and allocated and appropriated for the administration of its wastewater fund or combined water and wastewater fund.

(8) Levels of noncompliance. (a) Insignificant noncompliance: For the purpose of this guide, "insignificant noncompliance" is considered a relatively minor infrequent violation of pretreatment standards or requirements. These will usually be responded to informally with a phone call or site visit but may include a Notice of Violation (NOV).

(b) "Significant noncompliance." Per 0400-40-14-08(6)(b)8.

(i) Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of

all of the measurements taken for each parameter taken during a six (6) month period exceed (by any magnitude) a numeric pretreatment standard or requirement, including instantaneous limit.

(ii) "Technical Review Criteria (TRC) violations," defined here as those in which thirty-three percent (33%) or more of all of the measurements for each pollutant parameter taken during a six (6) month period equal or exceed the product of the numeric pretreatment standard or requirement, including instantaneous limits multiplied by the applicable TRC (TRC=1.4 for BOD, TSS fats, oils and grease, and 1.2 for all other pollutants except pH). TRC calculations for pH are not required.

(iii) Any other violation of a pretreatment standard or requirement (daily maximum of longer-term average, instantaneous limit, or narrative standard) that the WWF determines has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of POTW personnel or the general public).

(iv) Any discharge of a pollutant that has caused imminent endangerment to human health, welfare or to the environment or has resulted in the WWF's exercise of its emergency authority under § 18-205(1)(b)(i)(D), Emergency Order, to halt or prevent such a discharge.

(v) Failure to meet, within ninety (90) days after the schedule date, a compliance schedule milestone contained in a local control mechanism or enforcement order for starting construction, completing construction, or attaining final compliance.

(vi) Failure to provide, within forty-five (45) days after their due date, required reports such as baseline monitoring reports, ninety (90) day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules.

(vii) Failure to accurately report noncompliance.

(viii) Any other violation or group of violations, which may include a violation of best management practices, which the WWF determines will adversely affect the operation of implementation of the local pretreatment program.

(ix) Continuously monitored pH violations that exceed limits for a time period greater than fifty (50) minutes or exceed limits by more than 0.5 s.u. more than eight (8) times in four (4) hours.

Any significant noncompliance violations will be responded to according to the Enforcement Response Plan Guide Table (Appendix A).

(9) Public notice of the significant violations. The superintendent shall publish annually, in a newspaper of general circulation that provides meaningful public notice within the jurisdictions served by the WWF, a list of the users which, at any time during the previous twelve (12) months, were in significant noncompliance with applicable pretreatment standards and requirements. The term significant noncompliance shall be applicable to all significant industrial users (or any other industrial user that violates subsections (9)(c), (9)(d) or (9)(h) below) and shall mean:

(a) "Chronic violations of wastewater discharge limits," defined here as those in which sixty-six percent (66%) or more of all the measurements taken for the same pollutant parameter taken during a six (6) month period exceed (by any magnitude) a numeric pretreatment standard or requirement, including instantaneous limits;

(b) "Technical Review Criteria (TRC) violations," defined here as those in which thirty-three percent (33%) or more of wastewater measurements taken for each pollutant parameter during a six (6) month period equals or exceeds the product of the numeric pretreatment standard or requirement including instantaneous limits, multiplied by the applicable criteria (1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH). TRC calculations for pH are not required;

(c) Any other violation of a pretreatment standard or requirement as defined by § 18-207 (daily maximum, long-term average, instantaneous limit, or narrative standard) that the superintendent determines has caused, alone or in combination with other discharges, interference or pass through, including endangering the health of WWF personnel or the general public;

(d) Any discharge of a pollutant that has caused imminent endangerment to the public or to the environment, or has resulted in the superintendent's exercise of its emergency authority to halt or prevent such a discharge;

(e) Failure to meet, within ninety (90) days of the scheduled date, a compliance schedule milestone contained in an individual wastewater discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance;

(f) Failure to accurately report noncompliance;

(g) Any other violation(s), which may include a violation of best management practices, which the superintendent determines will adversely affect the operation or implementation of the local pretreatment program; or

(h) Continuously monitored pH violations that exceed limits for a time period greater than fifty (50) minutes or exceed limits by more than 0.5 s.u. more than eight (8) times in four (4) hours.

(10) Criminal penalties. In addition to civil penalties imposed by the local administrative officer and the State of Tennessee, any person who willfully

and negligently violates permit conditions is subject to criminal penalties imposed by the State of Tennessee and the United States. (Ord. #336, Nov. 1994, as replaced by Ord. #409, March 2003, Ord. #17-542, Jan. 2018 *Ch9\_10-5-20*, and Ord. #18-548, Oct. 2018 *Ch9\_10-5-20*)

**18-206. Enforcement response guide table.** (1) Purpose. The purpose of this chapter is to provide for the consistent and equitable enforcement of the provisions of this chapter.

(2) Enforcement response guide table. The applicable officer shall use the schedule found in Appendix A to impose sanctions or penalties for the violation of this chapter. (Ord. #336, Nov. 1994, as replaced by Ord. #409, March 2003, Ord. #17-542, Jan. 2018 *Ch9\_10-5-20*, and Ord. #18-548, Oct. 2018 *Ch9\_10-5-20*)

**18-207. Fees and billing.** (1) Purpose. It is the purpose of this chapter to provide for the equitable recovery of costs from users of the town's wastewater treatment system including costs of operation, maintenance, administration, bond service costs, capital improvements, depreciation, and equitable cost recovery of EPA administered federal wastewater grants.

(2) Types of charges and fees. The charges and fees as established in the town's schedule of charges and fees may include, but are not limited to:

- (a) Inspection fee and tapping fee;
- (b) Fees for applications for discharge;
- (c) Sewer use charges;
- (d) Surcharge fees (see Table C);
- (e) Waste hauler permit;
- (f) Industrial wastewater discharge permit fees;
- (g) Fees for industrial discharge monitoring; and
- (h) Other fees as the town may deem necessary.

(3) Fees for application for discharge. A fee may be charged when a user or prospective user makes application for discharge as required by § 18-202.

(4) Inspection fee and tapping fee. An inspection fee and tapping fee for a building sewer installation shall be paid to the town's sewer department at the time the application is filed.

(5) Sewer user charges. The board of mayor and aldermen shall establish monthly rates and charges for the use of the wastewater system and for the services supplied by the wastewater system.

(6) Industrial wastewater discharge permit fees. A fee may be charged for the issuance of an industrial wastewater discharge fee in accordance with § 18-207 of this chapter.

(7) Fees for industrial discharge monitoring. Fees may be collected from industrial users having pretreatment or other discharge requirements to

compensate the town for the necessary compliance monitoring and other administrative duties of the pretreatment program.

(8) Administrative civil penalties. Administrative civil penalties shall be issued according to the following schedule. Violations are categorized in the Enforcement Response Guide Table (Appendix A). The local administrative officer may assess a penalty within the appropriate range. Penalty assessments are to be assessed per violation per day unless otherwise noted.

Category 1	No penalty
Category 2	\$50.00-\$500.00
Category 3	\$500.00-\$1,000.00
Category 4	\$1,000.00-\$5,000.00
Category 5	\$5,000.00-\$10,000.00

(Ord. #336, Nov. 1994, as replaced by Ord. #409, March 2003, Ord. #17-542, Jan. 2018 *Ch9\_10-5-20*, and Ord. #18-548, Oct. 2018 *Ch9\_10-5-20*)

**18-208. Validity.** This chapter and its provisions shall be valid for all service areas, regions, and sewage works under the jurisdiction of the town. (Ord. #336, Nov. 1994, as replaced by Ord. #409, March 2003, Ord. #17-542, Jan. 2018 *Ch9\_10-5-20*, and Ord. #18-548, Oct. 2018 *Ch9\_10-5-20*)

**18-209–18-212. Deleted.** (Ord. #336, Nov. 1994, as replaced by Ord. #409, March 2003, and deleted by Ord. #17-542, Jan. 2018 *Ch9\_10-5-2020*)

## CHAPTER 3

### SEWAGE AND HUMAN EXCRETA DISPOSAL<sup>1</sup>

#### SECTION

- 18-301. Definitions.
- 18-302. Places required to have sanitary disposal methods.
- 18-303. When a connection to the public sewer is required.
- 18-304. When a septic tank shall be used.
- 18-305. Registration and records of septic tank cleaners, etc.
- 18-306. Use of pit privy or other method of disposal.
- 18-307. Approval and permit required for septic tanks, privies, etc.
- 18-308. Owner to provide disposal facilities.
- 18-309. Occupant to maintain disposal facilities.
- 18-310. Only specified methods of disposal to be used.
- 18-311. Discharge into watercourses restricted.
- 18-312. Pollution of groundwater prohibited.
- 18-313. Enforcement of chapter.
- 18-314. Carnivals, circuses, etc.
- 18-315. Violations.

**18-301. Definitions.** The following definitions shall apply in the interpretation of this chapter:

- (1) "Accessible sewer." A public sanitary sewer located in a street or alley abutting on the property in question or otherwise within two hundred feet (200') of any boundary of said property measured along the shortest available right-of-way.
- (2) "Health officer." The person duly appointed to such position having jurisdiction, or any person or persons authorized to act as his agent.
- (3) "Human excreta." The bowel and kidney discharges of human beings.
- (4) "Sewage." All water-carried human and household wastes from residences, buildings, or industrial establishments.
- (5) "Approved septic tank system." A watertight covered receptacle of monolithic concrete, either precast or cast in place, constructed according to plans approved by the health officer. Such tanks shall have a capacity of not less than 750 gallons and in the case of homes with more than two (2) bedrooms the capacity of the tank shall be in accordance with the recommendations of the Tennessee Department of Health as provided for in its 1967 bulletin entitled "Recommended Guide for Location, Design, and Construction of Septic Tanks

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<sup>1</sup>Municipal code reference  
Plumbing code: title 12, chapter 1.

and Disposal Fields." A minimum liquid depth of four feet (4') should be provided with a minimum depth of air space above the liquid of one foot (1'). The septic tank dimensions should be such that the length from inlet to outlet is at least twice but not more than three (3) times the width. The liquid depth should not exceed five feet (5'). The discharge from the septic tank shall be disposed of in such a manner that it may not create a nuisance on the surface of the ground or pollute the under groundwater supply, and such disposal shall be in accordance with recommendations of the health officer as determined by acceptable soil percolation data.

(6) "Sanitary pit privy." A privy having a fly-tight floor and seat over an excavation in earth, located and constructed in such a manner that flies and animals will be excluded, surface water may not enter the pit, and danger of pollution of the surface of the ground or the under groundwater supply will be prevented.

(7) "Other approved method of sewage disposal." Any privy, chemical toilet, or other toilet device (other than a sanitary sewer, septic tank, or sanitary pit privy as described above) the type, location, and construction of which have been approved by the health officer.

(8) "Watercourse." Any natural or artificial drain which conveys water either continuously or intermittently. (1980 Code, § 8-301)

**18-302. Places required to have sanitary disposal methods.** Every residence, building, or place where human beings reside, assemble, or are employed within the corporate limits shall be required to have a sanitary method for disposal of sewage and human excreta. (1980 Code, § 8-302)

**18-303. When a connection to the public sewer is required.** Wherever an accessible sewer exists and water under pressure is available, approved plumbing facilities shall be provided and the wastes from such facilities shall be discharged through a connection to said sewer made in compliance with the requirements of the official responsible for the public sewerage system. On any lot or premises accessible to the sewer no other method of sewage disposal shall be employed. (1980 Code, § 8-303)

**18-304. When a septic tank shall be used.** Wherever water carried sewage facilities are installed and their use is permitted by the health officer, and an accessible sewer does not exist, the wastes from such facilities shall be discharged into an approved septic tank system.

No septic tank or other water-carried sewage disposal system except a connection to a public sewer shall be installed without the approval of the health officer or his duly appointed representative. The design, layout, and construction of such systems shall be in accordance with specifications approved by the health officer and the installation shall be under the general supervision of the department of health. (1980 Code, § 8-304)



**18-305. Registration and records of septic tank cleaners, etc.**

Every person, firm, or corporation who operates equipment for the purpose of removing digested sludge from septic tanks, cesspools, privies, and other sewage disposal installations on private or public property must register with the health officer and furnish such records of work done within the corporate limits as may be deemed necessary by the health officer. (1980 Code, § 8-305)

**18-306. Use of pit privy or other method of disposal.**

Wherever a sanitary method of human excreta disposal is required under § 18-302 and water-carried sewage facilities are not used, a sanitary pit privy or other approved method of disposal shall be provided. (1980 Code, § 8-306)

**18-307. Approval and permit required for septic tanks, privies, etc.**

Any person, firm, or corporation proposing to construct a septic tank system, privy, or other sewage disposal facility, requiring the approval of the health officer under this chapter, shall before the initiation of construction obtain the approval of the health officer for the design and location of the system and secure a permit from the health officer for such system. (1980 Code, § 8-307)

**18-308. Owner to provide disposal facilities.**

It shall be the duty of the owner of any property upon which facilities for sanitary sewage or human excreta disposal are required by § 18-302, or the agent of the owner to provide such facilities. (1980 Code, § 8-308)

**18-309. Occupant to maintain disposal facilities.**

It shall be the duty of the occupant, tenant, lessee, or other person in charge to maintain the facilities for sewage disposal in a clean and sanitary condition at all times and no refuse or other material which may unduly fill up, clog, or otherwise interfere with the operation of such facilities shall be deposited therein. (1980 Code, § 8-309)

**18-310. Only specified methods of disposal to be used.**

No sewage or human excreta shall be thrown out, deposited, buried, or otherwise disposed of, except by a sanitary method of disposal as specified in this chapter. (1980 Code, § 8-310)

**18-311. Discharge into watercourses restricted.**

No sewage or excreta shall be discharged or deposited into any lake or watercourse except under conditions specified by the health officer and specifically authorized by the Tennessee Stream Pollution Control Board. (1980 Code, § 8-311)

**18-312. Pollution of groundwater prohibited.**

No sewage effluent from a septic tank, sewage treatment plant, or discharges from any plumbing

facility shall empty into any well, either abandoned or constructed for this purpose, cistern, sinkhole, crevice, ditch, or other opening either natural or artificial in any formation which may permit the pollution of groundwater. (1980 Code, § 8-312)

**18-313. Enforcement of chapter.** It shall be the duty of the health officer to make an inspection of the methods of disposal of sewage and human excreta as often as is considered necessary to ensure full compliance with the terms of this chapter. Written notification of any violation shall be given by the health officer to the person or persons responsible for the correction of the condition, and correction shall be made within forty-five (45) days after notification. If the health officer shall advise any person that the method by which human excreta and sewage is being disposed of constitutes an immediate and serious menace to health such person shall at once take steps to remove the menace, and failure to remove such menace immediately shall be punishable under the general penalty clause for this code; but such person shall be allowed the number of days herein provided within which to make permanent correction. (1980 Code, § 8-313)

**18-314. Carnivals, circuses, etc.** Whenever carnivals, circuses, or other transient groups of persons come within the corporate limits such groups of transients shall provide a sanitary method for disposal of sewage and human excreta. Failure of a carnival, circus, or other transient group to provide such sanitary method of disposal and to make all reasonable changes and corrections proposed by the health officer shall constitute a violation of this section. In these cases the violator shall not be entitled to the notice of forty-five (45) days provided for in the preceding section. (1980 Code, § 8-314)

**18-315. Violations.** Any person, persons, firm, association, or corporation or agent thereof who shall fail, neglect, or refuse to comply with the provisions of this chapter shall be deemed guilty of a misdemeanor and shall be punishable under the general penalty clause for this code. (1980 Code, § 8-315)

## CHAPTER 4

### CROSS-CONNECTIONS, AUXILIARY INTAKES, ETC.<sup>1</sup>

#### SECTION

- 18-401. Objectives.
- 18-402. Definitions.
- 18-403. Compliance with Tennessee Code Annotated.
- 18-404. Regulated.
- 18-405. Permit required.
- 18-406. Inspections.
- 18-407. Right of entry for inspections.
- 18-408. Correction of violations.
- 18-409. Required devices.
- 18-410. Non-potable supplies.
- 18-411. Statement required.
- 18-412. Penalty; discontinuance of water supply.
- 18-413. Provision applicable.

**18-401. Objectives.** The objectives of this chapter are to:

- (1) Protect the public potable water system of the Town of Monterey from the possibility of contamination or pollution by isolating, within the customer's internal distribution system, such contaminants or pollutants that could backflow or backsiphon into the public water system;
- (2) Promote the elimination or control of existing cross-connections, actual or potential, between the customer's in-house potable water system and non-potable water systems, plumbing fixtures, and industrial piping systems; and
- (3) Provide for the maintenance of a continuing program of cross-connection control that will systematically and effectively prevent the contamination or pollution of all potable water systems. (1980 Code, § 8-401, as replaced by Ord. #464, June 2009)

**18-402. Definitions.** The following words, terms and phrases shall have the meanings ascribed to them in this section, when used in the interpretation and enforcement of this chapter:

- (1) "Air-gap" means a vertical, physical separation between a water supply and the overflow rim of a non-pressurized receiving vessel. An approved

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<sup>1</sup>Municipal code references

Plumbing code: title 12.

Water and sewer system administration: title 18.

Wastewater treatment: title 18.

air-gap separation shall be at least twice the inside diameter of the water supply line, but in no case less than two inches (2"). Where a discharge line serves as receiver, the air-gap shall be at least twice the diameter of the discharge line, but not less than two inches (2").

(2) "Atmospheric vacuum breaker" means a device which prevents backsiphonage by creating an atmospheric vent when there is either a negative pressure or sub-atmospheric pressure in the water system.

(3) "Auxiliary intake" means any water supply on or available to a premises, other than that directly supplied by the public water system. These auxiliary waters may include water from another purveyor's public water system; any natural source, such as a well, spring, river, stream, and so forth; used, reclaimed or recycled waters; or industrial fluids.

(4) "Backflow" means the undesirable reversal of the intended direction of flow in a potable water distribution system as a result of a cross-connection.

(5) "Backpressure" means any elevation of pressure in the downstream piping system (caused by pump, elevated tank or piping, stream and/or air pressure) above the water supply pressure at the point which would cause, or tend to cause, a reversal of the normal direction of flow.

(6) "Backsiphonage" means the flow of water or other liquids, mixtures or substances into the potable water system from any source other than its intended source, caused by the reduction of pressure in the potable water system.

(7) "Bypass" means any system of piping or other arrangement whereby water from the public water system can be diverted around a backflow prevention device.

(8) "Cross-connection" means any physical connection or potential connection whereby the public water system is connected, directly or indirectly, with any other water supply system, sewer, drain, conduit, pool, storage reservoir, plumbing fixture 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 or backsiphonage. Bypass arrangements, jumper connections, removable sections, swivel or changeover devices, through which or because of which backflow could occur, are considered to be cross-connections.

(9) "Double check valve assembly" means an assembly of two (2) independently operating, approved check valves with tightly closing resilient seated shut-off valves on each side of the check valves, fitted with properly located resilient seated test cocks for testing each check valve.

(10) "Double check detector assembly" means an assembly of two (2) independently operating, approved check valves with an approved water meter (protected by another double check valve assembly) connected across the check valves, with tightly closing resilient seated shut-off valves on each side of the check valves, fitted with properly located resilient seated test cocks for testing each part of the assembly.

(11) "Fire protection systems" shall be classified in six (6) different classes in accordance with AWWA Manual M14-Second Edition, 1990. The six (6) classes are as follows:

(a) Class 1 shall be those with direct connections from public water mains only; no pumps, tanks or reservoirs; no physical connection from other water supplies; no antifreeze or other additives of any kind; all sprinkler drains discharging to the atmosphere, dry wells or other safe outlets.

(b) Class 2 shall be the same as Class 1, except that booster pumps may be installed in the connections from the street mains.

(c) Class 3 shall be those with direct connection from public water supply mains, plus one (1) or more of the following: elevated storage tanks, fire pumps taking suction from above ground covered reservoirs or tanks, and/or pressure tanks (all storage facilities are filled from or connected to public water only, and the water in the tanks is to be maintained in a potable condition).

(d) Class 4 shall be those with direct connection from the public water supply mains, similar to Class 1 and Class 2, with an auxiliary water supply dedicated to fire department use and available to the premises, such as an auxiliary supply located with one thousand seven hundred feet (1,700') of the pumper connection.

(e) Class 5 shall be those directly supplied from public water mains and interconnected with auxiliary supplies, such as pumps taking suction from reservoirs exposed to contamination, or rivers and ponds; driven wells; mills or other industrial water systems; or where antifreeze or other additives are used.

(f) Class 6 shall be those with combined industrial and fire protection systems supplied from the public water mains only, with or without gravity storage or pump suction tanks.

(12) "Interconnection" means any system of piping or other arrangements whereby the public water supply 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.

(13) "Person" means any and all persons, natural or artificial, including any individual, firm or association, and any municipal or private corporation organized or existing under the laws of this or any other state or country.

(14) "Potable water" means water, which meets the criteria of the Tennessee Department of Environment and Conservation and the United States Environmental Protection Agency for human consumption.

(15) "Pressure vacuum breaker" means an assembly consisting of a device containing one (1) or two (2) independently operating spring loaded check valves and an independently operating spring loaded air inlet valve located on the discharge side of the check valve(s), with tightly closing shut-off valves on

each side of the check valves and properly located test cocks for the testing of the check valves and relief valve.

(16) "Public water supply" means the Town of Monterey, which furnishes potable water to the public for general use and which is recognized as the public water supply by the Tennessee Department of Environment and Conservation.

(17) "Reduced pressure principal backflow prevention device" means an assembly consisting of two (2) independently operating approved check valves with an automatically operating differential relief valve located between the two (2) check valves, tightly closing resilient seated shut-off valves, plus properly located resilient seated test cocks for the testing of the check valves and the relief valve.

(18) "Manager" means the Manager of the Town of Monterey or his duly authorized deputy, agent or representative.

(19) "Water system" shall be considered as made up of two (2) parts, the utility system and the customer system.

(a) The "utility system" shall consist of the facilities for the storage and distribution of water and shall include all those facilities of the water system under the complete control of the utility system, up to the point where the customer's system begins (i.e., the water meter); and

(b) The "customer system" shall include those parts of the facilities beyond the termination of the utility system distribution system that are utilized in conveying domestic water to points of use. (1980 Code, § 8-402, as replaced by Ord. #464, June 2009)

**18-403. Compliance with Tennessee Code Annotated.** The Town of Monterey shall be responsible for the protection of the public water system from contamination or pollution due to the backflow of contamination through the water service connection. The Town of Monterey shall comply with Tennessee Code Annotated, § 68-221-711, as well as the Rules and Regulations for Public Water Systems and Drinking Water Quality, legally adopted in accordance with this code, which pertain to cross-connections, auxiliary intakes, bypasses and interconnections; and shall establish an effective, on-going program to control these undesirable water uses. (1980 Code, § 8-403, as replaced by Ord. #464, June 2009)

**18-404. Regulated.** (1) No water service connection to any premises shall be installed or maintained by the Town of Monterey unless the water supply system is protected as required by state laws and this chapter. Service of water to any premises shall be discontinued by the Town of Monterey if a backflow prevention device required by this chapter is not installed, tested, and/or maintained; or if it is found that a backflow prevention device has been removed, bypassed, or if an unprotected cross-connection exists on the premises. Service shall not be restored until such conditions or defects are corrected.

(2) 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 Environment and Conservation, and the operation of such cross-connection is at all times under the direction of the manager of the Town of Monterey.

(3) If, in the judgment of the manager or his designated agent, an approved backflow prevention device is required at the water service connection to a customer's premises, or at any point(s) within the premises, to protect the potable water supply, the manager shall compel the installation, testing and maintenance of the required backflow prevention device(s) at the customer's expense.

(4) An approved backflow prevention device shall be installed on each water service line to a customer's premises at or near the property line or immediately inside the building being served; but in all cases, before the first branch line leading off the service line.

(5) For new installations, the manager or his designated agent shall inspect the site and/or review plans in order to assess the degree of hazard and to determine the type of backflow prevention device, if any, that will be required, and to notify the owners in writing of the required device and installation criteria. All required devices shall be installed and operational prior to the initiation of water service.

(6) For existing premises, personnel from the Town of Monterey shall conduct inspections and evaluations, and shall require correction of violations in accordance with the provisions of this chapter. (1980 Code, § 8-404, as replaced by Ord. #464, June 2009)

**18-405. Permit required.** (1) New installations. No installation, alteration, or change shall be made to any backflow prevention device connected to the public water supply for water service, fire protection or any other purpose without first contacting the Town of Monterey for approval.

