

**OFFICIAL CODE OF  
THE CITY OF  
RED BOILING SPRINGS**

Prepared by the

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

in cooperation with the

**TENNESSEE MUNICIPAL LEAGUE**

September 1995

Change 11, February 11, 2016

**CITY OF RED BOILING SPRINGS, TENNESSEE**

**MAYOR**

Tom Fultz

**VICE MAYOR**

Joel Coe

**COUNCILMEMBERS**

Billy Joe Carver  
Joe Hill  
Lydia Lowe  
George McCrary  
Joseph Reardon

**CITY CLERK**

Coby Knight

## PREFACE

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

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

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

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

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

- (1) That all ordinances relating to subjects treated in the code or which should be added to the code are adopted as amending, adding, or deleting specific chapters or sections of the code (see section 8 of the adopting ordinance).
- (2) That one copy of every ordinance adopted by the city is kept in a separate ordinance book and forwarded to MTAS annually.
- (3) That the city agrees to 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 Sandy Selvage, the MTAS Sr. Word Processing Specialist who did all the typing on this project, and Tracy Gardner, Administrative Services Assistant, is gratefully acknowledged.

Steve Lobertini  
Legal Consultant

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

SECTION 2.10. City Legislation. Be it further enacted, That any action of the council having a regulatory or penal effect, relating to revenue or the expenditure of money, or required to be done by ordinance under this Act, shall be done only by ordinance. Other actions may be accomplished by resolutions or motions. Each motion, resolution and ordinance shall be in written form before being introduced. The affirmative vote of at least four members of the council shall be required to pass any motion, resolution or ordinance, including two readings in the case of an ordinance. Each ordinance, before being adopted, shall be read at two meetings not less than one week apart, and shall take effect ten days after its adoption, except that, where an emergency exists and the public safety and welfare require it, an ordinance containing a full statement of the facts and reasons for the emergency may be made effective upon its adoption if approved by at least five members of the council on two readings on successive days. No ordinance relating to a franchise, exclusive contract, or other special privilege shall be passed as an emergency ordinance. Amendments of ordinances and resolutions or parts thereof shall be accomplished only by setting forth the complete section, sections, subsection, or subsections, in their amended form. A code may be adopted by an ordinance which contains only a reference to its title, date and issuing organization, and the city clerk shall file a copy of the code in his office. The city shall furnish a copy of any such code to any person for a reasonable fee. After adoption of a code of ordinances, as provided in section 2.11 of this article, the city clerk shall number ordinances consecutively in the order of their final adoption and shall copy them into a permanent record book used solely for this purpose, and the city clerk shall do likewise for resolutions, using a separate series of numbers and a separate record book. The original copies of all ordinances, resolutions and motions shall be filed and preserved by the city clerk. An abstract of the essential provisions of each ordinance shall be published once in the official city newspaper within ten days after its adoption, except that only the title shall be so published of a code adopted by reference as provided in this section.

SECTION 2.11. Codification of Ordinances. Be it further enacted, That within three years after this Act becomes effective there shall be prepared, under the direction of the mayor and with the advice of the city attorney, a codification of all ordinances and resolutions having a regulatory effect or of general application which are to be continued in force. Existing ordinances and resolutions may be revised, amended, and consolidated in making the codification, which shall then be adopted as a single ordinance to be known and cited as the Official Code of the City of Red Boiling Springs, and thereupon all ordinances and resolutions in conflict therewith shall be repealed. The ordinance containing the code need not be published in a newspaper, either in

full or in abstracted form, but a notice of its adoption shall be published once in the official city newspaper. The code shall be reproduced in loose-leaf form and shall be made available to any person desiring a copy, for which a reasonable fee may be charged. An additional annual fee may be charged for furnishing revisions currently. After adoption of the code each ordinance shall be adopted as a numbered section or sections of the code, as amending existing sections or adding new sections. Such new ordinances shall be integrated into the code, and at least once a month new pages shall be reproduced to replace existing pages (with instructions to destroy existing pages) or to be added to the code, and shall be distributed to city officers and employees having copies of the code and to other persons who have paid the annual fee for current revisions. Notes shall be inserted at the end of amended or new sections, referring to the dates and numbers of ordinances making the amendments or adding the new sections, and such references shall be cumulative if a section is amended more than once in order that the current copy of the code will contain references to all ordinances passed since the adoption of the original code.

## TITLE 1

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

#### CHAPTER

1. CITY COUNCIL.
2. MAYOR.
3. CITY CLERK.

#### CHAPTER 1

#### CITY COUNCIL<sup>2</sup>

#### SECTION

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

**1-101. Time and place of regular meetings.** The city council shall hold regular monthly meetings at 7:00 P.M. on the second Thursday of each month in the council room of the city hall. (1980 Code, § 1-101)

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

- (1) Call to order by the mayor.
- (2) Roll call by the city clerk.
- (3) Reading of minutes of the previous meeting by the city clerk and approval or correction.

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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, and electrical inspectors: title 12.

Fire department: title 7.

Utilities: titles 18 and 19.

Wastewater treatment: title 18.

Zoning: title 14.

<sup>2</sup>Charter references

Corporate powers: § 1.05.

Oath of office: § 3.08.

Tax levy: § 4.10.

- (4) Grievances from citizens.
- (5) Communications from the mayor.
- (6) Reports from committees, members of the city council, and other officers.
- (7) Old business.
- (8) New business.
- (9) Adjournment. (1980 Code, § 1-102)

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



**CHAPTER 2****MAYOR<sup>1</sup>****SECTION**

1-201. To be bonded.

1-202. Executes city's contracts.

**1-201. To be bonded.** Pursuant to § 3.09 of the city's charter, the mayor shall be bonded in the sum of two thousand five hundred dollars (\$2,500.00) with a surety company authorized to do business in Tennessee as surety. (1980 Code, § 1-201)

**1-202. Executes city's contracts.** The mayor shall execute all contracts as authorized by the city council. (1980 Code, § 1-202)

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<sup>1</sup>Charter references

Administrative duties: § 3.02.

Bond: § 3.09.

Election: § 2.01.

Oath: § 3.08.

Vacancy in office: § 2.06.

**CHAPTER 3****CITY CLERK<sup>1</sup>****SECTION**

1-301. To be bonded.

1-302. To perform general administrative duties, etc.

**1-301. To be bonded.** Pursuant to § 3.09 of the city's charter, the city clerk shall be bonded in the sum of two thousand five hundred dollars (\$2,500.00) with a surety company authorized to do business in Tennessee as surety. (1980 Code, § 1-301)

**1-302. To perform general administrative duties, etc.** The city clerk shall perform all administrative duties for the city council and for the city which are not assigned by the charter, this code, or the city council to another corporate officer. He shall also be responsible for maintaining all corporate bonds, records, and papers in such fireproof vault or safe as the city shall provide. (1980 Code, § 1-302)

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<sup>1</sup>Charter references

Appointment and duties: § 2.08.

Bond: § 3.09.

Oath: § 3.08.

**TITLE 2****BOARDS AND COMMISSIONS, ETC.****CHAPTER****1. PARKS AND RECREATION ADVISORY BOARD.****CHAPTER 1****PARKS AND RECREATION ADVISORY BOARD****SECTION**

2-101. Advisory board created; membership; terms.

2-102. Authority of board.

2-103. By-laws.

**2-101. Advisory board created; membership; terms.** A parks and recreation advisory board is hereby established. Said board shall be called the City of Red Boiling Springs Parks and Recreation Advisory Board. Said board shall consist of five (5) members, one of which shall be the Mayor of Red Boiling Springs, or a councilman designated by the Mayor of Red Boiling Springs. Four (4) members shall be at-large members appointed by the Mayor of Red Boiling Springs. The terms of the designated members shall be five (5) years except that the terms of members first appointed shall be arranged so that the term of one member shall expire annually thereafter. All appointed members shall be eligible for re-appointment. (Ord. #213, Dec. 1994)

**2-102. Authority of board.** The authority granted to this board is advisory in nature and the authority to operate and maintain parks and recreation facilities and to conduct recreation programs is hereby retained by the City Council of the City of Red Boiling Springs for its facilities. (Ord. #213, Dec. 1994)

**2-103. By-laws.** The board shall have the authority to adopt by-laws to govern the conduct of its meetings. (Ord. #213, Dec. 1994)

**TITLE 3**

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

**CHAPTER**

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

**CHAPTER 1**

**CITY JUDGE**

**SECTION**

- 3-101. City judge.  
3-102. Compensation of acting city judge.

**3-101. City judge.** The officer designated by the charter to handle judicial matters within the city<sup>2</sup> shall preside over the city court and shall be known as the city judge. (1980 Code, § 1-501)

**3-102. Compensation of acting city judge.** The compensation of an acting city judge appointed by the mayor pursuant to § 3.05 of the city charter shall be \$15.00 per day of service, but in the event the acting city judge serves continuously for a period of at least one week, the compensation shall be fixed at the same amount being paid to the regular city judge. (1980 Code, § 1-513)

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<sup>1</sup>Charter reference  
City court: § 3.04.

<sup>2</sup>Charter reference: § 3.05.

## CHAPTER 2

### COURT ADMINISTRATION

#### SECTION

3-201. Maintenance of docket.

3-202. Imposition of fines, penalties, and costs.

3-203. Disposition and report of fines, penalties, and costs.

3-204. Disturbance of proceedings.

3-205. Trial and disposition of cases.

3-206. Charges for court costs.

**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, penalties, and costs imposed and whether collected; whether committed to workhouse; and all other information which may be relevant. (1980 Code, § 1-502)

**3-202. Imposition of fines, penalties, and costs.** All fines, penalties, and costs shall be imposed and recorded by the city judge on the city court docket in open court. In all cases for the offenses designated in the schedule of fines and costs set out in this chapter, heard and determined by the city judge, the city judge shall tax in the bill of costs the same amounts set out such schedule. In all cases in the enforcement of title 15 of this code for offenses not designated in such schedule, the fine or penalty shall be taxed by the city judge in accordance with § 15-706 of title 15 and all costs shall be taxed in the same amounts for the same items allowed in general sessions courts for similar work in state cases. In all other cases, not hereinabove addressed, heard and determined by the city judge, the city judge shall tax in the bill of costs the same amounts for the same items allowed in general sessions courts for similar work in state cases. (1980 Code, § 1-508, as amended by Ord. #01-7, Nov. 2001)

**3-203. Disposition and report of fines, penalties, and costs.** All funds coming into the hands of the city judge in the form of fines, penalties, costs, and forfeitures shall be recorded by him and paid over daily to the city. At the end of each month he shall submit to the city council a report accounting for the collection or non-collection of all fines, penalties, 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 municipal ordinance shall be entitled to an immediate trial and disposition of his case, provided the city court is in session or the city judge is reasonably available. However, the provisions of this section shall not apply when the alleged offender, by reason of drunkenness or other incapacity, is not in a proper condition or is not able to appear before the court. (1980 Code, § 1-506)

**3-206. Charges for court costs.** The court costs in city court shall be as follows:

Issuing ticket or citation .....	\$25.00
Docketing of case .....	\$7.50
Affidavit and warrant .....	\$15.00
Mittimus .....	\$8.00
Bonds .....	\$8.00
Entry of judgment .....	\$15.00
Issuing subpoena .....	\$32.00
Summoning witnesses .....	\$32.00
Arrest .....	\$25.00
Preparing bill of costs .....	\$15.00
Issuing capias .....	\$25.00
Abstract .....	\$13.00
Continuance .....	\$5.00
State fee .....	\$1.00
Court management fee .....	\$10.00

The following additional costs shall be paid when applicable:

- (1) The costs of conducting and blood test, urine test, hair follicle test, and/or breath analyzer test to determine alcoholic or drug content.
- (2) The costs of transportation of the prisoner into and/or out of the County of Macon at the rate of forty and ½ cents (40.5) per mile.
- (3) Traffic school for first time traffic offenders shall be eighty-five dollars (\$85.00). (as added by Ord. #01-7, Nov. 2001, as replaced by Ord. #05-4, Sept. 2005, as amended by Ord. #09-1, May 2009)

## CHAPTER 3

### WARRANTS, SUMMONSES AND SUBPOENAS

#### SECTION

3-301. Issuance of arrest warrants.

3-302. Issuance of summonses.

3-303. Issuance of subpoenas.

**3-301. Issuance of arrest warrants.**<sup>1</sup> The city judge shall have the power to issue warrants for the arrest of persons charged with violating municipal ordinances. (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 or penalty and all costs of the trial and appeal shall be promptly paid by the defendant and/or his sureties. An appearance or appeal bond in any case may be made in the form of a cash deposit or by any corporate surety company authorized to do business in Tennessee or by two (2) private persons who individually own real property 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--CITY PERSONNEL.
2. VACATION, HOLIDAYS, AND SICK LEAVE.
3. MISCELLANEOUS REGULATIONS--CITY PERSONNEL.
4. INFECTIOUS DISEASE CONTROL POLICY.
5. CODE OF ETHICS.

#### CHAPTER 1

### SOCIAL SECURITY--CITY PERSONNEL

#### 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 to be kept and reports made.
- 4-106. Exclusions.
- 4-107. Exclusion of election workers and election officials.

**4-101. Policy and purpose as to coverage.** It is hereby declared to be the policy and purpose of the City of Red Boiling Springs, to provide for all eligible employees and officials of the city, whether employed in connection with a governmental or proprietary function, the benefits of the system of federal old age and survivors insurance. In pursuance of said policy, and for that purpose, the city shall take such action as may be required by applicable state and federal laws or regulations. (1980 Code, § 1-701)

**4-102. 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 to be kept and reports made.** The city clerk 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 city. (1980 Code, § 1-706)

**4-107. Exclusion of election workers and election officials.** The City of Red Boiling Springs elects to exclude from its coverage group under the Federal System of Old Age, Survivors, Disability, Health Insurance, services performed by election workers and election officials if the remuneration paid for such services in a calendar year is less than \$1,000 for services performed on or after January 1, 1995 ending on or before December 31, 1999, and the adjusted amount determined under Section 218(c)(8)(B) of the Social Security Act for any calendar year commencing on or after January 1, 2000, with respect to services performed during any such calendar year; the exclusion to be effective in and after the calendar year a state's modification is mailed, or delivered by other means, to the appropriate federal official. The mayor is hereby authorized and directed to execute an amendment to the city's agreement with the Old Age and Survivors Insurance Agency of the State of Tennessee in order to effect such exclusion. (Ord. #214, Jan. 1995)

## CHAPTER 2

### VACATION, HOLIDAYS, AND SICK LEAVE

#### SECTION

4-201. Vacation leave.

4-202. Holidays.

4-203. Sick leave.

4-204. Bereavement.

**4-201. Vacation leave.** All full-time employees who have worked for the city for at least one year shall be given five days of vacation leave with pay. Such vacation leave shall be taken at a time approved by the mayor or such other officer as he may designate. (1980 Code, § 1-808)

**4-202. Holidays.** All full-time employees shall be given a day off with pay, on the following holidays:

New Years Day;

Martin Luther King Jr. Day/Presidents Day;

Memorial Day;

Independence Day;

Labor Day;

Veteran's Day;

Thanksgiving Day and the day after Thanksgiving Day;

Christmas Eve and Christmas Day.

Provided however, the employees must work at least four (4) hours on the work day before and the work day after the holiday, unless otherwise excused by his supervisor.

When a legal holiday falls on a Saturday, the offices will be closed the preceding Friday. When the holiday falls on a Sunday, the following Monday shall be observed. (1980 Code, § 1-809, as amended by Ord. #00-2, Feb. 2000, Ord. #03-7, Sept. 2003, and Ord. #08-9, Dec. 2008)

**4-203. Sick leave.** All full time employees shall be given one day of sick leave with pay for each month of work for the city. In the event the employee has not taken all of his or her accumulated sick leave days by the end of each calendar year, the employee shall be paid at the rate of his or her regular daily wage for each day of accumulated sick leave not used.

Five (5) accumulated days of sick leave may be carried over to the following year. Employees may not borrow against future sick leave but shall be allowed the transfer of earned sick leave to another employee when an employee's special need arises. Such transfers must be approved, in each case, by the Red Boiling Springs City Council. An employee, upon exhausting all earned sick leave, may use earned annual leave or take a leave without pay. (1980 Code, § 1-812, as amended by Ord. #07-2, April 2007)

**4-204. Bereavement.** All full-time employees shall be given time off when there is a death in the immediate family of said employee. When the death occurs on a weekend two (2) days off shall be allowed. If the death occurs through the week three (3) days off shall be allowed. Immediate family includes spouse, parents, children, grandchildren, brothers, sisters, grandparents, uncles, and aunts. (as added by Ord. #06-10, Jan., 2007)

### CHAPTER 3

#### MISCELLANEOUS REGULATIONS--CITY PERSONNEL<sup>1</sup>

##### SECTION

- 4-301. Business dealings.
- 4-302. Outside employment.
- 4-303. Use of municipal time, facilities, etc.
- 4-304. Use of position.
- 4-305. Strikes and unions.
- 4-306. Equal employment opportunity.
- 4-307. Salary.
- 4-308. Overtime.
- 4-309. Employment applications.
- 4-310. Separations and disciplinary actions.

**4-301. Business dealings.** Except for the receipt of such compensation as may be lawfully provided for the performance of his municipal duties, it shall be unlawful for any municipal officer or employee to be privately interested in, or to profit, directly or indirectly, from business dealings with the city. (1980 Code, § 1-801)

**4-302. Outside employment.** No full-time officer or employee of the city shall accept any outside employment without written authorization from the mayor. The mayor shall not grant such authorization if the work is likely to interfere with the satisfactory performance of the officer's or employee's duties, or is incompatible with his municipal employment, or is likely to cast discredit upon or create embarrassment for the city. (1980 Code, § 1-802)

**4-303. 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 city council has authorized the use of such time, facilities, equipment, or supplies, and the city is paid at such rates as are normally charged by private sources for comparable services. (1980 Code, § 1-803)

**4-304. Use of position.** No municipal officer or employee shall make or attempt to make private purchases, for cash or otherwise, in the name of the city, nor shall he otherwise use or attempt to use his position to secure

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<sup>1</sup>Charter reference

Political activity by employees: § 3.10.

unwarranted privileges or exemptions for himself or others. (1980 Code, § 1-804)

**4-305. Strikes and unions.** No municipal officer or employee shall participate in any strike against the city, nor shall he join, be a member of, or solicit any other municipal officer or employee to join any labor union which authorizes the use of strikes by government employees. (1980 Code, § 1-805)

**4-306. Equal employment opportunity.** No person shall be employed, promoted, demoted, or discharged, or in any way favored or discriminated against because of race, color, creed, national origin, sex, ancestry, age, religious belief, or handicapped status. (1980 Code, § 1-806)

**4-307. Salary.** The salary of the city clerk, the chief of police, and all department heads shall be fixed by motion. The beginning salary of all other employees shall be fixed at the minimum hourly wage provided by federal law unless otherwise provided by the city council. All employees who begin working at the minimum wage shall automatically receive a raise of fifteen cents (\$.15) per hour after working for one month, and an additional raise of twenty-five cents (\$.25) per hour after working for six consecutive months. Any additional raises will be fixed by the city council by motion. (1980 Code, § 1-807)

**4-308. Overtime.** Employees shall be paid one and one-half times their regular hourly wages for all overtime hours except for department heads. No employee, except department heads, shall work more than forty hours per week unless approved by his or her supervisor, or in case of an emergency. (1980 Code, § 1-810)

**4-309. Employment applications.** All persons seeking appointment or employment by the city shall complete and sign a standard application form as provided by the city giving at least the following information about the applicant: full name, address, social security number, driver's license number, date of birth, education, employment history for the previous five years, any experience or special training for the position sought and whether he or she has ever been convicted of any criminal offense and if so, the full details thereof. The complete application shall become the property of the city and shall be made a permanent record kept by the city. (1980 Code, § 1-811)

**4-310. Separations and disciplinary actions.** The following items (1) through (10) shall not be applicable to the police department personnel, the procedures set forth in the police Rules and Procedures Manual of the Police Department shall govern police personnel.

(1) **Types of separations.** All separations of employees from positions with the city government shall be designated as one (1) of the following types

and shall be accomplished in the manner indicated: resignations, lay-offs, disability, death, retirement, and dismissal. At the time of separation and prior to final payment, all records, assets, and other items of city 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.

(2) Resignation. In the event an employee decides to leave the city government's employ, a two (2) week written 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 city government equipment assigned. An unauthorized absence from work a period of three (3) consecutive working days may be considered by the department head as a resignation.

If a former employee returns to city government employment, their status of seniority, pay, leave, etc. will be the same as any new employee beginning work for the first time.

(3) Lay-off. The mayor, upon approval from the city council may lay off an employee in the city government service when he/she deems it necessary by reason of shortage of funds, the abolition of a position, or other material changes in the duties or organization of the employee's position, or for related reasons that are outside the employer's control and that do not reflect discredit upon the service of the employee.

The duties performed by an employee laid-off may be assigned to other employees already working who hold positions in the appropriate class. Temporary employees shall be laid-off prior to the lay-off of 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.

(4) Disability. An employee may be separated for disability when he/she cannot perform required duties because of physical or mental impairment. Action may be initiated by the employee or the city, but in all cases it must be supported by medical evidence acceptable to the city council. The city government may require an examination at its expense and performed by a licensed physician of its choice.

(5) Retirement. Whenever an employee meets the conditions set forth in the retirement system's regulations, he/she may elect to retire and receive all benefits earned under the appropriate retirement system.

(6) 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.

(7) 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 reasonable period of time for improvement may be allowed disciplinary action. In some instances, a

specific incident in and of itself may justify severe initial disciplinary action; however, the action depends on the seriousness of the incident and the whole pattern of the employee's past performance and conduct. The types of disciplinary actions are:

- (a) Oral reprimand;
- (b) Written reprimand;
- (c) Suspension;
- (d) Dismissal.

(8) 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.

(9) 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.

(10) Suspension. An employee may be suspended with or without pay by the mayor.

(11) Dismissal. The city council may dismiss an employee for just cause. Reasons for dismissal may include, but shall not be limited to: misconduct, negligence, incompetence, insubordination, unauthorized absences, falsification of records, violation of any of the provisions of the charter, ordinances, or these rules.

If the employee request a hearing on the proposed action, the mayor shall promptly set a date and time for the hearing before the council. The decision of the board of mayor and council shall be final. (as added by Ord. #10-3, June 2010)



## CHAPTER 4

### INFECTIOUS DISEASE CONTROL POLICY

#### SECTION

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

**4-401. Purpose.** It is the responsibility of the City of Red Boiling Springs to provide employees a place of employment which is free from recognized hazards that may cause death or serious physical harm. In providing services to the citizens of the City of Red Boiling Springs, 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).

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

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

- (4) Police and security personnel;
- (5) Firefighters;
- (6) Sanitation and landfill workers; and
- (7) Any other employee deemed to be at high risk per this policy and an exposure determination.

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

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

**4-404. 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 or HBV viruses.

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

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

(4) "Human 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.

**4-405. Policy statement.** All blood and other potentially infectious materials are infectious for several blood-borne pathogens. Some body fluids can also transmit infections. For this reason, the 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. 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.

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

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

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

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

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

items shall be placed in puncture resistant containers for disposal. The puncture resistant container shall be located as close as practical to the use area.

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

- (a) While handling an individual where exposure is possible;
- (b) While cleaning or handling contaminated items or equipment;
- (c) While cleaning up an area that has been contaminated with one of the above;

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

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

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

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

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

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

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

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

All required tags shall meet the following criteria:

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

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

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

(13) Linen soiled with blood or other potentially infectious materials shall be handled as little as possible and with minimum agitation to prevent contamination of the person handling the linen. All soiled linen shall be bagged at the location where it was used. It shall not be sorted or rinsed in the area. Soiled linen shall be placed and transported in bags that prevent leakage.

The employee responsible for transported soiled linen should always wear protective gloves to prevent possible contamination. After removing the gloves, hands or other skin surfaces shall be washed thoroughly and immediately after contact with potentially infectious materials.

(14) Whenever possible, disposable equipment shall be used to minimize and contain clean-up.

**4-407. Hepatitis B vaccinations.** The City of Red Boiling Springs shall offer the appropriate Hepatitis B vaccination to employees at risk of exposure free of charge and in amounts and at times prescribed by standard medical practices. The vaccination shall be voluntarily administered. High risk employees who wish to take the HBV vaccination should notify their department head who shall make the appropriate arrangements through the Infectious Disease Control Coordinator.

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

(1) Notify the Infectious Disease Control Coordinator of the contact incident and details thereof.

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

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

Once an exposure has occurred, a blood sample should be drawn after consent is obtained from the individual from whom exposure occurred and tested for Hepatitis B surface antigen (HBsAg) and/or antibody to human immunodeficiency 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.

**4-409. Hepatitis B virus post-exposure management.** For an exposure to a source individual found to be positive for HBsAg, the worker who has not previously been given the hepatitis B vaccine should receive the vaccine series. A single dose of hepatitis B immune globulin (HBIG) is also recommended, if it can be given within seven (7) days of exposure.

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

**4-410. Human immunodeficiency virus post-exposure management.** For any exposure to a source individual who has AIDS, who is found to be positive for HIV infection, or who refuses testing, the worker should be counseled regarding the risk of infection and evaluated clinically and serologically for evidence of HIV infection as soon as possible after the exposure. The worker should be advised to report and seek medical evaluation for any acute febrile illness that occurs within 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 city to all workers who may be concerned they have been infected with HIV through an occupational exposure.

**4-411. Disability benefits.** Entitlement to disability benefits and any other benefits available for employees who suffer from on-the-job injuries will be determined by the Tennessee Worker's Compensations Bureau in accordance with the provisions of T.C.A. 50-6-303.

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

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

**4-414. 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.

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

(2) Needle sticks. Needle sticks, like any other puncture wound, are considered injuries for 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 city be inspected by the U.S. Department of Labor Office of Health Compliance, the compliance safety and health officer may wish to interview employees. Employees are expected to cooperate fully with the compliance officers.

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

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

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

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

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

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

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

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

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

(9) Victims of a communicable disease and their families have a right to conduct their lives without fear of discrimination. An employee shall not



make public, directly or indirectly, the identity of a victim or suspected victim of a communicable disease.

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

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

## CHAPTER 5

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

#### SECTION

- 4-501. Applicability.
- 4-502. Definition of "personal interest."
- 4-503. Disclosure of personal interest by official with vote.
- 4-504. Disclosure of personal interest in non-voting matters.
- 4-505. Acceptance of gratuities, etc.
- 4-506. Use of information.
- 4-507. Use of municipal time, facilities, etc.
- 4-508. Use of position or authority.
- 4-509. Outside employment.
- 4-510. Ethics complaints.
- 4-511. 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.

**4-501. Applicability.** This chapter is the code of ethics for personnel of Red Boiling Springs. 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. #07-4, May 2007)

**4-502. Definition of "personal interest."** (1) For purposes of §§ 4-503 and 4-504, "personal interest" means:

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

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

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

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

(3) In any situation in which a personal interest is also a conflict of interest under state law, the provisions of the state law take precedence over the provisions of this chapter. (as added by Ord. #07-4, May 2007)

**4-503. 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. #07-4, May 2007)

**4-504. 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. #07-4, May 2007)

**4-505. 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. #07-4, May 2007)

**4-506. 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. #07-4, May 2007)

**4-507. 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. #07-4, May 2007)

**4-508. 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. #07-4, May 2007)

**4-509. 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. #07-4, May 2007)

**4-510. 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 the governing body to 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. #07-4, May 2007)

**4-511. 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. #07-4, May 2007)

**TITLE 5**

**MUNICIPAL FINANCE AND TAXATION<sup>1</sup>**

**CHAPTER**

1. MISCELLANEOUS.
2. REAL PROPERTY TAXES.
3. PRIVILEGE TAXES.
4. PURCHASE REGULATIONS.
5. MUNICIPAL PURCHASING LAW OF 1983.

**CHAPTER 1**

**MISCELLANEOUS**

**SECTION**

5-101. Official depositories for city funds.

**5-101. Official depositories for city funds.** The Macon Bank and Trust Company, Red Boiling Springs, Tennessee, branch and Citizens Bank, Red Boiling Springs, Tennessee, branch, are hereby designated as the official depositories for all municipal funds. (1980 Code, § 6-101)

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<sup>1</sup>Charter reference: art. IV.

## CHAPTER 2

### REAL PROPERTY TAXES

#### SECTION

5-201. When due and payable.

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

**5-201. When due and payable.**<sup>1</sup> The city's property taxes are due and payable on and after October 1 in the year for which assessed and shall become delinquent on March 1 of the following year. (1980 Code, § 6-201, as replaced by Ord. #14-9, Sept. 2014)

**5-202. When delinquent--penalty and interest.**<sup>2</sup> Penalties and interest on delinquent taxes shall be fixed at one-half (1/2) of one percent (1%) for penalties and one percent (1%) for interest and shall be added on the first day of March, following the tax due date and on the first day of each succeeding month. (1980 Code, § 6-202, as replaced by Ord. #14-9, Sept. 2014)

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<sup>1</sup>State law references

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

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

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

**CHAPTER 3****PRIVILEGE TAXES****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 state laws. The taxes provided for in the state's "Business Tax Act" (Tennessee Code Annotated, § 67-4-701, et seq.) are hereby expressly enacted, ordained, and levied on the businesses, business activities, vocations, and occupations carried on within the city at the rates and in the manner prescribed by the act, subject to the minimum tax set forth therein, plus a fee of one dollar (\$1.00) for collecting and recording amounts from the business tax. The taxes shall be collected in the manner prescribed by said act. The proceeds of the privilege taxes herein levied shall accrue to the general fund. (1980 Code, § 6-301)

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



## CHAPTER 4

### PURCHASE REGULATIONS

#### SECTION

- 5-401. Purchasing categories.
- 5-402. Formal competitive bidding procedure.
- 5-403. Determining the lowest responsible bidder.
- 5-404. Award to other than low bidder.
- 5-405. Tie bid: manner of resolution.
- 5-406. Rejecting bids.
- 5-407. Clause required in all contracts.
- 5-408. Exceptions.

**5-401. Purchasing categories.**<sup>1</sup> All purchase of contracts for equipment, materials, supplies or services, except for professional services or the services for which the rates or prices are made by public authorities, shall be made as follows:

(1) When the dollar amount of purchases or contract does not exceed four-thousand dollars (\$4,000.00), the purchasing agent shall make purchases or contracts in the open market after such inquiry as he or she deems necessary to ensure that the price is most advantageous to the city.

(2) When the dollar amount of purchases or contracts is more than four-thousand dollars (\$4,000.00), but less than ten-thousand dollars (\$10,000.00) the need for purchases or contracts must first be determined by the city council and upon the determination of the city council of such need, the purchasing agent shall solicit bids, orally or by telephone or in writing, from at least three (3) suppliers, if so many be available in the locality, and to make the purchases or contracts from the lowest and best bidder and he or she shall keep on file a list of the bids received.

(3) When the dollar amount of purchases or contracts is more than ten-thousand dollars (\$10,000.00), formal competitive bidding shall be required. (1980 Code, § 1-901, as replaced by Ord. #03-2, March 2003, and Ord. #08-7, Sept. 2007)

**5-402. Formal competitive bidding procedure.** All formal bids shall be solicited, opened and awards made thereon as follows:

(1) Solicitation of bids. Bids shall be solicited by notice inviting bids published in the official city newspaper, at least once each week for three

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<sup>1</sup>State law reference

Tennessee Code Annotated, §§ 6-56-305 and 6-56-306.

successive weeks with the first publication being at least twenty days prior to the time of bid opening.

(2) Contents of notice. Notice inviting bids shall include a general description of the supplies or services to be purchased or contracted for, shall state where bid forms and specifications may be secured and shall specify the time and place for the receipt and opening of bids.

(3) Minimum number of bids. Whenever possible, at least two bids shall be obtained.

(4) Form of bids. All bids shall be in writing.

(5) Bid opening. Bids shall be opened by the city council at the time and place designated in the notice inviting bids.

(6) Awards: rejection. Awards shall be made by the city council to the lowest responsible bidder. However, the city council may reject any or all bids, the city council may solicit new bids, or may determine that the work or service may be performed more economically or more satisfactorily by the city with its own employees. (1980 Code, § 1-902)

**5-403. Determining the lowest responsible bidder.** In determining the lowest responsible bidder, the following shall be considered in addition to price:

(1) The quality of supplies offered.

(2) The ability, capacity, and skill of the bidder to perform the contract or to provide the supplies or services required.

(3) Whether the bidder can perform the contract or provide the supplies promptly, or within the time specified, without delay or interference.

(4) The sufficiency of the bidder's financial resources and the effect thereof on his ability to perform the contract or to provide the supplies or services.

(5) The character, integrity, reputation, judgment, experience, and efficiency of the bidder.

(6) The quality of bidders performance on previous orders or contracts for the city.

(7) Litigation by the bidder on previous orders or contracts with the city.

(8) The previous and existing compliance by the bidder with laws and ordinances relating to the subject of the purchase or contract.

(9) The ability of the bidder to provide future maintenance and service where such maintenance and service is essential. (1980 Code, § 1-903)

**5-404. Award to other than low bidder.** When the award is not given to the lowest bidder, a full and complete statement of the reasons thereof shall be prepared by the city council, approved by the city attorney and filed with the other papers related to the transaction. (1980 Code, § 1-904)

**5-405. Tie bid: manner of resolution.** If two or more bids are for the same total amount of unit price, quality and a service being equal, and if the public interest will not permit the delay or readvertising for bids, the city council may award the contract to one of the bidders by drawing lots in public or may negotiate with the tie bidders and accept the lowest bid; provided, however, that when the same Macon County firm is involved in a tie bid with one or more firms from outside the County of Macon, all other things being equal, the award shall be made to the Macon County firm. (1980 Code, § 1-905)

**5-406. Rejecting bids.** The city council may reject any and all bids. (1980 Code, § 1-906)

**5-407. Clause required in all contracts.** There shall be inserted in all contracts and contractors shall be required to insert in all contracts the following provision: "No council member, officer, or employee of the City of Red Boiling Springs, during his tenure or for one year thereafter has any interest directly or indirectly in this contract or the proceeds thereof." (1980 Code, § 1-907)

**5-408. Exceptions.** In the event there is any conflict between a provision of chapter 4 and a provision of chapter 5 of this title, the provision of chapter 5 shall control and shall be deemed an exception to this chapter. (as added by Ord. #03-2, March 2003)

**CHAPTER 5**

**MUNICIPAL PURCHASING LAW OF 1983**

**SECTION**

5-501. Purpose.

5-502. Application of chapter.

5-503. Limits on purchase.

5-504. Advertising and bidding--exceptions.

5-505. Advertising and bidding--exceptions of less than \$10,000.

**5-501. Purpose.** The purpose of this chapter is to use the provisions and implementation authority of the Tennessee Municipal Purchasing Law of 1983 instead of the provisions of Section 4.06, Centralized Purchasing, of the charter. This use of the Municipal Purchasing Law of 1983 instead of Section 4.06 is made pursuant to the authority given under Section 5.02 of the charter, thereby substituting this law for Section 4.06 of the charter. (as added by Ord. #03-2, March 2003)

**5-502. Application of chapter.** This chapter shall apply to all purchases by authorized officials in this municipality using or encumbering municipal funds, except as follows:

(4) This chapter shall not apply to purchases made under the provisions of Tennessee Code Annotated, § 12-3-101, purchases for municipalities by the state department of general services;

(5) This chapter shall not apply to investments in or purchases from the pooled investment fund established pursuant to Tennessee Code Annotated, § 9-17-105 [repealed];

(6) This chapter shall not apply to purchases from instrumentalities created by two (2) or more cooperating governments such as, but not limited to, those established pursuant to the Interlocal Cooperation Act, compiled in title 12, chapter 9, of the Tennessee Code; and

(7) This chapter shall not apply to purchases from nonprofit corporations such as, but not limited to, the Local Government Data Processing Corporation, whose purpose or one (1) of whose purposes is to provide goods or services specifically to municipalities.<sup>1</sup> (as added by Ord. #03-2, March 2003)

**5-503. Limits on purchase.** All purchases made from funds subject to the authority of this chapter shall be made within the limits of the approved

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<sup>1</sup>State law reference

Tennessee Code Annotated, § 6-56-302.

budget, when required, and the appropriations, when required, for the department, office or agency for which the purchase is made.<sup>1</sup> (as added by Ord. #03-2, March 2003)

**5-504. Advertising and bidding—exceptions.** Except as hereinafter provided, all purchases and leases or lease-purchase agreements shall be made or entered into only after public advertisement and competitive bid except as follows:

(1) Purchases costing less than ten thousand dollars (\$10,000.00); provided, that this exemption shall no apply to purchases of like items which individually cost less than ten thousand dollars (\$10,000.00), but which are customarily purchased in lots of two (2) or more, if the total purchase price of such items would exceed ten thousand dollars (\$10,000.00) during any fiscal year;

(2) Any goods or services which may not be procured by competitive means because of the existence of a single source of supply or because of a proprietary product. A record of such sole source or proprietary purchases shall be made by the person or body authorizing such purchases and shall specify the amount paid, the items purchased, and from whom the purchase was made. A report of such sole source or proprietary purchases shall be made as soon as possible to the council and the mayor and shall include all items of information as required for the record;

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

(4) Leases or lease-purchase agreements requiring total payments of less than ten thousand dollars (\$10,000) in each fiscal year the agreement is in effect; provided that this exemption shall not apply to leases of like or related items which individually may be leased or lease-purchased with total payments of less than ten thousand dollars (\$10,000) in any fiscal year, but which are customarily leased or lease-purchased in numbers of two (2) or more, if the total lease or lease-purchase payments for such items under a single agreement would be ten thousand dollars (\$10,000) or more in any fiscal year;

(5) Purchases, leases, or lease-purchases of real property;

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<sup>1</sup>State law reference

Tennessee Code Annotated, § 6-56-303.

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

(7) Purchases of perishable commodities from the requirements of public advertisement and competitive bidding, when such items are purchased in the open market. A record of such purchases shall be made by the person or body authorizing such purchases and shall specify the amount paid, the items purchased, and from whom the purchase was made. A report of such purchases shall be made, at least monthly, to the mayor and the council, and shall include all items of information as required in the record. Fuel and fuel products may be purchased in the open market without public advertisement, but shall whenever possible be based on at least three (3) competitive bids. Fuel and fuel products may be purchased from the state department of general services' contract where available; and

(8) Purchases, for resale, of natural gas and propane gas.<sup>1</sup> (as added by Ord. #03-2, March 2003)

**5-506. Advertising and bidding—expenditures of less than \$10,000.**

All purchases, leases, or lease-purchase arrangements with expenditures of less than ten thousand dollars (\$10,000) but more than one thousand dollars (\$1,000) in any fiscal year may be made in the open market without public advertisement, but shall, whenever possible, be based upon at least three (3) competitive bids. Purchases, leases, or lease-purchases of one thousand dollars (\$1,000) or less in any fiscal year shall not require any public advertisement or competitive bidding.<sup>2</sup> (as added by Ord. #03-2, March 2003)

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<sup>1</sup>State law reference  
Tennessee Code Annotated, § 6-56-304.

<sup>2</sup>State law reference  
Tennessee Code Annotated, § 6-56-305.

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

1. POLICE AND ARREST.
2. WORKHOUSE.

**CHAPTER 1****POLICE AND ARREST****SECTION**

- 6-101. Policemen subject to chief's orders.
- 6-102. Policemen to preserve law and order, etc.
- 6-103. Policemen to wear uniforms and be armed.
- 6-104. When policemen to make arrests.
- 6-105. Policemen may require assistance.
- 6-106. Disposition of persons arrested.
- 6-107. Police department records.

**6-101. Policemen subject to chief's orders.** All policemen shall obey and comply with such orders and administrative rules and regulations as the police chief may officially issue. (1980 Code, § 1-401)

**6-102. Policemen to preserve law and order, etc.** Policemen shall preserve law and order within the city. They shall patrol the city and shall assist the city court during the trial of cases. Policemen shall also promptly serve any legal process issued by the city court. (1980 Code, § 1-403)

**6-103. Policemen to wear uniforms and be armed.** All policemen shall wear such uniform and badge as the city council 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, § 1-404)

**6-104. 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.

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<sup>1</sup>Municipal code reference

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

(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, § 1-405)

**6-105. Policemen may require assistance.** It shall be unlawful for any person willfully to refuse to aid a policeman in maintaining law and order or in making a lawful arrest when such a person's assistance is requested by the policeman and is reasonably necessary. (1980 Code, § 1-406)

**6-106. 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, § 1-407, modified)

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

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

(2) All arrests made by policemen.

(3) All police investigations made, funerals convoyed, fire calls answered, and other miscellaneous activities of the police department. (1980 Code, § 1-408)



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

6-201. County workhouse to be used.

6-202. Inmates to be worked.

6-203. Compensation of inmates.

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

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

**6-203. Compensation of inmates.** Each workhouse inmate shall be allowed five dollars (\$5.00) per day as credit toward payment of the fines 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. VOLUNTEER FIRE DEPARTMENT.
4. FIRE SERVICE OUTSIDE CITY LIMITS.
5. FIREWORKS.

**CHAPTER 1**

**FIRE DISTRICT**

**SECTION**

7-101. Fire limits described.

**7-101. Fire limits described.** The corporate fire limits shall be as follows: The area bounded by Market Street, McClure Street, North Main Street, and South Main Street. (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. Variances.
- 7-207. Violations.

**7-201. Fire code adopted.** Pursuant to the authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506, and for the purpose of describing regulations governing conditions hazardous to life and property from fire and explosion in the City of Red Boiling Springs, Tennessee, the 2006 edition of the International Fire Code<sup>2</sup> is hereby adopted and by reference and included as part of this code. Pursuant to the requirement of the Tennessee Code Annotated, § 6-54-502, one (1) copy of the fire prevention code shall be filed with the city clerk and is available for public use and inspection. Said fire prevention code is adopted and incorporated as fully as if set out in length herein and shall be controlling within the corporate limits of Red Boiling Springs. (1980 Code, § 7-201, modified, as replaced by Ord. #10-14, Dec. 2010)

**7-202. Enforcement.** The fire prevention code herein adopted by reference shall be enforced by the chief of the volunteer fire department. He shall have the same powers as the state fire marshal. (1980 Code, § 7-202)

**7-203. Definition of "municipality."** Whenever the word "municipality" is used in the fire prevention code herein adopted, it shall be held to mean the City of Red Boiling Springs, 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 International Code Council, 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. Variances.** The chief of the volunteer fire department may recommend to the city council variances from the provisions of the fire prevention code upon application in writing by any property owner or lessee, or the duly authorized agent of either, when there are practical difficulties in the way of carrying out the strict letter of the code, provided that the spirit of the code shall be observed, public safety secured, and substantial justice done. The particulars of such variances when granted or allowed shall be contained in a resolution of the city council. (1980 Code, § 7-206)

**7-207. 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; or build in violation of any detailed statement of specifications or plans submitted and approved thereunder, or any certificate or permit issued thereunder, and from which no appeal has been taken; or fail to comply with such an order as affirmed or modified by the city council or by a court of competent jurisdiction, within the time fixed herein. The application of a penalty under the general penalty clause for the municipal code shall not be held to prevent the enforced removal of prohibited conditions. (1980 Code, § 7-207)

## CHAPTER 3

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

#### SECTION

- 7-301. Establishment, equipment, and membership.
- 7-302. Appointment of subordinate officers.
- 7-303. Qualifications of officers.
- 7-304. Objectives.
- 7-305. Organization, rules, and regulations.
- 7-306. Records and reports.
- 7-307. Tenure and compensation of members.
- 7-308. Vacancies.
- 7-309. Chief responsible for training and maintenance.
- 7-310. Chief to be assistant to state officer.
- 7-311. Establishment of safety zones.
- 7-312. Interference with firefighters.
- 7-313. False calls.
- 7-314. Controlled burns.
- 7-315. Filling swimming pools.
- 7-316. Establishment of fire department equipment account.

**7-301. Establishment, equipment, and membership.** There is hereby established a volunteer fire department to be supported and equipped from appropriations by the city council. All apparatus, equipment, and supplies shall be purchased by or through the city and shall be and remain the property of the city. The fire department shall be composed of a chief appointed by the mayor upon the recommendation of the city council and such number of physically-fit subordinate officers and firemen as the mayor shall appoint. (1980 Code, § 7-301)

**7-302. Appointment of subordinate officers.** The assistant chief, captains, lieutenants, and secretary-treasurer shall be selected by the mayor upon recommendation from members of the volunteer fire department made in a fair and nonpartisan election held on the first Tuesday in October of each year. The mayor shall approve and certify or disapprove the officers recommended by the department at the next regular meeting of the city council following the election by the fire department. Officers of the fire department shall serve from the date of approval and certification by the mayor until their successors have been approved and certified by the mayor. (1980 Code, § 7-302)

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<sup>1</sup>Municipal code reference

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

**7-303. Qualifications of officers.** Officers of the fire department shall be experienced and trained in fire fighting and otherwise qualified for the duties of office. (1980 Code, § 7-303)

**7-304. Objectives.** The volunteer 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 make practicable. (1980 Code, § 7-304)

**7-305. Organization, rules, and regulations.** The chief of the volunteer 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, § 7-305)

**7-306. Records and reports.** The chief of the volunteer fire department shall keep adequate records of all fires, inspections, apparatus, equipment, personnel, and work of the department. He shall submit a written report on such matters to the mayor once each month, and at the end of the year a detailed annual report shall be made. (1980 Code, § 7-306)

**7-307. Tenure and compensation of members.** The chief shall hold office so long as his conduct and efficiency are satisfactory to the mayor. However, so that adequate discipline may be maintained, the chief shall have the authority to recommend the suspension or discharge of any other member of the volunteer fire department when he deems such action to be necessary for the good of the department.

All personnel of the volunteer fire department shall receive such compensation for their services as the city council may from time to time prescribe. (1980 Code, § 7-307)

**7-308. Vacancies.** Vacancy in any office or offices of the volunteer fire department shall be filled by appointment of a qualified person or persons. Such appointments shall be made by the mayor upon the recommendation of the chief for the remainder of the unexpired term. (1980 Code, § 7-308)

**7-309. Chief responsible for training and maintenance.** The chief of the volunteer fire department shall be fully responsible for the training of the firemen and for maintenance of all property and equipment of the fire

department. The chief shall examine the property and equipment of the department once a week. The chief and other members of the department shall make inspections at least twice a year for hazardous conditions within the city. The minimum training shall consist of having the personnel take the fire apparatus out for practice operations not less than once a month. (1980 Code, § 7-309)

**7-310. Chief to be assistant to state officer.** Pursuant to requirements of Tennessee Code Annotated, § 68-102-108, the chief of the volunteer 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, § 7-311)

**7-311. Establishment of safety zones.** Fire department officials are authorized to establish a safety zone around any building, structure, or material, and exclude from such zone all persons not financially interested or legally entitled to enter. (1980 Code, § 7-312)

**7-312. Interference with firefighters.** It shall be unlawful for any person to drive or park any vehicle, except emergency vehicles, within 500 feet of a burning structure or material, or within one block of the fire area, or to park within 25 feet of any fire plug in the fire area, or to block the traffic at any point on a street or thoroughfare leading to or from the fire area. (1980 Code, § 7-313)

**7-313. False calls.** Any home or place of business causing more than two false calls for fire fighting equipment to be sent to the fire department within a four (4) week period, shall cause the owner thereof to be charged a fee for each such additional false call of \$150.00, if located inside the corporate limits of the city, and \$300.00, if located outside the corporate limits of the city. (1980 Code, § 7-314)

**7-314. Controlled burns.** The fee for providing controlled burn services for property owners shall be \$25.00 for property located inside the corporate limits of the city and \$50.00 for property located outside the corporate limits, unless the burn is used for training purposes. (1980 Code, § 7-315)

**7-315. Filling swimming pools.** The fee for using the services of the fire department in filling swimming pools shall be \$25.00 plus the charge for the water used, if the pool is located inside the corporate limits and \$50.00 plus the charge for the water used plus .25¢ per mile for the equipment used, if located outside the corporate limits. (1980 Code, § 7-316)

**7-316. Establishment of fire department equipment account.** A separate account known as the "Fire Department Equipment Account" shall be established, into which the following portions of the following fees shall be deposited, to-wit:

- (1) Fees for outside fire calls - 50%;
- (2) Fees for false calls - 50%;
- (3) Fees for filling swimming pools - 100%;
- (4) Fees for controlled burns - 100%;
- (5) Fees for fire contracts - 62.5%.

The balance of the fees shall be deposited into the city's general fund. The funds in the fire department equipment account shall be used only for the purpose of purchasing equipment for the fire department. (1980 Code, § 7-317)



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

- 7-401. Use of equipment outside corporate limits.
- 7-402. Charges for responses to false alarm calls.
- 7-403. Outside city fire protection subscription.
- 7-404. Subscription form.

**7-401. Use of equipment outside corporate limits.** Equipment of the volunteer fire department may be used for fighting fire outside the corporate limits. When such equipment is used for fighting fire on private property outside the corporate limits of the city, the owner of such private property shall be charged a fee of \$500.00 to offset the cost of fighting such fire unless the owner of such private property is a current subscriber to fire protection by the volunteer fire department. The \$500.00 fee may be paid in monthly installments by written agreement with interest at the rate of ten percent (10%) per annum. Failure to pay such fee within 120 days shall cause an additional ten percent (10%) late charge to be added to such fee. The annual subscription fee for fire protection outside the corporate limits shall be payable in advance on a calendar year basis assessed as follows:

- (1) For a single family dwelling with usual outbuilding \$40.00 and \$35.00 for each additional property;
- (2) For multiple-units, such as trailer parks and apartments, \$40.00 for the first unit and \$25.00 for each additional unit;
- (3) For a farm \$50.00 and \$35.00 for each additional farm; and
- (4) For commercial property, \$50.00 for a small unit and \$100.00 for a large unit. The subscriber must also sign a contract accepting all conditions and limitations of such contract as set out in § 7-403 in this chapter. (1980 Code, § 7-310, as amended by Ord. #02-6, Oct. 2002, replaced by Ord. #04-3, April 2004, and amended by Ord. #13-11, Aug. 2013)

**7-402. Charges for responses to false alarm calls.** The volunteer fire department is authorized to charge, bill and collect \$150.00 for the costs of responding to a "false alarm" fire call outside the corporate limits of the City of Red Boiling Springs reported to the fire department through any security system. The party to whom the charge shall be billed shall be the party initiating such report to the fire department. All contracts with subscribers outside the corporate limits of the City of Red Boiling Springs signed by the subscribed on and after September 24, 2000, shall include this section of the municipal code as a provision therein. (as added by Ord. #00-9, Sept. 2000)

**7-403. Outside city fire protection subscription.** All subscription agreements with residents, owners, tenants and occupiers of property outside the corporate limits for outside city fire protection shall contain in addition to all fee schedules and charges the following enforceable terms and conditions:

(1) The subscriber agrees that the fire subscription they are subscribing to is subordinate to the primary purpose of the Red Boiling Springs Fire Department which is to provide fire protection within the corporate city limits of Red Boiling Springs and said department may not respond to any request for assistance beyond the corporate limits of the city, under any conditions, if by doing so the level of protection within the corporate limits is reduced to an unsafe level. Similarly, any equipment dispatched to an out of city response to a request for assistance, whether there be a fire in progress or not, may be ordered back into the city if the level of fire protection within the city may be reduced to an unsafe level by developments occurring after the dispatch of such equipment to an out of city area.

(2) The subscriber, upon signing this subscription form, understands and agrees that conditions may arise under which their request for assistance outside the city limits of Red Boiling Springs may not be honored and that they will hold the City of Red Boiling Springs, the Red Boiling Springs Fire Department, or any representative thereof harmless from any and all claims, suit or demand for such failure to respond.

(3) The Red Boiling Springs Fire Department fire protection subscription is not an insurance policy. All fees are non-refundable and may not be transferred to any other person and or property without consent of the City of Red Boiling Springs.

(4) Subscription fees are payable in advance and payable on a calendar year basis prior to January 1 of each year. In the event a subscription is obtained to go in effect on a date after January 1, the subscription fee will be pro-rated to cover the remainder of the calendar year.

(5) Renewal of any existing subscription must be made prior to January 1 for the next year. If not, the subscription shall expire at the end of the calendar year.

(6) The City of Red Boiling Springs reserves the right to:

(a) Cancel any subscription at any time after notifying the subscriber in writing and refunding any unearned portion of the subscription.

(b) Bill directly any insurance providers for services rendered by the R.B.S.F.D. The subscriber agrees to remit to the R.B.S.F.D. any payment received from insurance providers for services rendered by the R.B.S.F.D.

(c) Bill subscriber for excessive false calls/alarms as described in the Red Boiling Springs City Charter (i.e., \$350.00 per call over two (2) within any four (4) week period.) (as added by Ord. #04-3, April 2004)

**7-404. Subscription form.** The form contained in the Appendix to this chapter<sup>1</sup> is sufficient to satisfy the requirements of this chapter for an outside city fire protection subscription agreement.

