THE
HARROGATE
MUNICIPAL
CODE

Prepared by the

Municipal Technical Advisory Service
In cooperation with the Tennessee Municipal League

February 2011
CITY OF HARROGATE, TENNESSEE

MAYOR

Bill Fultz

ALDERMEN

Lieven Cox
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Troy Poore

RECORDER

Rose Kiser
The Harrogate Municipal Code contains the codification and revision of the ordinances of the City of Harrogate, 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 7 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 the codes team, Emily Keyser, Linda Winstead, Nancy Gibson, and Doug Brown, is gratefully acknowledged.

Stephanie Allen
Codification Consultant
1. An ordinance shall be considered and adopted on two (2) separate days; any other form of board action shall be considered and adopted on one (1) day. Any form of board action shall be passed by a majority of the members present, if there is a quorum. A quorum is a majority of the members to which the board is entitled. All ayes and nays on all votes on all forms of board action shall be recorded. (6-2-102)

2. Each ordinance, or the caption of each ordinance, shall be published after its final passage in a newspaper of general circulation in the municipality. No ordinance shall take effect until the ordinance or its caption is published. (6-2-101)
ORDINANCE NO. 82

AN ORDINANCE OF THE CITY OF HARROGATE ADOPTING AND ENACTING A CODIFICATION AND REVISION OF THE ORDINANCES OF THE CITY OF HARROGATE AND SETTING FORTH GENERAL PROVISIONS RELATIVE TO THE CODE OF ORDINANCES

WHEREAS, some of the ordinances of the City of Harrogate are obsolete, and

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

WHEREAS, the Board of Mayor and Aldermen of the City of Harrogate, 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 "Harrogate Municipal Code."

WHEREAS, the City of Harrogate desires to adopt a code of ordinances and provide general provisions relative thereto, as well as establishing general rules of instructions, and uniform definitions.

NOW THEREFORE BE IT ENACTED BY THE BOARD OF MAYOR OF ALDERMEN OF THE CITY OF HARROGATE AS FOLLOWS:

SECTION 1: Ordinances codified. The Ordinances of the city of a general, continuing and permanent application or of a penal nature, as codified and revised in the following "titles," namely "titles 1 through 20, both inclusive, are ordained and adopted by the Board of Mayor and Aldermen shall constitute and be designated the "City of Harrogate Municipal Code" (the "Code") and may be so cited. The Code may also be cited as "Harrogate Municipal Code."

SECTION 2: Definitions and rules of construction.

In the construction of this code and of all ordinances, the following rules shall be observed, unless inconsistent with the manifest intent of the Board of Mayor and Aldermen or the context clearly requires otherwise:

**Board of Mayor and Aldermen.** "Board" or "Board of Mayor and Aldermen" or "BMA" shall mean the Board of Mayor and Aldermen of the City of Harrogate.

**Bond.** When a bond is required, an undertaking in writing shall be sufficient.

**City.** The words "the City" shall mean the City of Harrogate, in the County of Claiborne and State of Tennessee, except as otherwise provided.

**Code.** "Code" shall mean the Harrogate Municipal Code.
Computation of Time. The time within which an act is to be done shall be computed by excluding the first and including the last day; and if the last day is Saturday, Sunday or a legal holiday, that day shall also be excluded.

County. “County” shall mean Claiborne County, Tennessee.

Gender. Words importing the masculine gender shall include the feminine and neuter.

Joint authority. All words giving a joint authority to three or more persons or officers shall be construed as giving authority to a majority of such persons or officers.

Month. The word “month” shall mean a calendar month.


Number. Words used in the singular include the plural and the plural includes the singular number.

Oath. The word “oath” shall be construed to include an affirmation in all cases in which, by law, an affirmation may be substituted for an oath and in such cases the words “affirm” and “affirmed” shall be the equivalent to the words “swear” and “sworn.”

Owner. The word “owner,” applied to building or land, shall include any part owner, joint owner, tenant in common, joint tenant or tenant by the entirety, of the whole or a part of such building or land.

Person. The word “person” shall include a corporation, firm, partnership, association, organization and any other group acting as a unit, as well as an individual.

Personal property includes money, goods, chattels, things in action, and evidences of debt.

Preceding; following. The words “preceding” and “following” shall mean next before and next after respectively.

Property. The word “property” shall include real and personal property.

Real Estate and real property. The terms “real estate” and “real property” shall include lands, tenements and hereditaments, and all rights thereto and interest therein equitable, as well as legal.

Sidewalk. The word “sidewalk” shall mean any portion of a street between the curb line and the adjacent property line, intended for use of pedestrians.
Signature or subscription. The word "signature" or "subscription" include a mark when a person cannot write.

State. The words "the state" or "this state" shall mean the State of Tennessee.

Street. The word "street" shall mean and include any public way, road, highway, street, avenue, boulevard, parkway, alley, lane, viaduct, bridge and the approaches thereto within the City.

Tenant. The words "tenant" or "tenants" and "occupant" or "occupants" applied to a building or land shall include any person who occupies the whole or a part of such building or land, whether alone or with others.

Tense. The words in the past or present tense include the future, as well as the past and present.

Writing. The words "writing" and "written" shall include printing and any other mode of representing words and letters.

Year. The word "year" shall mean a calendar year.

SECTION 3. Catch Lines. The catch lines of several sections of the Code printed in bold face type are intended as mere catch words to indicate the contents of the section and shall not be deemed or taken to be titles of such sections, nor as any part of the sections, nor, unless expressly so provided, shall they be so deemed when any such sections, including the catch lines, are amended or reenacted.

SECTION 4. 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 17 below.

SECTION 5. 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 6. Effect of repeal of ordinances.

(a) The repeal of an ordinance shall not revive any ordinances in force before or at the time the ordinance repealed took effect.

(b) The repeal of an ordinance shall not affect any punishment or penalty incurred before the repeal became effective nor any suit, prosecution or proceeding pending at the time of the repeal for an offense committed under the ordinance repealed.
SECTION 7. Severability parts of Code.

It is hereby declared to be the intention of the Board of Mayor and Aldermen and of the City that the sections, paragraphs, sentences, clauses and phrases of this Code are severable and if any phrase, clause, sentence, paragraph or section of this Code shall be declared unconstitutional or invalid by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Code, since such phrases, clauses, sentences, paragraphs and sections would have been enacted by the Board of Mayor and Aldermen without the incorporation in this Code of any such unconstitutional or invalid phrase, clause, sentence, paragraph or section.

SECTION 8. Supplementation of the Code. Supplements to this Code shall be prepared and printed whenever authorized and directed by the Board of Mayor and Aldermen.

(a) Supplement to the Code shall include all substantive parts of permanent and general ordinances passed by the Board of Mayor and Aldermen during the period covered by the supplement and all changes made thereby in the Code. The pages of a supplement shall be so numbered that they will fit properly into the Code and will, where necessary, replace pages which have become obsolete or partially obsolete, and the new pages shall be so prepared that, when they have been inserted, the Code will be current through the date of the adoption of the latest ordinance included in the supplement.

(b) In preparing a supplement to this Code, all portions of the Code which have been repealed shall be excluded from the Code by the omission thereof from the reprinted pages.

(c) When preparing a supplement to this Code the codifier (meaning the person, agency or organization authorized to prepare the supplement) may make formal, non-substantive changes in ordinances and parts of ordinances included in the supplement insofar as it is necessary to do so to embody them into a unified code. For example, the codifier may:

1. Organize the ordinance material into appropriate subdivision;
2. Provide appropriate catch lines, headings and title for sections and other segregations of the code printed in the supplement, and make changes in such catch lines, headings and title;
3. Assign appropriate numbers to sections and other subdivisions to be inserted in the Code and, where necessary to accommodate new material, change existing section or other subdivision numbers;
4. Change the words “this ordinance” or words of the same meaning to “this chapter,” “this article,” “this division,” etc. as the case may be, or to “sections ________ to __________” (inserting section numbers to indicate the sections of the Code which embody the substantive sections of the ordinance incorporated into the Code); and
5. Make other non-substantive changes necessary to preserve the original meaning of the ordinance section inserted into the Code; but in no case shall
the codifier make any change in the meaning or effect of ordinance material included in the supplement or already embodied in the Code.

(d) The subsequent ordinances, as numbered and printed, or omitted in the case of repeal, shall be prima facie evidence of such subsequent ordinances until such time that this code and subsequent ordinances numbered or omitted are readopted as the new code by the Board of Mayor and Aldermen

SECTION 9. Amendments to Code; and Amendatory Language.

(a) Amendment to any of the provisions of this Code may be made upon amending such provisions by specific reference to the section number of this code in the following language:

"Section ____ of the Code of the City of Harrogate, Tennessee (or Harrogate Municipal Code) is hereby amended to read as follows; ________________"

The new provisions may then be set out in full as desired.

(b) If a new section, article or chapter not hereinbefore existing in the Code is to be added, the following language may be used:

"The Code of the City of Harrogate, Tennessee (or Harrogate Municipal Code), is hereby amended by adding a section (article or chapter) to be numbered _____, which section reads as follows:"

The new section, article or chapter may then be set out in full as desired.

(c) All sections, articles, chapters or provisions desired to be repealed must be specifically repealed by section, article or chapter number as the case may be.

SECTION 10. Conflicts.

In case of conflict between any provision of this Code and any Code adopted herein by reference, the more restrictive provision shall apply.

SECTION 11. Reproduction and amendment of code. The Municipal Code shall be reproduced in loose-leaf form. The Board of Mayor and Aldermen, by motion or resolution, shall fix, and change from time to time as considered necessary, the prices to be charged for copies of the Municipal Code and revisions thereto. After adoption of the Municipal Code, each ordinance affecting the code shall be adopted as amending, adding, or deleting, by numbers, specific chapters or sections of said code. Periodically thereafter all affected pages of the Municipal Code shall be revised to reflect such amended, added, or deleted material and shall be distributed to city officers and employees having copies of said code and to other persons who have requested and paid for current revisions. Notes shall be inserted at the end of amended or new sections, referring to the numbers of ordinances making the amendments or adding the new
provisions, and such references shall be cumulative if a section is amended more than once in order that the current copy of the municipal code will contain references to all ordinances responsible for current provisions. One copy of the municipal code as originally adopted and one copy of each amending ordinance thereafter adopted shall be furnished to the Municipal Technical Advisory Service immediately upon final passage and adoption.

SECTION 12. General Penalties; Continuing Violations.

Unless otherwise specified in a title, chapter or section of the Municipal Code, including the codes and ordinances adopted by reference, whenever in this Code or in any ordinance of the City an act is prohibited or is made or declared to be unlawful, or a civil offense or a misdemeanor, or whenever in such Code or ordinance the doing of any act is required or the failure to do any act is declared to be unlawful or a civil offense, where no specific penalty is provided for, the violation of any such provision of this Code or any such ordinance shall be punished, upon conviction, by a civil penalty of not more than fifty ($50.00) dollars and costs. Each day any violation of this Code or of any ordinance shall continue shall constitute a separate offense. Provided, however, that the imposition of a civil penalty under the provisions of this Code shall not prevent the revocation of any permit or license or the taking of other punitive or remedial action where authorized by or under the provisions of the Harrogate Municipal Code or other applicable law. In any place in this Municipal Code the term “it shall be a misdemeanor” or “it shall be an offense” or “it shall be unlawful” or similar terms appear in the context of a penalty provision of this Municipal Code or any ordinance, 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 or any ordinance, it shall mean “a civil penalty.”

SECTION 13. 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 time.

SECTION 14. Code as Evidence. Any printed copy of the Harrogate Municipal Code contained in a printed certificate of the Mayor and Recorder of the correctness thereof shall be held to be a true and correct copy and may be read in evidence of all courts of the State without further proof of the laws contained therein.

SECTION 15. Official Maps. The comprehensive block map of that territory within the corporate limits of the City covering the wards of the City, showing and designating in detail the various block, lots and parcels of land within the corporate limits of the City filed in the Register’s Office of Claiborne County are hereby adopted as the official maps of the City.

SECTION 16. Flag.

(a) The municipal emblem of the City shall be a flag of the following description or design:

The official flag of the City of Harrogate shall have a white background on which the City’s seal is placed. The City’s seal is a circle which features a blue sky with
the Cumberland Mountains shown in dark green in the background with there being a higher mountain to the right and a lower mountain on the left revealing a gap in the mountains. A roadway in the center of the circle leads from the bottom of the circle upward, with a slight arc from left of center to center, across a rolling hill toward the gap in the mountains. On either side of the roadway is a green field with rail fencing. On the right side of the roadway and behind the rail fence is an old plow designed to be pulled by a mule or team of mules. The circle is surrounded by a border which is separated from the circle by a gold line. The border is dark green, matching the color of the mountains. The roadway is a light tan or earth tone. The rail fence is a darker wood tone as is the plow. On the upper half of the border are inscribed, in gold letters, the words, “CITY OF HARROGATE TENNESSEE.” On the lower half of the border are inscribed, in gold letters, the words and numerals, “INCORPORATED 1993.” The word “CITY” is separated from the word “INCORPORATED” by a single dot. The word “TENNESSEE” is separated from the numerals “1993” by a single dot.

(b) The City flag shall never be displayed in any position that will indicate superiority to or precedence over the flag of the United States, but on all occasions when the City flag is displayed with the flag of the United States by the City itself on any of the City buildings or by any individual person, the flag of the United States shall be hoisted and displayed above the City flag.

SECTION 17. Ordinances not affected by adoption of Code.

The repeal provided for in Section 2 of the Ordinance adopting this Municipal Code shall not affect any of the following:

(a) Any offense or act committed or done or any penalty of forfeiture incurred or any contract or right established or accruing before the effective date of the ordinance adopting this Code;

(b) Any ordinance or resolution promising or guaranteeing the payment of money for the City or authorizing the issuance of any bonds of the City or any evidence of the City’s indebtedness or any contract or obligations assumed by the City;

(c) Any administrative ordinance or resolution of the City not in conflict or inconsistent with the provisions of this Code;

(d) Any appropriation ordinance or resolution;

(e) Any right or franchise granted by the Council to any person, firm or corporation.

(f) Any ordinance or resolution dedicating, naming, establishing, locating, relocating, opening, closing, paving, widening, vacating, etc. any street or public way in the City.

(g) Any ordinance or resolution establishing and prescribing the street grades of any streets in the City.

(h) Any ordinance or resolution providing for local improvements or assessing taxes therefore.
(i) Any ordinance prescribing or extending the boundaries of the City;
(j) Any zoning ordinance of the City or amendments thereto;
(k) Any ordinance levying taxes;
(l) The ordinance creating a civil defense agency;
(m) The ordinances requiring a loyalty oath of all persons in the employ of or representing the City;
(n) Any ordinances dedicating or accepting any plat or subdivision in the City or providing regulations for subdivisions;
(o) Any ordinances enacted after the codification of the code of ordinances.
(p) Nor shall such repeal be construed to revive any ordinance or part of any ordinance that has been repealed by a subsequent ordinance which is repealed by the adoption of this Code.

SECTION 18. Effective date. This ordinance shall take effect from and after its final adoption, the welfare of the City requiring it.

Approved first reading: January 24, 2011.

[signatures]

Rose Kiser
City Recorder
Rose Kiser

Approved as to form:

[signatures]

Jon G. Roach
City Attorney
TITLE 1

GENERAL ADMINISTRATION

CHAPTER
1. BOARD OF MAYOR AND ALDERMEN.
2. MAYOR.
3. RECORDER.
4. CODE OF ETHICS.
5. ELECTIONS.

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

Municipal code references
Building, plumbing, electrical and gas inspectors: title 12.
Fire department: title 7.
Utilities: titles 18 and 19.
Wastewater treatment: title 18.
CHAPTER 1

BOARD OF MAYOR AND ALDERMEN

SECTION
1-101. Time of meetings.
1-102. Tape recording of all board meetings.
1-103. Rules of procedure.

1-101. Time of meetings. (1) The regular meetings of the board of mayor and aldermen (the "board") shall be held at 6:00 P.M. the fourth Monday of each month. Provided, however, that the board may, in its discretion, reschedule any regular meetings by the majority vote of its entire membership. Any such rescheduling shall be accomplished at the regular meeting proceeding the meeting to be rescheduled. (Ord. #1, Jan. 1993, modified)

1-102. Tape recording of all board meetings. All official council meetings shall be recorded, properly identified and filed in the city recorder's office. (Ord. #1, Jan. 1993, modified)

1-103. Rules of procedure. The following is adopted as the rules and procedures for the Board of Mayor and Aldermen of the City of Harrogate (the "board").

Rule 1: General rules of order. The rules of order and parliamentary procedure contained in Robert's Rules of Order, Newly Revised, shall govern the transaction of business by and before the board of mayor and aldermen at its

1 Charter references
For charter provisions related to the board of mayor and aldermen, see Tennessee Code Annotated, title 6, chapter 3. For specific charter provisions related to the board of mayor and aldermen, see the following sections:
  City Administrator: § 6-4-101.
  Compensation: § 6-3-109.
  Duties of Mayor: § 6-3-106.
  Election of the board: § 6-3-101.
  Oath: § 6-3-105.
  Ordinance procedure
    Publication: § 6-2-101.
    Readings: § 6-2-102.
  Residence requirements: § 6-3-103.
  Vacancies in office: § 6-3-107.
  Vice-Mayor: § 6-3-107.
meetings in all cases to which they are applicable and in which they are not inconsistent with provisions of the charter or this code.

Rule 2: Order of business. The regular order of business shall be as follows:

(1) Call to order by the mayor.
(2) Invocation.
(3) Pledge of allegiance.
(4) Roll call by the recorder.
(5) Approval of minutes of the previous meeting.
(6) Communications from the mayor.
(7) Reports from committees, members of the board of mayor and aldermen, and other officers.
(8) Old business.
(9) New business.
(10) Comments from citizens; public forum.
(11) Adjournment.

Rule 3: Vice mayor. The board at the first regular scheduled meeting following the regular bi-annual elections of the city shall elect a vice-mayor. The vice-mayor's term shall be for a two (2) year period.

Rule 4: Broadcast television media. Rules for the radio and television broadcasting of meetings of the board shall be as follows: all licensed radio and television stations shall be eligible to broadcast or telecast meetings of the board subject to compliance with the following rules:

(a) Authority to broadcast or telecast shall be obtained by applying in writing to the mayor. No exclusive authority broadcast or telecast shall be granted to any station or stations.

(b) Sufficient equipment shall be provided by the broadcasting or telecasting station so as to insure that all board members will be heard from their respective seats. Neither personnel or equipment shall interfere with the orderly procedure of the board meetings.

Rule 5: Introduction and reading of ordinance by title and abbreviated reading. The mayor is hereby authorized and permitted at a regular or special meeting of council to introduce and read ordinances and resolutions for the board's consideration by an abbreviated reading or reference to the caption or number of such ordinance or resolution.

Rule 6: Notice of special called meetings. (a) The mayor\(^1\) may call special meetings of the board upon adequate notice to the board and adequate public notice. The notice shall state the matters to be considered and the action of the board shall be limited to those matters submitted;

\(^1\)Charter reference
Special meetings: § 6-3-106(4)
(b) The city recorder shall post notice and make available to local media the date, hour, purpose, and place of the special meeting at least two (2) days prior to the meeting when possible. (Ord. #1, Jan. 1993, as amended by Ord. #64, April 2008, modified)
CHAPTER 2

MAYOR

SECTION
1-201. Duties of mayor.

1-201. Duties of mayor. (1) The mayor:
   (a) Shall be the chief executive officer of the municipality and shall preside at meetings of the board;
   (b) Shall communicate any information needed, and recommend measures the mayor deems expedient to the board;
   (c) (i) Shall make temporary appointments of any officer or department head in case of sickness, absence or other temporary disability.
          (ii) The board may confirm the mayor's appointment or otherwise appoint a person to fill the vacant office unless this duty has been delegated as authorized in this charter.
   (d) (i) May call special meetings of the board upon adequate notice to the board and adequate public notice;
          (ii) Shall state the matters to be considered at the special meeting and the action of the board shall be limited to those matters submitted;
   (e) Shall countersign checks and drafts drawn upon the treasury by the treasurer and sign all contracts to which the municipality is a party;
   (f) As a member of the board, may make motions and shall have a vote on all matters coming before the board;
   (g) Shall make appointments to boards and commissions as authorized by law.

(2) Unless otherwise designated by the board, the mayor shall perform the following duties or may designate a department head or department heads to perform any of the following duties:
   (a) (i) Employ, promote, discipline, suspend and discharge all employees and department heads, in accordance with personnel policies and procedures, if any, adopted by the board;

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1Charter references
   Duties of mayor: § 6-3-106.
   Vacancies in office: § 6-3-107.
   Vice-mayor: § 6-3-107.
(ii) Nothing in this charter shall be construed as granting a property interest to employees or department heads in their continued employment;

(b) Act as purchasing agent for the municipality in the purchase of all materials, supplies and equipment for the proper conduct of the municipality's business; provided, that all purchases shall be made in accordance with policies, practices and procedures established by the board;

(c) Prepare and submit the annual budget and capital program to the board for their adoption by ordinance; and

(d) Such other duties as may be designated or required by the board.
CHAPTER 3

RECORDER

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 insured and/or bonded to cover for loss or theft of money or property including faithful performance in such sum as may be fixed and as may be acceptable to, the board of mayor and aldermen. (modified)

1-302. **To keep minutes, etc.** The recorder shall keep the minutes of all meetings of the board of mayor and aldermen and shall preserve the original copy of all ordinances in a separate ordinance book.

1-303. **To perform general administrative duties, etc.** The recorder shall perform all administrative duties for the board of mayor and aldermen and for the city which are not assigned by the charter, this code, or the board of mayor and aldermen to another corporate officer. He shall also have custody of and be responsible for maintaining all corporate bonds, records, and papers.

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¹Charter references
   City recorder: § 6-4-201, et seq.
   Recorder as treasurer: § 6-4-401(c).
CHAPTER 4

CODE OF ETHICS¹

SECTION
1-401. Applicability.
1-402. Definition of "personal interest."
1-403. Disclosure of personal interest by official with vote.
1-405. Acceptance of gratuities, etc.
1-406. Use of information.
1-407. Use of municipal time, facilities, etc.
1-408. Use of position or authority.
1-409. Outside employment.

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

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


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


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

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

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

A brief synopsis of each of these laws appears in Appendix A of this municipal code.
1-410. Ethics complaints.
1-411. Violations.

