

THE  
HORNBEAK  
MUNICIPAL  
CODE

Prepared by the  
MUNICIPAL TECHNICAL ADVISORY SERVICE  
INSTITUTE FOR PUBLIC SERVICE  
THE UNIVERSITY OF TENNESSEE

in cooperation with the  
TENNESSEE MUNICIPAL LEAGUE

September 1997

CITY OF HORNBEAK, TENNESSEE

MAYOR

Larry Seay

VICE MAYOR

Tommy Jerden

ALDERMEN

Pete Burpo  
Ricky Cranford  
Lynn Finch  
Ann McGuire  
E. H. Jernigan  
Robbie Riley

CLERK

Betty M. Walley

## PREFACE

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

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

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

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

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

- (1) That all ordinances relating to subjects treated in the code or which should be added to the code are adopted as amending, adding, or deleting specific chapters or sections of the code (see section 8 of the adopting ordinance).
- (2) That one copy of every ordinance adopted by the city is kept in a separate ordinance book and forwarded to MTAS annually.

(3) That the city agrees to pay the annual update fee as provided in the MTAS codification service charges policy in effect at the time of the update.

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

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

Steve Lobertini  
Codification Specialist

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

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<sup>1</sup>The Town of Hornbeak charter provides no procedures for the adoption of ordinances.

ORDINANCE NO. 98-01**AN ORDINANCE ADOPTING AND ENACTING A CODIFICATION AND REVISION OF THE ORDINANCES OF THE TOWN OF HORNBEAK TENNESSEE.**

WHEREAS some of the ordinances of the Town of Hornbeak are obsolete, and

WHEREAS some of the other ordinances of the town are inconsistent with each other or are otherwise inadequate, and

WHEREAS the Board of Mayor and Aldermen of the Town of Hornbeak, 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 "Hornbeak Municipal Code," now, therefore:

BE IT ORDAINED BY THE BOARD OF MAYOR AND ALDERMEN OF THE TOWN OF HORNBEAK, TENNESSEE, THAT:

**Section 1. Ordinances codified.** The ordinances of the town of a general, continuing, and permanent application or of a penal nature, as codified and revised in the following "titles," namely "titles" 1 to 20, both inclusive, are ordained and adopted as the "Hornbeak 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 town or authorizing the issuance of any bonds or other evidence of said town's indebtedness; any appropriation ordinance or ordinance providing for the levy of taxes or any budget ordinance; any contract or obligation assumed by or in favor of said town; 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 town; any ordinance dedicating, naming, establishing, locating, relocating, opening, paving, widening, vacating, etc., any street or public way; any ordinance establishing and prescribing the grade of any 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 town.

**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

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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.

workhouse, to the extent that his physical condition shall permit, until such civil penalty is discharged by payment, or until such person, being credited with such sum as may be prescribed for each day's hard labor, has fully discharged said penalty.

Each day any violation of the municipal code continues shall constitute a separate civil offense.

**Section 6. Severability clause.** Each section, subsection, paragraph, sentence, and clause of the municipal code, including the codes and ordinances adopted by reference, is hereby declared to be separable and severable. The invalidity of any section, subsection, paragraph, sentence, or clause in the municipal code shall not affect the validity of any other portion of said code, and only any portion declared to be invalid by a court of competent jurisdiction shall be deleted therefrom.

**Section 7. Reproduction and amendment of code.** The municipal code shall be reproduced in loose-leaf form. The board of mayor and aldermen, by motion or resolution, shall fix, and change from time to time as considered necessary, the prices to be charged for copies of the municipal code and revisions thereto. After adoption of the municipal code, each ordinance affecting the code shall be adopted as amending, adding, or deleting, by numbers, specific chapters or sections of said code. Periodically thereafter all affected pages of the municipal code shall be revised to reflect such amended, added, or deleted material and shall be distributed to town officers and employees having copies of said code and to other persons who have requested and paid for current revisions. Notes shall be inserted at the end of amended or new sections, referring to the numbers of ordinances making the amendments or adding the new provisions, and such references shall be cumulative if a section is amended more than once in order that the current copy of the municipal code will contain references to all ordinances responsible for current provisions. One copy of the municipal code as originally adopted and one copy of each amending ordinance thereafter adopted shall be furnished to the Municipal Technical Advisory Service immediately upon final passage and adoption.

**Section 8. Construction of conflicting provisions.** Where any provision of the municipal code is in conflict with any other provision in said code, the provision which establishes the higher standard for the promotion and protection of the public health, safety, and welfare shall prevail.

**Section 9. Code available for public use.** A copy of the municipal code shall be kept available in the recorder's office for public use and inspection at all reasonable times.

**Section 10. Date of effect.** This ordinance shall take effect from and after its final passage, the public welfare requiring it, and the municipal code, including all the codes and ordinances therein adopted by reference, shall be effective on and after that date.

Passed 1st reading, January 6, 1998.

Passed 2nd reading, February 3, 1998.

Passed 3rd reading, \_\_\_\_\_, 19\_\_\_\_.

Bill Swett  
Mayor

Betty Walley  
Recorder

## TITLE 1

GENERAL ADMINISTRATION<sup>1</sup>

## CHAPTER

1. GOVERNING BODY.
2. MAYOR.
3. RECORDER.

## CHAPTER 1

GOVERNING BODY

## 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 governing body shall hold regular monthly meetings on the first Tuesday of each month at the town hall. The time of the board meetings is changed from 7:00 P.M. to 6:00 P.M. during the winter months and then back to 7:00 P.M. during the summer. During the winter month's to mean beginning when the time changes in October to April when the time changes again. (1981 Code, § 1-101, as amended by Ord. 98-02, April 1998, modified)

1-102. Order of business. At each meeting of the governing body 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 recorder.
- (3) Reading of minutes of the previous meeting by the recorder and approval or correction.
- (4) Grievances from citizens.

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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

Fire department: title 7.

Utilities: title 18.

Wastewater treatment: title 18.

Zoning: title 14.

- (5) Communications from the mayor.
- (6) Reports from committees, members of the governing body and other officers.
- (7) Old business.
- (8) New business.
- (9) Adjournment. (1981 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 governing body 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. (1981 Code, § 1-103, modified)

## CHAPTER 2

MAYOR<sup>1</sup>

## SECTION

1-201. Generally supervises municipality's affairs.

1-202. Executes municipality's contracts.

1-203. Vice-mayor; appointment and duties

1-201. Generally supervises municipality's affairs. The mayor shall have general supervision of all municipal affairs and may require such reports from the officers and employees as he may reasonably deem necessary to carry out his executive responsibilities. (1981 Code, § 1-201)

1-202. Executes municipality's contracts. The mayor shall execute all contracts as authorized by the governing body. (1981 Code, § 1-202)

1-203. Vice-mayor; appointment and duties. (1) The vice-mayor will be appointed by the newly elected council at first meeting.

(2) The vice-mayor will be a member of the council.

(3) His duties will be the same as the mayor, when the mayor is absent. (1981 Code, § 1-203)

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<sup>1</sup>Charter reference: § 5.

## CHAPTER 3

RECORDER<sup>1</sup>

## SECTION

1-301. To be bonded.

1-302. To keep minutes, etc.

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

1-301. To be bonded. The recorder shall be bonded in such sum as may be fixed by, and with such surety as may be acceptable to, the governing body. (1981 Code, § 1-301)

1-302. To keep minutes, etc. The recorder shall keep the minutes of all meetings of the governing body and shall preserve the original copy of all ordinances in a separate ordinance book. (1981 Code, § 1-302)

1-303. To perform general administrative duties, etc. The recorder shall perform all administrative duties for the governing body and for the municipality which are not assigned by the charter, this code, or the governing body to another corporate officer. The recorder shall also have custody of and be responsible for maintaining all corporate bonds, records, and papers in such fireproof vault or safe as the municipality shall provide. (1981 Code, § 1-303)

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<sup>1</sup>Charter reference: § 6.

TITLE 2

BOARDS AND COMMISSIONS, ETC.

[RESERVED FOR FUTURE USE]

TITLE 3

MUNICIPAL COURT

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.

3-101. City judge. The officer designated by the charter to handle judicial matters within the municipality shall preside over the city court and shall be known as the city judge. (1981 Code, § 1-501)

## 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. Court cost.

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 that may be relevant. (1981 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 heard or determined by him, the city judge shall tax in the bill of costs the same amounts and for the same items allowed in courts of general sessions<sup>1</sup> for similar work in state cases. (1981 Code, § 1-508)

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 municipality. At the end of each month he shall submit to the governing body 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. (1981 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. (1981 Code, § 1-512)

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<sup>1</sup>State law reference

Tennessee Code Annotated, § 8-21-401.

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. (1981 Code, § 1-506)

3-206. Court cost. A cost of \$35.00 will be assessed to each person coming before the Town of Hornbeak Municipal Court for the violation of any laws of said town, State of Tennessee, County of Obion, authorized by Tennessee Code Annotated to be heard by this court.

Appearance before this court means, "any offense not resolved prior to court date." (Ord. 98-04, Aug. 1998)

## 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. (1981 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. (1981 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. (1981 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. (1981 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> (1981 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. (1981 Code, § 1-510)

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

TITLE 4

MUNICIPAL PERSONNEL<sup>1</sup>

[RESERVED FOR FUTURE USE]

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<sup>1</sup>The city passed a Social Security Agreement on January 1, 1977. This agreement is of record in the office of the recorder.

## TITLE 5

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

## CHAPTER

1. MISCELLANEOUS.
2. REAL PROPERTY TAXES.
3. WHOLESALE BEER TAX.

## CHAPTER 1

MISCELLANEOUS

## SECTION

- 5-101. Official depository for town funds.  
5-102. Delinquent taxes; goods and chattels.

5-101. Official depository for town funds. The Reelfoot Bank of Hornbeak, Tennessee, is hereby designated as the official depository for all municipal funds. (1981 Code, § 6-101)

5-102. Delinquent taxes; goods and chattels. Pursuant to section 35 of the town charter for the Town of Hornbeak and Tennessee Code Annotated, § 67-5-2005(d) the collection of delinquent taxes is hereby authorized by distress warrants issued by the mayor for the sale of goods and chattels to be executed by any police officer of the town under the laws governing execution of such process; or by the county trustee as provided by general law; or by the town attorney acting in accordance with general laws providing for the collection of delinquent town or county taxes; by garnishments; by suits in chancery; or by any two or more of the foregoing methods, or by the use of any other available legal processes and remedies. (as added by Ord. #2000-03, Jan. 2001)

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<sup>1</sup>Charter reference: § 9.

## 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> Taxes levied by the municipality against real property shall become due and payable annually on the first Monday of October of the year for which levied. (1981 Code, § 6-201)

5-202. When delinquent--penalty and interest.<sup>2</sup> All real property taxes shall become delinquent on and after the first day of March next after they become due and payable and shall thereupon be subject to a penalty of one and one-half percent (1 ½%) per month thereafter and such other penalties as are prescribed by state law for delinquent county real property taxes.<sup>3</sup> (1981 Code, § 6-202)

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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 ½ of 1% and interest of 1% shall be added on the first day of March, following the tax due date and on the first day of each succeeding month.

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

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

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

## CHAPTER 3

WHOLESALE BEER TAX

## SECTION

5-301. To be collected.

5-301. To be collected. The recorder is hereby directed to take appropriate action to assure payment to the municipality of the wholesale beer tax levied by the "Wholesale Beer Tax Act," as set out in Tennessee Code Annotated, title 57, chapter 6.<sup>1</sup> (1981 Code, § 6-401)

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<sup>1</sup>State law reference

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

## TITLE 6

LAW ENFORCEMENT

## CHAPTER

1. POLICE AND ARREST.
2. WORKHOUSE.

## CHAPTER 1

POLICE AND ARREST<sup>1</sup>

## 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.
- 6-108. Mayor's authority to deputize.

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. (1981 Code, § 1-401)

6-102. Policemen to preserve law and order, etc. Policemen shall preserve law and order within the municipality. They shall patrol the municipality and shall assist the city court during the trial of cases. Policemen shall also promptly serve any legal process issued by the city court. (1981 Code, § 1-402)

6-103. Policemen to wear uniforms and be armed. All policemen shall wear such uniform and badge as the governing body may authorize and may carry a service pistol and billy club at all times while on duty unless otherwise expressly directed by the chief or mayor for a special assignment. (1981 Code, § 1-403)

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<sup>1</sup>Municipal code reference

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

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.

(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. (1981 Code, § 1-404)

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 person's assistance is requested by the policeman and is reasonably necessary. (1981 Code, § 1-405)

6-106. Disposition of persons arrested. Unless otherwise authorized by law, when a person is arrested he shall be brought before the city court for immediate trial or allowed to post bond. When the city judge is not immediately available or the alleged offender does not post the required bond, he shall be confined. (1981 Code, § 1-406)

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

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

(2) All arrests made by policemen.

(3) All police investigations made, funerals convoyed, fire calls answered, and other miscellaneous activities of the police department. (1981 Code, § 1-407)

6-108. Mayor's authority to deputize. The mayor has authority to deputize a volunteer fire department in case of emergency. (1981 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. (1981 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. (1981 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> (1981 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 CODE.
2. FIRE DEPARTMENT.
3. FIRE SERVICE OUTSIDE TOWN LIMITS.
4. FIREWORKS.

## CHAPTER 1

FIRE CODE

## SECTION

- 7-101. Fire code adopted.
- 7-102. Enforcement.
- 7-103. Definition of "municipality."
- 7-104. Storage of explosives, flammable liquids, etc.
- 7-105. Gasoline trucks.
- 7-106. Variances.
- 7-107. Violations.

7-101. Fire code adopted. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506, and for the purpose of prescribing regulations governing conditions hazardous to life and property from fire or explosion, the Standard Fire Prevention Code,<sup>2</sup> 1994 edition with 1995 revisions, as recommended by the Southern Building Code Congress International, Inc. is hereby adopted by reference and included as a part of this code. Pursuant to the requirement of Tennessee Code Annotated, § 6-54-502, one (1) copy of the fire prevention code has been filed with the city recorder and is available for public use and inspection. Said fire prevention code is adopted and incorporated as fully as if set out at length herein and shall be controlling within the corporate limits. (1981 Code, § 7-201, modified)

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<sup>1</sup>Municipal code reference

Building, utility and housing codes: title 12.

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

7-102. Enforcement. The fire prevention code herein adopted by reference shall be enforced by the chief of the fire department. He shall have the same powers as the state fire marshal. (1981 Code, § 7-202)

7-103. Definition of "municipality." Whenever the word "municipality" is used in the fire prevention code herein adopted, it shall be held to mean the Town of Hornbeak, Tennessee. (1981 Code, § 7-203)

7-104. 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.

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.

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.

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. (1981 Code, § 7-204)

7-105. 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. (1981 Code, § 7-205)

7-106. Variances. The chief of the fire department may recommend to the governing body 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 governing body. (1981 Code, § 7-206)

7-107. Violations. It shall be unlawful for any person to violate any of the provisions of this chapter or the 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 governing body of the municipality 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. (1981 Code, § 7-207)

## CHAPTER 2

FIRE DEPARTMENT<sup>1</sup>

## SECTION

7-201. Establishment, equipment, and membership.

7-202. Objectives.

7-203. Organization, rules, and regulations.

7-204. Records and reports.

7-205. Tenure and compensation of members.

7-206. Chief responsible for training and maintenance.

7-207. Chief to be assistant to state officer.