The appendix to this chapter is provided as follows:

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1

APPENDIX FORM TO TITLE 7, CHAPTER 4

OUTSIDE CITY FIRE PROTECTION SUBSCRIPTION

In consideration of the amount set forth below, the Red Boiling Springs Fire Department agrees to respond to fire calls/alarms at the address listed below, subject to the following conditions:

- (A) The subscriber agrees that the fire subscription they are subscribing to is subordinate to the primary purpose of the Red Boiling Springs Fire Department which is to provide fire protection within the corporate city limits of Red Boiling Springs and said department may not respond to any request for assistance beyond the corporate limits of the city, under any conditions, if by doing so the level of protection within the corporate limits is reduced to an unsafe level. Similarly, any equipment dispatched to an out of city response to a request for assistance, whether there be a fire in progress or not, may be ordered back into the city if the level of fire protection within the city may be reduced to an unsafe level by developments occurring after the dispatch of such equipment to an out of city area.
- (B) The subscriber, upon signing this subscription form, understands and agrees that conditions may arise under which their request for assistance outside the city limits of Red Boiling Springs may not be honored, and that they will hold the City of Red Boiling Springs, the Red Boiling Springs Fire Department or any representative thereof harmless from any and all claim, suit or demand for such failure to respond.
- (C) The R.B.S. Fire Department fire protection subscription is not an insurance policy. All fees are non-refundable and may not be transferred to any other person and or property without consent of the City of Red Boiling Springs.
- (D) Subscriptions fees are payable in advance and payable on a calendar year basis prior to January 1 of each year. In the event a subscription is obtained to go in effect on a date after January 1, the subscription fee will be pro-rated to cover the remainder of the calendar year.
- (E) Renewal of any existing subscription must be made prior to January 1 for the next year. If not the subscription shall expire at the end of that calendar year.
- (F) The City of Red Boiling Springs reserves the right to:
  - (1) Cancel any subscription at any time after notifying the subscriber in writing and refunding any unearned portion of the subscription.
  - (2) Bill directly any insurance providers for services rendered by the R.B.S.F.D. The subscriber agrees to remit to the R.B.S.F.D. any payment received from insurance providers for services rendered by the R.B.S.F.D.
  - (3) Bill subscriber for excessive false calls/alarms as described in the R.B.S. City Charter, i.e. \$350.00 per call over two (2) within any four (4) week period.

FEES: Non-subscription call \$350.00 Non-subscription false call/alarm \$150.00

- (1) Single family dwelling with usual outbuilding \$40.00-\$35.00 each additional property.
- (2) Multi-units i.e. Trailer Parks and Apartments \$40.00 first unit - \$25.00 each additional unit
- (3) Farm - \$50.00 first farm - \$35.00 each additional farm
- (4) Commercial - Small \$50.00 - Large \$100.00

\_\_\_\_\_  
 SUBSCRIBER'S NAME (please print)

RED BOILING SPRINGS FIRE DEPARTMENT  
 RED BOILING SPRINGS, TENNESSEE

\_\_\_\_\_

by: \_\_\_\_\_  
 OFFICIAL

\_\_\_\_\_  
 MAILING ADDRESS

\_\_\_\_\_  
 AMOUNT OF FEE PAID

\_\_\_\_\_  
 SUBSCRIBER'S SIGNATURE

\_\_\_\_\_  
 DATE SIGNED

LOCATION OF PROPERTY

\_\_\_\_\_

R.B.S.F.D. Form 1 (2004)

(as added by Ord. #04-3, April 2004)

## CHAPTER 5

### FIREWORKS

#### SECTION

7-501. Definitions.

7-502. Sale and discharge of fireworks within the city limits.

7-503. Prohibitions.

7-504. Fire chief to enforce this chapter.

7-505. Violations.

**7-501. Definitions.** (1) The term "fireworks" shall mean any composition or device for the purpose of producing a visible or an audible effect by combustion, deflagration or detonation, and which meets the definition of "common" or "special" fireworks as set forth in the U.S. Department of Transportation's (DOT) Hazardous Materials Regulations, title 49, Code of Federal Regulations, parts 173.88 and 173.100.

Exception No. 1: Toy pistols, toy canes, toy guns, or other devices in which paper and/or plastic caps manufactured in accordance with DOT regulations, 49 C.F.R. 173.100 (p), and packed and shipped according to said regulations, are not considered to be fireworks and shall be allowed to be used and sold at all times.

Exception No. 2: Model rockets and model rocket motors designed, sold and used for the purpose of propelling recoverable aero models are not considered to be fireworks. (See NFPA 122, Code for Unmanned Rockets.)

Exception No. 3: Propelling or expelling charges consisting of a mixture of sulfur, charcoal, and saltpeter are not considered as being designed for producing audible effects.

Exception No. 4: Items described in (2)(e), are not considered to be common fireworks.

(2) The term "common fireworks" shall mean any small firework device designed primarily to produce visible effects by combustion and which must comply with the construction, chemical composition, and labeling regulations of the U.S. Consumer Product Safety Commission, as set forth in title 16, Code of Federal Regulations, part 1507. Some small devices designed to produce audible effects are included, such as whistling devices, ground devices containing fifty (50) mg or less of explosive composition, and aerial devices containing one hundred thirty (130) mg or less of explosive composition. Common fireworks are classified as Class C explosives by the U.S. Department of Transportation and include the following:

(a) Ground and hand-held sparkling devices. (i) Dipped stick; sparkler. Stick or wire coated with pyrotechnic composition that produces a shower of sparks upon ignition. Total pyrotechnic composition may not exceed one hundred (100) g per item. Those

devices containing any perchlorate or chlorate salts may not exceed five (5) g of pyrotechnic composition per item. Wire sparklers which contain no magnesium and which contain less than one hundred (100) g of composition per item are not included in this category, in accordance with DOT regulations.

(ii) Cylindrical fountain. Cylindrical tube not more than three-quarters inch (3/4") (19 mm) inside diameter, containing up to seventy-five (75) g of pyrotechnic composition. Upon ignition, a shower of colored sparks, and sometimes a whistling effect is produced. This device may be provided with a spike for insertion into the ground (spike fountain), a wood or plastic base for placing on the ground (base fountain), or a wood or cardboard handle, if intended to be hand-held (handle fountain).

(iii) Cone fountain. Cardboard or heavy paper cone containing up to fifty (50) g of pyrotechnic composition. The effect is the same as that of a cylindrical fountain.

(iv) Illuminating torch. Cylindrical tube containing up to one hundred (100) g of pyrotechnic composition. Upon ignition, colored fire is produced. May be spike, base, or hand-held.

(v) Wheel. Pyrotechnic device attached to a post or tree by means of a nail or string. Each wheel may contain up to six (6) "driver" units: tubes not exceeding one-half inch (1/2") (12.5 mm) inside diameter and containing up to sixty (60) g of pyrotechnic composition. Upon ignition, the wheel revolves, producing a shower of color and sparks and, sometimes, a whistling effect.

(vi) Ground spinner. Small device similar to a wheel in design and effect and placed in the ground and ignited. A shower of sparks and color is produced by the rapidly spinning device.

(vii) Flitter sparkler. Narrow paper tube filled with pyrotechnic composition that produces color and sparks upon ignition. This device does not have a fuse for ignition. The paper at one end of the tube is ignited to make the device function.

(b) Aerial devices. (i) Sky rocket. Tube not exceeding one-half inch (1/2") (12.5 mm) inside diameter that may contain up to twenty (20) g of pyrotechnic composition. Sky rockets contain a wooden stick for guidance and stability and rise into the air upon ignition. A burst of color or noise or both is produced at the height of flight.

(ii) Missile-type rocket. A device similar to a sky rocket in size, composition, and effect that uses fins rather than a stick for guidance and stability.

(iii) Helicopter, aerial spinner. A tube not more than one-half inch (1/2") (12.5 mm) inside diameter and containing up to twenty (20) g of pyrotechnic composition. A propeller or blade is

attached, which upon ignition lifts the rapidly spinning device into the air. A visible or audible effect is produced at the height of flight.

(iv) Roman candle. Heavy paper or cardboard tube not exceeding three-eighths inch (3/8") (9.5 mm) inside diameter and containing up to twenty (20) g of pyrotechnic composition. Upon ignition, up to ten (10) "stars" (pellets of pressed pyrotechnic composition that burn with bright color) are individually expelled at several-second intervals.

(v) Mine, shell. Heavy cardboard or paper tube up to two and one-half inches (2 1/2") (63.5 mm) inside diameter attached to a wood or plastic base and containing up to forty (40) g of pyrotechnic composition. Upon ignition, "stars" (see (b)(iv) above), firecrackers (see (c)(i)), or other devices are propelled into the air. The tube remains on the ground.

(c) Audible ground devices. (i) Firecracker, salute. Small paper-wrapped or, cardboard tube containing not more than fifty (50) mg of pyrotechnic composition. Upon ignition, noise and a flash of light are produced.

(ii) Chaser. Small paper or cardboard tube that travels along the ground upon ignition. A whistling effect, or other noise, is often produced. The explosive composition used to create the noise may not exceed fifty (50) mg.

(d) Combination items. Fireworks devices containing combinations of two (2) or more of the effects described in (1), (2), and (3) above.

(e) Novelties and trick noisemakers. (i) Snake, glow worm. Pressed pellet of pyrotechnic composition that produces a large, snake-like ash upon burning. The ash expands in length as the pellet burns. These devices may not contain mercuric thiocyanate.

(ii) Smoke device. Tube or sphere containing pyrotechnic composition that, upon ignition, produces white colored smoke as the primary effect.

(iii) Wire sparkler. Wire coated with pyrotechnic composition that produces a shower of sparks upon ignition. These items may not contain magnesium and must not exceed one hundred (100) g of composition per item. Devices containing any chlorate or perchlorate salts may not exceed five (5) g of composition per item.

(iv) Trick noisemaker. Item that produces a small report intended to surprise the user. These devices include:

(A) Party popper. Small plastic or paper item containing not more than sixteen (16) mg of explosive composition that is friction sensitive. A string protruding

from the device is pulled to ignite it, expelling paper streamers and producing a small report.

(B) Booby trap. Small tube with string protruding from both ends similar to a party popper in design. The ends of the string are pulled to ignite the friction-sensitive composition, producing a small report.

(C) Snapper. Small, paper-wrapped item containing a minute quantity of explosive composition coated on small bits of sand. When dropped, the device explodes, producing a small report.

(D) Trick match. Kitchen or book match that has been coated with small quantities of explosive or pyrotechnic composition. Upon ignition of the match, a small report or a shower of sparks is produced.

(E) Cigarette load. Small wooden peg that has been coated with a small quantity of explosive composition. Upon ignition of a cigarette containing one of the pegs, a small report is produced.

(F) Auto burglar alarm. Tube which contains pyrotechnic composition that produces a loud whistle and/or smoke when ignited. A small quantity of explosive, not exceeding fifty (50) mg, may also be used to produce a small report. A squib is used to ignite the device.

(3) The term "special fireworks" shall mean large fireworks designed primarily to produce visible or audible effects by combustion, deflagration, or detonation. This term includes, but is not limited to, firecrackers containing more than two (2) grains (130 mg) of explosive composition, aerial shells containing more than forty (40) g of pyrotechnic composition, and other display pieces which exceed the limits for classification as "common fireworks." Special fireworks are classified as Class B explosives by the U.S. Department of Transportation. (as added by Ord. #96-4, § 1, Sept. 1996, and replaced by Ord. #12-8, Oct. 2012)

**7-502. Sale and discharge of fireworks within the city limits.** No fireworks as defined in this chapter shall be sold within the City of Red Boiling Springs, Tennessee except from 8:00 A.M. on the 10th day of June to 11:00 P.M. on the 5th day of July, each, and from 8:00 A.M. on the 10th day of December to 11:00 P.M. on the 2nd day of January each. No fireworks may be sold between the hours of 11:00 P.M. and 8:00 A.M. The discharge of fireworks is prohibited except as hereinafter provided. The permissible time to discharge fireworks within the city limits shall be from July 3 through July 5 and from December 31 through January 2 of each year. The discharge of fireworks within the city limits shall not be allowed between the hours of 11:00 P.M. and 7:00 A.M., except on New Year's eve from 11:00 P.M. to 1:00 A.M. on New Year's day. Fireworks will



be allowed to be discharged at special events with approval by the city council and on a case by case basis. Persons or companies must discharge fireworks on their own property or on property on which the owner has given permission for the discharge of fireworks. The discharge of fireworks should only be allowed within the corporate limits when a responsible adult is present at all times during the discharge of fireworks. All fireworks must be used and discharged in accordance with the fire codes adopted herein. (as added by Ord. #96-4, § 1, Sept. 1996, and replaced by Ord. #12-8, Oct. 2012)

**7-503. Prohibitions.** Nothing in this chapter shall be construed as prohibiting any of the following:

(1) The sale, at wholesale, of any fireworks for supervised displays by any resident manufacturer, wholesaler, dealer, or jobber, in accordance with the regulation of the U.S. Bureau of Alcohol, Tobacco, and Firearms. (See title 27, Code of Federal Regulations, part 181.)

(2) The sale, at wholesale, of any kind of fireworks by any resident manufacturer, wholesaler, dealer, or jobber, provided such fireworks are intended for shipment directly out of state in accordance with regulations of the U.S. Department of Transportation.

(3) The sale, and use in emergency situations, of pyrotechnic signaling devices and distress signals for marine, aviation, and highway use.

(4) The use of fuses and railway torpedoes by railroads.

(5) The sale and use of blank cartridges for use in a show or theater or for signal or ceremonial purposes in athletics or sports.

(6) The use of any pyrotechnic device by military organizations.

(7) The use of fireworks for agricultural purposes under the direct supervision of the U.S. Department of the Interior or an equivalent state or local agency. (See title 16, Code of Federal Regulations, part 1500.17(a)(8). (as added by Ord. #96-4, § 1, Sept. 1996, and replaced by Ord. #12-8, Oct. 2012)

**7-504. Fire chief to enforce this chapter.** The fire chief shall seize, take, remove, or cause to be removed at the expense of the owner all stocks of fireworks or combustibles offered or exposed for sale, stored, or held in violation of this chapter. (as added by Ord. #12-8, Oct. 2012)

**7-505. Violations.** Any person, firm, co-partnership, or corporation violating the provisions of this chapter shall be guilty of a misdemeanor. (as added by Ord. #12-8, Oct. 2012)

**TITLE 8**

**ALCOHOLIC BEVERAGES**<sup>1</sup>

**CHAPTER**

1. INTOXICATING LIQUORS.
2. BEER.

**CHAPTER 1**

**INTOXICATING LIQUORS**

**SECTION**

8-101. Prohibited generally.

**8-101. Prohibited generally.** Except as authorized by applicable laws<sup>2</sup>, it shall be unlawful for any person to manufacture, receive, possess, store, transport, sell, furnish, or solicit orders for any intoxicating liquor within the City of Red Boiling Springs. "Intoxicating liquor" shall be defined to include whiskey, wine, "home brew," "moonshine," and all other intoxicating, spirituous, vinous, or malt liquors and beers which contain more than five percent (5%) of alcohol by weight. (1980 Code, § 2-101)

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<sup>1</sup>State law reference  
Tennessee Code Annotated, title 57.

<sup>2</sup>State law reference  
Tennessee Code Annotated, title 39, chapter 17.

## CHAPTER 2

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

#### SECTION

- 8-201. Beer board established.
- 8-202. Meetings of the beer board.
- 8-203. Record of beer board proceedings.
- 8-204. Requirements for beer board quorum and action.
- 8-205. Powers and duties of the beer board.
- 8-206. "Beer" defined.
- 8-207. Permit required for engaging in beer business.
- 8-208. Privilege tax.
- 8-209. Beer permits restrictive.
- 8-210. Limitation on number of permits.
- 8-211. Interference with public health, safety, and morals prohibited.
- 8-212. Issuance of permits to persons convicted of certain crimes prohibited.
- 8-213. Prohibited conduct or activities by beer permit holders.
- 8-214. Revocation of beer permits.
- 8-215. Civil penalty in lieu of suspension.

**8-201. Beer board established.** There is hereby established a beer board to be composed of the mayor and city councilmen. The mayor shall be the chairman of the beer board. (1980 Code, § 2-201, as replaced by Ord. #00-3, April 2000)

**8-202. Meetings of the beer board.** All meetings of the beer board shall be open to the public. The board shall hold regular meetings in the city hall at such times as it shall prescribe. When there is business to come before the beer board, a special meeting may be called by the chairman provided he gives a reasonable notice thereof to each member. The board may adjourn a meeting at any time to another time and place. (as added by Ord. #00-3, April 2000)

**8-203. Record of beer board proceedings.** The city clerk shall make a record of the proceedings of all meetings of the beer board. The record shall be a public record and shall contain at least the following: the date of each meeting; the names of the members introducing and seconding motions and

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<sup>1</sup>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).

resolutions, etc., before the board; a copy of each such motion or resolution presented; the vote of each member thereon; and the provisions of each beer permit issued by the board. (as added by Ord. #00-3, April 2000)

**8-204. Requirements for beer board quorum and action.** The attendance of at least a majority of the members of the beer board shall be required to constitute a quorum for the purpose of transacting business. Matters before the board shall be decided by a majority of the members present if a quorum is constituted. Any member present but not voting shall be deemed to have cast a "nay" vote. (as added by Ord. #00-3, April 2000)

**8-205. Powers and duties of the beer board.** The beer board shall have power, and it is hereby directed, to regulate the selling, storing for sale, distributing for sale, and manufacturing of beer within this municipality in accordance with the provisions of this chapter. (as added by Ord. #00-3, April 2000)

**8-206. "Beer" defined.** The term "beer" as used in this chapter shall mean and include all beers, ales, and other malt liquors having an alcoholic content of not more than five percent (5%) by weight. (as added by Ord. #00-3, April 2000)

**8-207. Permit required for engaging in beer business.** It shall be unlawful for any person to sell, store for sale, distribute for sale, or manufacture beer without first making application to and obtaining a permit from the beer board. The application shall be made on such form as the board shall prescribe and/or furnish; shall be pursuant to Tennessee Code Annotated § 57-5-101(b); and shall be accompanied by a non-refundable application fee of two hundred and fifty dollars (\$250.00). Said fee shall be in the form of a cashier's check payable to the City of Red Boiling Springs. Each applicant must be a person of good moral character and must certify that the applicant has read and is familiar with the provisions of this chapter, designated the "Code of the City of Red Boiling Springs for the Regulation of Beer Sales." (as added by Ord. #00-3, April 2000)

**8-208. Privilege tax.** There is hereby imposed on the business of selling, distributing, storing, or manufacturing beer a privilege tax of two hundred fifty dollars (\$250). Any person, firm, corporation, joint stock company, syndicate or association engaged in the sale, distribution, storage or manufacture of beer shall remit the tax on January 1, to the City of Red Boiling Springs, 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 tax payment date. (as added by Ord. #00-3, April 2000)

**8-209. Beer permit restrictive.** All beer permits shall be restrictive as to the type of beer business authorized under them. Separate permits shall be required for selling at retail, storing, distributing, and manufacturing. Beer permits for retail sale of beer shall be further restricted by the beer board so as to authorize sales only in a business which is a grocery store or a convenience type market. No permit shall allow on premise and/or off premise consumption. It shall likewise be unlawful for the permit holder not to comply with any and all express restrictions or conditions which may be written into the permit of such holder by the beer board. (as added by Ord. #00-3, April 2000)

**8-210. Limitation on number of permits.** The number of licenses for the sale of beer shall be limited to seven (7). Provided that all requirements of this chapter are complied with, all existing permits for the sale of beer within the corporate limits of the city at the date of the passage of this chapter shall continue to be renewed. A new permit may be issued to a qualified purchaser of an existing establishment in which a permit is now held for the sale of beer, and the permit shall be used only within the establishment or building purchased. (as added by Ord. #00-3, April 2000, and amended by Ord. #14-1, March 2014)

**8-211. Interference with public health, safety, and morals prohibited.** No permit authorizing the sale of beer will be issued when such business would cause congestion of traffic or would interfere with schools, churches, or other places of public gathering, or would otherwise interfere with the public health, safety, and morals. In no event will a permit be issued authorizing the manufacture or storage of beer, or the sale of beer within two hundred (200) feet of any hospital, school, church or other place of public gathering. The distances shall be measured in a straight line.<sup>1</sup> The measurement shall begin from the building in which the beer will be manufactured, stored or sold and shall run in a straight line therefrom to the nearest point of the building of the hospital, school, or church, or the nearest point of such other place of public gathering. (as added by Ord. #00-3, April 2000, and amended by Ord. #00-7, June 2000)

**8-212. Issuance of permits to persons convicted of certain crimes prohibited.** No beer permit shall be issued to any person who has been convicted for the possession, sale, manufacture, or transportation of intoxicating liquor, or any crime involving moral turpitude within the past ten (10) years. No person, firm, corporation, joint-stock company, syndicate, or association having at least a five percent (5%) ownership interest in the applicant shall have

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<sup>1</sup>State law reference

See Watkins v. Naifeh, 635 S.W. 2d 104 (Tenn. 1982) and other cases cited therein which establish the straight line method of measurement.

been convicted of any violation of the laws against possession, sale, manufacture, or transportation of beer or other alcoholic beverages or any crime involving moral turpitude within the past ten (10) years. (as added by Ord. #00-3, April 2000)

**8-213. Prohibited conduct or activities by beer permit holders.**

It shall be unlawful for any permit holder to:

(1) Employ any person convicted for the possession, sale, manufacture, or transportation of intoxicating liquor, or any crime involving moral turpitude within the past ten (10) years.

(2) Employ any minor under 18 years of age in the sale, storage, distribution or manufacture of beer.

(3) Make or allow any sale of beer between the hours of 12:00 Midnight and 6:00 A.M. during any night of the week, and any time Sunday except between the hours of 1:00 P.M. to 6:00 P.M.

(4) Make or allow any sale of beer to a person under twenty-one (21) years of age.

(5) Allow any person under twenty-one (21) years of age to loiter in or about the permit holder's place of business.

(6) Make or allow any sale of beer to any intoxicated person or to any feeble-minded, insane, or otherwise mentally incapacitated person.

(7) Allow drunk persons to loiter about the permit holder's premises.

(8) Serve, sell, or allow the consumption on the permit holder's premises of any alcoholic beverage with an alcoholic content of more than five (5%) by weight.

(9) Allow pool or billiard playing in the same room where beer is sold and/or consumed.

(10) Fail to provide and maintain separate sanitary toilet facilities for men and women where beer is consumed. (as added by Ord. #00-3, April 2000, and amended by Ord. #00-7, June 2000)

**8-214. Revocation of beer permits.** The beer board shall have the power to revoke any beer permit issued under the provisions of this chapter when the holder thereof is guilty of making a false statement or misrepresentation in his application or of violating any of the provisions of this chapter. However, no beer permit shall be revoked until a public hearing is held by the board after reasonable notice to all the known parties in interest. Revocation proceedings may be initiated by the police chief or by any member of the beer board. (as added by Ord. #00-3, April 2000)

**8-215. Civil penalty in lieu of suspension.** The beer board may, at the time it imposes a revocation or suspension, offer a permit holder the alternative of paying a civil penalty not to exceed \$1,500 for each offense of making or permitting to be made any sales to minors or, a civil penalty not to exceed \$1,000 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 suspension by a permit holder shall be an admission by the holder of the violation so charged and shall be paid to the exclusion of any other penalty that the city may impose. (as added by Ord. #00-3, April 2000)

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. CABLE TELEVISION FRANCHISE ORDINANCE.

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.<sup>1</sup>

## SECTION

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

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

9-202. Exemptions. The terms of this chapter shall not be applicable to persons selling at wholesale to dealers, nor to newsboys, nor to bona fide merchants who merely deliver goods in the regular course of business, nor to bona fide charitable, religious, patriotic or philanthropic organizations, nor to vendors who register with and pay a fee to the Antique Automobile Club of America to sell goods during the annual antique car show. The Palace Appreciation Day and RBS Parent Teacher Organization, the annual Healing Arts Festival. (1980 Code, § 5-202, as amended by Ord. #99-2, April 1999, and Ord. #99-9, Aug. 1999)

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

- (1) Name and physical description of applicant.

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

(2) Complete permanent home address and local address of the applicant and, in the case of transient merchants, the local address from which proposed sales will be made.

(3) A brief description of the nature of the business and the goods to be sold.

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

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

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

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

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

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

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

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

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

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

9-205. Appeal. Any person aggrieved by the action of the chief of police and/or the city clerk in the denial of a permit shall have the right to appeal to the city council. Such appeal shall be taken by filing with the mayor within fourteen (14) days after notice of the action complained of, a written statement setting forth fully the grounds for the appeal. The mayor shall set a time and

place for a hearing on such appeal and notice of the time and place of such hearing shall be given to the appellant. The notice shall be in writing and shall be mailed, postage prepaid, to the applicant at his last known address at least five (5) days prior to the date set for hearing, or shall be delivered by a police officer in the same manner as a summons at least three (3) days prior to the date set for hearing. (1980 Code, § 5-205)

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

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

9-208. Use of streets. No permittee shall have any exclusive right to any location in the public streets, 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 the streets. For the purpose of this chapter, the judgment of a police 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)

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

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

9-211. Revocation or suspension of permit. (1) Permits issued under the provisions of this chapter may be revoked by the 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, canvasser, peddler, transient merchant, itinerant merchant, or itinerant vendor.

(b) Any violation of this chapter.

(c) Conviction of any crime or misdemeanor.

(d) Conducting the business of peddler, canvasser, solicitor, transient merchant, itinerant merchant, or itinerant vendor, as the case may be, in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety, or general welfare of the public.

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

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

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

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

CHAPTER 3

CHARITABLE SOLICITORS

SECTION

- 9-301. Permit required.
- 9-302. Prerequisites for a permit.
- 9-303. Denial of a permit.
- 9-304. Exhibition of permit.

9-301. Permit required. (1) No person shall solicit contributions or anything else of value for any real or alleged charitable or religious purpose without a permit from the city clerk 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.

(2) Permits for charitable or religious solicitations within the city's corporate limits shall be issued on a first to apply basis, to be conducted on a particular day of the month by the requested charitable or religious organizations. All charitable or religious solicitation permits issued shall allow no more than eight (8) solicitors from the permittee to be within the streets at any one time. Road block participants must follow guidelines as set out by the Red Boiling Springs Police Department and signed by the organization. All solicitation shall take place at the intersection of Market Street and Hwy. 151 and only on Hwy. 56 at the intersection of Hwy. 52 and Hwy. 56, within the city's corporate limits. Only two (2) solicitations per month shall be allowed and only one (1) permit shall be issued per calendar year, per cause. However, that shall be no road blocks allowed on the Saturday following Labor Day. Any violation of this ordinance shall be subject to a fine not less than fifty dollars (\$50.00) per incident. (1980 Code, § 5-301, as amended by Ord. #06-7, Aug. 2006)

9-302. Prerequisites for a permit. The city clerk shall, upon application, issue a permit authorizing charitable or religious solicitations when, after a reasonable investigation, he finds the following facts to exist:

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

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

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

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

(5) The solicitation is prompted solely by a desire to finance the charitable cause described by the applicant. (1980 Code, § 5-302)

9-303. Denial of a permit. Any applicant for a permit to make charitable or religious solicitations may appeal to the city council 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)

CHAPTER 4

POOL ROOMS<sup>1</sup>

SECTION

9-401. Prohibited in residential areas.

9-402. Hours of operation regulated.

9-403. Minors to be kept out; exception.

9-401. Prohibited in residential areas. It shall be unlawful for any person to open, maintain, conduct, or operate any place where pool tables or billiard tables are kept for public use or hire on any premises located in any block where fifty percent (50%) or more of the land is used or zoned for residential purposes. (1980 Code, § 5-401)

9-402. Hours of operation regulated. It shall be unlawful for any person to open, maintain, conduct, or operate any place where pool tables or billiard tables are kept for public use or hire between the hours of 12:00 o'clock midnight on Saturday night and 1:00 P.M. on Sunday or between the hours of 6:00 P.M. on Sunday and 7:00 A.M. on Monday, or between the hours of 12:00 midnight on Monday, Tuesday, Wednesday, Thursday, and Friday nights and 7:00 A.M. the following morning. (1980 Code, § 5-402)

9-403. Minors to be kept out; exception. It shall be unlawful for any person engaged regularly, or otherwise, in keeping billiard, bagatelle, or pool rooms or tables, their employees, agents, servants, or other persons for them, knowingly to permit any person under the age of eighteen (18) years to play on said tables at any game of billiards, bagatelle, pool, or other games requiring the use of cue and balls, without first having obtained the written consent of the father and mother of such minor, if living. If the father is dead, then written consent must be obtained from the mother, guardian, or other person having legal control of such minor; or if the minor be in attendance as a student at some literary institution, then the written consent of the principal or person in charge of such school must be obtained. This section shall not apply to the use of billiards, bagatelle, and pool tables in private residences. (1980 Code, § 5-403)

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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 City of Red Boiling Springs and its inhabitants under franchise as the board of mayor and aldermen shall grant. The rights, powers, duties and obligations of the City of Red Boiling Springs 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 Ords. #102, 01-1, 04-7, and 05-06 in the office of the city clerk.



CHAPTER 6

CABLE TELEVISION FRANCHISE ORDINANCE

SECTION

- 9-601. Purpose.
- 9-602. Definitions.
- 9-603. Application fee.
- 9-604. Acceptance: effective date.
- 9-605. Terms of franchise.
- 9-606. Revocation of franchise and other penalties.
- 9-607. Transfer of cable television system.
- 9-608. Authority granted by the franchise.
- 9-609. Franchise fee.
- 9-610. Limitations of franchise.
- 9-611. Additional city rights in franchise.
- 9-612. Service area.
- 9-613. Time for providing service
- 9-614. Condition of use of streets.
- 9-615. System design and channel capacity.
- 9-616. Interconnection.
- 9-617. Service to government buildings.
- 9-618. Parental control devices.
- 9-619. Construction standards.
- 9-620. Operational standards and performance monitoring.
- 9-621. Rates and charges.
- 9-622. Rights of individuals.
- 9-623. Liability and indemnification.
- 9-624. Insurance.
- 9-625. Filing and communications with regulatory agencies.
- 9-626. Reports.
- 9-627. Franchise renewal.
- 9-628. Franchise required.
- 9-629. Unauthorized connections or modifications.
- 9-630. Notice.

9-601. Purpose. The City of Red Boiling Springs finds that the continued development of cable communication has the potential of having great benefit and impact upon the citizens of the city, because of the complex and rapidly changing technology associated with cable communications, the city further finds that the public convenience, safety and general welfare can best be served by establishing and maintaining regulatory powers which should be vested in the city or such city officials as the city shall designate. It is the intent of this ordinance and subsequent amendments to provide for and specify the means to

attain the best possible public interest and public purpose in these matters. Further, it is recognized that cable communications systems have the capacity to provide not only entertainment and information services to the city's residents, but can provide additional services.

For these purposes, the following goals underlie the provisions contained herein:

(1) Where economically reasonable, cable television services should be made available to all city residents.

(2) The system should be capable of accommodating both the present and reasonably foreseeable future cable television needs of the citizens of the city. (as added by Ord. #05-5, Sept. 2005)

9-602. Definitions. Unless otherwise specifically provided, or unless clearly required by the context, the words and phrases defined in this section shall have the following meanings when used in this ordinance:

(1) "Cable television service." The provision of television reception, communications and/or entertainment services for direct or indirect compensation, or as otherwise provided by this ordinance, and distributing the same over a cable television system.

(2) "Cable television system." A facility consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment that is designed to provide cable television service to multiple subscribers within a community, not including a facility or combination of facilities that serves only to retransmit the television signals of one or more television broadcast stations; or a facility or combination of facilities that serves only subscribers in one or more multiple unit dwellings under common ownership, control or management, unless such a facility or facilities use any public right-of-way public utility easement.

(3) "Channel." A portion of the electro-magnetic frequency spectrum (or any other means of transmission, including but not limited to optical fibers) which is capable of carrying the equivalent of one (1) six megahertz television broadcast signal and includes uses of all or any portion of such band of frequencies.

(4) "City." The City of Red Boiling Springs.

(5) "City council." The City Council of the City of Red Boiling Springs, State of Tennessee.

(6) "Commercial subscriber." All subscribers not defined as either residential or noncommercial.

(7) "FCC." The Federal Communications Commission.

(8) "Cable Act." The Cable Communications Policy Act 1984, as amended, 47 U.S.C. § 521 et seq.

(9) "Franchise." The nonexclusive rights granted pursuant to this ordinance to construct, operate, and maintain a cable television system along the public rights of way within the entire city. Any such authorization, in

whatever form granted, shall not mean or include any license or permit required for the privilege of transacting and carrying on a business within the city as required by other ordinances and laws of the city.

(10) "Franchise agreement." A contract entered into between the city and the grantee pursuant to this ordinance, containing additional provisions of the franchise granted.

(11) "Grantee." The person, partnership, firm, or corporation to whom a franchise, as herein defined, is granted by the city council under this ordinance and the lawful successor, transferee or assignee of said person, firm, or corporation.

(12) "Gross annual receipts." The following types of revenue received by a grantee directly from the operations of a cable television system in the city: regular subscriber services fees, per channel pay services, leased channel revenues, converter and remote control rental revenues, late fees and advertising revenues.

(13) "Service area." The geographical areas within the incorporated limits of the city as now exist or hereafter are expanded.

(14) "Non-commercial." Any public, educational or governmental institution.

(15) "Person." Any individual, firm, partnership, association, corporation, or organization of any kind.

(16) "Residential subscriber." A subscriber who receives cable television service in a single family home or in an individual dwelling unit of a multiple dwelling, where the service is not to be utilized in connection with a business trade or a profession.

(17) "Street(s)." The surface of and the space above and below any publicly owned or maintained property or right-of-way, street, road, highway, freeway, land, path, alley, court, sidewalk, parkway, or drive, now or hereafter existing as such written the city.

(18) "Subscriber." Any person or entity lawfully receiving any portion of the cable television service of a grantee pursuant to this ordinance. (as added by Ord. #05-5, Sept. 2005)

9-603. Application fee. (1) Applicants for a new franchise hereunder shall pay an application fee to the City of Red Boiling Springs of two thousand five hundred dollars (\$2,500.00) which sum shall be due and payable to the city upon submission to the city of an application for a franchise or soon thereafter as demanded by the city clerk of the city. The application fee shall be nonrefundable and may be amended from time to time by the city council

(2) Applications for renewal of a franchise shall not be accompanied by a filing fee. The franchise fee collected by the city shall be used to cover the costs associated with a renewal application. (as added by Ord. #05-5, Sept. 2005)

9-604. Acceptance: effective date. (1) Within thirty (30) days after final action granting a franchise, which shall be done by ordinance of the city council, the grantee shall file with the city clerk a written acceptance acknowledged before a notary public of the conditions-required for the franchise. Such acceptance shall acknowledge that the grantee agrees to be bound by and to comply with the provisions of this ordinance, the franchise agreement (if any) and applicable law and shall be in such form and content as to be satisfactory to and approved by the city attorney. If such acceptance is not filed within said time, then the franchise so awarded may be deemed void and of no further force and effect and the offer of franchise so awarded to grantee may stand revoked, at the option of the city.

(2) Concurrently with the filing of the written acceptance, the grantee shall file with the city clerk the bond and insurance certificate required by this ordinance.

(3) The effective date of the franchise shall be the first day of the month next following the date on which the grantee files the acceptance, bond and insurance certificate as required herein; provided, however, if any of the material required to be filed with the acceptance or the acceptance itself is defective or fails to meet with approval, the franchise shall not be effective until such defect is cured, or such approval is obtained. (as added by Ord. #05-5, Sept. 2005)

9-605. Terms of franchise. The duration of a franchise granted pursuant to this ordinance shall not be more than fifteen (15) years from the effective date. (as added by Ord. #05-5, Sept. 2005)

9-606. Revocation of franchise and other penalties. (1) Subject to the provisions in this section, the city reserves the right to revoke, at any time, any franchise granted here under and rescind all rights and privileges associated therewith in the event that:

(a) Grantee has not substantially complied with a material provision of this ordinance, the franchise agreement, or any supplemental written agreement entered into by and between the city and the grantee; or

(b) Grantee has made a material false statement in the application for the franchise, knowing it to be false, or grantee commits a fraud in its conduct or relations under the franchise with the city; or

(c) Grantee becomes insolvent, or enters into receivership or liquidation, files for bankruptcy or assignment for benefit of creditors, or is unable to pay debts as they mature, unless grantee is in due process of contesting such debts; or

(d) Grantee fails to comply with any federal or state judgment arising directly from the exercise of grantee's rights under its franchise; or

(e) Grantee fails to comply or maintain in full force and effect the bond and insurance policies required by this ordinance; or

(f) Grantee assigns sells or transfers its title or interest in its franchise without the consent of the city council.

(2) In the event that the city shall make a preliminary decision to revoke a franchise granted hereunder, it shall give the grantee a minimum of sixty (60) days written notice of its intention to terminate and stipulate the cause. A public hearing shall be scheduled for the end of said sixty (60) day period. If during said period, the cause shall be cured to the satisfaction of the city, the city shall declare the notice to be null and void. If the cause is not cured to the satisfaction of the city, before the franchise may be terminated, the grantee must be provided with an opportunity to be heard before the city council in a public hearing in accordance with due process procedures. After the public hearing, if the city determines that the franchise should be terminated, it shall issue a written decision of its findings if fact and stating the specific grounds for termination. The decision to terminate a franchise shall be subject to judicial review as provided by law.

(3) Grantee shall not be declared in default or be subject to any sanction under provision of this ordinance in any case where the action justifying such sanction is without the grantee's knowledge or authorization or outside its control. (as added by Ord. #05-5, Sept. 2005)

9-607. Transfer of cable television system. (1) No transfer of control of the cable television system, other than a pro forma transfer to a parent or a wholly owned subsidiary corporation, or to a partnership with the same general partner as grantee, or hypothecation as the result of a commercial loan shall take place, whether by force or voluntary sale, lease, assignment, foreclosure, attachment, merger, or any other form of disposition, without prior notice to and approval by the City Council of the City of Red Boiling Springs, which approval shall not be unreasonably withheld. The notice shall include full identifying particulars of the proposed transaction. For the purpose of determining whether it shall consent to such change, transfer, or acquisition of control, the city may inquire into the qualifications of the prospective controlling party and the grantee shall assist the city in any such inquiry. The city shall have ninety (90) days from actual notice within which to approve or disapprove, by resolution, the proposed transfer of control. If the city fails to act within said (90) day period, the application for transfer control or assign the franchise shall be deemed to be granted.

(2) Approval of such transfer shall be expressly conditioned upon full compliance with the material terms of the franchise and this ordinance. The transferee shall agree in writing to comply with all provisions of this ordinance and the franchise agreement.

(3) For the purpose of this section, the term "control" is not limited to majority stock ownership, but includes actual working control in whatever

manner exercised. A rebuttable presumption that a transfer of control has occurred shall arise upon the acquisition or accumulation by any person or group of affiliated persons of twenty five (25) percent of the voting shares of the grantee. (as added by Ord. #05-5, Sept. 2005)

9-608. Authority granted by the franchise. (1) The grantee of any franchise granted pursuant to the provisions of this ordinance shall, subject to the conditions and restrictions set out in this ordinance, be authorized to construct or have constructed, operate, and maintain a cable television system, and to engage in the business of providing cable television service in the city as defined herein and in the franchise and for that purpose to erect, install, construct, repair, replace, reconstruct and maintain such poles, wires, cables, conductors, ducts, conduits, vaults, manholes, amplifiers, appliances, attachments, and other property as may be necessary and appurtenant to the cable television system; provided, however, that before any pole, wire, or other thing mentioned above which is necessary and appurtenant to the cable television system is placed on or within any street, the required permits to do so must be obtained by the grantee from the city; and provided further, that before any such construction is commenced, the plans and specifications thereof must be approved in writing by the Mayor of the City of Red Boiling Springs. It shall be unlawful for any telephone, telegraph, or power company or any other public utility company or person to lease or otherwise make available to any person, any poles, lines, facilities, equipment or other property for use in connection with the operation of a cable television system or the provision of cable television service, unless such other person holds a valid franchise granted pursuant to the provisions of this ordinance.

(2) The authority granted to a grantee pursuant to the provisions of this ordinance is not and shall not be deemed to be an exclusive right or permission. The city expressly reserves the right to grant one or more nonexclusive franchises to operate a cable television system to other persons for the entire franchise area at any time under the same substantive terms and conditions as apply to the existing grantee. No such additional franchise granted by the city shall in any way affect the obligations of any other grantee.

(3) If the city grants an additional franchise under this ordinance which contains terms deemed more favorable by any existing grantee, said existing grantee may elect to incorporate said terms or provisions into its existing franchise upon notice to the city. (as added by Ord. #05-5, Sept. 2005)

9-609. Franchise fee. (1) Because the city finds that the administration of a franchise granted pursuant to this ordinance imposes upon the city additional regulatory responsibility and expense, a grantee of any franchise hereunder shall pay to the city, semiannually, a sum equal to three percent of its gross annual receipts. This payment shall be accompanied by detailed revenue by quarter report certified to be true and accurate by the

grantee's chief financial officer (CFO). This fee shall be in addition to any and all taxes which are now or may be required hereafter to be paid pursuant to any federal, state, or local law. This fee shall be deemed to reimburse the city for all costs of regulating the cable television system of the grantee and shall cover the expense of all regulatory requirements including, but not limited to, any performance testing required by the city under the terms of this ordinance and any renewal or transfer procedures arising hereunder.

(2) Acceptance of payments hereunder shall not be construed as a release or as an accord and satisfaction of any claim the city may have for further or additional sums payable under this ordinance or for the performance of any other obligations hereunder.

(3) At its own discretion and expense, the city may audit records of gross annual receipts as they pertain to the payment of franchise fees to the city. (as added by Ord. #05-5, Sept. 2005)

9-610. Limitations of franchise. (1) In addition to the limitations otherwise herein appearing, the franchise is subject to the limitation that the grantee shall at all times during the life of any franchise hereunder be subject to the lawful exercise of its police power by the authorized regulatory state and federal bodies and shall comply with any and all ordinances which the city has adopted or shall adopt applying to the public generally and shall be subject to all laws of the State of Tennessee and the United States.

(2) Time shall be of the essence in any franchise granted hereunder. The grantee shall not be relieved of its obligations to comply promptly with a provision of this ordinance by the failure of the city to enforce compliance. Failure of the city to enforce any breach by the grantee shall not constitute a waiver by the city.

(3) Any poles, cable, electronic equipment or other appurtenances of the grantee to be installed in, under, over, along, across or upon a street shall be so located so as to cause no interference with the public use of the streets and to cause no interference with the rights of other users of the streets or of property owners who adjoin any of the streets.

(4) In the event of disturbance of any street, other public property, or private property by grantee, grantee shall, at its own expense and using reasonable efforts, replace and restore property to the condition existing before the work was done.

(5) Grantee shall contract, maintain and operate the cable television system so as to cause minimum inconvenience to the general public. All excavations shall be properly guarded and protected. All excavations shall be filled and the surface restored promptly after completion of the work at the grantee's sole cost and expense. The grantee shall at all times comply with all excavation ordinances of the city.

(6) The grantee shall, upon reasonable notice from any person holding a building moving permit issued by the city, temporarily alter its facilities to

permit the moving of such building. The actual cost of such altering shall be borne by the person requesting the altering and the grantee shall have the right to request payment in advance. For the provisions of this ordinance, reasonable notice shall be construed to mean at least seventy-two (72) hours prior to the move.

(7) If, at any time, in case of fire or disaster in the city it shall become necessary in the judgment of the mayor or the director of public safety or their designee to cut or move any of the wires, cable amplifiers, appliances, or appurtenances thereto of the grantee, such cutting or moving may be done and any repairs rendered necessary thereby shall be made by the grantee at no expense to the city. (as added by ord. #05-5, sept. 2005)

9-611. Additional city rights in franchise. (1) The city reserves the right upon reasonable notice to require the grantee at its expense to protect, support, temporarily disconnect, relocate or remove from the streets any property of the grantee by reason of traffic conditions, public safety, street construction or excavation, change or establishment of street grade, installation of sewers, drains, water pipes, power or communication lines, tracts, or other types of structure or improvements by governmental agencies. Reasonable notice for this provision of the ordinance shall be construed to mean at least thirty (30) days except in the case of emergencies where no specific notice period shall be required.

(2) In the event of the failure by the grantee to complete any work required by subsection (1) above or any work required by city law or ordinance within the time established, the city may cause such work to be done and the grantee shall reimburse the city the reasonable costs thereof within thirty (30) days after receipt of an itemized list of such cost.

(3) The city reserves the right at all times the use of the community channel and in the event of an emergency or disaster, to require the grantee to make available to the city, upon request, grantee's audio override on all channels, at no cost, for emergency use during such emergency or disaster period.

(4) The city reserves the right during the life of any franchise hereunder to inspect, upon reasonable notice, at all reasonable hours, the grantee's contracts and engineering records dealing with gross revenue and technical service provided by grantee, provided that information pertaining to service to individual subscribers will be available pursuant to § 631 of the Cable Act.

(5) The city reserves the right during the life of any franchise granted hereunder, to install and maintain free of charge upon the poles or in the conduits of a grantee any wire and pole fixtures necessary for municipal networks such as police and fire, on the condition that such installations and maintenance thereof do not interfere with operations of the grantee.



(6) The city reserves the right during the life of any franchise granted hereunder, to reasonably inspect all construction or installation work performed subject to the provisions of the ordinance to ensure compliance with the terms of the ordinance. At its own expense, the city may also perform measurements upon and randomly inspect any portion of a grantee's system to ensure compliance with the technical standards under which grantee is authorized to operate provided that such measurement or inspection does not unreasonably interfere with the operation of the cable television system.

(7) At any time during the term of the franchise, and upon thirty (30) days notice, the city reserves the right to hold a public hearing for the expressed purpose of reviewing the general and specific performance of the grantee with regard to all franchise provisions contained herein or in any franchise agreement issued hereunder.

(8) Any right or power in or duty impressed upon any officer, employee, department, or board of the city shall be subject to transfer by the city council by law to any officer, employee, department or board of the city. The city reserves all rights not specifically granted herein and the enumerations of the rights herein shall not be construed to be a limitation of any right or power the city may otherwise have. (as added by Ord. #05-5, Sept. 2005)

9-612. Service area. (1) Subject to the provisions of paragraph (2) of this section, the grantee of any franchise hereunder shall offer cable television service to all potential residential subscribers who are located within the city limits as of the effective date of the franchise. Subject to the provisions of paragraph (2) of this section, the grantee shall offer cable television service to all potential residential subscribers within any area described in any annexation ordinance passed after the passage of this ordinance, within one (1) year of the effective date of the said annexation ordinance.

(2) The grantee of any franchise hereunder shall offer cable television service to all potential residential subscribers located within one hundred fifty (150) feet of grantee's feeder cable where there exists a minimum density of thirty (30) dwelling units per mile. The grantee may elect, but has no obligation, to offer cable television service to areas not meeting the above standard.

(3) In the event the continued use of a street is denied for any reasonable reason related to public health, safety or welfare, the grantee will make every reasonable effort to provide residential service over alternate routes. (as added by Ord. #05-5, Sept. 2005)

9-613. Time for providing service. Unless otherwise authorized by the city, all areas meeting the requirements of §9-612(2) subsequent to the effective date of a franchise granted pursuant to this ordinance shall be offered cable television service within twelve (12) months of the effective date of the annexation. (as added by Ord. #05-5, Sept. 2005)

9-614. Condition of use of streets. (1) The poles used for a distribution system shall be, to the extent possible, those erected and maintained by either a power company or a telephone company, or both. Notwithstanding any other provisions of this ordinance, no poles except replacements for existing poles shall be erected by for the grantee, in any street, except when necessary to serve a subscriber. Any poles, wires, cable or other facilities to be constructed or installed by grantee on or within the streets shall be constructed or installed only at such locations and depths and in such a manner as to comply with all state statues and rules and regulations of the State of Tennessee, the city, and any other agency of competent jurisdiction.

(2) The installation of trunk and distribution lines, including service drops to subscribers, shall be made underground in areas where both telephone and power lines are underground or are placed underground and the service poles are removed. (as added by Ord. #05-5, Sept. 2005)

9-615. System design and channel capacity. The cable television system shall be constructed and operated in a manner as set forth in this ordinance. The cable television system shall have a capacity of at least 300 MHz bandwidth and shall be constructed and operated in a manner set forth in this ordinance. (as added by Ord. #05-5, Sept. 2005)

9-616. Interconnection. Where economically reasonable and technically possible, grantee may connect its system with other cable systems adjoining it so as to provide the widest possible combination of programming in the most efficient manner. (as added by Ord. #05-5, Sept. 2005)

9-617. Service to government building. The grantee shall, upon request therefore, provide and furnish without charge to all public educational institutions and governmental buildings within the service area and within one hundred fifty (150) feet of grantee's existing distribution cable, one (1) service outlet. The institutions shall be entitled to receive, free of charge, the grantee's basic television service. (as added by Ord. #05-5, Sept. 2005)

9-618. Parental control devices. The grantee shall at all times have available parental control devices for the purpose of controlling premium television programming on individual subscriber television sets. The grantee shall have the right to charge reasonable fees for the use of such devices. (as added by Ord. #05-5, Sept. 2005)

9-619. Construction standards. (1) Grantee shall construct, install, operate and maintain the cable television system in a manner consistent with all laws, ordinances, construction standards, governmental requirements and the construction and operational standards contained in this ordinance and any franchise agreement.

(2) All installation and maintenance of electronic equipment shall be of a permanent nature, durable and installed in accordance with the applicable sections of the National Electric Safety Code, the National Electrical Code of the National Bureau Fire Underwriters and all the state and local codes where applicable.

(3) Antenna supporting structures (towers) shall be painted, lighted, erected and maintained in accordance with all applicable rules and regulations of the Federal Aviation Administration and all other applicable local or state codes and regulations.

(4) All construction methods and standards shall confirm to standard industry practices at the time of construction, and as specified herein and in any franchise agreement.

(5) Any contractor used by a grantee for construction, installation, operation, maintenance, or repair of system equipment must be properly licensed under the laws of the State of Tennessee, and all local ordinances.

(6) The city does not guarantee the accuracy of any maps showing the horizontal or vertical location of existing substructures. In public rights-of-way, where necessary, the locations shall be verified by excavation. (as added by Ord. #05-5, Sept. 2005)

9-620. Operational standards and performance monitoring. (1) The cable television system shall be operated in compliance with the service standards established by the National Cable Television Association.

(2) The grantee shall put, keep and maintain all parts of the system in good condition throughout the entire franchise term.

(3) The grantee shall render efficient service, make repairs promptly and interrupt service only for good cause and for the shortest time possible. Such interruptions, insofar as possible, shall be preceded by notice and shall occur during periods of minimum system use.

(a) Service repair response time to a subscriber outage call shall not exceed twenty-four (24) hours except on weekends and holidays or in circumstances beyond the reasonable control of the grantee; and

(b) Trained technicians shall respond on a twenty-four (24) hour day seven (7) days a week basis whenever ten (10) or more verifiable subscriber complaints of outage are received within a twenty four (24)hour period.

(c) The grantee shall have a local telephone number or a publicly listed toll-free 1-800 telephone number. The grantee shall provide the means to accept complaint calls twenty-four (24) hours a day, seven (7) days a week. (as added by Ord. #05-5, Sept. 2005)

9-621. Rate and charges. Grantee shall file with the city schedules which shall describe all services offered, all rates and charges of any kind, and all terms and conditions relating thereto. Grantee shall have the right to pass

through to its subscribers all taxes and fees related to the provision of cable television service and grantee shall have the right to itemize all such taxes and fees on the customer bills.. The City of Red Boiling Springs reserves the right and authority to comment, whether publicly or in private, regarding grantee's schedule of rates and charges. (as added by Ord. #05-5, Sept. 2005)

9-622. Rights of individuals. (1) The grantee shall not deny service, deny access, or otherwise discriminate against subscribers or other users, or any citizen on the basis of race, color, religion, national origin, sex or sexual orientation. The grantee shall comply at all times with all other applicable federal, state and local laws and regulations, and all executive and administrative orders relating to nondiscrimination.

(2) Grantee shall comply with the individual privacy provisions contained in the Cable Act. (as added by Ord. #05-5, Sept. 2005)

9-623. Liability and indemnification. (1) The grantee shall, at its sole cost and expense, fully indemnify, defend and save harmless the city, its officers, councils, commissions, and employees against any and all actions, liability, judgments, executions, claims or demands whatsoever by others, including but not limited to, copyright infringement and all other damages arising out of the installation or operation or maintenance of the cable television system authorized herein, whether or not any act of omission complained or is authorized, allowed or prohibited by this ordinance and any franchise granted hereunder. Grantee shall further indemnify and save the city harmless against all liabilities to others arising out of such construction, operation and maintenance, including but not limited to, any liability for damages by reason of, or arising out of, any failure by grantee to secure licenses from the owners, authorized distributors or licensees of programs to be transmitted or distributed by the grantee, and against any loss, cost, expense, and damages resulting therefrom, including reasonable attorney's fees, arising out of the grantee's exercise or enjoyment of this franchise, irrespective of the amount of any comprehensive liability policy required hereunder.