1-401. Applicability. This chapter is the code of ethics for personnel of the City of Harrogate. It applies to all full-time and part-time elected or appointed officials and employees, whether compensated or not, including those of any separate board, commission, committee, authority, corporation, or other instrumentality appointed or created by the City of Harrogate. The words "city" and "City of Harrogate" include these separate entities. (Ord. #56, Dec. 2006)

1-402. Definition of "personal interest." (1) For purposes of §§ 1-403 and 1-404, "personal interest" means:
   (a) Any financial, ownership, or employment interest in the subject of a vote by a municipal board not otherwise regulated by state statutes on conflicts of interests; or
   (b) Any financial, ownership, or employment interest in a matter to be regulated or supervised; or
   (c) Any such financial, ownership, or employment interest of the official's or employee's spouse, parent(s), step parent(s), grandparent(s), sibling(s), child(ren), or step child(ren).
   (2) The words "employment interest" include a situation in which an official or employee or a designated family member is negotiating possible employment with a person or organization that is the subject of the vote or that is to be regulated or supervised.
   (3) In any situation in which a personal interest is also a conflict of interest under state law, the provisions of the state law take precedence over the provisions of this chapter. (Ord. #56, Dec. 2006)

1-403. Disclosure of personal interest by official with vote. An official with the responsibility to vote on a measure shall disclose during the meeting at which the vote takes place, before the vote and so it appears in the minutes, any personal interest that affects or that would lead a reasonable person to infer that it affects the official's vote on the measure. In addition, the official may recuse himself from voting on the measure. (Ord. #56, Dec. 2006)

1-404. Disclosure of personal interest in non-voting matters. An official or employee who must exercise discretion relative to any matter, other than casting a vote, and who has a personal interest in the matter that affects or that would lead a reasonable person to infer that it affects the exercise of the discretion shall disclose, before the exercise of the discretion when possible, the

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1Masculine pronouns include the feminine. Only masculine pronouns have been used for convenience and readability.
interest on a form provided by and filed with the recorder. In addition, the official or employee may, to the extent allowed by law, charter, ordinance, or policy, recuse himself from the exercise of discretion in the matter. (Ord. #56, Dec. 2006)

1-405. Acceptance of gratuities, etc. An official or employee may not accept, directly or indirectly, any money, gift, gratuity, or other consideration or favor of any kind from anyone other than the city:
(1) For the performance of an act, or refraining from performance of an act, that he would be expected to perform, or refrain from performing, in the regular course of his duties; or
(2) That might reasonably be interpreted as an attempt to influence his action, or reward him for past action, in executing municipal business. (Ord. #56, Dec. 2006)

1-406. Use of information. (1) An official or employee may not disclose any information obtained in his official capacity or position of employment that is made confidential under state or federal law except as authorized by law.
(2) An official or employee may not use or disclose information obtained in his official capacity or position of employment with the intent to result in financial gain for himself or any other person or entity. (Ord. #56, Dec. 2006)

1-407. Use of municipal time, facilities, etc. (1) An official or employee may not use or authorize the use of municipal time, facilities, equipment, or supplies for private gain or advantage to himself.
(2) An official or employee may not use or authorize the use of municipal time, facilities, equipment, or supplies for private gain or advantage to any private person or entity, except as authorized by legitimate contract or lease that is determined by the governing body to be in the best interests of the city. (Ord. #56, Dec. 2006)

1-408. Use of position or authority. (1) An official or employee may not make or attempt to make private purchases, for cash or otherwise, in the name of the city.
(2) An official or employee may not use or attempt to use his position to secure any privilege or exemption for himself or others that is not authorized by the charter, general law, or ordinance or policy of the city. (Ord. #56, Dec. 2006)

1-409. Outside employment. A full-time employee of the city may not accept or continue any outside employment without written authorization from the department head. (Ord. #56, Dec. 2006)
1-410. Ethics complaints. (1) The city attorney is designated as the ethics officer of the city. Upon the written request of an official or employee potentially affected by a provision of this chapter, the city attorney may render an oral or written advisory ethics opinion based upon this chapter and other applicable law.

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

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

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

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

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

(Ord. #56, Dec. 2006)

1-411. Violations. An elected official or appointed member of a separate municipal board, commission, committee, authority, corporation, or other instrumentality who violates any provision of this chapter is subject to punishment as provided by the municipality’s charter or other applicable law, and in addition is subject to censure by the board of mayor and aldermen. An appointed official or an employee who violates any provision of this chapter is subject to disciplinary action.  

(Ord. #56, Dec. 2006)
CHAPTER 5

ELECTIONS

SECTION
1-501. Terms of office; election date.

1-501. Terms of office; election date. The aldermen and mayor are to be elected to four (4) year staggered terms in the November general elections. (Ord. #38, Dec. 2002, modified)
CHAPTER 1

CITY TREE BOARD

SECTION

2-102. Creation and establishment of a city tree board.
2-103. Term of office.
2-104. Compensation.
2-105. Duties and responsibilities.
2-106. Operation.
2-107. Street tree species to be planted.
2-108. Spacing.
2-109. Distance from curbs and sidewalks.
2-110. Distance from street corners and fireplugs.
2-111. Utilities.
2-112. Public tree care.
2-113. Tree topping.
2-114. Pruning, corner clearance.
2-115. Dead or diseased tree removal on private property.
2-117. Interference with city tree board.
2-118. Arborists license and bond.
2-119. Review by board of mayor and aldermen.
2-120. Violations and penalty.

2-101. Definitions. (1) "Park trees" are herein defined as trees, shrubs, bushes, and all other woody vegetation in named public parks, and all areas owned by the city, or to which the public has free access as a park, such as a bike, jogging, or walking trail, or small street or civic garden.

(2) "Street trees" are herein defined as trees, shrubs, bushes, and all other woody vegetation on land lying between property lines on either side of all streets, avenues, or ways within the city. (Ord. #27, Nov. 2000, modified)
2-102. **Creation and establishment of a city tree board.** There is hereby created and established a city tree board for the City of Harrogate, Tennessee, which shall consist of up to eight (8) members. Five (5) of the tree board members shall be citizens and residents of the city or county and, if possible, one (1) member being a representative from the Tennessee Division of Forestry. All tree board members and the chairman are approved by the board of mayor and aldermen. (Ord. #27, Nov. 2000, modified)

2-103. **Term of office.** The terms of the tree board shall be for two (2) years. The chairman shall be appointed by the mayor and board of aldermen. In the event that a vacancy shall occur during the term of any member, his/her successor shall be appointed by the chairman for the unexpired portion of the term. (Ord. #27, Nov. 2000)

2-104. **Compensation.** Members of the board or related committee shall serve without compensation. (Ord. #27, Nov. 2000)

2-105. **Duties and responsibilities.** It shall be the responsibility of the board to study, investigate, counsel and develop and/or update annually, and administer a written plan for the care, preservation, pruning, planting, replanting, removal or disposition of trees and shrubs in parks, along streets, bike trails, and in other public areas. Such plan will be presented annually to the board of mayor and aldermen and upon their acceptance and approval shall constitute the official comprehensive city tree plan for the City of Harrogate, Tennessee. The board, when requested by the board of mayor and aldermen, shall consider, investigate, make findings, report and recommend upon any special matter of question coming within the scope of its work. (Ord. #27, Nov. 2000)

2-106. **Operation.** The tree board shall elect its own officers from its membership, with the exception of the chairman, make its own rules and regulations and keep a journal of its proceedings. A majority of the members shall be a quorum for the transaction of business. (Ord. #27, Nov. 2000, modified)

2-107. **Street tree species to be planted.** A list of approved trees will be maintained by the tree board. No tree species other than those included on the tree board's list shall be planted as street trees without written permission from the tree board.

2-108. **Spacing.** The spacing of street trees will be in accordance with the three species size classes listed in § 2-107 of this chapter, and no trees may be planted closer together than the following:
2-109. **Distance from curbs and sidewalks.** The distance trees may be planted from curbs or curblines and sidewalks will be in accordance with the three species size classes listed in § 2-107 of this chapter, and no trees may be planted closer to any curb or sidewalk than the following.

1. Small trees, two feet (2');
2. Medium trees, two and one-half feet (2 1/2'); and
3. Large trees, three feet (3').

(Ord. #27, Nov. 2000)

2-110. **Distance from street corner and fireplugs.** No street tree shall be planted closer than eighty feet (80') of any street corner, measured from the point of nearest intersecting curbs or curblines. No street tree shall be planted closer than eight feet (8') to a fireplug. (Ord. #27, Nov. 2000)

2-111. **Utilities.** No street trees other than those species listed as small or medium trees in § 2-107 of this chapter may be planted under or within ten (10) lateral feet of any overhead utility wire, or over or within five (5) lateral feet of any underground water line, sewer line, transmission line or other utility. (Ord. #27, Nov. 2000)

2-112. **Public tree care.** The city shall have the right to plant, prune, maintain and remove trees, plants and shrubs within the lines of all streets, alleys, avenues, lanes, squares and public ways to promote safety or to preserve or enhance the symmetry and beauty of such public grounds. The city tree board may remove or cause or order to be removed, any tree or part thereof, which is in an unsafe condition or which by reason of its nature is injurious to sewers, electric power lines, water-lines, or other public improvements, or is affected with any injurious fungus, insect or other pest. This section does not prohibit the planting of street trees by adjacent property owners providing that the selection and location of said trees is in accordance with §§ 2-107 through 2-111 of this chapter. (Ord. #27, Nov. 2000)

2-113. **Tree topping.** It shall be unlawful as a normal practice for any person, firm, or city department to top any street tree, park tree, or other tree on public property. Topping is defined as the severe cutting back of limbs to stubs larger than three inches (3") in diameter within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree. Trees severely damaged by storms or other causes, or certain trees under utility wires or other obstructions where other pruning practices are impractical may be
exempted from this chapter at the determination of the city tree board.  
(Ord. #27, Nov. 2000)

2-114. **Pruning, corner clearance.** Every owner of any tree overhanging any street or right-of-way within the city shall prune the branches so that such branches shall not obstruct the light from any street lamp or obstruct the view of any street intersection and so that there shall be a clear space of fourteen feet (14') above the surface of the street or sidewalk. Said owners shall remove all dead, diseased, or dangerous trees, or broken or decayed limbs which constitute a menace to the safety of the public. The city shall have the right to prune any tree or shrub on private property when it interferes with the proper spread of light along the street from a street light or interferes with visibility of any traffic control device or sign.  
(Ord. #27, Nov. 2000)

2-115. **Dead or diseased tree removal on private property.** The city shall have the right to cause the removal of any dead or diseased trees on private property within the city, when such trees constitute a hazard to life and property, or harbor insects or disease which constitute a potential threat to other trees within the city. The city tree board will notify in writing the owners of such trees and charge the cost of removal.  
(Ord. #27, Nov. 2000)

2-116. **Removal of stumps.** All stumps of street and park trees shall be removed below the surface of the ground so that the top of the stump shall not project above the surface of the ground.  
(Ord. #27, Nov. 2000)

2-117. **Interference with city tree board.** It shall be unlawful for any person to prevent, delay or interfere with the city tree board, or any of its agents, while engaging in and about the planting, cultivating, mulching, pruning, spraying, or removing of any street trees, park trees, or trees on private grounds, as authorized in this chapter.  
(Ord. #27, Nov. 2000)

2-118. **Arborists license and bond.** It shall be unlawful for any person or firm to engage in the business or occupation of pruning, treating, or removing street or park trees within the city without first obtaining written permission from the Harrogate Tree Board. Permission shall not be required of any public service company or city employee doing such work in the pursuit of their public service endeavors. Before any permission shall be issued by the tree board each firm shall provide evidence of liability insurance in the minimum amounts covered by the Tennessee Governmental Tort Liability Act indemnifying the city or any person injured or damaged resulting from the pursuit of such endeavors as herein described.  
(Ord. #27, Nov. 2000, modified)

2-119. **Review by board of mayor and aldermen.** The board of mayor and aldermen shall have the right to review the conduct, acts, and decisions of
the city tree board. Any person may appeal from any ruling or order of the city

2-120. Violations and penalty. A violation of any provision of this chapter shall subject the offender to a penalty under the general penalty provision of this code. Each day a violation shall be allowed to continue shall constitute a separate offense.
CHAPTER 2

PARKS AND RECREATION ADVISORY BOARD

SECTION
2-201. Powers and duties.
2-203. Election of officers.
2-204. Meetings.
2-205. Order of business.
2-206. Adoption and amendment.

2-201. Powers and duties. (1) The role of the parks and recreation advisory board is to serve as an advisory body to the Harrogate Mayor and Board of Aldermen on all matters related to recreational activities and facilities provided by the City of Harrogate.

(2) In performing this role, the parks and recreation advisory board shall have the following duties and responsibilities:

(a) Adopt a set of bylaws.

(b) Review and/or recommend policies and procedures that encompass recreational activities and facilities.

(c) Review the utilization of facilities and make recommendations regarding lease, acquisition, sale, design, improvement, maintenance, operations and scheduling of facilities/equipment provided by the City of Harrogate.

(d) Advise the mayor and board of aldermen of the needs of the different recreational organizations within the City of Harrogate, and make appropriate recommendations.

(e) Review policies and make recommendations regarding fees, services, charges, and fines related to program activities, facilities and equipment provided by the city.

(f) Research grants/funding of recreational programs and facilities.

(g) Establish recreational activities and programs.

(h) To perform any other related duties as directed by the Harrogate City Council.

2-202. Membership. (1) The parks and recreation advisory board shall consist of six (6) voting members, all of whom shall be residents of the City of Harrogate. There shall be one (1) representative of the Harrogate Board of Mayor and Aldermen, one (1) representative of Lincoln Memorial University, and four (4) citizen representatives. The Harrogate Board of Mayor and Aldermen shall appoint all members for a term of two (2) years.
(2) If a vacancy should occur on the parks and recreation advisory board for any reason, a recommendation by the respective organizations shall be made to that seat for the duration of the un-expired term, and the mayor and board of aldermen shall appoint the vacant seat.

2-203. Election of officers. (1) A chairman, a vice-chairman and a secretary shall be elected by the parks and recreation advisory board members and confirmed into office by approval by the Harrogate Mayor and Board of Aldermen.

(2) The chairman shall preside over the meetings of the parks and recreation advisory board and appoint all standing and temporary committees.

(3) The vice-chairman shall serve as a temporary chairman in the absence of the chairman. In the event that both the chairman and the vice-chairman are absent a temporary chairman shall be elected to conduct that meeting and proceed with the order of business.

(4) The secretary shall, in concurrence with the chairman, prepare agendas for all meetings, prepare the minutes of all meetings, provide public notice of scheduled meetings, and perform other duties as necessary.

2-204. Meetings. (1) Regular meetings shall be held on the second Monday of each month at 6:00 P.M. at the Harrogate City Hall. Members shall be notified by e-mail of each regular meeting by the secretary.

(2) All regular meetings of the parks and recreation advisory board shall be open to the public.

(3) Four (4) voting members of the parks and recreation advisory board shall constitute a quorum. A quorum shall be present before any business is transacted.

(4) In order for the parks and recreation advisory board to carry out its duties and responsibilities, it is necessary for all members to attend the meetings.

(5) All actions of the parks and recreation advisory board shall be put before its members in the form of a motion, duly seconded, and voted upon by members present for a quorum.

(6) Voting shall be done by show of hands. The chairman shall vote only in case of a tie.

(7) The parks and recreation advisory board shall keep a record of its meetings, recommendations, findings and determinations. These records shall be public and maintained in the files of the Parks and Recreation Advisory Board of the City of Harrogate at the city hall.

2-205. Order of business. (1) Order of business shall be as follows:

(a) Determination of quorum.
(b) Approval of previous minutes.
(c) Old business.
(d) New business.
(e) Adjournment.

(2) Items of business at the regular meeting shall appear on the agenda. All items on the agenda shall be presented to the secretary at least seven (7) days prior to the meeting.

2-206. Adoption and amendment. (1) Bylaws of the parks and recreation advisory board shall be adopted by a majority vote of the mayor and board of aldermen.

(2) Bylaws of the parks and recreation advisory board may be amended from time to time by majority vote of the mayor and board of aldermen at a duly constituted meeting provided that such proposed amendment shall have been first submitted to all its members in writing prior to the meeting at which the vote is taken.
CHAPTER 3

BOOK STATION COMMITTEE

SECTION
2-301. Powers and duties.
2-302. Membership.
2-303. Election of officers.
2-304. Meetings.
2-305. Order of business.
2-306. Adoption and amendment.

2-301. Powers and duties. (1) The role of the book station board is to serve as an advisory body to the Harrogate Board of Mayor and Aldermen on all matters related to book station activities provided by the City of Harrogate.

(2) In performing this role, the book station board shall have the following duties and responsibilities:
(a) Adopt a set of bylaws.
(b) Review and/or recommend policies and procedures that encompass book station activities.
(c) Review the utilization of the book station and make recommendations regarding the acquisition, sale, design, improvement, maintenance, and operations of the book station facilities and/or equipment provided by the City of Harrogate.
(d) Advise the board of mayor and aldermen of the needs of the book station and make appropriate recommendations.
(e) Review policies and make recommendations regarding fees, services, charges, and fines related to program activities, facilities and equipment provided by the city.
(f) Research grants/funding of recreational programs and facilities.
(g) Establish book station activities and programs.
(h) To perform any other related duties as directed by the Harrogate Board of Mayor and Aldermen.

2-302. Membership. (1) The book station board shall consist of five (5) voting members, all of whom shall be residents of the City of Harrogate. There shall be four (4) citizen representatives and one (1) representative of the Harrogate Board of Mayor and Aldermen. All members shall be appointed by the Harrogate Board of Mayor and Aldermen for a term of two (2) years.

(2) If a vacancy should occur on the book station board for any reason, a recommendation shall be made to that seat for the duration of the unexpired term, and the board of mayor and aldermen shall appoint the vacant seat.
2-303. **Election of officers.** (1) A chairman, a vice-chairman and secretary shall be elected by the book station board members and confirmed into office by approval by the Harrogate Board of Mayor and Aldermen.

(2) The chairman shall preside over the meetings of the book station board and appoint all standing and temporary committees.

(3) The vice-chairman shall serve as a temporary chairman in the absence of the chairman. In the event that both the chairman and the vice-chairman are absent, a temporary chairman shall be elected to conduct that meeting and proceed with the order of business.

(4) The secretary shall, in concurrence with the chairman, prepare agendas for all meetings, provide public notice of scheduled meetings, and perform other duties as necessary.

2-304. **Meetings.** (1) Regular meetings shall be held on the second Tuesday of each month at 5:00 P.M. at the Harrogate Book Station. Members shall be notified by e-mail of each regular meeting by the secretary.

(2) All regular meetings of the book station board shall be open to the public.

(3) Three (3) voting members of the book station board shall constitute a quorum. A quorum shall be present before any business is transacted.

(4) In order for the book station board to carry out its duties and responsibilities, it is necessary for all members to attend the meetings. Three (3) consecutive unexcused absences or failing to attend seventy-five percent (75%) of the meetings in a year will allow the chairman to request the position to be vacated and a replacement to be appointed by the Harrogate Board of Mayor and Aldermen.

(5) All actions of the book station board shall be put before its members in the form of a motion, duly seconded, and voted upon by all unexcused members present for a quorum. At least three (3) voting members shall be present before a vote may be taken.

(6) Voting shall be done by show of hands. The chairman shall vote only in case of a tie.

(7) The book station board shall keep a record of its meetings, recommendations, findings and determinations. These records shall be public and maintained in the files of the Book Station Board of the City of Harrogate at the City Hall.

2-305. **Order of business.** (1) Order of business shall be as follows:

(a) Determination of quorum;
(b) Approval of previous minutes;
(c) Old business;
(d) New business;
(e) Adjournment.
(2) Items of business at the regular meeting shall appear on the agenda. All items on the agenda shall be presented to the secretary at least five (5) days prior to the meeting.

2-306. Adoption and amendment. (1) Bylaws of the book station board shall be adopted by a majority vote of the Harrogate Board of Mayor and Aldermen.

(2) Bylaws of the book station board may be amended from time to time by majority vote of the Harrogate Board of Mayor and Aldermen at a duly constituted meeting provided that such proposed amendment shall have been first submitted to all its members in writing prior to the meeting at which the vote is taken.
TITLE 3

MUNICIPAL COURT

[RESERVED FOR FUTURE USE]
4-101. Personnel policy. (1) Purpose. The purpose of this resolution is to establish a system of personnel administration in the City of Harrogate, Tennessee.

(2) At-will employer. The City of Harrogate, Tennessee is an at-will employer. Nothing in this chapter may be construed as creating a property right or contractual right to any job for any employee.

(3) Coverage. The following personnel are not covered by all sections of this policy, unless otherwise provided:

(a) All elected officials;
(b) Members of appointed boards and commissions;
(c) Consultants, advisers, and legal counsel rendering temporary professional service;
(d) The city attorney;
(e) Independent contractors and/or contract employees;
(f) Volunteer personnel (exception: see § 4-108 of this policy).
(g) The city judge.

All other employees of the municipal government are covered by this personnel policy.
14-102. **Employees.** (1) **Full-time.** Full-time employees are individuals employed by the municipal government who normally work thirty-six (36) hours per week.

(2) **Part-time.** Part-time employees are individuals who may not work on a daily basis or work on a daily basis fewer than eight (8) hours a day and may work fewer than thirty-six (36) hours per week or who are temporary and/or seasonal employees.

4-103. **Hiring procedures.** (1) **Policy statement.** The primary objective of this hiring policy is to ensure compliance with the law and to obtain qualified personnel to serve the citizens of the municipality. The municipality shall make reasonable accommodations in all hiring procedures for all persons with disabilities. If an accommodation is needed, please contact the city recorder.

(2) **Application.** All persons seeking appointment or employment with the municipality must complete a standard application form provided by the municipal government. Applications for employment shall be accepted in the city recorder's office during regular office hours only. Applications will remain on active status for six (6) months after accepted or until the job for which the application is submitted is filled, whichever period of time is less.

The city complies with the Americans with Disabilities Act. Applicants requesting reasonable accommodations at any point in the employment process should contact the city recorder.

(3) **Interviews.** All appointments will be preceded by an interview with the board of mayor and aldermen.

(4) **Pre-appointment exams.** For certain positions, the employee may be required to undergo a validated physical agility examination related to the essential functions of the job, validated written and/or oral tests related to the essential functions of the job, drug testing, and, upon a conditional offer of employment, a medical examination to determine the employee's ability to perform the essential functions of the job. Reasonable accommodations shall be made in the physical agility exam for applicants with disabilities making a request for accommodations.

(5) **Appointments, etc.** All appointments shall be made in accordance with lawful provisions of the municipal charter if there are applicable provisions in the charter.

4-104. **Benefits.** (1) **Holidays.** Employees must be in a pay status on the work day before and on the work day after the holiday, unless otherwise excused by the supervisor, to receive compensation for the holiday.

The following days will be paid holidays. City hall will be closed on these days. Any employee required to work on a regular holiday will be granted an additional eight (8) hours pay for the holiday.
New Year's Day  
Memorial Day  
July 4th  
Labor Day  
Thanksgiving Day  
Christmas Day

The following days are considered to be non-paid holidays. City hall will be closed on these days. If an employee is normally scheduled to work on one (1) of these days and the employee chooses to work, he or she will be paid regular pay only for that day.

Good Friday  
Veterans Day  
Friday Following Thanksgiving  
Christmas Eve

If a holiday falls on Saturday, it will be observed on the preceding Friday. If a holiday falls on Sunday, it will be observed on the following Monday.

(2) **Paid leave time.** All full-time employees shall accumulate 6.67 hours of paid leave time for each month of work completed for the municipality. Paid leave will begin to accrue as of the first full month of employment, but cannot be taken until the employee has completed three (3) months of employment.

Employees shall not be paid for accrued paid leave upon the employee's termination, resignation or retirement.

Paid leave not used by the end of the calendar year may be carried over to the following year; however no more than twenty-four (24) hours may be carried over during any calendar year.

Paid leave will be scheduled in advance for the mutual convenience of the employee and the city so proper adjustments can be made in the work schedules. Supervisors preparing leave schedules will give choice of dates based on seniority of the personnel in their department, and an employee may not begin his/her paid leave until his/her request has been approved by the supervisor.