7-201. Establishment, equipment, and membership. There is hereby established a fire department to be supported and equipped from appropriations by the governing body of the municipality. All apparatus, equipment, and supplies shall be purchased by or through the municipality and shall be and remain the property of the municipality. The fire department shall be composed of a chief appointed by the governing body and such number of physically-fit subordinate officers and firemen as the chief shall appoint. (1981 Code, § 7-301)

7-202. Objectives. The fire department shall have as its objectives:

(1) To prevent uncontrolled fires from starting.

(2) To prevent the loss of life and property because of fires.

(3) To confine fires to their places of origin.

(4) To extinguish uncontrolled fires.

(5) To prevent loss of life from asphyxiation or drowning.

(6) To perform such rescue work as its equipment and/or the training of its personnel makes practicable. (1981 Code, § 7-302)

7-203. Organization, rules, and regulations. The chief of the fire department shall set up the organization of the department, make definite assignments to individuals, and shall formulate and enforce such rules and regulations as shall be necessary for the orderly and efficient operation of the fire department. (1981 Code, § 7-303)

7-204. Records and reports. The chief of the fire department shall keep adequate records of all fires, inspections, apparatus, equipment, personnel, and work of the department. He shall submit a written report on such matters to

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<sup>1</sup>Municipal code reference

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

the mayor once each month, and at the end of the year a detailed annual report shall be made. (1981 Code, § 7-304)

7-205. Tenure and compensation of members. The chief shall hold office so long as his conduct and efficiency are satisfactory to the governing body. However, so that adequate discipline may be maintained, the chief shall have the authority to suspend or discharge any other member of the fire department when he deems such action to be necessary for the good of the department. The chief may be suspended up to thirty (30) days by the mayor but may be dismissed only by the governing body.

All personnel of the fire department shall receive such compensation for their services as the governing body may from time to time prescribe. (1981 Code, § 7-305)

7-206. Chief responsible for training and maintenance. The chief of the fire department, shall be fully responsible for the training of the firemen and for maintenance of all property and equipment of the fire department. The minimum training shall consist of having the personnel take the fire apparatus out for practice operations not less than once a month. (1981 Code, § 7-306)

7-207. Chief to be assistant to state officer. Pursuant to requirements of Tennessee Code Annotated, § 68-102-108, the chief of the fire department is designated as an assistant to the state commissioner of commerce and insurance and is subject to all the duties and obligations imposed by Tennessee Code Annotated, title 68, chapter 102, and shall be subject to the directions of the fire prevention commissioner in the execution of the provisions thereof. (1981 Code, § 7-308)

## CHAPTER 3

FIRE SERVICE OUTSIDE TOWN LIMITS

## SECTION

7-301. Equipment to be used only within corporate limits generally.

7-301. Equipment to be used only within corporate limits generally. Equipment will be used in town limits as first priority. One fire truck will remain in town limits at all times for handling of town fires. The remaining trucks can be used for rural fires or fulfilling mutual aid agreements. Rural fires can be answered within an approximate five (5) mile radius of the town. Half of the firemen will remain in the town during a rural fire call. This will be conducted by senior fireman answering call. (1981 Code, § 7-307)

## CHAPTER 4

FIREWORKS

## SECTION

- 7-401. Seasonal sale permitted.
- 7-402. Rules and regulations.
- 7-403. Penalty for violation.

7-401. Seasonal sale permitted. It shall be lawful for fireworks as hereinafter defined to be sold within the Corporate Limits of the Town of Hornbeak from June 20 through July 5, and from December 10 through January 2 of each year. Fireworks permitted to be sold include those items classified as D.O.T. Class C common fireworks and those items that comply with the construction chemical composition and labeling regulations promulgated by the U.S. Consumer Product Safety Commission and permitted for use by the general public under their regulations, subject, however, to the provisions of Tennessee Code Annotated, § 68-104-101, and subject to such rules and regulations as the town may require and impose.

All persons engaged in the seasonal retailing of fireworks shall pay to the Town of Hornbeak a permit fee of \$20.00 for each seasonal year defined as June 20 through July 5 or December 10 through January 2 of each year. (Ord. #92-1, \_\_\_\_\_)

7-402. Rules and regulations. The fire chief of the Town of Hornbeak, Tennessee, and his or her representatives shall have the power to adopt rules and regulations for the storage, location, display, and sale of fireworks in the interest of safety of the citizens of Hornbeak.

Such rules and regulations shall include all those specified at Tennessee Code Annotated, § 68-104-111, and the prohibitions included in Tennessee Code Annotated, § 68-104-112, as the statutes exist as of April 1991, regardless of whether such subsections are later revoked, rescinded, or amended.

In addition to the rules and regulations specified herein, the fire chief of the Town of Hornbeak shall require all seasonal retailers desiring to sell fireworks to maintain a permanent structure with such safety equipment as may be required to assure the safety and for the benefit of the citizens of Hornbeak. No tents, trailers, or temporary structures of any kind will be permitted.

All locations shall be approved by the fire chief and the fire chief shall require that fireworks will only be sold from stationary, permanent structures and shall not permit sales from tents, open buildings, trailer, mobile or motor homes, or any other transient structure. (Ord. #92-1, \_\_\_\_\_)

7-403. Penalty for violation. Any individual violating any provision of this chapter shall be guilty of a misdemeanor punishable pursuant to Tennessee Code Annotated, § 68-104-114.

The fire chief of the Town of Hornbeak is further authorized to seize and contraband and destroy fireworks which do not comply with the provisions defining allowable fireworks contained in this chapter pursuant to the provisions of Tennessee Code Annotated, § 68-104-115. (Ord. #92-1, \_\_\_\_\_)

## 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> and/or ordinances, it shall be unlawful for any person to manufacture, receive, possess, store, transport, sell, furnish, or solicit orders for any intoxicating liquor within this municipality. "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. (1981 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 to be kept.
- 8-204. Requirements for beer board quorum and action.
- 8-205. Powers and duties of the beer board.
- 8-206. "Beer" defined.
- 8-207. Permit required for engaging in beer business.
- 8-208. Privilege tax.
- 8-209. Beer permits shall be restrictive.
- 8-210. 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.
- 8-216. Violations.
- 8-217. Business requirements.

8-201. Beer board established. There is hereby established a beer board to be composed of three (3) members of the governing body. A chairman shall be elected annually by the board from among its members. All members of the beer board shall serve without compensation. (Ord. #89-1, Feb. 1989, as replaced by Ord. #2004-8-2, Nov. 2004)

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. #2004-8-2, Nov. 2004)

8-203. Record of beer board proceedings to be kept. The recorder shall make a record of the proceedings of all meetings of the beer board. The record

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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).

shall be a public record and shall contain at least the following: The date of each meeting; the names of the board members present and absent; the names of the members introducing and seconding motions and resolutions, etc., before the board; a copy of each such motion or resolution presented; the vote of each member thereon; and the provisions of each beer permit issued by the board. (as added by Ord. #2004-8-2, Nov. 2004)

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. #2004-8-2, Nov. 2004)

8-205. Powers and duties of the beer board. The beer board shall have the power and it is hereby directed to regulate the selling, storing for sale, distributing for sale, and manufacturing of beer within this municipality in accordance with the provisions of this chapter. (as added by Ord. #2004-8-2, Nov. 2004)

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. #2004-8-2, Nov. 2004)

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, and 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 Hornbeak, Tennessee. Each applicant must be a person of good moral character and he must certify that he has read and is familiar with the provisions of this chapter. (as added by Ord. #2004-8-2, Nov. 2004)

8-208. Privilege tax. There is hereby imposed on the business of selling, distributing, storing or manufacturing beer a privilege tax of one hundred dollars (\$100). 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 Hornbeak, Tennessee. At the time a new permit is issued to any business subject to this tax, the permit holder shall be required to pay the privilege tax on a prorated basis for each month or

portion thereof remaining until the next tax payment date. (as added by Ord. #2004-8-2, Nov. 2004)

8-209. Beer permits shall be restrictive. All beer permits shall be restrictive as to the type of beer business authorized under them. Separate permits shall be required for selling at retail, storing, distributing, and manufacturing. Beer permits for retail sale of beer may be further restricted by the beer board so as to authorize sales only for off premises consumption. It shall be unlawful for any beer permit holder to engage in any type or phase of the beer business not expressly authorized by his permit. It shall likewise be unlawful for him not to comply with any and all express restrictions or conditions which may be written into his permit by the beer board. (as added by Ord. #2004-8-2, Nov. 2004)

8-210. Limitation on number of permits. The number of licenses for the sale of beer shall be limited to three (3). 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 used only within the establishment or building purchased. (as added by Ord. #2004-8-2, Nov. 2004)

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 or churches, 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 three hundred (300) feet of any hospital, school or church. The distances shall be measured in a straight line<sup>1</sup> from the nearest point on the property line upon which sits the building from which the beer will be manufactured, stored or sold to the nearest point on the property line of the hospital, school or church. No permit shall be suspended, revoked or denied on the basis of proximity of the establishment to a school, church, or other place of public gathering if a valid permit had been issued to any business on that same location as of January 1, 1993, unless beer is not sold, distributed or manufactured at that location during any continuous six-month period after January 1, 1993. (as added by Ord. #2004-8-2, Nov. 2004)

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<sup>1</sup>State law reference

See Watkins v. Naifeh. 625 S. W. 3d 104 (Term. 1982) and other cases cited therein which establish the straight line method of measurement.

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 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. #2004-8-2, Nov. 2004)

8-213. Prohibited conduct or activities by beer permit holders. It shall be unlawful for any beer 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 5:00 A.M. during any night of the week.

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

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

(6) Allow drunk persons to loiter his premises.

(7) Serve, sell, or allow the consumption on his premises of any alcoholic beverage with an alcoholic content of more than five percent (5%) by weight.

(8) Allow pool or billiard playing in the same room where beer is sold. (as added by Ord. #2004-8-2, Nov. 2004)

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. #2004-8-2, Nov. 2004)

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. #2004-8-2, Nov. 2004)

8-216. Violations. Except as provided in § 8-215, any violation of this chapter shall constitute a civil offense and shall, upon conviction, be punishable by a penalty under the general penalty clause of this code. Each day a violation shall be allowed to continue shall constitute a separate offense. (as added by Ord. #2004-8-2, Nov. 2004)

8-217. Business requirements. Business shall be defined as (a combination grocery, fuel operation) where a minimum average of 50% in overall sales must be grocery and food , and exclude fuel and tobacco sales. (as added by Ord. #2004-8-2, Nov. 2004)

## TITLE 9

BUSINESS, PEDDLERS, SOLICITORS, ETC.<sup>1</sup>

## CHAPTER

1. PEDDLERS, ETC.
2. CHARITABLE SOLICITORS.
3. POOL ROOMS.
4. CABLE TELEVISION.
5. TELECOMMUNICATIONS RIGHTS-OF-WAY RENTAL.

## CHAPTER 1

PEDDLERS, ETC.<sup>2</sup>

## SECTION

- 9-101. Permit required.
- 9-102. Exemptions.
- 9-103. Application for permit.
- 9-104. Issuance or refusal of permit.
- 9-105. Appeal.
- 9-106. Bond.
- 9-107. Loud noises and speaking devices.
- 9-108. Use of streets.
- 9-109. Exhibition of permit.
- 9-110. Policemen to enforce.
- 9-111. Revocation or suspension of permit.
- 9-112. Reapplication.
- 9-113. Expiration and renewal of permit.

9-101. Permit required. It shall be unlawful for any peddler, canvasser, solicitor, or transient merchant to ply his trade within the corporate limits without first obtaining a permit therefor in compliance with the provisions of this chapter. No permit shall be used at any time by any person other than the one to whom it is issued. (1981 Code, § 5-201)

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<sup>1</sup>Municipal code references

Junkyards: title 13.

Liquor and beer regulations: title 8.

Noise reductions: title 11.

Zoning: title 14.

<sup>2</sup>Municipal code references

Privilege taxes: title 5.

9-102. 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. (1981 Code, § 5-202)

9-103. Application for permit. Applicants for a permit under this chapter must file with the city recorder a sworn written application containing the following:

- (1) Name and physical description of applicant.
- (2) Complete permanent home address and local address of the applicant and, in the case of transient merchants, the local address from which proposed sales will be made.
- (3) A brief description of the nature of the business and the goods to be sold.
- (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 to properly 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; 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 municipality to cover the cost of investigating the facts stated therein. (1981 Code, § 5-203)

9-104. 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 recorder 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 recorder 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 recorder shall issue a permit upon the payment of all applicable privilege taxes and the filing of the bond required by § 9-106. The city recorder shall keep a permanent record of all permits issued. (1981 Code, § 5-204)

9-105. Appeal. Any person aggrieved by the action of the chief of police and/or the city recorder in the denial of a permit shall have the right to appeal to the governing body. 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. (1981 Code, § 5-205)

9-106. Bond. Every permittee shall file with the city recorder a surety bond running to the municipality 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 this municipality 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 municipality 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 municipality 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. (1981 Code, § 5-206)

9-107. 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 municipality 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. (1981 Code, § 5-207)

9-108. 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. (1981 Code, § 5-208)

9-109. Exhibition of permit. Permittees are required to exhibit their permits at the request of any policeman or citizen. (1981 Code, § 5-209)

9-110. Policemen to enforce. It shall be the duty of all policemen to see that the provisions of this chapter are enforced. (1981 Code, § 5-210)

9-111. Revocation or suspension of permit. (1) Permits issued under the provisions of this chapter may be revoked by the governing body 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 recorder 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 reasonably necessary in the public interest the mayor may suspend a permit pending the revocation hearing. (1981 Code, § 5-211)

9-112. 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. (1981 Code, § 5-212)

9-113. 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. (1981 Code, § 5-213)

## CHAPTER 2

CHARITABLE SOLICITORS

## SECTION

- 9-201. Permit required.  
9-202. Prerequisites for a permit.  
9-203. Denial of a permit.  
9-204. Exhibition of permit.

9-201. Permit required. No person shall solicit contributions or anything else of value for any real or alleged charitable or religious purpose without a permit from the city recorder authorizing such solicitation. Provided, however, that this section shall not apply to any locally established organization or church operated exclusively for charitable or religious purposes if the solicitations are conducted exclusively among the members thereof, voluntarily and without remuneration for making such solicitations, or if the solicitations are in the form of collections or contributions at the regular assemblies of any such established organization or church. (1981 Code, § 5-301)

9-202. Prerequisites for a permit. The recorder 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. (1981 Code, § 5-302)

9-203. Denial of a permit. Any applicant for a permit to make charitable or religious solicitations may appeal to the governing body if he has not been granted a permit within fifteen (15) days after he makes application therefor. (1981 Code, § 5-303)

9-204. 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. (1981 Code, § 5-304)

## CHAPTER 3

POOL ROOMS<sup>1</sup>

## SECTION

9-301. Prohibited in residential areas.

9-302. Hours of operation regulated.

9-303. Minors to be kept out; exception.

9-301. 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. (1981 Code, § 5-501)

9-302. Hours of operation regulated. It shall be unlawful for any person to open, maintain, conduct, or operate any place where pool tables or billiard tables are kept for public use or hire at any time on Sunday or between the hours of 11:00 P.M. and 6:00 A.M. on other days. (1981 Code, § 5-502)

9-303. Minors to be kept out; exception. It shall be unlawful for any person engaged regularly, or otherwise, in keeping billiard, bagatelle, or pool rooms or tables, their employees, agents, servants, or other persons for them, knowingly to permit any person under the age of eighteen (18) years to play on said tables at any game of billiards, bagatelle, pool, or other games requiring the use of cue and balls, without first having obtained the written consent of the father and mother of such minor, if living; if the father is dead, then the mother, guardian, or other person having legal control of such minor; or if the minor be in attendance as a student at some literary institution, then the written consent of the principal or person in charge of such school; provided that this section shall not apply to the use of billiards, bagatelle, and pool tables in private residences. (1981 Code, § 5-503)

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

## CHAPTER 4

CABLE TELEVISION

## SECTION

9-401. To be furnished under franchise.