(2) The foregoing liability and indemnity obligations of the grantee pursuant to this section shall not apply to damages occasioned by acts of the city, its agents or employees, nor shall it be deemed a waiver of any defense of contributory negligence which the grantee may assert against the city, its agents or employees. (as added by Ord. #05-5, Sept. 2005)

9-624. Insurance. (1) At the time of filing written acceptance of the franchise, the grantee shall file with the city clerk, certificates for the following:

(a) A general comprehensive public liability insurance policy, indemnifying, defending and saving harmless the City, its officers, councils, commissioners, agents or employees from any and all claims by any person whatsoever on account of injury to or death of a person or

persons occasioned by the operations of the grantee under the franchise granted hereunder with a minimum of liability of three hundred thousand dollars (\$300,000.00) for personal injury or death of any two or more persons in any one (1) occurrence. Renewal certificates of such insurance shall be promptly forwarded to the city clerk as such renewals are made, and such insurance shall be constantly kept in force and effect and effect during the term of this franchise.

(b) Property damage insurance indemnifying, defending and saving harmless the city, its officers, councils, commissions, agents, and employees from and against all claims by any person whatsoever for property damage occasioned by the operation of a grantee under the franchise granted hereunder with a minimum liability of three hundred thousand dollars (\$300,000.00) for property damage to any one person and five hundred thousand dollars (\$500,000.00) for property damage to two or more persons in any one (1) occurrence.

(2) Such insurance as provided for in this section shall be provided at the grantee's sole cost and expense and be kept in full force and effect by the grantee during the existence of the franchise and until after the removal of all poles, wires, cables, underground conduits, manholes, and other conductors and fixtures incident to the maintenance and operation of the cable television system as defined in the franchise,

(3) All of the foregoing insurance contracts shall be issued and maintained by companies authorized to do business in the State of Tennessee and shall be required to give thirty (30) days written notice of any cancellation or reduction in coverage to both the city and the grantee herein. (as added by Ord. #05-5, Sept. 2005)

9-625. Filing and communications with regulatory agencies. The grantee shall maintain copies of all petitions, applications and communications, relative to any franchise granted pursuant to this ordinance transmitted by the grantee to, or received by the grantee from all federal and state regulatory commissions or agencies having competent jurisdiction to regulate the operations of any cable television system authorized hereunder. Said copies shall be available for inspection by the city during regular business hours of the grantee. (as added by Ord. #05-5, Sept. 2005)

9-626. Reports. The grantee shall file annually with the mayor not later than four (4) months after the end of its fiscal year during which it accepted a franchise hereunder and within four (4) months after the end of each subsequent fiscal year, a letter containing the amount of the gross revenues for the previous fiscal year certified by grantee's controller or chief financial officer. (as added by Ord. #05-5, Sept. 2005)

9-627. Franchise renewal. Upon completion of the term of any franchise granted pursuant to this ordinance, the procedures for the franchise renewals as established by the Cable Act (47 U.S.C. § 546) will apply. (as added by Ord. #05-5, Sept. 2005)

9-628. Franchise required. It shall be unlawful for any person to construct, operate or maintain a cable television system in the city unless such person or person for whom such action is being taken shall have first obtained and shall currently hold a valid franchise granted pursuant to this ordinance. It shall also be unlawful for any person to provide cable television service in the city unless such person shall have first obtained and shall currently hold a valid franchise granted pursuant to the provisions of this ordinance. All franchises granted by the city pursuant to this ordinance shall contain the same substantive terms and conditions. (as added by Ord. #05-5, Sept. 2005)

9-629. Unauthorized connections or modifications. (1) It shall be unlawful for any person without the expressed consent of the grantee, to make any connection, extension, or division whether physically, acoustically, inductively, electronically, or otherwise with or to any segment of the cable television system for any purpose whatsoever.

(2) It shall be unlawful for any person to willfully interfere, tamper, remove, obstruct or damage any part, segment, or content of a franchised cable television system for any purpose whatsoever.

(3) Any person found guilty of violating this section may be assessed a fine not to exceed five hundred dollars (\$500.00) or sentenced to thirty (30) days in jail, or both. (as added by Ord. #05-5, Sept. 2005)

9-630. Notice. Whenever under the terms of the franchise either party shall be required or permitted to give notice to the other, such notice shall be in writing and if to be served on the city, it shall be delivered either by first class U.S. mail or by handling such notice to the mayor at the city municipal offices, and if to grantee, then by delivering by first class U.S. mail or by handling such notice to such officer at such address as grantee shall from time to time direct. The original name and address of the officer on behalf of grantee shall be included in grantee's acceptance of the franchise. (as added by Ord. #05-5, Sept. 2005)

## 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 to come within one thousand (1,000) feet of any residence, place of business, or public street without a permit from the health officer. The health officer shall issue a permit only when in his sound judgment the keeping of such an animal in a yard or building under the circumstances as set forth in the application for the permit will not injuriously affect the public health. (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 and safety.

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

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

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

10-107. Seizure and disposition of animals. Any animal or fowl found running at large or otherwise being kept in violation of this chapter may be seized by the health officer or by any police officer and confined in a pound provided or designated by the city council. 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 city council.

The pound keeper shall collect from each person claiming an impounded animal or fowl reasonable fees, in accordance with a schedule approved by the city council, to cover the costs of impoundment and maintenance. (1980 Code, § 3-107)

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



CHAPTER 2

DOGS

SECTION

- 10-201. Definitions.
- 10-202. Enforcement.
- 10-203. Vaccination of dogs against rabies.
- 10-204. Licenses.
- 10-205. Records of the city clerk.
- 10-206. Tags.
- 10-207. Failure to pay license fee.
- 10-208. Dogs running at large prohibited; seizure of dogs.
- 10-209. Impoundment of dogs; redemption by owner.
- 10-210. Disposition of unclaimed dogs.
- 10-211. Concealment of dogs.
- 10-212. Noisy dogs prohibited.
- 10-213. Authority to put dogs in pound.
- 10-214. Interfering with police officers.
- 10-215. Transportation of dogs.
- 10-216. Vicious dogs to be kept in a secured fenced area.

10-201. Definitions. For the purpose of this chapter, the following words and phrases shall have the meaning respectively ascribed to them in this section:

(1) "At large." A dog is considered to be running at large when said dog is off the premises of the owner and not under the control of the owner, either by leash, cord, chain, or otherwise; provided, however, a dog shall not be considered running at large when:

(a) The dog is off the premises of the owner if said dog shall be accompanied by the owner and the owner shall have full command of the said dog, or

(b) The dog is a hunting dog and is in chase or in training and accompanied by a responsible person.

(2) "Dog." All members of the dog family.

(3) "Owner." Any person or persons, firm, association, or corporation having a right of property in a dog, or who keeps or harbors a dog, or who has it in his care, or acts as its custodian, or who permits a dog to remain on or about any premises.

(4) "City." The City of Red Boiling Springs. (1980 Code, § 3-201)

10-202. Enforcement. The provisions of this chapter shall be enforced by the chief of police of the city or his duly authorized representatives. (1980 Code, § 3-202)

10-203. Vaccination of dogs against rabies. It shall be unlawful for any owner to keep, harbor, or permit to remain on or about any premises, any dog over three months of age which has not been vaccinated against rabies as required by the provisions of the "Tennessee Anti-Rabies Law" (Tennessee Code Annotated, §§ 68-8-101 through 68-8-114). A certificate of such vaccination shall be issued by a licensed veterinarian duly authorized to administer such a vaccination, and such certificate shall be kept by the person who owns, keeps, or harbors the said dog, subject to the inspection of the chief of police. (1980 Code, § 3-203)

10-204. Licenses. All persons owning, keeping, or harboring on premises where they reside, any dog over three months of age, shall pay on or before June 1 of each and every year to the city clerk, a fee not to exceed five dollars (\$5.00) for each dog so owned, kept, or harbored. The amount of the fee shall be fixed by the mayor based on the actual costs of administering this chapter. Such persons whose dog reaches the age of three months subsequent to June 1 of any year shall pay said license fee at or prior to the time the dog reaches such age; provided, that such persons whose dog reaches the age of three months subsequent to November 30 of any year will have until June 1 of the following year for the purchase of the required license. All licenses issued hereunder shall expire at midnight on June 1 in the year following their issuance. (1980 Code, § 3-204)

10-205. Records of the city clerk. It shall be the duty of the city clerk to collect the license fees under this chapter. He or she shall, in a well bound book, record the name of each owner of any dog or dogs, the date and amount of such payment, the description and sex of each dog on which a license fee is paid, the license tag number issued by him for such dog, and the date when said dog was vaccinated. Unless said certificate of vaccination is exhibited at the time request for license is made, as herein provided, the clerk shall issue no license. On receipt of the payment of the license fee, the clerk shall issue to the person paying the same, a receipt showing the name of the owner of the dogs on which such license fee is paid, the date and amount of such payment, the license tag number issued for each dog, and the date of vaccination of such dog, and shall deliver to the owner a license tag bearing the serial number and the year for which the license fee is paid. (1980 Code, § 3-205)

10-206. Tags. It shall be the duty of the owner to attach such license tags to a collar which shall be worn at all times by each dog licensed, and in the event of the loss of such license tag, the city clerk shall issue a duplicate tag for which the owner shall pay the sum of one dollar (\$1.00), and said duplicate tags shall be forthwith attached to the dog collar, and at all times worn thereon, provided that the collar may be removed in cases of hunting dogs while in chase

or while in training. A dog tag shall not be transferable from one dog to another and no refunds shall be made on any dog license fee. (1980 Code, § 3-206)

10-207. Failure to pay license fee. It shall be unlawful for any person or owner to keep or harbor any dog or dogs for which a license fee on such dog or dogs has not been paid as required by this chapter. (1980 Code, § 3-207)

10-208. Dogs running at large prohibited; seizure of dogs.<sup>1</sup> It shall be unlawful for any person to allow a dog belonging to him or under his control to run at large, and any such person whose dog is found to be running at large shall be guilty of a misdemeanor and subject to the penalty provided in the general penalty clause for this code.

Any dog found running at large may be seized by the proper authorities of the city. A dog is considered to be running at large when said dog is off the premises of the owner and not under the control of the owner, either by leash, cord, chain, or otherwise; provided, however, a dog shall not be considered running at large when the dog is off the premises of the owner if said dog is accompanied by the owner and the owner has full command of the dog or the dog is a hunting dog and is in chase or in training and accompanied by a responsible person.

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 any police officer. (1980 Code, § 3-208)

10-209. Impoundment of dogs; redemption by owner. When any dog is found running at large and is impounded, the owner, if the dog bears a tag, shall be sent by mail a notice addressed to the last known mailing address, to appear within seven days and redeem his dog or the same will be disposed of. If the owner appears to redeem his dog, he shall pay, for each dog so seized and impounded, an impoundment fee of \$7.50 and a boarding fee of \$2.50 per day or fraction thereof the dog remains unclaimed. If the dog so seized has not been vaccinated, the owner shall, before he is permitted to regain possession of such dog, have such dog vaccinated and licensed and present the license registration to the pound authority. (1980 Code, § 3-209)

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<sup>1</sup>State law reference

Tennessee Code Annotated, §§ 44-8-408, 68-8-108, and 68-8-109.

10-210. Disposition of unclaimed dogs.<sup>1</sup> (1) If, at the expiration of seven (7) days from the date notice is mailed to the owner of any dog found running at large which is wearing a tag, or at the expiration of two (2) days from the date of seizure of any dog not wearing a tag, such dog shall not have been redeemed or claimed, such dog may be disposed of as follows:

(a) Whenever any research institution shall apply to the city for permission to use for research purposes any impounded dog or dogs remaining unclaimed, the chief of police may, at his discretion, sell to the institution such unclaimed dogs as it has requested, provided, however, the city council shall determine the fee to be paid by said institution.

(b) Whenever any individual shall apply to the city for permission to adopt or buy any impounded dog or dogs remaining unclaimed, the chief of police may sell to the individual such unclaimed dogs or surrender such dogs to the individual for adoption upon payment of a fee set by the city council.

(c) Whenever any dog remains unclaimed, such dog may be destroyed in a manner to be determined by the chief of police.

(2) Any person who does not desire to pay the license fee imposed by this chapter upon any dog or dogs owned, kept, or harbored on premises owned by him, shall bring such dog or dogs to the pound operated by the city to be disposed of.

(3) Any unidentified dog which the chief of police, upon the advice of a licensed veterinarian, determines to be suffering from rabies or other infectious or dangerous diseases or to be in misery need not be released but may be disposed of immediately. (1980 Code, § 3-210)

10-211. Concealment of dogs. Any person who shall hide, conceal, or aid or assist in hiding or concealing of any dog owned, kept, or harbored in violation of any of the provisions of this chapter shall be guilty of a misdemeanor. (1980 Code, § 3-211)

10-212. 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, § 3-212)

10-213. Authority to put dogs in pound. All police officers of the city shall have the authority to take up and put into the pound of the city any dog found in violation of any provision of this chapter. (1980 Code, § 3-213)

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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).

10-214. Interfering with police officers. It shall be unlawful for any person to interfere with or hinder any police officer or other duly authorized person in the discharge or apparent discharge of his duty in enforcing the provisions of this chapter. (1980 Code, § 3-214)

10-215. Transportation of dogs. An owner transporting a dog through the city is exempt from the provisions of this chapter provided that such dog shall be securely confined or on a leash during its transportation through the city and provided further that such dog shall not remain in the city for more than thirty days. (1980 Code, § 3-215)

10-216. Vicious dogs to be kept in a secured fenced area. It shall be unlawful for any person to own or keep any pit bull or any other vicious dog know to be dangerous unless said dog is in a secured fenced area as to reasonably provide for the protection of other animals and persons.

It is a civil offense to fail to comply with the foregoing section. Any violation of this section is punishable by civil penalty of a fifty dollar (\$50.00) fine, plus court costs. Each day in violation shall constitute a separate offense. (as added by Ord. #06-06 Aug. 2006)

## 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, § 10-227)

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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 in disturbance of the public peace and welfare, is prohibited.

(1) **Miscellaneous prohibited noises enumerated.** The following acts, among others, are declared to be loud, disturbing, and unnecessary noises in violation of this section, but this enumeration shall not be deemed to be exclusive, namely:

(a) **Blowing horns.** The sounding of any horn or signal device on any automobile, motorcycle, bus, truck, or other vehicle while not in motion except as a danger signal if another vehicle is approaching, apparently out of control, or if in motion, only as a danger signal after or as brakes are being applied and deceleration of the vehicle is intended; the creation by means of any such signal device of any unreasonably loud or harsh sound; and the sounding of such device for an unnecessary and unreasonable period of time.

(b) **Radios, phonographs, etc.** The playing of any radio, phonograph, or any musical instrument or sound device, including but not limited to loudspeakers or other devices for reproduction or amplification of sound, either independently of or in connection with motion pictures, radio, or television, in such a manner or with such volume, particularly during the hours between 11:00 P.M. and 7:00 A.M., as to annoy or disturb the quiet, comfort, or repose of persons in any office or hospital, or in any dwelling, hotel, or other type of residence, or of any person in the vicinity.

(c) **Yelling, shouting, etc.** Yelling, shouting, whistling, or singing on the public streets, particularly between the hours of 11:00 P.M. and 7:00 A.M., or at any time or place so as to annoy or disturb the

quiet, comfort, or repose of any person in any hospital, dwelling, hotel, or other type of residence, or of any person in the vicinity.

(d) Pets. The keeping of any animal, bird, or fowl which by causing frequent or long continued noise shall disturb the comfort or repose of any person in the vicinity.

(e) Use of vehicle. The use of any automobile, motorcycle, truck, or vehicle so out of repair, so loaded, or in such manner as to cause loud and unnecessary grating, grinding, rattling, or other noise.

(f) Blowing whistles. The blowing of any steam whistle attached to any stationary boiler, except to give notice of the time to begin or stop work or as a warning of fire or danger, or upon request of proper municipal authorities.

(g) Exhaust discharge. To discharge into the open air the exhaust of any steam engine, stationary internal combustion engine, motor vehicle, or boat engine, except through a muffler or other device which will effectively prevent loud or explosive noises therefrom.

(h) Building operations. The erection (including excavation), demolition, alteration, or repair of any building in any residential area or section or the construction or repair of streets and highways in any residential area or section, other than between the hours of 7:00 A.M. and 6:00 P.M. on week days, except in case of urgent necessity in the interest of public health and safety, and then only with a permit from the building inspector granted for a period while the emergency continues not to exceed thirty (30) days. If the building inspector should determine that the public health and safety will not be impaired by the erection, demolition, alteration, or repair of any building or the excavation of streets and highways between the hours of 6:00 P.M. and 7:00 A.M., and if he shall further determine that loss or inconvenience would result to any party in interest through delay, he may grant permission for such work to be done between the hours of 6:00 P.M. and 7:00 A.M. upon application being made at the time the permit for the work is awarded or during the process of the work.

(i) Noises near schools, hospitals, churches, etc. The creation of any excessive noise on any street adjacent to any hospital or adjacent to any school, institution of learning, church, or court while the same is in session.

(j) Loading and unloading operations. The creation of any loud and excessive noise in connection with the loading or unloading of any vehicle or the opening and destruction of bales, boxes, crates, and other containers.

(k) Noises to attract attention. The use of any drum, loudspeaker, or other instrument or device emitting noise for the purpose of attracting attention to any performance, show, or sale or display of merchandise.

(1) Loudspeakers or amplifiers on vehicles. The use of mechanical loudspeakers or amplifiers on trucks or other moving or standing vehicles for advertising or other purposes.

(2) Exceptions. None of the terms or prohibitions hereof shall apply to or be enforced against:

(a) Municipal vehicles. Any vehicle of the city while engaged upon necessary public business.

(b) Repair of streets, etc. Excavations or repairs of bridges, streets, or highways at night, by or on behalf of the city, the county, or the state, when the public welfare and convenience renders it impracticable to perform such work during the day.

(c) Noncommercial and nonprofit use of loudspeakers or amplifiers. The reasonable use of amplifiers or loudspeakers in the course of public addresses which are noncommercial in character and in the course of advertising functions sponsored by nonprofit organizations. However, no such use shall be made until a permit therefor is secured from the city clerk. 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)

## 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 city personnel.
- 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 city to escape or attempt to escape, or for any other person to assist or encourage such person to escape or attempt to escape from such custody or confinement. (1980 Code, § 10-209)

**11-502. Impersonating a government officer or employee.** No person other than an official police officer of the city shall wear the uniform, apparel, or badge, or carry any identification card or other insignia of office like or similar to, or a colorable imitation of that adopted and worn or carried by the official police officers of the city. Furthermore, no person shall deceitfully impersonate or represent that he is any government officer or employee. (1980 Code, § 10-211)

**11-503. 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 city personnel.** It shall be unlawful for any person knowingly to resist or in any way interfere with or attempt to interfere with any officer or employee of the city while such officer or employee is performing or attempting to perform his municipal duties. (1980 Code, § 10-210)

**11-505. 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.** (1) It shall be unlawful for any person to shoot or operate any air gun, air rifle, "BB" gun, pellet gun, or sling shot within the corporate limits except within the confines of a building or other structure from which the bullets or projectiles cannot escape.

(2) Every person who conspires to discharge or aids and abets in the discharging or causing to be discharged of any air gun, air rifle, "BB" gun, pellet gun, or slingshot, within the city limits, except as provided in subsection (1), whether individually or in connection with one or more persons as principal, agent, or accessory, shall be guilty of a misdemeanor, and every parent or guardian of a minor child who willfully or knowingly permits or directs the discharge of any air gun, air rifle, "BB" gun, pellet gun, or slingshot by such minor within the city limits except as provided in subsection (1), is likewise guilty of such offense.

(3) The chief of police or his duly authorized representative is hereby empowered to seize and hold as evidence pending a hearing before the city court any air gun, air rifle, "BB" gun, pellet gun, or slingshot used in violation of this section. (1980 Code, § 10-213)

**11-602. Throwing missiles.** It shall be unlawful for any person to throw maliciously any stone, snowball, bottle, or any other missile upon or at any vehicle, building, tree, or other public or private property or upon 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. Malicious mischief.

11-703. 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, § 10-224)

**11-702. 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, § 10-223)

**11-703. 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, § 10-221)

**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 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 person under the age of eighteen (18) years to be abroad at night between 11:00 P.M. and 5:00 A.M. unless going directly to or from a lawful activity or upon a legitimate errand for, or accompanied by, a parent, guardian, or other adult person having lawful custody of such minor. (1980 Code, § 10-222)

**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 city clerk to wear a traditional holiday costume. (1980 Code, § 10-233)

**TITLE 12**

**BUILDING, UTILITY, ETC. CODES**

**CHAPTER**

1. BUILDING CODE.
2. PLUMBING CODE.
3. ELECTRICAL CODE.
4. HOUSING CODE.
5. MODEL ENERGY CODE.

**CHAPTER 1**

**BUILDING CODE**<sup>1</sup>

**SECTION**

- 12-101. Building code adopted.
- 12-102. Modifications.
- 12-103. Available in city clerk's office.
- 12-104. Violations.

**12-101. Building code adopted.** Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506, and for the purpose of regulating the construction, alteration, repair, use, occupancy, location, maintenance, removal and demolition of every building or structure or any appurtenance connected or attached to any building or structure in the City of Red Boiling Springs, Tennessee, the 2006 edition of the International Building Code<sup>2</sup> is hereby adopted and incorporated by reference as part of this code, and is hereafter referred to as the building code. (1980 Code, § 4-101, modified, as replaced by Ord. #10-13, Dec. 2010)

**12-102. Modifications.** Whenever the building code refers to the "Chief Appointing Authority" or the "Chief Administrator," it shall be deemed to be a reference to the mayor. When the "Building Official" or "Director of Public

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<sup>1</sup>Municipal code references

Fire protection, fireworks, and explosives: title 7.

Planning and zoning: title 14.

Streets and other public ways and places: title 16.

Utilities and services: titles 18 and 19.

<sup>2</sup>Copies of this code (and any amendments) may be purchased from the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213.



Works" is named it shall, for the purposes of the building code, mean such person as the mayor shall have appointed or designated to administer and enforce the provisions of the building code. The recommended schedule of permit fees set forth in Appendix "B" of the building code is amended so that the fees to be collected shall be as follows:

<u>Building Valuation</u>	<u>Fee</u>
(1) \$0.00 up to and including \$15,000.00	\$3.00 per thousand or \$15,000.00 fraction thereof.
(2) \$15,000.01 up to and including \$100,000.00	\$ 4 5 . 0 0 for first \$100,000.00 \$15,000.00 plus \$2.00 for each additional \$1,000.00 or fraction thereof.
(3) \$100,000.01 up to and including \$500,000.00	\$ 2 1 5 . 0 0 for first \$500,000.00 \$100,000.00 plus \$1.00 for each additional \$1,000.00 or fraction thereof
(4) \$500,000.01 up to and including \$1,000,000.00	\$ 6 1 5 . 0 0 for first \$1,000,000.00 \$500,000.00 plus 40¢ for each additional \$1,000.00 or fraction thereof.
(5) Over \$1,000,000.00	\$815.00 for first million plus 15¢ for each additional \$1,000.000.00 or fraction thereof.

Provided, however, that the minimum fee for an inspection shall be five dollars (\$5.00). Section 107 of the building code is hereby deleted. (1980 Code, § 4-102)

**12-103. Available in city clerk's office.** Pursuant to the requirements of the Tennessee Code Annotated, § 6-54-502, one (1) copy of the building code has been placed on file in the city clerk's office and shall be kept there for the use and inspection of the public. (1980 Code, § 4-103, modified)

**12-104. Violations.** It shall be unlawful for any person to violate or fail to comply with any provision of the building code as herein adopted by reference and modified. (1980 Code, § 4-104)

## CHAPTER 2

### PLUMBING CODE<sup>1</sup>

#### SECTION

- 12-201. Plumbing code adopted.
- 12-202. Modifications.
- 12-203. Available in city clerk'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 city, when such plumbing is or is to be connected with the municipal water or sewerage system, the Standard Plumbing Code,<sup>2</sup> 1994 edition with 1995 revisions, as prepared and adopted by the Southern Building Code Congress International, Inc., is hereby adopted and incorporated by reference as a part of this code and is hereinafter referred to as the plumbing code. (1980 Code, § 4-201, modified)

**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 mayor or city council, whichever the context requires.

Wherever "City Engineer," "Engineering Department," "Plumbing Official," or "Inspector" is named or referred to, it shall mean the person appointed or designated by the mayor to administer and enforce the provisions of the plumbing code. Section 107 of the plumbing code is hereby deleted. (1980 Code, § 4-202)

**12-203. Available in city clerk'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 city clerk's office and shall be kept there for the use and inspection of the public. (1980 Code, § 4-203, modified)

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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 Southern Building Code Congress International, Inc., 900 Montclair Road, Birmingham, Alabama 35213.

**12-204. Violations.** It shall be unlawful for any person to violate or fail to comply with any provision of the plumbing code as herein adopted by reference and modified. (1980 Code, § 4-204)

## CHAPTER 3

### ELECTRICAL CODE<sup>1</sup>

#### SECTION

- 12-301. Electrical code adopted.
- 12-302. Available in city clerk'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 city clerk'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 city clerk'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 City of Red Boiling Springs until a permit therefor has been issued by the city. The term "electrical work" shall not be deemed to include minor repairs that do not involve the installation of new wire, conduits, machinery, apparatus, or other electrical devices generally requiring the services of an electrician. (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 such circumstances as not to comply with this chapter and/or the requirements and standards prescribed by the electrical code. (1980 Code, § 4-304)

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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.

**12-305. Enforcement.** The electrical inspector shall be such person as the mayor 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

### RESIDENTIAL CODE

#### SECTION

- 12-401. Residential code adopted.
- 12-402. Modifications.
- 12-403. Available in city clerk's office.
- 12-404. Violations.

**12-401. Residential 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, room in houses, and buildings, structures, or premises used as such, in the City of Red Boiling Springs, Tennessee, the 2006 edition of the International Residential Code<sup>1</sup> is hereby adopted and incorporated by reference as part of this code, and is hereafter referred to as the housing code. (1980 Code, § 4-401, modified, as replaced by Ord. #10-13, Dec. 2010)

**12-402. Modifications.** Wherever the housing code refers to the "Building Official" it shall mean the person appointed or designated by the mayor to administer and enforce the provisions of the housing 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 mayor. Section 108 of the housing code is deleted. (1980 Code, § 4-402)

**12-403. Available in city clerk's office.** Pursuant to the requirements of Tennessee Code Annotated, § 6-54-502, one (1) copy of the housing code has been placed on file in the city clerk's office and shall be kept there for the use and inspection of the public. (1980 Code, § 4-403, modified)

**12-404. Violations.** It shall be unlawful for any person to violate or fail to comply with any provision of the housing code as herein adopted by reference and modified. (1980 Code, § 4-404)

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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.

## CHAPTER 5

### ENERGY CODE<sup>1</sup>

#### SECTION

- 12-501. Energy code adopted.
- 12-502. Modifications.
- 12-503. Available in city clerk's office.
- 12-504. Violation and penalty.

**12-501. Energy 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 in 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 in the City of Red Boiling Springs, Tennessee, the 2006 edition of the International Energy Conservation Code<sup>2</sup> is hereby adopted and incorporated by reference as part of this code, and is hereafter referred to as the energy code. (as replaced by Ord. #10-13, Dec. 2010)

**12-502. Modifications.** Whenever the energy code refers to the "responsible government agency," it shall be deemed to be a reference to the City of Red Boiling Springs. When the "building official" is named it shall, for the purposes of the energy code, mean such person as the city council shall have appointed or designated to administer and enforce the provisions of the energy code.

**12-503. Available in city clerk's office.** Pursuant to the requirements of the Tennessee Code Annotated, § 6-54-502, one (1) copy of the energy code has

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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..

been placed on file in the city clerk's office and shall be kept there for the use and inspection of the public.

**12-504. Violation and penalty.** It shall be a civil offense for any person to violate or fail to comply with any provision of the energy 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.



## TITLE 13

### PROPERTY MAINTENANCE REGULATIONS<sup>1</sup>

#### CHAPTER

1. MISCELLANEOUS.
2. JUNKYARDS.
3. ABANDONED MOTOR VEHICLES.

#### 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.
- 13-108. Deposit of waste in streams, etc., prohibited.

**13-101. Health officer.** The "health officer" shall be such municipal, county, or state officer as the mayor shall appoint or designate to administer and enforce health and sanitation regulations within the city. (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 effectively to 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 city clerk 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 city 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)

**13-108. Deposit of waste in streams, etc., prohibited.** It shall be unlawful for any person, firm, or corporation to cast, deposit, or place garbage, refuse, or any waste of any kind in any stream, water course, or source of water supply in the city. (1980 Code, § 8-112)

**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, § 8-111)

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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

### ABANDONED MOTOR VEHICLES, ETC.

#### SECTION

- 13-301. Short title.
- 13-302. Definitions.
- 13-303. Storing, parking, or leaving dismantled or other such motor vehicles prohibited; exceptions.
- 13-304. Notice to remove.
- 13-305. Responsibility for removal.
- 13-306. Notice procedure.
- 13-307. Content of notice.
- 13-308. Request for hearing.
- 13-309. Procedure for hearing.
- 13-310. Removal of motor vehicle from property.
- 13-311. Notice of removal.
- 13-312. Disposition of vehicles.
- 13-313. Contents of public sale notice.
- 13-314. Public sale.
- 13-315. Redemption of impounded vehicles.
- 13-316. Liability of owner or occupant.

**13-301. Short title.** This chapter shall be known and may be cited as the "Abandoned, wrecked, dismantled, or inoperative motor vehicle ordinance." (1980 Code, § 9-701)

**13-302. Definitions.** For the purposes of this chapter the following terms, phrases, words, and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present 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) "City" is the City of Red Boiling Springs.

(2) "Director of traffic" is the chief of police of the City of Red Boiling Springs.

(3) "Motor vehicle" is any vehicle which is self-propelled and designed to travel along the ground and shall include, but not be limited to, automobiles, buses, motor-bikes, motorcycles, motorscooters, trucks, tractors, go-carts, golf carts, campers, and trailers.

(4) "Junked motor vehicle" is any motor vehicle, as defined by subsection (3) which does not have lawfully affixed thereto an unexpired license plate or plates, and the condition of which is wrecked, dismantled, partially dismantled, inoperative, abandoned, or discarded.

(5) "Person" shall mean any person, firm, partnership, association, corporation, company, or organization of any kind.

(6) "Private property" shall mean any real property within the city which is privately owned and which is not public property as defined in this section.

(7) "Public property" shall mean any street or highway which shall include the entire width between the boundary lines of every way publicly maintained for the purposes of vehicular travel, and shall also mean any other publicly owned property or facility. (1980 Code, § 9-702)

**13-303. Storing, parking, or leaving dismantled or other such motor vehicles prohibited; exceptions.** No person shall park, store, leave, or permit the parking, storing, or leaving of any motor vehicle of any kind which is in an abandoned, wrecked, dismantled, inoperative, rusted, junked, or partially dismantled condition whether attended or not, upon any public or private property within the city for a period of time in excess of seventy-two (72) hours. The presence of an abandoned, wrecked, dismantled, inoperative, rusted, junked, or partially dismantled vehicle or parts thereof on private or public property is hereby declared a public nuisance which may be abated as such in accordance with the provisions of this chapter. This section shall not apply to any vehicle enclosed within a building on private property or to any vehicle held in connection with a business enterprise, lawfully licensed by the city and properly operated in the appropriate business zone, pursuant to the zoning laws of the city, or to any motor vehicle in operable condition specifically adopted or designed for operation on drag strips or raceways, or any vehicle retained by the owner for antique collection purposes. (1980 Code, § 9-703)

**13-304. Notice to remove.** Whenever it comes to the attention of the city that any nuisance as defined in § 13-303 exists in the City of Red Boiling Springs, a notice in writing shall be served upon the occupant of the land where the nuisance exists, or in case there is no such occupant, then upon the owner of the property or his agent, notifying them of the existence of the nuisance and requesting its removal in the time specified in this chapter. (1980 Code, § 9-704)

**13-305. Responsibility for removal.** Upon proper notice and opportunity to be heard, the owner of the abandoned, wrecked, dismantled, or inoperative vehicle and the owner or occupant of the private property on which the same is located, either or all of them, shall be responsible for its removal. In the event of removal and disposition by the city, the owner or occupant of the private property where same is located shall be liable for the expenses incurred. (1980 Code, § 9-705)

**13-306. Notice procedure.** The chief of police of the city shall give notice of removal to the owner or occupant of the private property where it is located at least seven (7) days before the time of compliance. It shall constitute sufficient notice when a copy of same is posted in a conspicuous place upon the private property on which the vehicle is located and duplicate copies are sent by registered mail to the owner or occupant of the private property at his last known address. (1980 Code, § 9-706)

**13-307. Content of notice.** The notice shall contain the request for removal within the time specified in this chapter, and the notice shall advise that upon failure to comply with the notice to remove, the city or its designee shall undertake such removal with the costs of removal to be levied against the owner of the property. (1980 Code, § 9-707)

**13-308. Request for hearing.** The persons to whom the notices are directed, or their duly authorized agents, may file a written request for hearing before the city council of the City of Red Boiling Springs or its designee within the seven (7) day period of compliance prescribed in § 13-306 for the purpose of defending the charges by the city. (1980 Code, § 9-708)

**13-309. Procedure for hearing.** The hearing shall be held as soon as practicable after the filing of the request and the persons to whom the notices are directed shall be advised of the time and place of said hearing at least five (5) days in advance thereof. At such hearing the city and the persons to whom the notices have been directed may introduce such witnesses and evidence as either party deems necessary. (1980 Code, § 9-709)

**13-310. Removal of motor vehicle from property.** If the violation described in the notice has not been remedied within the seven (7) day period of compliance, or in the event that a notice requesting a hearing is timely filed, a hearing is had and the existence of the violation is affirmed by the city council or its designee, the chief of police or his designee shall have the right to take possession of the junked motor vehicle and remove it from the premises. It shall be unlawful for any person to interfere with, hinder, or refuse to allow such person or persons to enter upon private property for the purpose of removing a vehicle under the provisions of this chapter. (1980 Code, § 9-710)

**13-311. Notice of removal.** Within forty-eight (48) hours of the removal of such vehicle, the chief of police shall give notice to the registered owner of the vehicle, if known, and also to the owner or occupant of the private property from which the vehicle was removed that said vehicle, or vehicles, have been impounded and stored for violation of this chapter. The notice shall give the location of where the vehicle or vehicles are stored, and the costs incurred by the city for removal. (1980 Code, § 9-711)

**13-312. Disposition of vehicles.** Upon removing a vehicle under the provisions of § 13-310, the city shall, after ten (10) days, cause it to be appraised. If the vehicle is appraised at \$75.00 or less, the chief of police shall execute an affidavit so attesting and describing the vehicle, including the license plates, if any, and stating the location and appraised value of the vehicle. The chief of police, after complying with the above, may summarily dispose of the vehicle and execute a certificate of sale. If the vehicle is appraised at over \$75.00, the chief of police shall give notice of public sale not less than twenty (20) days before the date of the proposed sale. (1980 Code, § 9-712)

**13-313. Contents of public sale notice.** The notice of sale shall state:

- (1) The sale is of abandoned property in the possession of the city.
- (2) A description of the vehicle, including make, model, license number, and any other information which will accurately identify the vehicle.
- (3) The terms of the sale.
- (4) The date, time, and place of the sale. (1980 Code, § 9-713)

**13-314. Public sale.** The vehicle shall be sold to the highest and best bidder. At the time of payment of the purchase price, the chief of police shall execute a certificate of sale in duplicate, the original of which is to be given to the purchaser, and the copy thereof to be filed with the city clerk. Should the sale for any reason be invalid, the city's liability shall be limited to the return of the purchase price. (1980 Code, § 9-714)

**13-315. Redemption of impounded vehicles.** The owner of any vehicle seized under the provisions of this chapter may redeem such vehicle at any time after its removal but prior to the sale or destruction thereof upon proof of ownership and payment to the chief of police of such sum as he may determine and fix for the actual and reasonable expenses of removal, and any preliminary sale advertising expenses, plus five dollars (\$5.00) per day for storage for each vehicle redeemed. (1980 Code, § 9-715)

**13-316. Liability of owner or occupant.** Upon the failure of the owner or occupant of property on which abandoned vehicles have been removed by the city to pay the unrecovered expenses incurred by the city in such removal, a lien shall be placed upon the property for the amount of such expenses. (1980 Code, § 9-716)

**TITLE 14**

**ZONING AND LAND USE CONTROL**

**CHAPTER**

1. MUNICIPAL PLANNING COMMISSION.
2. FLOOD DAMAGE PREVENTION ORDINANCE.
3. ZONING ORDINANCE.

**CHAPTER 1**

**MUNICIPAL PLANNING COMMISSION**

**SECTION**

- 14-101. Creation and membership.
- 14-102. Organization, powers, duties, etc.

**14-101. Creation and membership.** Pursuant to the provisions of Tennessee Code Annotated, § 13-4-101 there is hereby created a municipal planning commission, hereinafter referred to as the planning commission. The planning commission shall consist of seven (7) members; two (2) of these shall be the mayor and another member of the city council selected by the city council; 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 (1), two (2), three (3), four (4), and five (5) years respectively so that the term of one (1) member expires each year. The terms of the mayor and the member selected by the city council shall run concurrently 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)



**CHAPTER 2****FLOOD DAMAGE PREVENTION ORDINANCE****SECTION**

14-201. Flood damage control to be governed by flood damage prevention ordinance.

**14-201. Flood damage control to be governed by flood damage prevention ordinance.** Regulations governing flood damage control within the City of Red Boiling Springs shall be governed by Ordinance Number 10-7, titled "Municipal Flood Damage Prevention Ordinance" and any amendments thereto.<sup>1</sup>

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<sup>1</sup>Ordinance No. 10-7, and any amendments thereto, are published as separate documents and are of record in the office of the city clerk.

**CHAPTER 3**

**ZONING ORDINANCE**

**SECTION**

14-301. Land use to be governed by zoning ordinance.

**14-301. Land use to be governed by zoning ordinance.** Land use within the City of Red Boiling Springs shall be referred to as "the Red Boiling Springs Municipal Zoning Ordinance," and any amendments thereto.<sup>1</sup>

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<sup>1</sup>The City of Red Boiling Springs Zoning Ordinance #11-2, June 9, 2011, and any amendments thereto, are published as separate documents and are of record in the office of the city clerk.

## TITLE 15

MOTOR VEHICLES, TRAFFIC AND PARKING<sup>1</sup>

## CHAPTER

1. MISCELLANEOUS.
2. EMERGENCY VEHICLES.
3. SPEED LIMITS.
4. TURNING MOVEMENTS.
5. STOPPING AND YIELDING.
6. PARKING.
7. ENFORCEMENT.

## CHAPTER 1

MISCELLANEOUS<sup>2</sup>

## SECTION

- 15-101. Motor vehicle requirements.
- 15-102. Driving on streets closed for repairs, etc.
- 15-103. Reckless driving.
- 15-104. One-way streets.
- 15-105. Unlaned streets.
- 15-106. Laned streets.
- 15-107. Yellow lines.
- 15-108. Miscellaneous traffic-control signs, etc.
- 15-109. General requirements for traffic-control signs, etc.
- 15-110. Unauthorized traffic-control signs, etc.
- 15-111. Presumption with respect to traffic-control signs, etc.
- 15-112. School safety patrols.
- 15-113. Driving through funerals or other processions.

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<sup>1</sup>Municipal code reference

Excavations and obstructions in streets, etc.: title 16.

<sup>2</sup>State law references

Under Tennessee Code Annotated, § 55-10-307, the following offenses are exclusively state offenses and must be tried in a state court or a court having state jurisdiction: driving while intoxicated or drugged, as prohibited by Tennessee Code Annotated, § 55-10-401; failing to stop after a traffic accident, as prohibited by Tennessee Code Annotated, § 55-10-101, et seq.; driving while license is suspended or revoked, as prohibited by Tennessee Code Annotated, § 55-7-116; and drag racing, as prohibited by Tennessee Code Annotated, § 55-10-501.

- 15-114. Clinging to vehicles in motion.
- 15-115. Riding on outside of vehicles.
- 15-116. Backing vehicles.
- 15-117. Projections from the rear of vehicles.
- 15-118. Causing unnecessary noise.
- 15-119. Vehicles and operators to be licensed.
- 15-120. Passing.
- 15-121. Damaging pavements.
- 15-122. Bicycle riders, etc.
- 15-123. Compliance with financial responsibility law required.
- 15-124. Civil offense.
- 15-125. Evidence of compliance after violation.

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 purpose. (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, § 9-109)

15-105. Unlaned streets. (1) Upon all unlaned streets of sufficient width, a vehicle shall be driven upon the right half of the street except:

- (a) When lawfully overtaking and passing another vehicle proceeding in the same direction.
- (b) When the right half of a roadway is closed to traffic while under construction or repair.
- (c) Upon a roadway designated and signposted by the city for one-way traffic.

(2) All vehicles proceeding at less than the normal speed of traffic at the time and place and under the conditions then existing shall be driven as closely as practicable to the right hand curb or edge of the roadway, except when overtaking and passing another vehicle proceeding in the same direction or when preparing for a left turn. (1980 Code, § 9-110)

15-106. 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, § 9-111)

15-107. Yellow lines. On streets with a yellow line placed to the right of any lane line or center line, such yellow line shall designate a no-passing zone, and no operator shall drive his vehicle or any part thereof across or to the left of such yellow line except when necessary to make a lawful left turn from such street. (1980 Code, § 9-112)

15-108. Miscellaneous traffic-control signs, etc.<sup>1</sup> It shall be unlawful for any pedestrian or the operator of any vehicle to violate or fail to comply with any traffic-control sign, signal, marking, or device placed or erected by the state or the city unless otherwise directed by a police officer.

It shall be unlawful for any pedestrian or the operator of any vehicle willfully to violate or fail to comply with the reasonable directions of any police officer. (1980 Code, § 9-113)

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 Highways,<sup>2</sup> published by the U. S. Department of Transportation, Federal Highway Administration, and shall, so far as practicable, be uniform as to type

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<sup>1</sup>Municipal code references

Stop signs, yield signs, flashing signals, pedestrian control signs, traffic control signals generally: §§ 15-505--15-509.

<sup>2</sup>This manual may be obtained from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

and location throughout the city. This section shall not be construed as being mandatory but is merely directive. (1980 Code, § 9-114)

15-110. Unauthorized traffic-control signs, etc. No person shall place, maintain, or display upon or in view of any street, any unauthorized sign, signal, marking, or device which purports to be or is an imitation of or resembles an official traffic-control sign, signal, marking, or device or railroad sign or signal, or which attempts to control the movement of traffic or parking of vehicles, or which hides from view or interferes with the effectiveness of any official traffic-control sign, signal, marking, or device or any railroad sign or signal. (1980 Code, § 9-115)

15-111. Presumption with respect to traffic-control signs, etc. When a traffic-control sign, signal, marking, or device has been placed, the presumption shall be that it is official and that it has been lawfully placed by the proper authority. All presently installed traffic-control signs, signals, markings, and devices are hereby expressly authorized, ratified, approved, and made official. (1980 Code, § 9-116)

15-112. School safety patrols. All motorists and pedestrians shall obey the directions or signals of school safety patrols when such patrols are assigned under the authority of the chief of police and are acting in accordance with instructions; provided, that such persons giving any order, signal, or direction shall at the time be wearing some insignia and/or using authorized flags for giving signals. (1980 Code, § 9-117)

15-113. 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, § 9-118)

15-114. Clinging to vehicles in motion. It shall be unlawful for any person traveling upon any bicycle, motorcycle, coaster, sled, roller skates, or any other vehicle to cling to, or attach himself or his vehicle to any other moving vehicle upon any street, alley, or other public way or place. (1980 Code, § 9-120)

15-115. Riding on outside of vehicles. It shall be unlawful for any person to ride, or for the owner or operator of any motor vehicle being operated on a street, alley, or other public way or place, to permit any person to ride on a portion of such vehicle not designed or intended for the use of passengers. This section shall not apply to persons engaged in the necessary discharge of lawful duties nor to persons riding in the load-carrying space of trucks. (1980 Code, § 9-121)

15-116. 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, § 9-122)

15-117. Projections from the rear of vehicles. Whenever the load or any projecting portion of any vehicle shall extend beyond the rear of the bed or body thereof, the operator shall display at the end of such load or projection, in such position as to be clearly visible from the rear of such vehicle, a red flag being not less than twelve (12) inches square. Between one-half ( $\frac{1}{2}$ ) hour after sunset and one-half ( $\frac{1}{2}$ ) hour before sunrise, there shall be displayed in place of the flag a red light plainly visible under normal atmospheric conditions at least two hundred (200) feet from the rear of such vehicle. (1980 Code, § 9-123)

15-118. Causing unnecessary noise. It shall be unlawful for any person to cause unnecessary noise by unnecessarily sounding the horn, "racing" the motor, or causing the "screeching" or "squealing" of the tires on any motor vehicle. (1980 Code, § 9-124)

15-119. Vehicles and operators to be licensed. It shall be unlawful for any person to operate a motor vehicle in violation of the "Tennessee Motor Vehicle Title and Registration Law" or the "Uniform Motor Vehicle Operators' and Chauffeurs' License Law." (1980 Code, § 9-125)

15-120. Passing. Except when overtaking and passing on the right is permitted, the driver of a vehicle passing another vehicle proceeding in the same direction shall pass to the left thereof at a safe distance and shall not again drive to the right side of the street until safely clear of the overtaken vehicle. The driver of the overtaken vehicle shall give way to the right in favor of the overtaking vehicle on audible signal and shall not increase the speed of his vehicle until completely passed by the overtaking vehicle.

When the street is wide enough, the driver of a vehicle may overtake and pass upon the right of another vehicle which is making or about to make a left turn.

The driver of a vehicle may overtake and pass another vehicle proceeding in the same direction either upon the left or upon the right on a street of sufficient width for four (4) or more lanes of moving traffic when such movement can be made in safety.

No person shall drive off the pavement or upon the shoulder of the street in overtaking or passing on the right.

When any vehicle has stopped at a marked crosswalk or at an intersection to permit a pedestrian to cross the street, no operator of any other vehicle approaching from the rear shall overtake and pass such stopped vehicle.

No vehicle operator shall attempt to pass another vehicle proceeding in the same direction unless he can see that the way ahead is sufficiently clear and

unobstructed to enable him to make the movement in safety. (1980 Code, § 9-126)

15-121. Damaging pavements. No person shall operate or cause to be operated upon any street of the city any vehicle, motor propelled or otherwise, which by reason of its weight or the character of its wheels, tires, or track is likely to damage the surface or foundation of the street. (1980 Code, § 9-119)

15-122. 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 city applicable to the driver or operator of other vehicles except as to those provisions which by their nature can have no application to bicycles, motorcycles, or motor driven cycles.

No person operating or riding a bicycle, motorcycle, or motor driven cycle shall ride other than upon or astride the permanent and regular seat attached thereto, nor shall the operator carry any other person upon such vehicle other than upon a firmly attached and regular seat thereon.

No bicycle, motorcycle, or motor driven cycle shall be used to carry more persons at one time than the number for which it is designed and equipped.

No person operating a bicycle, motorcycle, or motor driven cycle shall carry any package, bundle, or article which prevents the rider from keeping both hands upon the handlebar.

No person under the age of sixteen (16) years shall operate any motorcycle or motor driven cycle while any other person is a passenger upon said motor vehicle.

All motorcycles and motor driven cycles operated on public ways within the corporate limits shall be equipped with crash bars approved by the state's commissioner of safety.

Each driver of a motorcycle or motor driven cycle and any passenger thereon shall be required to wear on his head a crash helmet of a type approved by the state's commissioner of safety.

Every motorcycle or motor driven cycle operated upon any public way within the corporate limits shall be equipped with a windshield of a type approved by the state's commissioner of safety, or, in the alternative, the operator and any passenger on any such motorcycle or motor driven cycle shall be required to wear safety goggles of a type approved by the state's commissioner of safety for the purpose of preventing any flying object from striking the operator or any passenger in the eyes.

It shall be unlawful for any person to operate or ride on any vehicle in violation of this section, and it shall also be unlawful for any parent or guardian knowingly to permit any minor to operate a motorcycle or motor driven cycle in violation of this section. (1980 Code, § 9-127)



15-123. Compliance with financial responsibility law required.

(1) Every vehicle operated within the corporate limits must be in compliance with the financial responsibility law.

(2) At the time the driver of a motor vehicle is charged with any moving violation under title 55, chapters 8 and 10, parts 1-5, chapter 50 of the Tennessee Code; any provision in this title of this municipal code; or at the time of an accident for which the 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. (as added by Ord. #02-1, March 2002)

15-124. Civil offense. It is a civil offense to fail to provide evidence of financial responsibility pursuant to this section. Any violation of this section is punishable by a civil penalty of up to fifty dollars (\$50). 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. (as added by Ord. #02-1, March 2002)

15-125. 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. #02-1, March 2002)

## 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 city council 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 city. (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 line 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 "stop" signs.
- 15-505. At "yield" signs.
- 15-506. At traffic-control signals generally.
- 15-507. At flashing traffic-control signals.
- 15-508. 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, 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)

15-504. At "stop" signs. The driver of a vehicle facing a "stop" sign shall bring his vehicle to a complete stop immediately before entering the crosswalk on the near side of the intersection or, if there is no crosswalk, then immediately

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<sup>1</sup>Municipal code reference

Special privileges of emergency vehicles: title 15, chapter 2.

before entering the intersection, and shall remain standing until he can proceed through the intersection in safety. (1980 Code, § 9-404)

15-505. At "yield" signs. The drivers of all vehicles shall yield the right of way to approaching vehicles before proceeding at all places where "yield" signs have been posted. (1980 Code, § 9-405)

15-506. At traffic-control signals generally. Traffic-control signals exhibiting the words "Go," "Caution," or "Stop," or exhibiting different colored lights successively one at a time, or with arrows, shall show the following colors only and shall apply to drivers of vehicles and pedestrians as follows:

(1) Green alone, or "Go":

(a) Vehicular traffic facing the signal may proceed straight through or turn right or left unless a sign at such place prohibits such turn. But vehicular traffic, including vehicles turning right or left, shall yield the right of way to other vehicles and to pedestrians lawfully within the intersection or an adjacent crosswalk at the time such signal is exhibited.

(b) Pedestrians facing the signal may proceed across the roadway within any marked or unmarked crosswalk.

(2) Steady yellow alone, or "Caution":

(a) Vehicular traffic facing the signal is thereby warned that the red or "Stop" signal will be exhibited immediately thereafter, and such vehicular traffic shall not enter or be crossing the intersection when the red or "Stop" signal is exhibited.

(b) Pedestrians facing such signal shall not enter the roadway.

(3) Steady red alone, or "Stop":

(a) Vehicular traffic facing the signal shall stop before entering the crosswalk on the near side of the intersection or, if none, then before entering the intersection and shall remain standing until green or "Go" is shown alone. Provided, however, that a right turn on a red signal shall be permitted at all intersections within the city, provided that the prospective turning car comes to a full and complete stop before turning and that the turning car yields the right of way to pedestrians and cross traffic traveling in accordance with their traffic signal. However, said turn will not endanger other traffic lawfully using said intersection. A right turn on red shall be permitted at all intersections except those clearly marked by a "No Turns On Red" sign, which may be erected by the city at intersections which the city decides require no right turns on red in the interest of traffic safety.

(b) Pedestrians facing such signal shall not enter the roadway.

(4) Steady red with green arrow:

(a) Vehicular traffic facing such signal may cautiously enter the intersection only to make the movement indicated by such arrow but

shall yield the right of way to pedestrians lawfully within a crosswalk and to other traffic lawfully using the intersection.

(b) Pedestrians facing such signal shall not enter the roadway.

(5) In the event an official traffic-control signal is erected and maintained at a place other than an intersection, the provisions of this section shall be applicable except as to those provisions which by their nature can have no application. Any stop required shall be made at a sign or marking on the pavement indicating where the stop shall be made, but in the absence of any such sign or marking the stop shall be made a vehicle length short of the signal. (1980 Code, § 9-406)

15-507. At flashing traffic-control signals. Whenever an illuminated flashing red or yellow signal is used in a traffic sign or signal placed or erected in the city, it shall require obedience by vehicular traffic as follows:

(1) Flashing red (stop signal). When a red lens is illuminated with intermittent flashes, drivers of vehicles shall stop before entering the nearest crosswalk at an intersection or at a limit line when marked, or if none, then before entering the intersection, and the right to proceed shall be subject to the rules applicable after making a stop at a stop sign.

(2) Flashing yellow (caution signal). When a yellow lens is illuminated with intermittent flashes, drivers of vehicles may proceed through the intersection or past such signal only with caution. (1980 Code, § 9-407)

15-508. 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, § 9-408)

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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.

15-601. 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 this city shall be so parked that its right wheels are approximately parallel to and within eighteen (18) inches of the right edge or curb of the street. On one-way streets where the city has not placed signs prohibiting the same, vehicles may be permitted to park on the left side of the street, and in such cases the left wheels shall be required to be within eighteen (18) inches of the left edge or curb of the street.

Notwithstanding anything else in this code to the contrary, no person shall park or leave a vehicle parked on any public street or alley within the fire limits between the hours of 1:00 A.M. and 5:00 A.M. or on any other public street or alley for more than seventy-two (72) consecutive hours without the prior approval of the chief of police.