(2) Existing installations. No alteration, repair, testing or change shall be made of any existing backflow prevention device connected to the public water supply for water service, fire protection or any other purpose without first securing the appropriate approval from the Town of Monterey. (1980 Code, § 8-405, as replaced by Ord. #464, June 2009)

**18-406. Inspections.** The manager or his designated agent shall inspect 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-inspection shall be based on potential health hazards involved, and shall be established by the Town of Monterey in accordance with guidelines acceptable to the Tennessee Department of Environment and Conservation. (1980 Code, § 8-406, as replaced by Ord. #464, June 2009)

**18-407. Right of entry for inspections.** The manager or his authorized representative shall have the right to enter, at any reasonable time, any property served by a connection to the Town of Monterey public water system for the purpose of inspecting the piping system therein for cross-connection, auxiliary intakes, bypasses or interconnections, or for the testing of backflow prevention devices. Upon request, the owner, lessee, or occupant of any property so served shall furnish any pertinent information regarding the piping system(s) on such property. The refusal of such information or refusal of access, when requested, shall be deemed evidence of the presence of cross-connections, and shall be grounds for disconnection of water service. (1980 Code, § 8-407, as replaced by Ord. #464, June 2009)

**18-408. Correction of violations.** (1) Any person found to have cross-connections, auxiliary intakes, bypasses or interconnections in violation of the provisions of this chapter shall be allowed a reasonable time within which to comply with the provisions of this chapter. After a thorough investigation of the existing conditions and an appraisal of the time required to complete the work, the manager or his representative shall assign an appropriate amount of time, but in no case shall the time for corrective measures exceed ninety (90) days.

(2) Where cross-connections, auxiliary intakes, bypasses or interconnections are found that constitute an extreme hazard, with the immediate possibility of contaminating the public water system, the Town of Monterey shall require that immediate corrective action be taken to eliminate the threat to the public water system. Expeditious steps shall be taken to disconnect the public water from the on-site piping system unless the imminent hazard is immediately corrected, subject to the right to a due process hearing upon timely request. The time allowed for preparation for a due process hearing shall be relative to the risk of hazard to the public health and may follow disconnection when the risk to the public health and safety, in the opinion of the manager, warrants disconnection prior to a due process hearing.

(3) The failure to correct conditions threatening the safety of the public water system is prohibited by this chapter and Tennessee Code Annotated, § 68-221-711, within the time limits established by the manager or his representative, shall be grounds for denial of water service. If proper protection has not been provided after a reasonable time, the manager shall give the customer legal notification that water service is to be discontinued, and shall physically separate the public water system from the customer's on-site piping in such a manner that the two (2) systems cannot again be connected by an unauthorized person, subject to the right of a due process hearing upon timely request. The due process hearing may follow disconnection when the risk to the public health and safety, in the opinion of the manager, warrants disconnection prior to a due process hearing. (1980 Code, § 8-408, as replaced by Ord. #464, June 2009)



**18-409. Required devices.** (1) An approved backflow prevention assembly shall be installed downstream of the meter on each service line to a customer's premises at or near the property line or immediately inside the building being served, but in all cases, before the first branch line leading off the service line, when any of the following conditions exist:

(a) Impractical to provide an effective air-gap separation;

(b) The owner/occupant of the premises cannot or is not willing to demonstrate to the Town of Monterey that the water use and protective features of the plumbing are such as to pose no threat to the safety or potability of the water;

(c) The nature and mode of operation within a premise are such that frequent alterations are made to the plumbing;

(d) There is likelihood that protective measures may be subverted, altered or disconnected;

(e) The nature of the premises is such that the use of the structure may change to a use wherein backflow prevention is required; and/or

(f) The plumbing from a private well or other water source enters the premises served by the public water system.

(2) The protective devices shall be of the reduced pressure zone type (except in the case of certain fire protection systems and swimming pools with no permanent plumbing installed) approved by the Tennessee Department of Environment and Conservation and the Town of Monterey, as to manufacture, model, size and application. The method of installation of backflow prevention devices shall be approved by the Town of Monterey prior to installation and shall comply with the criteria set forth in this chapter. The installation and maintenance of backflow prevention devices shall be at the expense of the owner or occupant of the premises.

(3) Premises required reduced pressure principle assemblies or air gap separation. (a) High risk high hazards. Establishments which pose significant risk of contamination or may create conditions which pose an extreme hazard of immediate concern (high risk high hazards), the cross-connection control inspector shall require immediate or a short amount of time (fourteen (14) days maximum), depending on conditions, for corrective action to be taken. In such cases, if corrections have not been made within the time limits set forth, water service will be discontinued.

High risk high hazards require a reduced pressure principle (or detector) assembly. The following list is establishments deemed high risk high hazard and require a reduced pressure principle assembly:

(i) Mortuaries, morgues, autopsy facilities;

(ii) Hospitals, medical buildings, animal hospitals and control centers, doctor and dental offices;

- (iii) Sewage treatment facilities, water treatment, sewage and water treatment pump stations;
- (iv) Premises with auxiliary water supplies or industrial piping systems;
- (v) Chemical plants (manufacturing, processing, compounding, or treatment);
- (vi) Laboratories (industrial, commercial, medical research, school);
- (vii) Packing and rendering houses;
- (viii) Manufacturing plants;
- (ix) Food and beverage processing plants;
- (x) Automated car wash facilities;
- (xi) Extermination companies;
- (xii) Airports, railroads, bus terminals, piers, boat docks;
- (xiii) Bulk distributors and users of pesticides, herbicides, liquid fertilizer, etc.;
- (xiv) Metal plating, pickling, and anodizing operations;
- (xv) Greenhouses and nurseries;
- (xvi) Commercial laundries and dry cleaners;
- (xvii) Film laboratories;
- (xviii) Petroleum processes and storage plants;
- (xix) Restricted establishments;
- (xx) Schools and educational facilities;
- (xxi) Animal feedlots, chicken houses, and CAFOs;
- (xxii) Taxidermy facilities;
- (xxiii) Establishments which handle, process, or have extremely toxic or large amounts of toxic chemicals or use water of unknown or unsafe quality extensively.

(b) High hazard. In cases where there is less risk of contamination, or less likelihood of cross-connections contaminating the system, a time period of ninety (90) days maximum will be allowed for corrections. "High hazard" is a cross-connection or potential cross-connection involving any substance that could, if introduced in the public water supply, cause death, illness, and spread disease. (See Appendix A of manual.)

(2) Applications requiring backflow prevention devices shall include, but shall not be limited to, domestic water service and/or fire flow connections for all medical facilities, all fountains, lawn irrigation systems, wells, water softeners and other treatment systems, swimming pools and on all fire hydrant connections other than those by the fire department in combating fires. Those facilities deemed by the Town of Monterey as needing protection.

(a) Class 1, Class 2 and Class 3 fire protection systems shall generally require a double check valve assembly; except:

(i) A double check detector assembly shall be required where a hydrant or other point of use exists on the system; or

(ii) A reduced pressure backflow prevention device shall be required where:

(A) Underground fire sprinkler lines are parallel to and within ten feet (10') horizontally of pipes carrying sewage or significantly toxic materials;

(B) Premises have unusually complex piping systems; and/or

(C) Pumpers connecting to the system have corrosion inhibitors or other chemicals added to the tanks of the fire trucks.

(b) Class 4, Class 5 and Class 6 fire protection systems shall require reduced pressure backflow prevention devices.

(c) Wherever the fire protection system piping is not an acceptable potable water system material, or chemicals such as foam concentrates or antifreeze additives are used, a reduced pressure backflow prevention device shall be required.

(d) Swimming pools with no permanent plumbing and only filled with hoses will require a hose bibb vacuum breaker be installed on the faucet used for filling.

(3) The manager or his representative may require additional and/or internal backflow prevention devices wherein it is deemed necessary to protect potable water supplies within the premises.

(4) Installation criteria. The minimum acceptable criteria for the installation of reduced pressure backflow prevention devices, double check valve assemblies or other backflow prevention devices requiring regular inspection or testing shall include the following:

(a) All required devices shall be installed in accordance with the provisions of this chapter, by a person approved by the Town of Monterey who is knowledgeable in the proper installation. Only licensed sprinkler contractors may install, repair or test backflow prevention devices on fire protection systems.

(b) All devices shall be installed in accordance with the manufacturer's instructions and shall possess appropriate test cocks, fittings and caps required for the testing of the device (except hose bibb vacuum breakers). All fittings shall be of brass construction, unless otherwise approved by the Town of Monterey, and shall permit direct connection to department test equipment.

(c) The entire device, including valves and test cocks, shall be easily accessible for testing and repair.

(d) All devices shall be placed in the upright position in a horizontal run of pipe.

(e) Device shall be protected from freezing, vandalism, mechanical abuse and from any corrosive, sticky, greasy, abrasive or other damaging environment.

(f) Reduced pressure backflow prevention devices shall be located a minimum of twelve inches (12") plus the nominal diameter of the device above either:

- (i) The floor;
- (ii) The top opening(s) in the enclosure; or
- (iii) Maximum flood level, whichever is higher.

Maximum height above the floor surface shall not exceed sixty inches (60").

(g) Clearance from wall surfaces or other obstructions shall be at least six inches (6"). Devices located in non-removable enclosures shall have at least twenty-four inches (24") of clearance on each side of the device for testing and repairs.

(h) Devices shall be positioned where a discharge from the relief port will not create undesirable conditions. The relief port must never be plugged, restricted or solidly piped to a drain.

(i) An approved air-gap shall separate the relief port from any drainage system. An approved air-gap shall be at least twice the inside diameter of the supply line, but never less than one inch (1").

(j) An approved strainer shall be installed immediately upstream of the backflow prevention device, except in the case of a fire protection system.

(k) Devices shall be located in an area free from submergence or flood potential, therefore never in a below grade pit or vault. All devices shall be adequately supported to prevent sagging.

(l) Adequate drainage shall be provided for all devices. Reduced pressure backflow prevention devices shall be drained to the outside whenever possible.

(m) Fire hydrant drains shall not be connected to the sewer, nor shall fire hydrants be installed such that backflow/backsiphonage through the drain may occur.

(n) Enclosures for outside installations shall meet the following criteria:

(i) All enclosures for backflow prevention devices shall be as manufactured by a reputable company or an approved equal.

(ii) For backflow prevention devices up to, and including, two inches (2"), the enclosure shall be constructed of adequate material to protect the device from vandalism and freezing and shall be approved by the Town of Monterey. The complete assembly, including valve stems and hand wheels, shall be protected by being inside the enclosure.

(iii) To provide access for backflow prevention devices up to, and including, two inches (2"), the enclosure shall be completely removable. Access for backflow prevention devices two and one-half inches (2-1/2") and larger shall be provided through a minimum of two (2) access panels. The access panels shall be of the same height as the enclosure and shall be completely removable. All access panels shall be provided with built-in locks.

(iv) The enclosure shall be mounted to a concrete pad in no case less than four inches (4") thick. The enclosure shall be constructed, assembled and/or mounted in such a manner that it will remain locked and secured to the pad even if any outside fasteners are removed. All hardware and fasteners shall be constructed of 300 series stainless steel.

(v) Heating equipment, if required, shall be designed and furnished by the manufacturer of the enclosure to maintain an interior temperature of plus forty degrees Fahrenheit (+40°F) with an outside temperature of negative thirty degrees Fahrenheit (-30°F) and a wind velocity of fifteen (15) miles per hour.

(o) Where the use of water is critical to the continuance of normal operations or the protection of life, property or equipment, duplicate backflow prevention devices shall be provided to avoid the necessity of discontinuing water service to test or repair the protective device. Where it is found that only one (1) device has been installed and the continuance of service is critical, the Town of Monterey shall notify, in writing, the occupant of the premises of plans to interrupt water services and arrange for a mutually acceptable time to test the device. In such cases, the Town of Monterey may require the installation of a duplicate device.

(p) The Town of Monterey shall require the occupant of the premises to keep any backflow prevention devices working properly, and to make all indicated repairs promptly. Repairs shall be made by qualified personnel acceptable to the Town of Monterey. Expense of such repairs shall be borne by the owner or occupant of the premises. The failure to maintain a backflow prevention device in proper working condition shall be grounds for discontinuance of water service to a premises. Likewise, the removal, bypassing or alteration of a backflow prevention device or the installation thereof, so as to render a device ineffective shall constitute a violation of this chapter and shall be grounds for the 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 Town of Monterey.

(5) Testing of devices. Devices shall be tested at least annually by a qualified person possessing a valid certification from the Tennessee Department of Environment and Conservation, Division of Water Supply for the testing of

such devices. A record of this test will be on file with the Town of Monterey and a copy of this report will be supplied to the customer. Water service shall not be disrupted to test a device without the knowledge of the occupant of the premises. (1980 Code, § 8-409, as replaced by Ord. #464, June 2009)

**18-410. Non-potable supplies.** The potable water supply made available to a premises served by the public water system shall be protected from contamination as specified in the provisions of this chapter. Any water pipe or outlet which could be used for potable or domestic purposes and which is not supplied by the potable water system must be labeled in a conspicuous manner such as:

#### WATER UNSAFE FOR DRINKING

The minimum acceptable sign shall have black letters at least one inch (1") high located on a red background. Color-coding of pipelines, in accordance with (OSHA) Occupational Safety and Health Act guidelines, shall be required in locations where, in the judgment of the Town of Monterey, such coding is necessary to identify and protect the potable water supply. (1980 Code, § 8-410, as replaced by Ord. #464, June 2009)

**18-411. Statement required.** Any person whose premises are supplied with water from the public water system, and who also has on the same premises a well or other separate source of water supply, or who stores water in an uncovered or unsanitary storage reservoir from which the water is circulated through a piping system, shall file with the Town of Monterey a statement of the nonexistence of unapproved or unauthorized cross-connections, auxiliary intakes, bypasses or interconnections. Such statement shall contain an agreement that no cross-connections, auxiliary intakes, bypasses or interconnections will be permitted upon the premises. Such statement shall also include the location of all additional water sources utilized on the premises and how they are used. Maximum backflow protection shall be required on all public water sources supplied to the premises. (as added by Ord. #464, June 2009)

**18-412. Penalty; discontinuance of water supply.** (1) Any person who neglects or refuses to comply with any of the provisions of this chapter may be deemed guilty of a misdemeanor and subject to a fine.

(2) Independent of and in addition to any fines or penalties imposed, the manager may discontinue the public water supply service to any premises upon which there is found to be a cross-connection, auxiliary intake, bypass or interconnection; and service shall not be restored until such cross-connection, auxiliary intake, bypass or interconnection has been eliminated. (as added by Ord. #464, June 2009)

**18-413. Provision applicable.** The requirements contained in this chapter shall apply to all premises served by the Town of Monterey and are hereby made part of the conditions required to be met for the Town of Monterey to provide water services to any premises. The provisions of this chapter shall be rigidly enforced since it is essential for the protection of the public water distribution system against the entrance of contamination. Any person aggrieved by the action of the chapter is entitled to a due process hearing upon timely request. (as added by Ord. #464, June 2009)

**TITLE 19**

**ELECTRICITY AND GAS**

**CHAPTER**

1. ELECTRICITY.
2. GAS.

**CHAPTER 1**

**ELECTRICITY<sup>1</sup>**

**SECTION**

19-101. To be furnished under franchise.

**19-101. To be furnished under franchise.** Electricity shall be furnished for the municipality and its inhabitants under such franchise as the governing body shall grant.<sup>2</sup> The rights, powers, duties, and obligations of the municipality, its inhabitants, and the grantee of the franchise shall be clearly stated in the written franchise agreement which shall be binding on all parties concerned.

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<sup>1</sup>Municipal code reference  
Electrical code: title 12.

<sup>2</sup>The agreements are of record in the office of the city recorder.



**CHAPTER 2****GAS**<sup>1</sup>**SECTION**

19-201. To be furnished under franchise.

**19-201. To be furnished under franchise.** Gas service shall be furnished for the municipality and its inhabitants under such franchise as the governing body shall grant. The rights, powers, duties, and obligations of the municipality, its inhabitants, and the grantee of the franchise shall be clearly stated in the written franchise agreement which shall be binding on all parties concerned.<sup>2</sup>

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<sup>1</sup>Municipal code reference  
Gas code: title 12.

<sup>2</sup>The agreements are of record in the office of the city recorder.

**TITLE 20****MISCELLANEOUS****CHAPTER**

1. CONDUCT IN PUBLIC PARKS, ETC.
2. WARDS.
3. EPHEDRINE AND EPHEDRINE RELATED PRODUCTS.
4. TENNESSEE CENTRAL HERITAGE RAIL/TRAIL.

**CHAPTER 1****CONDUCT IN PUBLIC PARKS, ETC.****SECTION**

- 20-101. Definitions.
- 20-102. Abuse of public property.
- 20-103. Sanitation.
- 20-104. Traffic.
- 20-105. Picnic areas and use.
- 20-106. Behavior.
- 20-107. Merchandising, advertising, and signs.
- 20-108. Park operating policy.
- 20-109. Enforcement.
- 20-110. Penalties.

**20-101. Definitions.** For the purposes of this chapter, the following terms, phrases, words, and their derivations shall have the meanings given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

- (1) "Town" is the Town of Monterey, Tennessee.
- (2) "Public property" is a park, cemetery, or any other land or building owned or used by the town for any public purpose.
- (3) "Person" is any person, firm, partnership, association, corporation, company, or organization of any kind. (1980 Code, § 12-401)

**20-102. Abuse of public property.** No person on any public property shall:

- (1) Buildings and other property. (a) Disfiguration and removal. Willfully mark, deface, disfigure, injure, tamper with, or displace or remove any buildings, tombstones, bridges, tables, benches, fireplaces, railing, paving, or paving materials, water lines or other public utilities

or parts or appurtenances thereof, signs, notices, or placards whether temporary or permanent, monuments, stakes, posts, or other boundary markers, or other structures, equipment, facilities, or public property or appurtenances whatsoever, either real or personal.

(b) Restrooms and washrooms. Fail to cooperate in maintaining restrooms and washrooms in a neat and sanitary condition. No person over the age of six (6) years shall use the restrooms and washrooms designated for the opposite sex.

(c) Removal of natural resources. Dig or remove any soil, rock, stones, trees, shrubs or plants, down timber or other wood or materials, or make any excavation by tool, equipment, blasting, or other means or agency.

(d) Erection of structures. Construct or erect any buildings or structures of whatever kind, whether permanent or temporary in character, or run or string any public service utility into, upon, or across such lands, except on special written permit issued hereunder.

(2) Trees, shrubbery, lawns. (a) Injury or removal. Damage, cut, carve, transplant, or remove any tree or plant or injure the bark, or pick the flowers or seeds of any tree or plant. Nor shall any person attach any rope, wire, or other contrivance to any tree or plant. A person shall not dig in or otherwise disturb grass areas, or in any other way injure or impair the natural beauty or usefulness of any areas.

(b) Climbing trees, etc. Climb any tree or walk, stand, or sit upon monuments, vases, fountains, railings, fences, or gun-carriages or upon any property not designated or customarily used for such purposes. (1980 Code, § 12-402)

**20-103. Sanitation.** No person on any public property shall:

(1) Pollution of waters. Throw, discharge, or otherwise place, or cause to be placed in the waters of any fountain, pond, lake, stream, swimming pool, or other body of water in or adjacent to any public property or any tributary, stream, storm sewer, or drain flowing into such waters, any substance, matter, or thing, liquid or solid, which will or may result in the pollution of said waters.

(2) Refuse and trash. Have brought in or dump, deposit, or leave any bottles, broken glass, ashes, paper, boxes, cans, dirt, rubbish, waste, garbage, refuse, or other trash. No such refuse or trash shall be placed in any waters in or contiguous to any park, or left anywhere on the grounds thereof, but shall be placed in the proper receptacles where these are provided. Where receptacles are not so provided, all such rubbish or waste shall be carried away from the park by the person responsible for its presence, and properly disposed of elsewhere. (1980 Code, § 12-403)

**20-104. Traffic.** No person in a park shall:

(1) Obedience to traffic signs. Fail to observe carefully all traffic signs indicating speed, direction, caution, stopping, or parking, and all others posted for proper control and to safeguard life and property.

(2) Operation confined to roads. Drive any vehicle on any areas except the park roads or parking areas, or such other areas as may on occasion be specifically designated as temporary parking areas by the mayor.

(3) Parking. Park a vehicle in other than an established or designated parking area, and such use shall be in accordance with the posted directions thereat and with the instructions of any attendant who may be present. (1980 Code, § 12-404)

**20-105. Picnic areas and use.** No person in a park shall:

(1) Regulated. Picnic or lunch in a place other than those designated for that purpose. Attendants shall have the authority to regulate the activities in such areas when necessary to prevent congestion and to secure the maximum use for the comfort and convenience of all. Visitors shall comply with any direction given to achieve this end.

(2) Availability. Violate the regulation that use of the individual fireplaces together with tables and benches follows generally the rule of "first come, first served."

(3) Non-exclusive. Use any portion of the picnic areas or any of the buildings or structures therein for the purpose of holding picnics to the exclusion of other persons, nor shall any person use such area and facilities for an unreasonable length of time if the facilities are crowded.

(4) Duty of picnicker. Leave a picnic area before the fire is completely extinguished and before all trash in the nature of boxes, papers, cans, bottles, garbage, and other refuse is placed in the disposal receptacles where provided. If no such trash receptacles are available, then refuse and trash shall be carried away from the park area by the picnicker to be properly disposed of elsewhere. (1980 Code, § 12-405)

**20-106. Behavior.** No person in a park or on other public property shall:

(1) Intoxicating beverages. Have brought alcoholic beverages, nor shall any person drink alcoholic beverages at any time in the park. Beer shall be considered an alcoholic beverage.

(2) Fireworks and explosives. Bring, or have in his possession, or set off or otherwise cause to explode or discharge or burn, any firecracker, torpedo, rocket, or other fireworks or explosives of inflammable material, or discharge them or throw them into any such area from any land or highway adjacent thereto. This prohibition includes any substance, compound, mixture, or article that in conjunction with any other substance or compound would be dangerous from any of the foregoing standpoints.

(3) Reservation of facilities. Occupy any seat or bench, or enter into, loiter, or remain in any pavilion or other structure or section thereof which may be reserved and designated by the board for the use of the opposite sex. Exception is made for children under six (6) years of age.

(4) Fires. Build or attempt to build a fire except in such areas and under such regulations as may be designated by the mayor. No person shall drop, throw, or otherwise scatter lighted matches, burning cigarettes or cigars, tobacco, paper, or other inflammable material within any public area or on any highway, road, or street abutting or contiguous thereto.

(5) Closed areas. Enter an area posted as "Closed to the Public," nor shall any person use or abet the use of any area in violation of posted notices.

(6) Loitering and boisterousness. Sleep or protractedly lounge on the seats or benches or other areas, or engage in loud, boisterous, threatening, abusive, insulting, or indecent language, or engage in any disorderly conduct or behavior tending to a breach of the public peace. (1980 Code, § 12-406)

**20-107. Merchandising, advertising, and signs.** No person on any public property shall:

(1) Vending and peddling. Expose or offer for sale any article or thing, nor shall he station or place any stand, cart, or vehicle for the transportation, sale, or display of any such article or thing. Exception is made as to any regularly licensed concessionaire acting by and under the authority of the mayor.

(2) Signs. Paste, glue, tack, or otherwise post any sign, placard, advertisement, or inscription whatever, nor shall any person erect or cause to be erected any sign whatever on any public lands or highways or roads adjacent to a park or other public property. (1980 Code, § 12-407)

**20-108. Park operating policy.** (1) Hours. Except for unusual and unforeseen emergencies, parks shall be open to the public every day of the year during hours designated by the mayor. The opening and closing hours for each individual park shall be posted therein for public information.

(2) Closed areas. Any section or part of any park may be declared closed to the public by the mayor at any time and for any interval of time, either temporarily or at regular and stated intervals (daily or otherwise) and either entirely or merely to certain uses, as the mayor shall find reasonably necessary.

(3) Lost and found articles. The finding of lost articles by park attendants shall be reported to the town marshal who shall make every reasonable effort to locate the owners. The town marshal shall make every reasonable effort to find articles reported as lost. (1980 Code, § 12-408)

**20-109. Enforcement.** (1) Officials. The town marshal and property custodians and attendants shall, in connection with their duties imposed by law, diligently enforce the provisions of this chapter.

(2) Ejectment. The town marshal and any custodian or attendant shall have the authority to eject from any park or any other public property any person acting in violation of this chapter.

(3) Seizure of property. The town marshal and any custodian or attendant shall have the authority to seize and confiscate any property, thing, or device in any park, or other public property, used in violation of this chapter. (1980 Code, § 12-409)

**20-110. Penalties.** Any person failing to comply with the requirements or violating any of the provisions of this chapter shall be guilty of a misdemeanor and upon conviction shall be fined under the general penalty clause for this code. (1980 Code, § 12-410)

## CHAPTER 2

### WARDS<sup>1</sup>

#### SECTION

20-201. Annexed areas placed in wards.