(modified)

**4-105. Grievance procedures.** **Grievance policy.** The purpose of this section is to prescribe uniform disposition procedures of grievances presented by individual employees. A grievance is a written question, disagreement, or misunderstanding concerning administrative orders involving only the employee's work area, reasonable accommodations under Americans with Disabilities Act, physical facilities, unsafe equipment, or unsafe material used. The grievance must be submitted within five (5) working days of the incident causing the grievance.
Employees must remember that there is no grievance until the
department head or other appropriate person has been made aware of the
dissatisfaction by written notice. Once this is done, then discuss the problem
with the mayor of the municipality. The mayor's decision is the last and final
step in the process. The decision of the mayor is final and binding to all parties
involved.

4-106. **State and federal personnel mandates.** (1) *Discrimination
prohibited.* The municipality is an equal opportunity employer. Except as
otherwise permitted by law, the municipality will not discharge or fail or refuse
to hire any individual, or otherwise discriminate against any individual with
respect to compensation, terms, conditions, or privileges of employment because
of the individual's race, color, religion, gender, or national origin, veteran status
or because the individual is forty (40) or more years of age. The municipality
will not discriminate against a qualified individual with a disability because of
the disability in regard to job application procedures, hiring or discharge,
employee compensation, job training, or other terms, conditions, and privileges
2000e-15; Equal Pay Act 1963 – 29 USC § 206(d); Age Discrimination in
Employment Act – 29 USC §§ 621 et seq.; Americans With Disabilities Act – 42
USC §§ 506 et seq.)

(2) *Sexual harassment prohibited.* Sexual harassment by any
employee or elected or appointed official of the municipality will not be
tolerated. Sexual harassment is unwanted sexual conduct, or conduct based
upon sex, by an employee's supervisor(s) or fellow employees or others at the
work place that creates a hostile work environment, makes decisions contingent
on sexual favors, or adversely affects an employee's job performance. Examples
of conduct that may constitute sexual harassment are: sexual advances,
requests for sexual favors, propositions, physical touching, sexually provocative
language, sexual jokes, and display of sexually-oriented pictures or photographs.

Any employee who believes that he or she has been subjected to sexual
harassment should immediately report this to the title VI coordinator, city
recorder or mayor.

The municipality will conduct an immediate investigation in an attempt
to determine all the facts concerning the alleged harassment. If the
municipality determines that sexual harassment has occurred, corrective action
will be taken. The municipality will make the corrective action proportional to
the severity of the conduct. If it is determined that no harassment has occurred,
this will be communicated to the employee who made the complaint, along with
the reasons for the determination.

Within the limits of the Tennessee Open Records Law, the municipality
will handle the matter with as much confidentiality as possible. There will be
no retaliation against an employee who makes a claim of sexual harassment or
who is a witness to the harassment.
(3) **Occupational safety and health.** The municipality shall provide job safety and health protection and training for all employees in accordance with the Occupation Safety and Health Administration (OSHA) Legislation (29 USC §§ 656 et seq.) and the Tennessee OSHA Law (Tennessee Code Annotated, § 50-3-101, et seq.).

(4) **Overtime compensation.** The Fair Labor Standards Act (FLSA) shall govern the overtime compensation of municipal employees (29 CFR §§ 553.1 et seq.). Mistakes or errors in compensation shall be brought to the attention of the supervisor and will be corrected in a timely manner.

(5) **Military leave/veterans' re-employment.** All employees who are members of or who may become members of reserve components of the armed forces, including the National Guard, are entitled to leave while engaged in "duty or training in the service of this state, or of the United States, under competent orders," and must be given leave with pay not exceeding twenty (20) working days in any one (1) calendar year (Tennessee Code Annotated, § 8-33-109). Also, any employee of the municipality who leaves his/her job, voluntarily or involuntarily, to enter active duty in the armed forces may return to the same or comparable position in accordance with Veterans' Re-employment Rights (38 USC § 202-2016) and the Tennessee Military Leave Act (Tennessee Code Annotated, § 8-33-101, et seq.).

(6) **Family and medical leave.** If the municipality has fifty (50) or more employees on the payroll an eligible employee (one (1) who has been employed at least twelve (12) months and worked at least one thousand two hundred fifty (1,250) hours in the preceding twelve (12) months) will be provided up to twelve (12) calendar weeks of leave for medical conditions of the employee or his/her family members in accordance with the Family and Medical Leave Act (P.L. 103-3). If eligible under FMLA, the employer may provide up to twenty-six (26) weeks of leave for an employee or family member who is the primary caretaker of the spouse, son, daughter, parent or next of kin of a servicemember who is recovering from a serious illness or injury sustained in the line of duty on active duty.

(7) **Commercial driver's license.** All employees that drive:

(a) A vehicle with a gross weight of more than twenty-six thousand (26,000) pounds;

(b) A trailer with a gross weight of more than ten thousand (10,000) pounds;

(c) A vehicle designed to transport more than fifteen (15) passengers, including the driver; and

(d) Any size vehicle hauling hazardous waste requiring placards are required to have a Tennessee Commercial Driver's License in accordance with Tennessee Code Annotated, § 55-50-101, et seq. Fire truck, police vehicle, and emergency medical vehicle operators are exempt from the CDL requirements.
(8) **Employee drug testing.** All employees in safety-sensitive positions (such as gas employees, equipment/vehicle operators that require a commercial driver's license, etc.) are subject to alcohol and drug testing in accordance with the Department of Transportation (DOT) Omnibus Transportation Employee Testing Act of 1991 (P.L. 102-143, title V) and the Natural Gas Pipeline Safety Act (49 CFR Part 199). Other employees as well as volunteers for the city including the volunteer fire fighters may be subject to drug testing in accordance with the drug testing policy of the municipality. The municipality's procedures for drug testing can be found in Appendix C of the municipal code.

(9) **Employee right to contact elected officials.** No employee shall be disciplined or discriminated against for communicating with an elected official. However an employee may be reprimanded for making untrue allegations concerning any job-related matter (Tennessee Code Annotated, § 8-50-601 – 604).

(10) **Civil leave.** Civil leave with pay shall be granted to employees for the following reasons:

- (a) Jury duty (Tennessee Code Annotated, § 22-4-108);
- (b) To answer a subpoena to testify for the municipality.

If the employee received compensation for his/her jury serve, it must be remitted to the city.

(11) **Voting.** When elections are held in the state, leave for the purpose of voting, if requested, shall be in accordance with Tennessee Code Annotated, § 2-1-106.

(12) **Political activity.** Employees have the same rights as other citizens to be a candidate for state or local political office and to participate in political activities by supporting or opposing political parties, political candidates, and petitions to governmental entities. Unless the municipal governing body passes a proper municipal ordinance, employees are not allowed to serve on the municipal governing body in the city where they are employed. No employee may campaign on municipal time or in municipal uniform nor use municipal equipment or supplies in any campaign or election (Tennessee Code Annotated, § 7-51-1501).

(13) **Travel policy.** All employees, including elected and appointed officials, are required to comply with the municipality's travel policy as required by Tennessee Code Annotated, § 6-54-901.

Travel regulations herein govern travel on official business for the City of Harrogate and apply to all city personnel and elected and appointed officials. Travel expenses for spouse, children, or other guests will not be paid by the city. The mayor and city recorder are responsible for enforcement of this travel policy.

City personnel who travel on official city business should receive prior approval from the mayor. Unauthorized travel costs may not be reimbursed.

Prior to travel the employee should furnish the mayor a "request for travel" form showing a reasonable estimate of all costs associated with the trip.
and the amount of advance money requested. Registration fees, airfares, and similar expenses are to be invoiced directly to the city. If travel is for the purpose of attending a conference or seminar, a copy of the program should be attached to the request for travel form either before or after the trip.

City personnel should complete the "request for travel" form in a timely manner and submit it to the mayor for approval upon completion of travel. Receipts for lodging, vehicle rental, public carrier travel, meals and other costs are required except for taxis, tolls, tips, etc., less than five dollars ($5.00). A brief summary of the context of the meeting or conference as it relates to the city should also accompany the travel form. All travel forms must be signed by the traveler; no stamped signatures will be allowed.

City personnel and officials should be prudent and cautious in the expenditure of all funds for official travel and should make use of discounts for early registration, airline tickets, and governmental rates for lodging or rental care expenses. Allowable expenses are those that are practical, necessary, and economical. Expenses incurred by and for persons other than city personnel are not reimbursable when official travel is combined with personal travel, only costs attributable to city business will be reimbursed. Authorized personnel and officials may use credit cards at the discretion of the mayor and the card will be returned to the city recorder's office immediately following travelers' return.

(a) Travel documentation. It is the responsibility of the authorized traveler to:
   (i) Prepare and accurately describe the travel;
   (ii) Certify the accuracy of the reimbursement request;
   (iii) Note on the reimbursement form all direct payments and travel advances made by the local government; and
   (iv) File the reimbursement form with the necessary supporting documents and original receipts.
   The reimbursement form should be filed with the city recorder within ten (10) days of return or at the end of the month, whichever is more practical.

(b) Transportation. (i) Air. The city will pay for tourist or common class air travel. Airline travel should be planned sufficiently in advance to take advantage of any discounts so that tickets can be invoiced to the city.

   Any mileage credits for frequent flyer programs will accrue to the individual traveler; however, the city will not pay for additional fees above regular cost for traveler to extend stays, circuitous routing, scheduling with a particular carrier, etc., in order to receive mileage credit.

   The city will not reimburse travel by private aircraft unless authorized by the mayor in advance of travel.

   (ii) Automobile. Automobile transportation may be used for official out-of-town travel when common carrier transportation
cannot be scheduled, when automobile travel is more economical, or when expenses can be reduced by two (2) or more city employees traveling together. Mileage will be paid for the use of a private vehicle from origin to destination by the most direct route when on official city business at a rate not to exceed the rate allowed by the Internal Revenue Service. Local travel related to official business in the area will be reimbursed.

Mileage for use of a privately owned vehicle transporting two (2) or more authorized travelers on the same trip will be paid to the owner or person who has custody of the vehicle.

City personnel traveling in city vehicles must furnish receipts for gas, oil, and any necessary automobile repairs.

Rental cars may be used when public transportation services are not sufficient or when it is less expense than other available means. Rental car usage must be approved by the mayor. Liability coverage listing the City of Harrogate as insured must be obtained from the vendor for any use of rental vehicles.

Fines for traffic or parking violations will not be reimbursed by the city.

Reasonable taxi or public transportation fares will be allowed when bus or limousine service from the airport is not furnished. Taxi fare will be allowed for travel between lodging quarters and meetings or conferences. The city will pay airport-parking fees provided such fees do not exceed normal taxi-limousine fares to and from the airport.

(c) Lodging. Lodging expenses paid by the city will be limited to the minimum number of nights required to conduct the assigned city business except in instances when it is financially advantageous to arrive earlier or stay later in order to obtain a discount air fare. The city will not pay for any additional expense if the traveler chooses to arrive earlier or stay later.

The city will pay lodging expenses at the single room rate, except when two (2) or more city personnel share a room. The maximum reimbursement for lodging is eighty dollars ($80.00) per night, not including taxes, unless authorized in advance by the mayor. When making reservations, government or weekend rates should be requested if less than the conference or regular rate.

All costs for lodging must be supported by documentation.

(d) Development and communications. The mayor may utilize city credit cards or may otherwise claim reimbursement for valid and appropriate business and city-related meal and development expenses including but not limited to business meals with other officials, business location prospects, and other appropriate persons.
(e) Miscellaneous expenses/items. Registration fees for approved conferences, conventions, seminars, meetings, etc., will be allowed including cost of official banquets and/or luncheons. Travel should be approved by the mayor before registration is paid. Amount of registration must be shown on "request for travel" form. All trip-related travel expenses should be included on one "request for travel" form.

Tips and/or gratuities in excess of fifteen percent (15%) will not be reimbursed by the city.

Expenditures for laundry, in-room movies, valet services and other personal charges will not be paid by the city.

Official long distance telephone calls are allowed but only one (1) personal telephone call per day is permitted unless approved by the mayor. The maximum reimbursement for personal phone costs in five dollars ($5.00) per day.

Telegram-telegraph and facsimile service may be used for official communication if necessary and essential.

Special arrangements must be made with the mayor for attendance at schools, seminars, or institutes either in-state or out-of-state requiring absences from the city of one (1) week or longer. Police officers attending the FBI Academy on approval of the mayor are exempt from this requirement.

Any miscellaneous expenses must be explained on the completed "request for travel" form.

If fraudulent claims are discovered, disciplinary action may be taken with possible civil or criminal charges being filed on behalf of the city.

Any travel expenses not addressed above but which are incurred in the course of official city business will be evaluated on a case-by-case basis by the mayor.

(14) Computer use and email monitoring policy. It is every employee's duty to use the city's computer resources and communication devices responsibly, professionally, ethically, and lawfully. These policies are not intended to, and do not grant users any contractual rights. The term "computer resources" refers to the city's computers, electronic equipment, and its entire computer network.

The city has the right, but not the duty, to monitor any and all aspects of the computer resources, including monitoring sites visited by employees on the internet, monitoring chat groups and news groups, reviewing material downloaded or uploaded by users to the internet, and reviewing email sent and received by others.

All employee correspondence in the form of electronic mail may be considered a public record and may be subject to public inspection under the Tennessee Public Records Law.
4-107. **Miscellaneous personnel policies.** Please note some of the policies in this section may be outlined in more detail in the city's ethics policy. Please refer to the city's ethics policies for more information (see ethics policy).

1. **Outside employment.** No full-time employee of the municipality may accept any outside employment without written authorization from the mayor.

2. **Use of municipal time, vehicles, facilities, etc.** No employee may use or authorize the use of municipal time, facilities, equipment, or supplies for private gain or advantage to oneself or any other person, group, or organization other than the municipality. Decisions to permit use by charitable, civic or other organizations will be made exclusively by the governing body or their designee.

3. **Accepting of gratuities.** No employee shall accept any money, other considerations, or favors from anyone other than the municipality for performing an act that he/she would be required or expected to perform in the regular course of his/her duties. No employee shall accept, directly or indirectly, any gift, gratuity, or favor of any kind that might reasonably be interpreted as an attempt to influence his/her actions with respect to the municipality's business.

4-108. **Dismissal.**

1. **At-will.** Employees may be dismissed for cause, for no cause, or for any cause as long as it does not violate federal and/or state law or the municipal charter.

2. **Name-clearing hearing.** A name-clearing hearing will be given to any terminated, demoted, or suspended employee that requests one. This hearing will not be conducted to provide an employee any property rights. The purpose of the hearing is solely to let the employee clear his/her name.

4-109. **Personnel policy changes.** Nothing in this chapter may be construed as creating a property right or contract right to the job for any employee. The provisions of this personnel policy may be unilaterally changed by ordinance of the governing body from time to time as the need arises.

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1Municipal code reference
Code of ethics: title 1, ch. 4.
CHAPTER 2

DRUG AND ALCOHOL TESTING POLICY

SECTION

4-201. Drug and alcohol testing policy.

4-201. Drug and alcohol testing policy. The policies for drug and alcohol testing for the City of Harrogate are contained in their entirety in Appendix C.
MUNICIPAL FINANCE AND TAXATION

CHAPTER 1
DEPOSITORIES

SECTION
5-101. Authorized depositories.
5-102. Depository contract.

5-101. Authorized depositories. The following banking and/or savings and loan institutions situated in the State of Tennessee are hereby designated as depository for the public monies of the city. The officials charged with the responsibility of depositing said funds shall make such deposits in no other or different banking institutions in the state: First Century Bank, First State Bank, Home Federal Bank, Local Government Investment Pool, Citizens Bank and Commercial Bank. (Ord. #2, Jan. 1993, modified)

5-102. Depository contract. The city complies with the state regulations for depositories and collateral as found in Tennessee Code Annotated, title 9, chapter 4 as it pertains to municipal funds.

Charter references
For specific charter provisions on depositories of municipal funds, see Tennessee Code Annotated, § 6-4-402.
CHAPTER 2

PURCHASING PROCEDURES

SECTION
5-201. Purchasing agent--office created.
5-203. Public advertising and competitive bidding.

5-201. Purchasing agent--office created. As provided in Tennessee Code Annotated, § 6-56-301, et seq., the office of purchasing agent is hereby created and the mayor shall faithfully discharge the duties of said office or appoint an individual under his direct supervision to make purchases for the City of Harrogate. Purchases shall be made in accordance with the Municipal Purchasing Law of 1983 and amendments thereto, this ordinance and purchasing procedures approved by the government body. Purchasing procedures for the City of Harrogate are contained in their entirety in Appendix D. (Ord. #31, June 2002)

5-202. Duties of purchasing agent. The purchasing agent, or designated representative, as provided herein, shall purchase materials, supplies, services, and equipment, provide for leases and lease-purchases and dispose of surplus property in accordance with purchasing procedures approved by the governing body and filed with the city recorder. (Ord. #31, June 2002)

5-203. Public advertising and competitive bidding. Public advertisement and competitive bidding shall be required for the purchase of all goods and services exceeding an amount of ten thousand dollars ($10,000.00) except for those purchases specifically exempted from advertisement and bidding by the Municipal Purchasing Act of 1983 and other state regulations. (Ord. #68, July 2008, modified)
CHAPTER 3

WHOLESALE BEER TAX

SECTION
5-301. To be collected.

5-301. To be collected. The city recorder is hereby directed to take appropriate action to assure payment to the city of the wholesale beer tax levied by the "Wholesale Beer Tax Act," as set out in Tennessee Code Annotated, title 57, chapter 6.¹

¹State law reference
Tennessee Code Annotated, title 57, chapter 6 provides for a tax of 17% on the sale of beer at wholesale. Every wholesaler is required to remit to each municipality the amount of the net tax on beer wholesale sales to retailers and other persons within the corporate limits of the municipality.

Municipal code references
Alcohol and beer regulations: title 8.
Beer privilege tax: § 8-208.
6-101. County sheriff's department to enforce municipal ordinances. The Sheriff's Department of Claiborne County shall enforce the municipal ordinances of the city according to the terms of the agreement entered into between the city and the County of Claiborne, the Sheriff's Department of the County of Claiborne, and the Claiborne County Court of General Sessions, pursuant to Tennessee Code Annotated, §§ 8-8-201(34), 12-9-104 and 16-15-501.¹

¹This agreement is of record in the office of the city recorder.
TITLE 7

FIRE PROTECTION AND FIREWORKS

CHAPTER
1. FIRE CODE.
2. VOLUNTEER FIRE DEPARTMENT.
3. FIRE SERVICE OUTSIDE CITY LIMITS.
4. FIREWORKS.

CHAPTER 1

FIRE CODE

SECTION
7-102. Available in recorder's office.
7-103. Enforcement.
7-104. Modifications.
7-105. Gasoline trucks.
7-106. Variances.
7-107. Violations and penalty.

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 providing a reasonable level of life safety and property protection from the hazards of fire, explosion or dangerous conditions in new and existing buildings, structures, and premises, and to provide safety to fire fighters and emergency responders during emergency operations, the International Fire Code, 2006 edition, as recommended by the International Code Council, is hereby adopted by reference and included as part of this code. Said international fire code is adopted and incorporated as fully as if set out at length herein and shall be controlling within the corporate limits. (Ord. #60, March 2007, modified)

7-102. Available in recorder's office. Pursuant to the requirements of the Tennessee Code Annotated, § 6-54-502, one (1) copy of the fire code has

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1Municipal code reference
   Building, utility and housing codes: title 12.

2Copies of this code (and any amendments) are available from the International Code Council, 900 Montclai-road, Birmingham, Alabama 35213-1206.
been placed on file in the recorder's office and shall be kept there for the use and inspection of the public. (Ord. #60, March 2007)

7-103. Enforcement. The International Fire 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.

7-104. Modifications. The International Fire Code adopted in § 7-101 above is modified by deleting therefrom section 108, titled “Board of Appeals,” in its entirety; § 7-106 below shall control appeals.

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.

7-106. Variances. The chief of the fire department may recommend to the board of mayor and aldermen variances from the provisions of the international fire 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 board of mayor and aldermen.

7-107. Violations and penalty. A violation of any provision of this chapter shall subject the offender to a penalty under the general penalty provision of this code. Each day a violation shall be allowed to continue shall constitute a separate offense.
CHAPTER 2

VOLUNTEER FIRE DEPARTMENT

SECTION
7-201. Establishment, equipment, and membership.
7-202. Funding; purchases.
7-203. Objectives.
7-204. Organization, rules, and regulations.
7-205. Records and reports.
7-206. Tenure and compensation of members.
7-207. Chief responsible for training and maintenance.
7-208. Chief to be assistant to state officer.

7-201. Establishment, equipment, and membership. There is hereby established a volunteer fire department to be supported and equipped from appropriations by the board of mayor and aldermen and from other contributions. All apparatus, equipment, and supplies of the fire department shall be purchased with the approval of the fire chief in accordance with municipal purchasing requirements and shall be and remain the property of the city. The fire department shall be composed of a chief appointed by the board of mayor and aldermen, and such number of subordinate officers and firemen as appointed by the fire chief. The fire department shall consist of no more than fifty (50) volunteers in addition to the fire chief and all officers. (Ord. #43, June 2004, modified)

7-202. Funding; purchases. The board of mayor and aldermen shall provide for the operations of the fire department in its annual budget. Any funds raised by or gifts given to the fire department, or by any individual or group of volunteer firemen in the name of the volunteer fire department may be accepted by the board of mayor and aldermen. All equipment, materials, supplies, etc. purchased with contributed funds shall become the property of the City of Harrogate. The board of mayor and aldermen may reject any gift or contribution it deems not to be in the best interest of the City of Harrogate. (Ord. #43, June 2004, modified)

7-203. 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;

1Municipal code reference
Special privileges with respect to traffic: title 15, chapter 2.
(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;
(7) To provide emergency medical care at the highest level that the equipment and training of the personnel makes practicable;
(8) To serve as the emergency management agency of the city;
(9) To protect the health and safety of the citizens from hazardous materials to the extent possible that the level of equipment and training will allow;
(10) To provide public fire education materials and information to the citizens in order that they may protect themselves from harm. (Ord. #43, June 2004, modified)

7-204. Organization, rules, and regulations. The chief of the City of Harrogate Volunteer Fire Department shall under the direction of the board of mayor and aldermen set up the organization of the department, make assignments to individuals, based on input, suggestions and recommendations from members of the volunteer fire department and shall formulate and enforce such rules and regulations as shall be necessary for the orderly and efficient operation of the fire department. (Ord. #43, June 2004)

7-205. Records and reports. The chief of the City of Harrogate Volunteer Fire Department shall prepare a report to be presented monthly to the meeting of the board of mayor and aldermen. The chief shall also prepare the annual departmental budget to be approved by the board of mayor and aldermen, keep adequate records of all fires, inspections, apparatus, equipment, personnel, and work of the department. He shall submit such reports to the mayor and board of aldermen as they require. (Ord. #43, June 2004, modified)

7-206. Tenure and compensation of members. The chief of the City of Harrogate Volunteer Fire Department shall have the authority to suspend any other member of the fire department when he deems such action to be necessary for the good of the department. The chief may be suspended up to thirty (30) days by the mayor and board of aldermen. However, only the board of mayor and aldermen shall dismiss the fire chief.