9-401. To be furnished under franchise. Cable television service shall be furnished to the Town of Hornbeak and its inhabitants under franchise as the board of mayor and aldermen shall grant. The rights, powers, duties and obligations of the Town of Hornbeak 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. #9-21, Sept. 1981, and 2001-04, Sept. 2001 in the office of the recorder.

## CHAPTER 5

TELECOMMUNICATIONS RIGHTS-OF-WAY RENTAL

## SECTION

- 9-501. Purpose.
- 9-502. Applicable scope.
- 9-503. Definitions.
- 9-504. Municipal right-of-way use permit required.
- 9-505. Application to provide telecommunications service using the public rights-of-way.
- 9-506. Municipal right-of-way use permit issuance.
- 9-507. Petition for reconsideration.
- 9-508. Administration and enforcement.
- 9-509. Applicability.
- 9-510. Compensation to city.
- 9-511. Remitting rental fees to the city.
- 9-512. Audits.
- 9-513. Transfers.
- 9-514. Notices to the city.
- 9-515. Construction obligations.
- 9-516. Conditions of rights-of-way occupancy.
- 9-517. Insurance requirements.
- 9-518. Indemnity.
- 9-519. Privacy of customer information.
- 9-520. Annexation: deannexation.
- 9-521. Unauthorized use of public rights-of-way.

9-501. Purpose. The purpose of this chapter is to establish a competitively neutral policy for usage of public rights-of-way for the provision of telecommunications services and enable the city to:

- (1) Permit non-discriminatory access to the public rights-of-way for providers of telecommunications services; and
- (2) Manage the public rights-of-way in order to minimize the impact and cost to the citizens of the placement of telecommunications facilities within the rights-of-way; and
- (3) Obtain fair and reasonable compensation for the commercial use of public rights-of-way through collection of rents; and
- (4) Promote competition among telecommunications service providers and encourage the universal availability of advanced telecommunications services to all residents and businesses of the city; and
- (5) Minimize the congestion, inconvenience, visual impact, and other adverse effects on the city's public rights-of-way. (Ord. 97-01, Sept. 1997)

9-502. Applicable scope. This chapter applies to all telecommunications service providers under Titles II ("Title II") and VI ("Title VI") of the Communications Act of 1934, as amended, (47 U.S.C. 201 et seq.) excluding services provided solely by means of wireless transmission. This chapter does not exempt providers of cable service or open video systems service from the requirements of Title VI and applicable FCC rules and regulations. Any requirements and obligations imposed by this chapter are in addition to any requirements imposed by Title VI or state law and regulation on such providers. (Ord. 97-01, Sept. 1997)

9-503. Definitions. (1) "Applicant." Any person who files an application with the city, under § 9-505 (Application to provide telecommunications services) of this chapter, in order to obtain the necessary permission to use the public rights-of-way to provide telecommunications services within the city, whether by means of the person's own facilities or by means of capacity obtained from another provider of telecommunications services.

(2) "City." The City of Hornbeak, the present municipal corporation of Hornbeak, together with any future annexation made pursuant to law.

(3) "Chief administrative officer." The chief administrative officer of the City of Hornbeak, or the person designated by the city council to carry out the duties and responsibilities of the chief administrative officer. Chief administrative officer shall also mean the person under the chief administrative officer's management and control designated by the chief administrative officer to administer the provisions of this chapter.

(4) "City requirements." All laws, rules, regulations, policies and directives of general application of the City of Hornbeak, in effect at present or to be adopted in the future by the city.

(5) "Gross revenue." All revenues received by a provider for telecommunications services furnished within the city. However, revenues received for use of network capacity, switched or unswitched access, and sale of unbundled elements under 47 U.S.C. 251(b) and (c) from resellers of telecommunications services who are in compliance with this chapter are not included. Gross revenue does not include revenue uncollectible from customers ("bad debt") and any end user taxes collected from customers.

(6) "Municipal right-of-way use permit or municipal permit." The right granted by the city to use public rights-of-way to provide telecommunications services within the city to the public or to other providers, as specified by the terms of this chapter.

(7) "Person." Any person, firm, partnership, association, corporation, company or organization of any kind.

(8) "Provider." A person who has been granted a Certificate of Need by the Tennessee Regulatory Authority and/or who operates or uses a telecommunications network within the city to provide telecommunications

services, and who falls under the definition of section 9-502 (Applicable scope) of this chapter.

(9) "Public rights-of-way." The surface, the air space above the surface, and the area below the surface of any public street, highway, lane, path, alley, sidewalk, boulevard, drive, bridge, tunnel, easement or similar property in which the city holds any property interest or exercises any rights of management or control over and which, consistent with the purposes for which it was acquired or dedicated, may be used for the installation and maintenance of a telecommunications network.

(10) "Telecommunications network or network." All facilities placed in the public rights-of-way and used to provide telecommunications services.

(11) "Telecommunications services." All transmissions between or among points specified by the user, of information of the user's choosing (whether voice, video or data), without change in content of the information as sent and received, where such transmissions are accomplished through a telecommunications network. Telecommunications services include all ancillary or adjunct switching services and signal conversions rendered as a function of underlying transmission services, but excludes long distance transmissions (inter-LATA and intra-LATA toll transmissions). Telecommunications services include all services provided. Telecommunications services also include all content or value-added services rendered in conjunction with transmission services. (Ord. 97-01, Sept. 1997)

9-504. Municipal right-of-way use permit required. (1) A person may not deliver telecommunications services in the city by means of a network unless the person obtains a municipal right-of-way use permit.

(2) The use of public rights-of-way for the delivery of any service not covered by this chapter is subject to all other applicable city requirements. (Ord. 97-01, Sept. 1997)

9-505. Application to provide telecommunications services using the public rights-of-way. (1) Any person proposing to provide telecommunications services by means of a telecommunications network located within the public rights-of-way ("applicant") shall submit an application to the chief administrative officer. The application, in a form to be prescribed by the chief administrative officer, shall describe all services the applicant wishes to provide, outline applicant's proposed network, and identify the uses of and potential impact on the public rights-of-way.

(2) The chief administrative officer shall have the duty to review applications submitted under this chapter and administer the provisions of this chapter regarding the granting or denial of a municipal right-of-way use permit to applicants. The chief administrative officer shall issue municipal right-of-way use permits, and shall administer and enforce compliance with respect to all municipal right-of-way use permits granted under this chapter. The chief

administrative officer shall submit a report annually to the city council analyzing whether any requirements imposed by each section of this chapter result in (a) anticompetitive effects in the market for telecommunications services in the city, as defined by federal law, and/or (b) discrimination in favor of or against a holder of a certificate of need under state law. (Ord. 97-01, Sept. 1997)

9-506. Municipal right-of-way use permit issuance. (1) If the chief administrative officer finds that the application meets the requirements of this chapter, the chief administrative officer shall cause to be prepared a municipal right-of-way use permit for issuance to the applicant.

(2) The chief administrative officer shall complete all deliberations towards issuing a municipal right-of-way use permit, and shall issue the permit or a written denial within 60 days of the receipt of an application. The applicant shall respond to all reasonable information requests of the chief administrative officer during this consideration period. Any delays in providing such information shall be documented in writing by the chief administrative officer, who may cite any delays or refusals in obtaining information from an applicant as grounds for denial of a permit. (Ord. 97-01, Sept. 1997)

9-507. Petition for reconsideration. The act of granting, denying or terminating a municipal right-of-way use permit is an exercise of the police power of the city. A person whose application for a municipal right-of-way use permit is denied must petition the city council for reconsideration before seeking judicial remedies, and must file such a petition within 45 days of the written denial of such application by the chief administrative officer. A petition is considered denied if the city council does not act within 45 days after the petition is filed with the city clerk. (Ord. 97-01, Sept. 1997)

9-508. Administration and enforcement. (1) The chief administrative officer shall administer this chapter and enforce compliance with a municipal right-of-way use permit granted under this chapter.

(2) A provider shall report information that the chief administrative officer requires in the form and manner prescribed by the chief administrative officer relating to the use of public rights-of-way for the right-of-way occupancy authorized by a municipal right-of-way use permit granted under this chapter.

(3) The chief administrative officer shall report to the city council the chief administrative officer's determination that a provider has failed to comply with this chapter. (Ord. 97-01, Sept. 1997)

9-509. Applicability. (1) Sections 9-515 (construction), 9-516 (ROW occupancy), and 9-517 (insurance) of this chapter apply only to a provider that owns or controls physical facilities in the rights-of-way.

(2) Section 9-518 (indemnity) of this chapter applies to a provider that has a property interest in a network. (Ord. 97-01, Sept. 1997)

9-510. Compensation to city. (1) To compensate the city for the use and occupancy of the public rights-of-way, a provider shall pay a municipal right-of-way rental fee calculated as follows:

(a) Rights-of-way rental fee. Each provider shall be subject to a 5% annual fee based on gross revenue obtained from the provision of telecommunications services within the city.

(b) Non-monetary consideration. To the extent allowed by state and federal law, the city may include non-monetary consideration from each provider. To the extent not expressly prohibited by applicable law, a provider may agree to furnish the city non-monetary consideration in the form of telecommunications services, network capacity, conduit, or other infrastructure, valued at the provider's direct cost. The chief administrative officer shall apply a credit or an offset for any non-monetary consideration received to the annual right-of-way rental fee. The chief administrative officer shall publicly disclose the form of non-monetary consideration and the credit amount.

(c) Credit for cable television franchise fees and other contributions. Any telecommunications provider who is currently franchised by the city under state and federal law and regulations to provide cable television service shall receive a credit against the annual rights-of-way rental fee for any cable television franchise fees paid to the city, and any other monetary or non-monetary contributions to the city under a cable franchise agreement.

(2) A provider may pass through to customers the municipal right-of-way rental fee on a pro rata basis, at its discretion, as permitted by state and federal law. The city does not require or recommend a pass-through charge of the fee on a per line or per customer basis. (Ord. 97-01, Sept. 1997)

9-511. Remitting rental fees to the city. A provider shall remit the municipal right-of-way rental fee on a quarterly basis. Payment shall be made on or before the 45th day following the close of each calendar quarter for which the payment is calculated. (Ord. 97-01, Sept. 1997)

9-512. Audits. (1) On 30 days notice to a provider, the city may audit a provider at any time. The provider shall furnish information to demonstrate its compliance with the municipal right-of-way use permit.

(2) A provider shall keep complete and accurate books of accounts and records of business and operations in accordance with generally accepted accounting principles for a period of five years. If the Federal Communications Commission requires, a provider shall use the system of accounts and the forms

of books, accounts, records, and memoranda prescribed in 47 CFR Part 32 or its successor. The city may examine the provider's books and records.

(3) A provider shall make available to the city, for the city to examine, audit, review and copy, in the city's offices, upon the chief administrative officer's reasonable written request, its books and records including papers, books, accounts, documents, maps, plans and other provider records pertaining to a municipal right-of-way use permit granted under this chapter. A provider shall fully cooperate in making records available and otherwise assist the city examiner. The city examiner shall not make copies of customer specific information. (Ord. 97-01, Sept. 1997)

9-513. Transfers. (1) A provider may not transfer a municipal right-of-way use permit unless the chief administrative officer approves the transfer in writing.

(2) A change in control of a provider is a transfer requiring chief administrative officer approval. A change of 25 percent or greater in the ownership of the provider establishes a rebuttable presumption of a change in control.

(3) If a provider attempts to transfer or transfers the provider's municipal right-of-way use permit without approval of the chief administrative officer, the chief administrative officer may revoke the municipal right-of-way use permit. If a municipal right-of-way use permit is revoked, all rights of the provider under the municipal right-of-way use permit end.

(4) A provider may transfer, without the chief administrative officer's approval, the facilities in the rights-of-way under a municipal right-of-way use permit to the provider's affiliate or to another provider who has a municipal right-of-way use permit under this chapter. The provider transferring the facilities remains subject to all applicable obligations and provisions of the municipal right-of-way use permit unless the provider to which the facilities are transferred is also subject to these applicable obligations and provisions.

(5) The chief administrative officer must act on a request for transfer of a municipal permit within 90 days of receipt of the request from the provider. Any request for a transfer of a municipal permit not acted upon within 90 days shall be deemed to have been approved. (Ord. 97-01, Sept. 1997)

9-514. Notices to the city. (1) A provider shall notify the chief administrative officer in writing contemporaneously with the transmittal of all petitions, applications, written communications and reports submitted by the provider, to the Federal Communications Commission and the Tennessee Regulatory Authority, or their successor agencies relating to matters affecting both the use of public rights-of-way and the telecommunications services authorized by a municipal permit granted under this chapter. A provider shall furnish the chief administrative officer copies of the documents upon request.

(2) If a provider notifies the city of the confidential nature of information, the chief administrative officer shall maintain the confidentiality of the information to the extent permitted by law. Upon receipt in the chief administrative officer's office of requests for confidential information the city shall notify the affected providers of the request by facsimile transmission. (Ord. 97-01, Sept. 1997)

9-515. Construction obligations. (1) A provider is subject to the police powers of the city, other governmental powers, and the city's rights as a property owner under state and federal laws. A provider is subject to city requirements and federal and state rules in connection with the construction, expansion, reconstruction, maintenance or repair of facilities in the public rights-of-way.

(2) A provider shall place certain facilities underground according to applicable city requirements.

(3) At the city's request, a provider shall furnish the city accurate and complete information relating to the construction, reconstruction, removal, maintenance, operation and repair of facilities performed by the provider in the public rights-of-way. If any information furnished is erroneous as to the location of facilities, and reliance on this information results in construction delays or additional expenses, the provider who furnished the erroneous information shall be liable for the cost of delays and the additional expenses.

(4) The construction, expansion, reconstruction, excavation, use, maintenance and operation of a provider's facilities and property are subject to applicable city requirements.

(a) A provider shall perform excavations and other construction in the public rights-of-way in accordance with all applicable city requirements, including the obligation to use trenchless technology whenever possible. The director of public works shall waive the requirement of trenchless technology if he determines that field conditions warrant the waiver. A provider shall minimize interference with the use of public and private property and shall follow the construction directions given by the city.

(b) When a provider completes construction work, a provider shall promptly restore the public rights-of-way in accordance with applicable city requirements. A provider may excavate only for the construction, installation, expansion, repair, removal, and maintenance of the provider's facilities.

(c) The city may require a provider to allow attachment of another provider's facilities to its poles and conduits, in accordance with the city charter, state and federal law.

(d) A provider shall furnish the director of public works and the chief administrative officer with construction plans and maps showing the routing of new construction at least 45 days before beginning

construction that involves an alteration to the surface or subsurface of the public right-of-way. A provider may not begin construction until the plans and drawings have been approved in writing by the director of public works.

(e) If the chief administrative officer declares an emergency and requests the removal or abatement of facilities, by written notice, a provider shall remove or abate the provider's facilities by the deadline provided in the chief administrative officer's request. A provider and the city shall cooperate to the extent possible to assure continuity of service. If a provider, after notice, fails or refuses to act, the city may remove or abate the facility, at the sole cost and expense of the provider, without paying compensation to the provider and without the city incurring liability for damages.