**20-201. Annexed areas placed in wards.** All of the areas heretofore annexed to the town and such areas as may be hereafter annexed thereto are added to the four (4) existing wards as described in the charter of the Town of Monterey,<sup>1</sup> in the following manner:

(1) All annexed areas, whether heretofore or hereafter annexed, that lie northeast of East Commercial Avenue and the present Monterey-Clarkrange Highway and southeast of a line beginning at the intersection of Commercial Avenue and Holly Street and running northeastwardly with Holly Street to its intersection with a road or street known as the Old Mine Road; thence southeastwardly with said Old Mine Road to the Monterey-Crawford Highway or the extension of Chestnut Street; thence northeastwardly with said Monterey-Crawford Highway to its intersection with the county line between Putnam and Overton Counties, is added to and shall become a part of ward No. 1 of the town.

(2) All annexed areas, whether heretofore or hereafter annexed, that lie southwest of East Commercial Avenue and the Monterey-Clarkrange Highway and southeast of South Holly Street and that portion of U.S. Highway 70 North that runs westwardly out of Monterey is added to and shall become a part of ward No. 2 of the town.

(3) All annexed areas, whether heretofore or hereafter annexed, that lie northwest of South Holly Street and that portion of U. S. Highway 70 North running westwardly out of Monterey and southwest of West Commercial Avenue and the Monterey-Woodcliff Road is added to and shall become a part of ward No. 3 of the town.

(4) All annexed areas, whether heretofore or hereafter annexed, that lie northeast of West Commercial Avenue and the Monterey-Woodcliff Road and northwest of the line running northeastwardly with Holly Street as described in one (1) above is added to and shall become a part of ward No. 4 of the town. (1980 Code, § 1-1101)

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<sup>1</sup>See § 12 in the charter. For the ordinance establishing the present ward boundaries, see Ord. #279, which is of record in the recorder's office.

## CHAPTER 3

### EPHEDRINE AND EPHEDRINE RELATED PRODUCTS

#### SECTION

- 20-301. Sales regulated.
- 20-302. Definitions relating to chapter 3, title 20.
- 20-303. Accessibility of products.
- 20-304. Exemptions.
- 20-305. Employee training.
- 20-306. Registration of purchases.
- 20-307. Penalties for failure to comply.

**20-301. Sales regulated.** No person shall sell or deliver, or attempt to sell or deliver, in any single retail sale, a package that contains more than one hundred tablets of any product that contains any quantity of ephedrine, pseudoephedrine or phenylpropanolamine, or any number of packages that contain a combined total of three (3) or more grams of ephedrine, pseudoephedrine, or phenylpropanolamine whether as the sole active ingredient or in combination products that have less than therapeutically significant quantities of other active ingredients. (as added by Ord. #416, Nov. 2003)

**20-302. Definitions relating to chapter 3, title 20.** (1) The use of the terms "ephedrine," "pseudoephedrine," or "phenylpropanolamine" in this chapter shall include the salts, optical isomers, or salts of optical isomers of ephedrine, pseudoephedrine and phenylpropanolamine.

(2) The use of the term "retail establishment" in this chapter shall include any business entity and individual person who sells, offers for sale or attempts to sell any product containing ephedrine, pseudoephedrine or phenylpropanolamine at retail.

(3) The use of the term "consumer accessible shelving" in this chapter shall mean any area of a retail establishment other than a product display area behind a counter where the public is not permitted, or within a locked display case or within 6 feet of a register located on a checkout counter. (as added by Ord. #416, Nov. 2003)

**20-303. Accessibility of products.** All packages of any product containing ephedrine, pseudoephedrine or phenylpropanolamine, whether as the sole active ingredient or in combination products that have less than therapeutically significant quantities of other active ingredients, shall not be displayed and offered for sale in any retail establishment on consumer-accessible shelving. (as added by Ord. #416, Nov. 2003)



**20-304. Exemptions.** This chapter shall not apply as follows:

- (1) To any product labeled pursuant to federal regulation for use only in children under twelve years of age;
- (2) To any products that the state department of health, upon application of a manufacturer, determines has been formulated in such a way as to effectively prevent its use in the illicit manufacture of methamphetamine;
- (3) To any animal feed products containing ephedrine, or naturally occurring or herbal ephedra or extract of ephedra, pseudoephedrine, or phenylpropanolamine; and
- (4) To the sale or delivery of any product containing ephedrine, pseudoephedrine, or phenylpropanolamine pursuant to the lawful prescription of a person authorized by state law to prescribe such products. (as added by Ord. #416, Nov. 2003)

**20-305. Employee training.** Any person who is considered the general owner or operator of a retail establishment where products containing ephedrine, pseudoephedrine, or phenylpropanolamine are available for sale who violates §§ 20-301 or 20-302 of this chapter shall not be penalized pursuant to this chapter if such person documents that an employee training program was in place to provide the employees with information on the local, state and federal regulations regarding ephedrine, pseudoephedrine and phenylpropanolamine, and that the employees had completed the training program. (as added by Ord. #416, Nov. 2003)

**20-306. Registration of purchases.** (1) Any retail establishment that sells or delivers, or attempts to sell or deliver, to a person any product containing ephedrine, pseudoephedrine, or phenylpropanolamine whether as the sole active ingredient or in combination products that have less than therapeutically significant quantities of other active ingredients, shall require such person to show proper identification and to sign a register.

(2) The register described in subsection (1) shall be created by any retail establishment that sells a product or products described in subsection (1) and shall require at least the following information:

- (a) The specific quantity of ephedrine, pseudoephedrine or phenylpropanolamine purchased;
- (b) The signature of the purchaser;
- (c) The name and residential or mailing address of the purchaser; other than a post office box number;
- (d) The number of the purchaser's motor vehicle operator's license or other proper identification at the time of the purchase;
- (e) The date of such purchase; and
- (f) The signature of an employee of the retail establishment as witness to the purchase and identification of the purchaser.

(3) The retail establishment shall retain each original register for three (3) years in a readily presentable and readable manner, and present the register upon demand by any law enforcement officer or authorized representative of the district attorney general's office.

(4) As used in this section, "proper identification" means a valid motor vehicle operator's license or other official and valid state-issued identification of the purchaser that contains a photograph of the purchaser.

(5) This section shall not apply to the sell or delivery of any product containing ephedrine, pseudoephedrine, or phenylpropanolamine by a licensed pharmacy upon a pharmacist making a good faith determination that the purchase of the product is for a legitimate medical purpose. (as added by Ord. #416, Nov. 2003)

**20-307. Penalties for failure to comply.** It is a civil offense to fail to comply with the foregoing regulations. Any violation of these sections is punishable by civil penalty of up to \$50.00 each. Each day a violation continues under § 20-302 above shall constitute a separate offense. (as added by Ord. #416, Nov. 2003)

## CHAPTER 4

TENNESSEE CENTRAL HERITAGE RAIL/TRAIL

## SECTION

20-401. Rules and regulations.

**20-401. Rules and regulations.** The town shall have the authority to enforce rules, regulations and laws concerning the use of the Tennessee Central Heritage Rail/Trail.

- (1) Hours of permitted use shall be dawn to dusk.
- (2) Permitted activities include walking, biking, jogging and the leading of domestic animals on a leash of no more than six feet (6') in length.
- (3) Other activities as may be allowed by permit issued by the Tennessee Central Heritage Rail/Trail Authority.
- (4) Prohibited activities include, but are not limited to:
  - (a) Motorized vehicles (excluding motorized wheelchairs).
  - (b) Littering, defacing, mutilating, destruction or removal of any sign, structure, barrier or object.
  - (c) Intentional obstruction of the performance by any person of their legal or required duties.
  - (d) Abusive or obscene language or gestures.
  - (e) Skateboards or scooters.
  - (f) Horses.
  - (g) Domestic animals not under control by lead.
  - (h) Throwing any object.
  - (i) Parking upon or in any way blocking access to the trail, causing an inconvenience or risk.
  - (j) Discharge of firearms.
  - (k) Possession of an alcoholic beverage or controlled substance.

(as added by Ord. #12-511, Jan. 2013)

APPENDIX

1

*Town of Monterey*

***PERSONNEL RULES AND  
REGULATIONS***

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

**TOWN OF MONTEREY**

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## **TOWN OF MONTEREY**

### **SECTION I - PERSONNEL POLICIES**

#### **A. PURPOSE AND OBJECTIVES**

The main purpose of these policies is to establish a high degree of understanding, cooperation, efficiency, and unity among municipal government employees fostered by a systematic application of good procedures in personnel administration. Another purpose is to provide uniform policies for all employees with all the benefits such a program ensures, without regard to race, gender, age, national origin, creed, ancestry, and disability.

The fundamental objectives of these personnel administration policies are to:

1. promote and increase efficiency and economy among employees of the Town of Monterey;
2. provide fair and equal opportunity to all qualified citizens on the basis of demonstrated merit and fitness as ascertained through fair and practical methods of selection;
3. develop a program of recruitment, advancement, and tenure that will make employment with the town attractive as a career and encourage each employee to render the best service;
4. establish and maintain a uniform plan of evaluation and compensation; and
5. establish and promote high morale among the employees by providing good working relationships, a uniform personnel policy, opportunity for advancement, and consideration for employee needs and desires.

#### **B. PERSONNEL POLICY STATEMENT**

It is the policy of the town of Monterey to apply and foster a sound program of personnel management. The policies of the municipal government are established to:

1. **EMPLOYMENT AND PLACEMENT**

- a. fill all positions without undue delay in accordance with job qualifications and requirements without discrimination as to race, color, gender, creed, national origin, ancestry, disability, or political affiliation; and
- b. establish programs for the promotion, transfer, demotion, dismissal, and reassignment of personnel.

2. **POSITION CLASSIFICATION AND PAY ADMINISTRATION**

- a. establish and maintain job descriptions for every position with the descriptions maintained on file with the personnel committee and department head;
- b. review position descriptions periodically and systematically with the employee to ensure currency and accuracy;
- c. establish appropriate position standards and to group positions in classes with similar standards; and
- d. conduct area wage and salary surveys periodically to provide competitive wage and salary scales.

3. **EMPLOYEE RELATIONS AND SERVICES**

- a. develop a system of job performance standards and evaluation and inform each employee periodically and systematically of the status of his/her job performance;
- b. establish rules and standards governing employee conduct both on and off the job;
- c. administer a uniform leave program;
- d. provide employee grievance procedures;
- e. develop a handbook to inform employees of their responsibilities, rights, and privileges; and
- f. provide and maintain a safe and healthful work environment.

4. **EMPLOYEE DEVELOPMENT AND TRAINING**

- a. establish training standards and requirements for all positions; and
- b. motivate and stimulate employees to achieve their highest potential usefulness.

5. **RECORDS**

- a. establish and maintain comprehensive and uniform personnel records.

C. **COVERAGE**

These rules and regulations shall cover all employees in the town service unless specifically exempt by this document, the town charter, and/or the ordinances of the municipality without regard to race, religion, national origin, political affiliation, sex, age, or disability.

All municipal government offices and positions are divided into the classified service and the exempt service. The classified service shall include all regular full-time and regular part-time positions in the town's service unless specifically placed in the exempt service. All offices and positions of the municipal government placed in the exempt service are:

- 1. all elected officials;
- 2. members of appointed boards and commissions;
- 3. consultants, advisers, and legal counsel rendering temporary professional service;
- 4. the city attorney;
- 5. independent contractors;
- 6. people employed by the municipality for not more than six months during a fiscal year;
- 7. part-time employees paid by the hour or the day who are not considered regular;
- 8. volunteer personnel appointed without compensation;

9. the city judge;

#### D. ADMINISTRATION

These rules shall be administered by the mayor or a personnel officer he or she may designate, in conformity with the ordinance establishing a personnel system.

Amendments to the rules and regulations shall be made in accordance with the procedure herein. Nothing in the personnel rules and regulations document shall be deemed to give employees any more property rights in their jobs than may already be given by the town charter. The town reserves the right to alter or change any or all of these rules without prior notice to employees.

### SECTION II - DEFINITIONS

For this manual's purpose, the following words and phrases shall have the meanings respectively ascribed to them by this chapter:

**Actual Service** - The time engaged in performing the duties of a position or positions, including absences with pay and authorized leave without pay.

**Alcohol** - The intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols, including methyl and isopropyl alcohol.

**Alcohol Concentration** - The alcohol in a volume of breath expressed in terms of grams of alcohol per 210 liters of breath as indicated by a breath test.

**Alcohol Use** - The consumption of any beverage, mixture, or preparation, including any medication containing alcohol.

**Allocation** - Assigning a position to its appropriate class in relation to the duties performed.

**Anniversary Date** - (Also known as "review date," "increment date," or "service date.") The date on which a regular employee is evaluated or is eligible to receive an in-grade pay increase, normally 12 months after being hired. This date may be changed only by securing a new position within the organization, which requires a new probationary period.

**Annual Leave/Vacation Leave** - Paid leave that is granted to each eligible employee for vacation or other personal uses.

**Appeal** - An application for review of a disciplinary action submitted or instituted by an employee to a higher authority.

**Applicant** - An individual who has completed and submitted an application for employment with the town; any person who has on file an application for employment or any person who is otherwise being considered for employment or transfer to the police department, fire department, or to a position requiring a commercial driver's license (CDL) being processed for employment. For the purposes of the drug testing policy, an applicant may also be: a uniformed employee who has applied for and is offered a promotion or who has been selected for a special assignment; a non-uniformed employee who is offered a position as a uniformed employee; or an employee transferring to or applying for a position requiring a CDL.

**Appointing Authority** - The Mayor shall be responsible for appointing qualified applicants to regular full-time, regular part-time, temporary, or emergency positions in the city/town. The Mayor shall be the appointing authority for all department heads and certain other positions as specified in the code and charter for the town.

**Appointment** - The offer to and acceptance by a person of a position either on a regular or temporary basis.

**Break-in-service** - Any separation from the service of the municipal government, whether by resignation, layoff, dismissal, unsatisfactory service, disability, retirement, or unauthorized absences of three days or more without leave. Authorized leaves and authorized leaves of absence without pay shall not be considered as constituting a "break-in-service."

**Breath Alcohol Technician (BAT)** - An individual who instructs and assists individuals in the alcohol testing process and operates an evidential breath testing device (EBT).

**CDL** - A commercial driver's license (CDL) required of anyone who drives a vehicle in excess of 26,000 pounds or who carries 16 or more passengers or any size vehicle used in the transportation of hazardous materials.

**Certification** - Endorsement as meeting the required minimum standards for a vacant position.

**Chain-of-custody** - Refers to proving that the sample that tested positive for drugs or alcohol is actually the sample from the employee who is accused; the method of tracking each urine specimen to maintain control from initial

collection to final disposition for such samples and accountability at each stage of handling, testing, storing, and reporting.

**Chief Administrative Officer (CAO)** - Administrative personnel engaged in the day-to-day administration of the municipality. May include town administrator, town recorder, or other town department heads.

**Chief Executive Officer (CEO)** - Executive personnel engaged in policy development for the municipality. May include the commission, mayor, other town department heads, or the utility board and/or utility manager.

**Class** - A group of positions that are sufficiently alike in general duties and responsibilities to warrant the use of the same title, specifications, and pay range.

**Class Code** - An identifying number assigned to each job title in the classification plan.

**Class Series** - A number of classes of positions that are substantially similar in the types of work involved and differ only in rank. This is determined by the importance of duties, the degree of responsibility, and the amount of training and experience required. Such classes constitute a series.

**Class Specification** - A written description of a class. This consists of class title, a general statement of the work level and its distinguishing features, examples of duties, and desirable qualifications for the class.

**Classification** - The act of grouping positions into classes regarding: (1) duties and responsibilities; (2) educational requirements, knowledge, experience, and ability; (3) test of fitness; and (4) pay ranges.

**Classification Plan** - The official or approved system of grouping positions into appropriate classes consisting of: (1) an index to the class specification; (2) the class specification; and (3) rules for administering the classification plan.

**Classified Service** - The classified service shall include all positions in the town service except those listed under exempt service.

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

**Collection Site** - A place where applicants or employees present themselves to provide a urine specimen sample that will be analyzed for the presence of drugs; may also include a place for the administration of a breath analysis test.

**Collection Site Personnel** - A person who instructs donors at the collection site.

**Compensation** - The standard pay rates that have been established for the prospective classes of work as set forth in the compensation plan.

**Compensation Plan** - The official schedule of pay approved by the governing body, assigning one or more pay rates to each class title.

**Confirmation Tests** - For alcohol testing, a confirmation test means a second test following a screen test with a result of 0.02 or greater that provides quantitative data of alcohol concentration. For controlled substances, a confirmation test means a second analytical procedure that is independent of the screen test and that uses a different technique and chemical principle from that of the screen test to ensure reliability and accuracy with identifying the presence of a specific drug or metabolite. **(Note - Gas chromatography/mass spectrometry (GC/MS) is the only authorized confirmation method for cocaine, marijuana, opiates, amphetamines, and phencyclidine.)**

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

**Consortium** - Refers to an entity, including a group or association of employers or contractors, that provides alcohol or controlled substance testing and that acts on behalf of the employer.

**Continuous Service** - Employment without interruption except for absences on approved leaves or absences to serve in the U.S. armed forces.

**Daughter or Son/Child** - A stepchild; biological, adopted, or foster child; legal ward; or child of a person standing in loco parentis who is under the age of 18. A child who is 18 years old or older qualifies, if he/she is incapable of self-care because of mental or physical disability.

**Demotion** - Assigning an employee from one class to another that has a lower maximum pay rate and/or rank.

**Department** - The primary organizational unit under the immediate charge of a department head who reports directly to the Mayor.

**Department Head** - The director or chief of a town department.

**DHHS** - The Department of Health and Human Services.

**Disability Leave** - Paid leave that may be granted to an eligible employee who is unable to pursue the duties of his/her position because of physical or mental impairment.

**Disciplinary Action** - A method of reprimanding employees for violations of the rules, policies, or procedures and/or for unsatisfactory performance.

**Dismissal** - A type of disciplinary action resulting in the separation from employment from the municipal government for cause. **(Note - At-will employers do not have to dismiss employees for "cause" as long as it is not a violation of state or federal laws.)**

**DOT** - The Department of Transportation.

**Driver** - Refers to any person who operates a commercial motor vehicle. This includes, but is not limited to: full-time, regularly employed drivers; casual, intermittent, or occasional drivers; leased drivers and independent, owner-operator contractors who are either directly employed by or under lease to an employer or who operate a commercial motor vehicle at the direction of or with the consent of an employer. For pre-employment/pre-duty testing only, the term "driver" includes a person applying to an employer to drive a commercial motor vehicle.

**EAP** - Employee Assistance Program.

**EBT** - Evidential Breath Testing used to detect alcohol usage; an instrument approved by the National Highway Traffic Safety Administration (NHTSA) for the evidential testing of breath and placed on NHTSA's "Conforming Products List of Evidential Breath Measurement Devices."

**Eligible Applicant** - A person who has successfully met requirements for a particular employment class.



**Eligible Employee** - Eligible employees are those who have been employed for at least 12 months, who have provided at least 1,250 hours of service during the 12 months before Family and Medical Leave is requested, and who work at a work site where at least 50 employees are on the payroll (either at that site or within a 75-mile radius).

**Eligible List** - A list of names of qualified applicants for appointment or promotion to municipal government positions.

**Emergency Appointment** - An appointment made when an emergency arises and time will not permit compliance with the personnel appointment procedures.

**Employee** (synonymous with "incumbent") - The person selected to perform the work of a position. An employee is an individual who is legally employed by the municipal government and is compensated through the municipal government payroll for services. Individuals or groups compensated on a fee basis are not employees.

**Employee Development** - Providing the training programs and opportunities for employees to meet the skills and knowledge requirements needed to carry out their responsibilities.

**Employee Evaluation** - The system of assessing the quality and quantity of an employee's performance.

**Examination** - The process of testing, evaluating, or investigating the fitness and qualifications of applicants and employees.

**Exempt Service** - The elected positions and those individuals who serve at the pleasure of the elected officials who appointed them to their positions; board and commission members; people employed as consultants or counsel rendering temporary professional services; and positions involving seasonal, temporary, emergency, or voluntary employment or appointments to whom the rules and regulations are not applicable.

**Fair Labor Standards Act (FLSA)** - Federal legislation mandating time-and-a-half overtime compensation for all hours worked by an employee over 40 in a workweek.

**Family and Medical Leave** - The excused absence with or without pay, after using sick and annual/vacation leave, for a period of time not to exceed 12 weeks for family and/or medical leave.

**FHWA** - The Federal Highway Administration.

**Governing Body** - The elected positions of the town Board of Aldermen.

**Grievance** - An employee's feeling of dissatisfaction, and any differences, disagreements, or disputes arising between an employee and his/her supervisor and/or other employees regarding some aspect of employment, application or interpretation of regulations and policies, or some management decision affecting the employee. A grievance can be something real, alleged, or a misunderstanding concerning the rules and regulations or administrative order involving the employee's health, safety, physical facilities, equipment or material used, employee evaluation, promotion, transfer, layoff, recall, and any other related item.

**Immediate Family** - Includes spouse, mother or stepmother (but not both), father or stepfather (but not both), children, sister, brother, grandparents, current mother-in-law or current father-in-law, step-grandparents, grandparents-in-law, and grandchildren. Proof of these relationships may be required.

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

**Job Description** - A written explanation of one position or several very similar positions that includes a title, a definition of responsibilities and essential functions, examples of duties, and the minimum required qualifications.

**Layoff** - The involuntary, non-disciplinary separation of an employee from a position due to a shortage of funds or work, abolishing a position, other material changes in the duties or organization, or for related reasons that are outside the employee's control and that do not discredit the service of the employee.

**Leave** - An authorized absence during regularly scheduled work hours that has been approved by proper authority. Leave may be authorized with or without pay as provided for by these rules.

**Maternity Leave** - Leave granted female employees of the municipality for the purpose of pregnancy, childbirth, and nursing the infant.

**Military Leave** - Leave granted employees who enter the U.S. armed forces or who are members of the reserves who are required to attend the annual two (2) week training period.

**MRO** - A medical review officer; a licensed physician with knowledge of substance abuse disorders used to evaluate the results of substance abuse tests.

**Negative Result** - The absence of an illicit substance in the pure form or its metabolites in sufficient quantities to be identified by either an initial test or confirmation test.

**NHTSA** - The National Highway and Traffic Safety Administration.

**Occupational Disability or Injury Leave** - An excused absence from duty because of an injury or illness sustained in the course of employment and determined to be compensable under the provisions of the Workers' Compensation Law.

**Out-of-rank Pay** - Compensation paid to an employee for work performed in a higher classification.

**Overtime** - Authorized time worked by an employee in excess of normal working hours or work period. Generally, overtime is paid for all hours worked over 40 during the workweek. Public safety employees are allowed to work additional hours before overtime pay is required.

**Overtime Pay** - Compensation paid to an employee for overtime work performed in accordance with the FLSA.

**Parent** - Mother or father of an employee, or an adult who had day-to-day responsibility for caring for the employee during his/her childhood in place of the natural parents.

**Pay Plan** - A written plan/chart that places every job description in a pay grade according to knowledge, skills, and abilities.

**Pay Range** - One or more (but commonly seven) specific pay rates having a percentage relationship to one another assigned to a class of positions as the compensation for that class.

**Pay Rate** - A specific dollar amount, expressed as either an annual rate, monthly rate, or hourly rate.

**Position** - A group of duties and responsibilities assigned to one employee. A position can be vacant or occupied.

**Probationary Period** - The designated period of time after an applicant is appointed or an employee is promoted in which the employee is required to demonstrate fitness for the position by actual performance.

**Promotion** - Assigning an employee from one class to another that has a higher pay rate and/or rank.

**Provisional Employee:** An employee filling a position in the classified service without competition pending the establishment of eligibles.

**Qualifications** - The minimum educational, experience, and personal requirements that must be fulfilled by a person prior to an appointment or promotion.

**Reclassification** - The process of reviewing the duties and responsibilities of an existing position(s) in order to revise the job description to which the position(s) is assigned, or moving a job description from one pay grade to another pay grade.

**Refusal to Submit** - (to an alcohol or controlled substances test) means that an employee (1) failed to provide adequate breath for testing without a valid medical explanation; (2) failed to provide adequate urine for controlled substance testing without a valid medical explanation; or (3) engages in conduct that clearly obstructs the testing process.

**Regular Appointment** - An appointment without time limitation, or special restriction as to continued employment, to a permanent position authorized to be filled and made as a result of a certification as prescribed by these rules.

**Regular Full-time Employee** - An individual who works the equivalent of 40 hours or more per week.

**Regular Part-time Employee** - An employee appointed to fill a vacancy or a newly created position who works a minimum of 20 hours each workweek. The employee is not entitled to benefits.

**Regular Service** - The regular service shall include all positions in the town service except those listed under exempt service.