Furthermore, no person shall wash, grease, or work on any vehicle, except to make repairs necessitated by an emergency, while such vehicle is parked on a public street. (1980 Code, § 9-501)

15-602. Angle parking. On those streets which have been signed or marked by the city for angle parking, no person shall park or stand a vehicle other than at the angle indicated by such signs or markings. No person shall angle park any vehicle which has a trailer attached thereto or which has a length in excess of twenty-four (24) feet. (1980 Code, § 9-502)

15-603. 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 city, nor:

- (1) On a sidewalk.
- (2) In front of a public or private driveway.
- (3) Within an intersection or within fifteen (15) feet thereof.
- (4) Within fifteen (15) feet of a fire hydrant.
- (5) Within a pedestrian crosswalk.
- (6) Within twenty (20) feet of the driveway entrance to any fire station, and on the side of the street opposite the entrance to any fire station, within seventy-five (75) feet of the entrance.
- (7) Alongside or opposite any street excavation or obstruction when other traffic would be obstructed.
- (8) On the roadway side of any vehicle stopped or parked at the edge or curb of a street.
- (9) Upon any bridge.
- (10) Alongside any curb painted yellow or red by the city. (1980 Code, § 9-504)

15-605. Loading and unloading zones. No person shall park a vehicle for any purpose or period of time other than for the expeditious loading or unloading of passengers or merchandise in any place marked by the city as a loading and unloading zone. (1980 Code, § 9-505)

15-606. Presumption with respect to illegal parking. When any unoccupied vehicle is found parked in violation of any provision of this chapter, there shall be a prima facie presumption that the registered owner of the vehicle is responsible for such illegal parking. (1980 Code, § 9-506)

## 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, § 9-601)

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, § 9-602)

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, § 9-603, modified)

15-704. Impoundment of vehicles. Members of the police department are hereby authorized, when reasonably necessary for the security of the vehicle or to prevent obstruction of traffic, to remove from the streets and impound any

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<sup>1</sup>State law reference  
Tennessee Code Annotated, § 7-63-101, et seq.

vehicle whose operator is arrested or any unattached vehicle which is illegally parked so as to constitute an obstruction or hazard to normal traffic. Any impounded vehicle shall be stored until the owner or other person entitled thereto, claims it, gives satisfactory evidence of ownership or right to possession, and pays all applicable fees and costs, or until it is otherwise lawfully disposed of. The fee for impounding a vehicle shall be five dollars (\$5.00) and the storage cost shall be one dollar (\$1.00) for each twenty-four (24) hour period or fraction thereof the vehicle is stored. (1980 Code, § 9-604)

15-705. Deposit of license in lieu of bail. (1) Deposit of operator's license. Any person issued a citation or arrested and charged with the violation of any municipal ordinance of the City of Red Boiling Springs, which regulates traffic, except driving under the influence of an intoxicant or narcotic drug, leaving the scene of an accident or any other violation of which called for the mandatory revocation of an operator's or chauffeur's license for any period of time, may have the option of depositing his or her driver's license which were issued to him or her by the Department of Safety of the State of Tennessee, or under the driver licensing laws of any other state or territory or the District of Columbia, with the officer or court demanding bail in lieu of any other security required for his appearance in the City Court of the City of Red Boiling Springs, in answer to such charge.

(2) Receipt. Upon the deposit of such license, either the officer or the court demanding bail shall issue said person a receipt for said license upon the form approved or provided by the Department of Safety of the State of Tennessee.

(3) Authority. This section is in furtherance of the provisions of TCA, § 55-50-801 et seq., now in effect or as hereinafter amended and the provisions thereof shall be governed and controlled in accordance with said code provisions. (1980 Code, §§ 9-801, 9-802, and 9-803)

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 waive his right to a judicial hearing and have the charges disposed of out of court, but the fines shall be three dollars (\$3.00) within ten (10) days and five dollars (\$5.00) thereafter. (1980 Code, § 9-603, modified)

TITLE 16

STREETS AND SIDEWALKS, ETC<sup>1</sup>

CHAPTER

1. MISCELLANEOUS.
2. EXCAVATIONS AND CUTS.
3. PROPERTY NUMBERING AND STREET MAP.
4. STREET ACQUISITIONS.

CHAPTER 1

MISCELLANEOUS

SECTION

- 16-101. Obstructing streets, alleys, or sidewalks prohibited.
- 16-102. Trees projecting over streets, etc., regulated.
- 16-103. Trees, etc., obstructing view at intersections prohibited.
- 16-104. Projecting signs and awnings, etc., restricted.
- 16-105. Banners and signs across streets and alleys restricted.
- 16-106. Gates or doors opening over streets, alleys, or sidewalks prohibited.
- 16-107. Littering streets, alleys, or sidewalks prohibited.
- 16-108. Obstruction of drainage ditches.
- 16-109. Abutting occupants to keep sidewalks clean, etc.
- 16-110. Parades, etc., regulated.
- 16-111. Animals and vehicles on sidewalks.
- 16-112. Fires in streets, etc.
- 16-113. Truck traffic restricted to certain streets.

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 or alley at a height of less than fourteen (14) feet or over any sidewalk at a height of less than eight (8) 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, shrub, sign, or other obstruction which prevents persons driving vehicles on public streets or alleys from obtaining a clear view of traffic when approaching an intersection. (1980 Code, § 12-103)

16-104. Projecting signs and awnings, etc., restricted. Signs, awnings, or other structures which project over any street or other public way shall be erected subject to the requirements of the building code.<sup>1</sup> (1980 Code, § 12-104)

16-105. Banners and signs across streets and alleys restricted. It shall be unlawful for any person to place or have placed any banner or sign across or above any public street or alley except when expressly authorized by the city council after a finding that no hazard will be created by such banner or sign. (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, etc., regulated. It shall be unlawful for any person, club, organization, or other group to hold any meeting, parade, demonstration, or exhibition on the public streets without some responsible representative first

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<sup>1</sup>Municipal code reference  
Building code: title 12, chapter 1.

securing a permit from the city clerk. No permit shall be issued by the city clerk 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. 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 interferes with or inconveniences 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, § 12-111)

16-112. 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, § 12-112)

16-113. Truck traffic restricted to certain streets. It shall be unlawful to operate any truck upon any street, road, or other public thoroughfare within the corporate limits of the City of Red Boiling Springs, Tennessee except the following streets: All federal or state roads, Main Street, Market Street, Hillcrest Drive, Witcher Hollow Road, Oak Grove Road, McClure Street, College Street, Oak Street, \_\_\_\_\_

\_\_\_\_\_. For the purpose of this section, a truck is defined to be any vehicle designed or operated for the transportation of persons or property and whose gross vehicle weight exceeds 10,000 pounds. The following are exceptions to this section:

(1) Trucks carrying goods, merchandise or other articles to or from any location abutting upon a public street shall be permitted to enter thereon provided streets allowed for truck traffic are used until reaching the intersection nearest the destination point;

(2) The operation of trucks upon any street where necessary to the conduct of business at a destination point within the city provided streets allowed for truck traffic are used until reaching the intersection nearest the destination point;

(3) The operation of emergency vehicles upon any street in the city;

(4) The operation of school buses;

(5) The operation of trucks owned or operated by the city, public utilities, any contractor or materialman which is and while engaged in the repair, maintenance of construction of streets, street improvements, or utilities within the city; and

(6) The operation of trucks upon any officially designated detour in any case where such truck could lawfully be operated upon the street for which such detour is established. (1980 Code, § 12-113)



## CHAPTER 2

EXCAVATIONS AND CUTS<sup>1</sup>

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## 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.
- 16-211. Regulation of construction on city street rights of way.

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 city clerk 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 city clerk, 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

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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).

agreement that the applicant will comply with all ordinances and laws relating to the work to be done. Such application shall be rejected or approved by the city clerk 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 city clerk 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 city clerk may increase the amount of the deposit to an amount considered by him to be adequate to cover the said cost. From this deposit shall be deducted the expense to the city of relaying the surface of the ground or pavement, and of making the refill if this is done by the city or at its expense. The balance shall be returned to the applicant without interest after the tunnel or excavation is completely refilled and the surface or pavement is restored.

In lieu of a deposit the applicant may deposit with the city clerk a surety bond in such form and amount as the city clerk shall deem adequate to cover the costs to the city if the applicant fails to make proper restoration. (1980 Code, § 12-204)

16-205. Manner of excavating--barricades and lights--temporary sidewalks. Any person, firm, corporation, association, or others making any excavation or tunnel shall do so according to the terms and conditions of the application and permit authorizing the work to be done. Sufficient and proper barricades and lights shall be maintained to protect persons and property from injury by or because of the excavation being made. If any sidewalk is blocked by any such work, a temporary sidewalk shall be constructed and provided which shall be safe for travel and convenient for users. (1980 Code, § 12-205)

16-206. Restoration of streets, etc. Any person, firm, corporation, association, or others making any excavation or tunnel in or under any street, alley, or public place in this city shall restore said street, alley, or public place to its original condition except for the surfacing, which shall be done by the city, 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 city clerk shall give notice to the person, firm, corporation, association, or others that unless the excavation or tunnel is refilled properly within a specified reasonable period of time, the city will do the work and charge the expense of doing the same to such person, firm, corporation, association, or others. If within the specified time the conditions of the above notice have not been complied with, the work shall be done by the city, an accurate account of the expense involved shall be kept, and the total cost shall be charged to the person, firm, corporation, association, or others who made the excavation or tunnel. (1980 Code, § 12-206)

16-207. Insurance. In addition to making the deposit or giving the bond hereinbefore required to insure that proper restoration is made, each person applying for an excavation permit shall file a certificate of insurance indicating that he is insured against claims for damages for personal injury as well as against claims for property damage which may arise from or out of the performance of the work, whether such performance be by himself, his subcontractor, or anyone directly or indirectly employed by him. Such insurance shall cover collapse, explosive hazards, and underground work by equipment on the street, and shall include protection against liability arising from completed operations. The amount of the insurance shall be prescribed by the city clerk in accordance with the nature of the risk involved; provided, however, that the liability insurance for bodily injury shall not be less than \$100,000 for each person and \$300,000 for each accident, and for property damages not less than \$25,000 for any one (1) accident, and a \$75,000 aggregate. (1980 Code, § 12-207)

16-208. Time limits. Each application for a permit shall state the length of time it is estimated will elapse from the commencement of the work until the restoration of the surface of the ground or pavement, or until the refill is made ready for the pavement to be put on by the city if the city restores such surface pavement. It shall be unlawful to fail to comply with this time limitation unless permission for an extension of time is granted by the city clerk. (1980 Code, § 12-208)

16-209. Supervision. The city clerk shall from time to time inspect all excavations and tunnels being made in or under any public street, alley, or other public place in the city and see to the enforcement of the provisions of this chapter. Notice shall be given to him at least ten (10) hours before the work of refilling any such excavation or tunnel commences. (1980 Code, § 12-209)

16-210. Driveway curb cuts. No one shall cut, build, or maintain a driveway across a curb or sidewalk without first obtaining a permit from the city clerk. 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)

16-211. Regulation of construction on city street rights of way.

(1) New construction. Any person, firm or corporation desiring to commence any construction or install any improvement on a road or access connecting to any city street or city street right of way must obtain a written permit from the mayor or his designee prior to excavation for, or construction of, any structure or other improvement.

Upon application having been made for a permit, the mayor or his designee shall make such investigation, including an inspection of the site, as may be necessary and shall thereupon issue a permit to be valid for sixty days from the date of issuance. Such permit shall be issued in duplicate with one copy being delivered to the applicant and one copy being retained by the city. The permit shall set forth such reasonable conditions as will assure that proper and adequate provision shall be made for all road surface and drainage waters and so as not to interfere with the same, however, in no case shall the drainage pipe be less than twelve (12) inches. The drainage pipe shall be reinforced concrete or corrugated metal meeting Tennessee Department of Highway specifications.

Upon completion of the construction the applicant shall notify the mayor or his designee. The mayor or his designee shall inspect the construction and certify as to compliance with the permit.

If the applicant has fully complied with the conditions set forth in the permit, such notation shall be made on the city's copy of said permit. If the applicant has failed to comply with any of the conditions of the permit, the mayor or his designee shall notify the applicant in writing setting forth the item or items not in compliance, and shall designate the number of days allowed for full compliance.

(2) Existing construction. Existing driveways connecting to the city's streets which are determined by the mayor or his designee to be hazardous from a safety standpoint, or as causing damage to city property, or as having inadequate provisions for drainage, shall be corrected. The property owner shall be notified in writing of such nonconformance and shall be allowed a period of 90 days for correcting the nonconformity. (1980 Code, § 12-211)

## CHAPTER 3

PROPERTY NUMBERING AND STREET MAP

## SECTION

- 16-301. Official property numbering and street map established.
- 16-302. Assignment and distribution of property numbers.
- 16-303. Display of property numbers.
- 16-304. Ordinance required to change street name.
- 16-305. New streets.

16-301. Official property numbering and street map established. There is hereby established an official map of street names and property numbers for the City of Red Boiling Springs, produced and recommended by the Red Boiling Springs Municipal Planning Commission and adopted by ordinance by the Red Boiling Springs City Council. The official property numbering and street map (hereinafter called official map) bears the signature of the mayor and city clerk. A copy of said map is on record in the Red Boiling Springs City Hall. (1980 Code, § 12-401)

16-302. Assignment and distribution of property numbers. The mayor or his designated representative is solely responsible to assign and distribute property numbers as shown on the official map, as well as make changes and additions to property numbering. (1980 Code, § 12-402)

16-303. Display of property numbers. All structures in Red Boiling Springs are hereafter required to display their property number in a prominent location on the structure or at the front of the lot. The number should be of a size, material and color that is easily readable both day and night. (1980 Code, § 12-403)

16-304. Ordinance required to change street name. Names of streets in the City of Red Boiling Springs shall remain as shown on the official map unless hereafter changed by ordinance amending this chapter and amending the official map. (1980 Code, § 12-404)

16-305. New streets. No new streets shall be accepted by the City of Red Boiling Springs and no municipal improvements will be made thereto until such streets have been approved and named in accordance with the following process:

- (1) The Red Boiling Springs Municipal Planning Commission will review and recommend acceptance and naming of any new street to the Red Boiling Springs City Council.
- (2) Extensions of an existing street will continue to use that same name.

(3) New street names cannot duplicate or closely approximate street names already assigned.

(4) The Red Boiling Springs City Council will accept and adopt new street names by ordinance amending this chapter and amending the official map. (1980 Code, § 12-405)

CHAPTER 4

STREET ACQUISITIONS

SECTION

- 16-401. Acquisition requirements.
- 16-402. Road right-of-way width.
- 16-403. Minimum surfacing width.
- 16-404. Pavement.
- 16-405. Grades.
- 16-406. Drainage.
- 16-407. Inspection.
- 16-408. Council.

16-401. Acquisition requirements. The city shall not acquire nor accept any street or public way by purchase, gift or dedication unless such street or public way is in compliance with the requirements of this chapter and with the requirements of this title where applicable. (as added by Ord. #04-5, May 2004)

16-402. Road right-of-way width. The minimum width of the road right-of-way, measured from lot line to lot line, shall be not less than 50 feet. (as added by Ord. #04-5, May 2004)

16-403. Minimum surfacing width. The minimum surfacing width of the road right-of-way shall be 20 feet. (as added by Ord. #04-5, May 2004)

16-404. Pavement. The road right-of-way surface and base shall be a pavement and pavement base which are in compliance with the minimum standard requirements of the Macon County Road Department for the pavement and pavement base of local and minor roads. (as added by Ord. #04-5, May 2004)

16-405. Grades. Grades shall conform to the terrain and shall not be more than ten percent (10%) where the grade will be in excess of 300 feet in distance but in no case more than three percent (3%) within 100 feet of any intersection or fifteen percent (15%) on any grades less than 300 feet in distance. (as added by Ord. #04-5, May 2004)

16-406. Drainage. An adequate grading and drainage system shall exist for the proper drainage of all surface water from the pavement and from the right-of-way, including necessary open ditches, pipes, culverts, intersectional drains, etc. Ditches shall have a minimum depth of eighteen (18) inches below the final road surface and shall be located two (2) feet from the pavement base. (as added by Ord. #04-5, May 2004)

16-407. Inspection. The street or public way shall be inspected by the mayor or the mayor's designee prior to the council acting upon the exercise of its acquisition power in the acceptance of any gift or dedication of such street or public way to the city. The council shall not so act until the mayor or the mayor's designee has certified to the council that such street or public way is in compliance with the requirements of this chapter, and with the requirements of this title where applicable; and that the necessary easements are available to the city for water and sewer lines and any other necessary utilities designated by the mayor. (as added by Ord. #04-5, May 2004)

16-408. Council. Compliance with this chapter shall in no manner constitute acceptance by the council of a gift or dedication of any street or public way. The discretion of the council in the exercise of its powers shall in no manner be abrogated by this chapter. The council may impose additional requirements if it finds that the safety, health, peace, security, good order, comfort, convenience, morals, financial demands or general welfare of the city and its inhabitants require it. (as added by Ord. #04-5, May 2004)



**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. Use of city owned refuse containers.
- 17-110. Charges for garbage service.
- 17-111. Use of any refuse container belonging to another.

**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 city are required to keep their premises in a clean and sanitary condition, free from accumulations of refuse except when stored as provided in this chapter. (1980 Code, § 8-202)

**17-103. Storage.** Each owner, occupant, or other responsible person using or occupying any building or other premises within the City of Red Boiling Springs where refuse accumulates or is likely to accumulate, shall provide and keep covered an adequate number of refuse containers. The refuse containers

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<sup>1</sup>Municipal code reference

Property maintenance regulations: title 13.

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 city handles mechanically. Furthermore, except for containers which the city 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. The requirements in this section shall apply also to the accumulation of refuse to be picked up outside of the city limits of Red Boiling Springs, Tennessee. (1980 Code, § 8-203 as amended by Ord. #05-7, Nov. 2005)

**17-104. Location of containers.** Where alleys are used by the municipal 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 municipal 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 city 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 mayor shall designate. Collections shall be made regularly in accordance with an announced schedule. Notwithstanding any provision in this chapter to the contrary, the city shall not be required to collect at the time of scheduled collections any residential refuse which is not in an appropriate container or bag and shall not be required at the time of scheduled collections to collect from any residence more than three (3) containers of refuse. Furthermore, notwithstanding any provision in this chapter to the contrary, the city shall not be required on and after May 1, 2000, to collect at the time of scheduled collections any commercial refuse of any factory, of any store that serves food, and of any store that is scheduled for daily pick-ups, which is not in a dumpster.

Furthermore, notwithstanding any provision in this chapter to the contrary, the city shall not be required at the time of scheduled collections to collect paint, oil, tires, brush, dead animals, and building materials. This section shall also apply to collections outside the city limits or Red Boiling Springs, Tennessee. (1980 Code, § 8-206, as amended by Ord. #00-1, Feb. 2000, 05-7, Nov. 2005 and 06-5 Aug. 2006)

**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 city council is expressly prohibited. (1980 Code, § 8-208)

**17-109. Use of city owned refuse containers.** It shall be unlawful for any person, firm, or corporation to use any refuse container belonging to the City of Red Boiling Springs and located in the city park to deposit refuse which has accumulated at any location other than the city park. (1980 Code, § 8-209)

**17-110. Charges for garbage service.** A mandatory garbage collection charge shall be paid monthly on all residential dwellings and commercial customers within the City of Red Boiling Springs and those dwellings and commercial customers receiving garbage service outside the City of Red Boiling Springs city limits. All garbage service charges shall be billed on water bills, if water is used, otherwise by separate billing. Residences and commercial locations shall be billed in accordance with the following:

Residential rates inside the city limits with 1 pickup per week . . . . . \$11.00  
Residential rates outside city limits with 1 pickup per week . . . . . \$15.00

The following shall be the charges for dumpsters:

4 yard dumpster with 1 pickup per week . . . . . \$60.00  
4 yard dumpster with 2 pickups per week . . . . . \$120.00  
  
6 yard dumpster with 1 pickup per week . . . . . \$90.00  
6 yard dumpster with 2 pickups per week . . . . . \$180.00  
6 yard dumpster with 3 pickups per week . . . . . \$270.00

8 yard dumpster with 1 pickup per week . . . . .	\$100.00
8 yard dumpster with 2 pickups per week . . . . .	\$200.00
8 yard dumpster with 3 pickups per week . . . . .	\$300.00
8 yard dumpster with 4 pickups per week . . . . .	\$400.00
8 yard dumpster with 5 pickups per week . . . . .	\$500.00
10 yard dumpster with 1 pickup per week . . . . .	\$130.00
10 yard dumpster with 2 pickups per week . . . . .	\$260.00
10 yard dumpster with 3 pickups per week . . . . .	\$390.00
10 yard dumpster with 4 pickups per week . . . . .	\$520.00
10 yard dumpster with 5 pickups per week . . . . .	\$650.00

The above fees for dumpster pickups are based on the customer providing their own dumpster.

Commercial rates inside the city limits:

1 pickup per week . . . . .	\$20.00
2 pickups per week . . . . .	\$30.00
3 pickups per week . . . . .	\$45.00
Portland Housing Authority . . . . .	\$275.00
Retirement homes . . . . .	\$451.00

Corporate rates outside the city limits:

1 pickup per week . . . . .	\$25.00
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(as added by Ord. #00-1, Feb. 2000, and replaced by Ord. #10-8, Aug. 2010, and amended by Ord. #10-11, Oct. 2010)

**17-111. Use of any refuse container belonging to another.** It shall be unlawful for any person, firm, or corporation to use any refuse container belonging to another. (as added by Ord. #00-1, Feb. 2000)

**TITLE 18**

**WATER AND SEWERS<sup>1</sup>**

**CHAPTER**

1. WATER SERVICE IN GENERAL.
2. [Deleted.]<sup>2</sup>
3. SEWER USE.
4. CONSERVATION OF WATER.
5. SEWAGE AND HUMAN EXCRETA DISPOSAL.
6. CROSS-CONNECTIONS, AUXILIARY INTAKES, ETC.
7. [DELETED.]
8. WASTEWATER PRETREATMENT ORDINANCE.

**CHAPTER 1**

**WATER SERVICE IN GENERAL**

**SECTION**

- 18-101. Application and scope.
- 18-102. Definitions.
- 18-103. Obtaining service.
- 18-104. Permit, non-refundable connection fee, and phase-out of deposit system.
- 18-105. Service charges for temporary service.
- 18-106. Connection charges.
- 18-107. Water main extensions.
- 18-108. Variances from and effect of preceding section as to extensions.
- 18-109. Meters.
- 18-110. Faulty meters.
- 18-111. Schedule of rates.
- 18-112. Multiple services through a single meter.
- 18-113. Billing.
- 18-114. Discontinuance or refusal of service.
- 18-115. Re-connection charge.
- 18-116. Termination of service by customer.
- 18-117. Access to customers' premises.

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<sup>1</sup>Municipal code references  
Building, utility, etc. codes: title 12.  
Refuse disposal: title 17.

<sup>2</sup>Deleted by Ord. #98-7, May 1998, combined Red Boiling Springs Water, Red Boiling Springs Sewer, and the Willette Utility Department into one entity to be known as the City of Red Boiling Springs Utilities. For specific details see Ord. #98-7, of record in the office of the city clerk.

- 18-118. Inspections.
- 18-119. Customer's responsibility for system's property.
- 18-120. Customer's responsibility for violations.
- 18-121. Supply and resale of water.
- 18-122. Unauthorized use of or interference with water supply.
- 18-123. Limited use of unmetered private fire line.
- 18-124. Damages to property due to water pressure.
- 18-125. Liability for cutoff failures.
- 18-126. Restricted use of water.
- 18-127. Interruption of service.
- 18-128. Prohibition of use of lead.
- 18-129. Transfer fee.
- 18-130. Adjustment for leaks in billing.
- 18-131. Qualified and certified operator(s) required.
- 18-132. Charges for service calls.
- 18-133. Extension of customer water lines.

**18-101. Application and scope.** The provisions of this chapter are a part of all contracts for receiving water service from the city and shall apply whether the service is based upon contract, agreement, signed application, or otherwise. (1980 Code, § 13-101)

**18-102. Definitions.** (1) "Customer" means any person, firm, or corporation who receives water service from the city under either an express or implied contract.

(2) "Dwelling" means any single structure, with auxiliary buildings, occupied by one or more persons or households for residential purposes.

(3) "Household" means any two (2) or more persons living together as a family group.

(4) "Premise" means any structure or group of structures operated as a single business or enterprise, provided, however, the term "premise" shall not include more than one (1) dwelling.

(5) "Service line" shall consist of the pipe line extending from any water main of the city to private property. Where a meter and meter box are located on private property, the service line shall be construed to include the pipe line extending from the city's water main to and including the meter and meter box. (1980 Code, § 13-102)

**18-103. Obtaining service.** Both a written application and a written contract must be completed, submitted and signed by all new customers and those who must be re-connected to the system, and must be approved by the city before connection, re-connection or meter installation orders will be issued and work performed. (1980 Code, § 13-103; Ord. #98-4, May 1998)

**18-104. Permit, non-refundable connection fee, and phase-out of deposit system.** Each customer shall, before connecting with the system, obtain a permit therefore from the city clerk and shall pay an administrative non-refundable fee of \$50.00 for residents located inside the corporate city limits of the City of Red Boiling Springs, and a fee of \$100.00 for service located outside the corporate city limits of the City of Red Boiling Springs, Tennessee.

Any current customer who already has any sum of money on deposit with the city shall not be required to pay this non-refundable connection fee for so long as they continue to obtain uninterrupted service from the city. The deposit of such customers shall continue to serve as security for the prompt payment of all accounts of the customer with the system, which deposit shall be returned to the customer upon termination of the services if all charges due the system have been paid. In the event that the customer becomes in arrears in such charges, then such a deposit shall be used in whole or in part in liquidation of same, and the deposit by the subscriber shall be his consent to such use in such event. All such deposits shall be retained in a separate account to be accounted for at the termination of service, except in the case of a customer becoming in arrears in charges, at which time the deposit may be withdrawn from the special account and applied to the payment of the delinquent charge. Existing deposits shall be eliminated as they are refunded. (1980 Code, § 13-104, as amended by Ord. #98-8, May 1998, and Ord. #13-4, June 2013)

**18-105. Service charges for temporary service.** Customers requiring temporary service shall pay all costs for connection and disconnection incidental to the supplying and removing of service in addition to the regular charge for water service. (1980 Code, § 13-105)

**18-106. Connection charges.** Service lines will be laid by the city from the water main to the property line, at the expense of the applicant, for service. The location of such line shall be determined by the city.

Before a new service line will be laid, the applicant shall pay a fee in accordance with the schedule of the city.

(1) The use of water within the municipality: a three-fourths inch (¾") tap shall be seven hundred fifty dollars (\$750.00). The connection fees for laying a service line at a location outside the city limits shall be a minimum of one thousand dollars (\$1,000.00) plus an additional sum sufficient to cover the actual cost of laying the service line in the event the actual cost is more than one thousand dollars (\$1,000.00). Notwithstanding any foregoing provision to the contrary, there shall be added to the tapping a connection fee an additional cost of ten dollars (\$10.00) per foot in the event any boring under a road is required in the laying of a service line for an applicant located either inside or outside the city limits.

- (a) One inch (1") tap shall be \$1,000.00.
- (b) Two inch (2") tap shall be \$1,500.00.

- (2) Connections made for use of water outside the municipality:
  - (a) One inch (1") tap shall be \$1,500.00.
  - (b) Two inch (2") tap shall be \$2,500.00.

The city utility department reserves the right to down size a two inch (2") meter if it is determined the flow through the two inch (2") meter is inadequate to make the meter register properly. The municipality shall be responsible for the maintenance and upkeep of said service line from the main to and including the meter and the meter box, and such portion of the service line shall belong to the municipality. The remaining portion of the service line beyond the meter box shall belong to and be the responsibility of the customer. (1980 Code, § 13-106, as amended by Ord. #98-8, May 1998, and Ord. #99-6, May 1999, replaced by Ord. #12-9, Oct. 2012, and amended by Ord. #14-2, May 2014)

**18-107. Water main extensions.** Persons desiring water main extensions must pay all the cost of making such extensions.

For water main extensions, cement-lined cast iron pipe, class 150 American Water Works Association Standard (or other construction approved by the city council), not less than six (6) inches in diameter shall be used to the dead end of any line and to form loops or continuous lines, so that fire hydrants may be placed on such lines at locations no farther than 1,000 feet from the most distant part of any dwelling structure and no farther than 600 feet from the most distant part of any commercial, industrial, or public building, such measurements to be based on road or street distances; cement lined cast iron pipe (or other construction approved by the city council) four (4) inches in diameter, to supply dwellings only, may be used to supplement such lines. For sewer main extensions, eight-inch pipe of vitrified clay or other construction approved by the city council shall be used.

All such extensions shall be installed either by municipal forces or by other forces working directly under the supervision of the city in accordance with plans and specifications prepared by an engineer registered with the State of Tennessee.

Upon completion of such extensions and their approval by the city, such water mains shall become the property of the city. The persons paying the cost of constructing such water mains shall execute any written instruments requested by the city to provide evidence of the city's title to such mains. In consideration of such mains being transferred to it, the city shall incorporate said mains as an integral part of the municipal water system and shall furnish water service therefrom in accordance with these rules and regulations, subject always to such limitations as may exist because of the size and elevation of said mains. (1980 Code, § 13-108, as amended by Ord. #01-6, Sept. 2001)

**18-108. Variances from and effect of preceding section as to extensions.** Whenever the city council is of the opinion that it is to the best interest of the city and its inhabitants to construct a water main extension



without requiring strict compliance with the preceding section, such extension may be constructed upon such terms and conditions as shall be approved by the city council.

The authority to make water main extensions under the preceding section is permissive only and nothing contained therein shall be construed as requiring the city to make such extensions or to furnish service to any person or persons. (1980 Code, § 13-109)

**18-109. Meters.** All meters shall be installed, tested, repaired, and removed only by the city. The city shall, within a reasonable amount of time, adopt by resolution a meter exchange program which will require that the city verify all meters in the system are being accurately read and billed. All meters that do not register accurately shall be repaired or replaced as soon as possible, as required by § 18-110. To assist the city in carrying out the meter exchange program, the city shall obtain proposals from leak detection company(ies).

No one shall do anything which will in any way interfere with or prevent the operation of a meter. No one shall tamper with or work on a water meter without the written permission of the city. No one shall install any pipe or other device which will cause water to pass through or around the meter without the passage of such water being registered fully by the meter. (1980 Code, § 13-110; as amended by Ord. #98-5, May 1998)

**18-110. Faulty meters.** In the event any meter shall be found to be inoperative at the end of any given billing period or to be faulty or inaccurate for any reason, the meter will be replaced or repaired as soon as possible and the bill for water used during the current period shall be the average of the last three monthly bills. (1980 Code, § 13-111)

**18-111. Schedule of rates.** The following shall be the schedule of monthly charges effective July 1, 2015, for water service furnished to premises located inside of the corporate limits of the City of Red Boiling Springs, to wit:

<u>GALLONS</u>	<u>AMOUNT</u>
First 2,000 gallons	\$11.68 minimum bill
Over 2,000 gallons	\$5.72 per 1,000 gal.

The following shall be the schedule of monthly charges effective July 1, 2015, for water service furnished to premises located outside of the corporate limits of the City of Red Boiling Springs, to wit:

<u>GALLONS</u>	<u>AMOUNT</u>
First 2,000 gallons	\$17.54 minimum bill

Over 2,000 gallons \$8.58 per 1,000 gal.

The following shall be the schedule of monthly charges effective July 1, 2015, for water service provided by the City of Red Boiling Springs for commercial and industrial service, to wit:

<u>GALLONS</u>	<u>AMOUNT</u>
Each 1,000 gal. for first 2,000,000 gallons	\$7.48 per 1,000 gal.
Each 1,000 gal from 2,000,000 to 5,000,000 gallons	\$8.98 per 1,000 gal.
Each 1,000 gal over 5,000,000 gallons	\$10.78 per 1,000 gal.

(1980 Code, § 13-112, as replaced by Ord. #223, § 1, Dec. 1995, amended by Ord. #98-9, June 1999, Ord. #99-8, Aug. 1999, Ord. #99-10, Dec. 1999, Ord. #01-5, July 2001, Ord. #06-1, April 2006, Ord. #08-12, Jan. 2009, replaced by Ord. #10-9, Oct. 2010, and amended by Ord. #13-2, July 2013, Ord. #14-3, June 2014, and Ord. #15-3, June 2015)

**18-112. Multiple services through a single meter.** No customer shall supply water service to more than one dwelling or premise from a single service line and meter without first obtaining the written permission of the city.

Where the city allows more than one dwelling or premise to be served through a single service line and meter, the amount of water used by all the dwellings and premises served through a single service line and meter shall be allocated to each separate dwelling or premise served. The water charges for each such dwelling or premise thus served shall be computed just as if each such dwelling or premise had received through a separately metered service the amount of water so allocated to it, such computation to be made at the city's applicable water rates schedule, including the provisions as to minimum bills. The separate charges for each dwelling or premise served through a single service line and meter shall then be added together, and the sum thereof shall be billed to the customer in whose name the service is supplied. (1980 Code, § 13-113)

**18-113. Billing.** Bills for residential water service will be rendered monthly.

Bills for commercial and industrial service may be rendered weekly, semimonthly, or monthly, at the option of the city.

Failure to receive a bill will not release a customer from payment obligation.

The customer shall have fifteen days from the date his bill was mailed within which to pay his bill without a penalty. If not paid within said fifteen day period, then a penalty of ten per cent (10%) thereon shall at once accrue.

If the bill is not paid within twenty-five days from the date the bill was mailed, the customer's water service shall be discontinued. The city shall not be liable for any damages resulting from discontinuing service under the provisions of this section, even though payment of the bill is made at any time on the day that service is actually discontinued.

If a meter fails to register properly, or if a meter is removed to be tested or repaired, or if water is received other than through a meter, the city reserves the right to render an estimated bill based on the best information available. (1980 Code, § 13-114)

**18-114. Discontinuance or refusal of service.** The city shall have the right to discontinue water service or to refuse to connect service for a violation of, or a failure to comply with, any of the following:

- (1) These rules and regulations.
- (2) The customer's application for service.
- (3) The customer's contract for service.

Such right to discontinue service shall apply to all service received through a single connection or service, even though more than one (1) customer or tenant is furnished service therefrom, and even though the delinquency or violation is limited to only one such customer or tenant.

Discontinuance of service by the city for any cause stated in these rules and regulations shall not release the customer from liability for service already received or from liability for payments that thereafter become due under other provisions of the customer's contract. (1980 Code, § 13-115)

**18-115. Re-connection charge.** Whenever service has been discontinued as provided for above, a re-connection charge of \$50.00 for customers inside the corporate limits of the City of Red Boiling Springs, and \$100.00 for customers outside the corporate limits of the City of Red Boiling Springs, shall be collected by the city before service is restored and the account must be paid in full. (1980 Code, § 13-116, as amended by Ord. #98-8, May 1998, and Ord. #01-3, May 2001, and replaced by Ord. #13-5, June 2013)

**18-116. Termination of service by customer.** Customers who have fulfilled their contract terms and wish to discontinue service must give at least three (3) days notice to that effect unless the contract specifies otherwise. Notice to discontinue service prior to the expiration of a contract term will not relieve the customer from any minimum or guaranteed payment under such contract or applicable rate schedule.

When service is being furnished to an occupant of premises under a contract not in the occupant's name, the city reserves the right to impose the following conditions on the right of the customer to discontinue service under such a contract:

(1) Written notice of the customer's desire for such service to be discontinued may be required; and the city shall have the right to continue such service for a period of not to exceed ten (10) days after receipt of such written notice, during which time the customer shall be responsible for all charges for such service. If the city should continue service after such ten (10) day period subsequent to the receipt of the customer's written notice to discontinue service, the customer shall not be responsible for charges for any service furnished after the expiration of such ten (10) day period.

(2) During such ten (10) day period, or thereafter, the occupant of premises to which service has been ordered discontinued by a customer other than such occupant, may be allowed by the city to enter into a contract for service in the occupant's own name upon the occupant's complying with these rules and regulations with respect to a new application for service. (1980 Code, § 13-117)

**18-117. Access to customers' premises.** The city's identified representatives and employees shall be granted access to all customers' premises at all reasonable times for the purpose of reading meters, for testing, inspecting, repairing, removing, and replacing all equipment belonging to the city, and for inspecting customers' plumbing and premises generally in order to secure compliance with these rules and regulations. (1980 Code, § 13-118)

**18-118. Inspections.** The city shall have the right, but shall not be obligated, to inspect any installation or plumbing system before water service is furnished or at any later time. The city reserves the right to refuse service or to discontinue service to any premises not meeting standards fixed by municipal ordinances regulating building and plumbing, or not in accordance with any special contract, these rules and regulations, or other requirements of the city.

Any failure to inspect or reject a customer's installation or plumbing system shall not render the city liable or responsible for any loss or damage which might have been avoided had such inspection or rejection been made. (1980 Code, § 13-119)

**18-119. Customer's responsibility for system's property.** Except as herein elsewhere expressly provided, all meters, service connections, and other equipment furnished by or for the city shall be and remain the property of the city. Each customer shall provide space for and exercise proper care to protect the property of the city on his premises. In the event of loss or damage to such property arising from the neglect of a customer properly to care for same, the cost of necessary repairs or replacements shall be paid by the customer. (1980 Code, § 13-120)

**18-120. Customer's responsibility for violations.** Where the city furnishes water service to a customer, such customer shall be responsible for all

violations of these rules and regulations which occur on the premises so served. Personal participation by the customer in any such violations shall not be necessary to impose such personal responsibility on him. (1980 Code, § 13-121)

**18-121. Supply and resale of water.** All water shall be supplied within the city exclusively by the city and no customer shall, directly or indirectly, sell, sublet, assign, or otherwise dispose of the water or any part thereof, except with written permission from the city. (1980 Code, § 13-122)

**18-122. Unauthorized use of or interference with water supply.** No person shall turn on or turn off any of the city's stop cocks, valves, hydrants, spigots, or fire plugs without permission or authority from the city. (1980 Code, § 13-123)

**18-123. Limited use of unmetered private fire line.**<sup>1</sup> Where a private fire line is not metered, no water shall be used from such line or from any fire hydrant thereon, except to fight fire or except when being inspected in the presence of an authorized agent of the city.

All private fire hydrants shall be sealed by the city and shall be inspected at regular intervals to see that they are in proper condition and that no water is being used therefrom in violation of these rules and regulations. When the seal is broken on account of fire, or for any other reason, the customer taking such service shall immediately give the city a written notice of such occurrence.

No private fire protection service shall be furnished free of charge to any customer. (1980 Code, § 13-124)

**18-124. Damages to property due to water pressure.** The city shall not be liable to any customer for damages caused to his plumbing or property by high pressure, low pressure, or fluctuations in pressure in the city's water mains. (1980 Code, § 13-125)

**18-125. Liability for cutoff failures.** The city's liability shall be limited to the forfeiture of the right to charge a customer for water that is not used but is received from a service line under any of the following circumstances:

(1) After receipt of at least ten (10) days' written notice to cut off a water service, the city has failed to cut off such service.

(2) The city has attempted to cut off service but such service has not been completely cut off.

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<sup>1</sup>See Ord. #33, § 1, for automatic sprinkler system charges.

(3) The city has completely cut off a service, but subsequently, the cutoff develops a leak or is turned on again so that water enters the customer's pipes from the city's main.

Except to the extent stated above, the city shall not be liable for any loss or damage resulting from cutoff failures. If a customer wishes to avoid possible damage for cutoff failures, the customer shall rely exclusively on privately owned cutoffs and not on the city's cutoff. Also, the customer (and not the city) shall be responsible for seeing that his plumbing is properly drained and is kept properly drained, after his water service has been cut off. (1980 Code, § 13-126)

**18-126. Restricted use of water.** In times of emergencies or in times of water shortage, the city reserves the right to restrict the purposes for which water may be used by a customer and the amount of water which a customer may use. (1980 Code, § 13-127)

**18-127. Interruption of service.** The city will endeavor to furnish continuous water service, but does not guarantee to the customer any fixed pressure or continuous service. The city shall not be liable for any damages for any interruption of service whatsoever.

In connection with the operation, maintenance, repair, and extension of the municipal water system, the water supply may be shut off without notice when necessary or desirable and each customer must be prepared for such emergencies. The city shall not be liable for any damages from such interruption of service or for damages from the resumption of service without notice after any such interruption. (1980 Code, § 13-128)

**18-128. Prohibition of use of lead.** All pipe, solder, or flux which is used in the installation or repair of any plumbing, in a residential or non-residential facility, which provides water for human consumption and is connected to the city's water system shall be lead free. "Lead free" means:

(1) When used with respect to solder or flux, a solder or flux containing not more than two-tenths of one percent (0.2%) lead; or

(2) When used with respect to pipe or pipe fitting, a pipe or pipe fitting containing not more than eight percent (8.0%) lead. Nothing herein shall be construed to require any residential or non-residential facility to remove or replace any piping or plumbing, installed prior to March 18, 1988, except as may be necessary in making a repair. (1980 Code, § 13-129)

**18-129. Transfer fee.** There shall be a non-refundable fee for transfer of service from any person, individual, firm, business, industry or corporation who receives service from the city under either an expressed or implied contract. Said transfer fee shall be \$25.00 for all customers inside the corporate limits of the City of Red Boiling Springs, and \$35.00 for any and all customers outside the corporate limits of the City of Red Boiling Springs. (Ord. #98-8, May 1998)

**18-130. Adjustment for leaks in billing.** If a customer has a leak in the part of the system required to be maintained by the customer, as set forth herein, the customer will be allowed only one leak adjustment within each twelve (12) month period, providing the customer shall provide satisfactory proof that the leak has been repaired. Whether or not the customer has produced satisfactory proof that the leak has been repaired shall be determined in the sole discretion of RBS Utilities and/or the city. The bill for usage during the current period of adjustment shall be the average of the last three (3) monthly bills. Notwithstanding any provision to the contrary, the customer shall be allowed more than one (1) billing adjustment if necessary to adjust for the herein allowed leak adjustment. (Ords. #98-6, May 1998, as amended by Ord. #00-8, Sept. 2000)

**18-131. Qualified and certified operator(s) required.** The city shall hire and maintain qualified and certified operator(s) for the system. Said operators shall meet all requirements for qualifications, as established by the appropriate state agencies, departments, laws and/or regulations. (Ord. #98-2, May 1998)

**18-132. Charges for service calls.** Whenever the city responds to a service call to the water department, the customer to whom the response is made shall be charged \$15.00 in the event the customer's premises, to which water service is provided, is located inside of the corporate limits of the City of Red Boiling Springs and shall be charged \$25.00 in the event the customer's premises, to which water service is provided, is located outside of the corporate limits of the City of Red Boiling Springs, provided the problem for which the service call was made was not caused by any act or omission of the city in its operation, maintenance or construction of the water utilities and services or by normal usage of the water utilities by the customer. (as added by Ord. #00-4, March 2000)

**18-133. Extension of customer water lines.** The extension of all water lines supplementing the water mains used to supply water service from the water mains to the customers shall require the installation of a pipe with a minimum four (4) inch diameter. This minimum installation requirement shall apply to the extension of all water lines which do not constitute a main line. All other requirements for pipes and water lines under the municipal code shall likewise be applicable to any such extensions. (as added by Ord. #01-6, Sept. 2001)

**CHAPTER 2**

**WATER SERVICE THROUGH WILLETTE UTILITY DEPARTMENT**

Deleted by Ord. #98-7, May 1998.



## CHAPTER 3

### SEWER USE

#### SECTION

- 18-301. Definitions.
- 18-302. Use of public sewers required.
- 18-303. Private sewage disposal.
- 18-304. Connection to public sewers.
- 18-305. Prohibitions and limitations on wastewater discharge.
- 18-306. Control of regulated wastes.
- 18-307. Wastewater sampling and analysis.
- 18-308. Industrial self-monitoring requirements.
- 18-309. Enforcement procedures.
- 18-310. Permits.
- 18-311. Provision of service.
- 18-312. User charge.
- 18-313. Industrial waste surcharge.
- 18-314. Validity.
- 18-315. Sewer connection fees.
- 18-316. Schedule of rates for sewer service.
- 18-317. Truck and recreational vehicle discharge fees.
- 18-318. Transfer fee.
- 18-319. Non-refundable connection fee for sewer use.
- 18-320. Adjustment for leaks in billing.
- 18-321. Qualified and certified operator(s) required.
- 18-322. Enforcement Response Plan Red Boiling Springs Tennessee.
- 18-323. EPA compliance.

**18-301. Definitions.** Unless the context specifically indicates otherwise, the meaning of terms used in this chapter shall be as follows:

(1) "Act" or "the Act" shall mean the Federal Water Pollution Control Act, also known as the Clean Water Act of 1977.

(2) "Approval authority" or "approving authority" shall mean the State of Tennessee, Department of Environment and Conservation, Pretreatment section.

(3) "A.S.T.M." is the American Society for Testing and Materials, 1916 Race Street, Philadelphia, PA 19103.

(4) "Authorized representative of industrial user." An authorized representative of an industrial user may be:

(a) A principal executive officer of at least the level of vice-president, if the industrial user is a corporation;

(b) A general partner or proprietor if the industrial user is a partnership or proprietorship respectively;

(c) A duly authorized representative of the individual designated above if such representative is responsible for the overall operation of the facilities from which the indirect discharge originates.

(5) "BOD" of sewage or industrial waste shall designate its biochemical oxygen demand and shall mean the quantity of oxygen utilized in the biochemical oxidation of the organic matter of said sewage or industrial wastes under standard laboratory procedure in 5 days at 20°C, expressed in milligrams per liter. It shall be determined by one of the acceptable methods described in the latest edition of "Standard Methods for Examination of Water and Wastewater", published by the American Public Health Association.

(6) "Building sewer" A sewer conveying wastewater from the premises of a user to the POTW.

(7) "Categorical standards" shall mean the National Pretreatment Standards.

(8) "Cooling water" shall mean the water discharge from any use such as air conditioning, cooling or refrigeration, during which the only pollutant added to the water is heat.

(9) "Compatible waste" shall mean the biochemical oxygen demand, suspended solids, pH, the fecal coliform bacteria; plus any additional pollutant identified in a publicly owned treatment works NPDES permit, for which the publicly owned treatment works is designed to treat such pollutants, and, in fact, does remove such pollutants to a substantial degree.

(10) "C" means centigrade degrees.

(11) "Customer" shall mean any individual, firm, company, association, society, corporation or group who are the beneficiaries of the water and sewerage service or who are utilizing the water and/or sewerage system of the City of Red Boiling Springs.

(12) "City" shall mean the City of Red Boiling Springs or the City Council of Red Boiling Springs.

(13) "Control authority" shall mean the City of Red Boiling Springs or any authorized representative, once its pretreatment program is approved by the State of Tennessee.

(14) "Public works director." The city's sewage treatment plant operator and/or superintendent.

(15) "Direct discharge." The discharge of treated or untreated wastewater directly to the waters of the State of Tennessee.

(16) "EPA" shall mean the United States Environmental Protection Agency.

(17) "Grab sample." A sample which is taken from a waste stream on a one-time basis with no regard to the flow in the waste stream and without consideration of time.

(18) "Garbage" shall mean solid wastes from the preparation, cooking and dispensing of food and from the handling, storage and sale of produce.

(19) "Holding tank waste." Any waste from holding tanks such as vessels, chemical toilets, campers, trailers, septic tanks, and vacuum-pump tank trucks.

(20) "Incompatible waste" shall mean all pollutants other than compatible waste as defined within.

(21) "Indirect discharge" means the discharge or introduction of non-domestic pollutants from any source regulated under Section 307(b) or (c) of the Act, (33 USC 1317), into the POTW (including holding tank waste discharged into the system) for treatment before direct discharge to the waters of the State of Tennessee.

(22) "Industrial discharger." For the purposes of this chapter and related documents shall mean industrial user.

(23) "Industrial user" shall mean a source of indirect discharge which does not constitute a discharge of pollutants under regulation issued pursuant to Section 402, of the Act.

(24) "Industrial wastewater" shall mean the wastewater from industrial processes, trade, or business as distinct from domestic or sanitary wastes.

(25) "Interference" shall mean the inhibition or disruption of sewer treatment system process or operations of which contribute to a violation of any requirement of the city's NPDES permit.

(26) "May" is permissive; "shall" is mandatory.

(27) "Meter measurement" shall mean the act of or result of determining the quantity of water supplied to a customer by an instrument or device used for such purpose and approved by the control authority.

(28) "Mg/l" shall mean milligrams per liter.

(29) "National pretreatment standard or pretreatment standards" shall mean any regulation containing pollutant discharge limits promulgated by the EPA and in accordance with Section 307(b) and (c) of the Act which applies to the industrial users.

(30) "Natural outlet" shall mean any outlet, including storm sewers, into a watercourse, pond, ditch, lake, or other body of surface or groundwater.

(31) "NPDES permit" shall mean the National Pollutant Discharge Elimination System as defined in Section 402 of the Federal Water Pollution Control Act Amendments of 1972 (Public Law 92-500).

(32) "New source" shall mean an industrial source that began construction after the publication of the proposed pretreatment standards for that industrial category.

(33) "Pass through" shall mean a discharge which exits the POTW into waters of the United States 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 POTW's NPDES permit (including an increase in the magnitude or duration of a violation).

(34) "Person" shall mean any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate,

government entity, or other legal entity, or legal representative, agents or assigns. The masculine gender shall mean to include the feminine, the singular shall include the plural where indicated by the context.

(35) "pH" shall mean the negative logarithm or the log of the reciprocal of the concentration of hydrogen ions in gram moles per liter of solution as determined by acceptable laboratory procedures.

(36) "Pollutant." Any dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharged into water.

(37) "Pretreatment" shall mean the treatment of wastewater by the user before introduction into the publicly owned system.

(38) "Pretreatment standards" shall mean all applicable rules and regulations contained in the Code of Federal Regulations as published in the Federal Register, under Section 307 of Public Law 92-500.

(39) "Properly shredded garbage" shall mean the waste from the preparation, cooking and dispensing of food that has been shredded to such degree that all particles have a dimension no greater than ½ inch which will be carried freely under the flow conditions normally prevailing in public sewers.

(40) "Publicly owned treatment works, or POTW" means the treatment works, owned by the city, as defined by Section 212 of the Federal Water Pollution Control Act (the "Act"), also know as the Clean Water Act; and includes any devices and systems used in the storage, treatment, recycling and reclamation of municipal sewage or industrial wastes of a liquid nature; and also includes sewers, pipes and other conveyances that convey wastewater to the treatment plant. The term also means the city in its capacity as a municipality as defined in Section 502 (f) of the Act, which has jurisdiction over the introductions of pollutants from any non-domestic source regulated under Section 307(b), (c), and (d) of the Act to, and the discharges from such a treatment works.

(41) "Sewage" shall mean a combination of the water-carried wastes from residences, business buildings, institutions and industrial establishments, together with such ground, surface and stormwater as may be present.

(42) "Sewer use ordinance" means this chapter, to wit: Chapter 3, title 18, of the Red Boiling Springs Municipal Code as amended.

(43) "Shall" is mandatory: "May" is permissive.

(44) "Sewer" shall mean a pipe or conduit that carries wastewater or drainage water.

(45) "Sewerage facilities" includes intercepting sewers, sewage treatment works, pumping stations, outfall sewers, and appurtenances constructed, operated and maintained by the City of Red Boiling Springs for sewage disposal purposes.

(46) "Significant industrial user" Any industrial user of the city's wastewater disposal system who:

(a) Has a discharge flow of 25,000 gallons or more per average work day, or

(b) Has a flow greater than 5% of the flow in the city's wastewater treatment system, or

(c) Has in his wastes toxic pollutants as defined in subsection (51) is found by the city, the approval authority or the Environmental Protection Agency (EPA) to have significant impact, either singly or in combination with other contributing industries, on the wastewater treatment system, the quality of sludge, the system's effluent quality, or air emissions generated by the system.

(47) "Slug discharge" means any discharge of a non-routine, episodic nature, including but not limited to an accidental spill or a non-customary batch discharge.

(48) "Standard Industrial Classification (SIC)" shall mean a classification pursuant to the Standard Industrial Classification Manual issued by the Executive Office of the President, Office of Management and Budget, 1972.

(49) "Standard methods" shall mean Standard Methods for the Examination of Water and Wastewater prepared and published jointly by the American Public Health Association, American Water Works Association and the Water Pollution Control Federation.

(50) "Storm water" shall mean any flow occurring during or immediately following any form of natural precipitation and resulting therefrom.

(51) "Suspended solids" shall mean solids that either float on the surface or are in suspension in water, sewage, industrial waste, or other liquids, and which are removable by laboratory filtration. The quantity of suspended solids shall be determined by one of the acceptable methods described in the latest edition of "Standard Methods for the Examination of Water and Wastewater" published by the American Public Health Association.

(52) "Toxic pollutant" shall mean any pollutant or combination of pollutants listed as toxic in the regulations promulgated by the Administrator or Environmental Protection Agency under the provisions of 33 USC 1317.

(53) "Treatment works" shall mean any device and systems used in the storage, treatment, recycling, and reclamation of domestic wastewater or industrial waste of a liquid nature including interceptor sewers, outfall sewers, sewer collection systems, pumping, power or other equipment and appurtenances; extensions; improvements, remodeling, additions and alterations thereof; elements essential to provide reliable recycle supply such as standby treatment units and clear well facilities; and any works, including land that will be an integral part of the treatment process or is used for the ultimate disposal

of residues resulting from such treatment; including combined stormwater and sanitary sewer systems.