(f) Except in an emergency, a provider may not excavate the pavement of a street or public right-of-way without first complying with city requirements.

(g) Within 120 days of completion of each new segment of a provider's facilities, a provider shall supply the city with a complete set of "as built" drawings for the segment in a format prescribed by the director of public works. A provider must obtain the city's approval before relocating the provider's facilities in the public rights-of-way. The city may not unreasonably withhold approval. A provider shall furnish a revised map including additional facilities on June 30 of each year to the director of public works showing how these facilities connect to existing facilities. (Ord. 97-01, Sept. 1997)

9-516. Conditions of rights-of-way occupancy. (1) In the exercise of governmental functions, the city has first priority over all other uses of the public rights-of-way. The city reserves the right to lay sewer, gas, water, and other pipe lines or cables and conduits, and to do underground and overhead work, and attachment, restructuring or changes in aerial facilities in, across, along, over or under a public street, alley or right-of-way occupied by a provider, and to change the curb, sidewalks or the grade of streets.

(2) In case of conflict or interference between the facilities of different providers, the provider whose facilities were first permitted shall have priority over a competing provider's use of the public rights-of-way.

(3) If, during the term of a municipal permit, the city authorizes abutting landowners to occupy space under the surface of any public street, alley, or rights-of-way, the grant to an abutting landowner shall be subject to the rights of the provider. If the city closes or abandons a public right-of-way that contains a portion of a provider's facilities, the city shall convey the land in the closed or abandoned public rights-of-way subject to the rights granted in the municipal permit.

(4) If the city gives written notice, a provider shall, at the provider's expense, temporarily or permanently, remove, relocate, change or alter the position of provider's facilities that are in the public rights-of-way within 120 days. The city shall give notice whenever the city has determined that removal, relocation, change or alteration is reasonably necessary for the construction, operation, repair, maintenance or installation of a city or other governmental entity's public improvement in the public rights-of-way. This section shall not be construed to prevent a provider's recovery of the cost of relocation or removal from private third parties who initiate the request for relocation or renewal.

(5) A provider who holds a municipal permit may trim trees in or over the rights-of-way for the safe and reliable operation, use and maintenance of its network. All tree trimming shall be performed in accordance with standards promulgated by the city. When ordered by the director of public works, tree trimming shall be done under the supervision of the city.

(6) Providers shall temporarily remove, raise or lower its aerial facilities to permit the moving of houses or other bulky structures, if the city gives written notice of no less than 48 hours. The expense of this temporary rearrangement shall be paid by the party or parties requesting and benefitting from the temporary rearrangement. Provider may require prepayment or prior posting of a bond from the party requesting the temporary move. (Ord. 97-01, Sept. 1997)

9-517. Insurance requirements. (1) A provider shall obtain and maintain insurance in the amounts prescribed by the chief administrative officer with an insurance company licensed to do business in the State of Tennessee acceptable to the chief administrative officer throughout the term of a municipal permit granted under this chapter. A provider shall furnish the city with proof of insurance at the time of issuance of a municipal permit. The city reserves the right to review the insurance requirements while a municipal permit is in effect, and to reasonably adjust insurance coverage and limits when the chief administrative officer determines that changes in statutory law, court decisions, or the claims history of the industry or the provider require adjustment of the coverage. For purposes of this section, the city will accept certificates of self-insurance issued by the State of Tennessee providing the same coverage.

(2) The chief administrative officer may, on request and at no cost to the city, receive copies of certificates of insurance evidencing the coverage required by this section. The chief administrative officer may request the deletion, revision or modification of particular policy terms, conditions, limitations or exclusions, unless the policy provisions are established by a law or regulation binding the city, the provider, or the underwriter. If the chief administrative officer requests a deletion, revision or modification, a provider shall exercise reasonable efforts to pay for and to accomplish the change.

An insurance certificate shall contain the following required provisions:

(a) Name the city and its officers, employees, board members and elected representatives as additional insureds for all applicable coverage;

(b) Provide for 30 days notice to the city for cancellation, non-renewal, or material change;

(c) Provide that notice of claims shall be provided to the chief administrative officer by certified mail; and

(d) Provide that the terms of the municipal permit which impose obligations on the provider concerning liability, duty, and standard of care, including the indemnity section, are included in the policy and that the risks are insured within the policy terms and conditions.

(3) A provider shall file and maintain proof of insurance with the chief administrative officer during the term of a municipal permit. An insurance certificate obtained in compliance with this section is subject to city approval. The city may require the certificate to be changed to reflect changing liability limits. A provider shall immediately advise the city of actual or potential litigation that may develop that would affect insurance coverage related to a municipal permit.

(4) An insurer has no right of recovery against the city. That required insurance policies shall protect the provider and the city. The insurance shall be primary coverage for losses covered by the policies.

(5) The policy clause "other insurance" shall not apply to the city where the city is an insured under the policy.

(6) The provider shall pay premiums and assessments. A company which issues an insurance policy has no recourse against the city for payment of a premium or assessment. Insurance policies obtained by a provider must provide that the issuing company waives all right of recovery by way of subrogation against the city in connection with damage covered by the policy. (Ord. 97-01, Sept. 1997)

9-518. Indemnity. (1) During the term of a municipal permit, a provider is liable for the acts or omissions of an entity used by the provider, including an affiliate, when the entity is involved directly or indirectly in the construction and installation of the provider's facilities. The acts or omissions of the entity shall be considered the acts or omissions of the provider.

(2) Each provider granted a municipal permit under this chapter shall provide to the chief administrative officer, in writing, a statement that the provider agrees to defend, indemnify and hold the city harmless against all damages, cost, loss, or expense arising out of, incident to, concerning or resulting from the negligence or willful misconduct of the provider, its agents, employees, or subcontractors, in the performance of activities under the municipal permit:

(a) For the repair, replacement, or restoration of city property, equipment materials, structures and facilities which are damaged, destroyed or found to be defective; and

(b) Against any and all claims, demands, suits, causes of action, and judgments for;

(i) Damage to or loss of the property of any person including, but not limited to the provider, its agents, officers, employees and subcontractors, the city's agents, officers and employees, and third parties; and

(ii) Death, bodily injury, illness, disease, worker's compensation, loss of services, or loss of income or wages to any person including but not limited to the agents, officers and employees of the provider, the provider's subcontractors, the city, and third parties, no matter how, or to whom, the loss may occur.

(3) The chief administrative officer shall give prompt written notice to a provider of any claim for which the city seeks indemnification. The provider shall have the right to investigate, defend and compromise these claims subject to the city's prior approval. (Ord. 97-01, Sept. 1997)

9-519. Privacy of customer information. A provider shall comply with state and federal law regarding privacy of customer information. (Ord. 97-01, Sept. 1997)

9-520. Annexation; deannexation. Within thirty (30) days following the date of passage of any action affecting any deannexation or annexation, the chief administrative officer shall notify providers of this action by furnishing to the provider's maps of the affected area(s), showing the new boundaries of the city. (Ord. 97-01, Sept. 1997)

9-521. Unauthorized use of public rights-of-way. (1) A person commits an offense if a person uses the public rights-of-way to provide a telecommunications service without first securing a municipal permit from the city.

(2) Each unauthorized use of the public rights-of-way and each unauthorized placement of facilities constitutes a separate offense. Each day a violation of this chapter occurs shall constitute a distinct and separate offense.

(3) An offense under this subsection is punishable by a fine of \$500. (Ord. 97-01, Sept. 1997)

## TITLE 10

ANIMAL CONTROL

## CHAPTER

1. IN GENERAL.
2. DOGS.

## CHAPTER 1

IN GENERAL

## SECTION

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

10-101. 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. (1981 Code, § 3-101)

10-102. Keeping near a residence or business restricted. No person shall keep any animal or fowl enumerated in the preceding section within five hundred (500) 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. (1981 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. (1981 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. (1981 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 either because of noise, odor, contagious disease, or other reason. (1981 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. (1981 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 dog catcher or by any police officer and confined in a pound provided or designated by the governing body. 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 governing body.

The pound keeper shall collect from each person claiming an impounded animal or fowl reasonable fees, in accordance with a schedule approved by the governing body, to cover the costs of impoundment and maintenance. (1981 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. (1981 Code, § 3-108)

## CHAPTER 2

DOGS

## SECTION

- 10-201. Definition.
- 10-202. Rabies vaccination and registration required.
- 10-203. Dogs to wear collars and tags.
- 10-204. Running at large prohibited.
- 10-205. Vicious dogs to be securely restrained.
- 10-206. Noisy dogs prohibited.
- 10-207. Confinement of dogs suspected of being rabid.
- 10-208. Seizure and disposition of dogs.
- 10-209. Penalty provision.

10-201. Definition. The term "running at large" shall be intended to mean that the dog is off the property of the owner and not under the control of the owner. The term "control" shall mean that the dog must be under the immediate command and supervision of the owner or another qualified person or the dog must be on a leash, cord or chain secure to a stationary object. The term "owner" shall mean any person having a right of property in a dog or who keeps or harbors a dog or has it in his care with the permission of the legal owner. The term "vicious dog" shall mean any dog which has attacked or shown a vicious propensity to endanger, bite or maim any human being. The term "vicious propensity" shall mean the nature of habitual inclination or the tendency to do any act that might endanger the safety of a person and property of others in any given situation including, but not limited to, the habitual chasing of bicycles, motor bikes, motorcycles, motor scooters, automobiles and trucks or either public or private property; a natural fierceness or disposition to mischief that might occasionally lead a dog to attack human beings without provocation. (1981 Code, § 3-201, as replaced by Ord. #2004-006, Oct. 2004)

10-202. Rabies vaccination and registration required. It shall be unlawful for any person to own, keep, or harbor any dog without having the same duly vaccinated against rabies and registered in accordance with the provisions of the "Tennessee Anti-Rabies Law" (Tennessee Code Annotated, §§ 68-8-101 through 68-8-114) or other applicable law. (1981 Code, § 3-202, as replaced by Ord. #2004-06, Oct. 2004)

10-203. Dogs to wear collars and tags. It shall be unlawful for any person to own, keep, or harbor any dog which does not wear a tag evidencing the vaccination and registration required by the preceding section. The collar and/or tag must also provide the name and address of the owner or the name

and phone number of the owner. (1981 Code, § 3-203, as replaced by Ord. #2004-06, Oct. 2004)

10-204. Running at large prohibited.<sup>1</sup> It shall be unlawful for any person knowingly to permit any dog owned by him or under his control to run at large within the corporate limits. (1981 Code, § 3-204, as replaced by Ord. #2004-06, Oct. 2004)

10-205. Vicious dogs to be securely restrained. It shall be unlawful for any person to own or keep any dog known to be vicious or dangerous unless such dog is so confined and/or otherwise securely restrained as to provide reasonably for the protection of other animals and persons. (1981 Code, § 3-205, as replaced by Ord. #2004-06, Oct. 2004)

10-206. 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. (1981 Code, § 3-206, as replaced by Ord. #2004-06, Oct. 2004)

10-207. Confinement of dogs suspected of being rabid. If any dog has bitten any person or is suspected of having bitten any person or is for any reason suspected of being infected with rabies, the health officer or chief of police may cause such dog to be confined or isolated for such time as he deems reasonably necessary to determine if such dog is rabid. (1981 Code, § 3-207, as replaced by Ord. #2004-06, Oct. 2004)

10-208. Seizure and disposition of dogs. Any dog found running at large may be seized by the dog catcher or any police officer and placed in a pound provided or designated by the governing body. If said dog is wearing a tag the owner shall be notified in person, by telephone, or by a postcard addressed to his last-known mailing address to appear within five (5) days. No dog shall be released in any event from the pound unless or until such dog has been vaccinated and had a tag evidencing such vaccination placed on its collar. When, because of its viciousness or apparent infection with rabies, a dog found running at large cannot be safely impounded it may be summarily destroyed by the health officer or any policeman.<sup>2</sup> (as added by Ord. #2004-06, Oct. 2004)

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<sup>1</sup>State law reference

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

<sup>2</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).

10-209. Penalty provision. Any person violating any provision of this chapter shall be guilty of a misdemeanor, punishable by a fine of not more than \$50.00 for each separate violation. Each day that any violation of the chapter continues shall constitute a separate offense. The imposition of a penalty under the provisions of this section shall not prevent the taking of any punitive or remedial action or called for under the municipal code or other applicable law. (as added by Ord. #2004-06, Oct. 2004)

## 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.  
 11-102. Minors in beer places.

11-101. Drinking beer, etc., on streets, etc. It shall be unlawful for any person to drink or consume, or have an open container of beer or intoxicating liquor in or on any public street, alley, avenue, highway, sidewalk, public park, public school ground or other public place unless the place has an appropriate permit and/or license for on premises consumption. (1981 Code, § 10-228)

11-102. Minors in beer places. No person under twenty-one (21) years of age shall loiter in or around, work in, or otherwise frequent any place where

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<sup>1</sup>Municipal code references

Animals and fowls: title 10.

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).

beer is sold at retail for consumption on the premises. (1981 Code, § 10-221, modified)

CHAPTER 2

FORTUNE TELLING, ETC.

SECTION

11-201. Fortune telling, etc.

11-201. Fortune telling, etc. It shall be unlawful for any person to hold himself forth to the public as a fortune teller, clairvoyant, hypnotist, spiritualist, palmist, phrenologist, or other mystic endowed with supernatural powers. (1981 Code, § 10-233)

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. (1981 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. (1981 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 10:00 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 10:00 P.M. and 7:00 A.M., or at any time or place so as to annoy or disturb the

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

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

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

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

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

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

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

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

(k) Noises to attract attention. The use of any drum, loudspeaker, or other instrument or device emitting noise for the purpose of attracting attention to any performance, show, 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 municipality 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 municipality, the county, or the state, when the public welfare and convenience renders it impracticable to perform such work during the day.

(c) Noncommercial and nonprofit use of loudspeakers or amplifiers. The reasonable use of amplifiers or loudspeakers in the course of public addresses which are noncommercial in character and in the course of advertising functions sponsored by nonprofit organizations. However, no such use shall be made until a permit therefor is secured from the recorder. Hours for the use of an amplifier or public address system will be designated in the permit so issued and the use of such systems shall be restricted to the hours so designated in the permit. (1981 Code, § 10-232)

## 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 municipality 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. (1981 Code, § 10-209)

11-502. Impersonating a government officer or employee. No person other than an official police officer of the municipality 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 municipality. Furthermore, no person shall deceitfully impersonate or represent that he is any government officer or employee. (1981 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. (1981 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 municipality while such officer or employee is performing or attempting to perform his municipal duties. (1981 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 expressly is not the purpose of this section to prohibit peaceful picketing. (1981 Code, § 10-229)

## CHAPTER 6

FIREARMS, WEAPONS AND MISSILES

## SECTION

11-601. Air rifles, etc.

11-602. Throwing missiles.

11-603. Weapons and firearms generally.