**Removal** - Separation of an employee on probation or for failure to meet legal requirements for employment.

**Reprimand** - A type of oral or written disciplinary action denoting a violation of personnel or departmental regulations that becomes part of the employee's personnel record.

**Safety-sensitive Drivers** - An employee in the aviation, motor carrier, railroad, and mass transit industries.

**Seniority** - The length of service with the town as a regular employee in the classified service.

**Separation** - The removal of an individual from a position either through resignation, dismissal, layoff, disability, retirement, or death.

**Serious Health Condition** - An illness, injury, impairment, or physical or mental condition involving in-patient care or continuing treatment by a health care provider. Examples of serious health conditions include, but are not limited to: heart attacks and conditions requiring bypass or valve operations, most cancers, back conditions requiring extensive therapy or surgical procedures, strokes, severe respiratory conditions, spinal injuries, severe arthritis, etc.

**Sick Leave** - An absence approved by the appointing authority or supervisor due to a non-occupational illness or injury.

**Skill Levels** - A grouping of positions based on similar skills, knowledge, and ability requirements.

**Split Specimen** - Urine drug test sample will be divided into two parts. One part will be tested initially, the other will remain sealed in case a retest is required or requested.

**Substance Abuse Professional** - A licensed physician (medical doctor or doctor of osteopathy), or a licensed or certified psychologist, social worker, employee assistance professional, or addiction counselor (certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission) with knowledge of and clinical experience in the diagnosis and treatment of alcohol and controlled substances-related disorders.

**Supervisor** - An individual charged with the responsibility of a small unit of the municipal government.

**Suspension** - An enforced leave of absence for disciplinary purposes or pending an investigation of charges made against an employee.

**Temporary Employee** - Temporary employees are individuals who work for the town for no more than six (6) months during one calendar year.

**Transfer** - Assigning an employee from one position to another position. Transfers can take place within a department, between departments, between positions of the same pay range, between positions of the same class, or between positions of different classes of equal rank and pay.

**Vacancy** - An employment position without an incumbent.

**Workday** - The scheduled number of hours an employee is required to work per day.

**Workweek** - Seven (7) consecutive 24-hour periods as designated by the municipality.

### **SECTION III - CLASSIFICATION PLAN (reserved)**

### **SECTION IV - COMPENSATION PLAN**

#### **A. PURPOSE**

The pay plan is intended to provide fair compensation for all classes in the classification plan in consideration of pay ranges for other classes, general pay rates for similar employment in private establishments and other public jurisdictions in the area, cost of living data, the financial condition of the municipality, and other factors.

#### **B. COMPOSITION**

The pay plan shall consist of minimum and maximum pay rates with intermediate steps for each existing pay grade (position classification) as adopted by the board.

#### **C. MAINTENANCE OF THE PAY PLAN**

The personnel committee will, from time to time, make comparative studies of all factors affecting the level of salary ranges and will recommend to the Mayor such changes in the salary ranges as appear to be in order. Such adjustments will be made by increasing or decreasing the salary ranges the appropriate number of steps as provided in the basic salary schedule. The pay rate for each

employee will be adjusted an appropriate number of steps in conformity with adjusting the salary range for that class as approved by the town board.

#### **D. USE OF SALARY RANGES**

Salary ranges are intended to furnish administrative flexibility in recognizing individual differences among positions allocated to the same class and in providing employee incentives, and in rewarding employees for meritorious service.

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

#### **E. HOURLY RATES**

Employees paid on an hourly rate basis are paid for all time actually worked. The Town Board of Aldermen shall set by ordinance all salaries paid by the town. Due consideration shall be given to duties performed, responsibilities, technical knowledge and skills required to perform the work satisfactorily, the labor market, and availability of people having the desired qualifications.

#### **F. MINIMUM WAGES**

In accordance with the FLSA, no employee, whether full time, part time, or probationary, shall be paid less than the federal minimum wage unless they are expressly exempt from the minimum wage requirement by FLSA regulations.

#### **G. OVERTIME PAY**

Overtime will not be authorized except by prior approval of the department head of Mayor except in the case of an emergency. Hourly employees may be compensated at their normal rate of pay, plus one-half (1/2) for all hours worked over forty (40) hours per week. (NOTE: Police officers will be paid at their normal rate of pay, plus one-half (1/2) for all hours worked over forty-three (43) hours per week.)

#### **H. PAYCHECKS**

All employees shall be paid on a bi-weekly basis. If you have questions about your work time, salary, or paycheck, call it to the attention of the department head within the pay period in question or immediately thereafter.

If you are absent on payday and wish to have someone else obtain your check for you, you may send your identification and a signed note authorizing the company to give your check to the bearer.

Final Paycheck - The final paycheck for a dismissed or resigning employee will be made available on his/her regular payday. In unusual circumstances, a department head may make arrangements for earlier payment.

Lost Paychecks - Employees are responsible for their paychecks after they have been issued. Checks lost or otherwise missing should be reported immediately to the payroll department so that a stop-payment order may be initiated. The Mayor will determine if and when a new check should be issued to replace a lost or missing check.

Unclaimed Paychecks - Paychecks not claimed by employees within three (3) days of the date issued must be returned by the supervisor to the personnel committee.

## I. PAYROLL DEDUCTIONS

By law the town is required to deduct, where applicable, federal withholding taxes, Social Security taxes, and garnishments from an employee's pay. The following deductions will be made when authorized by an employee:

1. **Federal Income Tax**: Federal taxes are withheld from employees' paychecks based on the number of dependents claimed by each individual. Employees are required to keep on file with the municipal government a copy of the W-4 form. In the event of changes in the employee exemption status, a revised W-4 must be filed before payroll deduction adjustments will be made.
2. **Social Security**: Social Security payments and deductions will be made according to the Social Security Act. The office manager, shall keep such records and make such reports as may be required by applicable state and federal laws or regulations.
3. **Others**: Other town-authorized deductions may be made from an employee's pay only with the employee's signed consent.



- a. hospitalization (medical service premiums),**
- b. deferred compensation payments,**
- c. credit union payments,**
- d. pension plan, and**
- e. equipment**

## SECTION V - EMPLOYMENT

### A. APPLICATIONS

The Town of Monterey shall make every effort to attract qualified applicants for various types of positions. In so doing, the appointing authority shall notify all current employees and shall contact the unemployment office for qualified applicants each time a vacancy occurs. If no qualified current employee or qualified applicants are not available through the unemployment office, the appointing authority shall prepare and publish in an officially designated newspaper a public notice of vacancies when they occur, and place notices at an officially designate site in the Town Hall and such other sites as may be designated by the Mayor. The Mayor shall also provide notice of vacancies in alternate media, including taped messages, radio announcements, or other methods to ensure effective communication to someone with disabilities.

All employment applications are received at Town Hall by the personal committee and given thorough consideration by the appropriate department head. The department head shall give his recommendation in writing to the appropriate committee for review. The committee will then bring its recommendation to the board of mayor and aldermen for consideration. Applications are accepted for any position at any time (provided position(s) is available and public notice has been given) and will remain on file for six (6) months after being received by the town. The Town of Monterey exercises a policy of fairness to every person who applies for work and, in cooperation with the supervisor involved, is responsible for properly selecting and placing people in various town applicants with disabilities making a request for such accommodations.

An applicant may be removed from consideration if he/she:

1. declines an appointment when offered;
2. cannot be located by the postal authorities — it shall be deemed impossible to so locate an applicant when a communication mailed at the last known address is returned unclaimed;
3. fails to return at least two (2) telephone calls over 72 consecutive hours.
4. moves out of the area;
5. is currently using narcotics, or his/her excessive use of intoxicating liquors will pose a direct threat to the health and safety of others;

6. is found to have been convicted of a felony or a misdemeanor involving moral turpitude as the term is defined by law;
7. has made a false statement of material fact on the application;
8. does not file the application within the period specified in the application announcement or does not use the prescribed form or uses a different format than allowed as a reasonable accommodation; and/or
9. does not possess the minimum qualifications as indicated by the classification plan.

**B. RECRUITMENT BY EXAMINATION**

All appointments in the municipal government service shall be made according to merit and fitness and may be subject to competitive examination. All such examinations shall fairly and impartially test those matters relevant to the capacity and fitness of the applicant to efficiently discharge the duties of the position to be filled.

**C. TYPES OF EXAMINATIONS (reserved)**

**D. TESTING (reserved)**

**E. OPEN ELIGIBILITY**

Individuals shall be recruited from a geographic area as wide as necessary to assure obtaining well-qualified applicants for the various types of employment positions. Recruitment, therefore, shall not be limited to residents of the town or county. In cases where residents and non-residents are equally qualified for positions presently vacant, the residents shall receive first consideration in filling such vacancies.

**F. MEDICAL EXAMINATIONS AND GENERAL PHYSICALS**

**Pre-employment**

Following a conditional offer of employment, every prospective employee, when required, may be examined by a licensed medical physician designated by the municipal government. This exam will determine whether prospective employees can perform the essential functions of the position offered and will serve as a general physical overview. The cost of this medical examination shall be borne by the town. Prospective employees who are unable to successfully

perform the essential functions tested for in the medical examination shall have their offer of employment by the town withdrawn only if they:

1. cannot perform the essential functions due to a disability that cannot reasonably be accommodated;
2. pose a direct threat to themselves and/or others; or
3. are unable to perform the essential functions due to a temporary condition or disability not protected by the ADA.

### **Post-employment**

All employees of the town may, during their employment, be required by their department head, with the approval of the Mayor, to undergo periodic examinations to determine their physical and mental fitness to continue to perform the work of their positions. This periodic examination shall be at no expense to the employee. Determination of physical or mental fitness will be made by a physician designated by the Mayor.

When a town employee is reported by the examining physician to be physically or mentally unfit to perform work in the position for which he/she is employed, the employee may, within ten (10) days from the date of his/her notification of such determination, indicate in writing to the Mayor, his/her intention to submit the question of his/her physical or mental unfitness to a physician of his/her own choice.

In the event there is a difference of opinion between the examining physician and the physician chosen by the employee, a physician shall be mutually agreed upon and designated by both physicians. The third physician's decision shall be final and binding as to the physical or mental fitness of the employee. The municipal government shall pay its physician, the employee shall pay his/her physician, and the third physician shall be paid by the town.

Employees determined to be physically or mentally unfit to continue in their positions may be demoted according to these rules, or they may be separated from the municipal government service only after it has been determined that they:

1. cannot perform the essential functions due to a disability that cannot reasonably be accommodated;
2. pose a direct threat to themselves and/or others;

3. are unable to perform the essential functions due to a temporary condition or disability not protected by the ADA.

#### G. MINIMUM AGE

The FLSA requires that employees of state and local governments be at least 16 years old for most non-farm jobs and at least 18 years old for non-farm jobs declared hazardous by the secretary of labor. Minors 14 and 15 years old may work outside school hours under certain conditions.

#### H. TYPES OF EMPLOYEES

1. **Regular Full-time Employee** - A regular full-time employee is an employee who works a minimum of forty hours per week or one shift every three (3) days in the case of firefighters, is paid an hourly rate, is subject to all conditions of employment, and receives all benefits offered by the town unless specifically excluded by the town charter, code, or ordinance. Regular full-time employees serve a six (6) month probationary period (except for uniformed police and fire employees who have a twelve (12) months probationary period), during which time they may be dismissed without recourse.
2. **Regular Part-time Employee** - A regular part-time employee is an employee who works part-time hours on a regular basis who may not work on a daily basis and whose hours cannot exceed 72 hours per two week pay period unless approved by the Mayor. Regular part-time employees **are not** eligible for the city's health insurance.
3. **Temporary Full-time Employee** - A temporary full-time employee is an employee who works fewer than 72 hours per two week pay period. Part-time employees receive no benefits.
4. **Volunteer Firefighters** - Volunteer firefighters are appointed by the fire chief when necessary. Volunteer firefighters are compensated per fire-call with no other benefits except coverage under the Volunteer Firefighters' Insurance Coverage Policy. The town also provides workers' compensation benefits.

#### I. APPOINTMENTS, PROMOTIONS, DEMOTIONS, AND TRANSFERS

Pursuant to the town charter, the board of mayor and aldermen has the authority to appoint, promote, demote, transfer, suspend, and remove all officers and employees of the Town of Monterey, except for vacancies occurring in offices

which may be filled by the mayor. All vacancies in the municipal government service shall be filled by original appointment, re-employment, promotional appointment, provisional appointment, transfer, or demotion.

Whenever a department head wishes to fill a vacancy, a request for appointment must be submitted to the Mayor on the forms prescribed.

1. **Appointments** - Appointments to positions with the municipal government fall into four categories. They are:
  - a. **Original Appointments** - When a non-employee passes all the tests of employability and is offered conditional employment.
  - b. **Provisional Appointments** - When the municipality is unable to fill a vacancy because of an insufficient number of applicants or lack of qualified applicants, the Mayor may authorize the department head to fill the vacancy by a provisional appointment. Provisional appointments require the prior approval of the Mayor and no payment shall be made for services rendered by the appointee prior to the appointment.
  - c. **Emergency Appointments** - The Mayor may authorize the appointment of any qualified person to a position to prevent a halt in public business or loss or serious inconvenience to the public. Emergency appointments shall be limited to a period not to exceed sixty (60) days in any 12-month period, unless approved by majority vote of the board.
2. **Promotions** - A promotion is assigning an employee from one position to another that has a higher maximum pay rate, rank, and responsibility. **(Vacancies in positions above the lowest rank in any category in the classified service shall be filled as far as practical by promoting employees.)** Promotions in every case must involve a definite increase in duties and responsibilities and shall not be made merely for the purpose of effecting an increase in compensation.

When an employee in one classification is promoted to a position in another classification and the employee's current pay rate is less than the minimum rate for the new position, the employee's salary shall be raised to that minimum rate.

When the employee's salary falls above the new minimum rate, a percentage increase as determined by the Mayor shall be given, if approved by the board.

3. **Transfers** - When an employee desires to transfer from one department to another, it must be agreeable to both department heads involved and/or approved by the Mayor. Transferring an employee from one position to another without significant change in the responsibility level may be effective:
  - a. when the employee meets the qualification requirements for the new position;
  - b. if it is in the best interest of the municipal government;
  - c. if it meets the personal needs of the employee as consistent with the other requirements of this rule; and/or
  - d. as a reasonable accommodation when an employee is unable, due to a disability, to continue to perform the essential functions of the job.

An employee who transfers from one municipal government department to another will retain and carry forward all benefits earned, accrued, or both as of the date of transfer. As a general rule, lateral transfers require no increase in compensation.

4. **Demotions** - A demotion is assigning an employee from one position to another that has a lower maximum pay rate, rank, and responsibility. An employee may be demoted for any of the following reasons:
  - a. because his/her position is being abolished and he/she would otherwise be laid off;
  - b. because his/her position is being reclassified to a higher grade, and the employee lacks the necessary skills to successfully perform the job;
  - c. because there is a lack of work;
  - d. because there is a lack of funds

- e. because another employee, returning from authorized leave granted in accordance with the rules on leave, will occupy the position to which the employee is currently assigned;
- f. because the employee does not possess the necessary qualifications to render satisfactory service to the position he/she holds;
- g. because the employee voluntarily requests such a demotion, and it is available;
- h. as a reasonable accommodation when an employee, due to a disability, becomes unable to perform the essential functions of the job; and/or
- i. as a form of disciplinary action.

When an employee in one classification is demoted to a position in a lower classification and the employee pay rate is higher than the minimum rate for the new position, the employee's salary shall be reduced to the classification rate.

#### **J. CITIZENSHIP AND IMMIGRATION STATUS VERIFICATION**

The town will not discriminate on the basis of a person's national origin or citizenship status with regard to recruitment, hiring, or discharge. However, the town will not knowingly employ any person who is or becomes an unauthorized immigrant. In compliance with the Immigration Reform and Control Act, all employees hired after Nov. 6, 1986, regardless of national origin, ancestry, or citizenship, must provide suitable documentation to verify identity and employability. The documentation must be provided within three days of employment or the individual will be terminated.

#### **K. PROBATIONARY PERIOD**

The probationary, or working test period, is an integral part of the examination process and shall be used for:

1. closely observing the employee's work;
2. securing the most effective adjustment of a new or promoted employee to his/her position; and



3. rejecting any employee whose performance does not meet work standards.

The probationary period for all regular appointments shall be for a period of six (6) months. This excludes police and firefighters, who shall serve a 12-months period or who are on probation until certification. Department heads may request an extension of any employee's probationary period with the prior approval of the Mayor. In no event may a probationary period be extended beyond 15 months for policemen and firefighters, 9 months for all other employees.

During the probationary period, the Mayor shall require the department head to report the observations of the employee's work and his/her judgment of the employee's willingness and ability to perform the duties assigned. During the probationary period, the supervisor will inform the employee when his/her performance is unsatisfactory and not meeting the probationary test requirements.

A performance evaluation/appraisal shall be completed at least one month prior to the expiration of an employee's probationary period. At this time, the department head shall notify the Mayor if the employee's service has been satisfactory and whether he/she will continue to employ the individual.

#### **L. FIRST DAY OF EMPLOYMENT**

After an applicant has been chosen to fill a job vacancy by the department head and has been approved by the board of mayor and aldermen, the new employee shall be required to complete or provide the following documents and forms before beginning work:

1. W-4 form;
2. Immigration Control and Reform Act form (I-9);
3. A copy of educational certification, professional license, or certificate required per the job description;
4. Emergency telephone numbers;
5. A copy of driver's license (if the position requires driving a town vehicle), and
6. Signed acknowledgment form from the employee handbook/personnel manual;

7. A pre-employment physical including a drug screening.

#### **M. MOONLIGHTING/OUTSIDE EMPLOYMENT**

With the approval of one's Mayor, "moonlighting" is permissible, provided that there is no conflict of interest or impairment of work performance for the Town of Monterey. Before outside employment begins, employees must present a written request describing the work to be performed.

Employees missing work because of sickness or injury that can be attributed to a second job will not receive pay or other normal benefits for time lost from their municipal government job. Approval of a second job may be withdrawn for any of the above reasons.

#### **N. WORKDAY/WORKWEEK**

Pursuant to the FLSA, a workweek is a regular recurring period of 168 hours consisting of seven consecutive 24-hour periods. For law enforcement personnel the work period shall be a fourteen (14) day work period as allowed under the FLSA, Section 7(k) which work period may in the future be changed by a resolution of the board of mayor and aldermen. Except as is provided in special employment contracts (i.e., firefighters), five days per week constitute a workweek for regular employment. As necessary, schedules will vary in departments for the smooth operation of the city/town. A standard workweek is scheduled between 12:01 a.m. Sunday through 12:01 a.m. the following Sunday.

#### **O. ATTENDANCE**

Punctual and regular attendance is necessary for the town to operate efficiently. Employees unavoidably late or absent from work due to illness or other causes must notify their supervisor within the two (2) hours after the beginning of the scheduled work day, unless unusual circumstances prevent the employee from making proper notification. Employees must explain the reason for the absence and, if possible, the anticipated time and date they will return to work. Failure to notify one's supervisor of absences may result in disciplinary action. Employees found cheating on their time sheets will be subject to immediate dismissal. Excessive tardiness is regarded as sufficient reason for termination. (as amended by Ord. #376, July 1999, and Ord. #399, March 2002)

### **SECTION VI - BENEFITS**

#### **A. LEGAL HOLIDAYS**

All offices and shops of the Town of Monterey, except emergency and necessary operations, will be closed and employees excused on the following legal holidays :

New Year's Day	Jan. 1
President's Day	February
Good Friday	Friday preceding Easter Sunday
Memorial Day	Last Monday in May
Standing Stone Day	Friday before (October)
Independence Day	July 4
Labor Day	First Monday in September
Thanksgiving Day	November (Fourth Thursday)
Friday after Thanksgiving	Fourth Friday in November
Christmas Eve	Dec. 24
Christmas	Dec. 25

When a legal holiday falls on Saturday or Sunday, it shall be observed the following Monday with the exception of Christmas Eve or as designated by the town commission or utility board.

To receive compensation for a holiday, employees eligible for holiday benefits must be in a pay status (not away on leave without pay or on workers' compensation) on their last regular shift scheduled before a holiday and their first regularly scheduled shift after a holiday. It shall be the department head's responsibility to report to payroll the names, hours, and dates of employees who work holidays. This reporting shall be done as soon as possible, but in no case later than three workdays after the holiday.

## **B. HOLIDAY PAY**

Public safety officers (police and fire department employees) shall receive holiday pay in the form of an additional eight (8) hours pay for each of the above holidays whether on duty or not. Employees eligible for holiday pay must be in

a pay status their last regular shift before a holiday and their first regularly scheduled shift after a holiday in order to receive compensation for the holiday.

**C. VACATION LEAVE**

Vacation leave will be granted to regular employees who have been continuously employed by the town. Vacation leave is to be taken following the period of time in which it is earned. Total leave days in excess of ten (10) days for a particular year of employment must be taken before an employee’s anniversary date, either as days off with pay or the employee shall be compensated with pay for the period in excess of ten (10) days. For vacation purposes, time is earned beginning with the date of regular employment to the anniversary date each year. Employees who plan to use two consecutive annual leave days must have the approval of their department head two weeks prior to time off, except in the case of emergency. **No earned annual leave with pay may be taken until an employee has been employed for three (3) months.**

Vacation time will be calculated according to the following schedule: (Part-time employees will receive one-half (1/2) of following schedule)

<b>Years of Service</b>	<b>Days Earned per Years of Service</b>	<b>Hours Earned per Pay Period</b>
<b>1</b>	5 days	1.54 hours
<b>2</b>	10 days	3.08 hours
<b>3-10</b>	15 days	4.62 hours
<b>11 &amp; over</b>	20 days	6.15 hours

Vacation leave may be taken as earned subject to the approval of the department head who shall schedule vacations so as to meet the operational requirements of the department. Head of Department has first priority in selecting vacation days. Subsequent vacation days will be awarded on seniority basis.

An employee who is separated from city employment shall be paid for his/her unused vacation leave on pay period immediately following the separation of employment . The termination date shall coincide with last date of pay.

Legal holidays falling within a vacation period are not to be counted as vacation days. There shall be no pay in lieu of vacation. When an employee is on “leave without pay” for 15 days during any calendar month, no annual leave

accumulates. Employees may not borrow against future annual vacation or transfer earned leave to another employee.

Service in the Tennessee National Guard, state militia, or military reserves may be charged as annual vacation at the option of the employee. Employees electing to coincide vacation time with military leave shall receive full pay for the amount of specified vacation leave.

#### D. SICK LEAVE

Each regular employee will accrue sick leave at the rate of four (4) hours per pay period for full-time employees and two (2) hours per pay period for part-time employees. **(Employees may accumulate an unlimited amount of sick leave.)** Sick leave benefits will commence on the first day of such absence and shall continue for as long as sick leave credit remains. Employees are not paid for unused sick leave at the time of separation.

Generally, employees become eligible to use sick leave in the situations outlined below.

1. Employees are incapacitated by sickness or a non-job-related injury, or they are seeking medical, dental, or optical diagnosis and treatment.
2. Necessary care and attendance of a member of the employee's immediate family is approved by a jurisdictional official. Immediate family members are :

#### IMMEDIATE FAMILY

Husband	Wife
Father	Mother
Brother	Sister
Son	Daughter
Father-in-law	Mother-in-law
Brother-in-law	Sister-in-law
Son-in-law	Daughter-in-law
Grandfather	Grandmother
Uncle	Aunt
Legal foster parents and children	
Any step relatives (stepchildren, etc.)	

3. Employees may jeopardize the health of others because they have been exposed to a contagious disease requiring notice from a qualified doctor.

In order to be granted sick leave with pay an employee must notify his/her immediate supervisor not later than two (2) hours before the beginning of the scheduled work day of the reason for absence or within lesser time if required by the department head.

To prevent abuse of the sick leave privilege, department heads are required to satisfy themselves that the employee is genuinely ill before paying sick leave. Any absence may require a doctor's certificate, and any absence in excess of three workdays may also require a doctor's certificate to return to work (if, in the opinion of the immediate supervisor, such action is deemed appropriate).

Each day deducted from an employee's sick leave accumulation shall be for a regular workday and shall not include holidays and scheduled days off. Employees claiming sick leave while on annual leave must support their claim by a doctor's statement. When an employee is on "leave without pay" for 15 days during any calendar month, no sick leave accumulates.

An absence from work while sick will constitute a charge for that absent period of time as sick leave for the respective employee.

After employees have exhausted their accrued sick leave, leave without pay may be granted at the discretion of the Mayor as a reasonable accommodation to disabled people. Also, employees may be placed on special leave without pay, or they may be terminated if unable to perform their job or another job with or without a reasonable accommodation. Should employees later be able to return to work, upon presentation of certification by a doctor, they shall be given preference for employment in a position for that they are qualified, with the approval of a jurisdictional elected official or a department head.