(54) "TKN" of sewage or industrial waste shall designate its Total Kjeldahl Nitrogen content. The quantity of TKN shall be determined by one of the acceptable methods described in latest edition of "Standard Methods for the Examination of Water and Wastewater" published by the American Public Health Association.

(55) "Twenty-four hour flow proportional composite sample" shall mean a sample consisting of several sample portions collected during a twenty-four hour period in which the portions of the sample are proportional to the flow and combine to form a representative sample.

(56) "Unpolluted water" is water not containing any pollutants limited or prohibited by the effluent standards in effect, or water whose discharge will not cause any violation of receiving water quality standards and would not be benefited by discharge to the sanitary sewers and wastewater treatment facilities provided.

(57) "User" means any person discharging wastes to the City of Red Boiling Springs Sewerage Facilities.

(58) "Waste" shall include sewage and any other waste substances, liquid, solid, or gases that are radioactive, associated with human habitation, or human or animal origin, or from any producing, manufacturing, or processing operation or whatever nature, including such waste placed within containers of whatever nature prior to, and for purposes of disposal.

(59) "Wastewater" shall mean domestic, commercial and industrial wastewaters discharged to the City of Red Boiling Springs Sewerage Facilities together with any groundwater, surface water, and stormwater that may be present.

(60) "WPCF" is the Water Pollution Control Federation, 601 Wythe Street, Alexandria, VA 22314-1994.

Terms not otherwise defined herein shall be defined as shown in the latest edition of Standard Methods or other appropriate Federal or State Guidelines and Regulations. (1980 Code, § 13-301, as amended by Ord. #04-10, Dec. 2004)

**18-302. Use of public sewers 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 City of Red Boiling Springs, or in any area under the jurisdiction of said city, any human or animal excrement, or other objectionable waste.

(2) It shall be unlawful to discharge to any natural outlet within the City of Red Boiling Springs, or any area under the jurisdiction of said city, any sewage or other polluted waters, except where a federal or state discharge permit has been duly issued and is currently valid for such discharge.

(3) Except as hereinafter provided or as otherwise permitted by ordinance or regulation, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of sewage.

(4) The owner, tenant or occupant of all houses, buildings, improvements or properties used for residential, commercial, industrial or recreational and all other human occupancy purposes, which abut upon a street, road, right-of-way or other public way containing a public sanitary or combined sewer, or which have such sewer passing through or sufficiently close to such property that such property can be serviced by such sanitary sewer, shall upon demand by the city install suitable toilet facilities therein and connect the same directly with the proper treatment works in accordance with the provisions of this chapter and shall cease to use any other means for the disposal of sewage, waste, wastewater, and other polluting matter, provided however the city may waive such requirement in specific cases where it has determined that public sewer service to any particular individual user(s) would be unduly difficult or expensive and that alternative measures of disposal would not be hazardous to public health. However, where such waiver is granted, such owner, tenant or occupant shall, nonetheless, be required to pay to the city the regular monthly sewer charge that would have been due from such user based upon water usage, based upon the city making sewer service available to such premises. In addition to any other method of enforcing this requirement, the city may refuse water service to such owner, tenant or occupant until there has been compliance and may discontinue water service to an owner, tenant or occupant failing to comply within thirty (30) days after notice to comply.

(5) Direct service connections made to the city's sewerage system shall be made only by persons duly authorized by the city.

(6) The sewers are constructed for the purpose of transporting sewage - not storm water. Any customer of the sewerage system shall be responsible for the integrity of the pipes on his property which connect to the sewerage system. If it is determined that the pipes owned by the customer are faulty and in a bad state of repair, such that extraneous storm water can enter the sewerage system, the city may require the customer to repair his pipes. If the pipes are not repaired within the time period allowed by the city, water service shall be terminated, and the customer held responsible for the resulting public health problems.

(7) No person owning vacuum or "cess pool" pump trucks or other liquid waste transport trucks shall discharge directly or indirectly such sewage into the POTW, unless such person shall first have applied for and received a truck discharge operation permit from the director of public works or his designated representative. All applicants for a truck discharge operation permit shall complete such forms as required by the director, pay appropriate fees, and agree in writing to abide by the provisions of this section and any special conditions or regulations established by the director. The owners of such

vehicles shall affix and display the permit number on the side of each vehicle used for such purposes. Such permits shall be valid for a period of one (1) year from the date of issuance, provided that such permit shall be subject to revocation by the director for violation of any provision of this section or reasonable regulation established by the director. Such permits shall be limited to the discharge of domestic sewage waste containing no industrial waste. The director shall designate the locations and times where such trucks may be discharged, and may refuse to accept any truckload of waste in his absolute discretion where it appears that the waste could interfere with the effective operation of the treatment works or any sewer line or appurtenance thereto. The owner of a truck discharge operation permit shall provide manifest to the POTW that states the source of the domestic waste they wish to discharge, the volume of wastewater from each source, and whether any industrial waste is included in the wastewater. The owner of the truck discharge operation permit shall provide a bond in an amount sufficient to cover his potential liability for violating his permit.

(8) No person shall discharge any other holding tank waste into the POTW unless he shall have applied for and have been issued a permit by the director. Unless otherwise allowed under the terms and conditions of the permit, a separate permit must be secured for each separate discharge. The permit shall state the specific location of discharge, the time of day the discharge is to occur, the volume of the discharge, and shall limit the wastewater constituents and characteristic of the discharge. Such user shall pay any applicable charges or fees therefore, and shall comply with the conditions of the permit issued by the director. Provided, however, no permit will be required to discharge domestic waste from a recreational vehicle holding tank provided such discharge is made into an approved facility designed to receive such waste. (1980 Code, § 13-302)

**18-303. Private sewage disposal.** The disposal of sewage by means other than the use of the available public sanitary sewage system shall be in accordance with local, county and state law. The disposal of sewage by private disposal systems shall be permissible only in those instances where service from the available public sanitary sewage system is not available, or where such is otherwise permitted by city ordinance or regulations. (1980 Code, § 13-303)

**18-304. Connection to public sewers.** (61) Requirements for proper wastewater disposal. (a) 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 city, any human or animal excrement, garbage, or other objectionable waste.

(b) It shall be unlawful to discharge to any waters of the state within the service area of the city any sewage or other polluted waters,



except where suitable treatment has been provided in accordance with subsequent provisions of this section.

(c) Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of sewage.

(d) Except as provided in paragraph (1)(e) below, the owner of all houses, buildings, or properties used for human occupancy, employment, recreation, or other purposes situated within the service area and abutting on any street, alley, or right-of-way in which there is now located or may in the future be located a public sanitary sewer in the service area, is hereby required at the owner's expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper public sewer in accordance with the provisions of this section, within forty-five (45) days after date of official notice to do so, provided that said public sewer is within two-hundred (200) feet of the building drain as defined herein.

(e) The owner of a manufacturing facility may discharge wastewater to the waters of the state provided that he obtains a National Pollution Discharge Elimination System ("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.

(f) Where a public sanitary sewer is not available under the provisions of paragraph (1)(d), the building sewer shall be connected to a private sewage disposal system complying with the provisions of part (3) of this section.

(62) Physical connection with public sewer. (a) No unauthorized person shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the public works director as required by § 18-310 of the municipal code.

(b) All costs and expenses incident to the installation, connection, and inspection of the building sewer shall be borne by the owner. The owner shall indemnify the city from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

(c) A separate and independent building sewer shall be provided for every building; except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard or driveway, whereupon, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer.

(d) Old building sewers may be used in connection with new buildings only when they are found, on examination and tested by the

public works director to meet all requirements of this section. All others must be sealed to the specifications of the public works director.

(e) Building sewers shall conform to the following requirements:

(i) The minimum size of a building sewer shall be four (4) inches.

(ii) The minimum depth of a building sewer shall be eighteen (18) inches.

(iii) Four (4) inch building sewers shall be laid on a grade greater than 1/8-inch per foot. Larger building sewers shall be laid on a grade that will produce a velocity when flowing "full" of at least 2.0 feet per second.

(iv) Slope and alignment of all building sewers shall be neat and regular.

(v) Building sewers shall be constructed only of

(A) Concrete or clay sewer pipe using rubber or neoprene compression joints of approved type;

(B) Cast iron soil pipe with leaded or compression joints;

(C) Polyvinyl chloride pipe with solvent welded or with rubber compression joints;

(D) ABS composite sewer pipe with solvent welded or rubber compression joints of approved type; or

(E) Such other materials of equal or superior quality as may be approved by the public works director. Under no circumstances shall cement mortar joints be acceptable.

(vi) A clean-out shall be located five (5) feet outside of the building; one as it taps on to the utility lateral and one at each change of direction of the building sewer which is greater than 45 degrees. Additional clean-outs shall be placed not more than seventy-five (75) feet apart in horizontal building sewers of four (4) inch nominal diameter and not more than one hundred (100) feet apart for larger pipes. Clean-outs shall be extended to or above the finished grade level directly above the place where the clean-out is installed. A "Y" (wye) and 1/8 bend shall not be used for this clean-out base. Clean-outs shall not be smaller than four (4) inches on a four (4) inch pipe.

(vii) Connections of building sewers to the public sewer system shall be made to the appropriate existing wye or tee branch using compression type couplings or collar type rubber joint with corrosion resisting or 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 or cutting a clean opening in the existing

public sewer and installing a tee-saddle or tee-insert of a type approved by the public works director. All such connections shall be made gas-tight and water-tight.

(viii) The building sewer may be brought into the building below the basement floor when gravity flow from the building to the sanitary sewer is at a grade of 1/8-inch per foot or more if possible. In cases where basement or floor levels are lower than the ground elevation at the point of connection to the sewer, adequate precautions by installation of check valves or other back-flow prevention devices to protect against flooding shall be provided by the owner. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer at the expense of the owner.

(ix) The methods to be used in excavating, placing of pipe, jointing, testing, back-filling 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 city or to the procedures set forth in appropriate specifications of the ASTM and Water Pollution Control Federal Manual of Practice No. 9. Any deviation from the prescribed procedures and materials must be approved by the public works director before installation.

(x) An installed building sewer shall be gas-tight 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 city.

(g) No person shall make connection of roof down-spouts, exterior foundation drains, areaway drains, basement 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.

(63) Inspection of connections. (a) 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 public works director or his authorized representative.

(b) The applicant for discharge shall notify the public works director when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the public works director or his representative.

(64) Maintenance of building sewers. Each individual property owner or user of the POTW shall be entirely responsible for the maintenance of the building sewer located on private property. This maintenance will include repair or replacement of the service line as decided necessary by the public works director to meet specifications of the city. (1980 Code, § 13-304, as replaced by Ord. #00-12, Jan. 2001)

**18-305. Prohibitions and limitations on wastewater discharge.**

(1) Prohibitions on wastewater discharge. No person shall discharge or cause to allow to be discharged into the City of Red Boiling Springs sewerage facilities or any connected treatment facilities any waste which contains any of the following:

(a) Oils and grease. Fats, wax, grease or oils of more than one hundred (100) mg/l, whether emulsified or not, or containing substances which may solidify or become viscous at temperatures between 32 degrees and 150 degrees F (0 degrees and 56 degrees C) at the point of discharge into the system.

(b) Explosive mixtures. Liquids, solids, or gases which by reason of their nature or quantity are, or may be, sufficient to cause fire or explosion or be injurious in any other way to the sewerage facilities or to the operation of the system. At no time shall two successive readings on an explosion hazard meter, at the point of discharge into the sewer system, be more than five percent (5%) nor any single reading over ten percent (10%) of the Lower Explosive Limit (L.E.L.) of the meter. Prohibited materials include, but are not limited to, gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromates, carbides, hydrides and sulfides.

(c) Noxious materials. Noxious or malodorous solids, liquids or gases, which, either singly or by interaction with other wastes, are capable of creating a public nuisance or hazard to life, or are or may be sufficient to prevent entry into a sewer for its maintenance and repair.

(d) Improperly shredded garbage. Garbage that has not been ground or comminuted to such a degree that all particles are ½ inch or less and will be carried freely in suspension under flow conditions normally prevailing in the public sewers.

(e) Radioactive wastes. Radioactive wastes or isotopes of such half-life or concentration that they are in noncompliance with regulations issued by the appropriate authority having control over their use and which will or may cause damage or hazards to the sewerage facilities or personnel operating the system.

(f) Solid or viscous wastes. Solid or viscous wastes which will or may cause obstruction to the flow in a sewer, or other interference with the proper operation of the sewerage facilities. Prohibited materials

include, but are not limited to, grease, uncomminuted garbage, animal guts or tissues, paunch manure, bones, hair, hides or fleshings, entrails, whole blood, feathers, ashes, cinders, sand, spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, waste paper, wood, plastic, tar, asphalt residues, residues from refining or processing of fuel or lubricating oil, and similar substances.

(g) Excessive discharge rate. Wastewaters at a flow rate which is excessive relative to the capacity of the treatment works and which could cause a treatment process upset and subsequent loss of treatment efficiency; or wastewaters containing such concentrations or quantities of pollutants that their introduction into the treatment works over a relatively short time period (sometimes referred to as "slug" discharges) would cause a treatment process upset and subsequent loss of treatment efficiency.

(h) Toxic substances. Any toxic substances, chemical elements or compounds, phenols or other waste, or odor-producing substances, or any other substances which may interfere with the biological processes or efficiency of the treatment works, or that will pass through the treatment works in concentrations which would cause the POTW to exceed its NPDES permit limits.

(i) Unpolluted waters. Any unpolluted water including, but not limited to, water from cooling systems or of stormwater origin, which will increase the hydraulic load on the sewerage facilities.

(j) Discolored materials. Wastes with objectionable color not removable by the treatment process.

(k) Corrosive wastes. Any waste which will cause corrosion or deterioration of the sewerage facilities. All wastes discharged to the public sewer system must have a pH value in the range of (6) to (9). Prohibited materials include, but are not limited to, acids, sulfides, concentrated chloride and flouride compounds and substances which will react with water to form acidic products.

(l) Thermal discharge. Heat in amounts which will prohibit biological activity in the POTW or cause damage to the sewerage system resulting in interference, but in no case heat in such quantities that the temperature at the point of discharge exceeds 40 degrees centigrade (104°F). A higher temperature may be allowed in the users wastewater discharge permit.

(m) Human hazard. Any wastewater which causes hazard to human life or creates a public nuisance.

(n) Rate. Any pollutant, including oxygen demanding pollutants, released at a rate which will cause interference.

(2) Limitation on wastewater discharges. (a) No person shall discharge or convey or cause to be discharged or conveyed to the public

sewer any wastewater containing pollutants of such character or quantity that will:

(i) Not be amenable to treatment or reduction by the wastewater treatment processes employed, or are amenable to treatment only to such degree that the wastewater treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.

(ii) Constitute a hazard to human or animal life or to the stream or water course receiving the treatment plant effluent.

(iii) Violate the federal pretreatment standards.

(iv) Cause the treatment plant to violate its NPDES permit, Tennessee Department of Environment and Conservation Permit, or other applicable receiving water standards.

(v) Contain any water or wastes whose strength or other characteristics exceed the limits for normal wastewater which may be established by the control authority.

(b) No trucked or hauled pollutants shall be placed in the sewer system except at a discharge point designated by the city.

(c) If the wastewater influent to the treatment plant creates adverse effects, or interferes with any wastewater treatment or collection processes, creates any hazard in receiving waters or results in the city being in violation of applicable effluent standards, the control authority shall establish industrial wastewater effluent limits as deemed necessary up to the following maximum concentrations. Furthermore, the control authority shall have the authority to add to the list. Presently limits for certain parameters have been set as protection criteria for the POTW. These limits are influent concentrations to the POTW. Discharge limits for industrial users will be set in discharge permits as outlined in § 18-310 of this chapter. The protection criteria is as follows. (1980 Code, § 13-305)

**18-306. Control of regulated wastes.** (1) Regulatory actions. If wastewaters containing any substance in excess concentrations as described in § 18-305 of this chapter are discharged or proposed to be discharged into the sewer system of the City of Red Boiling Springs or to any sewer system tributary thereto, the city shall take any action necessary to:

(a) Prohibit the discharge of such wastewater.

(b) Require a discharger to demonstrate that in-plant modifications will eliminate the discharge of such substances to a degree as to be acceptable to the city.

(c) Require pretreatment, including storage facilities or flow equalization, necessary to reduce or eliminate the objectionable characteristics or substances so that the discharge will not violate these rules and regulations or federal pretreatment standards and any other

applicable requirements promulgated by the EPA in accordance with Section 307 of the Clean Water Act of 1977.

(d) Require the person or, discharger making, causing or allowing the discharge to pay any added cost of handling and treating excess loads imposed on the sewerage facilities. Nothing herein authorizes discharges, otherwise prohibited, upon payment of cost therefore.

(e) Take such other remedial action provided by law as may be deemed to be desirable or necessary to achieve the requirements of this chapter.

(2) Submission of plans. Where pretreatment or equalization of wastewater flows prior to discharge into any part of its sewerage facilities is required by the City of Red Boiling Springs, plans, specifications and other pertinent data or information relating to such pretreatment or flow-control facilities shall be submitted to the control authority for review and approval. Approval shall in no way exempt the discharge of such facilities from compliance with any applicable code, ordinance, rule or regulation of any governmental unit or the city. Any subsequent alterations or additions to such pretreatment or flow-control facilities shall not be made without due notice to, and approval of the control authority.

(3) Pretreatment facilities operations. If pretreatment or control of waste flows is required, such facilities shall be effectively operated and maintained by the owner at his expense, subject to the requirements of these rules and regulations and all other applicable codes, ordinances and laws.

(4) Reporting of accidental discharges. If an accidental discharge of prohibited or regulated pollutants to the sewerage facilities shall occur, the industrial facility responsible for such discharge shall immediately notify the control authority so that corrective action may be taken to protect the sewerage facilities. In addition, a written report addressed to the control authority detailing the date, time and cause of the accidental discharge, the quantity and characteristics of the discharge and corrective action taken to prevent future discharges, shall be filed by the responsible industrial facility within thirty (30) days of the occurrence of the accidental discharge.

(5) Monitoring and analysis. If sampling performed by an industrial user indicates a violation, the user shall notify the control authority within 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 control authority within 30 days after becoming aware of the violation.

(6) Right of entry. Agents of the City of Red Boiling Springs, the Tennessee Department of Environment and Conservation and/or EPA upon presentation of credentials shall be permitted to enter all properties of the contributing industry for the purpose of inspection, observation, measurement, sampling, and testing.

(7) Confidential information. Information and data on a user obtained from reports, questionnaires, permit applications, permits and monitoring programs and from inspections shall be available to the public or other governmental agency without restriction unless the user specifically requests and is able to demonstrate to the satisfaction of the city that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets of the user.

The following information is considered "effluent data" under 40 CFR Part 2 of EPA's regulations and must always be available to the public:

(a) General description of the location and nature of the source to the extent necessary to identify the source and distinguish it from other sources (including, to the extent necessary for such purposes, a description of the device, installation, or operation constituting the source).

(b) Information necessary to determine the identity, amount, frequency, concentration, temperature, or other characteristics (to the extent related to water quality) of the pollutants which, under an applicable standard or limitation, the source was authorized to discharge (including, to the extent necessary for such purpose, a description of the manner or rate of operation of the source).

(c) Information necessary to determine the identity, amount, frequency, concentration, temperature, or other characteristics (to the extent related to water quality) of any pollutant which has been discharged.

While the effluent data must be available to the public, other data submitted by industrial users may be claimed "confidential" and withheld from public scrutiny. However, the control authority must release information submitted under a claim of confidentiality to the approval authority and EPA (if different) whenever requested to do so. Effluent data [as defined in 40 CFR 2.302(a)(2)] will not be considered confidential under any circumstances. Proprietary information or trade secrets will be entitled to consideration by the control authority for possible confidential treatment (provided these are not "effluent data") if the industrial user stamps "Confidential Business Information" over all parts for which protection is sought. The control authority, when it first receives the request for confidential treatment of submitted information, may make an immediate determination as to whether to grant the request or defer making a determination until it receives a request to disclose the information.

If the control authority does not make a determination until a request to disclose is received, the control authority will notify the industrial user that a request to disclose has been received, inform the industrial user of the preliminary determination, and provide an opportunity for the industrial user to appeal. A period of 15 days will be allowed for the industrial user to respond after which if no response is obtained the control authority can release the data



(if the information was not entitled to confidentiality) or deny the request to disclose (if the information is considered confidential).

If the control authority makes a determination when it first receives the request for confidentiality and determines that the information is not entitled to confidential treatment, it will notify the industrial user orally and then by written notice of the denial of confidentiality status. The written notice may be made by certified mail return receipt requested, by personal delivery, or by other means which allow verification of the fact of receipt and the date of receipt. This written notice will provide an opportunity for the industrial user to appeal the decision within 15 days.

If the information is deemed confidential (or if it is being treated as confidential pending a final determination), it will be separated from the rest of the permit file and kept in "limited access" (lock and key) status. This will require the creation of a second file for each user which contains additional confidential materials. Access to this special information will be safeguarded, even against control authority employees who have no legitimate reason for access to such materials. In the event such information is turned over to EPA, it will receive such protection as is afforded by 40 CFR Part 2. All information which is not specifically identified as confidential (or which is later determined by the control authority not to be entitled to confidential treatment) will be available to the public upon request. (1980 Code, § 13-307)

**18-307. Wastewater sampling and analysis.** (1) Analysis of industrial wastewater. All of the parameters listed in the discharge permit as authorized under § 18-310 are to apply at the point where the industrial wastes are discharged into the public sanitary sewerage system and any chemical or mechanical corrective treatment required must be accomplished to practical completion before the wastes reach that point. The laboratory methods used in the examination of all industrial wastes shall be those set forth in the latest edition of "Standard Methods for the Examination of Water and Wastewater" published by the American Public Health Association, "Methods for Chemical Analysis of Water and Waste" published by the U.S. Environmental Protection Agency or the "Annual Book of Standards, Part 23, Water, Atmosphere Analysis" published by the American Society for Testing and Materials; however, alternate methods for the analysis of industrial wastes may be used subject to mutual agreement between the control authority and the producer of such wastes. The frequency and duration of the sampling of any industrial waste shall be determined by the control authority. All analyses shall be performed in accordance with the procedures contained in 40 CFR Part 136 and amendments thereto.

(2) Control manhole. When required by the control authority, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable control manhole together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling

and measurement of the wastes. Such manhole, when required, shall be accessibly and safely located, and shall be constructed in accordance with plans approved by the control authority. The manhole shall be installed by the owner at his expense, and shall be maintained by him so as to be safe and accessible at all times. The control authority shall have access and use of the control manhole as may be required for their monitoring of the industrial discharge. (1980 Code, § 13-307)

**18-308. Industrial self-monitoring requirements.** In order to effectively administer and enforce the provisions of these regulations, the control authority shall require any discharger to comply with any or all of the following requirements:

(1) Discharge reports. The control authority shall require discharge reports, including but not limited to, questionnaires, technical reports, sampling reports, test analysis, and periodical reports of wastewater discharge. Such reports shall be due on a semiannual basis.

(2) Monitoring programs. The control authority may require of users such technical or monitoring programs, including the submission of periodic reports, as he deems necessary. The discharger shall pay all applicable charges for the monitoring program, in addition to the sewage disposal and other charges established by the City of Red Boiling Springs.

The monitoring program shall require the discharger to conduct a sampling and analysis program of a frequency and type specified by the control authority to demonstrate compliance with prescribed wastewater discharge limits. The discharger may either:

(a) Conduct his own sampling and analysis program provided he demonstrates to the control authority that he has the necessary qualifications and facilities to perform the work; or

(b) Engage a private laboratory, approved by the control authority.

All analyses performed by or for the industrial user shall be submitted to the control authority. (1980 Code, § 13-308)

**18-309. Enforcement procedures.** (1) Penalties. Violation of any provisions of this chapter is hereby declared to be unlawful. Each day any such violation occurs shall be deemed a separate offense.

(2) Liability. Any person violating any of the provisions of this chapter shall be liable to the city for any expense, loss or damage incurred by the city as a result of such violation.

(3) Injunctive relief. In addition to the penalties provided in the foregoing subsections, whenever a person violates any provision of this chapter or fails to comply with any requirement of the city under authority of this chapter, the city may petition the appropriate court(s) for injunctive relief in accordance with federal regulations, 40 CFR 403.8(f)(1)(vi).

(4) Remedies nonexclusive. Use of any remedy herein contained shall not preclude utilization of any other remedy available at law or in equity nor shall it preclude revocation of permits as provided for hereafter.

(5) Pretreatment enforcement powers. The City of Red Boiling Springs, upon issuance of a permit by the Tennessee Department of Environment and Conservation requiring the city to adopt and enforce an approved pretreatment program, shall be deemed a "pretreatment agency" as described in Tennessee Code Annotated, § 69-3-101 et seq. The city shall have all pretreatment enforcement powers as set forth in Tennessee Code Annotated, §§ 69-3-123 through 69-3-129, as now written or as may be later amended.

The Mayor of the City of Red Boiling Springs is designated as the "local administrative officer" as described in said statutes and the remaining members of the City Council of the City of Red Boiling Springs shall be the "local hearing authority" responsible for the administration and enforcement of the pretreatment program.

In accordance with Tennessee Code Annotated, § 69-3-125, a civil penalty of up to \$10,000.00 per day may be assessed for the acts or omissions set forth therein. (1980 Code, § 13-309)

**18-310. Permits.** (1) All industrial users proposing to connect to or discharge into the sanitary sewer system must obtain a wastewater discharge permit from the control authority before connecting to or discharging into the sanitary sewer. All existing industrial users connected to or discharging into the city's sanitary sewer must obtain a wastewater discharge permit within 90 days after notice from the city.

(2) All persons within the city's corporate limits, who intend to provide septic tanks for sewage disposal, shall make written request to the control authority for a septic tank permit. Upon receipt of the written request, the control authority shall determine whether the applicant is unable to connect to the city's system, or whether other conditions exist as provided herein which would allow the use of a septic tank; if so, the permit may be granted, conditioned upon proper installation in accordance with applicable standards, and such other requirements as necessary to protect the public health and safety.

(3) Permit application: Industrial users seeking a wastewater discharge permit shall complete and file with the control authority an application in the form prescribed by the control authority, and accompanied by the applicable fees. The applicant shall be required to submit, in units and terms appropriate for evaluation, the following information:

- (a) Name, address, and Standard Industrial Classification (SIC Manual, 1972, Office of Management and Budget) number of applicant;
- (b) Volume of wastewater to be discharged;

- (c) Wastewater constituents and characteristics including, but not limited to, those mentioned in § 18-305 as determined by a laboratory approved by the control authority;
- (d) Time and duration of discharge;
- (e) Average and 30-minute peak wastewater flow rates, including daily, monthly and seasonal variations, if any;
- (f) Site plans, floor plans, mechanical and plumbing plans and details to show all sewers and appurtenances by size, location and elevation;
- (g) Description of activities, facilities and plant process on the premises including all materials, processes and types of materials which are or could be discharged;
- (h) Each product produced by type, amount and rate of production;
- (i) Number and type of employees, and hours of work;
- (j) All Tennessee Department of Environment and Conservation Environmental Protection Agency permits required; and
- (k) Any other information as may be deemed by the control authority to be necessary to evaluate the permit application.

All applications must contain the following certification statement and be signed by an authorized representative of the industrial user:

"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."

The control authority will evaluate the data furnished by the user and may require additional information. After evaluation and acceptance of the data furnished, the control authority may issue a wastewater discharge permit subject to terms and conditions provided herein.

(4) Permit conditions: Wastewater discharge permits shall be expressly subject to all provisions of this chapter and all other regulations, user charges and fees established by the city. The conditions of wastewater discharge permits shall be uniformly enforced by the city in accordance with this chapter and applicable state and federal regulations. The permit shall contain a statement of possible civil and criminal penalties for violation of a permit condition and shall contain any compliance schedules imposed by the control authority.

Permits shall include, but not necessarily be limited to, the following:

- (a) The unit charge or schedule of user charges and fees for the wastewater to be charged to the public sewer;
- (b) The average land maximum wastewater constituents and characteristics;
- (c) Limits on rate and time discharge or requirements for flow regulation and equalization;
- (d) Requirements for installation of inspection and sampling facilities;
- (e) Pretreatment requirements;
- (f) Specifications for monitoring programs which may include sampling locations, frequency and method of sampling, number, types, and standards for tests and reporting schedule;
- (g) Requirements for submission of technical reports or discharge reports;
- (h) Requirements for maintaining plant records relating to wastewater discharge as specified by the control authority, and affording the city access thereto; and
- (i) Other conditions as deemed appropriate by the approving authority to insure compliance with this chapter.
- (j) Statement of non-transferability in accordance with § 18-310(7) along with a statement that in any event, permit subject to non-transferability without, at a minimum, prior notification to the POTW and provision of a copy of a copy of the existing control mechanism to the new owner or operator.
- (k) Statement of duration (in no case longer than five (5) years).

(5) Permit appeals: Once the permit is issued, the industrial user shall have the right to appeal specific provisions of the permit which it believes to be contrary to law or an unreasonable exercise of the control authority's discretion under that law. To initiate an appeal, the industrial user must file with the city clerk in writing a request for review by the city council of the permit provisions, which written request must include supporting reasons for reconsidering the permit conditions. Such written request must be filed within 15 days from the date of issuance of the permit, after which time the right of appeal to the city council or to a court of law is considered waived. The filing of an appeal shall not result in an automatic stay of the permit conditions. The city council shall meet to consider the appeal within 30 days after the date it is filed with the city clerk. If the industrial user is not satisfied with the final decision of the city council, any judicial appeal must be filed within 15 days from the final decision of the city council, after which time the right to such an appeal is considered waived.

(6) Duration of permits: Permits shall be issued for a defined 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. A user must file a

permit application to renew the user's current permit at least 90 days prior to its expiration date. However, where the permittee has timely filed an application for permit reissuance and the control authority, through no fault on the part of the industrial user, has not reissued the permit at the time of expiration, the permit's effectiveness shall continue beyond its expiration date. The terms and conditions of the permit may be subject to modification and change by the control authority during the life of the permit as limitations or requirements as identified hereinbefore are modified and changed. The user shall be informed of any proposed changes in his permit at least 30 days prior to the effective date of change. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.

(7) **Transfer of a permit:** 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 premise, or a new or changed operation.

(8) **Revocation of permit:** Any user who violates the conditions of the permit or the provisions of this chapter, or applicable state and federal regulations, or any of the following conditions, shall be subject to having his permit revoked:

- (a) Failure of a user to factually report the wastewater constituents and characteristics of his discharge;
- (b) Failure of the user to report significant changes in operations or wastewater constituents and characteristics;
- (c) Refusal of reasonable access to the user's premises for the purpose of inspection or monitoring; or
- (d) Violation of conditions of the permit.

(9) Upon revocation of any permit issued under this chapter, the user shall be notified that he shall be entitled to a hearing upon such revocation. Request for such hearing must be made within seven (7) days of notification of revocation of the permit. The hearing will be held before the city council and shall be heard within seven (7) days of the request for hearing. At the hearing, the public works director and the customer shall be entitled to present evidence relevant and material to the revocation and to examine and cross examine witnesses. He may be represented by an attorney, if the user so chooses. The city council shall render a decision within seven (7) days upholding or overturning the revocation. (1980 Code, § 13-310, as amended by Ord. #04-10, Dec. 2004)

**18-311. Provision of service.** (1) **Application and contract for sewer service.** Prior to use of the POTW and/or sewer system, all prospective users shall be required to sign a written application for service and a standard form contract for service before service is supplied. Users requiring the installation of special equipment by the control authority may be required to sign a form of contract guaranteeing a minimum charge for such a period of time as may be

required by the city and/or control authority, but, in the absence of a completed application and contract, the usage by the user shall bind the user to the terms of the city's and/or control authority's standard form application and/or contract. If for any reason user, after signing application and/or contract for service, does not take the service, he/she shall reimburse the city and control authority for the expense incurred by reason of its endeavor to furnish such service.

(2) Temporary service. Any user requiring temporary service may be required to pay all costs as determined by the control authority for connection and disconnection incidental to the supplying and removal of service, in addition to the regular sewer rate charges.

(3) Billing. All bills for sewer service will be rendered monthly as a part of the regular monthly water billing and shall be computed using the applicable rates or charges in effect at the billing date. Billings will be computed and stated on a net and a gross basis. Such billings shall be payable in the net amount only if paid within the discount period stated on the bill; otherwise the bill is payable in the gross amount. Should the final date for payment of the bill at the net rate fall on a Sunday or holiday, the business day next following the final date will be held as the last day to obtain the net rate. Remittance of net rate payment received by mail after the time limit for payment of said net rate will be accepted by the control authority if the incoming envelope bears United States Post office date stamp of the final date for payment of the net amount or any date prior thereto. Failure to receive bill shall not release user from his obligation to make payment nor extend the discount date. No user shall be entitled to pay any bill at the net rate while such user is delinquent in payment of any obligation for sewer service owed the control authority by such user. In the event sewer service bills are not paid on or before the discount date, water service may be discontinued upon five (5) days' written notice to user and not again resumed until all bills are paid. The control authority shall not be liable for damages on account of such discontinuance of service, even though payment of such bills be made on the same day either before or after service is actually discontinued.

(4) Point of delivery - water service. The sewer service rates are based upon the supplying of water service to an entire premises through a single delivery and metering point. If water service is rendered to any user or premise through more than one delivery point, the control authority will bill each such delivery point as a separate service.

(5) Multiple service through a single meter - water. Where the control authority, as distributor of water, allows more than one dwelling or premise to be served through a single service line and meter, the monthly water billing for each such dwelling or premise will be computed in accordance with the rules and regulations for the distribution of water. The sewer service charge for each such dwelling or premise thus served shall then be computed at the control authority's applicable sewer service charge rates.

(6) Discontinuance of service. The control authority, as the distributor of water, may disconnect its water service and may refuse to reconnect water service for a violation of this chapter, for failure to comply with any of its Water Rules and Regulations, for violation of any provision of the user's application or contract with the control authority for sewer service furnished. Discontinuance of water service by the control authority for any cause as stated in this chapter shall not release the user from liability for water or sewer service already received or from liability for payments that thereafter become due under the provisions of any contract between the user and the control authority.

(7) Termination of service by customer. Users who have fulfilled their contract terms and wish to discontinue service must give at least five (5) days' written notice to that effect, unless their contract specifies otherwise. Notice to discontinue service prior to expiration of contract term will not relieve user from any minimum or guaranteed payment under contract or applicable rate schedule.

(8) Notice of trouble. User shall notify the control authority immediately of any known defects, trouble or accident affecting the sewerage system.

(9) Sewer connections. Users requiring connections to existing mains or the extension of mains must arrange for whatever extension of the sewer main that may be necessary to reach a point in front of or adjacent to his property where his sewer service line or lines may be connected. Several users may jointly arrange for the extension of a main to serve their properties and share the total expense in whatever manner they agree upon. Such mains, upon acceptance by the control authority, will become part of the community system, without cost to the control authority and will then be maintained by the control authority. Connections with existing mains may be made only by the control authority, at the user's expense, and after inspection of service lines ensure conformance with requirements of the building permit and the avoidance of any health hazard or interference with the existing system.

(10) Scope. These rules, regulations and rate schedules are a part of all contracts for receiving sewerage service from the control authority and apply to all service received from the control authority whether the service is based upon contract, signed application or otherwise. (1980 Code, § 13-311; as amended by Ord. #98-4, May 1998)

**18-312. User charge.** (1) User charge shall be the charge levied on all users including, but not limited to persons, firms, corporations or governmental entities that discharge, cause or permit the discharge of sewage into the public sewerage facilities.

(2) The user charge shall reflect the costs of operation and maintenance (including replacement) of the public sewerage facilities.

(3) Each user shall pay its proportionate share of operation and maintenance (including replacement) costs based on volume of flow.



(4) The approving authority of sewerage facilities shall review annually the sewage contributions of users, the total costs of operation and maintenance (including replacement) of the sewerage facilities, and the user charge system. The control authority shall revise the user charge, if necessary, to accomplish the following:

(a) Maintain the proportionate distribution of operation and maintenance costs among users as provided herein.

(b) Generate sufficient revenue to pay the total operation and maintenance costs necessary to the proper operation and maintenance (including replacement) of the sewerage facilities, the interest expenses on debt, and the principal repayments or depreciation (whichever is greater).

(5) All flow to the sewerage facilities not directly attributable to the users (i.e. infiltration/inflow) shall be distributed among all users of the sewerage facilities based upon the volume of flow of the users.

(6) Each user shall be notified, at least annually, in conjunction with a regular bill, of the rate and that portion of the user charge which is attributable to operation and maintenance of the sewerage facilities.

(7) Revenue derived from a wastewater project funded by a state revolving loan; including but not limited to, sale of treatment-related-byproducts; lease of land; or sale of crops grown on land purchased, shall offset current user charges as well as moderate future rate increases.

(8) If the wastewater system accepts wastewater from other local governments, these subscribers receiving wastewater treatment services shall adopt user charge systems in accordance with the same state regulations, requiring this chapter.

(9) This user charge system shall take precedence over the terms or conditions of contracts between the city and users which are inconsistent with the requirements of this chapter.

(10) The city shall establish rates for service from time to time. The rates will be available from the city clerk upon request. The rates shall be based upon the cost categories described as operation, maintenance, and replacement; interest; and principal repayments or depreciation, whichever is greater. (1980 Code, § 13-312)

**18-313. Industrial waste surcharge.** (1) In the event the user discharges industrial wastes to the sewerage facilities having an average Biochemical Oxygen Demand (BOD) content in excess of 300 mg/l, and/or an average Suspended Solids (SS) content in excess of 300 mg/l, and/or an average Total Kjeldahl Nitrogen (TKN) content in excess of 40 mg/l, the user shall pay a surcharge based upon the excess strength of their wastes.

(2) The costs of treatment for each pound of BOD, SS, and TKN removed by the sewerage facilities shall be reviewed at the end of each fiscal

year and appropriate surcharge rates applied to the sewerage billing. These rates shall be in effect until the next annual rate review. (1980 Code, § 13-313)

**18-314. Validity.** The provisions of this chapter shall supersede and take precedence over any other ordinance or part thereof or any other rules and regulations of the City of Red Boiling Springs.

It is hereby declared the intention of city council that sections, paragraphs, sentences, clauses, and words of this chapter are severable, and if any such section, paragraph, sentence, clause, or word be declared unconstitutional or invalid by valid judgment or decree of any court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any remaining sections, paragraphs, sentences, clauses, or words since the same would have been enacted without the incorporation of the unconstitutional sections, paragraphs, sentence, clause or word. (1980 Code, § 13-314)

**18-315. Sewer connection fees.** (1) Definitions. For the purpose of this section only, which deals with sewer connection fees, the following terms shall have the following meanings:

(a) "Residential user" means the owner or occupant of a dwelling.

(b) "Commercial user" means the owner or occupant of a premise other than a dwelling, and other than a manufacturing plant employing more than twenty (20) persons on a regular basis. Commercial users include, but are not limited to, hotels, apartment buildings, retail stores, restaurants, nursing homes, service stations, beauty or barber shops, government buildings, banks, churches, doctor offices, and other similar businesses or enterprises.

(c) "Industrial users" means the owner or occupant of a premise used for a manufacturing plant employing more than twenty (20) persons on a regular basis.

(d) "Dwelling" means any single structure, with auxiliary buildings, occupied by no more than one household for residential purposes.

(e) "Premise" means any structure or group of structures operated as a single business or enterprise, provided, however, the term premise does not include more than one dwelling.

(f) "User" means any premise receiving water service from the city.

(g) "Low income" means the total annual household income is less than \$14,950.00 for a one person household; \$17,100.00 for a two person household; \$19,200.00 for a three person household; \$21,350.00 for a four person household; \$23,050.00 for a five person household; \$24,800.00 for a six person household; \$26,500.00 for a seven person household; and \$28,200.00 for an eight person household.

(2) Amount of fees. No permit to connect to any public sewer or a pertinence thereof shall be granted unless the applicant first pays to the city a sewer connection fee as follows:

(a) For residential users located inside the corporate limits of Red Boiling Springs, the sewer connection fee shall be \$500.00;

(b) For residential users located outside the corporate limits of the City of Red Boiling Springs, the sewer connection fee shall be \$750.00;

(c) For commercial users located inside the corporate limits of Red Boiling Springs, the sewer connection fee shall be \$600.00;

(d) For commercial users located outside the corporate limits of Red Boiling Springs, the sewer connection fee shall be \$850.00;

(e) For industrial users, the sewer connection fee shall be \$2,000.00.

(3) Installment payments. A low-income residential user shall have the option to pay the sewer connection fee in not less than twelve equal monthly installments by submitting an application with sufficient information to determine if the applicant qualifies as a low-income user and, if the applicant does qualify, by signing a contract agreeing to make all installment payments in order to pay the sewer connection fee in full. All residential users and all commercial users, regardless of income, shall have the option to pay the sewer connection fee at the rate of half, at the time the permit to connect is issued, and the balance within sixty (60) days.

(4) Future sewer mains. The deadline to pay the lower sewer connection fee applies only to those premises which are serviceable by a sewer main to be installed pursuant to the city's contract with Tidwell & Associates, which contract was approved by the city council on February 26, 1992. Premises which may be serviceable by sewer mains to be constructed pursuant to future contracts, may be granted a lower connection fee even after the deadline established by this section for paying the lower sewer connection fee.

(5) Special cases. The connection fee to be paid by the Macon County Board of Education for extending a sewer line to serve the Red Boiling Springs School, or any other customers requiring extensions of lines in order to serve such customers, shall be determined as a matter of contract between the city and the Board of Education or other customer, in order for the city to recover its cost in extending such line. (1980 Code, § 13-315, as amended by Ord. #217, Feb. 1995; as amended by Ord. #98-8, May 1998)

**18-316. Schedule of rates for sewer service.** (1) Inside rates. The following shall be the schedule of monthly charges for sewer service furnished to premises located inside of the corporate limits of the City of Red Boiling Springs, to wit:

WATER USAGESEWER AMOUNT

First 2,000 gallons

\$14.46 minimum bill

Over 2,000 gallons per thousand

\$7.88 per 1,000 gal.

(2) Outside rates. The following shall be the schedule of monthly charges for sewer service furnished to premises located outside of the corporate limits of the City of Red Boiling Springs, to wit:

WATER USAGESEWER AMOUNT

First 2,000 gallons

\$22.29 minimum bill

Over 2,000 gallons per thousand

\$11.82 per 1,000 gal.

(1980 Code, § 13-316, as amended by Ord. #98-9, June 1999, replaced by Ord. #10-10, Oct. 2010, and amended by Ord. #13-3, July 2013, Ord. #14-4, June 2014, and Ord. #15-4, June 2015)

**18-317. Truck and recreational vehicle discharge fees.** (1) The application fee for a truck discharge operation permit shall be \$25.00. Permit holders shall pay for each truck discharge at a fee of \$25.00 per thousand gallons.

(2) The fee to discharge waste from a recreational vehicle shall be \$5.00 per discharge. (1980 Code, § 13-317; as amended by Ord. #99-1, Feb. 1999)

**18-318. Transfer fee.** There shall be a non-refundable fee for transfer of service from any person, individual, firm, business, industry or corporation who receives service from the city under either an expressed or implied contract. Said transfer fee shall be \$25.00 for all customers inside the corporate limits of the City of Red Boiling Springs, and \$35.00 for any and all customers outside the corporate limits of the City of Red Boiling Springs. (Ord. #98-8, May 1998)

**18-319. Non-refundable connection fee for sewer use.** In addition to any other connection fee or charge, there shall be charged to each and every user to connect to the sewer system a non-refundable connection fee of \$15.00, for any and all customers located inside the corporate limits of the City of Red Boiling Springs. There shall be a non-refundable connection fee of \$25.00 for any and all customers located outside the corporate limits of the City of Red Boiling Springs. (Ord. #98-8, May 1998)

**18-320. Adjustment for leaks in billing.** If a customer has a leak in the part of the system required to be maintained by the customer, as set forth herein, the customer will be allowed only one (1) billing adjustment within each twelve (12) month period, providing the customer shall provide satisfactory proof that the leak has been repaired. Whether or not the customer has produced

satisfactory proof that the leak has been repaired shall be determined in the sole discretion of RBS Utilities and/or the city. The bill for usage during the current period of adjustment shall be the average of the last three (3) monthly bills. (Ord. #98-6, May 1998)

**18-321. Qualified and certified operator(s) required.** The city shall hire and maintain qualified and certified operator(s) for the system. Said operators shall meet all requirements for qualifications, as established by the appropriate state agencies, departments, laws and/or regulations. (Ord. #98-2, May 1998)

**18-322. Enforcement Response Plan Red Boiling Springs Tennessee.** (1) Introduction. Definition: An Enforcement Response Plan (ERP) is a document that contains detailed procedures on how a Public Owned Treatment works (POTW) investigates and responds to instances of Industrial User (IU) noncompliance.

This section describes the process for obtaining and evaluating information on industrial user compliance: identifying noncompliance; selecting an appropriate enforcement action; and resolving noncompliance in a timely, fair, and consistent manner.

(2) Description of terms. (a) "Administrative action" (a fine or order). An enforcement action authorized by the control authority's legal authority which is taken without the involvement of a court.

(b) "Administrative fine." A punitive monetary charge unrelated to actual treatment costs, which is assessed by the control authority rather than a court.

(c) "Administrative order." A document which orders the violator to perform a specific act or refrain from an act.

(d) "AO." Administrative order.

(e) "Cease and desist order." An administrative order directing an industrial user to immediately halt illegal or unauthorized discharges.

(f) "Civil litigation." Civil litigation against the industrial user seeking equitable relief, monetary penalties and actual damages.

(g) "Compliance order." An administrative order directing a noncompliant industry to achieve compliance by a date specified in the order.

(h) "Consent order." An administrative order embodying a legally enforceable agreement between the control authority and the noncompliant industrial user designed to restore the user to compliant status.

(i) "Criminal prosecution." Pursuing punitive measures against an individual and/or organization through a court of law.

(j) "Control authority." The entity directly administering and enforcing pretreatment standards and requirements against industrial users.

(k) "Fine." Monetary penalty assessed by control authority officials.

- (l) "I." Inspector.
- (m) "IU." Industrial user.
- (n) "Legal authority." The source of a control authority's jurisdiction and regulatory powers.
- (o) "Meeting." Informal compliance meeting with IU to resolve recurring noncompliance.
- (p) "NOV (Notice of Violation)." A control authority document notifying an industrial user that it has violated pretreatment standards and requirements.
- (q) "NPDES (National Pollutant Discharge Elimination System)." A permit system for the direct discharge of pollutants into U.S. waterways.
- (r) "POTW." Publicly owned treatment works.
- (s) "PC." Pretreatment coordinator.
- (t) "S." Superintendent.
- (u) "Show cause order." Formal meeting requiring the IU to appear and demonstrate why the control authority should not take a proposed enforcement action against it. The meeting may also serve as a forum to discuss corrective action and compliance schedules.
- (v) "SNC." Significant noncompliance.
  - (i) Violations of wastewater discharge limits.
    - (A) Chronic violations-66% or more of the measurements exceed the same daily maximum limit or the same average limit in a 6 month period. (Any magnitude of exceedance).
    - (B) Technical Review Criteria (TRC) Violations-33% or more of the measurements exceed the same daily maximum limit or the same average limit by more than the TRC in a 6 month period.
    - (C) Any other violation or violations of an effluent limit (average or daily maximum) that the control authority believes has caused, alone or in combination with other discharges, interference (e.g. slug loads) or pass-through, or endangered the health of sewage treatment personnel or the public.
    - (D) Any discharge of a pollutant which has caused imminent endangerment to human health/welfare or to the environment and resulted in the POTW's exercise of its emergency authority to halt or prevent such a discharge.
  - (ii) Violations of compliance schedule milestones, contained in a local control mechanism or enforcement order, for starting construction, completion construction, and attaining final compliance by 90 days or more after the schedule date.
    - (iii) Failure to provide reports for compliance schedules, self-monitoring data, or categorical standards (baseline monitoring reports, 90 day compliance reports, and periodic reports) within 30 days from the due date.
    - (iv) Failure to accurately report noncompliance.

(v) Any other violation or group of violations which the control authority considers to be significant.

(w) "Termination of service." A physical blockage of the sewer connection to a noncompliant user or issuance of a formal notice of termination to the industrial user.

(3) Provisions for enforcement. (a) Administrative enforcement remedies.

(i) Notification of violation. Whenever the superintendent finds that any industrial user has violated or is violating this chapter, or a wastewater permit or order issued hereunder, or any other pretreatment requirement, the superintendent or his agent may serve upon said user written notice of the violation. Within 10 days of the receipt date of this notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted to the superintendent. Submission of this plan in no way relieves the user of liability for any violation occurring before or after the receipt of the notice of violation.

(ii) Consent orders. The superintendent is hereby empowered to enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with the industrial user for noncompliance. Such orders will include specific action to be taken by the industrial user to correct the noncompliance within a time period also specified by the order. Consent orders shall have the same force and effect as administrative orders.

(iii) Show cause hearing. The superintendent may order any industrial user, which causes or contributes to violation to this chapter or wastewater permit or order issued hereunder, or any other pretreatment standard or requirement, to 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 and the reasons for such action, and a request that the user show cause why the proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least 10 days prior to the hearing. Such notice may be served on any principal executive, general partner or corporate officer. Whether or not a duly notified industrial user appears as noticed, immediate enforcement action may be pursued.

(iv) Compliance order. When the superintendent finds that an industrial user has violated or continues to violate the chapter or a permit or order issued thereunder, or any other pretreatment standard or requirement, he may issue an order to the industrial user responsible for the discharge directing that,

following a specified time period, sewer service shall be discontinued unless adequate treatment facilities, devices, or other related appurtenances have been installed and are properly operated. Orders may also contain other requirements as might be reasonably necessary and appropriate to address the noncompliance, including the installation of pretreatment technology, additional self-monitoring, and management practices.

(v) Cease and desist orders. When the superintendent finds that an industrial user has violated or continues to violate this chapter or any permit or order issued hereunder, or any other pretreatment standard or requirement, or that the user's past violations are likely to reoccur, or the user's past violations are likely to reoccur, the superintendent may issue an order to cease and desist all such violations and direct those persons in noncompliance to:

(A) Comply forthwith.

(B) Take such appropriate or remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and terminating the discharge.

(vi) Administrative fines. Notwithstanding any other section of this chapter, any user who is found to have violated any provision of this chapter, or permits and orders issued hereunder, or any other pretreatment standard or requirement shall be fined in an amount not to exceed one thousand dollars (\$1,000.00) per violation. Each day on which noncompliance shall occur or continue shall be deemed a separate and distinct violation. Such assessments may be added to the user's next scheduled sewer service charge and the superintendent shall have such collection remedies as he has to available collect other service charges. Unpaid charges, fines, and penalties shall constitute the individual user's property. Industrial users desiring to dispute such fines must file a request for the superintendent to reconsider the fine within 10 days of being notified of the fine. Where the superintendent believes a request has merit, he shall convene a hearing on the matter within 15 days of receiving the request from the industrial user.

(vii) Emergency suspensions. (A) The superintendent may suspend the wastewater treatment service and/or wastewater permit of an industrial user whenever such suspension is necessary in order to stop an actual or threatened discharge presenting or causing an imminent or substantial endangerment to the health or welfare of persons, the POTW, or the environment.

(B) Any user notified of a suspension of the wastewater treatment service and/or the wastewater permit



shall immediately stop or eliminate its contribution. In the event of a user's failure to immediately comply voluntarily with the suspension order, the superintendent shall take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW, its receiving stream, or endangerment to any individuals. The superintendent shall allow the user to recommence its discharge when the endangerment has passed.

(C) An industrial user that is responsible, in whole or in part, for imminent endangerment shall submit a detailed written statement describing the causes of the harmful contribution and the measures taken to prevent any future occurrence to the superintendent.

(viii) Termination of discharge. Significant industrial users proposing to discharge into the POTW, must first obtain a wastewater discharge permit from the control authority. Any user who violates the following conditions of this chapter or a wastewater discharge permit or order, or any applicable state or federal law, is subject to discharge termination:

(A) Violation of permit conditions.

(B) Failure to accurately report the wastewater constituents and characteristics of its discharge.

(C) Failure to report significant changes in operation 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 set forth in the city's sewer use ordinance.

Noncompliant industrial users will be notified of the proposed termination of their discharge and offered an opportunity to show cause under section 2.2.3 of this ordinance why the proposed action should not be taken.

(b) Judicial remedies. If any person discharges sewage, industrial waste, or other wastes into the wastewater disposal system contrary to the provisions of this chapter or any order or permit issued hereunder, the superintendent, through the city attorney, may commence an action for appropriate legal and/or equitable relief in the Civil Court of Macon County.

(i) Injunctive relief. Whenever an industrial user has violated or continues to violate the provisions of this chapter or permit or order issued hereunder, the superintendent, through counsel may petition the court for the issuance of a preliminary or permanent injunction or both (as may be appropriate) which

restrains or compels the activities on the part of the industrial user. The superintendent shall have such remedies to collect these fees, as it has available to collect other sewer service charges.