All personnel of the Harrogate Volunteer Fire Department shall receive such compensation for their services as the board of mayor and aldermen may from time to time prescribe. (Ord. #43, June 2004, modified)

7-207. 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 volunteer fire department under the direction and subject to the requirements of the board of
mayor and aldermen. The minimum training shall consist of having the personnel take the fire apparatus out for practice operations not less than once a month. (Ord. #43, June 2004, modified)

7-208. Chief to be assistant to state officer. Pursuant to requirements of Tennessee Code Annotated, § 68-102-108, the fire chief is designated as an assistant to the state commissioner of commerce and insurance and is subject to all the duties and obligations imposed by Tennessee Code Annotated, title 68, chapter 102, and shall be subject to the directions of the commissioner in the execution of the provisions thereof. (Ord. #43, June 2004)
CHAPTER 3

FIRE SERVICE OUTSIDE CITY LIMITS

SECTION

7-301. Fire service outside city limits.

7-301. Fire service outside city limits. The board shall have full power and authority to authorize the use of the city's fire-fighting equipment and personnel outside the corporate limits to suppress and extinguish fires subject to such conditions and limitations of such action as the board may impose pursuant to the authority of:

(1) **Tennessee Code Annotated, § 58-8-101, et seq.,** the Mutual Aid and Emergency Disaster Assistance Agreement Act of 2004, which authorizes municipalities to respond to requests from other governmental entities affected by situations in which its resources are inadequate to handle. The act provides procedures and requirements for providing assistance. No separate mutual aid agreement is required unless assistance is provided to entities in other states, but a municipality may, by resolution, continue existing agreements or establish separate agreements to provide assistance. Assistance to entities in other states is still provided pursuant to **Tennessee Code Annotated, § 12-9-101, et seq.** "Assistance" is defined in the act as "the provision of personnel, equipment, facilities, services, supplies, and other resources to assist in firefighting, law enforcement, the provision of public works services, the provision of emergency medical care, the provision of civil defense services, or any other emergency assistance one governmental entity is able to provide to another in response to a request for assistance in a municipal, county, state, or federal state of emergency."

(2) **Tennessee Code Annotated, § 12-9-101, et seq.,** the Interlocal Cooperation Act, which authorizes municipalities and other governments to enter into mutual aid agreements of various kinds.

(3) **Tennessee Code Annotated, § 6-54-601,** which authorizes municipalities to:

   (a) Enter into mutual aid agreements with other municipalities, counties, privately incorporated fire departments, utility districts and metropolitan airport authorities which provide for firefighting service, and with industrial fire departments, to furnish one another with firefighting assistance.

   (b) Enter into contracts with organizations of residents and property owners of unincorporated communities to provide such communities with firefighting assistance.

   (c) Provide fire protection outside their city limits to either citizens on an individual contractual basis, or to citizens in an area
without individual contracts, whenever an agreement has first been entered into between the municipality providing the fire service and the county or counties in which the fire protection is to be provided. (Counties may compensate municipalities for the extension of fire services.)
CHAPTER 4

FIREWORKS

SECTION
7-401. Scope of chapter.
7-402. Permits and fees.
7-403. Separate sales tax numbers required.
7-404. Enforcement.
7-405. Permit revocation.
7-406. Compliance with zoning ordinance and building codes.
7-407. Violations and penalty.

7-401. **Scope of chapter.** Any individual who sells or offers for sale fireworks from a permanent or temporary structure shall be subject to the provisions of this chapter. (Ord. #59, Feb. 2007)

7-402. **Permits and fees.** (1) It is unlawful for any person to sell or offer for sale from a permanent or temporary structure any item of fireworks without first having secured a state fire marshal permit and a permit issued by the City of Harrogate. Permits will be issued by the City of Harrogate and enforced by the city's fire chief. Only DOT Class "C" common fireworks will be sold in the City of Harrogate.

(2) Permits are not transferable and must be renewed each year.

(3) No more than one (1) permit shall be issued per location per year.

(4) Permits to sell fireworks from a temporary structure to the general public are valid only from June 20 through July 5 and December 10 through January 2.

(5) The permit fee for retail sales of fireworks to the public, whether annual or temporary is five hundred dollars ($500.00) per year.

(6) A permit to sell fireworks in the City of Harrogate must be obtained at least thirty (30) days prior to the date on which the applicant begins making sales.

(7) Applicants must be able to demonstrate that the sales are reported to the State of Tennessee using City of Harrogate Situs Code 1304.

(8) Each application must include the following: (a) The application must include the name, address, and telephone number of the applicant. The applicant must be the owner of the business on the property, or have a contractual agreement with the owner of the business on the property. If a contractual agreement is in effect, whether verbal or written, the business owner on the property must provide a statement that the agreement exists. The applicant's name must be the same as the name on the state fire marshal permit. The applicant is liable for all violations of this ordinance by persons under his/her supervision.
(b) A copy of the state fire marshal permit. (For a state permit to be obtained by a retailer, the city recorder or mayor must sign on behalf of the retailer an application for fireworks permit that the state requires before a state permit is issued to a retailer for a specific location.)

c) A person that applies for a retail fireworks permit must show proof that a state sales tax number has been obtained for sales tax purposes.

d) A permit for the sale of fireworks will not be issued unless the applicant has provided a current certificate of insurance with a minimum aggregate of two million dollars (2,000,000.00) liability insurance with the City of Harrogate named as an additional insured on the insurance policy.

e) The application must disclose the location where the applicant will conduct the business of selling fireworks and the dates for which the right to do business is desired.

(9) Each permit will be valid for one (1) permanent and/or one (1) temporary structure per location. (Ord. #59, Feb. 2007, modified)

7-403. Separate sales tax numbers required. A separate sales tax number is required for each location where consumer fireworks are to be sold. Only one (1) permanent and/or temporary structure will be permitted per location. (Ord. #59, Feb. 2007)

7-404. Enforcement. The city's fire chief is hereby designated as the enforcement official for this chapter. (Ord. #59, Feb. 2007, modified)

7-405. Permit revocation. The fire chief may revoke any permit upon failure of a retailer to correct any of the following conditions within twenty-four (24) hours after the fire chief or codes official gives written notice.

(1) When the permittee or the permittee's operator violates any lawful rule, regulation, or order of the city's fire chief or codes official.

(2) When the permittee's application contains any false or untrue statements.

(3) When the permittee fails to timely file any report or pay any tax, fee, fine, or charge.

(4) When the permittee or the permittee's operator violates any fireworks ordinance or statute.

When any activities of the permittee constitute a distinct hazard to life or property, the fire official may revoke the permit immediately. (Ord. #59, Feb. 2007, modified)

7-406. Compliance with zoning ordinance and building codes. Only tents meeting the most current adopted fire codes of the City of Harrogate
may be used for the temporary retail sale of fireworks. Any permanent or temporary structure from which fireworks are sold must meet all requirements of the City of Harrogate's zoning ordinance. (Ord. #59, Feb. 2007)

7-407. **Violations and penalty.** A violation of any provision of this chapter shall subject the offender to a penalty under the general penalty provision of this code. Each day a violation shall be allowed to continue shall constitute a separate offense.
TITLE 8

ALCOHOLIC BEVERAGES

CHAPTER
1. INTOXICATING LIQUORS.
2. BEER.

CHAPTER 1

INTOXICATING LIQUORS

SECTION

8-101. Prohibited generally. Except as authorized by applicable laws 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 city. "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.

1State law reference
Tennessee Code Annotated, title 57.

2State law reference
Tennessee Code Annotated, § 39-17-701, et seq.
CHAPTER 2

BEER¹

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 or suspension of beer permits.
8-215. Civil penalty in lieu of revocation or suspension.
8-216. Loss of clerk's certification for sale to minor.
8-217. Violations and penalty.

8-201. **Beer board established.** There is hereby established a beer board to be composed of one (1) alderman and two (2) citizens. A chairman shall be elected annually by the board from among its members. All members of the beer board shall serve without additional compensation. (Ord. #8, Aug. 1993)

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. (Ord. #8, Aug. 1993)

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 shall be a public record and shall contain at least the following: The date

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¹State 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).
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.  

(Ord. #8, Aug. 1993)

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.  

(Ord. #8, Aug. 1993)

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.  

(Ord. #8, Aug. 1993)

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; except wine as defined in Tennessee Code Annotated, § 57-3-101(a)(20); provided however, that no more than forty-nine percent (49%) of the overall alcoholic content of such beverage may be derived from the addition of flavors and other non-beverage ingredients containing alcohol.  

(Ord. #8, Aug. 1993, modified)

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, § 57-5-104(a), shall be accompanied by a non-refundable application fee of two hundred fifty dollars ($250.00). Said fee shall be in the form of a cashier's check payable to the City of Harrogate. 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.  

(Ord. #8, Aug. 1993, modified)

8-208. Privilege tax. There is hereby imposed on the business of selling, distributing, storing or manufacturing beer a privilege tax of one hundred dollars ($100.00). Any person, firm, corporation, joint stock company, syndicate or association engaged in the sale, distribution, storage or manufacture of beer shall remit the tax on each successive January 1, to the City of Harrogate, Tennessee. At the time a new permit is issued to any business subject to this tax the permit holder shall be required to pay the privilege tax on a prorated basis
for each month or portion thereof remaining until the next tax payment date. (Ord. #8, Aug. 1993, modified)

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 the retail sale of beer may be further restricted by the beer board so as to authorize sales only for off premises consumption. A single permit may be issued for on premise and off premise consumption. It shall be unlawful for any beer permit holder to engage in any type or phase of the beer business not expressly authorized by his permit. It shall likewise be unlawful for him not to comply with any and all express restrictions in his permit by the beer board. (Ord. #8, Aug. 1993, modified)

8-210. **Limitation on number of permits.** The number of licenses for the sale of beer shall be limited to two per each one thousand (1,000) people residing within the city limits as of the most recent official federal census. Provided that all requirements of this chapter are complied with, all existing permits for the sale of beer within the corporate limits of the city at the date of the passage of the ordinance comprising this chapter shall continue to be renewed. A new permit may be issued to a qualified purchaser of an existing establishment in which a permit is now held for the sale of beer, and the permit used only within the establishment or building purchased. (Ord. #8, Aug. 1993, modified)

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, residences, churches, or other places of public gathering, or would otherwise interfere with the public health, safety, and morals. In no event will a permit be issued authorizing the manufacture or storage of beer, or the sale of beer within three hundred feet (300') of any school, residence, church or other such place of public gathering, measured in a straight line from the nearest point on the property line upon which sits the building from which the beer will be stored, sold or manufactured to the nearest point on the property line of the school, residence, church or other place of public gathering. No permit shall be suspended, revoked or denied on the basis of proximity of the establishment to a school, residence, church or other place of public gathering if a valid permit had been issued to any business on that same location unless beer is not sold, distributed, or manufactured at that location during any continuous six (6) month period. (Ord. #8, Aug. 1993, modified)

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. (Ord. #8, Aug. 1993)

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 eighteen (18) years of age in the sale, storage, distribution, or manufacture of beer.
3. Make or allow any sale of beer between the hours of 12:00 midnight and 6:00 A.M. during any night of the week at any time on Sunday, or on election days before and while the polls are lawfully open.
4. Make or allow any sale of beer to a minor under twenty-one (21) years of age.
5. Allow any minor under twenty-one (21) years of age to loiter in or about his place of business.
6. Make or allow any sale of beer to any intoxicated person or to any feeble-minded, insane, or otherwise mentally incapacitated person.
7. Allow drunk persons to loiter about his premises.
8. Serve, sell, or allow the consumption on his premises of any alcoholic beverage with an alcoholic content of more than five percent (5%) by weight.
9. Allow illegal gambling on his premises.
10. Allow pool or billiard playing in the same room where beer is sold and/or consumed.
11. Fail to provide and maintain separate sanitary toilet facilities for men and women. (Ord. #8, Aug. 1993, modified)

8-214. **Revocation or suspension of beer permits.** (1) The beer board shall have the power to revoke or suspend any beer permit issued under the provisions of this chapter when the holder thereof is guilty of making a false statement or misrepresentation in his application or of violating any of the provisions of this chapter. However, no beer permit shall be revoked or suspended until a public hearing is held by the board after reasonable notice to all the known parties in interest. Revocation or suspension proceedings may be initiated by the police chief or by any member of the beer board.

2. Pursuant to Tennessee Code Annotated, § 57-5-608, the beer board shall not revoke or suspend the permit of a “responsible vendor” qualified under
the requirements of Tennessee Code Annotated § 57-5-606 for a clerk’s illegal
sale of beer to a minor if the clerk is properly certified and has attended annual
meetings since the clerk’s original certification, unless the vendor’s status as a
certified responsible vendor has been revoked by the alcoholic beverage
commission. If the responsible vendor’s certification has been revoked, the
vendor shall be punished by the beer board as if the vendor were not certified
as a responsible vendor. “Clerk” means any person working in a capacity to sell
beer directly to consumers for off-premises consumption. Under Tennessee Code
Annotated, § 57-5-608, the alcoholic beverage commission shall revoke a
vendor’s status as a responsible vendor upon notification by the beer board that
the board has made a final determination that the vendor has sold beer to a
minor for the second time in a consecutive twelve (12) month period. The
revocation shall be for three (3) years.

8-215. Civil penalty in lieu of revocation or suspension.
(1) Definition. “Responsible vendor” means a person, corporation or
other entity that has been issued a permit to sell beer for off-premises
consumption and has received certification by the Tennessee Alcoholic Beverage
Commission under the “Tennessee Responsible Vendor Act of 2006,” Tennessee
Code Annotated, § 57-5-601, et seq.
(2) Penalty, revocation or suspension. The beer board may, at the time
it imposes a revocation or suspension, offer a permit holder that is not a
responsible vendor the alternative of paying a civil penalty not to exceed two
thousand five hundred dollars ($2,500.00) for each offense of making or
permitting to be made any sales to minors, or a civil penalty not to exceed one
thousand dollars ($1,000.00) for any other offense.
(3) The beer board may impose on a responsible vendor a civil penalty
not to exceed one thousand dollars ($1,000.00) for each offense of making or
permitting to be made any sales to minors or for any other offense.
(4) 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.
(5) Payment of the civil penalty in lieu of revocation or suspension by
a permit holder shall be an admission by the holder of the violation so charged
and shall be paid to the exclusion of any other penalty that the city may impose.

8-216. Loss of clerk’s certification for sale to minor. If the beer
board determines that a clerk of an off-premises beer permit holder certified
under Tennessee Code Annotated, § 57-5-606, sold beer to a minor, the beer
board shall report the name of the clerk to the alcoholic beverage commission
within fifteen (15) days of determination of the sale. The certification of the
clerk shall be invalid and the clerk may not reapply for a new certificate for a period of one (1) year from the date of the beer board’s determination.

8-217. **Violations and penalty.** A violation of any provision of this chapter shall subject the offender to a penalty under the general penalty provision of this code. Each day a violation shall be allowed to continue shall constitute a separate offense.
TITLE 9

BUSINESS, PEDDLERS, SOLICITORS, ETC.¹

CHAPTER
1. MISCELLANEOUS.
2. ADULT-ORIENTED ESTABLISHMENTS.
3. MASSAGE PARLORS.
4. CABLE TELEVISION.

CHAPTER 1

MISCELLANEOUS

SECTION

9-101. Solicitation roadblocks. (1) Solicitation road blocks are restricted to such organizations that meet and are located within the municipal limits of the City of Harrogate, Tennessee, and are duly filed with the IRS as subchapter 501(c)3 organizations.

(2) The following terms shall apply in the interpretation and application of this ordinance.

(a) "Solicitation roadblock" shall mean the solicitation by any person of money on or in the right-of-way of any street, road, highway, or any other public way and place generally open to, and used by, the public for travel in or upon motor vehicles.

(b) "Street," "road," "highway," and "public way and place" shall include the paved or unpaved surface of any such street, road, highway or public place, the entire width of the public right-of-way extending laterally therefrom, dividers, medians, and abutting or adjoining sidewalks or other pedestrian pathways generally open to the public for pedestrian traffic.

(3) For permission to conduct a solicitation roadblock within the City of Harrogate the following conditions must be met:

¹Municipal code references
Building, plumbing, wiring and housing regulations: title 12.
Liquor and beer regulations: title 8.
Noise reductions: title 11.
(a) Request made at city hall a minimum of ten (10) days prior to roadblock. Permits will be granted on a first-to-apply basis.
(b) Safety plan issued to city's fire chief
(c) Submit copy of organization's 501(c)(3) from IRS
(d) Sign hold harmless agreement with the city and provide proof of liability insurance coverage that meets current minimum requirements.
(e) In the event of an incident/accident a report must be filed by responsible party of the organization requesting permit for solicitation.
(f) All roadblock workers must be at least eighteen (18) years of age and must wear highly visible clothing which must include an ANSI approved safety vest.
(g) All organizations conducting a roadblock must place a proper form of notification at each roadblock location to warn motorist of "Roadblock Ahead," and provide a flyer to each contributor.
(h) All organizations conducting a roadblock must remove all signs upon the completion of the roadblock.
(4) Any person violating this chapter shall be subject to a fifty dollars ($50.00) fine for each violation. (Ord. #48, Dec. 2005, modified)
CHAPTER 2

ADULT-ORIENTED ESTABLISHMENTS

SECTION
9-201. Definitions.
9-202. License required.
9-203. Application for license.
9-204. Standards for issuance of license.
9-205. Permit required.
9-206. Application for permit.
9-207. Standards for issuance of permit.
9-208. Fees.
9-209. Display of license or permit.
9-210. Renewal of license or permit.
9-211. Revocation of license or permit.
9-212. Hours of operation.
9-213. Responsibilities of the operator.
9-215. Location restrictions.
9-216. Violations and penalty.

9-201. Definitions. For the purpose of this chapter, the words and phrases used herein shall have the following meanings, unless otherwise clearly indicated by the context:

(1) "Adult-oriented establishment" shall include, but not be limited to, "adult bookstore," "adult motion picture theaters," "adult mini-motion picture establishments," or "adult cabaret," and further means any premises to which the public patrons or members (regardless of whether or not the establishment is categorized as a private or members only club) are invited or admitted and/or which are so physically arranged as to provide booths, cubicles, rooms, compartments or stalls separate from the common areas of the premises for the purpose of viewing adult-oriented motion pictures, or wherein an entertainer provides adult entertainment to a member of the public, a patron or a member, when such adult entertainment is held, conducted, operated or maintained for a profit, direct or indirect. An "adult-oriented establishment" further includes, without being limited to, any "adult entertainment studio" or any premises that is physically arranged and used as such, whether advertised or represented as an adult entertainment studio, rap studio, exotic dance studio, encounter studio, sensitivity studio, modeling studio or any other term of like import.

(2) "Adult bookstore" means an establishment having as a substantial or significant portion of its stock and trade in books, films, video cassettes, compact discs, computer software, computer generated images or text, or magazines and other periodicals or publications or reproductions of any kind.
which are distinguished or characterized by their emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" as defined below, and in conjunction therewith have facilities for the presentation of adult entertainment, as defined below, and including adult-oriented films, movies, or live entertainment, for observation by patrons therein.

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

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

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

(6) "Board of mayor and aldermen" means the Board of Mayor and Aldermen of the City of Harrogate, Tennessee.

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

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

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

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

(11) "Specified sexual activities" means:
   (a) Human genitals in a state of actual or simulated sexual stimulation or arousal;
   (b) Acts or simulated acts of human masturbation, sexual intercourse or sodomy;
   (c) Fondling or erotic touching of human genitals, pubic region, buttock or female breasts.

(12) "Specified anatomical areas" means:
   (a) Less than completely and opaquely covered:
      (i) Human genitals, pubic region;
      (ii) Buttocks
      (iii) Female breasts below a point immediately above the top of the areola; and
      (iv) Human male genitals in an actual or simulated discernibly turgid state, even if completely opaquely covered.

Ord. #36, Dec. 2002

9-202. License required. (1) Except as provided in subsection (5) below, from and after the effective date of this chapter, no adult-oriented establishment shall be operated or maintained in the City of Harrogate without first obtaining a license to operate issued by the City of Harrogate.

(2) A license may be issued only for one (1) adult-oriented establishment located at a fixed and certain place. Any person, partnership, or corporation which desires to operate more than one (1) adult-oriented establishment must have a license for them.

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

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

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

(6) No license may be issued for any location unless the premises is lawfully zoned for adult-oriented establishments and unless all requirements of the zoning ordinance are complied with. (Ord. #36, Dec. 2002)
9-203. Application for license. (1) Any person, partnership, or corporation desiring to secure a license shall make application to the city recorder of the City of Harrogate. The application shall be filed in triplicate with and dated by the city recorder.

(2) The application for a license shall be upon a form provided by the city recorder. An applicant for a license including any partner or limited partner of the partnership applicant, and any officer or director of the corporate applicant and any stockholder holding more than five percent (5%) of the stock of a corporate applicant, or any other person who is interested directly in the ownership or operation of the business (including but not limited to all holders of any interest in land of any members of any limited liability company) shall furnish the following information under oath:

(a) Name and addresses, including all aliases.
(b) Written proof that the individual(s) is at least eighteen (18) years of age.
(c) All residential addresses of the applicant(s) for the past three (3) years.
(d) The applicants' height, weight, color of eyes and hair.
(e) The business, occupation or employment of the applicant(s) for five (5) years immediately preceding the date of the application.
(f) Whether the applicant(s) previously operated in this or any other county, city or state under an adult-oriented establishment license or similar business license; whether the applicant(s) has ever had such a license revoked or suspended, the reason therefore, and the business entity or trade name under which the applicant operated that was subject to the suspension or revocation.
(g) All criminal statutes, whether federal or state, or city ordinance violation convictions, forfeiture of bond and pleadings of nolo contendere on all charges, except minor traffic violations.
(h) Fingerprints and two (2) portrait photographs at least two inches by two inches (2” x 2”) of each applicant.
(i) The address of the adult-oriented establishment to be operated by the applicant(s).
(j) The names and addresses of all persons, partnerships, limited liability entities, or corporations holding any beneficial interest in the real estate upon which such adult-oriented establishment is to be operated, including but not limited to, contract purchasers or sellers, beneficiaries of land trust or lessees subletting to applicant.
(k) If the premises are leased or being purchased under contract, a copy of such lease or contract shall accompany the application.
(l) The length of time each applicant has been a resident of the City of Harrogate, or its environs, immediately preceding the date of the application.
(m) If the applicant is a limited liability entity, the applicant shall specify the name, the date and state of organization, the name and address of the registered agent and the name and address of each member of the limited liability entity.

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

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

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

(3) Within ten (10) days of receiving the results of the investigation conducted by the City of Harrogate, the city recorder shall notify the applicant that his/her application is conditionally granted, denied or held for further investigation. Such additional investigation shall not exceed thirty (30) days unless otherwise agreed to by the applicant. Upon conclusion of such additional investigation, the city recorder shall advise the applicant in writing whether the application is granted or denied.

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

(5) Failure or refusal of the applicant to give any information relevant to the investigation of the application, or his or her refusal or failure to appear at any reasonable time and place for examination under oath regarding said application or his or her refusal to submit to or cooperate with any investigation required by this chapter, shall constitute an admission by the applicant that he
9-8

or she is ineligible for such license and shall be grounds for denial thereof by the
city recorder.  (Ord. #36, Dec. 2002)

9-204. Standards for issuance of license. (1) To receive a license to
operate an adult-oriented establishment, an applicant must meet the following
standards:

(a) If the applicant is an individual:
   (i) The applicant shall be at least eighteen (18) years of
       age.
   (ii) The applicant shall not have been convicted of or
       pleaded nolo contendere to a felony or any crime involving moral
       turpitude, prostitution, obscenity, or other crime of a sexual nature
       in any jurisdiction within five (5) years immediately preceding the
       date of the application.
   (iii) The applicant shall not have been found to have
       previously violated this chapter within five (5) years immediately
       preceding the date of the application.