Employees may not borrow against future sick leave or transfer earned sick leave to another employee. An employee, upon exhausting all earned sick leave, may use earned annual leave or take leave without pay.

**1. Sick Leave Incentive Program:** Effective for fiscal year 2004-2005, and each year thereafter, Town employees with at least 120 hours of accumulated sick leave for permanent full-time employees and 60 hours of accumulated sick leave for permanent part-time employees shall be eligible, subject to eligibility standards and budgetary constraints, for a one time annual sick leave incentive payment.

On September 1 of each year, a determination will be made as to the eligibility of each employee. Town employees who meet the eligibility standards outlined below shall be issued a lump-sum payment equal to thirty percent (30%) of their hourly rate for each hour of unused sick leave accrued, up to a maximum of 80 hours for full-time employees or 40 hours for part-time employees. This payment is subject to the determination of the Board of Mayor and Aldermen that the Town budget can and should fund such payment. Said one-time annual payment shall be issued by the Town on or before December 1 of each year, subject to Town budget constraints.

Eligibility Standards: to be eligible on September 1 of a given year for the lump-sum sick leave incentive payment, full-time employees must have accumulated a minimum of 120 hours and part-time employees must have accumulated a minimum of 60 hours of sick leave by that date. Further, employees must have been actively employed by the Town from July 1 through June 30 of the preceding fiscal year and must be actively employed on September 1 of the year in which payment is made. Full time employees who have taken more than 48 hours of sick leave and part-time employees who have taken more than 24 hours of sick leave during the preceding period of July 1 through June 30 shall not be deemed eligible on September 1 for the December 1 incentive payment. Employees who accept such payment will forfeit those hours of sick leave for which a lump-sum payment has been made.

**2. Sick Leave Incentive Upon Retirement:** Upon retirement, any employee of the Town shall receive compensation for accumulated, unused sick leave at the rate of \$5.00 per hour for each hour of accrued, unused sick leave accumulated by the employee's date of retirement, up to a maximum of 500 hours. Retirement shall be defined as: Voluntary separation from employment by an individual who has worked for 20 consecutive years as a permanent full or part-time employee of the Town, or has attained the age of 60 years. (as amended by Ord. #424, Feb. 2005)

#### **E. BEREAVEMENT LEAVE**

Leave with pay not to exceed three (3) working days may be authorized in case of a death within the employee's immediate family. In the event the death in the employee's immediate family requires an out-of -town trip, the Mayor may authorize up to an additional three (3) days leave. This leave with pay shall be charged to accrued sick leave credits.

## F. FAMILY AND MEDICAL LEAVE

### Purpose

The purpose of this policy is to provide a family and medical leave policy in compliance with Public Law 103-3, title Family and Medical Leave Act (FMLA) of 1993.

### Definitions

1. Eligible Employee: Eligible employees are those who have been employed for at least 12 months, who have provided at least 1,250 hours of service during the 12 months before leave is requested.
2. Parent: Mother or Father of an employee, or an adult who had day to day responsibility for caring for the employee during his or her childhood years in place of the natural parents.
3. Son or Daughter/Child: Biological, adopted, or foster child, a step child, legal ward, or child of a person standing in loco parentis, who are under the age of 18 years. Children who are 18 years or older qualify, if he or she is incapable of self-care because of mental or physical disability.
4. Serious Health Condition: An illness, injury, impairment, or physical or mental condition involving either inpatient care or continuing treatment by a health care provider. Examples of serious health conditions include but are not limited to heart attacks, heart conditions requiring heart bypass or valve operations, most cancers, back conditions requiring extensive therapy or surgical procedures, strokes, severe respiratory conditions, spinal injuries, severe arthritis, etc.

### Leave Provisions

1. An eligible employee may take up to 12 weeks of FMLA leave including accrued paid leave and unpaid leave in a 12 month period for the birth of a child or the placement of a child for adoption or foster care. Under the Tennessee Maternity Leave Act a female employee may take an additional 4 weeks of unpaid leave if the 3 months advance notice has been complied with. Leave may also be taken to care for a child, spouse, or a parent who has a serious health condition.



2. The right to take FMLA leave applies equally to male and female employees who are eligible.
3. FMLA Leave for the purposes of care for a newborn child or a newly placed adopted or foster care child must be taken before the end of the first 12 months following the date of birth or placement.
4. An expectant mother may take FMLA medical leave upon the birth of a child, or prior to the birth of her child for necessary medical care and if her condition renders her unable to work. Similarly for adoption or foster care, leave may be taken by employee (husband or wife) upon the placement of the child or leave may begin prior to the placement if absence from work is required for the placement to proceed.
5. An employee may take FMLA leave to care for a parent or spouse of any age who, because of a serious mental or physical condition, is in the hospital or other health care facility. An employee may also take leave to care for a spouse or partner of any age who is unable to care for his or her own basic hygiene, nutritional needs, or safety. Examples include a parent or spouse whose daily living activities are impaired by such conditions as Alzheimer's disease, stroke or who is recovering from major surgery, or who is in the final stage of a terminal illness.
6. Eligible employees, who are unable to perform the functions of the position held because of serious health condition, may request up to 12 weeks FMLA leave. The term "serious health condition" is intended to cover conditions or illnesses that affect an employee's health to the extent that he or she must be absent from work on a recurring basis or for more than a few days for treatment or recovery.
7. Employees requesting FMLA leave must use any balance of sick leave, annual leave, and disability leave prior to unpaid leave beginning. The combination sick leave, annual leave, disability leave and unpaid leave may not exceed 12 weeks for FMLA purposes.
8. During periods of FMLA leave, an employee will not accrue any additional seniority or similar employment benefits during the leave period.

9. If spouses are employed by the same employer and wish to take FMLA leave for the care of a new child or a sick parent, their aggregate leave is limited to 12 weeks. For example, if the father takes 8 weeks of leave to care for a child, the mother would be entitled to 4 weeks leave, for a total of 12 weeks of leave.

### **Notification and Scheduling**

1. An eligible employee must provide the employer at least 30 days advance notice of the need for FMLA leave for birth, adoption or planned medical treatment, when the need for leave is foreseeable. This 30-day notice is not required in cases of medical emergency or other unforeseen events, such as premature birth, or sudden changes in a patient's condition that require a change in scheduled medical treatment.
2. Parents who are awaiting the adoption of a child and are given little notice of the availability of the child may also be exempt from this 30-day notice.

### **Certification**

1. The employer reserves the right to verify an employee's request for family/medical leave.
2. If an employee requests FMLA leave because of a serious health condition or to care for a family member with a serious health condition, the employer requires that the request be supported by certification issued by the health care provider of the eligible employee or the family member as appropriate. If the employer has reason to question the original certification, the employer may, at the employer's expense, require a second opinion from a different health care provider chosen by the employer. That health care provider may not be employed by the employer on a regular basis. If a resolution of the conflict cannot be obtained by a second opinion, a third opinion may be obtained from another provider and that opinion will be final and binding.
3. This certification must contain the date on which the serious health condition began, its probable duration, and appropriate medical facts with the knowledge of the health care provider regarding the condition. The certification must also state the employee's need to care for the son, daughter, spouse, or parent

and must include an estimate of the amount of time that the employee is needed to care for the family member.

4. Medical certifications given will be treated as confidential and privileged information.
5. An employee will be required to report periodically to the employer the status and the intention of the employee to return to work.
6. Employees who have taken FMLA leave under this policy must furnish the employer with a medical certification from the employee's health care provider that the employee is able to resume work before return is granted.

### **Maintenance of Health and COBRA Benefits During FMLA Leave**

1. The employer will maintain health insurance benefits, paid by the employer for the employee, during periods of FMLA, without interruption. Any payment for family coverage's premiums, or other payroll deductible insurance policies, must be paid by the employee or the benefits may not be continued.
2. The employer has the right to recover from the employee all health insurance premiums paid during the FMLA leave period if the employee fails to return to work after leave. Employees who fail to return to work because they are unable to perform the functions of their job because they are unable to perform the functions of their job because of their own serious health condition or because of the continued necessity of caring for a seriously ill family member may be exempt from the recapture provision.
3. Leave taken under this policy does not constitute a qualifying event that entitles an employee to COBRA insurance coverage. However, the qualifying event triggering COBRA coverage may occur when it becomes clearly known that an employee will not be returning to work, and therefore ceases to be entitled to leave under this policy.

### **Reduced and Intermittent Leave**

1. Leave taken under this policy can be taken intermittently or on a reduced leave schedule when medically necessary as certified by the health care provider. Intermittent or reduced leave schedules for routine care of a new child can be taken only with the approval

of the employer. The schedule must be mutually agreed upon by the employee and the employer.

2. Employees on intermittent or reduced leave schedules may be temporarily transferred by the employer to an equivalent alternate position that may better accommodate the intermittent or reduced leave schedule.
3. Intermittent or reduced leave may be spread over a period of time longer than 12 weeks, but will not exceed the equivalent of 12 workweeks total leave in a one 12-month period.

### **Restoration**

1. Employees who are granted leave under this policy will be reinstated to an equivalent or the same position held prior to the commencement of their leave.
2. Certain highly compensated key employees, who are salaried and among the 10% highest paid employees, may be denied restoration. Restoration may be denied if (A) the employer shows that such denial is necessary to prevent substantial and grievous economic injury to the employer's operations, (B) the employer notifies the employee that it intends to deny restoration on such basis at the time the employer determines that such injury would occur, and (C) in any case in which the leave has commenced, the employee elects not to return to work within a reasonable period of time after receiving such notice.

### **The 12-Month FMLA Period**

The 12-month period during which an employee is entitled to 12 workweeks of FMLA leave starts the first day of leave taken by the employee. An employee is entitled to 12 weeks of FMLA leave during this 12 month period.

Any employee who desires to request leave under the FMLA should notify his supervisor. The supervisor should contact the Mayor for the necessary forms and procedures.

### **G. MILITARY LEAVE**

Any regular employee who has completed six months of satisfactory employment and who enters the U.S. armed forces will be placed on military leave. The official shall approve military leave without pay when the employee presents

his/her official orders. The employee must apply for reinstatement within 90 days after release from active military duty.

The employee will be reinstated to a position in the current classification plan at least equivalent to his/her former position. His/her salary will be the salary provided under the position classification and compensation plan prevailing at the time of reinstatement or re-employment. If no position is available at the time of the employee's return, he/she will be reinstated into the first available position. No current full-time employee will be terminated or laid off to allow for the reinstatement.

Any regular full-time employee who is a member of the U.S. Army Reserve, Navy Reserve, Air Force Reserve, Marine Reserve, or any of the armed forces will be granted military leave for any field training or active duty required (excluding extended active duty). Such leave will be granted when the employee presents the official order to his/her jurisdictional official. Compensation for such leave will be paid pursuant to T.C.A. 8-33-109. It will be the employee's responsibility to arrange with the department supervisor to attend monthly meetings on regular off-time, with pay applied to the annual two-week training period. Employees entering extended active duty will be given fifteen (15) days pay when placed on military leave.

#### **H. JURY SERVICE LEAVE**

Leave with pay may be authorized in order that regular employees may serve required jury duty, provided that such leave is reported in advance to the personnel committee. In order to receive pay for such leave, the employee must deposit the money which he/she receives for jury duty with the personnel committee, to be forwarded to the director of finance and/or office manager in charge of finance.

#### **I. CAREER DEVELOPMENT AND TRAINING**

Employees are encouraged to take advantage of education and training benefits to improve their job skills and qualify for promotions. These benefits are limited to training and education relevant to the employee's current position or "reasonable" transfer and/or promotional opportunities. "Reasonable" is defined as attaining the minimum qualifications for promotion or transfer with no more than two years of additional training or education.

These benefits will be available to all employees on a first-come, first-serve basis, subject to the availability of budgeted funds.

Requests for education and training may be initiated by either the employee or department head. Final decisions on requests for education and training will be made by the mayor.

The mayor may authorize or require employee attendance at conferences, seminars, workshops, or other functions of a similar nature that are intended to improve or upgrade the employee's job skills.

Requests to attend training sessions should be made at least 15 days prior to the deadline for registration. The Mayor, based on the department head's recommendation, will determine who will attend conferences based on the availability of resources.

When a request for training is approved, the employee's cost for registration, tuition and publications, transportation, lodging, and other reasonable expenses will be covered by the city.

#### **J. PERSONAL EDUCATION AND TRAINING**

Employees are encouraged to improve themselves through education or training, even if it is not related to their city/town work. The town will be unable to provide financial assistance for this type of education. Employees may be granted, upon written request, permission to take time away from their jobs for training when such time is taken without pay as compensatory time or vacation time. This applies only so long as their absences will not cause hardship for their departments.

#### **K. DEATH OF AN EMPLOYEE**

Upon the death of a full-time regular employee, his/her beneficiary shall receive his/her next due payroll check, and pay for accrued vacation time. Further, his/her beneficiary shall be given complete assistance by the Mayor in settling pension, life, and hospital insurance benefits.

#### **L. WORKERS' COMPENSATION**

Employees on occupational disability will only be compensated in accordance with the provisions of the Tennessee Workers' Compensation Law (T.C.A. 50-6-101 through 50-6-623). No compensation shall be allowed for the first seven days of disability resulting from the injury, excluding the day of injury, except for medical attendance and hospitalization. However, if disability extends beyond that period, compensation shall commence with the eighth day after the injury. In the event, however, the disability from the injury exists for a period

as long as 14 days, then compensation shall be allowed beginning with the first day after the injury (T.C.A. 50-6-205).

Employees injured in an on-the-job accident may be compensated according to the following schedule of compensation:

1. Temporary Total Disability - For an injury producing temporary total disability,  $66\frac{2}{3}$  percent of the average weekly wages shall be allowed.
2. Temporary Partial Disability - In all cases of temporary partial disability, the compensation shall be  $66\frac{2}{3}$  percent of the difference between the wage of the worker at the time of the injury and the wage such worker is able to earn in the worker's partially disabled condition. This compensation shall be paid during the period of such disability, but not beyond 400 weeks.
3. Permanent Partial Disability - In all cases of disabilities that are partial in character but adjudged to be permanent, the injured employee shall be paid, in addition to any medical benefits,  $66\frac{2}{3}$  percent of the employee's average weekly wages for the period of time during which he/she suffers temporary total disability. Other benefits may apply for loss of limbs.
4. Permanent Total Disability - For permanent total disability, the injured employee shall receive  $66\frac{2}{3}$  percent of the injured employee's wages at the time of injury. This compensation shall be paid during the period of such permanent total disability until the employee reaches the age of 65. This is providing that, with respect to disabilities resulting from injuries occurring after age 60, regardless of the employee's age, permanent total disability benefits are payable for a period of 260 weeks. Such compensation shall be reduced by the amount of any old-age insurance benefits received under the Social Security Act.
5. Deduction in Case of Death - In the event an employee sustains an injury due to an accident in the course of the employee's job and if he/she dies during the period of disability, all payments previously mentioned shall be payable to the people who are wholly dependents (as defined by workers' compensation laws). (as amended by Ord. #400, March 2002)

## SECTION VII - DRUG AND ALCOHOL ABUSE POLICY

### A. PURPOSE

The Town of Monterey (“Monterey”) is committed to providing a safe working environment by making adequate provisions for the safety and health of our employees at their place of employment. Monterey is also dedicated to operating in a responsible and efficient manner for the benefit of our citizens and the general public. A result of the societal problem concerning drug and alcohol misuse, to which Monterey is not immune, Monterey has implemented a comprehensive drug and alcohol prevention and testing program designed to combat substance abuse.

Monterey is further committed to complying with all applicable laws and regulations including, but not limited to, the Drug Free Workplace Act of 1988 and Department of Transportation (“DOT”) regulations. The catalyst for this anti-drug and alcohol abuse policy is the DOT Federal Highway Administration Controlled Substances and Alcohol Use and testing Regulations, 49 CFR Part 382 (hereinafter “FHWA regulations” or “Part 382”), which requires Monterey to conduct substance abuse testing of its employees who are required to maintain commercial drivers licenses (“CDLs”). The FHWA regulations also require Monterey to follow DOT’s drug and alcohol testing procedures, 49 CFR Part 40 (hereinafter “Part 40”), which specifies the procedures to be followed in conducting the DOT drug and alcohol testing.

The overall purpose of this policy is to prevent accidents that result from the abuse of drugs or alcohol, thereby reducing fatalities, injuries and property damage. **This policy is intended solely to implement FHWA drug and alcohol testing regulations.**

**In an effort to achieve the health, safety, and efficiency goals outlined above, Monterey has also developed a comprehensive substance abuse policy which is applicable to all Monterey employees and applicants. This “General Drug and Alcohol Abuse Policy” is not required by DOT but rather is expressly and solely the policy of Monterey. However, disciplinary actions for violating any of Monterey drug and alcohol policies are ultimately controlled by the General Drug and Alcohol Abuse Policy.**

### B. DEFINITIONS

For the purposes of this drug and alcohol abuse policy, the following definitions apply:



1. “Accident” means an accident as defined in FHWA regulations, which means any reportable accident involving a Monterey commercial motor vehicle where the driver receives a citation for a moving traffic violation or where there is a fatality even if the driver is not cited for a moving traffic violation.
2. “Breath alcohol technician (BAT)” means an individual who instructs and assists individuals in the alcohol testing process and who operates an evidential breath test.
3. “Chain of custody” means procedures to account for the integrity of each urine specimen by tracking its handling and storage from point of specimen collection to final disposition of the specimen. These procedures shall require that an appropriate drug testing custody form from a Department of Health and Human Services (“DHHS”) certified laboratory be used from time of collection to receipt by the laboratory.
4. “Commercial driver’s license (CDL)” means a driver’s license required to operate Monterey commercial motor vehicles.
5. “Commercial motor vehicle” means a motor vehicle or combination of motor vehicle and towed vehicle used in commerce to transport passengers or property when the vehicle has a gross vehicle weight rating or gross combination weight rating of 26,001 or more pounds, including a towed unit with the gross vehicle weighing more than 10,000 pounds, or a gross vehicle weight rating of 26,001 or more pounds or is designed to transport 16 or more passengers.
6. “Confirmation test” means a second analytical procedure to identify the presence of a specific drug or metabolite or alcohol which is independent of the initial test. In drug testing, a confirmation test employs the techniques and principles of gas chromatography/mass spectrometry (“GS/MS”), which uses a different technique and chemical principle from that of the initial test to ensure reliability and accuracy. In alcohol testing, a confirmation test means a second test, following an initial or screening test with a result of 0.02 or greater, which provides quantitative data of alcohol concentration.
7. “Covered employee” means any Monterey employee who is required to maintain a CDL to operate Monterey commercial motor vehicles. This includes all Monterey employees who regularly,

intermittently, or occasionally are required to operate Monterey commercial vehicles.

8. “Covered CDL function (safety-sensitive function)” means any on-duty functions by a covered employee set forth 49 CFR & 395.2 including: (a) waiting to drive a Monterey commercial motor vehicle; (b) inspecting, servicing, or otherwise conditioning any Monterey commercial motor vehicle; (c) driving a Monterey commercial motor vehicle; (d) being in or upon the Monterey commercial motor vehicle; (e) loading or unloading a Monterey commercial motor vehicle or assisting in the loading or unloading, attending a vehicle being loaded or unloaded, or remaining in readiness to operate the vehicle; (f) performing driver requirements related to accidents; or (g) repairing, obtaining assistance, or remaining in attendance of a disable commercial motor vehicle.
9. “Fail a test” or “test positive” means that the test shows positive for a prohibited drug or alcohol in a person’s system.
10. “Refusal to submit to a test” means refusal by an individual, who after receiving notice of the requirement to be tested in accordance with this policy and without a valid medical explanation, refuses to provide adequate breath for an alcohol test or refuses to provide a urine sample for a drug test, or otherwise engages in conduct that clearly obstructs the testing process.
11. “Prohibited drug” means amphetamines, cocaine, marijuana, opiates and phencyclidine (“PCP”).
12. “Substance abuse professional” means a licensed physician (i.e., a medical doctor), a license or certified psychologist, social worker, employee assistance professional, or addiction counselor (certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission) with knowledge and clinical experience in the diagnosis and treatment of drug and alcohol-related disorders.

(For other definitions, see DOT regulations and Monterey’s Drug and Alcohol Testing Procedures.)

## C. POLICY

Pursuant to FHWA regulations, this policy covers any applicant or employee required to maintain a CDL. Attached to this section as Attachment I are the positions/job titles of all employee classifications at Monterey which are covered by the FHWA regulations, i.e., the classifications requiring a CDL. Jobs may be added or deleted from Attachment I at the discretion of Monterey or as mandated by law or regulations, with or without republishing this policy. If new jobs are added to Attachment I, Monterey will inform incumbents in the classification of their coverage under this policy and will provide the same training to the incumbents as it would provide for new employees.

Employees covered by this policy are those employees performing safety-sensitive functions (CDL functions) when they are actually performing, ready to perform, or immediately available to perform such functions. Consequently, covered employees are required to be in compliance with this policy at any time they report to work, are actually working, or have immediately completed work in a covered classification.

This policy is communicated to each covered employee by furnishing a summary of this policy (and informing the employee that a copy of this policy is available from the Mayor) to the individual and verbally discussing the policy in training sessions. These sessions will be repeated as needed to ensure that Monterey employees are informed and aware of this policy (and will be informed that a copy of this policy is available from the Mayor) when hired, and they will also be included in the next available training session. In addition, any employee handbook which is issued from this date forward will contain information regarding Monterey's drug and alcohol abuse policies and will specifically include, for employees who are subject to this policy, a condensed version of this policy.

Before administering an alcohol or drug test under this policy, Monterey will inform the covered employee that the test is required by this policy and applicable FHWA regulations. Should an employee governed by this policy fail an alcohol test, the employee will be removed immediately from the covered position. Should a covered employee fail a drug test under this policy, the employee will be removed immediately from the covered position upon notification to Monterey by the Medical Review Officer ("MRO") of the positive test results of the drug test. Refusal of an employee to submit to an alcohol or drug test in accordance with this policy for any purpose required under FHWA regulations will require that the employee be immediately removed from his or her covered position.

**Violation of this policy is automatically a violation of Monterey's General Drug and Alcohol Abuse Policy and will lead to disciplinary action up to and including termination under the General Policy. Every employee who violates this policy shall be advised by Monterey of the resources available to the employee in evaluating and resolving problems associated with the misuse of alcohol and the use of controlled substances. An employee who is not terminated will be mandatorily referred to a substance abuse professional and may be referred to rehabilitation as described in Section VI of this policy.**

**1. Drug Policy**

No covered employee shall unlawfully manufacture, distribute, dispense, possess, or use a prohibited drug while on Monterey properties, while on duty for regularly scheduled or emergency work, while operating Monterey vehicles or equipment, or off the job so as to affect the employee's job performance or integrity on the job as a representative of Monterey. An amount of a prohibited drug in an individual's body equal to or higher than the cut-off levels detected by a drug test, for the purposes of this policy, is considered to be the use of drugs by the individual.

**2. Alcohol Policy**

No covered employee shall report to work under the influence of alcohol or use or be under the influence of alcohol while on Monterey properties, while on duty for regularly-scheduled or emergency work or while operating Monterey vehicles or equipment. No covered employee shall report for duty or remain on duty in a covered position while having an alcohol concentration of 0.04 or greater. No employee may use alcohol while performing functions in a covered position.

Moreover, covered employees are prohibited from using alcohol within four (4) hours prior to reporting to duty. If a covered employee is called to duty to respond to an emergency, the employee is prohibited from using alcohol after the employee has been notified to report for duty. A covered employee being paid to be on call for a period of time is prohibited from consuming alcohol during that period.

A covered employee involved in an accident in which his or her performance has not been discounted as a factor contributing to the accident shall not use alcohol for eight (8) hours following the accident, unless he or she has been given a post-accident alcohol test or Monterey has advised the employee that it has determined that his or her performance could not have contributed to the accident.

**Monterey will not knowingly allow an employee to perform covered functions where the employee has violated any of the foregoing provisions.**

#### **D. RESPONSIBILITY**

The Mayor has overall responsibility for this program and for handling disciplinary actions that occur as a result of a refusal to be tested or as a result of a positive test. The personnel coordinator of the Monterey Utilities Board has the functional responsibility for the administration of the program established by this policy, coordinating with the medical review officer and the laboratory selected to do the testing, keeping records relative to drug and alcohol testing, and for coordinating and initiating testing of employees under Return-to-Work agreements.

#### **E. EMPLOYEE AWARENESS AND NOTIFICATION**

Monterey has developed a drug and alcohol awareness program to inform covered employees about the dangers of drug and alcohol abuse, the availability of counseling and treatment for employees who voluntarily seek such assistance, and the sanctions that Monterey will impose for violations of its drug and alcohol policies. This program will be monitored on an on-going basis and revised as new materials and information become available.