(ii) Civil penalties. (A) Any industrial user who has violated or continues to violate this chapter or any order or permit issued hereunder, shall be liable to the superintendent for a civil penalty of not more than (maximum allowable under state law, e.g. \$10,000 but not less than \$50, state law permitting) plus actual damages incurred by the POTW per violation per day for as long as the violation continues. In addition to the above described penalty and damages, the superintendent may recover reasonable attorney's fees, court costs, and other expenses associated with the enforcement activities, including sampling and monitoring expenses.

(B) The superintendent shall petition the court to impose, assess, and recover such sums. In determining amount the of liability, the court shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration, any economic benefit gained through the industrial user's violation, corrective actions by the industrial user, the compliance history of the user, and any other factor as justice requires.

(iii) Criminal prosecution. (A) Violations--general.

(1) Any industrial user who willfully or negligently violates any provision of this chapter or any orders or permits issued hereunder shall, upon conviction, be guilty of a misdemeanor, punishable by a fine not to exceed \$1,000.00 per violation per day or imprisonment for not more than one year or both.

(2) In the event of a second conviction, the user shall be punishable by a fine not to exceed \$3,000.00 per violation per day or imprisonment for not more than 3 years or both.

(B) Falsifying information. (1) Any industrial user who knowingly makes any false statements, representations, or certifications in any application, record, report, plan or other document filed or required to be maintained pursuant to this chapter, or wastewater permit, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this chapter shall, upon conviction, be punished by a fine of not more than \$1,000.00 per violation per day or imprisonment for not more than one year or both.

(2) In the event of a second conviction, the user shall be punishable by a fine not to exceed \$3,000.00 per violation per day or imprisonment for not more than 3 years or both.

(c) Supplemental enforcement remedies. (i) Annual publication of significant violations. The superintendent shall publish, at least annually in the largest daily newspaper circulated in the service area, a description of those industrial users, which are found to be in specific violation, as defined in section (3) of this section, with any provisions of this chapter or any permit or order issued hereunder during the period since the previous publication.

(ii) Termination of permit. Significant industrial users proposing to discharge into the POTW must first obtain a wastewater discharge permit from the control authority. Any user who violates the following conditions of this chapter or a wastewater discharge permit or order, or any applicable state or federal law, is subject to permit termination:

(A) Violation of 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 constituents and characteristics.

(D) Refusal of reasonable access to the user's premises for the purpose of inspection, monitoring, or sampling.

Noncompliant industrial users will be notified of the proposed termination of their wastewater permit and be offered an opportunity to show cause under section 2.1.3 of this ordinance why the proposed action should not be taken.

(d) Affirmative defenses. (i) Treatment upsets.

(A) Any industrial user which experiences an upset in operations that places it in a temporary state of noncompliance, which is not the result of operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation, shall inform the superintendent thereof immediately upon becoming aware of the upset. Where such information is given orally, the user thereof shall file a written report within five days. The report shall contain:

(1) A description of the upset, its cause(s), and impact on the discharge's compliance status.

(2) The duration of noncompliance, including exact dates and times of noncompliance, and if the noncompliance is continuing, the time by

which compliance is reasonably expected to be restored.

(3) All steps taken or planned to reduce, eliminate, and prevent recurrence of such an upset.

(B) An industrial user which complies with the notification provisions of this section in a timely manner shall have an affirmative defense to any enforcement action brought by the superintendent for any noncompliance with this chapter, or an order or permit issued hereunder by the user, which arises out of violations attributable to and alleged to have occurred during the period of the documented and verified upset.

(ii) Treatment bypasses. (A) A bypass of the treatment system is prohibited unless all of the following conditions are met:

(1) The bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

(2) There was no feasible alternative to the bypass, including the use of auxiliary treatment or retention of the wastewater; and

(3) The industrial user properly notified the superintendent as described in paragraph (B) below.

(B) Industrial users must provide immediate notice to the superintendent upon discovery of an unanticipated bypass. If necessary, the superintendent may require the industrial user to submit a written report explaining the cause(s), nature, and duration of the bypass, and steps being taken to prevent its recurrence.

(C) An industrial user may allow a bypass to occur which does not cause pretreatment standards or requirements to be violated, but only if it is for essential maintenance to ensure efficient operation of the treatment system. Industrial users anticipating a bypass must submit notice to the superintendent at least 10 days in advance. The superintendent may only approve the anticipated bypass if the circumstances satisfy those set forth in paragraph (A) above.

(4) Enforcement Response Guide

<u>Nature of Violation</u>	<u>Enforcement Response</u>	<u>Personnel</u>
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(a) Unauthorized discharges.  
(no permit)

	<u>Nature of Violation</u>	<u>Enforcement Response</u>	<u>Personnel</u>
(i)	<u>Unpermitted discharge.</u>		
(A)	IU unaware of requirement; no harm to POTW/environment	Phone call; NOV with application form	PC
(B)	IU unaware of requirement; harm to POTW	AO with fine Civil action	PC S
(C)	Failure to apply continues after notice by POTW	Civil action Criminal investigation Terminate service	S S S
(ii)	<u>Nonpermitted discharge.</u>		
(A)	IU has not submitted application within 10 days of due date	Phone call; NOV	PC
(b)	<u>Discharge limit violation.</u>		
(i)	<u>Exceedance of local or federal standard (permit limit).</u>		
(A)	Isolated not significant	Phone call; NOV	I, PC
(B)	Isolated, significant (no harm)	AO to develop spill prevention plan and fine	PC
(C)	Isolated, harm to POTW	Show cause order Civil action	PC, S S
(D)	Recurring, no harm to POTW or environment	AO with fine	PC
(E)	Recurring; significant (harm)	AO with fine Show cause order Civil action Terminate service	PC PC, S S S
(c)	<u>Monitoring and reporting violations.</u>		
(i)	<u>Reporting violation.</u>		
(A)	Report is improperly signed or certified	Phone call or NOV	PC

	<u>Nature of Violation</u>	<u>Enforcement Response</u>	<u>Personnel</u>
(B)	Report is improperly signed or certified after notice by POTW	AO Show cause order	PC PC, S
(C)	Isolated, not significant (e.g. 5 days late)	Phone call; NOV	I, PC
(D)	Significant (e.g. report 30 days or more)	AO to submit with fine per additional day	PC
(E)	Reports are always late or no reports at all	AO with fine Show cause order Civil action	PC PC, S S
(F)	Failure to report spill or changed discharge (no harm)	NOV	PC
(G)	Failure to report spill or changed discharge (results in harm)	AO with fine Civil action	PC S
(H)	Repeated failure to report spills	Show cause order Terminate service	PC, S S
(I)	Falsification	Criminal investigation Terminate service	S S
(ii)	<u>Failure to monitor correctly.</u>		
(A)	Failure to monitor all pollutants as required by permit	NOV or AO	PC
(B)	Recurring failure to monitor correctly	AO with fine Civil action	PC S
(iii)	<u>Improper sampling.</u>		
(A)	Evidence of intent	Criminal investigation Terminate service	S S
(iv)	<u>Failure to install monitoring equipment</u>		
(A)	Delay of less than 30 days	NOV	PC
(B)	Delay of 30 days or more	AO to install with fine for each additional day	PC

	<u>Nature of Violation</u>	<u>Enforcement Response</u>	<u>Personnel</u>
(C)	Recurring, violation of AO	Civil action Criminal investigation Terminate service	PC S S
(v)	<u>Compliance schedules</u> (in permit)		
(A)	Missed milestones by less than 30 days, or will not affect final milestone	NOV or AO with fine	PC
(B)	Missed milestone by more than 30 days, or will affect final milestone (good cause for delay)	AO with fine	PC
(C)	Missed milestone by more than 30 days, or will affect final milestone (no good cause for delay)	Show cause order Civil action Terminate service	PC, S S S
(D)	Recurring violation or violation of schedule in AO	Civil action Criminal investigation Terminate service	S S S
(d)	<u>Other permit violations.</u>		
(i)	<u>Waste streams are diluted in lieu of treatment.</u>		
(A)	Initial violation	AO with fine	PC
(B)	Recurring	Show cause order Terminate service	PC, S S
(C)	Does not result in harm	NOV	PC
(D)	Does result in harm	AO with fine Civil action with fine	PC S
(ii)	<u>Failure to mitigate noncompliance or halt production.</u>		
(A)	Does not result in harm	NOV	PC
(B)	Does result in harm	AO with fine Civil action	PC S
(iii)	<u>Failure to properly operate and maintain pretreatment facility.</u>		
(A)	See (4)(d)(ii) above		

	<u>Nature of Violation</u>	<u>Enforcement Response</u>	<u>Personnel</u>
(e)	<u>Violations detected during site visits.</u>		
(i)	<u>Entry denial.</u>		
(A)	Entry denied or consent withdrawn Copies of records denied	Obtain warrant and return to IU	I
(ii)	<u>Illegal discharge during site visits.</u>		
(A)	No harm to POTW or environment	AO with fine	PC
(B)	Discharges causes harm or evidence of intent/negligence	Civil action Criminal investigation	S S
(C)	Recurring, violation of AO	Terminate service	S
(iii)	<u>Improper sampling.</u>		
(A)	Unintentional sampling at incorrect location	NOV	I, PC
(B)	Unintentionally using incorrect sample type	NOV	I, PC
(C)	Unintentionally using incorrect sample collection techniques	NOV	I, PC
(iv)	<u>Inadequate recordkeeping.</u>		
(A)	Inspector finds files incomplete to missing (no evidence of intent)	NOV	I, PC
(B)	Recurring	AO with fine	PC
(v)	<u>Failure to report additional monitoring.</u>		
(A)	Inspection finds additional files	NOV	I, PC
(B)	Recurring	AO with fine	PC
(f)	<u>Timeframes for responses.</u> (i) All violations will be identified and documented within five days of receiving compliance information.		



(ii) Initial enforcement responses [involving contact with industrial user and requesting information on corrective or preventive action(s)] will occur within 15 days of violation.

(iii) Follow-up actions for continuing or recurring violations will be taken within 60 days of the initial enforcement response. For all continuing violations, the response will include a compliance schedule.

(iv) Violations, which threaten health, property or environmental quality, are considered emergencies and will receive immediate responses such as halting the discharge or terminating service.

(v) All violations meeting the criteria for significant noncompliance will be addressed with an enforceable order within 30 days of the identification of significant noncompliance.

(5) Enforcement responses. (a) Notice of violation.

EXAMPLE NOV  
DIVISION OF WATER AND WASTE WATER SERVICES  
CITY OF RED BOILING SPRINGS

IN THE MATTER OF

NAME OF INDUSTRY  
ADDRESS

NOTICE OF VIOLATION

LEGAL AUTHORITY

The following findings are made and notice issued pursuant to the authority vested in the superintendent of wastewater services, under section \_\_\_ of the city's sewer use ordinance. This order is based on findings of violation of the conditions of the wastewater discharge permit issued under section \_\_\_ of the city's sewer use ordinance.

FINDINGS

- 1) The City of Red Boiling Springs is charged with construction, maintenance, and control of the sewer system and treatment works.
- 2) To protect the sewer system and treatment works the City of Red Boiling Springs administers a pretreatment program.
- 3) Under this pretreatment program the (Name of Industry) was issued a discharge permit.
- 4) The discharge permit issued to the City of Red Boiling Springs contained numerical limits on the quantity of pollutants which (Name of Industry) could discharge and self-monitoring requirements.
- 5) On (Date) pollutant analysis revealed that the quantity of (Pollutant) exceeded the permit limitation.

NOTICE

THEREFORE, BASED ON THE ABOVE FINDINGS (Name of Industry) IS HEREBY NOTIFIED THAT:

- 1) It is in violation of its discharge permit and the sewer use ordinance of the City of Red Boiling Springs.

Signed: \_\_\_\_\_

\_\_\_\_\_  
Superintendent of Sewer Department  
PO Box 190  
Red Boiling Springs, TN 37150

(b) Cease and desist order.

EXAMPLE CEASE AND DESIST ORDER  
 DIVISION OF WATER AND WASTEWATER SERVICES  
 CITY OF RED BOILING SPRINGS

IN THE MATTER OF

NAME OF INDUSTRY  
 ADDRESS

CEASE AND DESIST ORDER

LEGAL AUTHORITY

The following findings are made and order issued pursuant to the authority vested in the superintendent of wastewater services under section \_\_\_\_ of the city's sewer use ordinance. This order is based on findings of violation of the conditions of the wastewater discharge permit issued under section \_\_\_\_ of the city's sewer use ordinance.

FINDINGS

- 1) (Industry) discharges nondomestic wastewater containing pollutants into the sanitary sewer system of the City of Red Boiling Springs.
- 2) (Industry) is a "significant industrial user" as defined by section \_\_\_\_ of the city's sewer use ordinance.
- 3) (Industry) was issued a wastewater discharge permit on (Date) which contains prohibitions, restrictions, and other limitations on the quality of the wastewater it discharges to the sanitary sewer.
- 4) Pursuant to the ordinance and the above-referenced permit, data is routinely collected or submitted on the compliance status of (Industry).
- 5) This data shows that (Industry) has violated the sewer use ordinance in the following manner:
  - a) (Industry) has continuously violated its permit limits for (parameter) in each sample collected between (Date) and (Date).
  - b) (Industry) has also failed to comply with an administrative compliance order requiring the installation of a pretreatment system and the achievement of compliance with its permit by (Date).
  - c) (Industry) has failed to appear at a show cause hearing pursuant to an order requiring said attendance.

ORDER

THEREFORE, BASED ON THE ABOVE FINDINGS (Industry) IS HEREBY ORDERED TO:

- 1) Within 24 hours of receiving this order, cease all discharges into the city's sanitary sewer. Such discharges shall not recommence until such time as (Industry) is able to demonstrate that it will comply with its current permit limits.
- 2) Failure to comply with this order may subject (Industry) to having its connection to the sanitary sewer sealed by the city, and assessed costs thereof.
- 3) Failure to comply with this order shall also constitute a further violation of the sewer use ordinance and may subject (Industry) to civil or criminal penalties or other such enforcement response as may be appropriate.
- 4) This order, entered this (Date), shall be effective upon receipt by (Industry).

Signed: \_\_\_\_\_

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Superintendent of Sewer Department  
 PO Box 190  
 Red Boiling Springs, TN 37150

(c) Show cause order.

EXAMPLE SHOW CAUSE ORDER  
 DIVISION OF WATER AND WASTEWATER SERVICES  
 CITY OF RED BOILING SPRINGS

IN THE MATTER OF

NAME OF INDUSTRY  
ADDRESS

ADMINISTRATIVE  
SHOW CAUSE ORDER

LEGAL AUTHORITY

The following findings are made and order issued pursuant to the authority vested in the superintendent of wastewater services, under section \_\_\_ of the city's sewer use ordinance. This order is based on findings of violation of the conditions of the wastewater discharge permit issued under section \_\_\_ of the city's sewer use ordinance.

FINDINGS

- 1) (Industry) discharges nondomestic wastewater containing pollutants into the sanitary sewer system of the City of Red Boiling Springs (hereafter "city").

- 2) (Industry) is a "significant industrial user" as defined by section \_\_ of the city's sewer use ordinance.
  - 3) (Industry) was issued a wastewater discharge permit on (Date) which contains prohibitions, restrictions, and other limitations on the quality of the wastewater it discharges to the sanitary sewer.
  - 4) Pursuant to the ordinance and the above-referenced permit, data is routinely collected or submitted on the compliance status of (Industry).
  - 5) This data shows that (Industry) has violated its wastewater discharge permit in the following manner:
    - a) (Industry) has violated its permit limits for (Parameter) in each sample collected between (Date) and (Date) for a total of \_\_\_\_ separate violations of the permit.
- (Industry) has failed to submit a periodic compliance report due (Date)
- b) All of these violations satisfy the city's definition of significant violation.

#### ORDER

THEREFORE, BASED ON THE FINDINGS, (Industry) IS HEREBY ORDERED TO:

- 1) Appear at a meeting with the superintendent of sewer services to be held on (Date, Time, and Place).
- 2) At this meeting, (Industry) must demonstrate why the city should not pursue a judicial enforcement action against (Industry) at this time.
- 3) This meeting will be closed to the public.
- 4) Representatives of (Industry) may be accompanied by legal counsel if they so choose.
- 5) Failure to comply with this order shall also constitute a further violation of the sewer use ordinance and may subject (Industry) to civil or criminal penalties or such other appropriate enforcement response as may be appropriate.
- 6) This order, entered this (Date), shall be effective upon receipt by (Industry).

Signed: \_\_\_\_\_

\_\_\_\_\_  
 Superintendent of Sewer Department  
 PO Box 190  
 Red Boiling Springs, TN 37150

(iv) Compliance order.

EXAMPLE COMPLIANCE ORDER  
 DIVISION OF WATER AND WASTEWATER SERVICES  
 CITY OF RED BOILING SPRINGS

IN THE MATTER OF

NAME OF INDUSTRY  
 ADDRESS

ADMINISTRATIVE  
 COMPLIANCE ORDER

LEGAL AUTHORITY

The following findings are made and order issued pursuant to the authority vested in the superintendent of wastewater services, under section \_\_\_ of the city's sewer use ordinance. This order is based on findings of violation of the conditions of the wastewater discharge permit issued under section \_\_\_ of the city's sewer use ordinance.

FINDINGS

- 1) (Industry) discharges nondomestic wastewater containing pollutants into the sanitary sewer system of the City of Red Boiling Springs (Hereafter) city.
- 2) (Industry) is a "significant industrial user" as defined by section \_\_ of the city's sewer use ordinance.
- 3) (Industry) was issued a wastewater discharge permit on (Date), which contains prohibitions, restrictions, and other limitations on the quality of the wastewater it discharges to the sanitary sewer.
- 4) Pursuant to the ordinance and the above-referenced permit, data is routinely collected or submitted on the compliance status of (Industry).
- 5) This data shows that (Industry) has violated its wastewater discharge permit in the following manner:
  - a) (Industry) has violated its permit limits for (Parameter) in each sample collected between (Date) and (Date) for a total of \_\_\_\_\_ separate violations of the permit.
  - b) (Industry) has failed to submit all periodic compliance reports due since (Date).
  - c) All of these violations satisfy the city's definition of significant violation.

ORDER

THEREFORE, BASED ON THE ABOVE FINDINGS (Industry) IS HEREBY ORDERED TO:

- 1) Within 180 days, install pretreatment technology, which will adequately treat (Industry)'s wastewater to a level, which will comply, with its wastewater permit.
- 2) Within 5 days, submit all periodic compliance reports due since (Date).
- 3) Within ten days pay, to city hall, a fine of (Amount) for the above described violations in accordance with section \_\_\_\_ of the sewer use ordinance.
- 4) Report, on a monthly basis, the wastewater quality and the corresponding flow and production information as described on page \_\_\_\_ of the wastewater discharge permit for a period of one year from the effective date of this order.
- 5) All reports and notices required by this order shall be sent, in writing, to the following address:
 

Pretreatment Coordinator  
PO Box 190  
Red Boiling Springs, TN 37150
- 6) This order does not constitute a waiver of the wastewater discharge permit which remains in full force and effect. The City of Red Boiling Springs reserves the right to seek any and all remedies available to it under section \_\_ of the sewer use ordinance for any violation cited by this order.
- 7) Failure to comply with the requirements of this order shall constitute a further violation of the sewer use ordinance and may subject (Industry) to civil or criminal penalties or such other appropriate responses as may be appropriate.
- 8) This order, entered this (Date), shall be effective upon receipt by (Industry).

Signed: \_\_\_\_\_

\_\_\_\_\_  
 Superintendent of Sewer Department  
 PO Box 190  
 Red Boiling Springs, TN 37150

(b) Termination of sewer service. (v) When to terminate service. Assuming other enforcement responses are unsuccessful, the types of violations warranting termination of service are:

(A) Unpermitted discharge(s) which violate the POTW's NPDES permit or which create a dangerous situation threatening human health, the environment, or the treatment plant.

(B) Discharge(s) that exceed local or categorical discharge limits and result in damage to the environment.

(C) Slug loads causing interference, pass-through, or damage to human health, the environment, or the treatment plan.

(D) Failure of the industry user to notify the control authority of effluent limit violations or slug discharge, which result in environmental, or POTW damage.

(E) Complete failure of the industry user to sample, monitor, or report as required by an AO.

(F) Failure of the industrial user to install required monitoring equipment per the condition of an AO.

(G) Major violation of a permit condition or AO accompanied by evidence of negligence or intent.

(vi) Example suspension order.

CITY OF RED BOILING SPRINGS  
SUSPENSION OF WASTEWATER SERVICE

Superintendent of Sewer Department  
Phone 615-699-2011  
PO Box 190  
Red Boiling Springs, TN 37150

Date of Notice \_\_\_\_\_

Business of Individual: \_\_\_\_\_

Address: \_\_\_\_\_

Person Contacted/Title: \_\_\_\_\_

City Code Section Violation: \_\_\_\_\_

Results of Analysis: \_\_\_\_\_  
\_\_\_\_\_

Due to the serious nature of your violation, The City of Red Boiling Springs is ordering you to immediately stop the discharge of the effluent (in violation), and to eliminate any further industrial discharging by (Time and Date).



In the event of your failure to voluntarily comply with this suspension order, the city shall take such steps as deemed necessary including, not limited to, immediate severance of your sewer connection to prevent or minimize damage to our POTW system or endangerment to any individual or the environment.

Refused to sign \_\_\_\_\_

\_\_\_\_\_  
Signature of person Contacted

\_\_\_\_\_  
Signature of City Representative

(as added by Ord. #99-4, April 1999)

**18-323. EPA compliance.** In the event any requirement within this chapter is less stringent than any of like application set forth in the effective Nation Pretreatment Standards (i.e., any regulations containing pollutant discharge limits promulgated by the EPA in accordance with section 307(b) and (c) of the Federal Water Pollution Control Act (the "Act"), 33 U.S.C. 1251, et seq., which applies to Industrial Users), or any other effective requirements or prohibitions of like application established under the Act or the EPA Regulations codified under Part 403 of Title 40 of the Code of Federal Regulations, then compliance with the requirements of this chapter shall require compliance with such more stringent requirements or prohibition notwithstanding any provision within this chapter to the contrary. (as added by Ord. #04-10, Dec. 2004)

## CHAPTER 4

### CONSERVATION OF WATER

#### SECTION

- 18-401. Definitions.
- 18-402. Application of regulations.
- 18-403. State of emergency.
- 18-404. Certain uses prohibited.
- 18-405. Enforcement.
- 18-406. Penalties.

**18-401. Definitions.** For the purposes of §§ 18-401 through 18-406 the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the text, words used in the present tense include future, words in the plural include the singular and words in the singular include the plural. The word "shall" is always mandatory and not merely directory.

- (1) "City" is the City of Red Boiling Springs.
- (2) "Person" is any person, firm, partnership, association, corporation, company, or organization of any kind.
- (3) "Water" is water from the City Water Supply System. (1980 Code, § 13-401)

**18-402. Application of regulations.** The provisions of §§ 18-401 through 18-406 inclusive shall apply to all persons using water both in and outside the city, and regardless of whether any person using water shall have a contract for water service with the city. (1980 Code, § 13-402)

**18-403. State of emergency.** The mayor is hereby authorized and empowered to declare a state of emergency, at any time hereafter when same may appear to be necessary or advisable for the general welfare and benefit of the municipality, relative to the use or consumption of water furnished by the municipal water system to its users, customers or consumers. When a state of emergency has been declared, the water commissioner is hereby authorized, empowered, and directed to immediately restrict, prohibit or regulate the use and consumption of all water by all of the city's users, customers and/or consumers in such a manner, to such an extent, and for such a length of time as is necessary or advisable for the general welfare and benefit of the municipality. (1980 Code, § 13-403)

**18-404. Certain uses prohibited.** When an emergency is declared, the use and withdrawal of water by any person for the following purposes is hereby prohibited; except by expressed permission granted by the water commissioner:

- (1) Watering yards. The sprinkling, watering or irrigating shrubbery, trees, lawns, grass, ground covers, plants, vines, gardens, vegetables, flowers, or any other vegetation.
- (2) Washing mobile equipment. The washing of automobiles, trucks, trailers, trailer houses, or any other type of mobile equipment.
- (3) Cleaning outdoor surfaces. The washing of sidewalks, driveways, filling station aprons, porches and other outdoor surfaces.
- (4) Cleaning buildings. The washing of the outside of dwellings; the washing of the inside and outside of office building.
- (5) Cleaning equipment and machinery. The washing and cleaning of any business or industrial equipment and machinery.
- (6) Ornamental fountains. The operation of any ornamental fountain or other structure making a similar use of water, not employing a recirculating system.
- (7) Swimming pools. Private swimming and wading pools.
- (8) Escape through defective plumbing. The escape of water through defective plumbing, which shall mean the knowing permission for defective plumbing to remain out of repair, and which shall include defects in swimming pools and fountains.
- (9) Air conditioning. Use of air conditioning equipment requiring water, not employing a recirculating system.
- (10) Restaurant service. Drinking water will not be served with meals unless specifically requested by the customer. (1980 Code, § 13-404)

**18-405. Enforcement.** Every police officer of the city shall in connection with his duties imposed by law, diligently enforce the provisions of this chapter. The water commissioner shall have the authority to enforce the provisions of this chapter by the discontinuance of water service in the event of violation hereof in addition to the penalties set out herein below. (1980 Code, § 13-405)

**18-406. Penalties.** Any person who shall violate the provisions of §§ 18-401 through 18-406 inclusive shall be fined no less than ten dollars (\$10.00) nor more than fifty dollars (\$50.00) for each and every offense. (1980 Code, § 13-406)

## CHAPTER 5

### SEWAGE AND HUMAN EXCRETA DISPOSAL<sup>1</sup>

#### SECTION

- 18-501. Definitions.
- 18-502. Places required to have sanitary disposal methods.
- 18-503. When a septic tank shall be used.
- 18-504. Registration and records of septic tank cleaners, etc.
- 18-505. Use of pit privy or other method of disposal.
- 18-506. Approval and permit required for septic tanks, privies, etc.
- 18-507. Owner to provide disposal facilities.
- 18-508. Occupant to maintain disposal facilities.
- 18-509. Only specified methods of disposal to be used.
- 18-510. Discharge into watercourses restricted.
- 18-511. Pollution of ground water prohibited.
- 18-512. Enforcement of chapter.
- 18-513. Carnivals, circuses, etc.
- 18-514. Violations.

**18-501. Definitions.** The following definitions shall apply in the interpretation of this chapter:

- (1) "Health officer." The person duly appointed to such position having jurisdiction, or any person or persons authorized to act as his agent.
- (2) "Human excreta." The bowel and kidney discharges of human beings.
- (3) "Sewage." All water-carried human and household wastes from residences, buildings, or industrial establishments.
- (4) "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 and Disposal Fields." A minimum liquid depth of four (4) feet should be

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<sup>1</sup>Municipal code reference

Plumbing code: title 12, chapter 2.

The regulations in this chapter governing the disposal of sewage and human excreta are recommended by the Tennessee Department of Health, Environmental Sanitation Service, for adoption by cities in the interest of public health.

provided with a minimum depth of air space above the liquid of one (1) foot. 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 (5) feet. 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 underground water supply, and such disposal shall be in accordance with recommendations of the health officer as determined by acceptable soil percolation data.

(5) "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 underground water supply will be prevented.

(6) "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.

(7) "Watercourse." Any natural or artificial drain which conveys water either continuously or intermittently. (1980 Code, § 8-301)

**18-502. 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)

**18-503. When a septic tank shall be used.** Wherever water carried sewage facilities are installed and their use is permitted by the health officer, the wastes from such facilities shall be discharged into an approved septic tank system.

No septic tank or other water-carried sewage disposal system 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, § 8-303)

**18-504. 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, § 8-304)

**18-505. Use of pit privy or other method of disposal.** Wherever a sanitary method of human excreta disposal is required under § 18-502 and water-carried sewage facilities are not used, a sanitary pit privy or other approved method of disposal shall be provided. (1980 Code, § 8-305)

**18-506. 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, § 8-306)

**18-507. 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 § 18-502, or the agent of the owner, to provide such facilities. (1980 Code, § 8-307)

**18-508. 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, § 8-308)

**18-509. 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, § 8-309)

**18-510. 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, § 8-310)

**18-511. Pollution of ground water 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 ground water. (1980 Code, § 8-311)

**18-512. 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 insure 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. Failure to remove such menace immediately shall be punishable under the general penalty clause for this code. However, such person shall be allowed the number of days herein provided within which to make permanent correction. (1980 Code, § 8-312)

**18-513. 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, § 8-313)

**18-514. 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, § 8-314)

## CHAPTER 6

### CROSS-CONNECTIONS, AUXILIARY INTAKES, ETC.<sup>1</sup>

#### SECTION

- 18-601. Definitions.
- 18-602. Compliance with Tennessee Code Annotated.
- 18-603. Regulated.
- 18-604. Permit required.
- 18-605. Inspections.
- 18-606. Right of entry for inspections.
- 18-607. Correction of violation.
- 18-608. Required devices.
- 18-609. Non-portable supplies.
- 18-610. Statement required.
- 18-611. Penalty; discontinuance of service.
- 18-612. Provision applicable.

**18-601. 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 article:

(1) "Air-gap" shall mean a vertical, physical separation between a water supply and the overflow rim of a non-pressurized receiving vessel. An approved 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" shall mean 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" shall mean 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" shall mean the undesirable reversal of the intended direction of flow in a potable water distribution system as a result of a cross connection.

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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.



(5) "Backpressure" shall mean any elevation of pressure in the downstream piping system (caused by pump, elevated tank or piping, steam 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" shall mean 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" shall mean 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" shall mean 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" shall mean 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" shall mean 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:

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.

Class 2 shall be the same as Class 1, except that booster pumps may be installed in the connections from the street mains.

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).

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 within one thousand seven hundred feet (1,700') of the pumper connection.

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.

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" shall mean 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" shall mean 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" shall mean 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" shall mean 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" shall mean the Red Boiling Springs Water System, 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 principle backflow prevention device" shall mean 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) "Supervisor" shall mean the supervisor of the Red Boiling Springs Water System 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);

(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, § 8-401, as replaced by Ord. #09-02, May 2009)

**18-602. Compliance with Tennessee Code Annotated.** The Red Boiling Springs Water System shall be responsible for the protection of the public water system from contamination or pollution due to the backflow of contaminants through the water service connection. The Red Boiling Springs Water System 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, § 8-402, as replaced by Ord. #09-02, May 2009)

**18-603. Regulated.** (1) No water service connection to any premises shall be installed or maintained by the Red Boiling Springs Water System 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 Red Boiling Springs Water System 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 supervisor of the Red Boiling Springs Water System.

(3) If, in the judgment of the supervisor 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 supervisor 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 supervisor 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 Red Boiling Springs Water System shall conduct inspections and evaluations, and shall require correction of violations in accordance with the provisions of this chapter. (1980 Code, § 8-403, as replaced by Ord. #09-02, May 2009)

**18-604. 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 Red Boiling Springs Water System 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 Red Boiling Springs Water System (1980 Code, § 8-404, as replaced by Ord. #09-02, May 2009)

**18-605. Inspections.** The supervisor 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 Red Boiling Springs Water System in accordance with guidelines acceptable to the Tennessee Department of Environment and Conservation. (as added by Ord. #09-02, May 2009)

**18-606. Right of entry for inspections.** The supervisor or his authorized representative shall have the right to enter, at any reasonable time, any property served by a connection to the Red Boiling Springs Water System 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. (as added by Ord. #09-02, May 2009)

**18-607. 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 supervisor 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 Red Boiling Springs Water System 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 system 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 supervisor, warrants disconnection prior to a due process hearing.

(3) The failure to correct conditions threatening the safety of the public water system as prohibited by this chapter and Tennessee Code Annotated, § 68-221-711, within the time limits established by the supervisor or his representative, shall be grounds for denial of water service. If proper protection has not been provided after a reasonable time, the supervisor 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 supervisor, warrants disconnection prior to a due process hearing. (as added by Ord. #09-02, May 2009)

**18-608. 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 Red Boiling Springs Water System 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;

(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 Red Boiling Springs Water System, as to manufacture, model, size and application. The method of installation of backflow prevention devices shall be approved by the Red Boiling Springs Water System 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 requiring reduced pressure principle assemblies or air gap separation 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:

(a) High risk high hazards:

(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;
- (vii) 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)

(4) 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 Red Boiling Springs Water System as needing protection.

(a) Class 1, Class 2 and Class 3 fire protection systems shall generally require a double check valve assembly; except (1) a double check detector assembly shall be required where a hydrant or other point of use exists on the system; or (2) a reduced pressure backflow prevention device shall be required where:

- (i) Underground fire sprinkler lines are parallel to and within ten feet (10') horizontally of pipes carrying sewage or significantly toxic materials;

- (ii) Premises have unusually complex piping systems;
- (iii) 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 with require a hose bibb vacuum breaker be installed on the faucet used for filling.
- (5) The supervisor 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.
- (6) 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 Red Boiling Springs Water System 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 Red Boiling Springs Water System, 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; (1) the floor, (2) the top of opening(s) in the enclosure or (3) 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/back-siphonage 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 Red Boiling Springs Water System. 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 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 Red Boiling Springs Water System 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 Red Boiling Springs Water System may require the installation of a duplicate device.

(p) The Red Boiling Springs Water System 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 Red Boiling Springs Water System. Expense of such repairs shall be borne by the owner for 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 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 Red Boiling Springs Water System.

(6) Testing of devices. Devices shall be tested at least annually by the Red Boiling Springs Water System 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 Red Boiling Springs Water System 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. There will be no charge for annual testing. (as added by Ord. #09-02, May 2009)

**18-609. 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 Red Boiling Springs Water System, such coding is necessary to identify and protect the potable water supply. (as added by Ord. #09-02, May 2009)

**18-610. 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 Red Boiling Springs Water System 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. #09-02, May 2009)

**18-611. 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 supervisor 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. #09-02, May 2009)

**18-612. Provision applicable.** The requirements contained in this chapter shall apply to all premises served by the Red Boiling Springs Water System and are hereby made part of the conditions required to be met for the Red Boiling Springs Water System 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. #09-02, May 2009)

**CHAPTER 7**

**[DELETED]**

(as deleted by Ord. #09-3, May 2009)

## CHAPTER 8

### WASTEWATER PRETREATMENT ORDINANCE

#### SECTION

- 18-801. General provisions.
- 18-802. General sewer use requirements.
- 18-803. Pretreatment of wastewater.
- 18-804. Individual wastewater discharge permits.
- 18-805. Individual wastewater discharge permit issuance.
- 18-806. Reporting requirements.
- 18-807. Compliance monitoring.
- 18-808. Confidential information.
- 18-809. Publication of users in significant noncompliance.
- 18-810. Administrative enforcement remedies.
- 18-811. Judicial enforcement remedies.
- 18-812. Supplemental enforcement action.
- 18-813. Affirmative defenses to discharge violations.
- 18-814. Wastewater treatment rates.
- 18-815. Miscellaneous provisions.

**18-801. General provisions.** (1) Purpose and policy. This ordinance sets forth uniform requirements for users of the Publicly Owned Treatment Works for the City of Red Boiling Springs, Tennessee and enables the city to comply with all applicable state and federal laws, including the Clean Water Act (33 United States Code [U.S.C.] section 1251 *et seq.*) and the General Pretreatment Regulations (title 40 of the Code of Federal Regulations [CFR] part 403). The objectives of this ordinance are:

- (a) To prevent the introduction of pollutants into the publicly owned treatment works that will interfere with its operation;
- (b) To prevent the introduction of pollutants into the publicly owned treatment works that will pass through the publicly owned treatment works, inadequately treated, into receiving waters, or otherwise be incompatible with the publicly owned treatment works;
- (c) To protect both publicly owned treatment works personnel who may be affected by wastewater and sludge in the course of their employment and the general public;
- (d) To promote reuse and recycling of industrial wastewater and sludge from the publicly owned treatment works;
- (e) To provide for fees for the equitable distribution of the cost of operation, maintenance, and improvement of the publicly owned treatment works; and

(f) To enable the city to comply with its National Pollutant Discharge Elimination System permit conditions, sludge use and disposal requirements, and any other federal or state laws to which the publicly owned treatment works is subject.

This ordinance shall apply to all users of the publicly owned treatment works. The ordinance authorizes the issuance of individual wastewater discharge permits; provides for monitoring, compliance, and enforcement activities; establishes administrative review procedures; requires user reporting; and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein.

(2) Administration. Except as otherwise provided herein, the "director of public works" shall administer, implement, and enforce the provisions of this ordinance. Any powers granted to or duties imposed upon the director of public works may be delegated by the director of public works to a duly authorized city employee.

(3) Abbreviations. The following abbreviations, when used in this ordinance, shall have the designated meanings:

BOD	-	Biochemical Oxygen Demand
BMP	-	Best Management Practice
BMR	-	Baseline Monitoring Report
CFR	-	Code of Federal Regulations
CIU	-	Categorical Industrial User
COD	-	Chemical Oxygen Demand
EPA	-	U.S. Environmental Protection Agency
gpd	-	gallons per day
IU	-	Industrial User
mg/l	-	milligrams per liter
NPDES	-	National Pollutant Discharge Elimination System
NSCIU	-	Non-Significant Categorical Industrial User
POTW	-	Publicly Owned Treatment Works
RCRA	-	Resource Conservation and Recovery Act
SIU	-	Significant Industrial User
SNC	-	Significant Noncompliance
TSS	-	Total Suspended Solids
U.S.C.	-	United States Code

(4) Definitions. Unless a provision explicitly states otherwise, the following terms and phrases, as used in this ordinance, shall have the meanings hereinafter designated.

(a) "Act" or "the Act." The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. section 1251, et seq.

(b) "Approval authority." The Tennessee Division of Water Pollution Control Director or his/her representative(s).

(c) "Authorized" or "duly authorized representative of the user."

(i) If the user is a corporation:

(A) The president, secretary, treasurer, or a vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or

(B) The manager of one 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.

(ii) If the user is a partnership or sole proprietorship: a general partner or proprietor, respectively.

(iii) If the user is a federal, state, or local governmental facility: a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or their designee.

(iv) The individuals described in paragraphs (i) through (iii), 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 city.

(d) "Biochemical Oxygen Demand" or "BOD." The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures for five (5) days at twenty degrees (20°) centigrade, usually expressed as a concentration (e.g., mg/l).

(e) "Best Management Practices" or "BMPs" means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in § 18-802(1)(a) and (b) [Tennessee rule 1200-4-14-.05(1)(a) and (2)]. BMPs include treatment requirements, operating procedures, and practices to



control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.

(f) "Categorical pretreatment standard" or "categorical standard." Any regulation containing pollutant discharge limits promulgated by EPA in accordance with sections 307(b) and (c) of the Act (33 U.S.C. section 1317) that apply to a specific category of users that appear in 40 CFR chapter I, subchapter N, parts 405-471).

(g) "Categorical industrial user." An industrial user subject to a categorical pretreatment standard or categorical standard.

(h) "City." The City of Red Boiling Springs or the City Council of Red Boiling Springs.

(i) "Chemical Oxygen Demand" or "COD." A measure of the oxygen required to oxidize all compounds, both organic and inorganic, in water.

(j) "Control authority." The City of Red Boiling Springs.

(k) "Daily maximum." The arithmetic average of all effluent samples for a pollutant collected during a calendar day.

(l) "Daily maximum limit." The maximum allowable discharge limit of a pollutant during a calendar day. Where daily maximum limits are expressed in units of mass, the daily discharge is the total mass discharged over the course of the day. Where daily maximum limits are expressed in terms of a concentration, the daily discharge is the arithmetic average measurement of the pollutant concentration derived from all measurements taken that day.

(m) "Environmental Protection Agency" or "EPA." The U.S. Environmental Protection Agency or, where appropriate, the Regional Water Management Division Director, the Regional Administrator, or other duly authorized official of said agency.

(n) "Existing source." Any source of discharge that is not a "new source."

(o) "Grab sample." A sample that is taken from a wastestream over a period of time not to exceed fifteen (15) minutes.

(p) "Indirect discharge" or "discharge." The introduction of pollutants into the POTW from any nondomestic source.

(q) "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.

(r) "Interference." A discharge that, alone or in conjunction with a discharge or discharges from other sources, inhibits or disrupts the POTW, its treatment processes or operations or its sludge processes, use or disposal; or exceeds the design capacity of the treatment works or the collection system.

(s) "Local limit." Specific discharge limits developed and enforced by Red Boiling Springs upon industrial or commercial facilities to implement the general and specific discharge prohibitions listed in 40 CFR 403.5(a)(1) and (b).

(t) "Medical waste." Isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes, and dialysis wastes.

(u) "Monthly average." The sum of all "daily discharges" measured during a calendar month divided by the number of "daily discharges" measured during that month.

(v) "Monthly average limit." The highest allowable average of "daily discharges" over a calendar month, calculated as the sum of all "daily discharges" measured during a calendar month divided by the number of "daily discharges" measured during that month.

(w) "New source." (i) 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 Act that will be applicable to such source if such standards are thereafter promulgated in accordance with that section, provided that:

(A) The building, structure, facility, or installation is constructed at a site at which no other source is located; or

(B) The building, structure, facility, or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or

(C) The production of 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 integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source, should be considered.

(ii) 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 section (i)(B) or (C) above but

otherwise alters, replaces, or adds to existing process or production equipment.

(iii) Construction of a new source as defined under this paragraph has commenced if the owner or operator has:

(A) Begun, or caused to begin, as part of a continuous onsite construction program:

(1) Any placement, assembly, or installation of facilities or equipment; or

(2) Significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or

(B) 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 paragraph.

(x) "Noncontact cooling water." Water used for cooling that does not come into direct contact with any raw material, intermediate product, waste product, or finished product.

(y) "Pass through." A discharge which exits the POTW into waters of the United States 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 city's NPDES permit, including an increase in the magnitude or duration of a violation.

(z) "Person." Any individual, partnership, copartnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, or any other legal entity; or their legal representatives, agents, or assigns. This definition includes all federal, state, and local governmental entities.

(aa) "pH." A measure of the acidity or alkalinity of a solution, expressed in standard units.

(bb) "Pollutant." Dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, medical wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, municipal, agricultural and industrial wastes, and certain characteristics of wastewater (e.g., pH, temperature, TSS, turbidity, color, BOD, COD, toxicity, or odor).

(cc) "Pretreatment." The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to, or in lieu of, introducing such pollutants into the POTW. This reduction or alteration can be obtained by physical, chemical, or biological processes; by process changes; or by other means, except by diluting the concentration of the pollutants unless allowed by an applicable pretreatment standard.

(dd) "Pretreatment requirements." Any substantive or procedural requirement related to pretreatment imposed on a user, other than a pretreatment standard.

(ee) "Pretreatment standards" or "standards." Pretreatment standards shall mean prohibited discharge standards, categorical pretreatment standards, and local limits.

(ff) "Prohibited discharge standards" or "prohibited discharges." Absolute prohibition against the discharge of certain substances; these prohibitions appear in § 18-802(1) of this chapter.

(gg) "Publicly Owned Treatment Works" or "POTW." A treatment works, as defined by section 212 of the Act (33 U.S.C. section 1292), which is owned by the city. This definition includes any devices or systems used in the collection, storage, treatment, recycling, and reclamation of sewage or industrial wastes of a liquid nature and any conveyances, which convey wastewater to a treatment plant.

(hh) "Septic tank waste." Any sewage from holding tanks such as vessels, chemical toilets, campers, trailers, and septic tanks.

(ii) "Sewage." Human excrement and gray water (household showers, dishwashing operations, etc.).

(jj) "Significant Industrial User (SIU)." Except as provided in paragraphs §§ 18-801(3) and (4) of this section, a significant industrial user is:

(i) An industrial user subject to categorical pretreatment standards; or

(ii) An industrial user that:

(A) Discharges an average of twenty-five thousand (25,000) gpd or more of process wastewater to the POTW (excluding sanitary, noncontact cooling and boiler blowdown wastewater);

(B) Contributes a process wastestream which makes up five percent (5%) or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or

(C) Is designated as such by Red Boiling Springs on the basis that it has a reasonable potential for adversely affecting the POTW's operation for violating any pretreatment standard or requirement.

(iii) Upon a finding that a user meeting the criteria in subsection (ii) of this part has no reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement, the city may at any time, on its own initiative or in response to a petition received from an industrial user, and in accordance with procedures in Tennessee Rule 1200-4-14-.08(6)(f), determine that such user should not be considered a significant industrial user.

(kk) "Slug load" or "slug discharge." Any discharge at a flow rate or concentration, which could cause a violation of the prohibited discharge standards in § 18-802(1) of this chapter.

A slug discharge is 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 POTW's regulations, local limits or permit conditions.

(ll) "Storm water." Any flow occurring during or following any form of natural precipitation, and resulting from such precipitation, including snowmelt.

(mm) "Director of public works." The person designated by the city to supervise the operation of the POTW, and who is charged with certain duties and responsibilities by this ordinance. The term also means a duly authorized representative of the director of public works.

(nn) "Total suspended solids" or "suspended solids." The total suspended matter that floats on the surface of, or is suspended in, water, wastewater, or other liquid, and that is removable by laboratory filtering.

(oo) "User" or "industrial user." A source of indirect discharge.

(pp) "Wastewater." Liquid and water-carried industrial wastes and sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, whether treated or untreated, which are contributed to the POTW.

(qq) "Wastewater treatment plant" or "treatment plant." That portion of the POTW which is designed to provide treatment of municipal sewage and industrial waste. (as added by Ord. #08-8, Nov. 2008, as amended by Ord. #10-1, Feb. 2010)

**18-802. General sewer use requirements.** (1) Prohibited discharge standards.

(a) General prohibitions. No user shall introduce or cause to be introduced into the POTW any pollutant or wastewater which causes pass through or interference. These general prohibitions apply to all users of the POTW whether or not they are subject to categorical pretreatment standards or any other national, state, or local pretreatment standards or requirements.

(b) Specific prohibitions. No user shall introduce or cause to be introduced into the POTW the following pollutants, substances, or wastewater:

(i) Pollutants which create a fire or explosive hazard in the POTW, including, but not limited to, wastestreams with a closed-cup flashpoint of less than 140 degrees F (60 degrees C) using the test methods specified in 40 CFR 261.21;

(ii) Wastewater having a pH less than 6.0 or more than 9.0, or otherwise causing corrosive structural damage to the POTW or equipment. Prohibited materials include, but are not limited to, acids, sulfides, concentrated chloride and fluoride compounds and substances which will react with water to form acidic products;

(iii) Garbage, solids or viscous substances that have not been ground or comminuted such that they will be carried freely in suspension under normal flow conditions prevailing in the public sewers or discharge of solids in amounts which will cause obstruction of the flow in the POTW resulting in interference. In no case shall solids greater than one half inch (1/2") in any dimension be introduced or allowed to enter the system. Prohibited materials include, but are not limited to, grease; uncomminuted garbage; animal guts or tissues, paunch manure, bones, hair, hides, fleshings, entrails, whole blood, or feathers from slaughterhouses; ashes, cinders, sand, spent lime, stone or marble, dust, metal, glass, straw, shavings, grass clippings, rags, waste paper, wood, plastic, tar, asphalt residues, spent grains, spent hops, residues from refining or processing of fuel or lubricating oil, and similar substances;

(iv) Toxic substances and pollutants, including oxygen-demanding pollutants (BOD, etc.), released in a discharge at a flow rate and/or pollutant concentration which, either singly or by interaction with other pollutants, will cause interference with the POTW or cause the POTW to exceed its NPDES permit limits;

(v) Wastewater having a temperature greater than 90 degrees F (32 degrees C), or which will inhibit biological activity in the treatment plant resulting in interference, but in no case wastewater which causes the temperature at the introduction into the treatment plant to exceed 104 degrees (40 degrees C);

(vi) Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin, in amounts that will cause interference or pass through.

(vii) Pollutants and any wastewater which causes hazard to human life or creates a public nuisance or which results in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety problems;

(viii) Trucked or hauled pollutants, except at discharge points designated by the director of public works in accordance with § 18-803(4) of this chapter.

(ix) Noxious or malodorous liquids, gases, solids, or other wastewater which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or a hazard to life, or to prevent entry into the sewers for maintenance or repair;

(x) Wastewater which imparts color which cannot be removed by the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions, which consequently imparts color to the treatment plant's effluent, thereby violating the city's NPDES permit;

(xi) Wastewater containing any radioactive wastes or isotopes except in compliance with applicable state or federal regulations;

(xii) Storm water, surface water, ground water, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water, noncontact cooling water, and unpolluted wastewater, unless specifically authorized by the director of public works;

(xiii) Sludges, screenings, or other residues from the pretreatment of industrial wastes;

(xiv) Medical wastes, except as specifically authorized by director of public works in an individual wastewater discharge permit or a general permit;

(xv) Wastewater causing, alone or in conjunction with other sources, the treatment plant's effluent to fail toxicity test;

(xvi) Detergents, surface-active agents, or other substances that might cause excessive foaming in the POTW;

(xvii) Fats, oils, or greases of animal or vegetable origin in concentrations greater than one hundred (100) mg/l, whether emulsified or not, or containing substances which may solidify or become viscous at temperatures between 32 degrees and 150 degrees F (0 degrees and 56 degrees C) at the point of discharge into the stream;

(xviii) Wastewater causing two (2) readings on an explosion hazard meter at the point of discharge into the POTW, or at any point in the POTW, of more than five percent (5%) or any single reading over ten percent (10%) of the lower explosive limit of the meter. Prohibited materials include, but are not limited to, gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromates, carbides, hydrides and sulfides;

(xix) Wastewaters at a flow rate which is excessive relative the capacity of the treatment works and which could cause a treatment process upset and subsequent loss of treatment efficiency; or wastewaters containing such concentrations or quantities of pollutants that their introduction into the POTW over a relatively short time period (sometimes referred to as "slug" discharges) would cause a treatment process upset and subsequent loss of treatment efficiency.

Pollutants, substances, or wastewater prohibited by this section shall not be processed or stored in such a manner that they could be discharged to the POTW.

(2) National categorical pretreatment standards. Users must comply with the categorical pretreatment standards found at 40 CFR chapter I, subchapter N, parts 405-471.

(a) When wastewater subject to a categorical pretreatment standard is mixed with wastewater not regulated by the same standard, the director of public works shall impose an alternate limit in accordance with Tennessee Rule 1200-4-14-.06(5).

(3) State pretreatment standards. Users must comply with State of Tennessee Pretreatment Standards pursuant to Tennessee Rule 1200-4-14.

(4) Local limits. (a) The director of public works is authorized to establish local limits pursuant to Tennessee Rule 1200-4-14-.05(3).

(b) The following pollutant limits are established to protect against pass through and interference. No person shall discharge wastewater containing in excess of the following daily maximum limit.

0.012	mg/l benzene
0.006	mg/l cadmium
0.064	mg/l carbon tetrachloride
3.3	mg/l chlorine
0.628	mg/l chloroform
0.501	mg/l chromium
0.098	mg/l copper
0.021	mg/l cyanide
0.101	mg/l ethylbenzene
0.049	mg/l lead
0.0004	mg/l mercury



5.412	mg/l methylene chloride
0.002	mg/l naphthalene
0.580	mg/l nickel
0.215	mg/l phenols, total
0.232	mg/l phthalates, total
0.002	mg/l silver
1.203	mg/l tetrachloroethylene
0.586	mg/l toluene
0.110	mg/l trichloroethylene
1.444	mg/l 1, 1, 1, trichloroethane
0.053	mg/l 1.2 trans dichloroethylene
1.244	mg/l zinc

The above limits apply at the point where the wastewater is discharged to the POTW. All concentrations for metallic substances are for total metal unless indicated otherwise. The public works director may impose mass limitations in addition to the concentration-based limitations above.

(c) The public works director may develop best management practices (BMPs), by ordinance or in individual wastewater discharge permits, to implement local limits and the requirements of § 18-802(1).

(5) City's right of revision. The City of Red Boiling Springs reserves the right to establish, by ordinance or in individual wastewater discharge permits, more stringent standards or requirements on discharges to the POTW consistent with the purpose of this ordinance.

(6) Dilution. No user shall ever increase the use of process water, or in any way attempt to dilute a discharge, as a partial or complete substitute for adequate treatment to achieve compliance with a discharge limitation unless expressly authorized by an applicable pretreatment standard or requirement. The director of public works may impose mass limitations on users who are using dilution to meet applicable pretreatment standards or requirements or in other cases when the imposition of mass limitations is appropriate.

(7) Use of public sewers required. (a) It shall be unlawful for any person to place, deposit, or permit to be deposited in any unsanitary manner on public or private property within the City of Red Boiling Springs, or in any area under the jurisdiction of said city, any human or animal excrement, or other objectionable waste.

(b) It shall be unlawful to discharge to any natural outlet within the City of Red Boiling Springs, or any area under the jurisdiction of said city, any sewage or other polluted waters, except where a federal or state discharge permit has been duly issued and is currently valid for such discharge.

(c) Except as hereinafter provided or as otherwise permitted by ordinance or regulation, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of sewage.