11-601. Air rifles, etc. It shall be unlawful for any person in the municipality to discharge any air gun, air pistol, air rifle, "BB" gun, or sling shot capable of discharging a metal bullet or pellet, whether propelled by spring, compressed air, expanding gas, explosive, or other force-producing means or method. (1981 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. (1981 Code, § 10-214)

11-603. Weapons and firearms generally. It shall be unlawful for any person to carry in any manner whatever, with the intent to go armed, any razor, dirk, knife, blackjack, brass knucks, pistol, revolver, or any other dangerous weapon or instrument except the army or navy pistol which shall be carried openly in the hand. However, the foregoing prohibition shall not apply to members of the United States Armed Forces carrying such weapons as are prescribed by applicable regulations nor to any officer or policeman engaged in his official duties, in the execution of process, or while searching for or engaged in arresting persons suspected of having committed crimes. Furthermore, the prohibition shall not apply to persons who may have been summoned by such officer or policeman to assist in the discharge of his said duties, nor to any conductor of any passenger or freight train of any steam railroad while he is on duty. It shall also be unlawful for any unauthorized person to discharge a firearm within the municipality. (1981 Code, § 10-212)

## 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. (1981 Code, § 10-225)

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. (1981 Code, § 10-224)

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. (1981 Code, § 10-231)

## 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.

11-806. Smoking regulations.

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. (1981 Code, § 10-222)

11-802. Caves, wells, cisterns, etc. It shall be unlawful for any person to permit to be maintained on property owned or occupied by him any cave, well, cistern, or other such opening in the ground which is dangerous to life and limb without an adequate cover or safeguard. (1981 Code, § 10-230)

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. (1981 Code, § 10-226)

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 10:00 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. (1981 Code, § 10-223)

11-805. Wearing masks. It shall be unlawful for any person to appear on or in any public way or place while wearing any mask, device, or hood whereby any portion of the face is so hidden or covered as to conceal the identity of the wearer. The following are exempted from the provisions of this section:

- (1) Children under the age of ten (10) years.
- (2) Workers while engaged in work wherein a face covering is necessary for health and/or safety reasons.
- (3) Persons wearing gas masks in civil defense drills and exercises or emergencies.
- (4) Any person having a special permit issued by the city recorder to wear a traditional holiday costume. (1981 Code, § 10-234)

11-806. Smoking regulations. (1) Definitions. "Smoking" is defined as carrying or possessing any lighted tobacco product including cigars, cigarettes, and pipes.

(2) Area affected. Smoking in certain enclosed areas has been determined to be injurious to human health, therefore: Smoking shall be unlawful and prohibited in the town hall during business hours and during any town meetings.

(3) Penalties. Any person who is found smoking in violation of this section shall be guilty of a misdemeanor punishable by a \$50.00 fine. (Ord. #92-2, Dec. 1993)

TITLE 12

BUILDING, UTILITY, ETC. CODES

[RESERVED FOR FUTURE USE]

## TITLE 13

PROPERTY MAINTENANCE REGULATIONS<sup>1</sup>

## CHAPTER

1. MISCELLANEOUS.
2. JUNKYARDS.

## 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. Unhealthy or unsightly conditions in public view.

13-101. Health officer. The "health officer" shall be such municipal, county, or state officer as the governing body shall appoint or designate to administer and enforce health and sanitation regulations within the municipality. (1981 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. (1981 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. (1981 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 recorder or chief of police to cut such vegetation when it has reached a height of over one (1) foot. (1981 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. (1981 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. (1981 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 municipality and unless a permit therefor shall have been first duly issued by the building official. (1981 Code, § 8-104)

13-108. Unhealthy or unsightly conditions in public view. The keeping or maintenance in any area on private property which is clearly visible from a public street, sidewalk, park or other public area any accumulation, collection or untidy storage of any of the following: old appliances or parts, junk vehicles, vehicle parts, machinery or equipment; mattresses, bedding, clothing, rags or cloth; straw, packing material, cardboard or paper; tin cans, wire, bottles, glass, cement cans, barrels, bins, boxes, containers, ashes, plaster or cement; wood or lumber not neatly stacked or piled; or, in addition to the above articles, any condition judicially determined to be unhealthy after written complaint from a local health official, a fire hazard after written complaint from a local fire official or an unsightly condition after written complaint from two or more residents within the neighborhood or general vicinity of the condition. This type of public nuisance shall not apply to conditions completely enclosed within a building or fencing so as not to be visible from public property or to construction sites where the progress of construction is proceeding with reasonable diligence.

The abatement requirements, liability for cost of removal provisions and a fine not to exceed five hundred dollars shall be applicable to all public nuisances defined in this section. (Ord. #94-2, \_\_\_\_\_)

## 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. (1981 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).

TITLE 14

ZONING AND LAND USE CONTROL

CHAPTER

1. ZONING ORDINANCE.

CHAPTER 1

ZONING ORDINANCE

SECTION

14-101. Land use to be governed by zoning ordinance.

14-101. Land use to be governed by zoning ordinance. Land use within the Town of Hornbeak shall be governed by Ordinance #2003-01, titled "Zoning Ordinance of Hornbeak, Tennessee," and any amendments thereto.<sup>1</sup>

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<sup>1</sup>Ordinance #2003-01, and any amendments thereto, are included as Appendix A of this code.

Amendments to the zoning map are of record in the office of the city engineer.

## 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. Basketball goals alongside or within public rights-of-way.

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. (1981 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. (1981 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. (1981 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. (1981 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 municipality for one-way traffic.

(2) All vehicles proceeding at less than the normal speed of traffic at the time and place and under the conditions then existing shall be driven as close as practicable to the right hand curb or edge of the roadway, except when

overtaking and passing another vehicle proceeding in the same direction or when preparing for a left turn. (1981 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. (1981 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. (1981 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 municipality 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. (1981 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 and location throughout the municipality. This section shall not be construed as being mandatory but is merely directive. (1981 Code, § 9-114)

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<sup>1</sup>Municipal code references

Stop signs, yield signs, flashing signals, pedestrian control signs, traffic control signals generally: §§ 15-504--15-508.

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

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. (1981 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. (1981 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. (1981 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. (1981 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. (1981 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 any portion of such vehicle not designed or intended for the use of passengers. This section shall not apply to persons engaged in the necessary discharge of lawful duties nor to persons riding in the load-carrying space of trucks. (1981 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. (1981 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. (1981 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. (1981 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." (1981 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. (1981 Code, § 9-126)

15-121. Damaging pavements. No person shall operate or cause to be operated upon any street of the municipality 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. (1981 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 town applicable to the driver or operator of other vehicles except as to those provisions which by their nature can have no application to bicycles, motorcycles, or motor driven cycles.

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

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

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

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. (1981 Code, § 9-127)

15-123. Basketball goals alongside or within public rights-of-way. (1) No portable or fixed basketball goal shall be placed, erected or maintained on or alongside the right-of-way of any public street within the municipal limits of the City of Hornbeak so as to allow a person or persons to play within the street. The placement of any basketball goal within a public right-of-way or the presence of persons within a public street playing basketball on such a goal shall be a violation of this section.

(2) Any violation of this section shall be punishable by a fine of fifty dollars (\$50). (as added by Ord. #2005-06, April 2005)

## 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. (1981 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. (1981 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. (1981 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. (1981 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. (1981 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. (1981 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 governing body 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. (1981 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 municipality. (1981 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> (1981 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. (1981 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. (1981 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. (1981 Code, § 9-304)

15-405. U-turns. U-turns are prohibited. (1981 Code, § 9-305)

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<sup>1</sup>State law reference

Tennessee Code Annotated, § 55-8-143.

## CHAPTER 5

STOPPING AND YIELDING

## SECTION

- 15-501. Upon approach of authorized emergency vehicles.
- 15-502. When emerging from alleys, etc.
- 15-503. To prevent obstructing an intersection.
- 15-504. At "stop" signs.
- 15-505. At "yield" signs.
- 15-506. At traffic-control signals generally.
- 15-507. At flashing traffic-control signals.
- 15-508. At pedestrian control signals.
- 15-509. Stops to be signaled.

15-501. Upon approach of authorized emergency vehicles.<sup>1</sup> Upon the immediate approach of an authorized emergency vehicle making use of audible and/or visual signals meeting the requirements of the laws of this state, 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. (1981 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. (1981 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. (1981 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

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<sup>1</sup>Municipal code reference

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

on the near side of the intersection or, if there is no crosswalk, then immediately before entering the intersection, and shall remain standing until he can proceed through the intersection in safety. (1981 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. (1981 Code, § 9-405)

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

(1) Green alone, or "Go":

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

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

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

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

(b) Pedestrians facing such signal shall not enter the roadway unless authorized so to do by a pedestrian "Walk" signal.

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

(a) Vehicular traffic facing the signal shall stop before entering the crosswalk on the near side of the intersection or, if none, then before entering the intersection and shall remain standing until green or "Go" is shown alone. Provided, however, that 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 town at intersections which the town decides require no right turns on red in the interest of traffic safety.

(b) Pedestrians facing such signal shall not enter the roadway unless authorized so to do by a pedestrian "Walk" signal.

(4) 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. (1981 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 municipality it shall require obedience by vehicular traffic as follows:

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

(2) Flashing yellow (caution signal). When a yellow lens is illuminated with intermittent flashes, drivers of vehicles may proceed through the intersection or past such signal only with caution. (1981 Code, § 9-407)

15-508. At pedestrian control signals. Wherever special pedestrian control signals exhibiting the words "Walk" or "Wait" or "Don't Walk" have been placed or erected by the municipality, such signals shall apply as follows:

(1) "Walk." Pedestrians facing such signal may proceed across the roadway in the direction of the signal and shall be given the right-of-way by the drivers of all vehicles.

(2) "Wait or Don't Walk." No pedestrian shall start to cross the roadway in the direction of such signal, but any pedestrian who has partially completed his crossing on the walk signal shall proceed to the nearest sidewalk or safety zone while the wait signal is showing. (1981 Code, § 9-408)

15-509. Stops to be signaled. No person operating a motor vehicle shall stop such vehicle, whether in obedience to a traffic sign or signal or otherwise, without first signaling his intention in accordance with the requirements of the state law,<sup>1</sup> except in an emergency. (1981 Code, § 9-409)

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<sup>1</sup>State law reference

Tennessee Code Annotated, § 55-8-143.

## CHAPTER 6

PARKING

## SECTION

- 15-601. Generally.
- 15-602. Angle parking.
- 15-603. Occupancy of more than one space.
- 15-604. Where prohibited.
- 15-605. Loading and unloading zones.
- 15-606. Presumption with respect to illegal parking.

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

Notwithstanding anything else in this code to the contrary, no person shall park or leave a vehicle parked on any public street or alley within the fire limits between the hours of 10:00 P.M. and 5:00 A.M.

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. (Ord. #91-1, July 1991)

15-602. Angle parking. On those streets which have been signed or marked by the town for angle parking, no person shall park or stand a vehicle other than at the angle indicated by such signs or markings. No person shall angle park any vehicle which has a trailer attached thereto or which has a length in excess of twenty-four (24) feet. (Ord. #91-1, July 1991)

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. (Ord. #91-1, July 1991)

15-604. Where prohibited. No person shall park a vehicle in violation of any sign placed or erected by the state or town, nor:

(1) On a sidewalk; provided, however, a bicycle may be parked on a sidewalk if it does not impede the normal and reasonable movement of pedestrian or other traffic.

(2) In front of a public or private driveway.

(3) Within an intersection.

(4) Within fifteen (15) feet of a fire hydrant.

(5) Within a pedestrian crosswalk.

(6) Within twenty feet (20') of a crosswalk at an intersection.

(7) Within thirty feet (30') upon the approach of any flashing beacon, stop sign or traffic-control signal located at the side of a roadway.

(8) Within fifty feet (50') of the nearest rail of a railroad crossing.

(9) Within twenty feet (20') of the driveway entrance to any fire station, and on the side of the street opposite the entrance to any fire station within seventy-five feet (75') of such entrance when properly signposted.

(10) Upon any bridge or any elevated structure upon a highway.

(11) On the roadway side of any vehicle stopped or parked at the edge or curb of a street.

(12) In a parking space clearly identified by an official sign as being reserved for the physically handicapped unless, however, that the person driving the vehicle is:

(a) Physically handicapped; or

(b) Parking such vehicle for the benefit of a physically handicapped person.

A vehicle parking in such a space shall display a certificate of identification or a disabled veteran's license plate issued under Tennessee Code Annotated, § 55-8-160(c). (Ord. #91-1, July 1991)

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 town as a loading and unloading zone. (Ord. #91-1, July 1991)

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. (Ord. #91-1, July 1991)

## CHAPTER 7

ENFORCEMENT

## SECTION

- 15-701. Issuance of traffic citations.
- 15-702. Failure to obey citation.
- 15-703. Illegal parking.
- 15-704. Impoundment of vehicles.
- 15-705. Disposal of abandoned motor vehicles.
- 15-706. 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. (1981 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. (1981 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. (1981 Code, § 9-603)

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 unattended vehicle which is parked so as to constitute an obstruction or hazard to normal traffic. Any impounded vehicle shall be stored until the owner or other person entitled thereto, claims it, gives satisfactory evidence of ownership or right to possession, and pays all applicable fees and costs, or until otherwise lawfully disposed of. The fee for impounding a vehicle shall be five dollars (\$5.00) and the storage cost shall be one dollar (\$1.00) for each twenty-four (24) hour period or fraction thereof that the vehicle is stored. (1981 Code, § 9-604)

15-705. Disposal of abandoned motor vehicles. "Abandoned motor vehicles," as defined in Tennessee Code Annotated, § 55-16-103, shall be impounded and disposed of by the police department in accordance with the provisions of Tennessee Code Annotated, §§ 55-16-103 through 55-16-109. (1981 Code, § 9-605)

15-706. Violation and penalty. Any violation of this title shall be a civil offense punishable as follows:

(1) Traffic citations. Traffic citations shall be punishable by a civil penalty up to fifty dollars (\$50.00) for each separate offense.

(2) Parking citations. For parking violations, the offender may, within ten (10) days, have the charge against him disposed of by paying to the city recorder a fine of three dollars (\$3.00) provided he waives his right to a judicial hearing. If he appears and waives his right to a judicial hearing after ten (10) days but before a warrant is issued for his arrest, his civil penalty shall be five dollars (\$5.00).

## TITLE 16

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

## CHAPTER

1. MISCELLANEOUS.
2. EXCAVATIONS.

## 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. Operation of trains at crossings regulated.
- 16-112. Animals and vehicles on sidewalks.
- 16-113. Fires in streets, etc.
- 16-114. Violations.