Monterey has held training sessions for its managers and supervisors on drug and alcohol awareness, identification of drug and alcohol misuse, and the proper procedures to be followed for drug and alcohol testing. Monterey will ensure that managers and supervisors designated to determine whether reasonable suspicion exists to require a covered employee to undergo drug or alcohol testing will receive training on the physical, behavioral, speech, and performance indicators of probable drug and alcohol misuse. In accordance with FHWA regulations, these training sessions will entail at least 60 minutes of training on indicators of probable alcohol misuse, and at least an additional 60 minutes of training concerning the indicators of probable drug use.

In addition to the supervisory training sessions, training sessions have been held with all covered employees to explain Monterey's drug and alcohol testing policies and procedures, provide training and information on the dangers of drug use or alcohol misuse, identification of drugs, the administration of Monterey's policies concerning drug and alcohol's, and the methods of gaining assistance through Monterey's Employee Assistance Program or other substance abuse counseling. In these sessions, Monterey also urges its employees who might have a problem, or know of an employee with a problem, to seek help or to encourage that individual to seek help.

Monterey will comply with the employee notification requirements of FHWA drug and alcohol programs. Specifically, Monterey will provide covered employees with educational materials (and conduct employee training) that explains the requirements of the FHWA regulations and Monterey's drug and alcohol testing policies and procedures which are intended to meet those requirements. The materials, which will be distributed to all employees covered by this policy prior to the implementation of drug and alcohol testing under this policy, will include a detailed discussion of the terms and provisions of this policy including, but not limited to, those provisions required by FHWA regulations (49 C.F.R. & 382.601), such as: (1) sufficient information about the safety-sensitive functions performed by the covered employees to make it clear what period of the work day the employee is required to be in compliance with this policy; (2) specific information on what conduct is prohibited by this policy; (3) the circumstances under which covered employees will be tested for alcohol or drugs under this policy; (4) the testing procedures that will be used for drug and alcohol tests; (5) the requirement that employees must submit to drug or alcohol tests required by FHWA; (6) an explanation of what constitutes refusal to submit to a drug or alcohol test and the consequences of refusing to submit, as well as the consequences for covered employees found to have violated this policy; and (7) information concerning the effects of alcohol misuse and drug abuse, signs, and symptoms of alcohol or drug misuse, intervention methods, substance abuse counseling and methods of referral.

#### **F. SUBSTANCE ABUSE COUNSELING (Employee Assistance Program)**

Monterey has implemented an Employee Assistance Program ("EAP"). The EAP has been designed to assist employees in addressing and resolving many types of problems or crises, including drug and alcohol-related problems. An important part of Monterey's EAP is its community service "Hot-Line" telephone number 615-839-2323, which is available to employees on a twenty-four hour basis.

Further information concerning Monterey's EAP and other approved substance abuse counseling has been included in the training sessions conducted with manager, supervisors, and employees, and can be found on posters located on bulletin boards throughout city hall. Brochures are also available from the personnel director on a continuing basis that describe the various counseling programs and services available to employees in the local area, including the names, addresses, and telephone numbers of substance abuse professionals and counseling and treatment programs approved by Monterey. Employees may receive confidential counseling assistance by directly contacting any of these resources, or an employee may place a confidential call to the personnel director for assistance in getting an appointment or for additional information.

Monterey strongly encourages employees using illegal drugs or misusing alcohol to voluntarily refer themselves to a counseling and/or rehabilitation program. Costs of counseling or rehabilitation may be covered under Monterey's group health insurance plan, subject to the eligibility requirements, limitations, and conditions of the plan. **All costs of counseling and rehabilitation, whether incurred as a result of a voluntary or mandatory referral (as defined below), that are not paid or covered by Monterey's group health insurance plan will be the responsibility of the employee.**

1. **Voluntary Referral:** A voluntary referral is defined as an employee who seeks substance abuse counseling that is not disciplinary in nature. All information is confidential without the written consent of the employee. Employees are not subject to disciplinary action for voluntary referral to a substance abuse professional, even though the reason may involve alcohol or drug dependency, as long as the employee has not otherwise been found in violation of this policy.

**Covered employees who voluntarily refer themselves to substance abuse counseling and who are, in turn, referred for alcohol or drug rehabilitation treatment, and who release or otherwise disclose that information to Monterey, will be monitored by the Mayor. The purpose of this monitoring is to help ensure that the employee continues to follow the treatment recommendations of the substance abuse professionals. Where the employee fails to follow treatment requirements, Monterey reserves the right to mandatorily refer such an employee to a substance abuse professional where the employee's position and condition raise safety concerns.**

1. **Mandatory Referral:** mandatory referral is defined as a directive from Monterey to an employee to seek substance abuse counseling when work performance or the ability to safely perform in a covered position has been affected by alcohol or prohibited drugs or the employee has otherwise violated this policy. An employee who fails either an alcohol or drug test, and who is not terminated, will be mandatorily referred to a substance abuse professional. In the case of a mandatory referral, substance abuse counseling is not confidential, and the employee will be required to sign a release authorizing the substance abuse professional to furnish Monterey with appropriate information.

If a covered employee is assessed by a substance abuse professional to need drug or alcohol abuse rehabilitation, the referral to rehabilitation will not be confidential. The employee must report to the Mayor for approval of entry into

the appropriate rehabilitation facility. Release of information will be requested by the facility enabling an information exchange between Monterey and the treatment center regarding the employee's diagnosis, recommended program, cooperation, progress, etc.

Disciplinary action related to the actions necessitating the mandatory referral to a substance abuse professional may occur prior to, during, or following the mandatory referral. Employees returning to work following a mandatory referral to a substance abuse professional and/or rehabilitation will be subject to a Return-to-Work agreement to help ensure the employee continues to follow the treatment recommendations of the substance abuse professional. Failure of the employee to comply with and complete the recommended treatment plan outlined by the rehabilitation facility or substance abuse professional will lead to disciplinary action up to and including termination.

An employee who is approved to enter a rehabilitation program, whether on a voluntary or mandatory referral basis, will be allowed to use any sick leave, vacation, or personal holidays to that employee's credit which the employee had accrued at the time of entering the program. If no paid days are available, the employee will be approved for absence without pay, as long as the employee is continuing in the rehabilitation program. The time spent in the rehabilitation program will count towards the employee's entitlement under the Family Medical Leave Act ("FMLA").

3. **Referral, Evaluation and Treatment:** Any covered employee who has engaged in conduct prohibited by this policy will be advised of the resources available to him or her for evaluating and resolving problems associated with the misuse of drugs or alcohol, including the names, addresses, and telephone numbers of substance abuse professionals and counseling and treatment programs approved by Monterey.

Where the employee is not terminated for violating this policy, Monterey will mandatorily refer the employee to an approved substance abuse professional who will determine what assistance, if any, the employee needs in resolving problems associated with the misuse of drugs or alcohol. (See Mandatory Referral, above). Before an employee will be returned to a covered position, the substance abuse professional must certify that the employee has properly followed any rehabilitation program prescribed by that professional.

**Nothing contained herein should be construed as restricting Monterey's right to terminate a covered employee for violating Monterey's General Drug and Alcohol Abuse Policy.**



## G. TESTING PROCEDURES AND METHODOLOGY

Monterey will conduct drug and alcohol testing under this policy in accordance with the procedures set forth in Part 40, Subpart C. Monterey has implemented the Part 40 procedures in a separate document entitled, "Monterey's Drug and Alcohol Testing Procedures" (hereinafter sometimes called the "Procedures"), which is hereby referenced and made a part of this policy the same as if it had been fully rewritten herein. A copy of the Procedures is available to any employee (or applicant) upon request directed to the Mayor. A summary of the procedures is as follows:

1. **Drug Testing Procedures:** Drug testing under this policy will involve the screening of urine samples for the prohibited drugs. The initial test performed on the urine sample will be an enzyme-multiplied-immunoassay technique ("EMIT") screen which will be used to eliminate negative urine specimens from further consideration. All specimens identified as positive through the EMIT screen will be confirmed by using gas chromatography/mass spectrometry ("GC/MS") techniques at the Cutoff levels set forth in the Procedures.

The collection of urine samples for drug testing under this policy will occur at city hall, which is designated as the primary drug testing site, or at other collection sites designated by the Mayor at his or her discretion. A designated collection site will be any suitable location where a urine specimen can be collected under conditions set forth in the Procedures, including properly equipped mobile facilities.

Personnel trained in the process of collecting the urine samples and seeing that correct chain of custody procedures are followed will be available at the collection site. Monterey, or any subsequent contractor performing Monterey's urine specimen collection, shall have all necessary personnel, materials, equipment, facilities, and supervision to provide for the collection, security, temporary storage, and shipping of urine specimens to a certified drug testing laboratory designated by Monterey. These personnel shall follow Monterey's Drug and Alcohol Testing Procedures to ensure that the drug test results of the urine samples are attributable to the correct employee and to preserve the integrity of the testing process and validity of the test results.

National Psychopharmacology Laboratory, Inc. ("NPL"), 9320 Park West Boulevard, Knoxville, Tennessee, a DHHS-certified

laboratory, has been selected by Monterey to perform the testing of urine samples collected under this policy. The laboratory shall provide services in accordance with Part 40, 199 and 382. In the event that a need arises for a confirmation of a positive result by another laboratory, or for the purpose of analyzing split sample specimens, another DHHS-certified laboratory will be selected from the published list of DHHS-approved laboratories in the Federal Registry or latest DOT publication.

The results of the drug test performed by the laboratory will be forwarded to Monterey's designated medical review officer ("MRO") who, among other things, is responsible for reviewing the results of the drug test before they are reported to Monterey. Verified results of the drug test will be communicated by the MRO to the Mayor. A verified positive test result communicated to Monterey will result in the employee being immediately removed from performing any covered functions. Disciplinary action will be imposed pursuant to and in accordance with Monterey's General Drug and Alcohol Abuse Policy and will involve discipline up to and including termination. Further details concerning the MRO's responsibilities, the communication of the results of drug tests to Monterey, and the ability of an employee to request that a retest of the split specimen by a different laboratory be conducted, are set forth in this policy and Monterey's Drug and Alcohol Testing Procedures.

2. **Alcohol Testing Procedures:** Alcohol testing will be conducted using evidential breath testing ("EBT") devices which have been approved by the National Highway Traffic Safety Administration ("NHTSA"), and placed on NHTSA's "Conforming Products List of Evidential Breath Measurement Devices." Alcohol testing may be conducted by either Monterey or its authorized agents, who will use an EBT device capable of printing out the results, date and time, sequential test number, and the name and serial number of the EBT to ensure reliability of the results. The locations for testing will afford sufficient privacy to the individual being tested to prevent unauthorized persons from seeing or hearing test results. Monterey (or its agents) may utilize mobile collection facilities which meet the DOT privacy requirements.

An initial or screening test will be performed by a qualified BAT utilizing an EBT. Any screening test result with an alcohol concentration less than 0.02 is considered a negative test result, and no further action will be taken. However, if the alcohol

concentration in the screening test is 0.02 or greater, a second or confirmation test will be conducted after a 15-minute waiting period.

The confirmation test may be conducted on the same EBT or different EBT by the BAT, but it must be performed no sooner than 15 minutes and no later than 30 minutes after the screening test. The confirmation test result is deemed to be the final result upon which any action will be taken under this policy. The employee and BAT will complete and sign the alcohol testing form in accordance with Monterey's Drug and Alcohol Testing Procedures, and the BAT will report the test results to the Mayor.

A confirmation test result with an alcohol concentration of 0.04 is considered a positive test, and the employee will be immediately removed from performing any covered functions. Where a covered employee is found to have an alcohol concentration of 0.02 or greater, but less than 0.04, the employee will not be allowed to perform or continue to perform covered functions until the start of the next regularly-scheduled shift, but in any event not less than 24 hours following the administration of the confirmation test. Any disciplinary action taken for a violation of this policy will be imposed pursuant to and in accordance with Monterey's General Drug and Alcohol Abuse Policy and not DOT regulations or this policy. Disciplinary action in accordance with Monterey's General Drug and Alcohol Abuse Policy may involve discipline up to and including termination.

## **H. PRE-EMPLOYMENT DRUG TESTING**

In accordance with FHWA regulations, a pre-employment drug test is required before an applicant is employed in a covered position or an employee transfers or is promoted from a non-covered to a covered position. Urine specimens will be screened for the prohibited drugs as defined in this policy. Procedures for taking urine samples and handling of the specimens will be in accordance with Monterey's Drug and Alcohol Testing Procedures.

Applicants for a covered position (or employees transferred/promoted to a covered position) will be given a summary of this policy and will be advised where the entire policy and testing procedures can be reviewed if they so request. Individuals subject to pre-employment drug testing under this policy will acknowledge having read or had this policy explained to them and should understand that they are subject to its contents as a condition of employment.

A negative test result is required before employment or transfer/promotion into the covered position. Applicants who test positive on the drug test or who refuse to take the test will not be hired and will not be eligible to be considered for employment at Monterey until the applicant shows proof of successful completion of a drug rehabilitation program. **Employees transferring or being promoted to a covered position who test positive in the drug test will be in violation of Monterey's General Drug and Alcohol Abuse Policy and will be subject to disciplinary action up to and including termination.**

In addition to pre-employment testing, covered employees who have a CDL at the time of employment will be required to sign consent forms authorizing previous employers to release to Monterey information within the proceeding two years concerning (I) any positive alcohol test (0.04 or above) for the employee; (ii) any positive drug test for the employee; and (iii) any refusals by the employee to be tested. If it is not feasible for Monterey to obtain and review this information prior to the time the employee begins to perform safety-sensitive functions, such information must be obtained and reviewed by Monterey within 14 calendar days after the employee first performs safety-sensitive functions. Monterey will not permit a CDL employee to perform safety-sensitive functions after 14 days without first obtaining and reviewing the required information.

The above information may be obtained by Monterey from previous employers either orally or in writing. Monterey will maintain a written, confidential report with respect to each employer contacted and will ensure the confidentiality of the information provided by the previous employers. Monterey will not permit a CDL employee to perform safety-sensitive functions who has either previously tested positive for alcohol, tested positive for drugs, or refused to be tested, unless and until Monterey obtains (i) information that the employee has subsequently tested negative on a return-to-duty test; and (ii) records pertaining to a subsequent determination by a substance abuse professional concerning the employee's need for assistance and compliance with recommendations of the substance abuse professional. If Monterey is unable to obtain the required information on such an employee, the employee may be terminated.

## **I. RANDOM DRUG AND ALCOHOL TESTING**

In accordance with FHWA regulations, all covered employees will be subject to random drug and alcohol testing. Beginning upon the effective date of this policy, covered employees will be tested for prohibited drugs at a rate equal to 50% of those employees employed as of the first day of the calendar year. Covered employees will also be tested for alcohol misuse as specified in this policy at a rate equal to 25% of the covered employees employed as of the first day of the calendar year. These testing rates are subject to change at the

beginning of each calendar year pursuant to FHWA regulations. Monterey will advise covered employees of any change in the random rate before such change is implemented.

The frequency of testing dates will vary, and testing will be reasonably spread throughout the year. The process will be unannounced as well as random, and employees will be notified that they have been selected for testing only after they have reported for duty on the day of testing.

The testing will be done using a random selection of dates coupled with a random number table or computer-based random number generator that is matched with an employee's social security number or other appropriate identification number. Monterey reserves the right to create multiple pools of covered employees provided that it will ensure that all covered employees are subject to the appropriate alcohol testing rate of 25% and drug testing rate of 50%. All testing will be conducted in accordance with Monterey's Drug and Alcohol Testing Procedures.

Since covered employees are subject to both random drug and alcohol testing, Monterey reserves the right to conduct random drug and alcohol testing simultaneously, provided that the covered employees, who are tested simultaneously for drug and alcohol misuse, are selected at the appropriate annual rate for drugs and alcohol, respectively. For example, where the annual drug testing rate is 50% and the annual alcohol testing rate is 25%, Monterey reserves the right to create a pool of covered employees and will randomly select one-half of the employees identified for both drug and alcohol testing, while the remaining one-half will be drug tested only.

An employee who refuses to take a random alcohol or drug test will be in violation of this policy and will be immediately removed from his or her covered position. Refusal to take the test is a violation of Monterey's General Drug and Alcohol Abuse Policy and will subject the employee to immediate termination under that policy. Any covered employee who fails an alcohol or drug test will be immediately removed from a covered position and will be in violation of Monterey's General Drug and Alcohol Abuse Policy which provides that failing an alcohol and/or drug test will result in disciplinary action up to and including termination. If the employee is not terminated, the employee is subject to the provisions of Section VI, Substance Abuse Counseling, and the provisions of Section XII, Return-to-Duty and Follow-Up Testing.

## **J. REASONABLE SUSPICION TESTING**

FHWA regulations require testing of covered employees upon reasonable cause or suspicion that the employee is using prohibited drugs or misusing alcohol.

Whenever Monterey reasonably suspects that a covered employee has violated the provisions of this policy, Monterey will require the employee to submit to either an alcohol or drug test or both. Test administered based on reasonable suspicion will be conducted in accordance with this policy and Monterey's Drug and Alcohol Testing Procedures.

Monterey's determination that reasonable suspicion exists will be based on specific and contemporaneous observations concerning the appearance, behavior, speech, or body odors of the employee, indicating that the employee is in violation of this policy. Reasonable cause sufficient to justify either or both an alcohol or drug test may be based on, but is not limited to, direct observation by a supervisor of symptoms of alcohol or drug use such as slurred speech, unsteady walk, impaired coordination, displays of violent behavior, argumentative, improperly talkative, loud or uncontrolled laughter; information provided by reliable and credible sources; job performance; behaviors over a period of time; or similar conduct or appearance indicative of alcohol or drug use. In determining reasonable suspicion, a supervisor can consider job performance over a period of time or continued deterioration of job performance if that has resulted in a pattern of events identifiable with alcohol or drug misuse, or information provided by a reliable or credible source, but the decision to test must be grounded in the supervisor's contemporaneous observations. In addition, the occurrence of a serious or potentially serious incident or accident that may have been caused by human error, or flagrant violations of established safety, security, or other operational procedures can constitute grounds for testing under this section.

The determination to administer either or both a drug or alcohol test based on reasonable suspicion must be made by a least two supervisors, one of whom is trained in the detection of possible symptoms of drug or alcohol use. Both supervisors must substantiate and concur in the decision to test. The observations giving rise to the decision to administer a drug and/or alcohol test must be made during, just preceding, or just following the period of the workday that the covered employee is required to be in compliance with this policy.

(NOTE: If the alcohol test is not administered within two hours following the reasonable suspicion determination, Monterey will prepare a written record stating the reasons why the test was not promptly administered. If the test is not administered within eight hours following the reasonable suspicion determination, Monterey will cease attempts to administer the test and will record, in writing, the reasons for not administering the test. If the reasonable suspicion test is not administered, Monterey will, nevertheless, not permit a covered employee to remain on duty in a covered position while the employee is under the influence of alcohol as shown by behavioral, speech, or performance indicators and will not allow an employee to perform in a covered position until

an alcohol test is administered and the employee's alcohol concentration measures less than 0.02 on the start of the employee's next shift but, in any event, not less than twenty-four hours following the reasonable suspicion determination.)

The concurrence of the two supervisors may be by telephone, by discussions a few hours later, or by having another supervisor travel to the job site, and within 24 hours of the reasonable suspicion determination, the supervisors will document the covered employee's conduct, in writing, which led to their determination to conduct a reasonable suspicion drug test. The requirement of having two supervisors observe the conduct can be reduced to one supervisor when it is not feasible for two supervisors to witness the conduct. In that event, the supervisor witnessing the conduct must have received training in the identification of actions, appearance, or conduct of an employee indicative of the use of a prohibited drug or alcohol. Once it is determined that an employee should be subjected to a reasonable suspicion test, one of the verifying supervisors shall contact the Mayor to coordinate the testing and to obtain any necessary instructions.

Any covered employee who refuses to take a reasonable suspicion drug or alcohol test will be in violation of this policy and will be immediately removed from his or her safety-sensitive position. Refusal to take a test is a violation of Monterey's General Drug and Alcohol Abuse Policy and will subject the employee to immediate termination under that policy. An employee who agrees to be tested will be transported to and from the collection test site. Where a reasonable suspicion drug test is administered or administered in addition to a reasonable suspicion alcohol test, the employee will be removed from covered activities pending receipt of the drug test results even if the employee passes the alcohol test.

If an employee is subjected to a reasonable suspicion drug test, or fails a reasonable suspicion alcohol test, the employee should make arrangements to be transported home. The employee should be instructed not to drive any motor vehicle due to the reasonable belief that he or she may be under the influence or a prohibited drug or due to the positive alcohol test result. If an employee who has failed a reasonable suspicion alcohol test insists on driving, the proper local enforcement authorities should be notified that an employee whom Monterey believes to be under the influence of alcohol is leaving Monterey premises driving a motor vehicle.

An employee who tests positive on a reasonable suspicion test will be in violation of this policy and Monterey's General Drug and Alcohol Abuse Policy. Violation Monterey's General Drug and Alcohol Abuse Policy subjects the employee to disciplinary action, up to and including termination. If the

employee is not terminated, the employee is subject to the provisions of Section VI, Substance Abuse Counseling, and the provisions of Section XII, Return-to-Duty and Follow-Up Testing.

## **K. POST-ACCIDENT DRUG AND ALCOHOL TESTING**

Monterey will conduct post-accident drug and alcohol testing under this policy only for those accidents where a CDL employee driving a Monterey commercial motor vehicle is involved in an accident where there is the loss of human life or where the employee receives a citation for a moving traffic violation arising from the accident. Post-accident drug and alcohol tests will be conducted in accordance with Monterey's Drug and Alcohol Testing Procedures. **Accidents which do not meet the definition of this policy, but which involve Monterey employees, may require post-accident drug and alcohol testing under Monterey's General Drug and Alcohol Abuse Policy. Covered employees will be advised whether they are being tested under this policy or under Monterey's General Drug and Alcohol Abuse Policy.**

A covered employee may not consume any alcohol for eight (8) hours following the accident or until an alcohol test has been conducted. A covered employee subject to post-accident testing under this policy who fails to remain readily available for testing may be deemed by Monterey to have refused to submit to the required testing. But, nothing herein is intended to require the delay of necessary medical attention for injured people or prohibit a covered employee from leaving the scene of the accident for the period necessary to obtain assistance or necessary emergency medical care.

If an alcohol test is not administered within two (2) hours following the accident, Monterey will prepare written records stating the reasons why the test was not properly administered. If the test is not administered within eight (8) hours following the accident, Monterey will cease attempts to administer an alcohol test and will prepare a written record for the reasons for not administering the test. If a drug test is not administered within thirty-two (32) hours following the accident, Monterey will cease attempts to administer the test and will prepare a written record for the reasons for not administering the test.

If a covered employee refuses to submit to post-accident testing, the employee will be immediately removed from the covered position. Under Monterey's General Drug and Alcohol Abuse Policy, the employee will be charged with insubordination and subject to immediate termination. If an employee agrees to be tested, he or she will be transported to and from the collection test site. Any employees selected for post-accident testing under this policy will not be allowed to proceed alone to or form the collection test site. Because a post-accident drug test will be administered in addition to an alcohol test, the



employee, after returning from the collection site, will not be allowed to perform covered functions pending the results of the drug test even if the result of the alcohol test is negative.

If an employee fails the alcohol test, the employee should make arrangements to be transported home. The employee should be instructed not to drive any motor vehicle due to the positive alcohol test. If the employee who has failed the alcohol test insists on driving, the proper local law enforcement authorities should be notified that an employee, whom Monterey believes to be under the influence of alcohol, is leaving Monterey premises driving a motor vehicle.

An employee who tests positive on a post-accident alcohol or drug test will be removed immediately from his or her covered position. The employee will be in violation of Monterey's General Drug and Alcohol Abuse Policy, which provides that failing an alcohol or drug test subjects the employee to disciplinary action, up to and including termination. If the employee is not terminated, the employee is subject to the provisions of Section VI, Substance Abuse Counseling, and the provisions of Section XII, Return-to-Duty and Follow-Up Procedures.

#### **L. RETURN-TO-DUTY AND FOLLOW-UP TESTING**

Any covered employee who has either refused to take or has failed a drug or alcohol test, but who has not been terminated, must pass a return-to-duty drug and/or alcohol test administered under this policy before the employee will be allowed to return to work in a covered position. The alcohol or drug test administered for return-for-duty testing will be conducted in accordance with Monterey's Drug and Alcohol Testing Procedures.

Covered employees, who have engaged in conduct prohibited by this policy concerning alcohol, shall undergo a return-to-duty alcohol test immediately before returning to work, and the covered employee must have a test result indicating an alcohol concentration of less than 0.02 before returning to duty. Covered employees, who have engaged in conduct prohibited by this policy concerning prohibited drugs, shall undergo a return-to-duty drug test with the result indicating a verified negative test result before returning to duty.