(b) If the applicant is a corporation:
   (i) All officers, directors and stockholders required to be
       named under § 9-202 shall be at least eighteen (18) years of age.
   (ii) No officer, director or stockholder required to be
       named under § 9-202 shall have been found to have previously
       violated this chapter within five (5) years immediately preceding
       the date of application.

(c) If the applicant is a partnership, joint venture, limited
liability entity, or any other type of organization where two (2) or more
persons have a financial interest:
   (i) All persons having a financial interest in the
       partnership, joint venture or other type of organization shall be at
       least eighteen (18) years of age.
   (ii) No persons having a financial interest in the
       partnership, joint venture or other type of organization shall have
       been convicted of or pleaded nolo contendere to a felony or any
       crime involving moral turpitude, prostitution, obscenity or other
       crime of a sexual nature in any jurisdiction within five (5) years
       immediately preceding the date of the application.
   (iii) No persons having a financial interest in the
       partnership, joint venture or other type of organization shall have
       been found to have previously violated this chapter within five (5)
       years immediately preceding the date of the application.

(2) No license shall be issued unless the City of Harrogate has
    investigated the applicant's qualifications to be licensed. The results of that
    investigation shall be filed in writing with the city recorder no later than twenty
    (20) days after the date of the application.  (Ord. #36, Dec. 2002)
9-205. **Permit required.** In addition to the license requirements previously set forth for owners and operators of "adult-oriented establishments," no person shall be an employee or entertainer in an adult-oriented establishment without first obtaining a valid permit issued by the city recorder. (Ord. #36, Dec. 2002)

9-206 **Application for permit.** (1) Any person desiring to secure a permit shall make application to the city recorder. The application shall be filed in triplicate with and dated by the city recorder.

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

(a) Name and address, including all aliases.

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

(c) All residential addresses of the applicant for the past three years.

(d) The applicant's height, weight, color of eyes, and hair.

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

(f) Whether the applicant, while previously operating in this or any other city or state under an adult-oriented establishment permit or similar business for whom applicant was employed or associated at the time, has ever had such a permit revoked or suspended, the reason therefore, and the business entity or trade name for whom the applicant was employed or associated at the time of such suspension or revocation.

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

(h) Fingerprints and two (2) portrait photographs at least two inches by two inches (2" x 2") of the applicant.

(i) The length of time the applicant has been a resident of the City of Harrogate, or its environs, immediately preceding the date of the application.

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

(3) Within ten (10) days of receiving the results of the investigation conducted by the Harrogate City of Harrogate, the city recorder shall notify the applicant that his application is granted, denied, or held for further investigation. Such additional investigation shall not exceed an additional thirty (30) days unless otherwise agreed to by the applicant. Upon the conclusion of such additional investigations, the city recorder shall advise the applicant in writing whether the application is granted or denied.
Whenever an application is denied or held for further investigation, the city recorder shall advise the applicant in writing of the reasons for such action. If the applicant requests a hearing within ten (10) days of receipt of notification of denial, a public hearing shall be held thereafter before the board of mayor and aldermen at which time the applicant may present evidence bearing upon the question.

Failure or refusal of the applicant to give any information relevant to the investigation of the application, or his or her refusal or failure to appear at any reasonable time and place for examination under oath regarding said application or his or her refusal to submit to or cooperate with any investigation required by this chapter, shall constitute an admission by the applicant that he or she is ineligible for such permit and shall be grounds for denial thereof by the city recorder. (Ord. #36, Dec. 2002)

**9-207. Standards for issuance of permit.** (1) To receive a permit as an employee or entertainer, an applicant must meet the following standards:

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

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

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

(2) No permit shall be issued until the City of Harrogate has investigated the applicant's qualifications to receive a permit. The results of that investigation shall be filed in writing with the city recorder not later than twenty (20) days after the date of the application. (Ord. #36, Dec. 2002)

**9-208. Fees.** (1) A license fee of five hundred dollars ($500.00) shall be submitted with the application for a license. If the application is denied, one-half (1/2) of the fee shall be returned.

(2) A permit fee of one hundred dollars ($100.00) shall be submitted with the application for a permit. If the application is denied, one-half (1/2) of the fee shall be returned. (Ord. #36, Dec. 2002)

**9-209. Display of license or permit.** (1) The license shall be displayed in a conspicuous public place in the adult-oriented establishment.

(2) The permit shall be carried by an employee and/or entertainer upon his or her person and shall be displayed upon request of a customer, the Claiborne County Sheriff's Department, or any person designated by the board of mayor and aldermen. (Ord. #36, Dec. 2002)
9-210. **Renewal of license or permit.** (1) Every license issued pursuant to this chapter will terminate at the expiration of one (1) year from the date of issuance, unless sooner revoked, and must be renewed before operation is allowed in the following year. Any operator desiring to renew a license shall make application to the city recorder. The application for renewal must be filed not later than sixty (60) days before the license expires. The application for renewal shall be filed in triplicate with and dated by the city recorder. A copy of the application for renewal shall be distributed promptly by the city recorder and to the operator. The application for renewal shall be a form provided by the city recorder and shall contain such information and data, given under oath or affirmation, as may be required by the board of mayor and aldermen.

(2) A license renewal fee of five hundred dollars ($500.00) shall be submitted with the application for renewal. In addition to the renewal fee, a late penalty of one hundred dollars ($100.00) shall be assessed against the applicant who files for a renewal less than sixty (60) days before the license expires. If the application is denied, one-half (1/2) of the total fees collected shall be returned.

(3) If the City of Harrogate is aware of any information bearing on the operator's qualifications, that information shall be filed in writing with the city recorder.

(4) Every permit issued pursuant to this chapter will terminate at the expiration of one (1) year from the date of issuance unless sooner revoked, and must be renewed before an employee and/or entertainer is allowed to continue employment in an adult-oriented establishment in the following calendar year. Any employee and/or entertainer desiring to renew a permit shall make application to the city recorder. The application for renewal must be filed not later than sixty (60) days before the permit expires. The application for renewal shall be filed in triplicate with and dated by the city recorder. A copy of the application for renewal shall be distributed promptly by the city recorder and to the employee. The application for renewal shall be upon a form provided by the city recorder and shall contain such information and data, given under oath or affirmation, as may be required by the board of mayor and aldermen.

(5) A permit renewal fee of one hundred dollars ($100.00) shall be submitted with the application for renewal. In addition to said renewal fee, a late penalty of fifty dollars ($50.00) shall be assessed against the applicant who files for renewal less that sixty (60) days before the license expires. If the application is denied one half (1/2) of the fee shall be returned.

(6) If the City of Harrogate is aware of any information bearing on the employee's qualifications, that information shall be filed in writing with the city recorder.  (Ord. #36, Dec. 2002)

9-211. **Revocation of license or permit.** (1) the city recorder shall revoke a license or permit for any of the following reasons:
(a) Discovery that false or misleading information or data was given on any application or material facts were omitted from any application.

(b) The operator, entertainer, or any employee of the operator, violates any provision of this chapter or any rule or regulation adopted by the board of mayor and aldermen pursuant to this chapter; provided, however, that in the case of a first offense by an operator where the conduct was solely that of an employee, the penalty shall not exceed a suspension of thirty (30) days if the board of mayor and aldermen shall find that the operator had no actual or constructive knowledge of such violation and could not by the exercise of due diligence have had such actual or constructive knowledge.

(c) The operator or employee becomes ineligible to obtain a license or permit.

(d) Any cost or fee required to be paid by this chapter is not paid.

(e) An operator employs an employee who does not have a permit or provides space on the premises, whether by lease or otherwise, to an independent contractor who performs or works as an entertainer without a permit.

(f) Any intoxicating liquor, cereal malt beverage, narcotic or controlled substance is allowed to be sold or consumed on the licensed premises.

(g) Any operator, employee or entertainer sells, furnishes, gives or displays, or causes to be sold, furnished, given or displayed to any minor any adult-oriented entertainment or adult-oriented material.

(h) Any operator, employee or entertainer denies access of law enforcement personnel to any portion of the licensed premises wherein adult-oriented entertainment is permitted or to any portion of the licensed premises wherein adult-oriented material is displayed or sold.

(i) Any operator allows continuing violations of the rules and regulations of the Claiborne County Health Department.

(j) Any operator fails to maintain the licensed premises in a clean, sanitary and safe condition.

(k) Any minor is found to be loitering about or frequenting the premises.

(2) The city recorder, before revoking or suspending any license or permit, shall give the operator or employee at least ten (10) days' written notice of the charges against him or her and the opportunity for a public hearing before the board of mayor and aldermen, at which time the operator or employee may present evidence bearing upon the question. In such cases, the charges shall be specific and in writing.

(3) The transfer of a license or any interest in a license shall automatically and immediately revoke the license. The transfer of any interest
in a non-individual operator's license shall automatically and immediately revoke the license held by the operator. Such license shall thereby become null and void.

(4) Any operator or employee whose license or permit is revoked shall not be eligible to receive a license or permit for five (5) years from the date of revocation. No location or premises for which a license has been issued shall be used as an adult-oriented establishment for two (2) years from the date of revocation of the license. (Ord. #36, Dec. 2002)

9-212. Hours of operation. (1) No adult-oriented establishment shall be open between the hours of 1:00 A.M. and 8:00 A.M. Mondays through Saturdays, and between the hours of 1:00 A.M. and 12:00 P.M. on Sundays.

(2) All adult-oriented establishments shall be open to inspection at all reasonable times by the City of Harrogate, the Claiborne County Sheriff's Department, or such other persons as the board of mayor and aldermen may designate. (Ord. #36, Dec. 2002)

9-213. Responsibilities of the operator. (1) The operator shall maintain a register of all employees and/or entertainers showing the name, and aliases used by the employee, home address, age, birth date, sex, height, weight, color of hair and eyes, phone numbers, social security number, date of employment and termination, and duties of each employee and such other information as may be required by the board of mayor and aldermen. The above information on each employee shall be maintained in the register on the premises for a period of three (3) years following termination.

(2) The operator shall make the register of the employees available immediately for inspection by the City of Harrogate upon demand at all reasonable times.

(3) Every act or omission by an employee constituting a violation of the provisions of this chapter shall be deemed the act or omission of the operator if such act or omission occurs either with the authorization, knowledge, or approval of the operator, or as a result of the operator's negligent failure to supervise the employee's conduct, and the operator shall be punishable for such act or omission in the same manner as if the operator committed the act or caused the omission.

(4) An operator shall be responsible for the conduct of all employees and/or entertainers while on the licensed premises and any act or omission of any employees and/or entertainer constituting a violation of the provisions of this chapter shall be deemed the act or omission of the operator for purposes of determining whether the operator's license shall be revoked, suspended or renewed.

(5) There shall be posted and conspicuously displayed in the common areas of each adult-oriented establishment a list of any and all entertainment provided on the premises. Such list shall further indicate the specific fee or
charge in dollar amounts for each entertainment listed. Viewing adult-oriented motion pictures shall be considered as entertainment. The operator shall make the list available immediately upon demand of the City of Harrogate at all reasonable times.

(6) No employee of an adult-oriented establishment shall allow any minor to loiter around or to frequent an adult-oriented establishment or to allow any minor to view adult entertainment as defined herein.

(7) Every adult-oriented establishment shall be physically arranged in such a manner that the entire interior portion of the booths, cubicles, rooms or stalls, wherein adult entertainment is provided, shall be visible from the common area of the premises. Visibility shall not be blocked or obscured by doors, curtains, partitions, drapes, or any other obstruction whatsoever. It shall be unlawful to install booths, cubicles, rooms or stalls within adult-oriented establishments for whatever purpose, but especially for the purpose of secluded viewing of adult-oriented motion pictures of other types of adult entertainment.

(8) The operator shall be responsible for and shall provide that any room or area used for the purpose of viewing adult-oriented motion pictures or other types of live adult entertainment shall be readily accessible at all times and shall be continuously opened to view in its entirety.

(9) No operator, entertainer, or employee of an adult-oriented establishment shall demand or collect all or any portion of a fee for entertainment before its completion.

(10) A sign shall be conspicuously displayed in the common area of the premises, and shall read as follows: "This Adult-Oriented Establishment is regulated by the City of Harrogate Municipal Ordinance. Entertainers are:

(a) Not permitted to engage in any type of sexual conduct;
(b) Not permitted to expose their sex organs;
(c) Not permitted to demand or collect all or any portion of a fee for entertainment before its completion."

(Ord. #36, Dec. 2002)

9-214. Prohibitions and unlawful sexual acts. (1) No operator, entertainer, or employee of an adult-oriented establishment shall permit to be performed, offer to perform, perform or allow customers, employees or entertainers to perform sexual intercourse or oral or anal copulation or other contact stimulation of the genitalia.

(2) No operator, entertainer, or employee shall encourage or permit any person upon the premises to touch, caress, or fondle the breasts, buttocks, anus or genitals of any other person.

(3) No operator, entertainer, or employee shall encourage or permit any other person upon the premises to touch, caress, or fondle his or her breasts, buttocks, anus or genitals of any other person.

(4) No operator, entertainer, employee, or customer shall be unclothed or in such attire, costume, or clothing so as to expose to view any portion of the sex organs, breasts or buttocks of said operator, entertainer, or employee with
the intent to arouse or gratify the sexual desires of the operator, entertainer, employee or customer.

(5) No entertainer, employee or customer shall be permitted to have any physical contact with any other on the premises during any performance and all performances shall only occur upon a stage at least eighteen (18") inches above the immediate floor level and removed six feet (6’) from the nearest entertainer, employee and/or customer. (Ord. #36, Dec. 2002)


9-216. Violations and penalty. A violation of any provision of this chapter shall subject the offender to a penalty under the general penalty provision of this code. Each day a violation shall be allowed to continue shall constitute a separate offense.
CHAPTER 3

MASSAGE PARLORS

SECTION

9-301. Definitions. For the purposes of this chapter the following phrases and words shall have the meaning assigned below, except in those instances where the context clearly indicates a different meaning.

(1) "Massage." The administering by any person by any method of exerting or applying pressure, friction, moisture, heat or cold to the human body, and/or the rubbing, stroking, kneading, pounding, tapping, or otherwise manipulating a part or the whole of the human body or the muscles or joints thereof, by any physical or mechanical means. Massage shall also mean the giving, receiving, or administering of a bath to any person, or the application of body paint or other colorant to any person.

(2) "Massage parlor." Any premises, place of business, or membership club where there is conducted the business or activity of furnishing, providing or giving for a fee, or any other form of consideration, a massage, bath, body painting, or similar massage service or procedure. This definition shall not be construed to include a hospital, nursing home, medical clinic, or the office of a
duly licensed physician, surgeon, physical therapist, chiropractor or osteopath. Nor shall this definition be construed to include a barbershop or beauty salon operated by a duly licensed barber or cosmetologist, so long as any massage administered therein is limited to the head and neck.

(3) "Massage technician." Any person who administers a massage to another at a massage parlor. (Ord. #37, Dec. 2002)

9-302. Massage parlor permit required. It shall be unlawful for any person to establish, maintain or operate a massage parlor in the city without a valid permit issued pursuant to this chapter or any prior ordinance. (Ord. #37, Dec. 2002)

9-303. Permit application; renewals; fees. (1) Any person desiring a massage parlor permit to establish, maintain or operate a massage parlor in the city shall make application to the city manager. Each massage parlor permit application shall be accompanied by an investigation fee of one hundred dollars ($100.00), payable to the city recorder. Each massage parlor permit shall expire one year from the date of issuance. Each renewal application shall be accompanied by an investigation fee of fifty dollars ($50.00). Each such application shall contain the name, address and telephone number of the place where the applicant proposes to operate, maintain or establish a massage parlor in the city.

(2) In addition, such application shall include a sworn statement as to whether or not the applicant (if the applicant is a partnership or association, any partner or member thereof, or if the applicant is a corporation, any officer, director or manager thereof, or any shareholder) has been convicted, pleaded nolo contendere, or suffered a forfeiture on a charge of violating any law relating to sexual offenses, prostitution, obscenity, etc., or any provision of this ordinance, or on a charge of violating a similar law or ordinance in any other jurisdiction.

(3) The application shall state thereon that: "It is unlawful for any person to make a false statement on this application, and discovery of a false statement shall constitute grounds for denial of an application or revocation of a permit."

(4) Each applicant shall have his fingerprints taken, which fingerprints shall constitute part of the application.

(5) A photograph of the applicant taken within sixty (60) days immediately prior to the date of application, which picture shall be not less than two inches by two inches (2" x 2") showing the head and shoulders of the applicant in a clear and distinguishable manner, shall be filled with the application. (Ord. #37, Dec. 2002)

9-304. Investigation of permit applicant; grounds for denial of application. (1) Upon receipt of the application and fee as provided for in this
ordinance, the recorder shall make or cause to be made a thorough investigation of the criminal record of the applicant (if the applicant is a partnership or association, all partners or members thereof, or if the applicant is a corporation, all officers, directors and managers thereof, and all shareholders). The result of this investigation shall be submitted by the city recorder within thirty (30) days of the request.

(2) The city recorder shall deny any application for a massage parlor permit under this chapter after notice and hearing if the city recorder finds that the applicant (if the applicant is a partnership, association or limited liability entity, any partner or member thereof, or if the applicant is a corporation, any officer, director or manager thereof, or shareholder) has within a period of two (2) years prior to application been convicted, pleaded nolo contendere, or suffered a forfeiture on a charge of violating any law relating to sexual offenses, prostitution, obscenity, etc., or any provision of this chapter, or on a charge of violating a similar law or ordinance in this or any other jurisdiction. The making of a false statement on the application shall also be grounds for denial of this application. Notice of the hearing before the city recorder for denial of this application shall be given in writing, setting forth the grounds of the complaint and the time and place of hearing. Such notice shall be mailed by certified mail to the applicant's last known address at least five (5) days prior to the date set for hearing. (Ord. #37, Dec. 2002)

9-305. Same investigation of premises and issuance of permit. The city recorder, before issuing any massage parlor permit, shall cause an investigation to be made of the premises named and described in the application for a massage parlor permit under this chapter for the purpose of determining whether the massage parlor complies with the provisions of this chapter, the zoning ordinances, all building, fire, plumbing and electrical codes, and, for this purpose, a copy of the application shall immediately be referred to the building officials to make or cause to be made a thorough investigation of the premises and the result of this investigation and whether such premises comply with the zoning, building, fire, plumbing and electrical codes, shall be submitted to the city recorder within thirty (30) days of the request. (Ord. #37, Dec. 2002)

9-306. Display of permit. Every person to whom a massage parlor permit shall have been granted shall display such massage parlor permit in a conspicuous place in the massage parlor or establishment so that it may be readily seen by persons entering the premises. (Ord. #37, Dec. 2002)

9-307. Permit revocation; grounds; notice to permittee. (1) Power generally. The city recorder shall have the power to revoke or suspend for any period of time up to two (2) years, and shall be charged with the duty of revoking or suspending, any massage parlor permit after notice to permittee and hearing upon any grounds set forth in this section.
(2) **Grounds.** The following shall be deemed good and sufficient grounds for revocation or suspension of massage parlor permit:

(a) Upon evidence presented that the permittee (if the permittee is a partnership or association, any partner or member thereof, or if the permittee is a corporation, any officer, director, or manager thereof, or shareholder, or if the permittee is a limited liability entity, any member or manager thereof) has within a period of two (2) years been convicted, pleaded nolo contendere or suffered a forfeiture on a charge of violating any law relating to sexual offenses, prostitution, obscenity, etc., or any provisions of this chapter on a charge of violating a similar law or ordinance of this or any other jurisdiction.

(b) Discovery by the city recorder of a false statement on the application.

(c) Upon evidence presented before the city recorder that the permittee (if the permittee is a partnership or association, any partner or member thereof; or if the permittee is a corporation, any officer, director or manager thereof, or shareholder, or if the permittee is a limited liability entity, any member or manager thereof) has within a period of one (1) year violated any provisions of this chapter or any other ordinance of this city or any city of this state or laws of the state relating to sexual offenses, prostitution, obscenity, or other similar offenses.

(d) Upon evidence presented before the city recorder establishing that within a period of one (1) year any massage technician or other agent or person under the control or supervision of the permittee has violated any provisions of this chapter or violated any other ordinance of the city laws of the state relating to sexual offenses, prostitution, obscenity or similar offenses.

(3) **Notice of hearing.** Notice of hearing before the city recorder for revocation of the permit shall be given in writing, setting forth the grounds of the complaint and the time and place of the hearing. Such notice shall be mailed by certified mail to the applicant's last known address at least five (5) days prior to the date set for hearing. (Ord. #37, Dec. 2002)

**9-308. Technician permit required.** It shall be unlawful for any person to perform the services of massage technician at a massage parlor in the city without a valid permit issued pursuant to this ordinance or any prior ordinance. (Ord. #37, Dec. 2002)

**9-309. Permit application; renewal; fees.** (1) Any person desiring a permit to perform the services of a massage technician at a massage parlor in the city shall make application in triplicate form to the city recorder. Each such application shall state under oath the name, address, telephone number, last previous address, date of birth, place of birth, height, weight, and current and last previous employment of the applicant. In addition, such application shall
state whether or not the applicant has been convicted, pleaded nolo contendere, or suffered a forfeiture on a charge of violating any law relating to sexual offenses, prostitution, obscenity, etc., or any provision of this chapter, or on a charge of violating a similar law or ordinance in any other jurisdiction.

(2) The application shall state thereon that: "It is unlawful for any person to make a false statement on this application, and discovery of a false statement shall constitute grounds for denial of an application or revocation of a permit."

(3) Each applicant shall have his or her fingerprints taken, which fingerprints shall constitute part of the application.

(4) A photograph of the applicant taken within sixty (60) days immediately prior to the date of application, which picture shall not be less than two inches by two inches (2" x 2") showing the head and shoulders of the applicant in a clear and distinguishable manner, shall be filed with the application.

(5) Each massage technician permit shall expire one year from the date of issuance. Each renewal application shall be accompanied by an investigation fee of fifty dollars ($50.00). (Ord. #37, Dec. 2002)

9-310. Investigation of technician permit applicant; grounds for denial of application. (1) Upon receipt of the application and fee as provided for in this chapter, the city recorder shall make or cause to be made a thorough investigation of the criminal record of the applicant.