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. (1981 Code, § 12-101, as replaced by Ord. #2005-05, April 2005)

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 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. (1981 Code, § 12-102, as replaced by Ord. #2005-05, April 2005)

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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. (1981 Code, § 12-103, as replaced by Ord. #2005-05, April 2005)

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> (1981 Code, § 12-104, as replaced by Ord. #2005-05, April 2005)

16-105. Banners and signs across streets and alleys restricted. It shall be unlawful for any person to place or have placed any banner or sign across or above any public street or alley except when expressly authorized by the board of mayor and aldermen after a finding that no hazard will be created by such banner or sign. (1981 Code, § 12-105, as replaced by Ord. #2005-05, April 2005)

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. (1981 Code, § 12-106, as replaced by Ord. #2005-05, April 2005)

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. (1981 Code, § 12-107, as replaced by Ord. #2005-05, April 2005)

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. (1981 Code, § 12-108, as replaced by Ord. #2005-05, April 2005)

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. (1981 Code, § 12-109, as replaced by Ord. #2005-05, April 2005)

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

16-110. Parades, etc., regulated. It shall be unlawful for any person, club, organization, or other group to hold any meeting, parade, demonstration, or exhibition on the public streets without some responsible representative first securing a permit from the recorder. (1981 Code, § 12-110, as replaced by Ord. #2005-05, April 2005)

16-111. Operation of trains at crossings regulated. No person shall operate any railroad train across any street or alley without giving a warning of its approach as required by state law. It shall also be unlawful to stop a railroad train so as to block or obstruct any street or alley for a period of more than five(5) consecutive minutes. (as added by Ord. #2005-05, April 2005)

16-112. Animals and vehicles on sidewalks. It shall be unlawful for any person to ride, lead, or tie any animal, or ride, push, pull, or place any vehicle across or upon any sidewalk in such manner as unreasonably 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. (1981 Code, § 12-111, as replaced and renumbered by Ord. #2005-05, April 2005)

16-113. Fires in streets, etc. It shall be unlawful for any person to set or contribute to any fire in any public street, alley, or sidewalk. (1981 Code, § 12-112, as replaced and renumbered by Ord. #2005-05, April 2005)

16-114. Violations and penalty. Violations of this chapter shall subject the offender to a penalty under the general penalty provision of this code. (as added by Ord. #2005-05, April 2005)

## CHAPTER 2

EXCAVATIONS

## SECTION

- 16-201. Permit required.
- 16-202. Applications.
- 16-203. Fee.
- 16-204. Deposit or bond.
- 16-205. Safety restrictions on excavations.
- 16-206. Restoration of streets, etc.
- 16-207. Insurance.
- 16-208. Time limits.
- 16-209. Supervision.
- 16-210. Violation and penalty.

16-201. Permit required. It shall be unlawful for any person, firm, corporation, association, or others, including utility districts 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 recorder is open for business, and the permit shall be retroactive to the date when the work was begun. (1981 Code, § 12-201, as replaced by Ord. #2005-05, April 2005)

16-202. Applications. Applications for such permits shall be made to the city recorder, or such person as he may designate to receive such applications, and shall state thereon the location of the intended excavation or tunnel, the size thereof, the purpose thereof, the person, firm, corporation, association, or others doing the actual excavating, the name of the person, firm, corporation, association, or others for whom the work is being done, and shall contain an agreement that the applicant will comply with all ordinances and laws relating to the work to be done. Such application shall be rejected or approved by the city recorder within twenty-four (24) hours of its filing. (1981 Code, § 12-202, as replaced by Ord. #2005-05, April 2005)

16-203. Fee. The fee for such permits shall be twenty dollars (\$20.00). (1981 Code, § 12-203, as replaced by Ord. #2005-05, April 2005)

16-204. Deposit or bond. No such permit shall be issued unless and until the applicant therefor has deposited with the city recorder a cash deposit. The deposit shall be in the sum of five hundred dollars (\$500.00) if no pavement is involved or one thousand dollars (\$1,000.00) if the excavation is in a paved area and shall insure the proper restoration of the ground and, laying of the pavement, if any. Where the amount of the deposit is clearly inadequate to cover the cost of restoration, the city recorder may increase the amount of the deposit to an amount considered by him to be adequate to cover the cost. From this deposit shall be deducted the expense to the 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 recorder a surety bond in such form and amount as the city recorder shall deem adequate to cover the costs to the city if the applicant fails to make proper restoration. (1981 Code, § 12-204, as replaced by Ord. #2005-05, April 2005)

16-205. Safety restrictions on excavations. 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. (1981 Code, § 12-205, as replaced by Ord. #2005-05, April 2005)

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 recorder shall give notice to the person, firm, corporation, association, or others that unless the excavation or tunnel is refilled properly within a specified reasonable period of time, the 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. (1981 Code, § 12-206, as replaced by Ord. #2005-05, April 2005)

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 recorder in accordance with the nature of the risk involved; provided, however, that the liability insurance for bodily injury shall not be less than \$130,000 for each person and \$350,000 for each accident, and for property damages not less than \$50,000 for any one (1) accident, and a \$75,000 aggregate. (1981 Code, § 12-207, as replaced by Ord. #2005-05, April 2005)

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 recorder. (1981 Code, § 12-208, as replaced by Ord. #2005-05, April 2005)

16-209. Supervision. The person designated by the board of mayor and aldermen 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. (1981 Code, § 12-209, as replaced by Ord. #2005-05, April 2005)

16-210. Violation and penalty. Any violation of this chapter shall constitute a civil offense and shall be punishable by a civil penalty under the general penalty provision of this code, by revocation of permit, or by both penalty and revocation. Each day a violation shall be allowed to continue shall constitute a separate offense. (1981 Code, § 12-210, as replaced by Ord. #2005-05, April 2005)

## TITLE 17

REFUSE AND TRASH DISPOSAL<sup>1</sup>

## CHAPTER

## 1. REFUSE.

## CHAPTER 1

REFUSE

## SECTION

- 17-101. Refuse defined.
- 17-102. Premises to be kept clean.
- 17-103. Storage.
- 17-104. Location of containers.
- 17-105. Disturbing containers.
- 17-106. Collection.
- 17-107. Collection vehicles.
- 17-108. Disposal.
- 17-109. Refuse collection fees.
- 17-110. Violations and penalty.

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. (1981 Code, § 8-201, as replaced by Ord. #2005-04, April 2005)

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. (1981 Code, § 8-202, as replaced by Ord. #2005-04, April 2005)

17-103. Storage. Each owner, occupant, or other responsible person using or occupying any building or other premises within this city where refuse accumulates or is likely to accumulate, shall provide and keep covered an adequate number of refuse containers. The refuse containers shall be strong, durable, and rodent and insect proof. They shall each have a capacity of not less than twenty (20) nor more than thirty-two (32) gallons, except that this maximum capacity shall not apply to larger containers which the city handles

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<sup>1</sup>Municipal code reference

Property maintenance regulations: title 13.

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. (1981 Code, § 8-203, as replaced by Ord. #2005-04, April 2005)

17-104. Location of containers. Where alleys are used by the city 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 city 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. (1981 Code, § 8-204, as replaced by Ord. #2005-04, April 2005)

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. (1981 Code, § 8-205, as replaced by Ord. #2005-04, April 2005)

17-106. Collection. All refuse accumulated within the corporate limits shall be collected, conveyed, and disposed of under the supervision of the \_\_\_\_\_ . Collections shall be made regularly in accordance with an announced schedule. (1981 Code, § 8-206, as replaced by Ord. #2005-04, April 2005)

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. (1981 Code, § 8-207, as replaced by Ord. #2005-04, April 2005)

17-108. Disposal. The disposal of refuse in any quantity by any person in any place, public or private, other than at the site or sites designated for

refuse disposal by the board of mayor and aldermen is expressly prohibited. (1981 Code, § 8-208, as replaced by Ord. #2005-04, April 2005)

17-109. Refuse collection fees. Refuse collection fees shall be at such rates as are from time to time set by the board of mayor and aldermen by ordinance or resolution.<sup>1</sup> (as added by Ord. #2005-04, April 2005)

17-110. Violations and penalty. Violations of this chapter shall subject the offender to a penalty under the general penalty provision of this code. Each day a violation is allowed to continue shall constitute a separate offense. (as added by Ord. #2005-04, April, 2005)

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<sup>1</sup>Administrative ordinances and resolutions are of record in the office of the city recorder.

## TITLE 18

WATER AND SEWERS<sup>1</sup>

## CHAPTER

## 1. SEWAGE AND HUMAN EXCRETA DISPOSAL.

## CHAPTER 1

SEWAGE AND HUMAN EXCRETA DISPOSAL

## SECTION

- 18-101. Definitions.
- 18-102. Places required to have sanitary disposal methods.
- 18-103. When a connection to the public sewer is required.
- 18-104. When a septic tank shall be used.
- 18-105. Registration and records of septic tank cleaners, etc.
- 18-106. Use of pit privy or other method of disposal.
- 18-107. Approval and permit required for septic tanks, privies, etc.
- 18-108. Owner to provide disposal facilities.
- 18-109. Occupant to maintain disposal facilities.
- 18-110. Only specified methods of disposal to be used.
- 18-111. Discharge into watercourses restricted.
- 18-112. Pollution of ground water prohibited.
- 18-113. Enforcement of chapter.
- 18-114. Carnivals, circuses, etc.
- 18-115. Violations.

18-101. Definitions. The following definitions shall apply in the interpretation of this chapter:

(1) "Accessible sewer." A public sanitary sewer located in a street or alley abutting on the property in question or otherwise within two hundred (200) feet of any boundary of said property measured along the shortest available right-of-way.

(2) "Health officer." The person duly appointed to such position having jurisdiction, or any person or persons authorized to act as his agent.

(3) "Human excreta." The bowel and kidney discharges of human beings.

(4) "Sewage." All water-carried human and household wastes from residences, buildings, or industrial establishments.

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<sup>1</sup>Municipal code reference  
Refuse disposal: title 17.

(5) "Approved septic tank system." A watertight covered receptacle of monolithic concrete, either precast or cast in place, constructed according to plans approved by the health officer. Such tanks shall have a capacity of not less than 750 gallons and in the case of homes with more than two (2) bedrooms the capacity of the tank shall be in accordance with the recommendations of the Tennessee Department of Health as provided for in its 1967 bulletin entitled "Recommended Guide for Location, Design, and Construction of Septic Tanks and Disposal Fields." A minimum liquid depth of four (4) feet should be 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.

(6) "Sanitary pit privy." A privy having a fly-tight floor and seat over an excavation in earth, located and constructed in such a manner that flies and animals will be excluded, surface water may not enter the pit, and danger of pollution of the surface of the ground or the underground water supply will be prevented.

(7) "Other approved method of sewage disposal." Any privy, chemical toilet, or other toilet device (other than a sanitary sewer, septic tank, or sanitary pit privy as described above) the type, location, and construction of which have been approved by the health officer.

(8) "Watercourse." Any natural or artificial drain which conveys water either continuously or intermittently. (1981 Code, § 8-301)

18-102. 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. (1981 Code, § 8-302)

18-103. When a connection to the public sewer is required. Wherever an accessible sewer exists and water under pressure is available, approved plumbing facilities shall be provided and the wastes from such facilities shall be discharged through a connection to said sewer made in compliance with the requirements of the official responsible for the public sewerage system. On any lot or premise accessible to the sewer no other method of sewage disposal shall be employed. (1981 Code, § 8-303)

18-104. When a septic tank shall be used. Wherever water carried sewage facilities are installed and their use is permitted by the health officer,

and an accessible sewer does not exist, the wastes from such facilities shall be discharged into an approved septic tank system.

No septic tank or other water-carried sewage disposal system except a connection to a public sewer shall be installed without the approval of the health officer or his duly appointed representative. The design, layout, and construction of such systems shall be in accordance with specifications approved by the health officer and the installation shall be under the general supervision of the department of health. (1981 Code, § 8-304)

18-105. 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. (1981 Code, § 8-305)

18-106. Use of pit privy or other method of disposal. Wherever a sanitary method of human excreta disposal is required under § 18-102 and water-carried sewage facilities are not used, a sanitary pit privy or other approved method of disposal shall be provided. (1981 Code, § 8-306)

18-107. 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. (1981 Code, § 8-307)

18-108. 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 § 18-102, or the agent of the owner to provide such facilities. (1981 Code, § 8-308)

18-109. 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. (1981 Code, § 8-309)

18-110. 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. (1981 Code, § 8-310)

18-111. 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. (1981 Code, § 8-311)

18-112. 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. (1981 Code, § 8-312)

18-113. 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. (1981 Code, § 8-313)

18-114. 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. (1981 Code, § 8-314)

18-115. 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. (1981 Code, § 8-315)

TITLE 19

ELECTRICITY AND GAS

[RESERVED FOR FUTURE USE]

## TITLE 20

MISCELLANEOUS

## CHAPTER 1

OPERATION OF HORNBEAK CEMETERY

## SECTION

## 20-101. Operation of Hornbeak Cemetery.

20-101. Operation of Hornbeak Cemetery. (1) (a) A committee shall consist of the mayor and two members of the presiding board and two members of the community.

(b) The two members of the board will be appointed by the mayor. The other two members will be appointed by the retiring members or the remaining members in case of death.

(2) (a) Two funds shall be set up, one will be a trust fund and the other a maintenance fund.

(b) The trust fund will not be used. The interest or revenue of the trust fund will be transferred to the maintenance fund. The trust fund shall be maintained at Reelfoot Bank in Hornbeak, Tennessee.

(c) The maintenance fund shall be kept in the Reelfoot Bank of Hornbeak, Tennessee, also. The mayor and one other member of the cemetery committee will sign the checks. Receipts will be given for monies received in both accounts, stating what the money is for and also in honor of whom.

(3) Monies received from the sale of lots will be deposited in the maintenance account, the monies received back from the funeral homes for dirt removal will be deposited in the maintenance account. As the maintenance account builds the town general fund will be reimbursed for the \$15,000.00 that was advanced to purchase the land of the cemetery.

(4) Lots will be sold at a price determined by the board. Once a lot is sold it will not be sold or transferred without the approval of the committee.

(5) A map will be kept in the Hornbeak City Hall and with one of the committee members designated as a contact person. Anytime a transaction is made as to plots both maps shall be updated as soon as possible.

(6) No trees shall be planted on the lots. Flowers will be removed from gravesites two weeks after a burial, with the exception of rock mounts. Flowers may be placed on gravesites on special occasions with the same time limit.

(7) Any changes to the laws hereby adopted shall not be changed without a public meeting being held and at least two notices in a local newspaper prior to the meeting.

(8) A copy of this chapter and changes will be kept available for inspection in the Hornbeak City Hall. A copy will be given to anyone who purchases a lot. (Ord. No. 99-04, July 1999)

APPENDIX

A. ZONING ORDINANCE.

APPENDIX A

ZONING ORDINANCE

TOWN OF HORNBEAK, TENNESSEE

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ARTICLE 1

TITLE, INTENT AND PURPOSE

1.1 Title

1.1.1 Long Title

An ordinance, in Pursuance of the authority granted by the Sections 13-7-201 through 13-7-210, Tennessee Code Annotated, to provide for the establishment of districts within the corporate limits of the Town of Hornbeak, Tennessee: to regulate within such districts the location, height, bulk, number of stories and size of buildings and other structures, the size of open spaces, the density of population, and the uses of land, buildings and other structures, for trade, industry, residence, recreation, public activities and similar purposes; to provide regulations governing nonconforming uses and, structures; to provide for a Board of Appeals and for its powers and duties; to provide for permits; to establish and provide for the collection of fees; to provide for the administration of this Ordinance and for the official whose duty it shall be to enforce the

provisions thereof, to provide penalties for the violation of this Ordinance; and to provide for conflicts with other ordinances or regulations.

### 1.1.2 Short Title

This Ordinance may be cited as the Zoning Ordinance of Hornbeak, Tennessee. The map portion may be cited separately as the Zoning Map of Hornbeak, Tennessee. (as added by Ord. #2003-01, May 2003)

## ARTICLE 2

### ESTABLISHMENT OF DISTRICTS AND OFFICIAL ZONING MAP

#### 2.1 Establishment of Districts

In order to implement all purposes and provisions of the Ordinance, the lands within the corporate limits of the Town of Hornbeak, Tennessee, are divided into districts designated as follows:

##### 2.1.1 R-1 Low Density Residential District

##### 2.1.3 C-1 General Commercial District

##### 2.1.4 I-1 Industrial District

#### 2.2 Provisions for Official Zoning Map

##### 2.2.1 Incorporation of Map

The boundaries of districts established by this Ordinance are shown on the official zoning map which is hereby incorporated into the provisions of this ordinance. The zoning map in its entirety including all amendments shall be as much a part of this ordinance as is fully set forth and described herein.