In addition, if as a result of a mandatory referral under this policy, a substance abuse professional makes a determination that some form of further evaluation and/or treatment is required, then the covered employee must comply with the recommendations to be considered eligible to return-to-duty. Following a determination by a substance abuse professional approved by Monterey that a covered employee, who has failed a drug or alcohol test, is in need of assistance in resolving problems associated with alcohol or drug abuse, a covered employee returning to duty will be subject to unannounced follow-up alcohol and/or drug testing as recommended by that substance abuse professional.

The follow-up testing may include testing for both drugs and alcohol, as directed and determined by the substance abuse professional. Follow-up testing may be continued for up to 60 months, but it will consist of at least six tests in the first twelve months following the employee's return-to-duty. The duration and extent of the follow-up testing will be determined by Monterey, in consultation with the substance abuse professional or MRO, and will be based on the extent of the employee's substance abuse problem and nature of the employee's position. All follow-up drug and alcohol testing will be conducted in accordance with Monterey's Drug and Alcohol Testing Procedures.

A covered employee will be required to sign a Return-to-Work agreement before returning to work, which will include, among other things, any follow-up testing and other conditions pertinent to that employee's continued employment with Monterey. If a covered employee refuses to submit to return-to-duty or follow-up testing, the employee will not thereafter be used in a position covered by this policy and will be subject to immediate discharge for insubordination as set forth in Monterey's General Drug and Alcohol Abuse Policy. Likewise, any covered employee who has a confirmed positive test result for a return-to-duty or follow-up test will not thereafter be used in a position covered by this policy and will be subject to immediate termination under Monterey's General Drug and Alcohol Abuse Policy.

**Return-to-duty and follow-up testing are not options under this policy if Monterey terminates an employee who has tested positive or has refused to submit to a test.**

#### **M. USE OF PERSONS WHO FAIL A DRUG OR ALCOHOL TEST OR WHO REFUSE TO TEST**

Compliance with this policy and Monterey's General Drug and Alcohol Abuse Policy is a condition of employment. Refusal of a covered employee to take a drug or alcohol test or failing a drug or alcohol test will result in removal from a covered position under this policy. Refusing to take or failing to take a drug or alcohol test are violations of Monterey's General Drug and Alcohol Abuse Policy and subjects the employee to disciplinary action under that policy.

Before a covered employee can be returned to duty requiring the performance of covered functions, the employee must pass a return-to-duty test and be evaluated by a substance abuse professional who will certify that the employee has properly followed any rehabilitation program prescribed by that professional. Nothing herein entitles an employee to be returned to duty if the employee is terminated under Monterey's General Drug and Alcohol Abuse Policy.

Any employee who fails or refuses to take a second test required by this policy (i.e., either a return-to-duty or follow-up test after returning to duty) will not thereafter be used in a position covered by this policy and will be subject to immediate termination under Monterey's General Drug and Alcohol Abuse Policy.

#### **N. MEDICAL REVIEW OFFICER ("MRO")**

Monterey has designated Ted Richard Stalling, M.D., ParkMed West, 9330 Park West Boulevard, Suite 102, Knoxville, Tennessee 37923, as its Medical Review Officer.

The MRO will be responsible for reviewing the results of drug tests before the results are reported to Monterey; reviewing and interpreting each confirmed positive test to determine if there is an alternative medical explanation for the positive result; conducting an interview with the individual who has tested positive; reviewing the individual's medical history and all medical records made

available to him by the individual to determine if the positive result occurred from legally-prescribed medication; requiring a retest of the original specimen if the MRO deems it is necessary; verifying that the laboratory report and assessment are correct; determining when an employee who tested positive or refused to test can return-to-duty; determining an appropriate schedule of follow-up unannounced testing in accordance with the follow-up testing provisions; and ensuring that an employee has passed an appropriate return-to-duty drug test conducted in accordance with this policy and Monterey's Drug and Alcohol Testing Procedures before returning to work.

If the MRO determines that there is a legitimate medical explanation for the positive test result other than the use of a prohibited drug, the MRO will conclude that the test is negative and will report the test result to Monterey as negative. If the MRO concludes that a particular drug test is scientifically insufficient, the MRO will conclude that the test is negative for that individual. If the MRO determines that there is no legitimate explanation for the positive test result other than the use of a prohibited drug, the MRO will communicate the result of the verified positive test to the Mayor. It is the employee's responsibility to inform the MRO that prescription drug use may have affected the drug test result.

Because Monterey will utilize the split sample method of collection under this DOT Policy, a covered employee can request that the MRO direct the retest of a split specimen by a different DHHS-certified laboratory, and the MRO will abide by such a request, provided such a request is made within 72 hours of the employee having been notified of the verified positive result. The MRO is

responsible for informing the employee of his or her right to request the retest. If the retest does not confirm the original test, the MRO will cancel the test and report the reasons for the cancellation to the Mayor, DOT, and the employee.

Results of negative tests will be communicated by the MRO to the Mayor, who in turn will advise the appropriate manager as indicated by the employment status of the person tested. Further details concerning the MRO's responsibilities are set forth in Monterey's Drug and Alcohol Testing Procedures.

#### **O. RETENTION OF SAMPLES**

Urine samples that yield positive results and which have been confirmed by the MRO will be retained by the laboratory and properly secured (long term), frozen and stored for at least 365 days. Within this 365-day period, the employee, FHWA or state agencies within their jurisdiction, or Monterey may request in writing that the sample be retained for an additional period. The laboratory may discard the sample if no such request is received within the 365-day period.

#### **P. USE OF PRESCRIPTION DRUGS**

Monterey recognizes that use of prescription drugs under the supervision of appropriate health care professionals is protected under the Americans With Disabilities Act ("ADA"). However, legal use of certain prescription drugs by employees in covered positions may cause impairment and create dangerous situations in the work place. Employees required to take prescription drugs that may cause impairment must do so strictly in conformance with the limits prescribed by a licensed medical practitioner familiar with the employee's medical history and assigned duties. Failure to do so, e.g., by taking impairing drugs without a prescription, or in amounts greater or more frequently than that prescribed or otherwise in violation of the foregoing requirements, is conduct prohibited by Monterey's General Drug and Alcohol Abuse Policy and subjects the employee to disciplinary action, up to and including termination.

It is the responsibility of any employee who tests positive in a drug test to inform the MRO of any prescription or non-prescription drug use that may have affected the results of the drug test. The purpose of this disclosure will assist the MRO to determine whether such prescription or non-prescription drug use is the source of any positive test result.

Records of Monterey employee reports of prescription drugs in the possession of the MRO are recognized to be private and sensitive records. These records will be maintained by the MRO in a secure fashion to ensure confidentiality and will be disclosed to the Mayor only to the extent necessary to address any work-

related safety risks occasioned by the prescription drug use. The Mayor will maintain any such records in a secure fashion to ensure confidentiality.

#### **Q. RECORD RETENTION – CONFIDENTIALITY**

Records of Monterey’s drug and alcohol abuse prevention and testing program are recognized to be private and sensitive records and will be maintained separate and apart from personnel records in a secure fashion to ensure confidentiality. These records will be handle on a strict “need to know” basis.

Monterey and the “MRO” will maintain records which comply with the requirements of FHWA regulations. In summary, records shall be maintained in accordance with the following schedule:

- (1) **Five Years** -- The following records shall be maintained for a minimum of five (5) years; (i) alcohol test results indicating an alcohol concentration of 0.02 or greater, or records of verified positive drug test results; (ii) equipment calibration documentation, and (iv) employee evaluation and referrals, and the annual report data.
- (2) **Two years** -- Records related to drug and alcohol testing collection process and training shall be maintained for a minimum of two (2) year.
- (3) **One Year** -- Records of negative and canceled drug and alcohol test results shall be maintained for a minimum of one (1) year.

Any of the records listed above may be maintained for an indefinite period of time beyond the above-specified minimums at Monterey’s discretion.

Information regarding an individual’s drug or alcohol use, including testing results and rehabilitation or treatment, will not be released by Monterey except upon written authorization by the covered employee or as hereinafter provided. Monterey will make the records available to a subsequent employer upon receipt of written request from the covered employee. Monterey may also disclose, regardless of consent, such information to proper representatives of FHWA and/or other federal or state agencies within their jurisdiction. Information regarding an individual’s alcohol or drug use and testing information may also be disclosed regardless of consent to the decision-maker of a judicial or administrative tribunal in the event of a lawsuit, grievance, civil service, unemployment compensation, worker’s compensation, or other proceeding brought by or on behalf of the covered employee arising from the results of a test or violation under this policy. Statistical data related to drug testing and rehabilitation -- without identifying the names of the individuals and with all

personal identifies removed -- will be made available to the proper representatives of FHWA and/or the Tennessee Public Service Commission upon request.

**R. REPORTING RESULTS TO FHWA**

As required by FHWA, Monterey will prepare and maintain an Annual Calendar Year Summary of the results of its drug and alcohol testing programs in the form required by FHWA. This Annual Calendar Year Summary will be completed by March 15, for the previous calendar year, and if Monterey is notified by FHWA to report this information, it will do so within the time and in the format requested.

**ATTACHMENT I**

**EMPLOYEE/SUPERVISORY POSITION  
SUBJECT TO DRUG AND ALCOHOL TESTING  
PURSUANT TO FHWA REGULATIONS  
(JOB POSITIONS/TITLES)**

**[NOTE: Positions required to maintain a CDL, e.g., operator of street cleaning equipment, garbage trucks weighing over 26,000 pounds.]**

## SECTION VIII - SEXUAL HARASSMENT

### A. PURPOSE

The municipality may be held liable for the actions of all employees with regard to sexual harassment and will not tolerate sexual harassment of its employees. The town will take immediate, positive steps to stop such harassment when it occurs. The town is responsible for acts of sexual harassment in the workplace when the town (or its agents or supervisory employees) knows or should have known of the conduct, unless it can be shown that the town took immediate and appropriate corrective action. The municipality may also be responsible for the acts of non-employees, with respect to sexual harassment of employees in the workplace, where the municipal government (or its agents or supervisory employees) knows or should have known of the conduct and failed to take immediate and appropriate corrective action.

This policy applies to all officers and employees of the town of Monterey including but not limited to full- and part-time employees, elected officials, permanent and temporary employees, employees covered or exempt from the personnel rules or regulations of the municipal government, and employees working under contract for the municipality. The following rules shall be strictly enforced.

### B. DEFINITIONS

The following actions constitute an unlawful employment practice and are absolutely prohibited by the municipal government when they affect employment decisions, create a hostile job environment, cause distractions, or unreasonably interfere with work performance. They are:

1. sexual harassment or unwelcome sexual advances;
2. requests for sexual favors;
3. verbal or physical conduct of a sexual nature in the form of pinching, grabbing, patting, or propositioning;
4. explicit or implied job threats or promises in return for submission to sexual favors;
5. inappropriate sex-oriented comments on appearance;
6. embarrassing sex-oriented stories;



7. displaying sexually explicit or pornographic material, no matter how the material is displayed; and/or
8. sexual assault on the job by supervisors, fellow employees, or, on occasion, non-employees.

Sexual harassment includes conduct directed by men toward women, conduct directed by men toward men, conduct directed by women toward men, and conduct directed by women toward women.

### **C. MAKING SEXUAL HARASSMENT COMPLAINTS**

An employee who feels he/she is subjected to sexual harassment should immediately contact a person (listed below) with whom the employee feels the most comfortable. Complaints may be made orally or in writing to:

1. the employee's immediate supervisor,
2. the employee's department head,
3. the personnel committee,
4. the Mayor,

Employees have the right to circumvent the employee chain-of-command when selecting the person to complain to about sexual harassment. The employee should be prepared to provide the following information:

1. his/her name, department, and position title;
2. the name of the person or people committing the sexual harassment, including their title(s), if known;
3. the specific nature of the sexual harassment, how long it has gone on, any employment action (demotion, failure to promote, dismissal, refusal to hire, transfer, etc.) taken against the employee as a result of the harassment, or any other threats made against the employee as a result of the harassment;
4. witnesses to the harassment; and
5. whether the employee has previously reported the harassment and, if so, when and to whom.

#### D. REPORTING AND INVESTIGATING SEXUAL HARASSMENT COMPLAINTS

##### Against an Employee, Including the Mayor:

The Mayor is the person the municipal government designates as the investigator of sexual harassment complaints against employees. In the event the sexual harassment complaint is against the Mayor, the investigator shall be a member of the city Board of Aldermen.

When an allegation of sexual harassment is made by any employee, the person to whom the complaint is made shall immediately:

- Obtain a written statement from the person complaining of sexual harassment which includes a comprehensive report of the nature of the sexual harassment complained of, and the times, dates, and places where the sexual harassment occurred. The investigator shall verbally question the person complaining of sexual harassment about any information in the written statement which is not clear or needs amplification.
- Obtain written statements from witnesses which include a comprehensive report of the nature of the conduct witnessed, and the times, dates, and places where the conduct occurred, and the conduct of the person complaining of sexual harassment toward the person against whom the complaint of sexual harassment was made. The investigator shall verbally question witnesses about any information in their written statements which is not clear or needs amplification.
- Obtain a written statement from the person against whom the complaint of sexual harassment has been made. The investigator shall verbally question the person against whom the complaint of sexual harassment has been made about any information in the written statement which is not clear or needs amplification.
- Prepare a report of the investigation, which includes the written statement of the person complaining of sexual harassment, the written statement of witnesses, the written statement of the person against whom the complaint of sexual harassment was made, and all the investigator's notes connected to the investigation, and submit the report to the city Board of Aldermen.

### Against an Elected Official

Complaints against an elected official shall be investigated by a city employee appointed by the city Board of Aldermen. The investigator shall investigate a complaint of sexual harassment against an elected official in the same manner as outlined in this policy for the investigation of complaints against city employees. However, upon the completion of the investigation, the investigator shall submit the report of his/her investigation to the city Board of Aldermen.

## **E. ACTION ON COMPLAINTS OF SEXUAL HARASSMENT**

### Against All Employees Except the Mayor

Upon receipt of a report of the investigation of a complaint of sexual harassment, the Mayor shall immediately review the report. If the Mayor determines that the report is not complete in some respect, he/she may question the person complaining of sexual harassment, the person against whom the complaint has been made, witnesses to the conduct in question, or any other person who may have knowledge about the harassment. However, if the Mayor feels the investigation report is adequate, he may make a determination of whether or not sexual harassment occurred, based on the report.

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

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

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

A written record of disciplinary action taken shall be kept, including verbal reprimands.

In all events, an employee found guilty of sexual harassment shall be warned not to retaliate in any way against the person making the complaint, witnesses, or any other person connected with the investigation of the complaint of sexual harassment.

#### Against the Mayor

Upon receipt of a report on the investigation of a complaint of sexual harassment against the Mayor, the investigator shall present the report to the city Board of Aldermen. If the city Board of Aldermen determines that the complaint of sexual harassment is founded, it may discipline the Mayor consistent with its authority under the municipal charter, ordinances, resolutions or rules governing discipline of the Mayor.

#### Against an Elected Official

The city Board of Aldermen may discipline an elected official in whatever manner it deems appropriate, consistent with its authority under state law, the municipal charter, ordinances, resolutions or other rules governing discipline of elected officials.

#### Sexual Harassment Committed by Non-Employees

In cases of sexual harassment committed by a non-employee against a city employee in the work place, the Mayor shall take all lawful steps to insure that the sexual harassment is brought to an immediate end.

### F. OBLIGATION OF EMPLOYEES

Employees are not only encouraged to report instances of sexual harassment, they are **obligated** to report them. Sexual harassment exposes the city to liability, and a part of each employee's job is to reduce the city's exposure to liability.

Employees are obligated to cooperate in every investigation of sexual harassment, including, but not necessarily limited to, coming forward with evidence, both favorable and unfavorable, to a person accused of sexual harassment, fully and truthfully making a written report or verbally answering questions when required to do so by an investigator during the course of an investigation of sexual harassment.

Employees are also obligated to refrain from filing bad faith complaints of sexual harassment.

Disciplinary action may be taken against employees who fail to report instances of sexual harassment, or who fails or refuses to cooperate in the investigation of a complaint of sexual harassment, or who files a complaint of sexual harassment in bad faith.

## **G. OPEN RECORDS**

The Tennessee Open Records Law of Tennessee Code Annotated, section 10-7-503 through 10-7-506 probably applies to the records in sexual harassment cases, as it does to virtually all other municipal records. In other words, complaints and reports of sexual harassment, including the investigative report, probably cannot be kept confidential, perhaps not even during the investigation. However, the value of written records in sexual harassment cases, as in most other cases where an investigation occurs from which disciplinary action against an employee might arise, requires that a written record of the investigation be kept to help insure justice and efficient municipal administration.

## **SECTION IX - MISCELLANEOUS POLICIES**

### **A. POLITICAL ACTIVITY**

Municipal government employees, with the exception of police officers when they are out of uniform and off duty, are prohibited from participating in the following political activities:

1. **Elections for Municipal and County Offices** - No city employee:
  - a. become a candidate or campaign for an elective municipal government office in Monterey.
  - b. any time off from work, used by the employee for participation in political activities, shall be limited to earned days off, vacation days, or by any other arrangements worked out between the employee and the Monterey Board of Mayor and Aldermen.

### **B. TRAVEL EXPENSE POLICY**

No trips that involve reimbursement and/or municipal government expense shall be undertaken without prior approval of the Mayor. Authorized travelers shall be reimbursed according to the state travel regulation rates. **For details**

**regarding travel, see a copy of the municipal government's travel policy in the City Hall office).**

**C. USE OF CITY VEHICLES AND EQUIPMENT**

All city vehicles and equipment are for official use only. No other person other than a city employee may operate a city vehicle or piece of machinery. Drivers and/or operators must have a valid Tennessee driver's license and be approved by the department head or Mayor.

**D. DRIVING RECORDS**

Any employee who is required as an employment condition to possess and maintain a valid Tennessee driver's or commercial driver's license must **immediately**, before reporting for duty the next workday, inform his/her supervisor should his/her license become denied, expired, restricted, suspended, or revoked any time during employment with the town. Periodic review of employees' driving records will be conducted by the department head to assure adherence to this policy.

**E. FIGHTING, HORSEPLAY, DAMAGING MUNICIPAL GOVERNMENT PROPERTY**

Fighting, horseplay, and intentionally defacing or damaging city property are not permitted. Employees engaging in these activities will be subject disciplinary action, which could include discharge.

**F. ACCEPTING GRATUITIES**

No employee shall accept any money, other considerations, or favors from anyone other than the town for performing an act that he/she would be required or expected to perform in the regular course of his/her duties. No employee shall accept, directly or indirectly, any gift, gratuity, or favor of any kind that might reasonably be interpreted as an attempt to influence his/her actions with respect to the town business.

**G. BUSINESS INTEREST**

No department head or supervisor shall have any financial interest in the profits of any contract, service, or other work performed by the town. No department head or supervisor shall personally profit directly or indirectly from any contract, purchase, sale, or service between the town and any person or company. No department head or supervisor shall personally, or as an agent, provide any surety, bail, or bond required by law or subject to approval by the Mayor.

No town employee shall enter into a contract with the town or perform any work or function under any contract with the town if he/she has a direct or indirect financial interest in the contract, unless:

1. the contract is awarded through a process that complies with the town's purchasing requirements; or
2. the town Board of Aldermen waives this section's requirements after making a formal finding that it is in the best financial interest of the town to do so after full disclosure on the part of the town employee of his/her direct or indirect financial interest in the contract, and the Mayor's finding and waiver and the employee's full financial disclosure are recorded on the minutes of the town Board of Aldermen in open session.

#### **H. PERSONNEL RECORDS**

Personnel records for each employee are kept on file and maintained by the personnel committee and/or office manager. Any change of address, telephone number, marital status, draft status, beneficiaries, number of dependents, or completed education/training should be turned in to the supervisor for transmittal to the personnel section.

The office manager also maintains the life insurance, vacation, pension and retirement, health insurance, and sick leave records for each employee. The personnel section will advise employees through their supervisor of their eligibility so that they may take full advantage of all the benefits available. All medical records shall be kept in a separate confidential file for each employee.

It is the responsibility of each employee to update personnel information in his/her personnel file by notifying the office manager of any information changes. The town shall not be held liable when incorrect withholding, wrong beneficiaries, or loss of employee benefits result from the failure of any employee to keep personnel records current.

#### **I. COLLECTION, RETENTION, AND USE OF PERSONAL INFORMATION**

The town will strictly follow the requirements of equal employment opportunity laws regarding information collection concerning race, color, national origin, gender, religion, age, and disabilities. With these restrictions in mind, the town will gather such information about job applicants or employees as determined by the Mayor.

The following basic principles will be applied in collecting and retaining personal information:

1. Office Manager will maintain a complete (master) file of each employee's records, which will contain necessary information, as determined by the Mayor.
2. Payroll data will be kept separately from the human resources file and the departmental file, although both may include information about an employee's salary history.
4. Supervisors may keep separate files on their subordinates. Only information regarding employee performance may be kept in these files. A supervisor's files should be transferred to the human resources file when an employee leaves the town.
5. Employee information will be collected from employees whenever possible, but the town may use outside sources for other information.

#### **J. DISCLOSURE OF EMPLOYEE RECORDS AND INFORMATION**

Any request for information from an employee's personnel file must be immediately referred to the personnel committee and/or the office manager. Only the personnel committee is authorized to disclose information about employees to outside inquirers. The personnel committee will cooperate with requests from the following outside inquirers:

1. properly identified and duly authorized law enforcement officials when investigating allegations of illegal conduct by employees; and
2. legally issued summonses or judicial orders, including subpoenas and search warrants.

The personnel committee will restrict disclosing personnel information to prospective employers as much as possible. In most cases, such disclosures will be limited to information about the dates of employment, title or position, job location, and salary.

### **SECTION X - SEPARATIONS AND DISCIPLINARY ACTIONS**

#### **A. TYPES OF SEPARATIONS**

All separations of employees from positions with the municipal government shall be designated as one of the following types and shall be accomplished in



the manner indicated: resignation, layoff, disability, death, retirement, and dismissal. At the time of separation and prior to final payment, all records, assets, and other town property in the employee's custody must be transferred to the department. Any amount due because of shortages shall be withheld from the employee's final compensation.

#### **B. RESIGNATION**

In the event an employee decides to leave the municipal government's employ, a two-week notice shall be given to his/her supervisor so that arrangements for a replacement can be made. In such a case, employees will be expected to return any/or all municipal government equipment assigned. An unauthorized absence from work for a period of three consecutive working days may be considered by the department head as a resignation.

If a former employee returns to municipal government employment, his/her status of seniority, pay, leave, etc., will be the same as any new employee beginning work for the first time.

#### **C. LAYOFF**

The department head, upon approval from the town Board of Aldermen, may lay off an employee in municipal government service when he/she deems it necessary by reason of a shortage of funds, abolishing a position, other material changes in the duties or organization of the employee's position, or related reasons that are outside the employer's control and that do not reflect discredit upon the employee's service.

The duties performed by a laid-off employee may be assigned to other town employees who hold positions in the appropriate class. Temporary employees shall be laid off before probationary or regular employees. The layoff shall be in reverse order to total continuous time served upon the date established for the layoff to become effective.

A laid-off employee who is reinstated as a town employee within 90 days from the date he/she was laid off shall be reinstated with full benefits as if he/she had not been laid off.

#### **D. DISABILITY**

An employee may be separated for disability when he/she cannot perform the essential functions of the job because of a physical or mental impairment that cannot be accommodated without undue hardship or that poses a direct threat to the health and safety of others. Reasonable accommodations will include

transfer to a comparable position for which the individual is qualified. Action may be initiated by the employee or the municipality, but in all cases it must be supported by medical evidence acceptable to the Mayor, and the disability must prevent the employee from performing the essential functions of the job. The municipal government may require an examination at its expense to be performed by a licensed physician of its choice.

## **E. RETIREMENT**

### **TENNESSEE CONSOLIDATED RETIREMENT SYSTEM (TCRS) POLICY**

Eligibility of retirement:

1. Group 1 - Any member shall be eligible for service retirement upon reaching age 60 or completing 30 years of creditable service;

### **MANDATORY RETIREMENT**

There shall not be a mandatory age requirement for any member in service as a general employee - provided they can still perform their duties in a satisfactory manner.

### **ORDINARY DISABILITY RETIREMENT**

Any member eligible for a disability retirement may set the effective date within 150 days before or after the member's application is filed. The number of creditable service years that a member shall have completed in order to be eligible for ordinary disability retirement shall be:

1. five years for a member in Group 1.

### **ACCIDENTAL DISABILITY RETIREMENT**

Upon the application of a member in Group 1 or 2, any such member who has been disabled as the natural and proximate result of an accident or as the direct result of physical violence against the member's own person occurring while the member was in the actual performance of duty at some definite time and place, without negligence on the member's part, may be retired by the board.