(d) The owner, tenant or occupant of all houses, buildings, improvements or properties used for residential, commercial, industrial or recreational and all other human occupancy purposes, which abut upon a street, road, right-of-way or other public way containing a public sanitary or combined sewer, or which have such sewer passing through or sufficiently close to such property that such property can be serviced by such sanitary sewer, shall upon demand by the city install suitable toilet facilities therein and connect the same directly with the proper treatment works in accordance with the provisions of this chapter and shall cease to use any other means for the disposal of sewage, waste, wastewater, and other polluting matter, provided however the city may waive such requirements in specific cases where it has determined that public sewer service to any particular individual user(s) would be unduly difficult or expensive and that alternative measures of disposal would not be hazardous to public health. However, where such waive is granted, such owner, tenant or occupant shall, nonetheless, be required to pay to the city the regular monthly sewer charge that would have been due from such user based upon water usage, based upon the city making sewer service available to such premises. In addition to any other method of enforcing this requirement, the city may refuse water service to such owner, tenant or occupant failing to comply within thirty (30) days after notice to comply.

(e) Direct service connections made to the city's sewerage system shall be made only by persons duly authorized by the city.

(f) The sewers are constructed for the purpose of transporting sewage--not storm water. Any customer of the sewerage system shall be responsible for the integrity of the pipes on his property which connect to the sewerage system. If it is determined that the pipes owned by the customer are faulty and in a bad state of repair such that extraneous storm water can enter the sewerage system, the city may require the customer to repair his pipes. If the pipes are not repaired within the time period allowed by the city, water service shall be terminated, and the customer held responsible for the resulting public health problems.

(g) No person owning vacuum or "cess pool" pump trucks or other liquid waste transport trucks shall discharge directly or indirectly

such sewage into the POTW, unless such person shall first have applied for and received a truck discharge operation permit from the director of public works or his designated representative. All applicants for a truck discharge operation permit shall complete such forms as required by the director, pay appropriate fees, and agree in writing to abide by the provisions of this section and any special conditions or regulations established by the director. The owners of such vehicles shall affix and display the permit number on the side of each vehicle used for such purposes. Such permits shall be valid for a period of one (1) year from the date of issuance, provided that such permit shall be subject to revocation by the director for violation of any provision of this section or reasonable regulation established by the director. Such permits shall be limited to the discharge of domestic sewage waste containing no industrial waste. The director shall designate the locations and times where such trucks may be discharged, and may refuse to accept any truckload of waste in his absolute discretion where it appears that the waste could interfere with the effective operation of the treatment works or any sewer line or appurtenance thereto. The owner of a truck discharge operation permit shall provide manifest to the POTW that states the source of the domestic waste they wish to discharge, the volume of wastewater from each source, and whether any industrial waste is included in the wastewater. The owner of the truck discharge operation permit shall provide a bond in an amount sufficient to cover his potential liability for violating his permit.

(h) No person shall discharge any other holding tank waste into the POTW unless he shall have applied for and have been issued a permit by the director. Unless otherwise allowed under the terms and conditions of the permit, a separate permit must be secured for each separate discharge. The permit shall state the specific location of discharge, the time of day the discharge is to occur, the volume of the discharge, and shall limit the wastewater constituents and characteristics of the discharge. Such user shall pay any applicable charges or fees therefore, and shall comply with conditions of the permit issued by the director.

Provided, however, no permit will be required to discharge domestic waste from a recreational vehicle holding tank provided such discharge is made into an approved facility designed to receive such waste.

(8) Private sewage disposal. The disposal of sewage by means other than the use of the available public sanitary sewage system shall be in accordance with local, county and state law. The disposal of sewage by private disposal systems shall be permissible only in those instances where service from the available public sanitary sewage system is not available, or where such is otherwise permitted by city ordinance or regulations.

(9) Building sewers and connections. (a) No unauthorized persons shall uncover, make any connections with or opening into, use, alter, or

disturb any public sewer or appurtenance thereof without first obtaining a written permit from the control authority. The owner or his agent shall make application on a special form furnished by the city. The permit application shall be supplemented by any plans, specifications, or other information considered pertinent in the judgment of the control authority.

(b) All costs and expenses incident to the installation and connection of the building sewer shall be borne by the owner. The owner shall indemnify the city from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

(c) A separate and independent building sewer shall be provided for every building.

(d) Old building sewers may be used in connection with new buildings only when they are found, upon examination and tested by the city, to meet all requirements of this chapter.

(e) The size, slope, alignment, materials of construction of a building sewer, and the methods of construction, including but not limited to, excavating, placing of the pipe, jointing, testing, and backfilling the trench, shall all conform to the requirements of the building and plumbing code or other applicable rules and regulations of the city. In the absence of code provisions or in amplification thereof, the materials and procedures set forth in appropriate specifications of the A.S.T.M. And W.P.C.F. Manual of Practice No. 9 shall apply.

(f) Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer.

(g) No person shall make connection of roof downspouts, exterior foundation drains, areaway 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 unless such connection is approved by the director of public works for purpose of disposal of polluted surface drainage.

(h) The connection of the building sewer into the public sewer shall conform to the requirements of the building and plumbing code or other applicable rules and regulations of the city, or the procedures set forth in appropriate specifications of the A.S.T.M. and the W.P.C.F. Manual of Practice No. 9.

(i) All such connections shall be made gastight and watertight. Any deviation from the prescribed procedures and materials must be approved by the control authority before installation.

(j) The applicant for the building sewer permit shall notify the control authority or his representative when the building sewer is ready

for inspection and connection to the public sewer. The connection shall be made by or under the supervision of the control authority.

(k) All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public, and property disturbed in the course of the work shall be restored in a manner satisfactory to the city.

(l) All cafes, restaurants, motels, hotels, or other commercial food preparation establishments shall install a grease trap on the kitchen waste line, provided however, all existing cafes, restaurants, motels, hotels, or other commercial food preparation establishments shall be required to construct a grease trap, at the owner's expense. The city shall retain the right to inspect and approve installation of the grease trap facility. The grease trap must precede the septic tank on the kitchen waste line if a septic tank is used. The grease trap must be designed in accordance with current engineering standards and shall be easily accessible for cleaning. Grease traps shall be maintained by the owner or operator of the facility so as to prevent a stoppage of the city sewer. If the city employees are required to cleanout the city sewer lines as a result of a stoppage resulting from a clogged grease trap, the property owner or operator shall be required to pay the costs of the city labor and materials required to clean out the sewer lines. The installation of grease traps shall be in accordance with § 18-803 of this chapter. (as added by Ord. #08-8, Nov. 2008, as amended by Ord. #10-1, Feb. 2010)

**18-803. Pretreatment of wastewater.** (1) Pretreatment facilities. Users shall provide wastewater treatment as necessary to comply with this ordinance and shall achieve compliance with all categorical pretreatment standards, local limits, and the prohibitions set out in § 18-802(1) of this chapter within the time limitations specified by EPA, the state, or the public works director, whichever is more stringent. Any facilities necessary for compliance shall be provided, operated, and maintained at the user's expense. Detailed plans describing such facilities and operating procedures shall be submitted to the director of public works for review, and shall be acceptable to the director of public works before such facilities are constructed. The review of such plans and operating procedures shall in no way relieve the user from the responsibility of modifying such facilities as necessary to produce a discharge acceptable to the city under the provisions of this ordinance.

(2) Additional pretreatment measures. (a) Whenever deemed necessary, the public works director may require users to restrict their discharge during peak flow periods, designate that certain wastewater be discharged only into specific sewers, relocate and/or consolidate points of discharge, separate sewage wastestreams from industrial wastestreams, and such other conditions as may be necessary to protect the POTW and determine the user's compliance with the requirements of this ordinance.

(b) The public works director may require any person discharging into the POTW to install and maintain, on their property and at their expense, a suitable storage and flow-control facility to ensure equalization of flow. An individual wastewater discharge permit may be issued solely for flow equalization.

(c) Grease, oil, and interceptors shall be provided when, in the opinion of the public works director, they are necessary for the proper handling of wastewater containing excessive amounts of grease and oil, or sand; except that such interceptors shall not be required for residential users. All interception units shall be of a type and capacity approved by the public works director, shall be so located to be easily accessible for cleaning and inspection. Such interceptors shall be inspected, cleaned, and repaired by the user at their expense. See § 18-802(9)(l) of this chapter for more detail and commercial requirements.

(d) Users with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter.

(3) Accidental discharge/slug discharge control plans. The director of public works shall evaluate whether each SIU needs an accidental discharge/slug discharge control plan or other action to control slug discharges. The director of public works may require any user to develop, submit for approval, and implement such a plan or take such other action that may be necessary to control slug discharges. Alternatively, the director of public works may develop such a plan for any user. An accidental discharge/slug discharge control plan shall address, at a minimum, the following:

(a) Description of discharge practices, including nonroutine batch discharges;

(b) Description of stored chemicals;

(c) Procedures for immediately notifying the director of public works of any accidental or slug discharge, as required by § 18-806(6) of this chapter; and

(d) Procedures to prevent adverse impact from any accidental or slug discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants, including solvents, and/or measures and equipment for emergency response.

(4) Hauled wastewater. (a) Septic tank waste may be introduced into the POTW only at locations designated by the public works director, and at such times as are established by the public works director. Such waste shall not violate § 18-802 of this chapter or any other requirements established by the city. The public works director may require septic

tank waste haulers to obtain individual wastewater discharge permits. See § 18-802(7)(g) of this chapter.

(b) The director of public works may require haulers of industrial waste to obtain individual wastewater discharge permits. The director of public works also may prohibit the disposal of hauled industrial waste. The discharge of hauled industrial waste is subject to all other requirements of this ordinance.

(c) Industrial waste haulers may discharge loads only at locations designated by the director of public works. No load may be discharged without prior consent of the director of public works. The director of public works may collect samples of each hauled load to ensure compliance with applicable standards. The director of public works may require the industrial waste hauler to provide a waste analysis of any load prior to discharge.

(d) Industrial waste haulers must provide a waste-tracking form for every load. This form shall include, at a minimum, the name and address of the industrial waste hauler, permit number, truck identification, names and addresses of sources of waste, and volume and characteristics of waste. The form shall identify the type of industry, known or suspected waste constituents, and whether any wastes are RCRA hazardous wastes. See § 18-802(7)(h) of this chapter. (as added by Ord. #08-8, Nov. 2008)

**18-804. Individual wastewater discharge permits.** (1) Wastewater analysis. When requested by the director of public works, a user must submit information on the nature and characteristics of its wastewater within thirty (30) days of the request. The director of public works is authorized to prepare a form for this purpose and may periodically require users to update this information.

(2) Individual wastewater discharge permit requirement. (a) No significant industrial user shall discharge wastewater into the POTW without first obtaining an individual wastewater discharge permit from the director of public works, except that a significant industrial user that has filed a timely application pursuant to § 18-804(3) of this chapter may continue to discharge for the time period specified therein.

(b) The director of public works may require other users to obtain individual wastewater discharge permits as necessary to carry out the purposes of this ordinance.

(c) Any violation of the terms and conditions of an individual wastewater discharge permit shall be deemed a violation of this ordinance and subjects the wastewater discharge permittee to the sanctions set out in §§ 18-810 through 18-812 of this chapter. Obtaining an individual wastewater discharge permit does not relieve a permittee of its obligation to comply with all federal and state pretreatment

standards or requirements or with any other requirements of federal, state, and local law.

(3) Individual wastewater discharge permitting--existing connections.

Any user required to obtain an individual wastewater discharge permit who was discharging wastewater into the POTW prior to the effective date of this ordinance and who wishes to continue such discharges in the future, shall, within forty-five (45) days after said date, apply to the director of public works for an individual wastewater discharge permit in accordance with § 18-804(5) of this chapter, and shall not cause or allow discharges to the POTW to continue after ninety (90) days of the effective date of this ordinance except in accordance with an individual wastewater discharge permit issued by the director of public works.

(4) Individual wastewater discharge permitting--new connections.

Any user required to obtain an individual wastewater discharge permit who proposes to begin or recommence discharging into the POTW must obtain such permit prior to the beginning or recommencing of such discharge. An application for this individual wastewater discharge permit, in accordance with § 18-804(5) of this chapter, must be filed at least ninety (90) days prior to the date upon which any discharge will begin or recommence.

(5) Individual wastewater discharge permit application contents.

(a) All users required to obtain an individual wastewater discharge permit must submit a permit application. Users that are eligible may request a general permit under § 18-804(6). The director of public works may require users to submit all or some of the following information as part of a permit application:

(i) Identifying information. (A) The name and address of the facility, including the name of the operator and owner.

(B) Contact information, description of activities, facilities, and plant production processes on the premises;

(ii) Environmental permits. A list of any environmental control permits held by or for the facility.

(iii) Description of operations. (A) 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 POTW from the regulated processes.

(B) Types of wastes generated, and a list of all raw materials and chemicals used or stored at the facility which are, or could accidentally or intentionally be, discharged to the POTW;



(C) Number and type of employees, hours of operation, and proposed or actual hours of operation;

(D) Type and amount of raw materials processed (average and maximum per day);

(E) Site plans, floor plans, mechanical and plumbing plans, and details to show all sewers, floor drains, and appurtenances by size, location, and elevation, and all points of discharge;

(iv) Time and duration of discharges;

(v) The location for monitoring all wastes covered by the permit;

(vi) 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 set out in Tennessee Rule 1200-4-14-.06(5).

(vii) 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 director of public works, 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 § 18-806(10) of this chapter. Where the standard requires compliance with a BMP or pollution prevention alternative, the user shall submit documentation as required by the director of public works or the applicable standards to determine compliance with the standard.

(E) Sampling must be performed in accordance with procedures set out in § 18-806(11) of this chapter.

(viii) Any other information as may be deemed necessary by the director of public works to evaluate the permit application.

(b) Incomplete or inaccurate applications will not be processed and will be returned to the user for revision.

(6) Wastewater discharge permitting--general permits. (General permits shall not apply to the Red Boiling Springs Pretreatment Program.)

(7) Application signatories and certifications. (a) All wastewater discharge permit applications, user reports and certification statements must be signed by an authorized representative of the user and contain the certification statement in § 18-806(14)(a).

(b) If the designation of an authorized representative is no longer accurate because a different individual or position has responsibility for the overall operation of the facility or overall responsibility for environmental matters for the company, a new written authorization satisfying the requirements of this section must be submitted to the director of public works prior to or together with any reports to be signed by an authorized representative.

(8) Individual wastewater discharge permit decisions. The director of public works will evaluate the data furnished by the user and may require additional information. Within thirty (30) days of receipt of a complete permit application, the director of public works will determine whether to issue an individual wastewater discharge permit. The director of public works may deny any application for an individual wastewater discharge permit. (as added by Ord. #08-8, Nov. 2008)

**18-805. Individual wastewater discharge permit issuance.**

(1) Individual wastewater discharge permit duration. An individual wastewater discharge permit shall be issued for a specified time period, not to exceed five (5) years from the effective date of the permit. An individual wastewater discharge permit may be issued for a period less than five (5) years, at the discretion of the director of public works. Each individual wastewater discharge permit will indicate a specific date upon which it will expire.

(2) Individual wastewater discharge permit contents. An individual wastewater discharge permit shall include such conditions as are deemed reasonably necessary by the director of public works to prevent pass through or interference, protect the quality of the water body receiving the treatment plant's effluent, protect worker health and safety, facilitate sludge management and disposal, and protect against damage to the POTW.

(a) Individual wastewater discharge permits must contain:

(i) A statement that indicates the wastewater discharge permit issuance date, expiration date and effective date;

(ii) A statement that the wastewater discharge permit is nontransferable without prior notification to the city in accordance with § 18-805(5) of this chapter, and provisions for furnishing the new owner or operator with a copy of the existing wastewater discharge permit;

(iii) Effluent limits, including best management practices, based on applicable pretreatment standards;

(iv) 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.

(v) A statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements, and any applicable compliance schedule. Such schedule may not extend the time for compliance beyond that required by applicable federal, state, or local law.

(vi) Requirements to control slug discharge, if determined by the director of public works to be necessary.

(b) Individual wastewater discharge permits may contain, but need not be limited to, the following conditions:

(i) Limits on the average and/or maximum rate of discharge, time of discharge, and/or requirements for flow regulation and equalization;

(ii) Requirements for the installation of pretreatment technology, pollution control, or construction of appropriate containment devices, designed to reduce, eliminate, or prevent the introduction of pollutants into the treatment works;

(iii) Requirements for the development and implementation of spill control plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated, or nonroutine discharges;

(iv) Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the POTW;

(v) The unit charge or schedule of user charges and fees for the management of the wastewater discharged to the POTW.

(vi) Requirements for installation and maintenance of inspection and sampling facilities and equipment, including flow measurement devices;

(vii) A statement that compliance with the individual wastewater discharge permit does not relieve the permittee of responsibility for compliance with all applicable federal and state pretreatment standards, including those which become effective during the term of the individual wastewater discharge permit; and

(viii) Other conditions as deemed appropriate by the director of public works to ensure compliance with this ordinance, and state and federal laws, rules, and regulations.

(3) Permit issuance process. (a) Public notification. The director of public works shall publish at his discretion a newspaper(s) of general circulation that provides meaningful public notice with the jurisdiction(s) served by the POTW, or on a Web page, a notice to issue a pretreatment

permit, at least thirty (30) days prior to issuance. The notice will indicate a location where the draft permit may be reviewed and an address where written comments may be submitted.

(b) Permit appeals. The director of public works shall provide public notice of the issuance of an individual wastewater discharge permit. Any person, including the user, may petition the director of public works to reconsider the terms of an individual wastewater discharge permit within fifteen (15) days of notice of its issuance.

(i) Failure to submit a timely petition for review shall be deemed to be a waiver of the administrative appeal.

(ii) In its petition, the appealing party must indicate the individual wastewater discharge permit provisions objected to, the reasons for this objection, and the alternative condition, if any, it seeks to place in the individual wastewater discharge permit.

(iii) The effectiveness of the individual wastewater discharge permit shall not be stayed pending the appeal.

(iv) If the director of public works fails to act within sixty (60) days, a request for reconsideration shall be deemed to be denied. Decisions not to reconsider an individual wastewater discharge permit, not to issue an individual wastewater discharge permit, or not to modify an individual wastewater discharge permit shall be considered final administrative actions for purposes of judicial review.

(v) Aggrieved parties seeking judicial review of the final administrative individual wastewater discharge permit decision must do so by filing a complaint with the appropriate court for proper jurisdiction within the appropriate state statute of limitations.

(4) Permit modifications. (a) The director of public works may modify an individual wastewater discharge permit for good cause, including, but not limited to, the following reasons:

(i) To incorporate any new or revised federal, state, or local pretreatment standards or requirements;

(ii) To address significant alterations or additions to the user's operation, processes, or wastewater volume or character since the time of the individual wastewater discharge permit issuance;

(iii) A change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge;

(iv) Information indicating that the permitted discharge poses a threat to the city's POTW, city personnel, or the receiving waters;

(v) Violation of any terms or conditions of the individual wastewater discharge permit;

(vi) Misrepresentations or failure to fully disclose all relevant facts in the wastewater discharge permit application or in any required reporting;

(vii) Revision of or a grant of variance from categorical pretreatment standards pursuant to Tennessee Rule 1200-4-14.13;

(viii) To correct typographical or other errors in the individual wastewater discharge permit; or

(ix) To reflect a transfer of the facility ownership or operation to a new owner or operator where requested in accordance with § 18-805(5).

(5) Individual wastewater discharge permit transfer. Individual wastewater discharge permits are issued to a specific user for a specific operation. Individual wastewater discharge permits may not be transferred, reassigned or sold to a new owner, new user, different premise, or a new or changed operation.

(6) Individual wastewater discharge permit revocation or termination. The director of public works may revoke an individual wastewater discharge permit for good cause, including, but not limited to, the following reasons:

(a) Failure to notify the director of public works of significant changes to the wastewater prior to the changed discharge;

(b) Failure to provide prior notification to the director of public works of changed conditions pursuant to § 18-806(5) of this chapter;

(c) Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application;

(d) Falsifying self-monitoring reports and certification statements;

(e) Tampering with monitoring equipment;

(f) Refusing to allow the director of public works timely access to the facility premises and records;

(g) Failure to meet effluent limitations;

(h) Failure to pay fines;

(i) Failure to pay sewer charges;

(j) Failure to meet compliance schedules;

(k) Failure to complete a wastewater survey or the wastewater discharge permit application;

(l) Failure to provide advance notice of the transfer of business ownership of a permitted facility; or

(m) Violation of any pretreatment standard or requirement, or any terms of the wastewater discharge permit or this ordinance.

Individual wastewater discharge permits shall be voidable upon cessation of operations or transfer of business ownership. All individual wastewater

discharge permits issued to a user are void upon the issuance of a new individual wastewater discharge permit to that user.

(7) Individual wastewater discharge permit reissuance. A user with an expiring individual wastewater discharge permit shall apply for individual wastewater discharge permit reissuance by submitting a complete permit application, in accordance with § 18-804(5) of this chapter, a minimum of sixty (60) days prior to the expiration of the user's existing individual wastewater discharge permit.

(8) Regulation of waste received from other jurisdictions. (a) If another municipality, or user located within another municipality, contributes wastewater to the POTW, the director of public works shall enter into an intermunicipal agreement with the contributing municipality.

(b) Prior to entering into an agreement required by subsection (a), above, the director of public works shall request the following information from the contributing municipality:

(i) A description of the quality and volume of wastewater discharged to the POTW by the contributing municipality;

(ii) An inventory of all users located within the contributing municipality that are discharging to the POTW; and

(iii) Such other information as the director of public works may deem necessary.

(c) An intermunicipal agreement, as required by subsection (a), above, shall contain the following conditions:

(i) A requirement for the contributing municipality to adopt a sewer use ordinance which is at least as stringent as this ordinance and local limits, including required Baseline Monitoring Reports (BMRs) which are at least as stringent as those set out in § 18-802(4) of this chapter. The requirement shall specify that such ordinance and limits must be revised as necessary to reflect changes made to the city's ordinance or local limits;

(ii) A requirement for the contributing municipality to submit a revised user inventory on at least an annual basis;

(iii) A provision specifying which pretreatment implementation activities, including individual wastewater discharge permit issuance, inspection and sampling, and enforcement, will be conducted by the contributing municipality; which of these activities will be conducted by the director of public works; and which of these activities will be conducted jointly by the contributing municipality and the director of public works;

(iv) A requirement for the contributing municipality to provide the director of public works with access to all information that the contributing municipality obtains as part of its pretreatment activities;

(v) Limits on the nature, quality, and volume of the contributing municipality's wastewater at the point where it discharges to the POTW;

(vi) Requirements for monitoring the contributing municipality's discharge;

(vii) A provision ensuring the director of public works access to the facilities of users located within the contributing municipality's jurisdictional boundaries for the purpose of inspection, sampling, and any other duties deemed necessary by the director of public works; and

(viii) A provision specifying remedies available for breach of the terms of the intermunicipal agreement. (as added by Ord. #08-8, Nov. 2008, as amended by Ord. #10-1, Feb. 2010)

**18-806. Reporting requirements.** (1) Baseline monitoring reports.

(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 1200-4-14.06(1)(d), whichever is later, existing categorical industrial users currently discharging to or scheduled to discharge to the POTW shall submit to the director of public works a report which contains the information listed in paragraph (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 director of public works a report which contains the information listed in paragraph (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) All information required in §§ 18-804(5)(a)(i)(A), 18-804(5)(b), 18-804(5)(a)(iii)(A), and 18-804(5)(a)(vi).

(ii) Measurement of pollutants.

(A) The user shall provide the information required in § 18-804(5)(a)(vii)(A) through (D).

(B) The user shall take a minimum of one (1) representative sample to compile that data necessary to comply with the requirements of this paragraph.

(C) 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 in Tennessee Rule 1200-4-14-.06(5) to evaluate compliance with the pretreatment standards. Where an alternate concentration or mass limit has been calculated in accordance with Tennessee Rule 1200-4-14-.06(5) this adjusted limit along with supporting data shall be submitted to the control authority;

(D) Sampling and analysis shall be performed in accordance with § 18-806(10);

(E) The director of public works 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;

(F) 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 POTW.

(iii) Compliance certification. A statement, reviewed by the user's authorized representative as defined in § 18-801(4)(c) 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.

(iv) 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 § 18-806(2) of this chapter.

(v) Signature and report certification. All baseline monitoring reports must be certified in accordance with § 18-806(14)(a) of this chapter and signed by an authorized representative as defined in § 18-801(4)(c).

(2) Compliance schedule progress reports. The following conditions shall apply to the compliance schedule required by § 18-806(1)(b)(iv) of this chapter.

(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 director of public works no later than fourteen (14) days following each date in the schedule and the final date of compliance including, as 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; and

(d) In no event shall more than nine (9) months elapse between such progress reports to the director of public works. subsection (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 POTW, any user subject to such pretreatment standards and requirements shall submit to the director of public works a report containing the information described in §§ 18-804(5)(a)(vi) and (vii) and 18-806(1)(b)(ii) of this chapter. For users subject to equivalent mass or concentration limits established in accordance with the procedures in § 18-802(2), this report shall contain a reasonable measure of the user's long-term production rate. 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 chapter shall include the user's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with § 18-806(14)(a) of this chapter. All sampling will be done in conformance with § 18-806(11).

(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 POTW, any user subject to such pretreatment standards and requirements shall submit to the director of public works a report containing the information described in §§ 18-804(5)(a)(vi) and (vii) and 18-806(1)(b)(ii) of this chapter. For users subject to equivalent mass or concentration limits established in accordance with the procedures in § 18-802(2), this report shall contain a reasonable measure of the user's long-term production rate. 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 § 18-806(14)(a) of this chapter. All sampling will be done in conformance with § 18-806(11).

(4) Periodic compliance reports. (a) All significant industrial users must, at a frequency determined by the director of public works, submit no less than twice per year (June and December) 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 director of public works 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 § 18-806(14)(a) of 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 director of public works, using the procedures prescribed in § 18-811 of this chapter, the results of this monitoring shall be included in the report.

(5) Reports of changed conditions. Each user must notify the director of public works of any significant changes to the user's operations or system which might alter the nature, quality, or volume of its wastewater at least thirty (30) days before the change.

(a) The director of public works 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 § 18-804(5) of this chapter.

(b) The director of public works may issue an individual wastewater discharge permit under § 18-805(7) of this chapter or modify an existing wastewater discharge permit under § 18-805(4) of this chapter in response to changed conditions or anticipated changed conditions.

(6) Reports of potential problems. (a) In the case of any discharge, including, but not limited to, accidental discharges, discharges of a nonroutine, episodic nature, a noncustomary batch discharge, a slug discharge or slug load, that might cause potential problems for the POTW, the user shall immediately telephone and notify the director of

public works 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 director of public works, 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 POTW, 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 ordinance.

(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 (a), above. Employers shall ensure that all employees, who could cause such a discharge to occur, are advised of the emergency notifications procedure.

(d) Significant industrial users are required to notify the director of public works 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 director of public works as the director of public works may require.

(8) Notice of violation/repeat sampling and reporting. If sampling performed by a user indicates a violation, the user must notify the director of public works 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 director of public works within thirty (30) days after becoming aware of the violation. Resampling by the industrial user is not required if the city performs sampling at the user's facility at least once a month, or if the city performs sampling at the user between the time when the initial sampling was conducted and the time when the user or the city receives the results of this sampling, or if the city has performed the sampling and analysis in lieu of the industrial user.

(9) Notification of the discharge of hazardous waste. The City of Red Boiling Springs prohibits the discharge into the POTW of any substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR Part 261.

(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 director of public works 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 (b) and (c) below, the user must collect wastewater samples using 24-hour flow-proportional composite sampling techniques, unless time-proportional composite sampling or grab sampling is authorized by the director of public works. Where time-proportional composite sampling or grab sampling is authorized by the city, 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 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 documented in approved EPA methodologies may be authorized by the city, 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 90-day compliance reports required in §§ 18-806(1) and 18-806(3) [Tennessee Rule 1200-4-14-.12(2) and (4)], 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 director of public works may authorize a lower minimum. For the reports required by §18-806(4) (Tennessee Rule 1200-4-14-.12(5) and (8)), the industrial user is required to collect the number of grab samples necessary to assess and assure compliance by 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, postage prepaid, into a mail facility serviced by the United States Postal Service, the date of receipt of the report shall govern.

(13) Recordkeeping. Users subject to the reporting requirements of this ordinance shall retain, and make available for inspection and copying, all

records of information obtained pursuant to any monitoring activities required by this ordinance, 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 § 18-802(4)(c). 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 city, or where the user has been specifically notified of a longer retention period by the director of public works.

(14) Certification statements. (a) Certification of permit applications, user reports and initial monitoring waiver. The following certification statement is required to be signed and submitted by users submitting permit applications in accordance with § 18-804(7); users submitting baseline monitoring reports under § 18-806(1)(b)(v); users submitting reports on compliance with the categorical pretreatment standard deadlines under § 18-806(3); users submitting periodic compliance reports required by § 18-806(4)(a)-(d). The following certification statement must be signed by an authorized representative as defined in § 18-801(4)(c):

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. (as added by Ord. #08-8, Nov. 2008, as amended by Ord. #10-1, Feb. 2010)

**18-807. Compliance monitoring.** (1) Right of entry--inspection and sampling. The director of public works shall have the right to enter the premises of any user to determine whether the user is complying with all requirements of this ordinance and any individual wastewater discharge permit or order issued hereunder. Users shall allow the director of public works ready access to all parts of the premises for the purposes of inspection, sampling, records examination and copying, and the performance of any additional duties.

(a) Where a user has security measures in force which require proper identification and clearance before entry into its premises, the

user shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, the director of public works shall be permitted to enter without delay for the purposes of performing specific responsibilities.

(b) The director of public works shall have the right to set up on the user's property, or require installation of, such devices as are necessary to conduct sampling and/or meeting of the user's operations.

(c) The director of public works may require the user to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the user at its own expense. All devices used to measure wastewater flow and quality shall be calibrated quarterly to ensure their accuracy.

(d) Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the user at the written or verbal request of director of public works and shall not be replaced. The costs of clearing such access shall be borne by the user.

(e) Unreasonable delays in allowing the director of public works access to the user's premises shall be a violation of this ordinance.

(2) Search warrants. If the director of public works has been refused access to a building, structure, or property, or any part thereof, and is able to demonstrate probable cause to believe that there may be a violation of this ordinance, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program of the city designed to verify compliance with this ordinance or any permit or order issued hereunder, or to protect the overall public health, safety and welfare of the community, the director of public works may seek issuance of a search warrant from the Criminal Court of Macon County, Tennessee, located at the Justice Center in Lafayette, Tennessee. (as added by Ord. #08-8, Nov. 2008, as amended by Ord. #10-1, Feb. 2010)

**18-808. Confidential information.** Information and data on a user obtained from reports, surveys, wastewater discharge permit applications, individual wastewater discharge permits, and monitoring programs, and from the director of public works inspection and sampling activities, shall be available to the public without restriction, unless the user specifically requests, and is able to demonstrate to the satisfaction of the director of public works, that the release of such information would divulge information, processes, or methods of production entitled to protection as trade secrets under applicable state law. Any such request must be asserted at the time of submission of the information or data. When requested and demonstrated by the user furnishing a report that such information should be held confidential, 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 immediately upon request

to governmental agencies for uses related to the NPDES program or pretreatment program, and in enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics and other effluent data, as defined at 40 CFR 2.302 shall not be recognized as confidential information and shall be available to the public without restriction. (as added by Ord. #08-8, Nov. 2008)

**18-809. Publication of users in significant noncompliance.** The director of public works shall publish annually, in a newspaper of general circulation that provides meaningful public notice within the jurisdictions served by the POTW, 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 (d), (d) or (h) of this section) 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 as defined in § 18-802;

(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, as defined in § 18-802 multiplied by the applicable criteria (1.4 BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH);

(c) Any other violation of a pretreatment standard or requirement as defined by § 18-802 (daily maximum, long-term average, instantaneous limit, or narrative standard) that the director of public works 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;

(d) Any discharge of a pollutant that has caused imminent endangerment to the public or to the environment, or has resulted in the director of public works 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 provide within forty-five (45) days after the due date, any required reports, including baseline monitoring reports, reports

on compliance with categorical pretreatment standard deadlines, periodic self-monitoring reports, and reports on compliance with compliance schedules;

- (g) Failure to accurately report noncompliance; or
- (h) Any other violation(s), which may include a violation of best management practices, which the director of public works determines will adversely affect the operation or implementation of the local pretreatment program. (as added by Ord. #08-8, Nov. 2008)

**18-810. Administrative enforcement remedies.** (1) General--enforcement response plan Red Boiling Springs, Tennessee.

(a) Introduction--definition. An Enforcement Response Plan (ERP) is a document that contains detailed procedures on how a Publicly Owned Treatment Works (POTW) investigates and responds to instances of Industrial User (IU) noncompliance:

§§ 18-810 and 18-811 describe the process for obtaining and evaluating information on industrial user compliance: Identifying noncompliance; selecting an appropriate enforcement action; and resolving noncompliance in a timely, fair, and consistent manner.

(b) Description of terms. (i) "Administrative action" (a fine or order). An enforcement action authorized by the control authority's legal authority which is taken without the involvement of a court.

(ii) "Administrative penalty." A punitive monetary charge unrelated to actual treatment costs, which is assessed by the control authority rather than a court.

(iii) "Administrative order." Document which orders the violator to perform a specific act or refrain from an act.

(iv) "AO." Administrative Order.

(v) "Cease and desist order." An administrative order directing an industrial user to immediately halt illegal or unauthorized discharges.

(vi) "Civil litigation." Civil litigation against the industrial user seeking equitable relief, monetary penalties and actual damages.

(vii) "Compliance order." An administrative order directing a noncompliant industry to achieve compliance by a date specified in the order.

(viii) "Consent order." An administrative order embodying a legally enforceable agreement between the control authority and the noncompliant industrial user designed to restore the user to compliant status.

(ix) "Criminal prosecution." Pursuing punitive measures against an individual and/or organization through a court of law.



(x) "Control authority." The entity directly administering and enforcing pretreatment standards and requirements against industrial users.

(xi) "Fine." Monetary penalty assessed by control authority officials.

(xii) "I." Inspector.

(xiii) "IU." Industrial User.

(xiv) "Legal authority." The source of a control authority's jurisdiction and regulatory powers.

(xv) "Meeting." Informal compliance meeting with IU to resolve recurring noncompliance.

(xvi) "NOV. (Notice of Violation)." A control authority document notifying an industrial user that it has violated pretreatment standards and requirements.

(xvii) "NPDES (National Pollutant Discharge Elimination System)." A permit system for the direct discharge of pollutants into U.S. waterways.

(xviii) "POTW." Publicly Owned Treatment Works.

(xix) "PC." Pretreatment Coordinator.

(xx) "S." Superintendent.

(xxi) "Show cause order." Formal meeting requiring the IU to appear and demonstrate why the control authority should not take a proposed enforcement action against it. The meeting may also serve as a forum to discuss corrective action and compliance schedules.

(xxii) "SNC." Significant noncompliance (see § 18-809).

(A) Violations of wastewater discharge limits.

(xxiii) "Termination of service." A physical blockage of the sewer connection to a noncompliant user or issuance of a formal notice of termination to the industrial user.

(2) Notification of violation. When the director of public works finds that a user has violated, or continues to violate, any provision of this ordinance, an individual wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, the director of public works may serve upon that user a written notice of violation. Within fifteen (15) days of the receipt of such notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted by the user to the director of public works. Submission of such a 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 shall limit the authority of the director of public works to take any action, including emergency actions or any other enforcement action, without first issuing a notice of violation.

(3) Consent orders. The director of public works may enter into consent orders, assurances of compliance, or other similar documents establishing an agreement with any user responsible for noncompliance. Such documents shall include specific action to be taken by the user to correct the noncompliance within a time period specified by the document. Such documents shall have the same force and effect as the administrative orders issued pursuant to §§ 18-810(5) and 18-810(6) of this chapter and shall be judicially enforceable.

(4) Show cause hearing. The director of public works may order a user which has violated, or continues to violate, any provision of this ordinance, an individual wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, to appear before the director of public works and show cause why the 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 such action, and a request that the user show cause why the proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least thirty (30) days prior to the hearing. Such notice may be served on any authorized representative of the user as defined in § 18-801(4)(c) and required by § 18-804(7)(a). A show cause hearing shall not be a bar against, or prerequisite for, taking any other action against the user.

(5) Compliance orders. When the director of public works finds that a user has violated, or continues to violate, any provision of this ordinance, an individual wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, the director of public works may issue 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 time provided, sewer service may be discontinued unless adequate treatment facilities, devices, or other related appurtenances are installed and properly operated. Compliance orders also may 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 pretreatment standard or requirement, nor does a compliance order relieve the user of liability for any violation, including any continuing violation. Issuance of a compliance order shall not be a bar against, or a prerequisite for, taking any other action against the user.

(6) Cease and desist orders. When the director of public works finds that a user has violated, or continues to violate, any provision of this ordinance, an individual wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, or that the user's past violations are likely to recur, the director of public works may issue an order to the user directing it to cease and desist all such violations and directing the user to:

(a) Immediately comply with all requirements; and

(b) Take such appropriate remedial or preventive actions as may be needed to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge. Issuance of a cease and desist order shall not be a bar against, or a prerequisite for, taking any other action against the user.

(7) Administrative penalties. (a) When the director of public works finds that a user has violated, or continues to violate, any provision of this ordinance, an individual wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, the director of public works may fine such user in an amount not to exceed ten thousand dollars (\$10,000.00). Such fines shall be assessed on a per-violation, per-day basis. In the case of monthly or other long-term average discharge limits, fines shall be assessed for each day during the period of violation.

(b) Unpaid charges, fines, and penalties shall, after thirty (30) calendar days, be assessed an additional penalty of one percent (1%) of the unpaid balance, and interest shall accrue thereafter at a rate of one percent (1%) per month. A lien against the user's property shall be sought for unpaid charges, fines, and penalties.

(c) Users desiring to dispute such fines must file a written request for the director of public works to reconsider the fine along with full payment of the fine amount within thirty (30) days of being notified of the fine. Where a request has merit, the director of public works may convene a hearing on the matter. In the event the user's appeal is successful, the payment, together with any interest accruing thereto, shall be returned to the user. The director of public works may add the costs of preparing administrative enforcement actions, such as notices and orders, to the fine.

(d) Issuance of an administrative penalty shall not be a bar against, or a prerequisite for, taking any other action against the user.

(8) Emergency suspensions. The director of public works may immediately suspend a user's discharge, after informal notice to the user, whenever such suspension is necessary to stop an actual or threatened discharge, which reasonably appears to present, or cause an imminent or substantial endangerment to the health or welfare of persons. The director of public works may also immediately suspend a user's discharge, after notice and opportunity to respond, that threatens to interfere with the operation of the POTW, or which presents, or may present, an endangerment to the environment.

(a) Any user notified of a suspension of its discharge shall immediately stop or eliminate its contribution. In the event of a user's failure to immediately comply voluntarily with the suspension order, the director of public works may take such steps as deemed necessary,

including immediate severance of the sewer connection, to prevent or minimize damage to the POTW, its receiving stream, or endangerment to any individuals. The director of public works may allow the user to recommence its discharge when the user has demonstrated to the satisfaction of the director of public works that the period of endangerment has passed, unless the termination proceedings in § 18-810(9) of this chapter are initiated against the user.

(b) A user that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful contribution and the measures taken to prevent any future occurrence, to the director of public works prior to the date of any show cause or termination hearing under §§ 18-810(3) or 18-810(9) of this chapter.

Nothing in this section shall be interpreted as requiring a hearing prior to any emergency suspension under this section.

(9) Termination of discharge. In addition to the provisions in § 18-805(6) of this chapter, any user who violates the following conditions is subject to discharge termination:

(a) Violation of individual 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; or

(e) Violation of the pretreatment standards in § 18-802 of this chapter.

Such user will be notified of the proposed termination of its discharge and be offered an opportunity to show cause under § 18-810(3) of this chapter why the proposed action should not be taken. Exercise of this option by the director of public works shall not be a bar to, or a prerequisite for, taking any other action against the user. (as added by Ord. #08-8, Nov. 2008, as amended by Ord. #10-1, Feb. 2010)

**18-811. Judicial enforcement remedies.** (1) Injunctive relief. When the director of public works finds that a user has violated, or continues to violate, any provision of this ordinance, an individual wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, the director of public works may petition the appropriate court through the city's attorney for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the individual wastewater discharge permit, order, or other requirement imposed by this ordinance on activities of the user. The director of public works

may also seek such other action as is appropriate for legal and/or equitable relief, including a requirement for the user to conduct environmental remediation. A petition for injunctive relief shall not be a bar against, or a prerequisite for, taking any other action against a user.

(2) Civil penalties. (a) A user who has violated, or continues to violate, any provision of this ordinance, an individual wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement shall be liable to the city for a maximum civil penalty of ten thousand dollars (\$10,000.00) per violation, per day. In the case of a monthly or other long-term average discharge limit, penalties shall accrue for each day during the period of the violation.

(b) The director of public works may recover reasonable attorney's fees, court costs, and other expenses associated with enforcement activities, including sampling and monitoring expenses, and the cost of any actual damages incurred by the city.

(c) In determining the amount of civil liability, the court shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration of the violation, any economic benefit gained through the user's violation, corrective actions by the user, the compliance history of the user, and any other factor as justice requires.

(d) Filing a suit for civil penalties shall not be a bar against, or a prerequisite for, taking any other action against a user.

(3) Criminal prosecution. (a) Violations--general.

(i) Any industrial user who willfully or negligently violates any provision of this chapter or any orders or permits issued hereunder shall, upon conviction, be guilty of a misdemeanor, punishable by a fine not to exceed one thousand dollars (\$1,000.00) per violation per day or imprisonment for not more than one (1) year or both.

(ii) In the event of a second conviction, the user shall be punishable by a fine not to exceed three thousand dollars (\$3,000.00) per violation per day or imprisonment for not more than three (3) years or both.

(b) Falsifying information. (i) Any industrial user who knowingly makes any false statements, representations, or certifications in any application, record, report, plan or other document filed or required to be maintained pursuant to this chapter, or wastewater permit, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this chapter shall, upon conviction, be punished by a fine of not more than one thousand dollars (\$1,000.00) per violation per day or imprisonment for not more than one (1) year or both.

(ii) In the event of a second conviction, the user shall be punishable by a fine not to exceed three thousand dollars (\$3,000.00) per violation per day or imprisonment for not more than three (3) years or both.

(4) Remedies nonexclusive. The remedies provided for in this ordinance are not exclusive. The director of public works may take any, all, or any combination of these actions against a noncompliant user. Enforcement of pretreatment violations will generally be in accordance with the city's enforcement response plan. However, the director of public works may take other action against any user when the circumstances warrant. Further, the director of public works is empowered to take more than one (1) enforcement action against any noncompliant user.

(5) Enforcement response guide. (Applies to §§ 18-810 and 18-811.)

	<u>Nature of Violation</u>	<u>Enforcement Response</u>	<u>Personnel</u>
(a)	<u>Unauthorized discharges</u> (no permit)		
(i)	<u>Unpermitted discharge</u>		
(A)	IU unaware of requirement; no harm to POTW/environment	Phone call; NOV with application form	PC
(B)	IU unaware of requirements; harm to (POTW)	AO with fine Civil action	PC S
(C)	Failure to apply continues after notice by POTW	Civil action Criminal investigation Terminate service	S S S
(ii)	<u>Nonpermitted discharge</u>		
(A)	IU has not submitted application within ten (10) days of due date	Phone call; NOV	PC
(b)	<u>Discharge limit violation</u>		
(i)	<u>Exceedance of local or federal standard (permit limit)</u>		
(A)	Isolated not significant	Phone call; NOV	I, PC
(B)	Isolated, significant (no harm)	AO to develop spill prevention plan and fine	PC
(C)	Isolated, harm to POTW	Show cause order Civil action	PC, S S

	<u>Nature of Violation</u>	<u>Enforcement Response</u>	<u>Personnel</u>
(D)	Recurring, no harm to POTW or environment	AO with fine	PC
(E)	Recurring; significant (harm)	AO with fine Show cause order Civil action Terminate service	PC PC, S S S
(c)	<u>Monitoring and Reporting Violations</u>		
(i)	<u>Reporting violation</u>		
(A)	Report is improperly signed or certified	Phone call or NOV	PC
(B)	Report is improperly signed or certified after notice by POTW	AO Show cause order	PC PC, S
(C)	Isolated, not significant (e.g. 5 days late)	Phone call; NOV	I, PC
(D)	Significant (e.g. report 30 days or more)	AO to submit with fine per additional day	PC
(E)	Reports are always late or no reports at all	AO with fine Show cause order Civil action	PC PC, S S
(F)	Failure to report spill or changed discharge (no harm)	NOV	PC
(G)	Failure to report spill or changed discharge (results in harm)	AO with fine Civil action	PC S
(H)	Repeated failure to report spills	Show cause order Terminate service	PC, S S
(I)	Falsification	Criminal investigation Terminate service	S S
(ii)	<u>Failure to monitor correctly</u>		
(A)	Failure to monitor all pollutants as required by permit	NOV or AO	PC
(B)	Recurring failure to monitor correctly	AO with fine Civil action	PS S

	<u>Nature of Violation</u>	<u>Enforcement Response</u>	<u>Personnel</u>
(iii)	<u>Improper sampling</u>		
(A)	Evidence of intent	Criminal investigation Terminate service	S S
(iv)	<u>Failure to install monitoring equipment</u>		
(A)	Delay of less than 30 days	NOV	PC
(B)	Delay of 30 days or more	AO to install with fine for each additional day	PC
(C)	Recurring, violation of AO	Civil action Criminal investigation Terminate service	PC S S
(v)	<u>Compliance schedules (in permit)</u>		
(A)	Missed milestones by less than 30 days, or will not affect final milestone	NOV or AO with fine	PC
(B)	Missed milestone by more than 30 days, or will affect final milestone (good cause for delay)	AO with fine	PC
(C)	Missed milestone by more than 30 days, or will affect final milestone (no good cause for delay)	Show cause order Civil action Terminate service	PC, S S S
(D)	Recurring violation or violation of schedule in AO	Civil action Criminal investigation Terminate service	S S S
(d)	<u>Other permit violations</u>		
(i)	<u>Waste streams are diluted in lieu of treatment</u>		
(A)	Initial violation	AO with fine	PC
(B)	Recurring	Show cause order Terminate service	PC, S S
(C)	Does not result in harm	NOV	PC



	<u>Nature of Violation</u>	<u>Enforcement Response</u>	<u>Personnel</u>
(D)	Does result in harm	AO with fine Civil action with fine	PC S
(ii)	<u>Failure to mitigate noncompliance or halt production</u>		
(A)	Does not result in harm	NOV	PC
(B)	Does result in harm	AO with fine Civil action	PC S
(iii)	<u>Failure to properly operate and maintain pretreatment facility</u>		
(A)	See 4(d)(ii) above		
(e)	<u>Violations detected during site visits</u>		
(i)	<u>Entry denial</u>		
(A)	Entry denied or consent withdrawn Copies of records denied	Obtain warrant and return to IU	I
(ii)	<u>Illegal discharge during site visits</u>		
(A)	No harm to POTW or environment	AO with fine	PC
(B)	Discharges cause harm or evidence of intent/negligence	Civil action Criminal investigation	S S
(C)	Recurring, violation of AO	Terminate service	S
(iii)	<u>Improper sampling</u>		
(A)	Unintentional sampling at incorrect location	NOV	I, PC
(B)	Unintentionally using incorrect sample type	NOV	I, PC
(C)	Unintentionally using incorrect sample collection techniques	NOV	I, PC
(iv)	<u>Inadequate recordkeeping</u>		
(A)	Inspector finds files incomplete to missing (no evidence of intent)	NOV	I, PC
(B)	Recurring	AO with fine	PC

<u>Nature of Violation</u>	<u>Enforcement Response</u>	<u>Personnel</u>
(v) <u>Failure to report additional monitoring</u>		
(A) Inspection finds additional files incomplete to missing (no evidence of intent)	NOV	I, PC
(B) Recurring	AO with fine	PC
(f) <u>Timeframes for responses</u>		
(i) All violations will be identified and documented within five days of receiving compliance information		
(ii) Initial enforcement responses [involving contact with industrial user and requesting information on corrective or preventive action(s)] will occur within 15 days of violation.		
(iii) Follow-up actions for continuing or recurring violations will be taken within 60 days of the initial enforcement response. For all continuing violations, the response will include a compliance schedule.		
(iv) Violations, which threaten health, property or environmental quality, are considered emergencies and will receive immediate responses such as halting the discharge or terminating service.		
(v) All violations meeting the criteria for significant noncompliance will be addressed with an enforceable order within 30 days of the identification of significant noncompliance.		
(5) Enforcement responses		
(a) Notice of violation		

(as added by Ord. #08-8, Nov. 2008)

**18-812. Supplemental enforcement action.** The City of Red Boiling Springs will not enforce any supplemental actions at this time. (as added by Ord. #08-8, Nov. 2008)

**18-813. Affirmative defenses to discharge violations.** (1) Upset.

(a) For the purposes of this section, upset means an exceptional incident in which there is unintentional and temporary noncompliance with categorical pretreatment standards because of factors beyond the reasonable control of the user. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

(b) An upset shall constitute an affirmative defense to an action brought for noncompliance with categorical pretreatment standards if the requirements of subsection (c) below, are met.

(c) A user who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

(i) An upset occurred and the user can identify the cause(s) of the upset;

(ii) The facility was at the time being operated in a prudent and workman-like manner and in compliance with applicable operation and maintenance procedures; and

(iii) The user has submitted the following information to director of public works within twenty-four (24) hours of becoming aware of the upset [if this information is provided orally, a written submission must be provided within five (5) days];

(A) A description of the indirect discharge and cause of noncompliance;

(B) The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue; and

(C) Steps being taken and/or planned to reduce, eliminate, and prevent recurrence of the noncompliance.

(d) In any enforcement proceeding, the user seeking to establish the occurrence of an upset shall have the burden of proof.

(e) Users shall have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for noncompliance with categorical pretreatment standards.

(f) Users shall control production of all discharges to the extent necessary to maintain compliance with categorical pretreatment standards upon reduction, loss, or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided.

This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost, or fails.

(2) Prohibited discharge standards. A user shall have an affirmative defense to an enforcement action brought against it for noncompliance with the general prohibitions in § 18-802(1)(a) of this chapter or the specific prohibitions in § 18-802(1)(b)(iii) through (ix) of this chapter if it can prove that it did not know, or have reason to know, that its discharge, alone or in conjunction with discharges from other sources, would cause pass through or interference and that either:

(a) A local limit exists for each pollutant discharged and the user was in compliance with each limit directly prior to, and during, the pass through or interference; or

(b) No local limit exists, but the discharge did not change substantially in nature or constituents from the user's prior discharge when the city was regularly in compliance with its NPDES permit, and in the case of interference, was in compliance with applicable sludge use or disposal requirements.

(3) Bypass. (a) For the purposes of this section:

(i) Bypass means the intentional diversion of wastestreams from any portion of a user's treatment facility.

(ii) Severe property damage means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

(b) A user may allow any bypass to occur which does not cause pretreatment standards or requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provision of subsections (c) and (d) of this section.

(c) Bypass notifications. (i) If a user knows in advance of the need for a bypass, it shall submit prior notice to the director of the public works, at least ten (10) days before the date of the bypass, if possible.

(ii) A user shall submit oral notice to the director of public works of an unanticipated bypass that exceeds applicable pretreatment standards within twenty-four (24) hours from the time it becomes aware of the bypass. A written submission shall also be provided within five (5) days of the time the user becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of

the bypass. The director of public works may waive the written report on a case-by-case basis if the oral report has been received within twenty-four (24) hours.

(d) Bypass. (i) Bypass is prohibited, and the director of public works may take an enforcement action against a user for a bypass, unless:

(A) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

(B) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and

(C) The user submitted notices as required under subsection (c) of this section.

(ii) The director of public works may approve an anticipated bypass, after considering its adverse effects, if the director of public works determines that it will meet the three (3) conditions listed in subsections (d)(i) of this section. (as added by Ord. #08-8, Nov. 2008, as amended by Ord. #10-1, Feb. 2010)

**18-814. Wastewater treatment rates.** (1) User charge. (a) User charge shall be the charge levied on all users including, but not limited to persons, firms, corporations or governmental entities that discharge, cause or permit the discharge of sewage into the public sewerage facilities.

(b) The user charge shall reflect the costs of operation and maintenance (including replacement) of the public sewerage facilities.

(c) Each user shall pay its proportionate share of operation and maintenance (including replacement) costs based on volume of flow.

(d) The approving authority of sewerage facilities shall review annually the sewage contributions of users, the total costs of operation and maintenance (including replacement) of the sewerage facilities, and the user charge system. The control authority shall revise the user charge, if necessary, to accomplish the following:

(i) Maintain the proportionate distribution of operation and maintenance costs among users as provided herein.

(ii) Generate sufficient revenue to pay the total operation and maintenance costs necessary to the proper operation and maintenance (including replacement) of the sewerage facilities, the

interest expenses on debt, and the principal repayment or depreciation (whichever is greater).

(e) All flow to the sewerage facilities attributable to the users (i.e. infiltration/inflow) shall be distributed based upon the volume of flow of the users.

(f) Each user shall be notified, at least annually, in conjunction with a regular bill, of the rate and that portion of the user charge which is attributable to operation and maintenance of the sewerage facilities.

(g) Revenue derived from a wastewater project funded by a state revolving loan; including but not limited to, sale of treatment-related byproducts; lease of land; or sale of crops grown on land purchased, shall offset current user charges as well as moderate future rate increases.