(2) The city recorder shall deny any application for a massage technician permit under this chapter after notice and hearing, if the city recorder finds that the applicant has within a period of two (2) years prior to his application been convicted, pleaded nolo contendere, or suffered a forfeiture on a charge of violating any law relating to sexual offenses, prostitution, obscenity, etc., or any provision of this chapter, or on a charge of violating a similar law or ordinance in this or any other jurisdiction. The making of a false statement on the application shall also be grounds for denial of this application. Notice of the hearing before the city recorder for denial of this application shall be given in writing, setting forth the grounds of the complaint and the time and place of hearing. Such notice shall be mailed by certified mail to the applicant's last known address at least five (5) days prior to the date set for hearing. (Ord. #37, Dec. 2002)

9-311. Display of technician permit. Every person to whom a massage technician permit shall have been granted shall, while in a massage parlor, carry on his or her person or display in a conspicuous place in the massage parlor or establishment, such massage technician permit. (Ord. #37, Dec. 2002)

9-312. Technician permit revocation; grounds; notice to permittee. Any massage technician permit granted under this chapter shall be
revoked by the city recorder after notice and hearing if the permittee has within a period of two (2) years been convicted, pleaded nolo contendere or suffered a forfeiture on a charge of violating any law relating to sexual offenses, prostitution, obscenity, etc., or any provision of this chapter, or on a charge of violating a similar law or ordinance in this or any other jurisdiction. Discovery of a false statement on the application shall also be grounds for revocation of the permit. Notice of the hearing before the city recorder for revocation of the permit shall be given in writing, setting forth the grounds of the complaint and the time and place of hearing. Such notice shall be mailed by certified mail to the applicant's last known address at least five (5) days prior to the date set for hearing. (Ord. #37, Dec. 2002)

9-313. Suspension of permits; reinstatement. If the city recorder or her duly authorized representatives, find that a massage parlor or a massage technician is not in compliance with the requirements set forth in this chapter, or the permittee has refused, the city recorder, or her duly authorized representatives the right to enter the premises to enforce the provisions of this chapter, upon report to the city recorder he may enter any order for the immediate suspension of the massage parlor permit or massage technician permit, as the case may be, until such time as he finds that the reason for such suspension no longer exists. A copy of the order shall be sent to the massage parlor and/or the massage technician at his or her place of business by certified mail, which order shall set forth the reasons for such suspension. No person shall operate a massage parlor or perform the services of a massage technician at a massage parlor when subject to an order of suspension. The city recorder shall reinstate a suspended permit when he has been satisfied that the massage parlor or massage technician complies with the applicable provisions of this chapter. (Ord. #37, Dec. 2002)

9-314. Appeals from permit denials, suspensions or revocations. Any applicant or permittee aggrieved by the actions of the city recorder in the denial of an application for a massage parlor permit or massage technician permit, or by the decision of the city recorder with reference to the revocation or suspension of a massage establishment permit or massage technician permit, shall have the right to appeal to the city commission. Such appeal shall be taken by filing with the city recorder, within ten (10) days after the action complained of has been taken, a written statement setting forth fully the grounds for appeal. The city recorder shall forthwith notify the board of mayor and aldermen, which shall schedule a public hearing and shall give notice of such hearing to the appellant. The board of mayor and aldermen may reverse or affirm or may modify any decision of the city recorder, and may make such decisions or impose such conditions as the facts may warrant; and it may order that a permit be granted, suspended or revoked. The decision and order of the board of mayor and aldermen on such appeal shall be final and conclusive. (Ord. #37, Dec. 2002)
9-315. **Public health card required for a massage technician.** It shall be unlawful for any person to perform the services of massage technician at a massage parlor in the city without a valid public health card issued pursuant to this chapter or any prior ordinance. (Ord. #37, Dec. 2002)

9-316. **Examination of massage techniques; issuance of public health card.** (1) All persons who desire to perform the services of massage technician at a massage parlor shall first undergo a physical examination for contagious and communicable diseases, which shall include a recognized blood test for syphilis, a culture for gonorrhea, a chest x-ray which is to be made and interpreted by a trained radiologist, and shall furnish a certificate based upon and issued within thirty (30) days of such examination by the Claiborne County health department and stating that the person examined is either free from any contagious or communicable disease or incapable of communicating any of such diseases to others. Such persons shall undergo the physical examination referred to above and submit to the city recorder the certificate required herein within five (5) days of the commencement of their employment and at least once every six (6) months thereafter.

(2) When there is cause to believe that the massage technician is capable of communicating any contagious disease to others, the city recorder may at any time require an immediate physical examination of any such person.

(3) The employer of any such person shall require all such persons to undergo the examination and obtain the certificate provided by this section, shall register at the place of employment the name and date of employment of each employee, and shall have the health cards and registration of all employees available for the chief of police, or the city recorder, or their duly authorized representative at all reasonable times. (Ord. #37, Dec. 2002)

9-317. **Right of entry.** The mayor or city recorder or their duly authorized representatives are hereby authorized to enter, examine and survey any premises in the city for which a massage parlor permit has been issued pursuant to this article to enforce the provisions of this chapter, and for no other purpose. Should the authority to inspect premises be delegated to another person, such person shall be proved with written delegation of authority to be shown to the permittee upon request at the time of inspection. If such inspection reveals conditions which in the opinion of the inspector warrants a more thorough inspection by the building official, the Claiborne County Health Department, the bureau of fire prevention, or similar person or agency charged with responsibility for the enforcement of particular health and safety ordinances or laws of the city or the state, he shall report such condition to such person or agency and request that such premises be examined and any findings be reported to the chief of police and the city recorder. This section shall not be deemed to restrict or to limit the right of entry otherwise vested in any law
enforcement of health and safety or criminal laws wherein such right of entry is vested by other ordinances or laws. (Ord. #37, Dec. 2002)

9-318. Minimum standards for parlors. No massage parlor shall be operated, established or maintained in the city that does not comply with the following minimum standards:

1. The premises shall have adequate equipment for disinfecting and sterilizing nondisposable instruments and materials used in administering massages. Such nondisposable instrument and materials shall be disinfected after use on each patron.

2. Closed cabinets shall be provided and used for the storage of clean linens, towels and other materials used in connection with administering massages. All soiled linens, towels and other materials shall be kept in properly covered containers or cabinets, which containers or cabinets shall be kept separate from the clean storage areas.

3. Clean linen and towels shall be provided for each massage patron. No common use of towels or linens shall be permitted.

4. All massage tables, bathtubs, shower stalls, steam or bath areas and floors shall have surfaces which may be readily disinfected.

5. Oils, creams, lotions or other preparations used in administering massages shall be kept in clean, closed containers or cabinets.

6. Adequate bathing, dressing, locker and toilet facilities shall be provided for the patrons to be served at any given time. Separate bathing, dressing, locker and toilet facilities shall be provided for male and female patrons.

7. All walls, ceilings, floors, pools, showers, bathtubs, steam rooms and all other physical facilities shall be in good repair and maintained in a clean and sanitary condition. Wet and dry heat rooms, steam or vapor rooms, or steam or vapor cabinets, shower compartments and toilet rooms shall be thoroughly cleaned each day the business is in operation. Bathtubs shall be thoroughly cleaned after each use. When carpeting is used on the floors, it shall be kept dry.

8. The premises shall be equipped with a service sink for custodial services.

9. Eating in the massage work areas shall not be permitted.

10. Animals, except for service animals, shall not be permitted in the massage work areas.

11. No massage parlor shall employ a massage technician who does not comply with the provisions of this chapter. (Ord. #37, Dec. 2002)

9-319. Individual health requirements for technicians. No massage technician shall administer massage at a massage parlor who does not comply with the following individual health requirements:
(1) No massage technician shall administer a massage if such massage technician knows or should know that he or she is not free of any contagious or communicable disease.

(2) No massage technician shall administer a massage to a patron exhibiting any skin fungus, skin infection, skin inflammation, or skin eruption; provided that a physician duly licensed by the state may certify that such person may be safely massaged, and prescribing the conditions thereof.

(3) Each massage technician shall wash his or her hands in hot running water, using a proper soap or disinfectant before administering a massage to each person. (Ord. #37, Dec. 2002)

9-320. Unlawful acts. (1) It shall be unlawful for any person in a massage parlor to place his or her hand or hands upon or to touch with any part of his or her body, or to fondle in any manner, or to massage, a sexual or genital part of any other person.

(2) It shall be unlawful for any person in a massage parlor to expose his or her sexual or genitals parts, or any portion thereof, to any other person of the opposite sex.

(3) It shall be unlawful for any person while in the presence of any other person of the opposite sex in a massage parlor to fail to conceal with a fully opaque covering the sexual (after looking at definition, and inclusion of breasts - cannot be organs or genital parts of his or her body).

(4) It shall be unlawful for any person owning, operating or managing parlor knowingly to cause, allow or permit in or about such massage parlor any agent, employee, or any other person under his control or supervision to perform such acts prohibited in this chapter.

(5) Sexual or genital parts shall include the genitals, pubic area, buttocks, anus, or perineum of any person, or the vulva or breast of a female.

(6) Every person owning, operating or managing a massage parlor shall post a copy of this chapter in a conspicuous place in the massage parlor so that it may be readily seen by persons entering the premises.

(7) It shall be unlawful for any massage parlor to provide massage services at any time between the hours of 9:00 P.M. to 7:00 A.M. and on Sundays; however, it shall be lawful for such establishments to remain open for the transaction of other lawful business.

(8) The administering of massage shall not be conducted in private rooms or areas, but shall be conducted in separate general areas for males and females, or if the same general area is used by both male and female customers, then different times for such separate use shall be designated and posted.

(9) It shall be unlawful for any person in a massage parlor to administer a massage to a person of the opposite sex. (Ord. #37, Dec. 2002)
9-321. **Alcoholic beverages.** No beer or alcoholic beverages may be sold, served or consumed upon any premises holding a license as provided for in this chapter.  (Ord. #37, Dec. 2002)

9-322. **Violations and penalty.** A violation of any provision of this chapter shall subject the offender to a penalty under the general penalty provision of this code. Each day a violation shall be allowed to continue shall constitute a separate offense.
CHAPTER 4

CABLE TELEVISION

SECTION
9-401. To be furnished under franchise.

9-401. To be furnished under franchise. Cable television shall be furnished to the City of Harrogate and its inhabitants under franchise granted to _________________ by the board of mayor and aldermen of the City of Harrogate, Tennessee. The rights, powers, duties and obligations of the City of Harrogate and its inhabitants are clearly stated in the franchise agreement executed by, and which shall be binding upon the parties concerned.¹

¹For complete details relating to the cable television franchise agreement see ordinance no. ______ dated ______ in the office of the city recorder.
TITLE 10

ANIMAL CONTROL

CHAPTER
1. IN GENERAL.

CHAPTER 1

IN GENERAL

SECTION
10-101. Definitions. The following definition of "public nuisance" shall apply in the interpretation and enforcement of this chapter. An animal becomes a public nuisance if on or more of the following conditions apply:
(1) Is repeatedly found at large;
(2) Damages the property of anyone other than its owner;
(3) Molests or intimidates pedestrians or passersby;
(4) Chases vehicles;
(5) Attacks other animals. (Ord. #50, Feb. 2006, modified)

10-102. 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.

Any person, including its owner, knowingly or negligently permitting an animal to run at large or to be a public nuisance may be prosecuted under this chapter, even if the animal is picked up and disposed of under other provisions of this chapter, whether or not the disposition includes returning the animal to its owner. (Ord. #50, Feb. 2006, modified)

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 and not to become a nuisance. (Ord. #50, Feb. 2006)

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 in a manner that will not create a public nuisance. (Ord. #50, Feb. 2006)

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 public nuisance because of either noise, odor, contagious disease, or other reason. (Ord. #50, Feb. 2006)

10-106. **Cruel treatment prohibited.** It shall be unlawful for any person to beat or otherwise abuse or injure any dumb animal or fowl. (Ord. #50, Feb. 2006)

10-107. **Inspection of premises.** The city hereby designates the building codes officer the authority and power to enter any premises at any reasonable hour of the day for the purpose of making inspections. When violations are discovered, he has the authority to issue such orders as he deems necessary to correct the public nuisance conditions within a reasonable time. It shall be unlawful for any person to fail to comply with such order. (Ord. #50, Feb. 2006)

10-108. **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 any police officer or other properly designated officer or official and confined in a pound provided or designated by the board of mayor and aldermen. If the owner is known he shall be given notice in person, by telephone, or by a postcard addressed to his last known mailing address. If the owner is not known or cannot be located, a notice describing the impounded animal or fowl will be posted in at least three (3) public places within the corporate limits. In either case the notice shall state that the impounded animal or fowl must be claimed within five (5) days by paying the pound costs or the same will be humanely destroyed or sold. If not claimed by the owner, the animal or fowl shall be sold or humanely destroyed.

The pound keeper shall collect from each person claiming an impounded animal or fowl reasonable fees, in accordance with a schedule approved by the board of mayor and aldermen, to cover the costs of impoundment and maintenance.
10-109. **Violations and penalty.** A violation of any provision of this chapter shall subject the offender to a penalty under the general penalty provision of this code. Each day a violation shall be allowed to continue shall constitute a separate offense.
TITLE 11

MUNICIPAL OFFENSES

CHAPTER
1. ALCOHOL.
2. OFFENSES AGAINST THE PEACE AND QUIET.
3. TRESPASSING AND INTERFERENCE WITH TRAFFIC.
4. MISCELLANEOUS.
5. LITTERING.

CHAPTER 1

ALCOHOL

SECTION
11-101. Drinking alcoholic beverages in public, etc.
11-102. Violations and penalty.

11-101. **Drinking alcoholic beverages in public, etc.** It shall be unlawful for any person to drink, consume or have an open can or bottle of beer or intoxicating liquor in or on any public street, alley, avenue, highway, sidewalk, public park, public school ground or other public place.

11-102. **Violations and penalty.** A violation of any provision of this chapter shall subject the offender to a penalty under the general penalty provision of this code. Each day a violation shall be allowed to continue shall constitute a separate offense. (modified)

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1Municipal code references
   Animals and fowls: title 10.
   Housing and utilities: title 12.
   Fireworks and explosives: title 7.
   Traffic offenses: title 15.
   Streets and sidewalks (non-traffic): title 16.

2Municipal code reference
   Sale of alcoholic beverages, including beer: title 8.
CHAPTER 2
OFFENSES AGAINST THE PEACE AND QUIET

SECTION
11-201. Disturbing the peace.
11-203. Violations and penalty.

11-201. 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.

11-202. 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 under the following parameters. In residentially and commercially zoned areas, as defined under title 14 of this code, excess of the following decibel limits is prohibited:

<table>
<thead>
<tr>
<th>Time of Day</th>
<th>Zoning</th>
<th>7:00 A.M. - 9:59 P.M.</th>
<th>10:00 P.M. - 6:59 A.M.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Residential</td>
<td>45 db (A)</td>
<td>40 db (A)</td>
<td></td>
</tr>
<tr>
<td>Commercial</td>
<td>55 db (A)</td>
<td>45 db (A)</td>
<td></td>
</tr>
</tbody>
</table>

Decibel recordings are made with an American National Standards Institute Type II approved device at the approximate location of the property line or the boundary of the public way, at a height of at least four feet above the immediate surrounding surface.

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

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

(c) Yelling, shouting, hooting, etc. Yelling, shouting, whistling, or singing on the public streets, or at any time or place so as to annoy or disturb the quiet, comfort, or repose of any person in any hospital, dwelling, hotel, or other type of residence, or of any person in the vicinity.

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

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

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

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

(h) Building operations. The erection (including excavation), demolition, alteration, or repair of any building in any residential area or section or the construction or repair of streets and highways, 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 10:00 P.M. and 6:59 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 10:00 P.M. and 6:59 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.

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

(2) Exceptions. None of the terms or prohibitions hereof shall apply to or be enforced against:
   (a) Municipal vehicles. Any vehicle of the town while engaged upon necessary public business.
   (b) Repair of streets, etc. Excavations or repairs of bridges, streets, or highways at night, by or on behalf of the town, the county, or the state, when the public welfare and convenience renders it impracticable to perform such work during the day.
   (c) Noncommercial and nonprofit use of loudspeakers or amplifiers. The reasonable use of amplifiers or loudspeakers in the course of public addresses which are noncommercial in character and in the course of advertising functions sponsored by nonprofit organizations. However, no such use shall be made until a permit therefore is secured from the recorder and treasurer. 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.

11-203. Violations and penalty. A violation of any provision of this chapter shall subject the offender to a penalty under the general penalty provision of this code. Each day a violation shall be allowed to continue shall constitute a separate offense.
CHAPTER 3
TRESPASSING AND INTERFERENCE WITH TRAFFIC

SECTION
11-301. Trespassing.
11-302. Interference with traffic.
11-303. Violations and penalty.

11-301. Trespassing. (1) On premises open to the public.
(a) It shall be unlawful for any person to defy a lawful order, personally communicated to him by the owner or other authorized person, not to enter or remain upon the premises of another, including premises which are at the time open to the public.
(b) The owner of the premises, or his authorized agent, may lawfully order another not to enter or remain upon the premises if such person is committing, or commits, any act which interferes with, or tends to interfere with, the normal, orderly, peaceful or efficient conduct of the activities of such premises.
(2) On premises closed or partially closed to public. It shall be unlawful for any person to knowingly enter or remain upon the premises of another which is not open to the public, notwithstanding that another part of the premises is at the time open to the public.
(3) Vacant buildings. It shall be unlawful for any person to enter or remain upon the premises of a vacated building after notice against trespass is personally communicated to him by the owner or other authorized person or is posted in a conspicuous manner.
(4) Lots and buildings in general. It shall be unlawful for any person to enter or remain on or in any lot or parcel of land or any building or other structure after notice against trespass is personally communicated to him by the owner or other authorized person or is posted in a conspicuous manner.
(5) Peddlers, etc. It shall also be unlawful and deemed to be a trespass for any peddler, canvasser, solicitor, transient merchant, or other person to fail to promptly leave the private premises of any person who requests or directs him to leave.1

11-302. 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 with the free passage of pedestrian or vehicular traffic thereon.

1Municipal code reference
11-303. **Violations and penalty.** A violation of any provision of this chapter shall subject the offender to a penalty under the general penalty provision of this code. Each day a violation shall be allowed to continue shall constitute a separate offense. (modified)
CHAPTER 4

MISCELLANEOUS

SECTION
11-401. Caves, wells, cisterns, etc.
11-402. Posting notices, etc.
11-403. Violations and penalty.

11-401. 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. (modified)

11-402. Posting notices, etc. No person shall paint, make, or fasten, in any way, any show-card, poster, or other advertising device or sign upon any public or private property unless legally authorized to do so. A violation of this section shall subject the offender to a penalty under the general penalty provision of this code. (modified)

11-403. Violations and penalty. A violation of any provision of this chapter shall subject the offender to a penalty under the general penalty provision of this code. Each day a violation shall be allowed to continue shall constitute a separate offense.
CHAPTER 5

LITTERING

SECTION
11-503. Scope of regulation.
11-504. Violations and penalty.

11-501. Definitions. As used in this chapter, unless the context otherwise requires:
(1) "Commercial Purpose" means litter discarded by a business, corporation, association, partnership, sole proprietorship, or any other entity conducting business for economic gain, or by an employee or agent of the entity;
(2) "Garbage" includes putrescible animal and vegetable waste resulting from the handling, preparation, cooking and consumption of food;
(3) "Litter" includes garbage, refuse, rubbish and all other waste material, including a tobacco product as defined in Tennessee Code Annotated, § 39-17-1503(9) and any other item primarily designed to hold or filter a tobacco product while the tobacco is being smoked.
(4) "Refuse" includes all putrescible and nonputrescible solid waste; and
(5) "Rubbish" includes nonputrescible solid waste consisting of both combustible and non-combustible waste.

11-502. Littering offenses. (1) A person commits the civil offense of littering who:
(a) Knowingly places, drops or throws litter on any public or private property without permission and does not immediately remove it;
(b) Negligently places or throws glass or other dangerous substances on or adjacent to water to which the public has access for swimming or wading, or on or within fifty feet (50') of a public highway; or
(c) Negligently discharges sewage, minerals, oil products or litter into any public waters or lakes within this state.
(2) Whenever litter is placed, dropped, or thrown from any motor vehicle, boat, airplane, or other conveyance in violation of this section, the city judge may, in his or her discretion and in consideration of the totality of the circumstances, infer that the operator of the conveyance has committed littering.
(3) Whenever litter discovered on public or private property is found to contain any article or articles, including, but not limited to, letters, bills, publications, or other writings that display the name of a person thereon in such
a manner as to indicate that the article belongs or belonged to such person, the
city judge may, in his or her discretion and in consideration of the totality of the
circumstances, infer that such person has committed littering.

11-503. **Scope of regulation.** The regulation of litter in this chapter is
limited to amounts of litter less than or equal to five (5) pounds in weight or
seven and one-half (7 1/2) cubic feet in volume.

11-504. **Violations and penalty.** A violation of any provision of this
chapter shall subject the offender to a penalty under the general penalty
 provision of this code. Each day a violation shall be allowed to continue shall
constitute a separate offense. (modified)
TITLE 12

BUILDING, UTILITY, ETC. CODES

CHAPTER 1

BUILDING CODES

SECTION

12-102.  Modifications.
12-103.  Permit fees.
12-104.  Available in recorder's office.
12-105.  Violations and penalty.
12-106.  Board of appeals.

12-101.  Codes adopted. The following codes are the codes to be used by the codes official:

(1)  2006 International Building Code;
(2)  2006 International Residential Code for One- And Two-Family Dwellings;
(3)  2006 International Plumbing Code;
(4)  2006 International Mechanical Code;
(5)  2006 International Property Maintenance Code;
(6)  2006 International Existing Building Code;
(7)  2006 International Fuel Gas Code;
(9)  2006 International Electrical Code. (Ord. #60, March 2007, modified)

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1  Municipal code references
   Fire code: title 7, chapter 1.
   Fire protection and fireworks: title 7.
   Planning and zoning: title 14.
   Streets and other public ways and places: title 16.
   Utilities and services: title 18 and 19.

2  Copies of these codes (and any amendments) may be purchased from the International Code Council, 900 Montclair Road, Birmingham, Alabama, 35213.
12-102. **Modifications**. Definitions. Whenever the code refers to the "Chief Appointing Authority" or the "Chief Administrator" it shall be deemed to be a reference to the board of mayor and aldermen. When the "Building Official" or "Director of Public Works" is named it shall, for the purposes of the building code, mean such person as the board of mayor and aldermen has appointed or designated to administer and enforce the provisions of the building code. (Ord. #60, March 2007)

12-103. **Permit fees**. The schedule of building permit fees shall be as follows based on total valuation of construction:

- $15.00 first $1,000
- $2.50 each additional $1,000 up to $50,000
- $2.00 each additional $1,000 up to $100,000
- $1.50 each additional $1,000 up to $500,000
- $1.00 each additional $1,000 thereafter

Single mobile homes to be parked in designated mobile home parks will be charged a twenty-five dollar ($25.00) parking fee.

Permitted signs to be placed on buildings will have a fifty dollar ($50.00) flat fee. Permitted free standing signs will be based on the construction cost and charged at the same rates as building permit fees, the total fee not to be less than fifty dollars ($50.00) per sign.

Permit fees for temporary structures will be twenty-five dollars ($25.00), excluding any city-sponsored events. (Ord. #60, March 2007)

12-104. **Available in recorder's office**. Pursuant to the requirements of the Tennessee Code Annotated, § 6-54-502, one (1) copy of the building codes have been placed on file in the recorder's office and shall be kept there for the use and inspection of the public. (Ord. #60, March 2007)

12-105. **Violations and penalty**. A violation of any provision of this chapter shall subject the offender to a penalty under the general penalty provision of this code. Each day a violation shall be allowed to continue shall constitute a separate offense.

12-106. **Board of appeals**. The board of mayor and aldermen shall serve as the board of appeals. (Ord. #60, March 2007)
TITLE 13

PROPERTY MAINTENANCE REGULATIONS

CHAPTER
1. MISCELLANEOUS.
2. SLUM CLEARANCE.
3. JUNKYARDS.
4. JUNKED MOTOR VEHICLES.

CHAPTER 1

MISCELLANEOUS

SECTION
13-101. Smoke, soot, cinders, etc. It shall be unlawful for any person to permit or cause the escape of such quantities of dense smoke, soot, cinders, noxious acids, fumes, dust, or gases as to be detrimental to or to endanger the health, comfort, and safety of the public or so as to cause or have a tendency to cause injury or damage to property or business.