##### 2.2.2 Identification of the Official Zoning Map

The Official Zoning Map shall be identified by the signature of the Mayor attested by the Town Recorder together with the date of the adopting of the Ordinance. (as added by Ord. #2003-01, May 2003)

## ARTICLE 3

### GENERAL PROVISIONS AND PARKING REQUIREMENTS

#### 3.1 General Provisions

For the purpose of this Ordinance, there shall be certain general provisions which shall apply to the Town as a whole.

##### 3.1.1 Zoning Affects Every Building and Use

No building or land shall hereafter be used and no building or part thereof shall be erected, moved or altered unless for a use expressly permitted by and in conformity with the regulations herein specified for the district in which it is located, except as hereinafter provided.

##### 3.1.2 Continuance of Nonconforming Uses and Structures

It is the intent of this Ordinance to recognize that the elimination as expeditiously as is reasonable, of the existing building, structures, or uses that are not in conformity with the provisions of this Ordinance is as much a subject of health, safety, and welfare as is the prevention of the establishment of new uses that would violate the provisions of this Ordinance. It is also the intent of this Ordinance to administer the elimination of nonconforming uses, buildings and structures so as to avoid an unreasonable invasion of established private property rights. Lawful nonconforming uses, buildings and structures existing at the time of the passage of this Ordinance or any amendment thereto shall be allowed to remain subject to the following provisions.

(a) An existing nonconforming use of a building may be changed to a conforming use or to another nonconforming use of the same classification; provided; however, that establishment of another nonconforming use of same classification shall be subject to the written approval of the Board of Zoning Appeals and subject to such conditions as the Board of Zoning Appeals may require in order to protect the area.

(b) No existing non-conforming use or structure shall be enlarged, extended, constructed, reconstructed, moved, or structurally altered except as herein provided.

Non-conforming, commercial, business, and industrial uses created after the passage of Tennessee Acts of 1973, Chapter 279.1 shall be allowed to expand operations and reconstruct facilities which involve an actual continuance and expansion of activities of the business which were permitted and being

conducted prior to the change in zoning, provided that there is a reasonable amount of space for such expansion on the property owned by such business and that any construction, improvements or reconstruction shall be in conformance with the district requirements in which it is located.

- (c) Except as provided in Chapter 279.1 of the 1973 Tennessee Acts.
1. A non-conforming use of land shall be restricted to the area occupied by such at the effective date of this ordinance. A non-conforming use of a building or buildings shall not be enlarged to either additional land or buildings after the effective date of this ordinance.
  2. When non-conforming use of any building or land has ceased for a period of six (6) months, it shall not be re-established or changed to any other non-conforming use.
  3. Any non-conforming building or non-conforming use, which is damaged by fire, flood, wind or other act of God or man, may be reconstructed and used as before if it is done within twelve (12) months of such damage, unless damaged to the extent of more than sixty (60) percent of its fair sales value immediately prior to damage, in which case any repair or reconstruction shall be in conformity, with the provisions of this Ordinance. However, non-conforming residential structures, including mobile homes, shall be replaced if damaged or destroyed, provided the structure is replaced within twelve (12) months. Replacement mobile homes must meet the latest HUD regulations for both construction and installation.
- (d) A non-conforming building of buildings housing a non-conforming use shall not be structurally altered except in conformance with the provisions of this ordinance. This provision shall not be construed to prevent normal maintenance and repairs or alterations required for structural safety.

### 3.1.3 Minimum Required Street Frontage

No structure shall be erected on a lot which does not abut at least one public street.

### 3.1.4 Reduction in Lot Area Prohibited

No lot even though it may consist of one or more adjacent lots of record shall be reduced in area so that yard requirements, lot area per family, lot width, building area, or other requirements of this Ordinance are not maintained. This section shall not apply when a portion of a lot is required for a public purpose.

### 3.1.5 Lots of Record

Where the owner of a lot of official record at the time of the adoption of this Ordinance does not own sufficient land to enable him to conform to the yard or other requirements of this ordinance, an application may be submitted to the Board of Zoning Appeals for a variance from the terms of this ordinance. Permission to use such lot as a building site may be granted, however, providing that the yards and other requirements of the district are complied with as closely as is possible in the opinion of the Board of Zoning Appeals. Where two or more substandard lots of record with continuous frontage are under the same ownership, such lots shall be combined to form one or more building sites meeting the minimum requirements of the district in which they are located.

### 3.2 Off-Street Parking

#### 3.2.1. General Provisions

In all districts, when any building or structure is constructed or at the time any main building or structure is enlarged or increased in capacity to be additional dwelling units, guest rooms, seats or floor area, or before conversion from one zoning use or occupancy to another, permanent off street parking shall be provided of at least two hundred (200) square feet per space with vehicular access to a street or alley as set forth below. The Town reserves the right to control ingress and egress over private right-of-way, Off-street parking space shall be deemed to be required open space associated with the permitted uses, and shall not hereafter be reduced or encroached upon in any manner.

- (a) Dwelling: Not less than two (2) spaces per dwelling unit.
- (b) Boarding Houses, Rooming Houses: One (1) space per dwelling unit.
- (c) Hotel, Motel and Tourist Courts: One (1) space for each unit in a building.
- (d) Public Buildings: One (1) space for each 200 square feet of total floor area of all floors in the building except basement.
- (e) Office Buildings: One (1) space for each 200 gross square feet of all floors in the building.
- (f) Retail Sales and Services: One (1) space for each 200 gross square feet of floor area.
- (g) Theaters, Auditoriums, Churches or Other Places of Assembly: One (1) space for each 5 seats provided in such place of assembly.

- (h) Clinic or Medical Office: Five (5) patient parking spaces per doctor, plus two (2) for each three employees plus one (1) per staff doctor.
- (i) Other: For buildings and uses not listed, the off street parking requirement shall be determined by the Board of Zoning Appeals.

### 3.3 Signs

3.3.1. Signs shall be regulated within the Town of Hornbeak as set forth below.

- (a) Within Residential Districts signs shall be limited to:
  1. real estate signs of a maximum of six (6) square feet.
  2. home occupation signs of a maximum size of four (4) square feet.
  3. There shall be no illuminated signs.
- (b) Within Commercial Districts, signs shall be limited to:
  1. On-site signs either free standing or attached to the structure. Such signs shall not exceed a size of one square foot for each foot of road frontage.
  2. Off-site signs, shall be allowed advertising products or establishments not on the affected lot. Such signs shall not exceed 650 sq. ft. nor be higher than 70 feet. (as added by Ord. #2003-01, May 2003)

## ARTICLE 4

### DEFINITIONS

#### 4.1 Definitions

Except as specifically defined herein all words used in this Ordinance have their customary dictionary definitions where not consistent with the context of the Ordinance. The term "shall" is mandatory. Words used in the present tense shall include the future; the singular number shall include the plural and the plural the singular; the word "building" shall include the word "structure". In case of conflict between Building Code or dictionary definitions with the definitions contained in this ordinance, the definition herein shall prevail.

**Accessory building and use:** A detached building or use subordinate to the principal building or use on the same lot and serving a purpose naturally and normally incidental to the principal building or use.

**Amusement:** An establishment which provides: arcade type entertainments including such items as pinball machines, video games and pool tables; miniature golf; or other amusement.

**Boarding House or Rooming House:** A building in which lodging and/or meals are provided, for compensation for two or more persons for a prearranged time period.

**Building:** Any structure designed or built for the support, enclosure, shelter or protection of persons, animals, chattels or property.

**Cultural Activity:** Any institution concerned with the appreciation of nature and the humanities.

**Dwelling:** Any building or portion thereof which is designed for or used for human residential habitation. For the purpose of this Ordinance, the term "dwelling" shall not include boarding or rooming houses, motels, hotels, or other structures designed for transient residence.

**Educational Services:** Established schools including primarily secondary, universities, colleges, junior colleges and various private facilities.

**Essential Services:** The erection, construction, alteration, or maintenance by public utilities or municipal departments, or commissions.

**Finance, Insurance and Real Estate Services:** Those establishments which provide banking or bank related functions and insurance and real estate brokers.

**Governmental Agency:** An agency of the Federal, State, or the Local Government or any combination thereof

**Institution:** A building occupied or operated by a non-profit society, corporation, individual foundation or governmental agency for the purpose of providing charitable, social, educational or similar services of a charitable character to the public.

**Lot:** A legally recorded parcel of land.

**Lot of Record:** A parcel legally recorded in the Office of the McNairy County Register of Deeds at the date of the adoption of this ordinance.

**Medical Services:** Those establishments which provide aid or merchandise relating to or concerned with the practice of medicine; excluding sanitariums, convalescent and rest home services.

**Mobile Home:** A detached residential dwelling unit designed for transportation after fabrication on streets on its own wheels or on flatbed or other trailers.

**Non-conforming Use:** Any use of building or premises which lawfully existed prior to the adoption of, or amendment of this Ordinance, but which no longer complies with the use regulations of the district in which it is located.

**Personal Services:** Establishments which provide services to persons or households, crematory services and cemeteries.

**Principal Building:** A building in which is conducted the primary use of the lot on which it is located.

**Principal Use:** The specific primary purpose for which land or a building is used.

**Professional Services:** Those services normally provided by the established profession.

**Public Assembly Facility:** Institutions or installations where community activities are typically performed.

**Public Uses:** Facilities such as, but not limited to, parks, schools, and offices owned and operated by governmental bodies.

**Public Utility:** Any plant or equipment for the conveyance of telephone messages or for the production, transmission, delivery of furnishing of heat, chilled air, chilled water, light, power or water, or sewage facilities, either directly or indirectly to of for the public.

**Repair Services:** Those establishments which fix, mend or overhaul merchandise for households or businesses, not to include automobile body shops.

**Retail Trade:** Those establishments engaged in selling merchandise for personal or household consumption and rendering services incidental to the sale of goods.

**Veterinary Hospital or Clinic:** Any establishment maintained and operated by a licensed veterinarian for the surgery, diagnosis and treatment of diseases or injuries of animals. Such an establishment may include accessory boarding facilities provided they are located within a building.

**Warehouse:** A structure used exclusively for the storage of merchandise or commodities.

**Zoning Districts:** Any section of the Town for which the zoning regulations, governing the use of buildings and premises, the height of buildings, the size of the yards and the intensity of use are uniform. (as added by Ord. #2003-01, May 2003)

ARTICLE 5

RESIDENTIAL DISTRICT'S PROVISIONS

R-1 Residential District (Low Density)

Within the areas designated R-1 (Low Density) in the Zoning Map of the Town of Hornbeak, Tennessee, the following provisions shall apply:

5.1.1 Uses Permitted

- (a) Single-family dwellings
- (b) Accessory buildings customarily incidental to the permitted use,
- (c) Signs
- (d) Home occupations

5.1.2 Special Exceptions

The following uses are permitted on approval by the Board of Zoning Appeals upon review of the criteria established herein:

- (a) Uses Permitted
  - 1. Public uses, including but not limited to municipal, state or federal uses such as schools, museums, office buildings, utilities.
  - 2. Churches
  - 3. Private or parochial schools
  - 4. Accessory buildings customarily incidental to the permitted use.
  - 5. Duplexes and multi-family dwellings but not single mobile homes.

5.1.3 Minimum Area Requirements

The Principal building shall be located so as to comply with the following requirements:

- (a) Minimum Required Lot Area

- (1) Single family dwellings 10,000 sq, ft.
  - (2) Churches 1 acre or 200 sq. ft. of lot area per auditorium seat, whichever is greater
  - (3) Schools 4 acres plus one (1) acre for each 100 students.
  - (4) Duplexes and Multi-family dwellings: 7,000 sq. ft. for the first dwelling unit plus 3,000 sq ft for each additional dwelling unit.
  - (5) Other Uses As required by the Board of Zoning Appeals
- (b) Minimum Required Lot Width at the Building Line.
- (1) Dwellings 50 feet
  - (2) Churches 200 feet
  - (3) Other Uses As required by the Board of Zoning Appeals.
- (c) Minimum Required Front Yard
- (1) Dwellings 30 feet
  - (2) Churches 50 feet
  - (3) Other Uses 50 feet or more as required by the Board of Zoning Appeals
- (d) Minimum Required Rear Yard
- (1) Dwellings 30 feet
  - (2) Churches 40 feet
  - (3) Other Uses 25 feet or more as required by the Board of Zoning Appeals
- (e) Minimum Required Side Yard on Each Side of Lot
- (1) Dwellings 10 feet
  - (2) Churches 30 feet

(3) Other Uses 20 feet or more as required by the Board of Zoning Appeals

(f) Minimum Required Side yard for Side Facing Street on Corner Lots-30 feet

(g) Maximum Lot Coverage by all Buildings

(1) Dwellings and accessory 35%

(2) Churches 40%

(3) Other Uses 50% or less as required by the Board of Zoning Appeals

(h) Maximum permitted height of structures.

(1) No building shall exceed three (3) stories or thirty-five (35) feet in height.

(2) On a lot less than fifty (50) feet in width at the building line no building shall exceed one and one-half (1 ½) stories or twenty-five (25) feet in height

(3) No accessory building shall exceed two (2) stories in height.

(4) Free standing poles, spires, towers, antennae and similar structures not designed for, or suitable to human occupancy may exceed the height provisions of this ordinance provided they comply with all other codes and ordinances and provided that they are located a distance equal to their own height plus ten (10) feet from the nearest property lines. (as added by Ord. #2003-01, May 2003)

## ARTICLE 6

### COMMERCIAL DISTRICT PROVISIONS

#### C-1 General Commercial.

The C-1 (General Commercial) District shall be considered a general highway oriented commercial-service oriented district. Within the areas designed C-1 (General Commercial) on the Zoning Map of the Town of Hornbeak, Tennessee, the following provisions shall apply:

### 6.1.1 Uses Permitted

- (a) Retail trade
- (b) Wholesale trade
- (c) Services
- (d) Amusements
- (e) Recreational activities
- (f) Transient lodging
  - 1. hotels
  - 2. tourists courts
  - 3. motels
- (g) Group Quarters
- (h) Public uses, including but not limited to municipal, state, or federal uses such as schools, museums, office buildings and utilities,
- (i) Public Assembly -Limited to motion picture theaters
- (j) Accessory buildings customarily incidental to the permitted use.
- (k) Signs and Billboards

### 6.1.2 Special Exceptions

- (a) Similar but not listed uses are permitted on appeal by the Board of Zoning Appeals.
- (b) Mobile Home Parks are permitted on appeal by the Board of Zoning Appeals.