Any member who is approved for an accidental disability retirement allowance to begin at 50 percent of the member's average final compensation shall be required, as a condition of continued receipt of such, to provide adequate documentation to the retirement system within 30 days that the member has made application for Social Security disability benefits.

## **RE-EMPLOYMENT AFTER RETIREMENT**

Any retired member may return to service in a position covered by the TCRS and continue to draw such person's retirement allowance.

Any person retired under TCRS based upon service as a municipal police officer or municipal firefighter may return to service as a police officer or firefighter with a different municipality and continue to draw retirement benefits that are based entirely upon service with the municipality if the following conditions are met:

1. the population of the municipality from which the person retired is greater than the population of the employing municipality;
2. the annual earnable compensation received from the employing municipality is less than the average final compensation used by the retirement system in calculating such person's retirement benefits;
3. the chief legislative body of the employing municipality certifies in writing to the retirement division that the person has the requisite experience, training, and expertise for the position to be filled and that no other qualified people are available to fill the position.

## **F. DEATH**

Separation shall be effective as of the date of death of an employee. All compensation due in accordance with these rules shall be paid to the estate of the employee, except for such sums as by law must be paid to the surviving spouse.

## **G. DISCIPLINARY ACTION**

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

1. oral reprimand,

2. written reprimand,
3. suspension, and
4. dismissal.

#### **H. ORAL REPRIMAND**

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

#### **I. WRITTEN REPRIMAND**

In situations where an oral warning has not resulted in the expected improvement or when more severe initial action is warranted, a written reprimand may be sent to the employee, and a copy shall be placed in the employee's personnel folder. The supervisor administering the reprimand shall advise the employee that the action is a written reprimand and emphasize the seriousness of the problem; cite previous corrective actions and/or informal discussions relating to the offense; identify the problem and/or explain the offense; inform the employee of the consequences of continued undesirable behavior; detail corrective actions and identify dates by which the corrective actions shall be taken.

At the conclusion of a conference with the employee, a copy of the written reprimand shall be placed in the employee's personnel folder. It is recommended that the affected employee sign the written reprimand to indicate that he/she has seen the document and to acknowledge receipt of the employee's copy. Should the employee refuse to sign the written reprimand, the supervisor will obtain a witness to sign and date the form and so indicate the employee's refusal to sign.

#### **J. SUSPENSION**

An employee may be suspended with or without pay by his/her department head with the approval of the board of mayor and aldermen. The suspension will not exceed a total of thirty (30) days in any twelve (12)-month period. Pursuant to the appeals procedures, a written statement of the reason for suspension shall be submitted to the employee affected at least twenty-four (24) hours prior to the effective date of suspension. This is providing that, during the advance notice

period, the employee may be retained in active-duty status, placed on leave, suspended with or without pay at the discretion of the department head, however, no suspension without pay will be enacted prior to a disciplinary hearing. The employee will be granted a hearing before the board of mayor and aldermen upon request, pursuant to the appeals process. An employee determined to be innocent of the charges shall be returned to duty with full pay for the suspension period. All records associated with a suspension shall become a permanent part of the employee's personnel file. Under certain circumstances, an employee may be suspended without 24-hour notice, if in the best interest of the town.

#### K. DISMISSAL

The board of mayor and aldermen may dismiss an employee for just cause that is for the good of the town's service. Reasons for dismissal may include, **BUT SHALL NOT BE LIMITED TO:** misconduct, negligence, incompetence, insubordination, unauthorized absences, falsifying records, or violating any of the charter provisions, ordinances, or these rules. Examples include:

1. incompetency or inefficiency in performing duties;
2. conviction of a criminal offense or of a malfeasance involving moral turpitude;
3. violating any lawful and reasonable regulation, order, or direction made or given by a superior, or insubordination that constitutes a serious breach of discipline;
4. being intoxicated, drinking any intoxicating beverages, or being under the influence of a drug or narcotic while on duty;
5. theft, destruction, carelessness, or negligence of town property;
6. disgraceful personal conduct or language toward the public, fellow officers, or employees;
7. unauthorized absences or abuse of leave privileges;
8. incapacity to perform the essential functions of a job because of a permanent or chronic physical or mental defect that cannot be reasonably accommodated;
9. accepting any valuable consideration that was given with the expectation of influencing the employee in performing his/her duties;

10. falsifying records or using official position for personal advantage;
11. loss of an employee's driver's license and driving privileges by due process of law when the employee's position makes operating a motor vehicle necessary in performing his/her duties; or
12. violating any of the provisions of the city/town charter, personnel ordinance, or these rules.

Pursuant to the appeals procedure, the employee shall be furnished an advance written notice containing the nature of the proposed action, the reasons therefore, and the right to appeal the charges orally or in writing before the board of mayor and aldermen. When possible, the notice shall be furnished at least one (1) calendar week prior to the proposed effective date of the action. During this period, the employee may be retained on duty status, placed on leave, or suspended with or without pay in accordance with subsection J above. If the employee fails to respond to the advanced notice, the proposed action shall be effective on the date specified with no need for further action.

If the employee requests a hearing on the proposed action, the Mayor shall promptly set a date and time for the hearing, call a special meeting of the board of mayor and aldermen, and the board of mayor and aldermen shall carefully consider all evidence presented before making a decision. The decision of the board of mayor and aldermen shall be final.

#### L. GRIEVANCE PROCEDURES

A grievance is defined as an employee's feeling of dissatisfaction, and any differences, disagreements, or disputes arising between an employee and his/her supervisor and/or employer regarding some aspect of his/her employment, application or interpretation of regulations and policies, or some management decision affecting him/her. **A grievance can be something real, alleged, or a misunderstanding** concerning rules and regulations or an administrative order involving the employee's health, safety, physical facilities, equipment or material used, employee evaluation, promotion, transfer, layoff, recall, and any other related items. Such misunderstandings, complaints, points of view, and opinions will be considered a grievance, except in cases where they relate to personnel actions arising out of pay, suspension, and dismissal.

It is the town's desire to address grievances informally. Both supervisors and employees are expected to make every effort to resolve problems as they arise. However, it is recognized that there will be occasional grievances that will be resolved only after a formal appeal and review. Employees who have a grievance may discuss it with their immediate supervisor, a higher-level supervisor, and/or the department head.

Every employee may present a complaint or grievance under the provisions of the grievance procedures free from fear, interference, restraint, discrimination, coercion, or reprisal. Steps of the grievance procedure are as follows:

**STEP ONE:** The employee makes an oral or written presentation of the complaint or grievance to the immediate supervisor within 3 working days from the incident that prompted the grievance. It shall be the supervisor's responsibility to promptly investigate the circumstances surrounding the grievance, discuss the matter with the appropriate department head, and take action, if possible. The supervisor shall inform the employee in writing of the decision and any action taken shall be taken within 7 days from the date the grievance was filed, if appropriate. The supervisor shall prepare a written report of the complaint or grievance and provide a copy of it to the department head. Any supervisor in the chain-of-command shall attach his/her recommendation regarding the unresolved complaint or grievance if it proceeds to a higher level. No supervisor may hold a complaint longer than 72 hours without forwarding it to the next supervisory level.

**STEP TWO:** If the grievance cannot be resolved on an informal basis between the employee and supervisor, the employee may proceed to the second procedural step. Before proceeding, an employee must reduce the complaint or grievance to writing and request that the written statement be delivered to the department head. If an employee wishes a hearing, the department head will accommodate the employee. Upon hearing the grievance, the department head must provide a written response to the employee and the immediate supervisor within three days (72 hours) of the hearing.

**STEP THREE:** If the grievance is not resolved with the department head, the employee may request in writing a hearing with the Mayor. The Mayor shall have calendar days to schedule the hearing, after which the Mayor shall provide a written response to the employee with copies to the department head and immediate supervisor. Every attempt will be made to resolve the employee's grievance.

#### **M. APPEALS PROCESS**

Any town employee reprimanded, suspended, or dismissed may submit a request in writing to the mayor, asking for a review of the disciplinary action. An employee must submit the request for an appeal within seven (7) calendar days of receiving notification of the disciplinary action and must also state his/her intent to have representation and name the representatives. The Mayor shall schedule a hearing before the board of mayor and aldermen within seven (7) calendar days of receiving the employee's request for appeal and will call a

special meeting of the board of mayor and aldermen to consider the employee's appeal. The action of the board of mayor and aldermen shall be final and binding on all parties involved, unless appealed to Chancery Court by the employee. (as amended by Ord. #376, July 1999)

## **SECTION XI - AMENDMENTS TO THE PERSONNEL RULES**

### **A. AMENDMENTS**

Amendments or revisions of these rules may be recommended for adoption by the \_\_\_\_\_. Such amendments or revisions of these rules shall become effective after public hearing and approval by resolution of the governing body.

### **B. SEVERABILITY**

Each section, subsection, paragraph, sentence, and clause of this policy document is hereby declared to be separable and severable. The invalidity of any section, subsection, paragraph, sentence, or clause shall not affect the validity of any other portion of these rules, and only any portion declared to be invalid by a court of competent jurisdiction shall be deleted.

### **C. SPECIAL NOTE**

These personnel policies are believed to be written within the framework of the charter of the Town of Monterey but, in case of conflict, the charter takes precedence.

These personnel regulations are for information only. This is not an employment contract. This document is a statement of current policies, practices, and procedures. Nothing in this document is to be interpreted as giving employees any more property rights in their jobs than may already be given by the town charter. These personnel policies, rules, and regulations shall be reviewed periodically. The employer reserves the right to change any or all such policies, practices, and procedures in whole or in part at any time, with or without notice to employees.



## **APPENDICES**

## APPENDIX A

### 1994 DRUG AND ALCOHOL TEST STANDARDS

<u>Drug</u>	<u>Cutoff Level Screen (ml)</u>	<u>Cutoff Level Confirmation (ng/ml)</u>
Amphetamine (speed)	1000.00	
Amphetamine		500.00
Methamphetamine		500.00
Cannabinoid (marijuana)	50.00	15.00
Cocaine (benzoylecgonine)	300.00	150.00
Opiate	300.00	
Codeine		300.00
Morphine		300.00
Phencyclidine (PCP)	25.00	25.00
Alcohol	.04 percent BAL	.04 percent BAL

**(Note - Additional substances listed under the Tennessee Drug Control Act of 1989 may be tested at the cutoff level customarily used by the selected laboratory. Cutoff levels are subject to change as DOT rules change.)**

## **APPENDIX B**

### **DESIGNATED DRUG TESTING COLLECTION FACILITY**

#### Possible Option:

St. Mary's Medical Services Center  
1725 Triangle Park Drive  
Maryville, Tenn. 37801  
(615) 982-9532

Blount Memorial Hospital  
907 E. Lamar Alexander Parkway  
Maryville, Tenn. 37801-5193  
(615) 983-7211

## APPENDIX C

### DESIGNATED DEPARTMENT OF HEALTH AND HUMAN SERVICE (DHHS) CERTIFIED LABORATORIES

#### Possible Options:

Aegis Analytical Laboratories, Inc.  
624 Grassmere Park, Suite 21  
Nashville, Tenn. 37211  
(615) 323-0250

America School Management  
Corporation  
(ASMC)  
P.O. Box 571  
Selmer, Tenn. 38375-0571

AMS Distributors, Inc.  
P.O. Box 457  
Roswell, Ga. 30077

Attest National Drug Testing, Inc.  
1600 W. Seventh St., Suite 505  
Fort Worth, Texas 76102

Baptist Occupational Medicine  
Centers  
342 21st Ave. N.  
Nashville, Tenn. 37203  
(615) 321-4800

Collins & Company  
928 McCallie Ave.  
Chattanooga, Tenn. 37403  
Attn: Joe Horne

Drug Free, Inc.  
P.O. Box 8520  
Little Rock, Ark. 72215-8520  
1-800-762-3623

Drug Intervention Services of  
America

(DISA)

11200 Westheimer, Suite 630  
Houston, Texas 77042

Employers Drug Program  
Management, Inc.  
616 S. Ninth St.  
Birmingham, Ala. 35233

Examination Management  
Services, Inc.  
11 W. Mockingbird Lane, Fourth  
Floor  
Dallas, Texas 75247

Fidelity Search, Inc.  
P.O. Box 3571  
Jackson, Tenn. 38303

Grabek Resource Management  
615 Lindsay St., Suite 330  
Chattanooga, Tenn. 37403

Health Trans  
3250 Dickerson Road, Suite 25  
Nashville, Tenn. 37207

National MRO  
12600 W. Colfax, Suite A500  
Lakewood, Co. 80215

National Health Laboratories  
Incorporated  
2540 Empire Drive  
Winston-Salem, N.C. 27103  
(800) 334-8627 or (919) 760-4620

National Safety Alliance  
446 Metroplex Drive, Suite A 226

Nashville, Tenn. 37215  
(615) 832-0046

National Safety Council  
1121 Spring Lake Drive  
Itasca, Ill. 60143-3201

National Transportation Screening  
Alliance  
P.O. Box 249  
Signal Mountain, Tenn. 37377

Nationwide Truckers Association,  
Inc. (NTA, Inc.)  
P.O. Box 1380  
201 Huntersville-Concord Road  
Huntersville, N.C. 28078  
Attn: Camille Griffin  
1-800-452-0030

Occupational Medicine Works  
Subsidiary of Lacy & Associates,  
Inc.  
1919 Charlotte Ave., Suite 205  
Nashville, Tenn. 37203  
(615) 320-0250

Occupational Rehabilitation of  
Chattanooga (ORC)  
6500 Eastgate Center, Suite 8600  
Chattanooga, Tenn. 37411  
(615) 899-7253

Pembroke Occupational Health  
2307 N. Parham Road  
Richmond, Va. 23229  
(804) 346-1010

Roche Biomedical Laboratories,  
Inc.  
CompuChem Division  
3308 Chapel Hill/Nelson Highway  
Research Triangle Park, N.C.  
27709  
Attn: Lisa Darby

1-800-833-3984, Ext. 3009

Roche Diagnostic Systems  
1080 U.S. Highway 202  
Branchburg, N.J. 08876-1760

Safety and Compliance  
Management, Inc.  
P.O. Box 69  
104 Howard St.  
Rossville, Ga. 30741

Tennessee Consortium  
1320 W. Main St., Suite 418  
Franklin, Tenn. 37064

United Labs  
P.O. Box 1208  
Evans City, Pa. 16033

**APPENDIX D**

**EMPLOYEE ACKNOWLEDGMENT FORM**

**Town of Monterey**

**EMPLOYEE ACKNOWLEDGMENT**

As an applicant or an employee, I have carefully read the Town of Monterey's drug and alcohol testing policy. I have received a copy of the Town of Monterey's drug and alcohol testing policy, understand its requirements, and agree without reservation to follow this policy. As an applicant, I am aware that my offer of employment is conditional upon the results of a drug and/or alcohol test. As an employee, I am aware that I may be required to undergo drug and/or alcohol tests, that I will be informed prior to the drug and/or alcohol test, and that I may be subject to immediate dismissal if I refuse to take the test.

\_\_\_\_\_  
Name of Applicant or Employee

\_\_\_\_\_  
Social Security Number

\_\_\_\_\_  
Department

\_\_\_\_\_  
Supervisor

\_\_\_\_\_  
(Signature of Applicant or Employee)

\_\_\_\_\_  
Date

\_\_\_\_\_  
(Signature of Witness)

\_\_\_\_\_  
Date

**APPENDIX E  
CONSENT AND ACKNOWLEDGMENT FORM**

**Town of Monterey**

**DRUG/ALCOHOL TESTING PROCEDURES**

**CONSENT AND ACKNOWLEDGMENT FORM**

As an applicant or an employee with the Town of Monterey, I hereby consent to and acknowledge that I am scheduled to undergo drug and/or alcohol testing. The test for alcohol will be a breath analysis test. The drug test will involve an analysis of a urine sample, which I will provide at a designated site. The purpose of the test will be to test for the presence of the following substances: amphetamines, marijuana, cocaine, opiates, PCP, alcohol, and/or any additional drugs listed in the Tennessee Drug Control Act. I authorize qualified personnel to take and have analyzed appropriate specimens to determine if drugs and/or alcohol are present in my system. I acknowledge that the drug/alcohol screen test results will be made available to the testing laboratory, medical review officer (MRO), the (personnel director), or his/her designee. As an applicant, I am aware that a confirmed and verified positive drug/alcohol test result will rescind my conditional offer of employment. As an employee, I am aware that a confirmed and verified positive test result may lead to disciplinary action up to and including immediate dismissal. I will present a copy of this form to the collection site when I report for my scheduled drug/alcohol test. I also understand that failure to provide adequate breath for testing without a valid medical explanation, failure to provide adequate urine for controlled substances testing without a valid medical explanation, and engaging in conduct that clearly obstructs the testing process are the same as refusing to test.

Name of Applicant or Employee: \_\_\_\_\_

Department Name: \_\_\_\_\_

Social Security Number: \_\_\_\_\_

\_\_\_\_\_  
(Signature of Applicant or Employee)                      Date

\_\_\_\_\_  
(Signature of Witness)    Date

## APPENDIX F

### ORDINANCE NUMBER: 364<sup>1</sup>

**An ordinance to amend the Monterey Municipal Code by adding a new chapter, establishing the Town of Monterey's Personnel System.**

**BE IT ORDAINED BY THE BOARD OF MAYOR AND ALDERMEN OF THE TOWN OF MONTEREY, TENNESSEE, THAT:**

#### **CHAPTER VI TITLE V - PERSONNEL SYSTEM**

##### **SECTION 1-ADMINISTRATION**

1-801. **PURPOSE** - The purpose of this chapter is to establish a system of personnel administration in the town of Monterey that is based on merit and fitness. The system shall provide a means to select, develop, and maintain an effective municipal work force through impartially applying personnel policies and procedures free of personal and political considerations and regardless of race, color, gender, age, creed, national origin, or disability.

1-802. **COVERAGE** - All offices and positions of the municipal government are classified service. All employment positions of the municipal government shall be subject to the provisions of the town charter.

1-803. **ADMINISTRATION** - The personnel system shall be administered by the Mayor and the personnel committee, who shall have the following duties and responsibilities:

- a. exercise leadership in developing an effective personnel administration system subject to provisions in this ordinance, other ordinances, the town charter, and federal and state laws relating to personnel administration;
- b. recommend to the Mayor and Board of Aldermen policies and procedures for recruiting, appointing, and disciplining all employees of the municipality subject to those policies as set forth in this ordinance, the town charter, and the municipal code;

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<sup>1</sup>This ordinance (Appendix F) is codified as chapter 3 to title 4 of this municipal code.



- c. fix and establish the number of employees in the various town departments and offices and determine the duties, authority, responsibility, and compensation in accordance with the policies as set forth in the town charter and code, and subject to the approval of the Mayor and Board of Alderman and budget limitations.
- d. foster and develop programs for improving employee effectiveness, including training, safety, and health;
- e. maintain records of all employees, subject to the provisions of this chapter of the town code, which shall include each employee's class, title, pay rates, and other relevant data;
- f. make periodic reports to the Mayor and Board of Aldermen regarding administering the personnel system;
- g. recommend to the Mayor and Board of Aldermen a position classification plan and install and maintain such a plan upon approval by the Mayor and Board of Aldermen.
- h. prepare and recommend to the Mayor and Board of Aldermen a pay plan for all municipal government employees;
- i. develop and administer such recruiting programs as may be necessary to obtain an adequate supply of competent applicants to meet the employment needs of the municipal government;
- j. be responsible for certification of payrolls; and
- k. perform such other duties and exercise such other authority in personnel administration as may be prescribed by law.

1-804. **PERSONNEL RULES AND REGULATIONS** - The mayor and board of aldermen shall develop rules and regulations necessary for effectively administering the personnel system. The mayor and the board of aldermen shall adopt the rules. If the mayor and board of aldermen has taken no action within ten (10) days after receiving the draft personnel rules and regulations, they shall become effective as if they had been adopted, and shall have the full force and effect of law.

Amendments to the rules and regulations shall be made in accordance with the procedure below. Nothing in the personnel rules and regulations document shall be deemed to give employees any more property rights in their job than may already be given by the town charter. The town reserves the right to alter or change any or all of these rules without prior notice to employees.

1-805. **RECORDS** - The Mayor shall maintain adequate records of the employment record of every employee as specified herein.

1-806. **RIGHT TO CONTRACT FOR SPECIAL SERVICES** - The mayor and board of aldermen may contract with any competent agency for performing such technical services in connection with the establishment of the personnel system or with its operation as may be deemed necessary.

1-807. **DISCRIMINATION** - No person in the classified service or seeking admission thereto shall be employed, promoted, demoted, discharged, or in any way favored or discriminated against because of political opinions or affiliations, race, color, creed, national origin, gender, age, religious belief, or disability.

1-808. **AMENDMENTS** - Amendments or revisions or these rules may be recommended for adoption by the mayor and personnel committee. Such amendments or revisions of these rules shall become effective after approval by the mayor and board of aldermen.

## **SECTION 2 - SEVERABILITY**

2-801. If any provision of this ordinance, or if any policy or order thereunder, or the application of any provision to any person or circumstances is held invalid, the remainder of the chapter, and the application of the provision of this chapter, or of the policy or order to people or circumstances other than those to which it is held invalid, shall not be affected thereby.

## **SECTION 3 - EFFECTIVE DATE**

3-801. This chapter shall take effect immediately upon final passage, the public welfare requiring it.

Appendix F

PASSED first reading April 7, 1997

PASSED second reading May 5, 1997

PASSED third reading June 2, 1997

s/John H. Bowden  
Mayor/City Recorder

s/Geane A. Lee  
Secretary

Approved  
10/10/08

ORDINANCE NO. 358

AN ORDINANCE ADOPTING AND ENACTING A CODIFICATION AND REVISION OF THE ORDINANCES OF THE TOWN OF MONTEREY, TENNESSEE.

WHEREAS some of the ordinances of the Town of Monterey are obsolete, and

WHEREAS some of the other ordinances of the town are inconsistent with each other or are otherwise inadequate, and

WHEREAS the Board of Mayor and Aldermen of the Town of Monterey, 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 Monterey Municipal Code, now, therefore:

BE IT ORDAINED BY THE BOARD OF MAYOR AND ALDERMEN OF THE TOWN OF MONTEREY, TENNESSEE, THAT:

Section 1. Ordinances codified. The ordinances of the town of a general, continuing, and permanent application or of a penal nature, as codified and revised in the following "titles," namely "titles" 1 to 13, both inclusive, are ordained and adopted as the Monterey 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.

Section 3. Ordinances saved from repeal. The repeal provided for in the preceding section 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 town or authorizing the issuance of any bonds or other evidence of said town's indebtedness; any contract or obligation assumed by or in favor of said town; 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 town; 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

Section 7. Severability clause. Each section of the Municipal Code, including the codes and ordinances adopted by reference, is hereby declared to be separable and severable and the invalidity of any section, part, paragraph, sentence, phrase, or word in the Municipal Code shall not affect the validity of any other part of said code, and only any part declared to be invalid by a court of competent jurisdiction shall be deleted therefrom.

Section 8. 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 general ordinance 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 town 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 of 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 9. 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, and safety, and welfare shall prevail.

Section 10. 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 11. Date of effect. This ordinance shall take effect from and after its passage, the welfare of the town requiring it, and the Municipal Code, including all the codes and ordinances therein adopted by reference, shall be effective on and after that date.

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; nor shall such repeal affect any ordinance annexing territory to the town or amending its zoning map.

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. Wherever in the Municipal Code, including the codes and ordinances adopted by reference, any act is prohibited or is made or declared to be unlawful or an offense or a misdemeanor, or wherever in the Municipal Code the doing of any act is required or the failure to do any act is declared to be unlawful, the violation of any such provision of the Municipal Code shall be punishable by a penalty of not more than fifty dollars (\$50.00) and costs for each separate violation; provided, however, that the imposition of a penalty under the provisions of this section 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.

If any person be fined for violating any provision of the Municipal Code, such person shall in default of payment of such penalty and costs be required to perform hard labor within or without the workhouse, to the extent that his physical condition shall permit, until such penalty and costs are 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.<sup>1</sup>

Each day any violation of the Municipal Code continues shall constitute a separate offense.

Section 6. Code as evidence. Any printed copy of the Municipal Code certified under the signature of the recorder shall be held to be a true and correct copy of such codification, and may be read in evidence in any court without further proof of the provisions contained therein.

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<sup>1</sup>For authority to allow deferred payment of fines, or payment by installments, see the Tennessee Code Annotated, sections 40-3201 et seq.

Passed 1st reading Dec 2, 1996

Passed 2nd reading Jan 9, 97

Passed 3rd reading Jan. 24, 1997

\_\_\_\_\_  
Mayor

John D. Bowden  
Recorder