13-102. Stagnant water. It shall be unlawful for any person knowingly to allow any pool of stagnant water to accumulate and stand on his property without treating it so as effectively to prevent the breeding of mosquitoes.

13-103. Weeds and grass. Every owner or tenant of property shall periodically cut the grass and other vegetation commonly recognized as weeds.

13-104. Overgrown and dirty lots.
13-105. Dead animals.
13-106. Health and sanitation nuisances.

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1Municipal code references
International property maintenance code: title 12.
Littering generally: title 11.
Littering streets, etc.: § 16-107.
Wastewater treatment: title 18, chapter 2.
on his property, and it shall be unlawful for any person to fail to comply with an order by the city recorder to cut such vegetation when it has reached a height of over one foot (1').

13-104. Overgrown and dirty lots. (1) Prohibition. Pursuant to the authority granted to municipalities under Tennessee Code Annotated, § 6-54-113, it shall be unlawful for any owner of record of real property to create, maintain, or permit to be maintained on such property the growth of trees, vines, grass, underbrush and/or the accumulations of debris, trash, litter, or garbage or any combination of the preceding elements so as to endanger the health, safety, or welfare of other citizens or to encourage the infestation of rats and other harmful animals.

(2) Designation of public officer or department. The board of mayor and aldermen shall designate an appropriate department or person to enforce the provisions of this section.

(3) Notice to property owner. It shall be the duty of the department or person designated by the board of mayor and aldermen to enforce this section to serve notice upon the owner of record in violation of subsection (1) above, a notice in plain language to remedy the condition within ten (10) days (or twenty (20) days if the owner of record is a carrier engaged in the transportation of property or is a utility transmitting communications, electricity, gas, liquids, steam, sewage, or other materials), excluding Saturdays, Sundays, and legal holidays. The notice shall be sent by registered or certified United States mail, addressed to the last known address of the owner of record. The notice shall state that the owner of the property is entitled to a hearing, and shall, at the minimum, contain the following additional information:

(a) A brief statement that the owner is in violation of § 13-104 of the Harrogate Municipal Code, which has been enacted under the authority of Tennessee Code Annotated, § 6-54-113, and that the property of such owner may be cleaned up at the expense of the owner and a lien placed against the property to secure the cost of the clean-up;

(b) The person, office, address, and telephone number of the department or person giving the notice;

(c) A cost estimate for remedying the noted condition, which shall be in conformity with the standards of cost in the city; and

(d) A place wherein the notified party may return a copy of the notice, indicating the desire for a hearing.

(4) Clean-up at property owner's expense. If the property owner of record fails or refuses to remedy the condition within ten (10) days after receiving the notice (twenty (20) days if the owner is a carrier engaged in the transportation of property or is a utility transmitting communications, electricity, gas, liquids, steam, sewage, or other materials), the department or person designated by the board of mayor and aldermen to enforce the provisions of this section shall immediately cause the condition to be remedied or removed
at a cost in conformity with reasonable standards, and the costs thereof shall be assessed against the owner of the property. The city may collect the costs assessed against the owner through an action for debt filed in any court of competent jurisdiction. The city may bring one (1) action for debt against more than one (1) or all of the owners of properties against whom such costs have been assessed, and the fact that multiple owners have been joined in one (1) action shall not be considered by the court as a misjoinder of parties. Upon the filing of the notice with the office of the register of deeds in Claiborne County, the costs shall be a lien on the property in favor of the municipality, second only to liens of the state, county, and municipality for taxes, any lien of the municipality for special assessments, and any valid lien, right, or interest in such property duly recorded or duly perfected by filing, prior to the filing of such notice. These costs shall be placed on the tax rolls of the municipality as a lien and shall be added to property tax bills to be collected at the same time and in the same manner as property taxes are collected. If the owner fails to pay the costs, they may be collected at the same time and in the same manner as delinquent property taxes are collected and shall be subject to the same penalty and interest as delinquent property taxes.

(5) **Clean-up of owner-occupied property.** When the owner of an owner-occupied residential property fails or refuses to remedy the condition within ten (10) days after receiving the notice, the department or person designated by the board of mayor and aldermen to enforce the provisions of this section shall immediately cause the condition to be remedied or removed at a cost in accordance with reasonable standards in the community, with these costs to be assessed against the owner of the property. The provisions of subsection (4) shall apply to the collection of costs against the owner of an owner-occupied residential property except that the municipality must wait until cumulative charges for remediation equal or exceed five hundred dollars ($500.00) before filing the notice with the register of deeds and the charges becoming a lien on the property. After this threshold has been met and the lien attaches, charges for costs for which the lien attached are collectible as provided in subsection (4) for these charges.

(6) **Appeal.** The owner of record who is aggrieved by the determination and order of the public officer may appeal the determination and order to the board of mayor and aldermen. The appeal shall be filed with the city recorder within ten (10) days following the receipt of the notice issued pursuant to subsection (3) above. The failure to appeal within this time shall, without exception, constitute a waiver of the right to a hearing.

(7) **Judicial review.** Any person aggrieved by an order or act of the board of mayor and aldermen under subsection (4) above may seek judicial review of the order or act. The time period established in subsection (3) above shall be stayed during the pendency of judicial review.

(8) **Supplemental nature of this section.** The provisions of this section are in addition and supplemental to, and not in substitution for, any other
provision in the municipal charter, this municipal code of ordinances or other applicable law which permits the city to proceed against an owner, tenant or occupant of property who has created, maintained, or permitted to be maintained on such property the growth of trees, vines, grass, weeds, underbrush and/or the accumulation of the debris, trash, litter, or garbage or any combination of the preceding elements, under its charter, any other provisions of this municipal code of ordinances or any other applicable law.

13-105. **Dead animals.** Any person owning or having possession of any dead animal not intended for use as food shall promptly bury the same or notify the city recorder and dispose of such animal in such manner as the city recorder shall direct.

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.

13-107. **Violations and penalty.** A violation of any provision of this chapter shall subject the offender to a penalty under the general penalty provision of this code. Each day a violation shall be allowed to continue shall constitute a separate offense.
CHAPTER 2

SLUM CLEARANCE

SECTION
13-201. Findings of board.
13-203. "Public officer" designated; powers.
13-204. Initiation of proceedings; hearings.
13-205. Orders to owners of unfit structures.
13-206. When public officer may repair, etc.
13-207. When public officer may remove or demolish.
13-208. Lien for expenses; sale of salvaged materials; other powers not limited.
13-209. Basis for a finding of unfitness.
13-210. Service of complaints or orders.
13-211. Enjoining enforcement of orders.
13-212. Additional powers of public officer.
13-213. Powers conferred are supplemental.

13-201. Findings of board. Pursuant to Tennessee Code Annotated, § 13-21-101, et seq., the board of mayor and aldermen finds that there exists in the city structures which are unfit for human occupation due to dilapidation, defects increasing the hazards of fire, accident or other calamities, lack of ventilation, light or sanitary facilities, or due to other conditions rendering such dwellings unsafe or unsanitary, or dangerous or detrimental to the health, safety and morals, or otherwise inimical to the welfare of the residents of the city.

13-202. Definitions. (1) "Dwelling" means any building or structure, or part thereof, used and occupied for human occupation or use or intended to be so used, and includes any outhouses and appurtenances belonging thereto or usually enjoyed therewith.
(2) "Governing body" shall mean the board of mayor and aldermen charged with governing the city.
(3) "Municipality" shall mean the City of Harrogate, Tennessee, and the areas encompassed within existing city limits or as hereafter annexed.
(4) "Owner" shall mean the holder of title in fee simple and every mortgagee of record.

\(^1\)State law reference
Tennessee Code Annotated, title 13, chapter 21.
(5) "Parties in interest" shall mean all individuals, associations, corporations and others who have interests of record in a dwelling and any who are in possession thereof.

(6) "Place of public accommodation" means any building or structure in which goods are supplied or services performed, or in which the trade of the general public is solicited.

(7) "Public authority" shall mean any housing authority or any officer who is in charge of any department or branch of the government of the city or state relating to health, fire, building regulations, or other activities concerning structures in the city.

(8) "Public officer" means any officer or officers of a municipality or the executive director or other chief executive officer of any commission or authority established by such municipality or jointly with any other municipality who is authorized by this chapter to exercise the power prescribed herein and pursuant to Tennessee Code Annotated, § 13-21-101, et seq.

(9) "Structure" means any dwelling or place of public accommodation or vacant building or structure suitable as a dwelling or place of public accommodation.

13-203. "Public officer" designated; powers. There is hereby designated and appointed a "public officer," to be the building inspector of the city, to exercise the powers prescribed by this chapter, which powers shall be supplemental to all others held by the building inspector. (modified)

13-204. Initiation of proceedings; hearings. Whenever a petition is filed with the public officer by a public authority or by at least five (5) residents of the city charging that any structure is unfit for human occupancy or use, or whenever it appears to the public officer (on his own motion) that any structure is unfit for human occupation or use, the public officer shall, if his preliminary investigation discloses a basis for such charges, issue and cause to be served upon the owner of, and parties in interest of, such structure a complaint stating the charges in that respect and containing a notice that a hearing will be held before the public officer (or his designated agent) at a place therein fixed, not less than ten (10) days nor more than thirty (30) days after the service of the complaint; and the owner and parties in interest shall have the right to file an answer to the complaint and to appear in person, or otherwise, and give testimony at the time and place fixed in the complaint; and the rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the public officer.

13-205. Orders to owners of unfit structures. If, after such notice and hearing as provided for in the preceding section, the public officer determines that the structure under consideration is unfit for human occupation or use, he shall state in writing his finding of fact in support of such
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determination and shall issue and cause to be served upon the owner thereof an
order:

(1) If the repair, alteration or improvement of the structure can be
made at a reasonable cost in relation to the value of the structure (not exceeding
fifty percent (50%) of the reasonable value), requiring the owner, within the time
specified in the order, to repair, alter, or improve such structure to render it fit
for human occupation or use or to vacate and close the structure for human
occupation or use; or

(2) If the repair, alteration or improvement of said structure cannot be
made at a reasonable cost in relation to the value of the structure (not to exceed
fifty percent (50%) of the value of the premises), requiring the owner within the
time specified in the order, to remove or demolish such structure.

13-206. When public officer may repair, etc. If the owner fails to
comply with the order to repair, alter, or improve or to vacate and close the
structure as specified in the preceding section hereof, the public officer may
cause such structure to be repaired, altered, or improved, or to be vacated and
closed; and the public officer may cause to be posted on the main entrance of any
dwelling so closed, a placard with the following words: "This building is unfit for
human occupation or use. The use or occupation of this building for human
occupation or use is prohibited and unlawful."

13-207. When public officer may remove or demolish. If the owner
fails to comply with an order, as specified above, to remove or demolish the
structure, the public officer may cause such structure to be removed and
demolished.

13-208. Lien for expenses; sale of salvaged materials; other
powers not limited. The amount of the cost of such repairs, alterations or
improvements, or vacating and closing, or removal or demolition by the public
officer, as well as reasonable fees for registration, inspections and professional
evaluations of the property, shall be assessed against the owner of the property,
and shall, upon the certification of the sum owed being presented to the
municipal tax collector, be a lien on the property in favor of the municipality,
second only to liens of the state, county and municipality for taxes, any lien of
the municipality for special assessments, and any valid lien, right, or interest
in such property duly recorded or duly perfected by filing, prior to the filing of
such notice. These costs shall be collected by the municipal tax collector or
county trustee at the same time and in the same manner as property taxes are
collected. If the owner fails to pay the costs, they may be collected at the same
time and in the same manner as delinquent property taxes are collected and
shall be subject to the same penalty and interest as delinquent property taxes
as set forth in Tennessee Code Annotated, § 67-5-2010 and § 67-5-2410. In
addition, the municipality may collect the costs assessed against the owner.
through an action for debt filed in any court of competent jurisdiction. The municipality may bring one (1) action for debt against more than one (1) or all of the owners of properties against whom said costs have been assessed, and the fact that multiple owners have been joined in one (1) action shall not be considered by the court as a misjoinder of parties. If the structure is removed or demolished by the public officer, the public officer shall sell the materials of such structure and shall credit the proceeds of such sale against the cost of the removal or demolition, and any balance remaining shall be deposited in the Chancery Court of Claiborne County by the public officer, shall be secured in such manner as may be directed by such court, and shall be disbursed by such court to the person found to be entitled thereto by final order or decree of such court. Nothing in this section shall be construed to impair or limit in any way the power of the City of Harrogate to define and declare nuisances and to cause their removal or abatement, by summary proceedings or otherwise.

13-209. Basis for a finding of unfitness. The public officer defined herein shall have the power and may determine that a structure is unfit for human occupation and use if he finds that conditions exist in such structure which are dangerous or injurious to the health, safety or morals of the occupants or users of such structure, the occupants or users of neighboring structures or other residents of the City of Harrogate. Such conditions may include the following (without limiting the generality of the foregoing): defects therein increasing the hazards of fire, accident, or other calamities; lack of adequate ventilation, light, or sanitary facilities; dilapidation; disrepair; structural defects; or uncleanness.

13-210. Service of complaints or orders. Complaints or orders issued by the public officer pursuant to this chapter shall be served upon persons, either personally or by registered mail, but if the whereabouts of such persons are unknown and the same cannot be ascertained by the public officer in the exercise of reasonable diligence, and the public officer shall make an affidavit to that effect, then the serving of such complaint or order upon such persons may be made by publishing the same once each week for two (2) consecutive weeks in a newspaper printed and published in the city. In addition, a copy of such complaint or order shall be posted in a conspicuous place on premises affected by the complaint or order. A copy of such complaint or order shall also be filed for record in the Register's Office of Claiborne County, Tennessee, and such filing shall have the same force and effect as other lis pendens notices provided by law.

13-211. Enjoining enforcement of orders. Any person affected by an order issued by the public officer served pursuant to this chapter may file a bill in chancery court for an injunction restraining the public officer from carrying out the provisions of the order, and the court may, upon the filing of such suit,
issue a temporary injunction restraining the public officer pending the final disposition of the cause; provided, however, that within sixty (60) days after the posting and service of the order of the public officer, such person shall file such bill in the court.

The remedy provided herein shall be the exclusive remedy and no person affected by an order of the public officer shall be entitled to recover any damages for action taken pursuant to any order of the public officer, or because of noncompliance by such person with any order of the public officer.

13-212. Additional powers of public officer. The public officer, in order to carry out and effectuate the purposes and provisions of this chapter, shall have the following powers in addition to those otherwise granted herein:

1. To investigate conditions of the structures in the city in order to determine which structures therein are unfit for human occupation or use;
2. To administer oaths, affirmations, examine witnesses and receive evidence;
3. To enter upon premises for the purpose of making examination, provided that such entry shall be made in such manner as to cause the least possible inconvenience to the persons in possession;
4. To appoint and fix the duties of such officers, agents and employees as he deems necessary to carry out the purposes of this chapter; and
5. To delegate any of his functions and powers under this chapter to such officers and agents as he may designate.

13-213. Powers conferred are supplemental. This chapter shall not be construed to abrogate or impair the powers of the city with regard to the enforcement of the provisions of its charter or any other ordinances or regulations, nor to prevent or punish violations thereof, and the powers conferred by this chapter shall be in addition and supplemental to the powers conferred by the charter and other laws.

13-214. Structures unfit for human habitation deemed unlawful. It shall be unlawful for any owner of record to create, maintain or permit to be maintained in the city structures which are unfit for human occupation due to dilapidation, defects increasing the hazards of fire, accident or other calamities, lack of ventilation, light or sanitary facilities, or due to other conditions rendering such dwellings unsafe or unsanitary, or dangerous or detrimental to the health, safety and morals, or otherwise inimical to the welfare of the residents of the city.

Violations of this section 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.
CHAPTER 3

JUNKYARDS

SECTION
13-301. Definitions.
13-303. Screening methods.
13-304. Requirements for effective screening.
13-308. Permits and fees.
13-309. Violations and penalty.

13-301. Definitions. (1) "Junk" shall mean old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber, debris, waste, or junked, dismantled, or wrecked automobiles, trucks, vehicles of all kinds, or parts thereof, iron, steel, and other old or scrap ferrous or nonferrous material.

(2) "Junkyard" shall mean an establishment or place of business which is maintained, operated, or used for storing, keeping, buying, or selling junk, or for the maintenance or operation of an automobile graveyard. This definition includes scrap metal processors, used auto parts yards, yards providing temporary storage of automobile bodies or parts awaiting disposal as a normal part of the business operation when the business will continually have like materials located on the premises, garbage dumps, sanitary landfills, and recycling centers.

(3) "Recycling center" means an establishment, place of business, facility or building which is maintained, operated, or used for the storing, keeping, buying, or selling of newspaper or used food or beverage containers or plastic containers for the purpose of converting such items into a usable product.

(4) "Person" means any individual, firm, agency, company, association, partnership, business trust, joint stock company, body politic, or corporation.

(5) "Screening" means the use of plantings, fencing, natural objects, and other appropriate means which screen any deposit of junk so that the junk is not visible from the highways and streets of the city.

13-302. Junkyard screening. Every junkyard shall be screened or otherwise removed from view by its owner or operator in such a manner as to bring the junkyard into compliance with this chapter.

13-303. Screening methods. The following methods and materials for screening are given for consideration only:
(1) **Landscape planting.** The planting of trees, shrubs, etc., of sufficient size and density to provide a year-round effective screen. Plants of the evergreen variety are recommended.

(2) **Earth grading.** The construction of earth mounds which are graded, shaped, and planted to a natural appearance.

(3) **Architectural barriers.** The utilization of:
   (a) Panel fences made of metal, plastic, fiberglass, or plywood.
   (b) Wood fences of vertical or horizontal boards using durable woods such as western cedar or redwood or others treated with a preservative.
   (c) Walls of masonry, including plain or ornamented concrete block, brick, stone, or other suitable materials.

(4) **Natural objects.** Naturally occurring rock outcrops, woods, earth mounds, etc., may be utilized for screening or used in conjunction with fences, plantings, or other appropriate objects to form an effective screen.

13-304. **Requirements for effective screening.** Screening may be accomplished using natural objects, earth mounds, landscape plantings, fences, or other appropriate materials used singly or in combination as approved by the city. The effect of the completed screening must be the concealment of the junkyard from view on a year-round basis.

(1) Screens which provide a "see-through" effect when viewed from a moving vehicle shall not be acceptable.

(2) Open entrances through which junk materials are visible from the main traveled way shall not be permitted except where entrance gates, capable of concealing the junk materials when closed, have been installed. Entrance gates must remain closed from sundown to sunrise.

(3) Screening shall be located on private property and not on any part of the highway right-of-way.

(4) At no time after the screen is established shall junk be stacked or placed high enough to be visible above the screen nor shall junk be placed outside of the screened area.

13-305. **Maintenance of screens.** The owner or operator of the junkyard shall be responsible for maintaining the screen in good repair to insure the continuous concealment of the junkyard. Damaged or dilapidated screens, including dead or diseased plantings, which permit a view of the junk within shall render the junkyard visible and shall be in violation of this code and shall be replaced as required by the city.

If not replaced within sixty (60) days the city may replace said screening and require payment upon demand.

13-306. **Utilization of highway right-of-way.** The utilization of highway right-of-way for operating or maintaining any portion of a junkyard is
prohibited; this shall include temporary use for the storage of junk pending disposition.

13-307. **Non-conforming junkyards.** Those junkyards within the city and lawfully in existence prior to the enactment of this code, which do not conform with the provisions of the code shall be considered as "non-conforming." Such junkyards shall be subject to the following conditions, any violation of which shall terminate the non-conforming status:

1. The junkyard must continue to be lawfully maintained.
2. There must be existing property rights in the junk or junkyard.
3. Abandoned junkyards shall no longer be lawful.
4. The location of the junkyard may not be changed for any reason. If the location is changed, the junkyard shall be treated as a new establishment at a new location and shall conform to the laws of the city.
5. The junkyard may not be extended or enlarged.

13-308. **Permits and fees.** It shall be unlawful for any junkyard located within the city to operate without a "junkyard control permit" issued by the city.

1. Permits shall be valid for the fiscal year for which issued and shall be subject to renewal each year. The city's fiscal year begins on July 1 and ends on June 30 the year next following.
2. Each application for an original or renewal permit shall be accompanied by a fee of fifty dollars ($50.00) which is not subject to either proration or refund.
3. All applications for an original or renewal permit shall be made on a form prescribed by the city.
4. Permits shall be issued only to those junkyards that are in compliance with these rules.
5. A permit is valid only while held by the permittee and for the location for which it is issued.

13-309. **Violations and penalty.** A violation of any provision of this chapter shall subject the offender to a penalty under the general penalty provision of this code. Each day a violation shall be allowed to continue shall constitute a separate offense.
CHAPTER 4

JUNKED MOTOR VEHICLES

SECTION
13-402. Violations a civil offense.
13-403. Exceptions.
13-405. Violations and penalty.

13-401. Definitions. For the purpose of the interpretation and application of this chapter, the following words and phrases shall have the indicated meanings:

(1) "Person" shall mean any natural person, or any firm, partnership, association, corporation or other organization of any kind and description.

(2) "Private property" shall include all property that is not public property, regardless of how the property is zoned or used.

(3) "Traveled portion of any public street or highway" shall mean the width of the street from curb to curb, or where there are no curbs, the entire width of the paved portion of the street, or where the street is unpaved, the entire width of the street in which vehicles ordinarily use for travel.

(4) (a) "Vehicle" shall mean any machine propelled by power other than human power, designed to travel along the ground by the use of wheels, treads, self-laying tracks, runners, slides or skids, including but not limited to automobiles, trucks, motorcycles, motor scooters, go-carts, campers, tractors, trailers, tractor-trailers, buggies, wagons, and earth-moving equipment, and any part of the same.

           (b) "Junk vehicle" shall mean a vehicle of any age that is damaged or defective, including but not limited to, any one or combination of any of the following ways that either makes the vehicle immediately inoperable, or would prohibit the vehicle from being operated in a reasonably safe manner upon the public streets and highways under its own power if self-propelled, or while being towed or pushed, if not self-propelled:

           (i) Flat tires, missing tires, missing wheels, or missing or partially or totally disassembled tires and wheels.

           (ii) Missing or partially or totally disassembled essential part or parts of the vehicle’s drive train, including, but not limited to, engine, transmission, transaxle, drive shaft, differential, or axle.

           (iii) Extensive exterior body damage or missing or partially or totally disassembled essential body parts, including,
but not limited to, fenders, doors, engine hood, bumper or bumpers, windshield, or windows.

(iv) Missing or partially or totally disassembled essential interior parts, including, but not limited to, driver’s seat, steering wheel, instrument panel, clutch, brake, gear shift lever.

(v) Missing or partially or totally disassembled parts essential to the starting or running of the vehicle under its own power, including, but not limited to, starter, generator or alternator, battery, distributor, gas tank, carburetor or fuel injection system, spark plugs, or radiator.

(vi) Interior is a container for metal, glass, paper, rags or other cloth, wood, auto parts, machinery, waste or discarded materials in such quantity, quality and arrangement that a driver cannot be properly seated in the vehicle.

(vii) Lying on the ground (upside down, on its side, or at other extreme angle), sitting on block or suspended in the air by any other method.

(viii) General environment in which the vehicle sits, including, but not limited to, vegetation that has grown up around, in or through the vehicle, the collection of pools of water in the vehicle, and the accumulation of other garbage or debris around the vehicle.