(h) If the wastewater system accepts wastewater from other local governments, these subscribers receiving wastewater treatment services shall adopt user charge systems in accordance with the same state regulations, requiring this chapter.

(i) This user charge system shall take precedence over the terms or conditions of contracts between the city and users which are inconsistent with the requirements of this chapter.

(j) The city shall establish rates for service from time to time. The rates will be available from the city clerk upon request. The rates shall be based upon the cost categories described as operation, maintenance, and replacement; interest; and principal repayments or depreciation, whichever is greater.

(2) Industrial waste surcharge. (a) In the event the user discharges industrial wastes to the sewerage facilities having an average Biochemical Oxygen Demand (BOD) content in excess of three hundred (300) mg/l, and/or an average Suspended Solids (SS) content in excess of three hundred (300) mg/l, and/or an average Total Kjeldahl Nitrogen (TKN) content in excess of forty (40) mg/l, the user shall pay a surcharge based upon the excess strength of their wastes.

(b) The costs of treatment for each pound of BOD, SS, and TKN removed by the sewerage facilities shall be reviewed at the end of each fiscal year and appropriate surcharge rates applied to the sewerage billing. These rates shall be in effect until the next annual rate review.

(3) Validity. The provisions of this chapter shall supersede and take precedence over any other ordinance or part thereof or any other rules and regulations of the City of Red Boiling Springs.

It is hereby declared the intention of city council that sections, paragraphs, sentences, clauses, and words of this chapter are severable, and if any such section, paragraph, sentence, clause, or word be declared unconstitutional or invalid by valid judgment or decree of any court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any

remaining sections, paragraphs, sentences, clauses, or words since the same would have been enacted without the incorporation of the unconstitutional sections, paragraphs, sentences, clauses or word.

(4) Sewer connection fees. (a) Definitions. For the purpose of this section only, which deals with sewer connection fees, the following terms shall have the following meanings:

(i) "Residential user" means the owner or occupant of a dwelling.

(ii) "Commercial user" means the owner or occupant of a premise other than a dwelling, and other than a manufacturing plant employing more than twenty (20) persons on a regular basis. Commercial users include, but are not limited to, hotels, apartment buildings, retail stores, restaurants, nursing homes, service stations, beauty or barber shops, government buildings, banks, churches, doctor offices, and other similar businesses or enterprises.

(iii) "Industrial users" means the owner or occupant of a premise used for a manufacturing plant employing more than twenty(20) persons on a regular basis.

(iv) "Dwelling" means any single structure, with auxiliary buildings, occupied by no more than one household for residential purposes.

(v) "Premise" means any structure or group of structures operated as a single business or enterprise, provided, however, the term premise does not include more than one dwelling.

(vi) "User" means any premise receiving water service from the city.

(vii) "Low income" means the total annual household income is less than \$14,950.00 for a one (1) person household; \$17,100.00 for a two (2) person household; \$19,200.00 for a three (3) person household; \$21,350.00 for a four (4) person household; \$23,050.00 for a five (5) person household; \$24,800.00 for a six (6) person household; \$26,500 for a seven (7) person household; and \$28,200.00 for an eight (8) person household.

(b) Amount of fees. No permit to connect to any public sewer or appurtenance thereof shall be granted unless the applicant first pays to the city a sewer connection fee as follows:

(i) For residential users within the city limits, the sewer connection fee shall be five hundred dollars (\$500.00); for residential customers outside of the city limits, the sewer connection fee shall be seven hundred fifty dollars (\$750.00).

(ii) For commercial users inside the city limits, the sewer connection fee shall be six hundred dollars (\$600.00); for

commercial users outside of the city limits, the sewer connection fee shall be eight hundred fifty dollars (\$850.00).

(iii) For industrial users, the sewer connection fee shall be two thousand dollars (\$2,000.00).

(c) Installment payments. A low-income residential user shall have the option to pay the sewer connection fee in not less than twelve (12) equal monthly installments by submitting application with sufficient information to determine if the applicant qualifies as a low-income user and, if the applicant does qualify, by signing a contract agreeing to make all installment payments in order to pay the sewer connection fee in full. All residential users and all commercial users, regardless of income, shall have the option to pay the sewer connection fee at the rate of half, at the time the permit to connect is issued, and the balance within sixty (60) days.

(d) Future sewer mains. The deadline to pay the lower sewer connection fee applies only to those premises which are serviceable by a sewer main to be installed pursuant to the city's contract with Tidwell & Associates, which contract was approved by the city council on February 26, 1992. Premises which may be serviceable by sewer mains to be constructed pursuant to future contracts, may be granted a lower connection fee even after the deadline established by this section for paying the lower sewer connection fee.

(e) Special cases. The connection fee to be paid by the Macon County Board of Education for extending a sewer line to serve the Red Boiling Springs School, or any other customers requiring extensions of lines in order to serve such customers, shall be determined as a matter of contract between the city and the board of education or other customer, in order for the city to recover its cost in extending such line.

(5) Schedule of rates. (a) Inside rates. The following shall be the schedule of monthly charges for sewer service furnished to premises located inside of the corporate limits of the City of Red Boiling Springs, to-wit:

WATER USAGE	AMOUNT
First 2,000 gallons	\$10.00 (minimum bill)
Over 2,000 gallons	\$ 5.00 per thousand gal.

(b) Outside rates. The following shall be the schedule of monthly charges for sewer service furnished to premises located outside of the corporate limits of the City of Red Boiling Springs, to-wit:



WATER USAGE	AMOUNT
First 2,000 gallons	\$15.00 (minimum bill)
Over 2,000 gallons	\$ 7.50 per thousand gal.

(c) Gross amount. The monthly sewer bill computed by using the above rates shall produce the "net amount" which is due and payable no later than fifteen (15) days from the date the bill is mailed, which date shall be called the "discount date." If the bill is not paid by the discount date, an additional ten percent (10%) shall be added to the "net amount" to produce the "gross amount."

(6) Truck and recreational vehicle discharge fees. (a) The application fee for a truck discharge operation permit shall be twenty-five dollars (\$25.00). Permit holders shall pay for each truck discharge at a fee of twenty-five dollars (\$25.00) per thousand gallons.

(b) The fee to discharge waste from a recreational vehicle shall be five dollars (\$5.00) per discharge.

(7) Transfer fee. There shall be a non-transferable fee for transfer of service from any person, individual, firm, business, industry or corporation who receives service from the city under either an expressed or implied contract. Said transfer fee shall be twenty-five dollars (\$25.00) for all customers inside the corporate limits of the City of Red Boiling Springs, and thirty-five dollars (\$35.00) for any and all customers outside the corporate limits of the City of Red Boiling Springs.

(8) Non-refundable connection fee for sewer use. In addition to any other connection fee or charge, there shall be charged to each and every user to connect to the sewer system a non-refundable connection fee of fifteen dollars (\$15.00), for any and all customers located inside the corporate limits of the City of Red Boiling Springs. There shall be a non-refundable connection fee of twenty-five dollars (\$25.00) for any and all customers located outside the corporate limits of the City of Red Boiling Springs.

(9) Adjustment for leaks in billing. If a customer has a leak in the part of the system required to be maintained by the customer, as set for herein, the customer will be allowed only one (1) billing adjustment within each twelve (12) month period, providing the customer shall provide satisfactory proof that the leak has been repaired. Whether or not the customer has produced satisfactory proof that the leak has been repaired shall be determined in the sole discretion of RBS Utilities and/or the city. The bill for usage during the current period of adjustment shall be the average of the last three (3) monthly bills.

(10) Qualified and certified operator(s) required. The city shall hire and maintain qualified and certified operator(s) for the system. Said operators shall meet all requirements for qualifications, as established by the appropriate state

agencies, departments, laws and/or regulations. (as added by Ord. #08-8, Nov. 2008, as amended by Ord. #10-1, Feb. 2010)

**18-815. Miscellaneous provisions.** (1) Pretreatment charges and fees. The City of Red Boiling Springs may adopt reasonable fees for reimbursement of costs of setting up and operating the city's pretreatment program, which may include:

(a) Fees for wastewater discharge permit applications including the cost of processing such applications;

(b) Fees for monitoring, inspection, and surveillance procedures including the cost of collection and analyzing a user's discharge, and reviewing monitoring reports and certification statements submitted by users;

(c) Fees for reviewing and responding to accidental discharge procedures and construction;

(d) Fees for filing appeals;

(e) Fees to recover administrative and legal costs (not included in § 18-815(1)(b)) associated with the enforcement activity taken by the director of public works to address IU noncompliance; and

(f) Other fees as the City of Red Boiling Springs may deem necessary to carry out the requirements contained herein. These fees relate solely to the matters covered by this ordinance and are separate from all other fees, fines, and penalties chargeable by the city.

(2) Severability. If any provision of this ordinance is invalidated by any court of competent jurisdiction, the remaining provisions shall not be affected and shall continue in full force and effect.

(3) Provision of service. (a) Application and contract for sewer service. Prior to use of the POTW and/or sewer system, all prospective users shall be required to sign a written application for service and a standard form contract for service before service is supplied. Users requiring the installation of special equipment by the control authority may be required to sign a form of contract guaranteeing a minimum charge for such a period of time as may be required by the city and/or control authority, but, in the absence of a completed application and contract, the usage by the user shall bind the user to the terms of the city's and/or control authority's standard form application and/or contract. If for any reason user, after signing application and/or contract for service, does not take the service, he/she shall reimburse the city and control authority for the expense incurred by reason of its endeavor to furnish such service.

(b) Temporary service. Any user requiring temporary service may be required to pay all costs as determined by the control authority for connection and disconnection incidental to the supplying and removal of service, in addition to the regular sewer rate charges.

(c) Billing. All bills for sewer service will be rendered monthly as a part of the regular monthly water billing and shall be computed using the applicable rates or charges in effect at the billing date. Billings will be computed and stated on a net and a gross basis. Such billings shall be payable in the net amount only if paid within the discount period stated on the bill; otherwise the bill is payable in the gross amount. Should the final date for payment of the bill at the net rate fall on a Sunday or holiday, the business day next following the final date will be held as the last day to obtain the net rate. Remittance or net rate payment received by mail after the time limit for payment of said net rate will be accepted by the control authority if the incoming envelope bears United States Post Office date stamp of the final date for payment of the net amount or any date prior thereto. Failure to receive bill shall not release user from his obligation to make payment nor extend the discount date. No user shall be entitled to pay any bill at the net rate while such user is delinquent in payment of any obligation for sewer service owed the control authority by such user. In the event sewer service bills are not paid on or before the discount date, water service may be discontinued upon five (5) days' written notice to user and not again resumed until all bills are paid. The control authority shall not be liable for damages on account of such discontinuance of service, even though payment of such bills be made on the same day either before or after service is actually discontinued.

(d) Point of delivery--water services. The sewer service rates are based upon the supplying of water service to an entire premise through a single delivery and metering point. If water service is rendered to any user or premise through more than one delivery point, the control authority will bill each such delivery point as a separate service.

(e) Multiple service through a single meter-water. Where the control authority, as distributor of water, allows more than one dwelling or premise to be served through a single service line and meter, the monthly water billing for each such dwelling or premise will be computed in accordance with the rules and regulations for the distribution of water. The sewer service charge for each such dwelling or premise thus served shall then be computed at the control authority's applicable sewer service charge rates.

(f) Discontinuance of service. The control authority, as the distributor of water, may disconnect its water service and may refuse to reconnect water service for a violation of this chapter, for failure to comply with any of its water rules and regulations, for violation of any provision of the user's application or contract with the control authority for any cause as stated in this chapter shall not release the user from liability for water or sewer service already received or from liability for

payments that thereafter become due under the provisions of any contract between the user and the control authority.

(g) Termination of service by customer. Users who have fulfilled their contract terms and wish to discontinue service must give at least five (5) days' written notice to that effect, unless their contract specifies otherwise. Notice to discontinue service prior to expiration of contract term will not relieve user from any minimum or guaranteed payment under contract or applicable rate schedule.

(h) Notice of trouble. User shall notify the control authority immediately of any known defects, trouble or accident affecting the sewerage system.

(i) Sewer connections. Users requiring connections to existing mains or the extension of mains must arrange for whatever extension of the sewer main that may be necessary to reach a point in front of or adjacent to his property where his sewer service line or lines may be connected. Several users may jointly arrange for the extension of a main to serve their properties and share the total expense in whatever manner they agree upon. Such mains, upon acceptance by the control authority will then be maintained by the control authority. Connections with existing mains may be made only by the control authority, at the user's expense, and after inspection of service lines ensure authority, at the user's expense, and after inspection of service lines ensure conformation with requirements of the building permit and the avoidance of any health hazard or interference with the existing system.

(j) Scope. These rules, regulations and rate schedules are a part of all contracts for receiving sewerage service from the control authority and apply to all service received from the control authority whether the service is based upon contract, signed application or otherwise. (as added by Ord. #08-8, Nov. 2008)

**TITLE 19**

**ELECTRICITY AND GAS**

**CHAPTER**

**1. GAS.**

**CHAPTER 1**

**GAS**

**SECTION**

19-101. Monthly charges.

19-102. Billing.

19-103. Delinquent bills.

19-104. Tampering with meters, reconnecting service, etc.

19-105. Gas meter deposits.

19-106. Curtailment of gas.

19-107. Fees.

19-108. Extensions.

**19-101. Monthly charges.** The following, except as hereinafter provided, shall be the scheduled monthly charges for the natural gas and services furnished by the natural gas system of the City of Red Boiling Springs, Tennessee, to wit:

All gas users inside the corporate limits:

Residential rates:

\$5.00 minimum per month.

Charges per cu. ft. - The city's actual cost for the natural gas plus \$4.40 per M.C.F.

Commercial rates:

\$10.00 minimum per month.

Charge per cu. ft. - The city's actual cost for the natural gas plus \$4.40 per M.C.F.

Industrial rates:

\$20.00 minimum per month.

Charge per cu. ft. - The city's actual costs for the natural gas plus \$2.75 per M.C.F.

All gas users outside the corporate limits:

Residential:

\$10.00 minimum per month

Charge per cu. ft. - The city's actual cost for the natural gas plus \$5.40 per M.C.F.

Commercial rates:

\$10.00 minimum per month

Charges per cu. ft. - The city's actual cost for the natural gas plus \$6.00 per M.C.F.

Industrial rates:

\$25.00 minimum per month

Charges per cu. ft. - The city's actual cost for the natural gas plus \$3.75 per M.C.F. (as added by Ord. #07-3, March 2007)

**19-102. Billing.** Bills for residential service will be rendered monthly. Bills for commercial and industrial service may be rendered weekly, semimonthly, or monthly, at the option of the utility department. Gas bills must be paid on or before the date shown thereon in order to obtain the net rate, otherwise the gross rate shall apply. All bills shall be due and payable from and after the date on which such bills are rendered. (as added by Ord. #07-3, March 2007)

**19-103. Delinquent bills.** Delinquent bills of all gas customers shall be governed by the provisions of § 18-113 in this code. (as added by Ord. #07-3, March 2007)

**19-104. Tampering with meters, reconnecting service, etc.** It shall be unlawful for any person or persons to tamper with or change any gas meter, or to make any connection to the system without permission from the municipality, or to reconnect service when it shall have been disconnected for nonpayment of a bill for service, until such bill shall have been paid in full, including the reconnection fee. (as added by Ord. #07-3, March 2007)

**19-105. Gas meter deposits.** All applicants for gas connections shall deposit with the municipality, prior to such connection, a non-refundable connection fee. For property owner users inside the city limits, the non-refundable connection fee shall be thirty-five dollars (\$35.00) and for renters and lessees inside the city limits, the non-refundable connection fee shall be sixty dollars (\$60.00). For property owner users outside the city limits, the non-refundable connection shall be fifty dollars (\$50.00). For renters and lessees outside the city limits, the non-refundable connection fee shall be one hundred dollars (\$100.00). The non-refundable connection fee for commercial and industrial gas customers shall be one hundred fifty dollars (\$150.00) inside the city limits and two hundred and fifty dollars (\$250.00) outside the city limits. (as added by Ord. #07-3, March 2007)

**19-106. Curtailment of gas.** (1) The gas department for the City of Red Boiling Springs, Tennessee is hereby authorized to curtail the delivery of gas through its city system to its customers when required.

(2) The gas department is further authorized to discontinue supplying the curtailed customers, when in the opinion of said department, the continued use of gas by any of the said curtailed customers would endanger its ability to service customers and maintain its gas system in a safe and economical condition. (as added by Ord. #07-3, March 2007)

**19-107. Fees.** All gas service lines from gas lines to service meter shall be laid by the municipality at a cost to the customer of seventy-five cents (.75) per foot. The location of such lines and meters shall be determined by the municipality.

Before any service lines are laid or any service lines installed, a connection fee shall be paid in addition to the monthly charges set out in § 19-101 or elsewhere in this chapter to the municipality in accordance with the following:

All gas tap fees shall be \$100.00.

In addition to the connection fees, there shall be an additional charge for the gas service line measured from the center of the road to the building as follows:

for a 3/4" line	\$0.75 per foot
for a 2" line	\$1.25 per foot

The cost of boring under a road shall be an additional charge to the customer where boring is required.

There shall also be charged a service charge for setting a gas meter. Such a charge shall be thirty dollars (\$30.00). This service charge shall also apply when the gas customer is turned off due to non-payment of gas bill. There shall be twenty dollars (\$20.00) service charge for turning off a customer for the summer. There shall be a twenty-five dollar (\$25.00) service charge for turning a customer's gas back on for the winter and for each new gas service inside the city limits. There shall be a thirty-five dollar (\$35.00) service charge for turning a customer's gas back on for the winter and each new gas service outside the city limits. These service charges will be increased to fifty dollars (\$50.00) when performed after regular working hours.

In the event a customer requests the city to check a gas meter for accuracy, leak, or misreading, a twenty-five dollar (\$25.00) service shall apply for customers inside the city limits and a thirty-five dollar (\$35.00) service shall apply for customers outside the city limits in all cases except when it is determined by the city that the problem was a leak or was due to the city's error or mistake. (as added by Ord. #07-3, March 2007)

**19-108. Extensions.** No extensions of the municipal gas system outside the corporate limits shall be made without the approval of the governing body.

The governing body may authorize the mayor to approve extensions of less than one thousand feet (1,000'). Upon receiving said approval, the customer shall pay in addition to the fees as set out in §§ 19-101 and 19-107 of this chapter, one dollar (\$1.00) per foot for the two inch (2") gas main which shall be installed by the municipality. The costs shall automatically be increased as the cost of gas pipe increases.

The governing body may authorize the extensions of more than one thousand feet (1,000') with the option that the city will pay as opposed to only the customer paying. The governing body shall also determine if the planned extension will be feasible before authorizing the extension. (as added by Ord. #07-3, March 2007, and amended by Ord. #14-10, Oct. 2014)



**TITLE 20**

**MISCELLANEOUS**

**CHAPTER**

1. CEMETERIES.
2. FAIR HOUSING.
3. OCCUPATIONAL SAFETY AND HEALTH PLAN.
4. EPHEDRINE AND EPHEDRINE RELATED PRODUCTS.
5. CITY BUILDINGS AND FACILITIES USE AND RESERVATION POLICY.

**CHAPTER 1**

**CEMETERIES**

**SECTION**

- 20-101. Whitley Cemetery Department created.
- 20-102. Jurisdiction of department.
- 20-103. Mayor or representative to administer.
- 20-104. City clerk to be bookkeeper.
- 20-105. Land to be subdivided.
- 20-106. Deeds to grave lots.
- 20-107. Records to be kept.
- 20-108. Burial permits required.
- 20-109. Price of grave lots.
- 20-110. Maintenance of cemetery.
- 20-111. Establishment of trust fund.
- 20-112. Establishment of operating account.
- 20-113. Transfers to and from operating account.
- 20-114. Operation prior to subdivision.
- 20-115. Cemetery committee.

**20-101. Whitley Cemetery Department created.** There is hereby created a department to be known as the Whitley Cemetery Department of the City of Red Boiling Springs, Tennessee. (1980 Code, § 12-301)

**20-102. Jurisdiction of department.** The Whitley Cemetery Department shall have charge of and supervision over the care, maintenance, and operation of the cemetery property conveyed to the City of Red Boiling Springs by the trustees of the Whitley Cemetery together with any other property hereafter acquired for use in connection with said cemetery property. (1980 Code, § 12-302)

**20-103. Mayor or representative to administer.** The mayor of the city or his duly authorized representative or representatives shall be responsible for the administration of the provisions of this chapter. (1980 Code, § 12-303)

**20-104. City clerk to be bookkeeper.** The city clerk shall be the bookkeeper for the Whitley Cemetery Department and shall keep all records required by this chapter. (1980 Code, § 12-304)

**20-105. Land to be subdivided.** The available and suitable land acquired for use in the Whitley Cemetery Department shall be subdivided into lots of sufficient size for the interment of one person. (1980 Code, § 12-305)

**20-106. Deeds to grave lots.** The mayor and city clerk are hereby authorized and empowered to execute deeds of conveyance to the purchasers of lots in said cemetery conveying the right of burial of the remains of human beings, upon the payment of the price set forth in § 20-109 below. Said deeds shall contain the name of the purchaser and the consideration paid therefor, a designation or description of the lot conveyed, and shall provide that it is issued subject to all of the provisions of this chapter as well as any rules and regulations hereafter amended, modified, or promulgated by the city council. Said deeds shall prohibit the transfer or alienation of title to the lots so conveyed, except to the City of Red Boiling Springs or with the city's approval. If the purchaser desires to resell the lot, the city shall have the option of either repurchasing the lot for the same price the purchaser paid to the city, or it shall waive its right to repurchase the lot and allow the purchaser to sell the lot to a third person. Said lot shall be sold only by the execution of an instrument of transfer by the transferor and delivery of the original deed to the lot and the instrument of transfer to the city clerk who will sign the instrument of transfer to indicate the approval of the city to the transfer and change the city's record of ownership accordingly. (1980 Code, § 12-306)

**20-107. Records to be kept.** It shall be the duty of the city clerk to keep a faithful record of all cemetery lots sold, giving the name and address of the purchaser, the lot number, the date of the deed and the amount received. Said clerk shall also keep a record of each interment in the cemetery showing the name of the person buried, the date of burial and a designation of the lot or space in which such burial was made. (1980 Code, § 12-307)

**20-108. Burial permits required.** It shall be unlawful for any person to dig or cause to be dug a grave in said cemetery without first having applied for and received a burial permit which shall be issued by the city clerk. Before issuing a burial permit, the city clerk shall first determine that the title to the grave lot for which the permit is requested is vested in the deceased or in some

member of the family of the deceased who purchased the lot for the interment of the remains of the deceased. (1980 Code, § 12-308)

**20-109. Price of grave lots.** The price of lots in the Whitley Cemetery shall be \$100.00 if purchased prior to July 1, 1985. The price of any lots purchased on or after July 1, 1985 shall be \$150.00. (1980 Code, § 12-309)

**20-110. Maintenance of cemetery.** All lots in the Whitley Cemetery shall be maintained, kept and attended in a proper manner by cutting grass, removing debris and doing other acts necessary to keep the cemetery neat and clean in appearance and free from dangerous defects, such as sunken graves and leaning or tilting headstones or grave markers. The city reserves the right to enter upon such lots and take the necessary steps incident to proper maintenance and it will incur no liability for so doing. (1980 Code, § 12-310)

**20-111. Establishment of trust fund.** There shall be set up a permanent fund known as the "Whitley Cemetery Trust Fund" for the perpetual maintenance of the Whitley Cemetery. Said Trust Fund shall be created in the following manner: Not less than 50% of the total sales price of each grave lot sold shall be placed in said fund; said fund shall be invested in an interest bearing account and the income therefrom shall be perpetually used for the maintenance, preservation, and improvement of the cemetery grounds and lots. The principal of said trust fund shall not be encroached upon. (1980 Code, § 12-311)

**20-112. Establishment of operating account.** A separate fund known as the "Whitley Cemetery Operating Account" shall be established into which the interest from the trust fund and the balance of the sales price of grave lots shall be paid. Said operating account shall be used for making any and all current payments for the operation, maintenance, preservation, and improvement of said cemetery. (1980 Code, § 12-312)

**20-113. Transfers to and from operating account.** If the mayor determines that the balance of funds in the "Whitley Cemetery Operating Account" is excessive, based upon the amount needed for current expenditures, he shall, with the approval of the city council, transfer the excess amount into the trust fund. If the mayor determines that the balance of funds in the "Whitley Cemetery Operating Account" is insufficient to meet current expenditures, he shall, with the approval of the city council, transfer sufficient funds from other city accounts into the operating account to meet current expenditures. (1980 Code, § 12-313)

**20-114. Operation prior to subdivision.** Until such time as the land acquired is subdivided into lots pursuant to § 20-105, no lots shall be presold,

except that a person who presently has a monument erected for his or her grave site, may prepay for said grave site and a deed will be executed upon the completion of the subdivision. Any person desiring to bury the remains of a human being in the Whitley Cemetery prior to said subdivision, shall select a location for said burial with the approval of the mayor or his representative and shall pay to the city clerk the price for a grave lot set forth in § 20-109. (1980 Code, § 12-314)

**20-115. Cemetery committee.** The Whitley Cemetery Department shall operate under the direction of a committee of six citizens, three of which were appointed by the Trustees of the Whitley Cemetery, and the mayor and the six members of the city council. The six citizens are as follows: Comus Moss, Randal Gregory, David Painter, Louise Wilson, Doyle Knight and Ken Witcher. Thereafter, all vacancies shall be filled by appointment by the remaining members of the committee. The qualification for the six citizens who serve on the Whitley Cemetery Committee is that he or she must have a family member buried at the Whitley Cemetery. A regular meeting of the Whitley Cemetery Committee shall be held semi-annually (April and October) of each year. All business pertaining to the cemetery shall be voted upon by the Whitley Cemetery Committee. Any two or more members of the committee shall have the power to call a special meeting of the committee at any time deemed necessary by giving notice to the remaining members. The committee shall have the right and power to adopt rules and regulations for the operation of the Whitley Cemetery and shall have general supervision over the care and maintenance of said cemetery. All members of the Whitley Cemetery Committee shall serve without pay. (1980 Code, § 12-315)

## CHAPTER 2

### FAIR HOUSING

#### SECTION

- 20-201. Policy.
- 20-202. Definitions.
- 20-203. Unlawful practice.
- 20-204. Discrimination in the sale or rental of housing.
- 20-205. Discrimination in the financing of housing.
- 20-206. Discrimination in the provisions of brokerage services.
- 20-207. Exemption.
- 20-208. Administration.
- 20-209. Education and conciliation.
- 20-210. Enforcement.
- 20-211. Investigations; subpoenas; giving of evidence.
- 20-212. Enforcement by private persons.

**20-201. Policy.** It is the policy of the City of Red Boiling Springs, Tennessee, to provide, within constitutional limitations, for fair housing throughout the Community. (1980 Code, § 11-301)

**20-202. Definitions.** (1) "Dwelling" means any building, structure, or portion thereof which is occupied as, or designed or intended for occupancy as a residence by one or more families, and any vacant land which is offered for sale or lease for the construction or location thereon of any such building, structure, or portion thereof.

(2) "Family" includes a single individual.

(3) "Person" includes one or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, receivers, and fiduciaries.

(4) "To rent" includes to lease, to sublease, to let and otherwise to grant for a consideration the right to occupy premises owned by the occupant.

(5) "Discriminatory housing project" means an act that is unlawful under §§ 20-204, 20-205 or 20-206. (1980 Code, § 11-302)

**20-203. Unlawful practice.** Subject to the provisions of § 20-207(2), the prohibitions against discrimination in the sale or rental of housing set forth in § 20-204 shall apply to:

(1) All dwellings except as exempted by subsection (2).

(2) Nothing in § 20-204 shall apply to:

(a) Any single-family house sold or rented by an owner:  
Provided that such private individual owner does not own more than

three such single-family houses at any one time: Provided further that in the case of the sale of any such single-family house by a private individual owner not residing in such house at the time of such sale or who was not the most recent resident of such house prior to such sale, the exemption granted by this subsection shall apply only with respect to one such sale within any twenty-four month period: Provided further that such bona fide private individual owner does not own any interest in, nor is there owned or reserved on his behalf, under any express or voluntary agreement, title to or any right to all or a portion of the proceeds from the sale or rental of, more than three such single-family houses at one time: Provided further that the sale or rental of any such single-family house shall be excepted from the application of this title only if such house is sold or rented (i) without the use in any manner of the sale or rental facilities or the sales or rental services of any real estate broker, agent, or salesman, or of such facilities or services of any person in the business of selling or renting dwellings, or of any employee or agent of any such broker, agent, salesman, or person, and (ii) without the publication, posting or mailing, after notice of any advertisement or written notice in violation of § 20-204(3) of this chapter, but nothing in this proviso shall prohibit the use of attorneys, escrow agents, abstracters, title companies, and other such professional assistance as necessary to perfect or transfer the title, or

(b) Rooms or units in dwellings containing living quarters occupied or intended to be occupied by no more than four families living independently of each other, if the owner actually maintains and occupies one of such living quarters as his residence.

(3) For the purposes of subsection (2), a person shall be deemed to be in the business of selling or renting dwellings if:

(a) He has, within the preceding twelve months, participated as principal in three or more transactions involving the sale or rental of any dwelling or any interest therein, or

(b) He has, within preceding twelve months, participated as agent, other than in the sale of his own personal residence in providing sales or rental facilities or sales or rental services in two or more transactions involving the sale or rental of any dwelling or any interest therein, or

(c) He is the owner of any dwelling or intended for occupancy by, or occupied by, five or more families. (1980 Code, § 11-303)

**20-204. Discrimination in the sale or rental of housing.** As made applicable by § 20-203 and except as exempted by §§ 20-203(2) and 20-207 it shall be unlawful:

(1) To refuse to sell or rent after the making of a bona fide offer, or to refuse to negotiate for the sale or rental of, or otherwise make unavailable or

deny, a dwelling to any person because of race, color, religion, sex, national origin, familial status or handicap.

(2) To discriminate against any person in the terms, conditions or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith, because of race, color, religion, sex, national origin, familial status, or handicap.

(3) To make, print, or publish, or cause to be made, printed, or published any notice, statement, or advertisement, with respect to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination based on race, color, religion, sex, national origin, familial status, or handicap, or an intention to make any such preference, limitation, or discrimination.

(4) To represent to any person because of race, color, religion, sex, national origin, familial status or handicap that any dwelling is not available for inspection, sale, or rental when such dwelling is in fact so available.

(5) For profit, to induce or attempt to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, sex, national origin, familial status, or handicap. (1980 Code, § 11-304)

**20-205. Discrimination in the financing of housing.** It shall be unlawful for any bank, building and loan association, insurance company or, other corporation, association, firm or enterprise whose business consists in whole or in part in the making of commercial real estate loans, to deny a loan or other financial assistance to a person applying therefore for the purpose of purchasing, constructing, improving, repairing, or maintaining a dwelling, or to discriminate against him in the fixing of the amount, interest rate, duration, or other terms or conditions of such loan or other financial assistance, because of the race, color, religion, sex, national origin, familial status, or handicap of such person or of any person associated with him in the connection with such loan or other financial assistance or the purposes of such loan or other financial assistance, or of the present or prospective owners, lessees, tenants, or occupants of the dwelling or dwellings in relation to which such loan or other financial assistance is to be made or given: Provided, that nothing contained in this section shall impair the scope or effectiveness of the exception contained in § 20-203(2). (1980 Code, § 11-305)

**20-206. Discrimination in the provision of brokerage services.** It shall be unlawful to deny any person access to or membership or participation in any multiple listing service, real estate brokers organization or other service, organization, or facility relating to the business of selling or renting dwellings, or to discriminate against him in the terms of conditions of such access, membership, or participation, on account of race, color, religion, sex, national origin, familial status, or handicap. (1980 Code, § 11-306)

**20-207. Exemption.** Nothing in this chapter shall prohibit a religious organization, association, or society, or any non-profit institution or organization operated, supervised or controlled by or in conjunction with a religious organization, association, or society, from limiting the sale, rental or occupancy of dwellings which it owns or operates for other than a commercial purpose to persons of the same religion, or from giving preference to such persons, unless membership in such religion is restricted on account of race, color, sex, national origin, familial status, or handicap. Nor shall anything in this chapter prohibit a private club which it owns or operates for other than a commercial purpose, from limiting the rental or occupancy of such lodgings to its members or from giving preference to its member. (1980 Code, § 11-307)

**20-208. Administration.** (1) The authority and responsibility for administering this act shall be in the Mayor of the Red Boiling Springs.

(2) The Mayor of Red Boiling Springs may delegate any of these functions, duties, and powers to employees of the community or to boards of such employees, including functions, duties and powers with respect to investigating, conciliating, hearing, determining, ordering, certifying, reporting, or otherwise acting as to any work, business, or matter under this chapter. The mayor shall by rule prescribe such rights of appeal from the decisions of his hearing examiners to other hearing examiners or to other officers in the community, to boards of officers or to himself, as shall be appropriate and in accordance with law.

(3) All executive departments and agencies shall administer their programs and activities relating to housing and urban development in a manner affirmatively to further the purposes of this chapter and shall cooperate with the mayor to further such purposes. (1980 Code, § 11-308)

**20-209. Education and conciliation.** Immediately after the enactment of this chapter, the mayor shall commence such educational and conciliatory activities as will further the purposes of this chapter. He shall call conferences of persons in the housing industry and other interested parties to acquaint them with the provisions of this chapter and his suggested means of implementing it, and shall endeavor with their advise to work out programs of voluntary compliance and of enforcement. (1980 Code, § 11-309)

**20-210. Enforcement.** (1) Any person who claims to have been injured by a discriminatory housing practice or who believes that he will be irrevocably injured by a discriminatory housing practice that is about to occur (hereafter "person aggrieved") may file a complaint with the mayor. Complaints shall be in writing and shall contain such information and be in such form as the mayor requires. Upon receipt of such a complaint, the mayor shall furnish a copy of the same to the person or persons who allegedly committed or is about to commit the alleged discriminatory housing practice. Within thirty days after receiving a



complaint, or within thirty days after the expiration of any period of reference under subsection (3), the mayor shall investigate the complaint and give notice in writing to the person aggrieved whether he intends to resolve it. If the mayor decides to resolve the complaints, he shall proceed to try to eliminate or correct the alleged discriminatory housing practice by information methods of conference, conciliation, and persuasion. Nothing said or done in the course of such informal endeavors may be made public or used as evidence in a subsequent proceeding under this chapter without the written consent of the persons concerned. Any employee of the mayor who shall make public any information in violation of this provision shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not more than \$1,000 or imprisoned not more than one year.

(2) A complaint under subsection (1) shall be filed within one hundred and eighty days after the alleged discriminatory housing practice occurred. Complaints shall be in writing and shall state the facts upon which the allegations of a discriminatory housing practice are based. Complaints may be reasonably and fairly amended at any time. A respondent may file an answer to the complaint against him and with the leave of the mayor, which shall be granted whenever it would be reasonable and fair to do so, may amend his answer at any time. Both complaints and answers shall be verified.

(3) If within thirty days after a complaint is filed with the mayor, the mayor has been unable to obtain voluntary compliance with this chapter, the person aggrieved, may within thirty days thereafter, file a complaint with the Secretary of the Department of Housing and Urban Development. The mayor will assist in this filing.

(4) If the mayor has been unable to obtain voluntary compliance within thirty days of the complaint, the person aggrieved may, within thirty days hereafter commence a civil action in any appropriate court, against the respondent named in the complaint, to enforce the rights granted or protected by this chapter, insofar as such rights relate to the subject of the complaint. If the court finds that a discriminatory housing practice has occurred or is about to occur, the court may enjoin the respondent from engaging in such practice or order such affirmative action as may be appropriate.

(5) In any proceeding brought pursuant to this section, the burden of proof shall be on the complaint.

(6) Whenever an action filed by an individual shall come to trial, the mayor shall immediately terminate all efforts to obtain voluntary compliance. (1980 Code, § 11-310)

**20-211. Investigations; subpoenas; giving of evidence.** (1) In conducting an investigation, the mayor shall have access at all reasonable times to premises, records, documents, individuals, and other evidence or possible sources of evidence and may examine, record and copy such materials and take and record the testimony or statements of such persons as are reasonably

necessary for the furtherance of the investigation; Provided, however, that the mayor first complies with the provisions of the Fourth Amendment relating to unreasonable searches and seizures. The mayor may issue subpoenas to compel his access to or the production of such materials or the appearance of such persons, and may issue interrogatories to a respondent, to the same extent and subject to the same limitations as would apply if the subpoenas or interrogatories were issued or served in aid of a civil action in the United States district court of the district in which the investigation is taking place. The mayor may administer oaths.

(2) Upon written application to the mayor, a respondent shall be entitled to the issuance of a reasonable number of subpoenas by and in the name of the mayor to the same extent and subject to the same limitations as subpoenas issued by the mayor himself. Subpoenas issued at the request of a respondent shall show on their face the name and address of such respondent and shall state that they were issued at his request.

(3) Witnesses summoned by subpoenas of the mayor shall be entitled to the same witness and mileage fees as are witnesses in proceedings in United States district courts. Fees payable to the witness summoned by a subpoena issued at the request of a respondent shall be paid by him.

(4) Within five days after services of a subpoena upon any person, such person may petition the mayor to revoke or modify the subpoena. The mayor shall grant the petition if he finds that the subpoena requires appearance or attendance at an unreasonable time or place, that it requires production of evidence which does not relate to any matter under investigation, that it does not describe with sufficient particularity the evidence to be produced, that compliance would be unduly onerous, or for other good reason.

(5) In case of contumacy or refusal to obey a subpoena, the mayor or other person at whose request it was issued may petition for its enforcement in the municipal or state court for the district in which the person to whom the subpoena was addressed resides, was served, or transacts business.

(6) Any person who willfully fails or neglects to attend and testify or to answer any lawful inquiry or to produce records, documents, or other evidence, if in his power to do so, in obedience to the subpoenas or lawful order of the mayor shall be fined not more than \$1,000 or imprisoned not more than one year, or both. Any person who, with intent thereby to mislead the mayor, shall make or cause to be made any false entry or statement of fact in any report, account, record, or other document submitted to the mayor pursuant to his subpoena or other order, or shall willfully neglect or fail to make or cause to be made full, true, and correct entries in such reports, accounts, records, or other documents, or shall willfully mutilate, alter, or by any other means falsify any documentary evidence, shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

(7) The city attorney shall conduct all litigation in which the mayor participates as a party or as amicus pursuant to this chapter. (1980 Code, § 11-311)

**20-212. Enforcement by private persons.** (1) The rights granted by §§ 20-203, 20-204, 20-205 and 20-206 may be enforced by civil actions in state or local courts of general jurisdiction. A civil action shall be commenced within one hundred and eighty days after the alleged discriminatory housing practice occurred: Provided, however, that the court shall continue such civil case brought to this section or § 20-210(4) from time to time before bringing it to trial or renting dwellings; or

(2) Any person because he is or has been, or in order to intimidate such person or any other person or any class of persons from:

(a) Participating, without discrimination on account of race, color, religion or national origin, or

(b) Affording another person or class of persons opportunity or protection so to participate, or

(3) Any citizen because he is or has been, or in order to discourage such citizen or any other citizen from lawfully aiding or encouraging other persons to participate, without discrimination on account of race, color, religion or national origin, or participating lawfully in speech or peaceful assembly opposing any denial of the opportunity to so participate shall be fined not more than \$1,000, or imprisoned not more than one year, or both; and, if bodily injury results, shall be fined not more than \$10,000, or imprisoned not more than ten years, or both; and, if death results, shall be subject to imprisonment for any term of years or for life. (1980 Code, § 11-312)

### CHAPTER 3

#### OCCUPATIONAL SAFETY AND HEALTH PLAN

##### SECTION

20-301. Title.

20-302. Purpose.

20-303. Coverage.

20-304. Standards authorized.

20-305. Variances from standards authorized.

20-306. Administration.

20-307. Funding the program.

20-308.--20-315. Deleted.

**20-301. Title.** This section shall provide authority for establishing and administering the occupational safety and health program for the employees of the City of Red Boiling Springs. (as added by Ord. #77, Feb. 1975, and replaced by Ord. #03-6, June 2003)

**20-302. Purpose.** The City of Red Boiling Springs, in electing to establish and maintain an effective occupational safety and health program for its employees, 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) Make, keep, preserve, and make available to the Commissioner of Labor and Workforce Development of the State of Tennessee, his designated representatives, or persons within the Tennessee Department of Labor and Workforce Development to whom such responsibilities have been delegated, adequate records of all occupational accidents and illnesses and personal injuries for proper evaluation and necessary corrective action as required.

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

(5) Consult with the State 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, 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. (as added by Ord. #77, Feb. 1975, and replaced by Ord. #03-6, June 2003)

**20-303. Coverage.** The provisions of the occupational safety and health program plan for the employees of the City of Red Boiling Springs shall apply to all employees of each administrative department, commission, board, division, or other agency of the City of Red Boiling Springs whether part-time or full-time, seasonal or permanent. (as added by Ord. #77, Feb. 1975, amended by Ord. #00-10, Oct. 2000, and replaced by Ord. #03-6, June 2003)

**20-304. Standards authorized.** The occupational safety and health standards adopted by the City of Red Boiling Springs 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 (T.C.A. Title 50, Chapter 51). (as added by Ord. #77, Feb. 1975, and replaced by Ord. #03-6, June 2003)

**20-305. Variances from standards authorized.** The City of Red Boiling Springs may, upon written application to the Commissioner of Labor of the State of Tennessee, 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, Chapter 0800-1-2, as authorized by Tennessee Code Annotated, Title 5. Prior to requesting such temporary variance, the City of Red Boiling Springs shall notify or serve notice to 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 as designated by the City of Red Boiling Springs shall be deemed sufficient notice to employees. (as added by Ord. #77, Feb. 1975, and replaced by Ord. #03-6, June 2003)

**20-306. Administration.** For the purposes of this chapter, Phillip Snow is designated as the director of occupational safety and health to perform duties and to exercise powers assigned so as to plan, develop, and administer occupational safety and health program. The director shall develop a plan of operation for the program and said plan shall become a part of this chapter

when it satisfies all applicable sections of the Tennessee Occupational Safety and Health Act of 1972 and Part IV of the Tennessee Occupational Safety and Health Plan. (as added by Ord. #77, Feb. 1975, and replaced by Ord. #03-6, June 2003)

**20-307. Funding the program.** Sufficient funds for administering and staffing the program pursuant to this chapter shall be made available as authorized by the City of Red Boiling Springs. (as added by Ord. #77, Feb. 1975, and replaced by Ord. #03-6, June 2003)

**20-308.--20-315. [Deleted.]** (as added by Ord. #77, Feb. 1975, and replaced by Ord. #03-6, June 2003)

## CHAPTER 4

### EPHEDRINE AND EPHEDRINE RELATED PRODUCTS

#### SECTION

- 20-401. Quantity restrictions.
- 20-402. Definitions.
- 20-403. Display.
- 20-404. Exemptions.
- 20-405. Penalty exemption.
- 20-406. Registration of purchases.
- 20-407. Penalties.

**20-401. Quantity restrictions.** 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 contains 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. #04-4, July 2004)

**20-402. Definitions.** (1) The use of the terms "ephedrine," "pseudoephedrine" or "phenylpropanolamine" shall include the salts, optical isomers, or salts of optical isomers of ephedrine, pseudoephedrine or phenylpropanolamine.

(2) The use of the term "retail establishment" 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" 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. #04-4, July 2004)

**20-403. Display.** 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. #04-4, July 2004)

**20-404. 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 ephedrine, pseudoephedrine or phenylpropanolamine pursuant to the lawful prescription of a person authorized by state law to prescribe such products. (as added by Ord. #04-4, July 2004)

**20-405. Penalty exemption.** 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 § 20-401 or § 20-403 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 or phenylpropanolamine, and that the employees had completed the training program. (as added by Ord. #04-4, July 2004)

**20-406. 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. #04-4, July 2004)

**20-407. Penalties.** The violation of any part of this chapter is hereby declared to be a civil offense and is punishable by a civil penalty, not exceeding \$50.00. Each day a violation continues unabated shall constitute a separate offense. (as added by Ord. #04-4, July 2004)

**CHAPTER 5**

**CITY BUILDINGS AND FACILITIES USE AND  
RESERVATION POLICY**

**SECTION**

20-501. Purpose statement.

**20-501. Purpose statement.** (1) Use of city and facility meeting rooms.

(a) The city council shall have the responsibility and authority to determine the use of city hall and any other city owned buildings and/or facilities by non-city persons, organizations and the like.

(i) Facility shall be defined as any part of any city owned building or facility.

(b) The city mayor and/or his or her designee shall have the full authority to adopt and implement the following procedure and rules:

(i) Use of the city facilities meeting rooms is limited to other government officials, persons or organizations with a contractual relationship to the city for meetings in their official capacity, or organizations in which the city councilmember or city employee is a member for professional development or other city related purposes, or in which the city is sponsoring or co-sponsoring the event for use. Use may be made available to other users on a limited fee basis for events that support a public purpose, benefit, service, training or interest to Red Boiling city residents that otherwise could not occur without the facility being available. The city mayor and/or his or her designee shall have the right to refuse use of the facilities to any person and/or group if the proposed usage and/or event conflicts with the intended use of the building, is in conflict with established policies or laws, or is in conflict with any other confirmed reservation.

(ii) Prohibited use of the facility meeting rooms shall include any and all activities that involve fund raising, advertising, promoting or selling of merchandise or services, for profit or not for profit, except when sponsored or endorsed by the district; and by persons or organizations for election or campaign purposes or purposes contrary to federal, state or city law. Access to the facilities and grounds will be restricted between 10:00 P.M. and 8:00 A.M., unless previously authorized by the city council.

(iii) No admission fees or tuition may be charged to those in attendance, except as authorized by the city council for district sponsored or co-sponsored events.

(iv) Reservations for use of each facility will be accepted on a first come-first served basis. No single individual or group will

be given a preference or a priority so that the facilities are made available to serve the needs of as many different groups as possible. Equal access is available to all applying and no group or individual will be denied access because of considerations of race, sex, religious or political persuasion. The frequency with which one group may utilize the facility is at the discretion of the city council.

(v) Applications and copies of the City of Red Boiling Springs's Use and Reservation Policy will be available at city hall. All applications must be completed in full and returned with any necessary fees/release of liability forms at least thirty (30) days in advance of the intended use date. No application will be valid until the requirements of this section are met by the applicant.

(vi) Any individual or group using a facility shall be required to execute a release of liability for negligence or any damages caused to the user or its property during the time of the event or use of the facility. No assignment shall be allowed unless written permission is obtained and given by the city council. All persons in or on the property shall comply with all laws, regulations, ordinances and rules and not allow disorderly conduct, smoking, alcohol and/or drug consumption, loud or unusual noise or that in any way obstructs or impedes obtaining the services provided on the property. All minors must be attended to and accompanied by an adult. Applicant shall be responsible for securing any permits or approvals, required in connection with the use and/or event. All keys shall remain in possession of the city.

(vii) Fees are fifteen dollars (\$15.00) per hour and deposits are a maximum twenty-five (\$25.00) and dependent on the facility for which application is sought. Deposits may be refunded fourteen (14) days after the schedule use date but not returned is the reservation is cancelled less than seventy-two (72) hours prior to the date scheduled for the use of the facility. (as added by Ord. #15-6/2, Aug. 2015)

ORDINANCE NO. 220**AN ORDINANCE ADOPTING AND ENACTING A CODIFICATION AND REVISION OF THE ORDINANCES OF THE CITY OF RED BOILING SPRINGS TENNESSEE.**

WHEREAS some of the ordinances of the City of Red Boiling Springs are obsolete, and

WHEREAS some of the other ordinances of the City are inconsistent with each other or are otherwise inadequate, and

WHEREAS the City Council of the City of Red Boiling Springs, 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 "Red Boiling Springs Municipal Code," now, therefore:

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF RED BOILING SPRINGS, TENNESSEE, THAT:

**Section 1. Ordinances codified.** The ordinances of the city of a general, continuing, and permanent application or of a penal nature, as codified and revised in the following "titles," namely "titles" 1 to 20, both inclusive, are ordained and adopted as the "Red Boiling Springs Municipal Code," hereinafter referred to as the "municipal code."

**Section 2. Ordinances repealed.** All ordinances of a general, continuing, and permanent application or of a penal nature not contained in the municipal code are hereby repealed from and after the effective date of said code, except as hereinafter provided in Section 3 below.

**Section 3. Ordinances saved from repeal.** The repeal provided for in Section 2 of this ordinance shall not affect: Any offense or act committed or done, or any penalty or forfeiture incurred, or any contract or right established or accruing before the effective date of the municipal code; any ordinance or resolution promising or requiring the payment of money by or to the city or authorizing the issuance of any bonds or other evidence of said city's indebtedness; any budget ordinance; any contract or obligation assumed by or in favor of said city; any ordinance establishing a social security system or providing coverage under that system; any administrative ordinances or resolutions not in conflict or inconsistent with the provisions of such code; the portion of any ordinance not in conflict with such code which regulates speed,

direction of travel, passing, stopping, yielding, standing, or parking on any specifically named public street or way; any right or franchise granted by the city; any ordinance dedicating, naming, establishing, locating, relocating, opening, paving, widening, vacating, etc., any street or public way; any ordinance establishing and prescribing the grade of any street; any ordinance providing for local improvements and special assessments therefor; any ordinance dedicating or accepting any plat or subdivision; any prosecution, suit, or other proceeding pending or any judgment rendered on or prior to the effective date of said code; any zoning ordinance or amendment thereto or amendment to the zoning map; nor shall such repeal affect any ordinance annexing territory to the city.

**Section 4. Continuation of existing provisions.** Insofar as the provisions of the municipal code are the same as those of ordinances existing and in force on its effective date, said provisions shall be considered to be continuations thereof and not as new enactments.

**Section 5. Penalty clause.** Unless otherwise specified in a title, chapter or section of the municipal code, including the codes and ordinances adopted by reference, whenever in the municipal code any act is prohibited or is made or declared to be a civil offense, or whenever in the municipal code the doing of any act is required or the failure to do any act is declared to be a civil offense, the violation of any such provision of the municipal code shall be punished by a civil penalty of not more than five hundred dollars (\$500.00) and costs for each separate violation; provided, however, that the imposition of a civil penalty under the provisions of this municipal code shall not prevent the revocation of any permit or license or the taking of other punitive or remedial action where called for or permitted under the provisions of the municipal code or other applicable law. In any place in the municipal code the term "it shall be a misdemeanor" or "it shall be an offense" or "it shall be unlawful" or similar terms appears in the context of a penalty provision of this municipal code, it shall mean "it shall be a civil offense." Anytime the word "fine" or similar term appears in the context of a penalty provision of this municipal code, it shall mean "a civil penalty."<sup>1</sup>

When a civil penalty is imposed on any person for violating any provision of the municipal code and such person defaults on payment of such penalty, he may be required to perform hard labor, within or without the workhouse, to the extent that his physical condition shall permit, until such

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<sup>1</sup>State law reference

For authority to allow deferred payment of fines, or payment by installments, see Tennessee Code Annotated, § 40-24-101 et seq.

civil penalty is discharged by payment, or until such person, being credited with such sum as may be prescribed for each day's hard labor, has fully discharged said penalty.

Each day any violation of the municipal code continues shall constitute a separate civil offense.

**Section 6. Severability clause.** Each section, subsection, paragraph, sentence, and clause of the municipal code, including the codes and ordinances adopted by reference, is hereby declared to be separable and severable. The invalidity of any section, subsection, paragraph, sentence, or clause in the municipal code shall not affect the validity of any other portion of said code, and only any portion declared to be invalid by a court of competent jurisdiction shall be deleted therefrom.

**Section 7. Reproduction and amendment of code.** The municipal code shall be reproduced in loose-leaf form. The city council, by motion or resolution, shall fix, and change from time to time as considered necessary, the prices to be charged for copies of the municipal code and revisions thereto. After adoption of the municipal code, each ordinance affecting the code shall be adopted as amending, adding, or deleting, by numbers, specific chapters or sections of said code. Periodically thereafter all affected pages of the municipal code shall be revised to reflect such amended, added, or deleted material and shall be distributed to city officers and employees having copies of said code and to other persons who have requested and paid for current revisions. Notes shall be inserted at the end of amended or new sections, referring to the numbers of ordinances making the amendments or adding the new provisions, and such references shall be cumulative if a section is amended more than once in order that the current copy of the municipal code will contain references to all ordinances responsible for current provisions. One copy of the municipal code as originally adopted and one copy of each amending ordinance thereafter adopted shall be furnished to the Municipal Technical Advisory Service immediately upon final passage and adoption.

**Section 8. Construction of conflicting provisions.** Where any provision of the municipal code is in conflict with any other provision in said code, the provision which establishes the higher standard for the promotion and protection of the public health, safety, and welfare shall prevail.

**Section 9. Code available for public use.** A copy of the municipal code shall be kept available in the clerk's office for public use and inspection at all reasonable times.

**Section 10. Date of effect.** This ordinance shall take effect from and after its final passage, the public welfare requiring it, and the municipal code, including all the codes and ordinances therein adopted by reference, shall be effective on and after that date.

Passed 1st reading, September 14, 1935

Passed 2nd reading, October 12, 1935.

Sammy Bush  
Mayor  
Robert Knight  
City Clerk