### 6.1.3 Minimum Area Requirements

- (a) Minimum Required Lot Area None
- (b) Minimum Required Lot Width at the Building Line
  - (1) Gasoline Service Stations 120 feet

- (2) Churches 100 feet
  - (3) Other Uses No minimum requirement
- (c) Minimum Required Front Yard
  - (1) All Uses 30 feet
- (d) Minimum Required Rear yard
  - (1) All Uses 15 feet
- (e) Minimum Required Side yard on Each Side of Lot
  - (1) Churches 25 feet
  - (2) Other Uses None required, However, if buildings do not have common, or adjoining walls, there shall be a side yard of at least 10 feet
  - (3) On lots adjacent to a residential district, all buildings shall be located so as to comply with the side yard requirement of the adjacent residential district on the side adjacent to the residential district.
- (f) Minimum Required Side Yard for Side Facing Street on Corner Lots 30 feet
- (g) Installations essential to the business operation may be required to set back a greater distance from the street or alley so that any service rendered by the business will not obstruct any public way. This determination is to be made by the building inspector.
- (h) Maximum permitted height of structures.
  - (1) No building shall exceed three (3) stories or thirty-five (35) feet in height.
  - (2) On a lot less than fifty (50) feet in width at the building line no building shall exceed one and one-half (1 ½) stories or twenty-five (25) feet in height.
  - (3) Free standing poles, spires, towers, antennae and similar structures not designed for, or suitable to human occupancy may exceed the height provisions of this ordinance provided they comply with all other codes and ordinances, and provided that they are located a distance

equal to their own height plus 10 feet from the nearest property line. (as added by Ord. #2003-01, May 2003)

## ARTICLE 7

### INDUSTRIAL DISTRICT PROVISIONS

#### I-1 General Industrial District

##### 7.1.1 Uses Permitted.

Animal hospitals; bottling works; building materials yard; contractors; yards; dairies; dying and dry cleaning works; electric welding; feed or fuel yards; fruit canning or packing; ice plants; laundries; machine shops; milk distributing stations; optical goods; paper manufacture; printing, publication or engraving concerns; tinsmith shops; trucking terminals; public utilities, including water and sewage treatment plants; warehouses, and any other uses which in the opinion of the Municipal Board of Zoning Appeals are similar in character to those enumerated in this Section and will not be detrimental to the district, subject to such conditions and safeguards as may be required by the Municipal Board of Zoning Appeals. All uses permitted in the Light Industrial Districts are permitted in the General Industrial Districts.

##### 7.1.2 Possible Uses Permissible on Appeal.

Any use not in conflict with any other ordinance of the Town of Hornbeak, Tennessee, provided, however, that the following uses shall be permitted only with the written approval of the Municipal Board of Zoning Appeals auto wrecking, bag cleaning; central mixing plant for cement, mortar, platter, or paving materials; curing, tanning, and storage of raw hides and skins; fat rendering; metal fabrication plants; gasoline or alcohol storage above ground in excess of five hundred (500) gallons; junk, scrap paper, rag storage and baling; slaughter houses or stock yards; manufacture of bleaching powder, chemicals, brick, pottery, terra cotta or tile; manufacture of candles or disinfectants, dyestuffs and fertilizers; manufacture or storage of illuminating or heating gas; manufacture of linseed oil, paint, oil, turpentine, varnish, soap and tar products; raw metal processing; and any other uses which in the opinion of the Municipal Board of Zoning Appeals would not cause injurious or obnoxious noise, vibrations, smoke, gas, fumes, odors, dust, or other objectionable conditions.

##### 7.1.3 Required Yards.

7.1.3(a) All buildings and structures shall be located so as to comply with the following:

Minimum depth of front yard	35 ft.
Minimum depth of rear yard	20 ft.
Minimum width of each side yard	10 ft.

7.1.3(b) On lots adjoining a residential t all buildings shall be located so as to comply with the side yard requirements of such residential district.

7.1.4 Parking Space Requirements. To be Determined later.

7.1.5 Landscape Treatment.

7.1.5(a) Each site shall be developed with ten percent (10%) of its area landscaped. Along the street property line a strip of landscaped ground of a minimum width of 10 feet exclusive of drives and walks shall be provided maintained.

7.1.5(b) Landscape treatment shall not interfere with sight line requirements, nor obstruct needed views of buildings or their means of identification. All landscape should be designed for minimum maintenance; in an area difficult to maintain paving or terracing may be used as a part of the landscape treatment. (as added by Ord. #2003-01, May 2003)

## ARTICLE 8

### ADMINISTRATION AND ENFORCEMENT

8.1 Enforcing Officer. The provisions of this ordinance shall be enforced by the Mayor or his designee who shall have the power to make inspection of buildings of premises necessary to carry out his duties in the enforcement of this ordinance.

8.2 Building Permits and Certificates of Occupancy.

8.2.1 Building Permit Required. It shall be unlawful to commence the excavation for the construction of any building, including accessory buildings, or to commence the moving or alteration of any building, including accessory buildings, until the Mayor or his designee has issued a building permit for such work.

8.2.2 Issuance of Building Permit. In applying to the Mayor for a building permit, the applicant shall submit a dimensional sketch or a scale plan indicating the shape, size, height and location on the lot of all buildings to be erected, altered or moved and of any building already on the lot. He shall also state the existing and intended use of all such buildings and supply such other information for determining whether the provisions of this ordinance are being observed. If the proposed excavation or construction as set forth in the application are in conformity with the provisions of this ordinance and other ordinances of the Town of Hornbeak, Tennessee, then in force, the Mayor or his designee shall issue a building permit for such excavation or construction. If a building permit is refused, the Mayor or his designee shall state such refusal in writing with the cause.

(a) The issuance of a permit shall in no case be construed as waiving any provision of this ordinance.

(b) A building permit shall become void six (6) months from the date of issuance unless substantial progress has been made by the date on the project described herein.

8.2.3 Certificate of Occupancy. No land or building or part thereof hereafter erected or altered in its use of structure shall be used until the Mayor or his designee shall have issued a certification of occupancy stating that such land, building or part thereof and the proposed use thereof are found to be in conformity with the provisions of this ordinance. Within three (3) days after notification that a building or premises or part thereof is ready for occupancy or use, it shall be the duty of the Mayor or his designee to make final inspection thereof and to issue a certification of occupancy if the land, building, or part thereof and the proposed use thereof are found to conform with the provisions of this ordinance, or, if such certificate is refused, to state such refusal in writing with the cause.

8.2.4 Records. A complete record of such application, sketches, and plans shall be maintained in the office of the Mayor.

8.2.5 Permit Fee. A fee will be charged for issuance of a building permit.

8.3 Penalties. Any person violating any provisions of this ordinance shall be guilty of a misdemeanor and shall be punished as provided by law. Each day such violation shall continue shall constitute a separate offense.

8.4 Remedies. In case any building or structure is erected, constructed, reconstructed, repaired, converted, or maintained or any building, structure, or

land is used in the violation of this ordinance, the Mayor or any other appropriate authority, or any adjacent or neighboring property owner who would be damaged by such violation, in addition to other remedies may institute injunction, mandamus, or other appropriate action in proceeding to prevent the occupancy or use of such building, structure or land. (as added by Ord. #2003-01, May 2003)

## ARTICLE 9

### BOARD OF ZONING APPEALS

9.1 Board of Zoning Appeals Organization. The Board of Zoning Appeals shall consist of three (3) members to be appointed by the Mayor of Hornbeak - and confirmed by a majority vote by the Town Board, all of whom shall serve without pay. The term of office of the said three (3) members shall be of such length and so arranged that the term of one (1) member shall expire each year.

Vacancies shall be filled for any unexpired term by appointment by the Mayor and confirmed by the remainder of the Town Board.

9.2 Procedure for Meetings. Meetings of the Board of Zoning Appeals shall be held at the call of the Chairman, and at such times as the board may determine. All meetings of the Board and action thereon, which shall be a public record. Upon appointment, and annually, the Board of Zoning Appeals shall meet and organize and shall elect its own chairman who shall serve one year or until his successor duly qualifies.

Two (2) members of the board shall constitute a quorum.

The concurring vote of two (2) members of the Board shall be necessary to reverse any order, requirement, decision or determination of such administration official or to decide in favor of the applicant on any matter on which it is required to pass under this Ordinance or to effect any variance in such ordinance. The chief building inspector, Town engineer and planner, when requested to do so by the Chairman of the Board, shall attend such meetings of the Board and shall bring all plans, specifications, plats and papers relating to any case before the Board of Appeals.

9.3 Procedure for Appeals. An appeal to the Board of Zoning Appeals may be taken by any person, firm, or corporation aggrieved, or by any governmental officer, department, board or bureau.

Such appeals may be taken by filing with the Hornbeak Board of Zoning Appeals or their designate a notice of appeals, specifying the grounds thereof.

The Board shall give due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing, any person or party shall appear in person or by agent or by attorney.

#### 9.4 Powers of Board of Zoning Appeals

9.4.1 To hear and decide appeals where it is alleged there is error of law in any order, requirement, decision, or determination made by an administrative officials in the enforcement of this Ordinance.

#### 9.4.2 Instances Where an Exception Can be Granted

- (a) Permit the extension of a district for a distance of not more than twenty-five (25) feet where the boundary line of a district divides a lot or tract held in a single ownership at the time of the passage of this Ordinance.
- (b) Interpret the provisions of this Ordinance in such a way as to carry out the intent and purpose of the Land Use Plan.
- (c) Permit special exceptions as provided for within this Ordinance.
- (d) Permit the reconstruction of a nonconforming building which has been damaged by explosion, fire, act of God, or a vandal, to the extent of not more than sixty (60) percent of its fair market value, and where the Board finds some compelling necessity requiring a continuance of the non-conforming use.

9.4.3. Variance. To hear and decide applications for variance from the terms of this ordinance, but only where by reason of exceptional narrowness, shallowness or shape of a specific piece of property which at the time of the adoption of the Ordinance was a lot of record; or where, by reason of exceptional topographic conditions or other extraordinary or exceptional situation or conditions of a piece of property the strict application of the provisions of the Ordinance would result in exceptional and undue hardship upon the owner of such property, provided that such relief may be granted without the substantial detriment to the public good and without substantially impairing the intent and purpose of this ordinance. Financial disadvantage to the property owner is no proof of hardship within the purpose of zoning.

In considering all appeals and all proposed exceptions or variations to this Ordinance, the Board shall, before making any exceptions or variation from the Ordinance in a specific case, first determine that it will not impair an adequate supply of light and air to adjacent property, or unreasonably increase the congestion in public streets, or unreasonably diminish or impair established property values within the surrounding area, or in any other respect impair the public health, safety, comfort, morals or welfare of the inhabitants of the Town of Hornbeak.

9.5 Fees. Appeals to the Board of Zoning Appeals must be accompanied by the appropriate fee which shall be set by the Mayor and Aldermen. Said fee will be used to defray the cost incurred by the Town in consideration in this matter. (as added by Ord. #2003-01, May 2003)

## ARTICLE 10

### AMENDMENTS

10.1 General. The Town Board may, from time to time, amend this ordinance by changing the boundaries of districts or by changing any other provisions whenever it is alleged that there was an error in the original zoning ordinance or whenever the public necessity convenience and general welfare require such amendment.

10.2 Initiation of Amendment. Amendments may be initiated by the Town Board, the Planning Commission or by an application of one or more owners or agents of property affected by the proposed amendment.

10.3 Application for Amendment - Fee. An application by an individual for an amendment shall be accompanied by a fee as set by the Mayor and Town Board of the Town of Hornbeak, and shall also be accompanied by maps, drawing, and data necessary to demonstrate that the proposed amendment is in general conformance with the general plan of the area.

10.4 Review and Recommendation by the Planning Commission. The Planning Commission shall review and make recommendations to the Town Board on all proposed amendments to this Ordinance.

10.5 Public Hearing and Notice of Hearing. A public hearing shall be held to present this ordinance prior to the Town Board acting on all proposed amendments by final reading by the Town

10.6 Amendments Affecting Zoning Map. Upon enactment of an amendment to the zoning map which is part of this ordinance, the Building Inspector shall cause such amendment to be placed upon the zoning map noting thereon the ordinance number and effective date of such amendatory ordinance. (as added by Ord. #2003-01, May 2003)

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## ARTICLE 11

## LEGAL STATUS PROVISIONS

11.1 Interpretation. In their interpretation and application, the provisions of this ordinance shall be held to be the minimum requirements for the promotion of the public health, safety, morals and welfare.

## 11.2 Relationship to Other Laws and Private Restrictions

11.2.1 Where the conditions imposed by any provisions of this ordinance upon the use of land or buildings or upon the height or bulk of buildings are either more restrictive or less restrictive than comparable conditions imposed by any other provision of this ordinance or of any other law, resolution, ordinance, rule or regulation of any kind, the regulations which are more restrictive shall apply.

11.2.2 This ordinance is not intended to abrogate any easement, covenant, or any other private agreement provided that where the regulations of this ordinance are more restrictive (or impose lighter standards or requirements) than such easements, covenants, or other private agreements, the requirements of this ordinance shall govern.

11.3 Ordinance Provisions Do Not Constitute Permit. Nothing contained in this ordinance shall be deemed to be a consent, license or permit to use any property or to locate, construct, or maintain any building, structure, or facility or to carry on any trade, industry, occupation or activity.

11.4 Separability. It is hereby declared to be the intention of the Town of Hornbeak, Tennessee, that the several provisions of this ordinance are separable in accordance with the following:

11.4.1 If any court of competent jurisdiction shall adjudge any provision of this Ordinance to be valid, such judgement shall not affect any other provision of this Ordinance not specifically included in said judgement.

11.4.2 If any court of competent jurisdiction shall adjudge invalid the application of any provision of this ordinance to a particular property, building or other structure, such judgement shall not affect the application of said provisions to any other property, building or structure not specifically included in said judgement.

11.5 Application of Regulation. No building or other structure shall be constructed, erected, placed or maintained and no land use commenced within the Town except as specifically or by necessary, implication, authorized by this

ordinance. Special exception uses are allowed only on permit granted by the Board of Zoning Appeals. Where a lot is devoted to a permitted principal use, customary accessory uses and structure are authorized except as prohibited specifically or by necessary implication.

## 11.6 Scope of Regulation

11.6.1 New Uses, Lots, Buildings or Other Structures. Upon the effective date of this ordinance, any new building or other structure or any tract of land shall be used, constructed, or developed only in accordance with the use, bulk, and all other applicable provisions of this Ordinance.

11.6.2 Existing Uses, Lots, Building or Other Structures. Any existing use, lot, parcel, building or structure legally established prior to the effective date of this Ordinance which does not comply with the provisions shall be subject to the nonconforming use provisions of this Ordinance.

11.6.3 Alteration of Existing Buildings and Other Structures. All structural alterations or relocation of existing buildings or structures occurring after the effective date of this ordinance and all enlargements of or additions to existing uses occurring hereafter shall be subject to all regulations of this Ordinance which are applicable to the zoning districts in which such buildings, uses, or land shall be located.

11.7 Violation and Penalty. Any person, firm or corporation violating any of the provisions of this ordinance shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not more than fifty dollars (\$50.00). Each day's continuance of a violation shall be considered a separate offense. The owner of any buildings or premises or part thereof, where anything in violation of this ordinance shall be placed, or shall exist, and any person who may have knowingly assisted in the commission of any such violation, shall be guilty of a separate offense.

11.8 Effective Date. This Ordinance shall be in force and effect from and after its passage on the second and final reading and adoption, the public welfare requiring it.

11.8.1 Severability. Should any section, paragraph, sentence, clause or phrase of this Ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid any reason, or should any portion of this Ordinance be pre-empted by state or federal law or regulation, such decision or legislation shall not affect the validity of the remaining portions of this Ordinance or its application to other persons or circumstances.

11.8.2 Approved and certified by Planning Commission

\_\_\_\_\_ s/Benny McGuire \_\_\_\_\_, Chairperson of the Planning Commission

\_\_\_\_\_ s/Betty Walley \_\_\_\_\_, Attest: Secretary of the Planning Commission

11.8.3 Approved by the Mayor and Board of Aldermen on final reading

\_\_\_\_\_ 5/13/03 \_\_\_\_\_  
Date

\_\_\_\_\_ s/Larry Seay \_\_\_\_\_  
Mayor

Attest: \_\_\_\_\_ s/Betty Walley \_\_\_\_\_  
Town Recorder