13-402. Violations a civil offense. It shall be unlawful and a civil offense for any person:

(1) To park and or in any other manner place and leave unattended on the traveled portion of any public street or highway a junk vehicle for any period of time, even if the owner or operator of the vehicle did not intend to permanently desert or forsake the vehicle.

(2) To park or in any other manner place and leave unattended on the untraveled portion of any street or highway, or upon any other public property, a junk vehicle for more than forty-eight (48) continuous hours, even if the owner or operator of the vehicle did not intend to permanently desert or forsake the vehicle.

(3) To park, store, keep, maintain on private property a junk vehicle.

13-403. Exceptions. (1) It shall be permissible for a person to park, store, keep and maintain a junked vehicle on private property under the following conditions:

(a) The junk vehicle is completely enclosed within a building where neither the vehicle nor any part of it is visible from the street or from any other abutting property. However, this exception shall not exempt the owner or person in possession of the property from any zoning, building, housing, property
maintenance, and other regulations governing the building in which such vehicle is enclosed.

(b) The junk vehicle is parked or stored on property lawfully zoned for business engaged in wrecking, junking or repairing vehicles. However, this exception shall not exempt the owner or operator of any such business from any other zoning, building, fencing, property maintenance and other regulations governing business engaged in wrecking, junking or repairing vehicles.

(2) No person shall park, store, keep and maintain on private property a junk vehicle for any period of time if it poses an immediate threat to the health and safety of citizens of the city.

13-404. Enforcement. Pursuant to Tennessee Code Annotated, § 7-63-101, the building inspector is authorized to issue ordinance summons for violations of this chapter on private property. The building inspector shall upon the complaint of any citizen, or acting on his own information, investigate complaints of junked vehicles on private property. If after such investigation the building inspector finds a junked vehicle on private property, he shall issue an ordinance summons. The ordinance summons shall be served upon the owner or owners of the property, or upon the person or persons apparently in lawful possession of the property, and shall give notice to the same to appear and answer the charges against him or them. If the offender refuses to sign the agreement to appear, the building inspector may (1) request the city judge to issue a summons, or (2) request a police officer to witness the violation. The police officer who witnesses the violation may issue the offender a citation in lieu of arrest as authorized by Tennessee Code Annotated, § 7-63-101 et seq., or if the offender refuses to sign the citation, may arrest the offender for failure to sign the citation in lieu of arrest. In addition, pursuant to Tennessee Code Annotated, § 55-5-122, the municipal court may issue an order to remove vehicles from private property.

13-405. Violations and penalty. A violation of any provision of this chapter shall subject the offender to a penalty under the general penalty provision of this code. Each day a violation shall be allowed to continue shall constitute a separate offense.
TITLE 14

ZONING AND LAND USE CONTROL

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

CHAPTER 1

MUNICIPAL PLANNING COMMISSION

SECTION
14-102. Organization, powers, duties, etc.

14-101. Creation and membership. Pursuant to the provisions of Tennessee Code Annotated, § 13-4-101 there is hereby established the Harrogate Municipal Planning Commission, hereinafter referred to as the planning commission. The Harrogate Municipal Planning Commission shall consist of seven (7) members; two (2) of these shall be the mayor and another member of the board of mayor and aldermen selected by the board of mayor and aldermen and five (5) shall be residents appointed by the mayor. All members of the planning commission shall serve as such without compensation. Except for the initial appointments, the terms of the citizen appointees shall be for four (4) years, with the initial terms being of such length that the term of one (1) member shall expire each year. The terms of the mayor and the member selected by the board of mayor and aldermen shall run coterminal with their terms of office. Any vacancy in an appointive membership shall be filled for the unexpired term by the mayor who shall also have the authority to remove any appointive member at his will and pleasure. (Ord. #4, Feb. 1993, modified)

14-102. Organization, powers, duties, etc. The planning commission shall be organized and shall carry out its powers, functions, and duties in accordance with all applicable provisions of Tennessee Code Annotated, title 13. (Ord. #4, Feb. 1993)
CHAPTER 2

MUNICIPAL FLOOD DAMAGE PREVENTION ORDINANCE

SECTION
14-201. Statutory authorization, findings of fact, purpose and objectives.
14-203. General provisions.
14-204. Administration.
14-207. Legal status provisions.

14-201. Statutory authorization, findings of fact, purpose and objectives. (1) Statutory authorization. The Legislature of the State of Tennessee has in Tennessee Code Annotated, § 6-2-201, delegated the responsibility to units of local government to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the City of Harrogate, Tennessee, Mayor and its Legislative Body do ordain as follows:

(2) Findings of fact. (a) The City of Harrogate, Tennessee, Mayor and its Legislative Body wishes to maintain eligibility in the National Flood Insurance Program (NFIP) and in order to do so must meet the NFIP regulations found in title 44 of the Code of Federal Regulations (CFR), ch. 1, section 60.3.

(b) Areas of the City of Harrogate, Tennessee are subject to periodic inundation which could result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.

(c) Flood losses are caused by the cumulative effect of obstructions in floodplains, causing increases in flood heights and velocities; by uses in flood hazard areas which are vulnerable to floods; or construction which is inadequately elevated, floodproofed, or otherwise unprotected from flood damages.

(3) Statement of purpose. It is the purpose of this ordinance to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas. This ordinance is designed to:

(a) Restrict or prohibit uses which are vulnerable to flooding or erosion hazards, or which result in damaging increases in erosion, flood heights, or velocities;
(b) Require that uses vulnerable to floods, including community facilities, be protected against flood damage at the time of initial construction;
(c) Control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of floodwaters;
(d) Control filling, grading, dredging and other development which may increase flood damage or erosion;
(e) Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands.

(4) Objectives. The objectives of this ordinance are:
(a) To protect human life, health, safety and property;
(b) To minimize expenditure of public funds for costly flood control projects;
(c) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
(d) To minimize prolonged business interruptions;
(e) To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in flood prone areas;
(f) To help maintain a stable tax base by providing for the sound use and development of flood prone areas to minimize blight in flood areas;
(g) To ensure that potential home buyers are notified that property is in a flood prone area;
(h) To maintain eligibility for participation in the NFIP.

(Ord. #75, May 2009)

14-202. Definitions. Unless specifically defined below, words or phrases used in this ordinance shall be interpreted as to give them the meaning they have in common usage and to give this ordinance its most reasonable application given its stated purpose and objectives.

(1) "Accessory structure" means a subordinate structure to the principal structure on the same lot and, for the purpose of this ordinance, shall conform to the following:
(a) Accessory structures shall only be used for parking of vehicles and storage.
(b) Accessory structures shall be designed to have low flood damage potential.
(c) Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters.
(d) Accessory structures shall be firmly anchored to prevent flotation, collapse, and lateral movement, which otherwise may result in damage to other structures.

(e) Utilities and service facilities such as electrical and heating equipment shall be elevated or otherwise protected from intrusion of floodwaters.

(2) "Addition (to an existing building)" means any walled and roofed expansion to the perimeter or height of a building.

(3) "Appeal" means a request for a review of the local enforcement officer's interpretation of any provision of this ordinance or a request for a variance.

(4) "Area of shallow flooding" means a designated AO or AH Zone on a community's Flood Insurance Rate Map (FIRM) with one percent (1%) or greater annual chance of flooding to an average depth of one to three feet (1' – 3') where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate; and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

(5) "Area of special flood-related erosion hazard" is the land within a community which is most likely to be subject to severe flood-related erosion losses. The area may be designated as Zone E on the Flood Hazard Boundary Map (FHBM). After the detailed evaluation of the special flood-related erosion hazard area in preparation for publication of the FIRM, Zone E may be further refined.

(6) "Area of special flood hazard" see "special flood hazard area."

(7) "Base flood" means the flood having a one percent (1%) chance of being equaled or exceeded in any given year. This term is also referred to as the 100-year flood or the one percent (1%) annual chance flood.

(8) "Basement" means any portion of a building having its floor subgrade (below ground level) on all sides.

(9) "Building" see "structure."

(10) "Development" means any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavating, drilling operations, or storage of equipment or materials.

(11) "Elevated building" means a non-basement building built to have the lowest floor of the lowest enclosed area elevated above the ground level by means of solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of floodwater, pilings, columns, piers, or shear walls adequately anchored so as not to impair the structural integrity of the building during a base flood event.

(12) "Emergency flood insurance program" or "emergency program" means the program as implemented on an emergency basis in accordance with section 1336 of the Act. It is intended as a program to provide a first layer
amount of insurance on all insurable structures before the effective date of the
initial FIRM.

(13) "Erosion" means the process of the gradual wearing away of land
masses. This peril is not "per se" covered under the program.

(14) "Exception" means a waiver from the provisions of this ordinance
which relieves the applicant from the requirements of a rule, regulation, order
or other determination made or issued pursuant to this ordinance.

(15) "Existing construction" means any structure for which the "start
of construction" commenced before the effective date of the initial floodplain
management code or ordinance adopted by the community as a basis for that
community's participation in the NFIP.

(16) "Existing manufactured home park or subdivision" means a
manufactured home park or subdivision for which the construction of facilities
for servicing the lots on which the manufactured homes are to be affixed
(including, at a minimum, the installation of utilities, the construction of streets,
final site grading or the pouring of concrete pads) is completed before the
effective date of the first floodplain management code or ordinance adopted by
the community as a basis for that community's participation in the NFIP.

(17) "Existing structures" see "existing construction."

(18) "Expansion to an existing manufactured home park or subdivision"
means the preparation of additional sites by the construction of facilities for
servicing the lots on which the manufactured homes are to be affixed (including
the installation of utilities, the construction of streets, and either final site
grading or the pouring of concrete pads).

(19) "Flood" or "flooding" means a general and temporary condition of
partial or complete inundation of normally dry land areas from:

(a) The overflow of inland or tidal waters.
(b) The unusual and rapid accumulation or runoff of surface
waters from any source.

(20) "Flood elevation determination" means a determination by the
Federal Emergency Management Agency (FEMA) of the water surface
elevations of the base flood, that is, the flood level that has a one percent (1%)
or greater chance of occurrence in any given year.

(21) "Flood elevation study" means an examination, evaluation and
determination of flood hazards and, if appropriate, corresponding water surface
elevations, or an examination, evaluation and determination of mudslide (i.e.,
mudflow) or flood-related erosion hazards.

(22) "Flood Hazard Boundary Map (FHBM)" means an official map of
a community, issued by FEMA, where the boundaries of areas of special flood
hazard have been designated as Zone A.

(23) "Flood Insurance Rate Map (FIRM)" means an official map of a
community, issued by FEMA, delineating the areas of special flood hazard or the
risk premium zones applicable to the community.
(24) "Flood insurance study" is the official report provided by FEMA, evaluating flood hazards and containing flood profiles and water surface elevation of the base flood.

(25) "Floodplain" or "floodprone area" means any land area susceptible to being inundated by water from any source (see definition of "flooding").

(26) "Floodplain management" means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works and floodplain management regulations.

(27) "Flood protection system" means those physical structural works for which funds have been authorized, appropriated, and expended and which have been constructed specifically to modify flooding in order to reduce the extent of the area within a community subject to a "special flood hazard" and the extent of the depths of associated flooding. Such a system typically includes hurricane tidal barriers, dams, reservoirs, levees or dikes. These specialized flood modifying works are those constructed in conformance with sound engineering standards.

(28) "Floodproofing" means any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities and structures and their contents.

(29) "Flood-related erosion" means the collapse or subsidence of land along the shore of a lake or other body of water as a result of undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a flash flood, or by some similarly unusual and unforeseeable event which results in flooding.

(30) "Flood-related erosion area" or "flood-related erosion prone area" means a land area adjoining the shore of a lake or other body of water, which due to the composition of the shoreline or bank and high water levels or wind-driven currents, is likely to suffer flood-related erosion damage.

(31) "Flood-related erosion area management" means the operation of an overall program of corrective and preventive measures for reducing flood-related erosion damage, including but not limited to emergency preparedness plans, flood-related erosion control works and floodplain management regulations.

(32) "Floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

(33) "Freeboard" means a factor of safety usually expressed in feet above a flood level for purposes of floodplain management. "Freeboard" tends to compensate for the many unknown factors that could contribute to flood
heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, blockage of bridge or culvert openings, and the hydrological effect of urbanization of the watershed.

(34) "Functionally dependent use" means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

(35) "Highest adjacent grade" means the highest natural elevation of the ground surface, prior to construction, adjacent to the proposed walls of a structure.

(36) "Historic structure" means any structure that is:

(a) Listed individually in the National Register of Historic Places (a listing maintained by the U.S. Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

(b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

(c) Individually listed on the Tennessee inventory of historic places and determined as eligible by states with historic preservation programs which have been approved by the Secretary of the Interior; or

(d) Individually listed on the City of Harrogate, Tennessee inventory of historic places and determined as eligible by communities with historic preservation programs that have been certified either:

(i) By the approved Tennessee program as determined by the Secretary of the Interior; or

(ii) Directly by the Secretary of the Interior.

(37) "Levee" means a man-made structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control or divert the flow of water so as to provide protection from temporary flooding.

(38) "Levee system" means a flood protection system which consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

(39) "Lowest floor" means the lowest floor of the lowest enclosed area, including a basement. An unfinished or flood resistant enclosure used solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance.
"Manufactured home" means a structure, transportable in one or more sections, which is built on a permanent chassis and designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle."

"Manufactured home park or subdivision" means a parcel (or contiguous parcels) of land divided into two (2) or more manufactured home lots for rent or sale.

"Map" means the Flood Hazard Boundary Map (FHBM) or the Flood Insurance Rate Map (FIRM) for a community issued by FEMA.

"Mean sea level" means the average height of the sea for all stages of the tide. It is used as a reference for establishing various elevations within the floodplain. For the purposes of this ordinance, the term is synonymous with the National Geodetic Vertical Datum (NGVD) of 1929, the North American Vertical Datum (NAVD) of 1988, or other datum, to which base flood elevations shown on a community's flood insurance rate map are referenced.

"National Geodetic Vertical Datum (NGVD)" means, as corrected in 1929, a vertical control used as a reference for establishing varying elevations within the floodplain.

"New construction" means any structure for which the "start of construction" commenced on or after the effective date of the initial floodplain management ordinance and includes any subsequent improvements to such structure.

"New manufactured home park or subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of this ordinance or the effective date of the initial floodplain management ordinance and includes any subsequent improvements to such structure.

"North American Vertical Datum (NAVD)" means, as corrected in 1988, a vertical control used as a reference for establishing varying elevations within the floodplain.

"100-year flood" see "base flood."

"Person" includes any individual or group of individuals, corporation, partnership, association, or any other entity, including State and local governments and agencies.

"Reasonably safe from flooding" means base flood waters will not inundate the land or damage structures to be removed from the special flood hazard area and that any subsurface waters related to the base flood will not damage existing or proposed structures.

"Recreational vehicle" means a vehicle which is:

(a) Built on a single chassis;
(b) Four hundred (400) square feet or less when measured at the largest horizontal projection;
(c) Designed to be self-propelled or permanently towable by a light duty truck;
(d) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

(52) "Regulatory floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

(53) "Riverine" means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

(54) "Special flood hazard area" is the land in the floodplain within a community subject to a one percent (1%) or greater chance of flooding in any given year. The area may be designated as Zone A on the FHBM. After detailed ratemaking has been completed in preparation for publication of the FIRM, Zone A usually is refined into Zones A, AO, AH, A1-30, AE or A99.

(55) "Special hazard area" means an area having special flood, mudslide (i.e., mudflow) and/or flood-related erosion hazards, and shown on an FHBM or FIRM as Zone A, AO, A1-30, AE, A99, or AH.

(56) "Start of construction" includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within one hundred eighty (180) days of the permit date. The actual start means either the first placement of permanent construction of a structure (including a manufactured home) on a site, such as the pouring of slabs or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; and includes the placement of a manufactured home on a foundation. Permanent construction does not include initial land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds, not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

(57) "State coordinating agency." The Tennessee Department of Economic and Community Development's Local Planning Assistance Office, as designated by the Governor of the State of Tennessee at the request of FEMA to assist in the implementation of the NFIP for the state.
"Structure" for purposes of this ordinance, means a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

"Substantial damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed fifty percent (50%) of the market value of the structure before the damage occurred.

"Substantial improvement" means any reconstruction, rehabilitation, addition, alteration or other improvement of a structure in which the cost equals or exceeds fifty percent (50%) of the market value of the structure before the "start of construction" of the initial improvement. This term includes structures which have incurred "substantial damage," regardless of the actual repair work performed. The market value of the structure should be:

(a) The appraised value of the structure prior to the start of the initial improvement; or
(b) In the case of substantial damage, the value of the structure prior to the damage occurring.

The term does not, however, include either:

(a) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been pre-identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions and not solely triggered by an improvement or repair project; or
(b) Any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure."

"Substantially improved existing manufactured home parks or subdivisions" is where the repair, reconstruction, rehabilitation or improvement of the streets, utilities and pads equals or exceeds fifty percent (50%) of the value of the streets, utilities and pads before the repair, reconstruction or improvement commenced.

"Variance" is a grant of relief from the requirements of this ordinance.

"Violation" means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certification, or other evidence of compliance required in this ordinance is presumed to be in violation until such time as that documentation is provided.

"Water surface elevation" means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, the North American Vertical Datum (NAVD) of 1988, or other datum, where specified, of floods of various
magnitudes and frequencies in the floodplains of riverine areas. (Ord. #75, May 2009)

14-203. General provisions. (1) Application. This ordinance shall apply to all areas within the incorporated area of the City of Harrogate, Tennessee.

(2) Basis for establishing the areas of special flood hazard. The areas of special flood hazard identified on the City of Harrogate, Tennessee, as identified by FEMA, and in its Flood Insurance Study (FIS) and Flood Insurance Rate Map (FIRM), community panel numbers 4704200100 and 4704200125, dated September 25, 2009, along with all supporting technical data, are adopted by reference and declared to be a part of this ordinance.

(3) Requirement for development permit. A development permit shall be required in conformity with this ordinance prior to the commencement of any development activities.

(4) Compliance. No land, structure or use shall hereafter be located, extended, converted or structurally altered without full compliance with the terms of this ordinance and other applicable regulations.

(5) Abrogation and greater restrictions. This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants or deed restrictions. However, where this ordinance conflicts or overlaps with another regulatory instrument, whichever imposes the more stringent restrictions shall prevail.

(6) Interpretation. In the interpretation and application of this ordinance, all provisions shall be:
   (a) Considered as minimum requirements;
   (b) Liberally construed in favor of the governing body; and
   (c) Deemed neither to limit nor repeal any other powers granted under Tennessee statutes.

(7) Warning and disclaimer of liability. The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of the City of Harrogate, Tennessee or by any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder.

(8) Penalties for violation. Violation of the provisions of this ordinance or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance shall constitute a misdemeanor punishable as other misdemeanors as provided by law. Any person who violates this ordinance or fails to comply with any of its
requirements shall, upon adjudication therefore, be fined as prescribed by Tennessee statutes, and in addition, shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the City of Harrogate, Tennessee from taking such other lawful actions to prevent or remedy any violation. (Ord. #75, May 2009)

14-204. Administration. (1) Designation of ordinance administrator. The building official is hereby appointed as the administrator to implement the provisions of this ordinance.

(2) Permit procedures. Application for a development permit shall be made to the administrator on forms furnished by the community prior to any development activities. The development permit may include, but is not limited to the following: plans in duplicate drawn to scale and showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, earthen fill placement, storage of materials or equipment, and drainage facilities. Specifically, the following information is required:

(a) Application stage. (i) Elevation in relation to mean sea level of the proposed lowest floor, including basement, of all buildings where base flood elevations are available, or to certain height above the highest adjacent grade when applicable under this ordinance.

(ii) Elevation in relation to mean sea level to which any non-residential building will be floodproofed where base flood elevations are available, or to certain height above the highest adjacent grade when applicable under this ordinance.

(iii) A FEMA floodproofing certificate from a Tennessee registered professional engineer or architect that the proposed non-residential floodproofed building will meet the floodproofing criteria in § 14-205(1) and (2).

(iv) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

(b) Construction stage. Within AE Zones, where base flood elevation data is available, any lowest floor certification made relative to mean sea level shall be prepared by or under the direct supervision of, a Tennessee registered land surveyor and certified by same. The administrator shall record the elevation of the lowest floor on the development permit. When floodproofing is utilized for a non-residential building, said certification shall be prepared by, or under the direct supervision of, a Tennessee registered professional engineer or architect and certified by same.

Within approximate A Zones, where base flood elevation data is not available, the elevation of the lowest floor shall be determined as the measurement of the lowest floor of the building relative to the highest
adjacent grade. The administrator shall record the elevation of the
lowest floor on the development permit. When floodproofing is utilized
for a non-residential building, said certification shall be prepared by, or
under the direct supervision of, a Tennessee registered professional
engineer or architect and certified by same.

For all new construction and substantial improvements, the permit
holder shall provide to the administrator an as-built certification of the
lowest floor elevation or floodproofing level upon the completion of the
lowest floor or floodproofing.

Any work undertaken prior to submission of the certification shall
be at the permit holder's risk. The administrator shall review the
above-referenced certification data. Deficiencies detected by such review
shall be corrected by the permit holder immediately and prior to further
work being allowed to proceed. Failure to submit the certification or
failure to make said corrections required hereby, shall be cause to issue
a stop-work order for the project.

(3) Duties and responsibilities of the administrator. Duties of the
administrator shall include, but not be limited to, the following:

(a) Review all development permits to assure that the permit
requirements of this ordinance have been satisfied, and that proposed
building sites will be reasonably safe from flooding.

(b) Review proposed development to assure that all necessary
permits have been received from those governmental agencies from which
approval is required by federal or state law, including section 404 of the
Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C.
1334.

(c) Notify adjacent communities and the Tennessee Department
of Economic and Community Development, Local Planning Assistance
Office, prior to any alteration or relocation of a watercourse and submit
evidence of such notification to FEMA.

(d) For any altered or relocated watercourse, submit
engineering data/analysis within six (6) months to FEMA to ensure
accuracy of community FIRMs through the letter of map revision process.

(e) Assure that the flood carrying capacity within an altered or
relocated portion of any watercourse is maintained.

(f) Record the elevation, in relation to mean sea level or the
highest adjacent grade, where applicable, of the lowest floor (including
basement) of all new and substantially improved buildings, in accordance
with § 14-204(2).

(g) Record the actual elevation, in relation to mean sea level or
the highest adjacent grade, where applicable to which the new and
substantially improved buildings have been floodproofed, in accordance
with § 14-204(2).
(h) When floodproofing is utilized for a nonresidential structure, obtain certification of design criteria from a Tennessee registered professional engineer or architect, in accordance with § 14-204(2).

(i) Where interpretation is needed as to the exact location of boundaries of the areas of special flood hazard (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), make the necessary interpretation. Any person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this ordinance.

(j) When base flood elevation data and floodway data have not been provided by FEMA, obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal, state, or other sources, including data developed as a result of these regulations, as criteria for requiring that new construction, substantial improvements, or other development in Zone A on the City of Harrogate, Tennessee FIRM meet the requirements of this ordinance.

(k) Maintain all records pertaining to the provisions of this ordinance in the office of the administrator and shall be open for public inspection. Permits issued under the provisions of this ordinance shall be maintained in a separate file or marked for expedited retrieval within combined files. (Ord. #75, May 2009)

14-205. Provisions for flood hazard reduction. (1) General standards. In all areas of special flood hazard, the following provisions are required:

(a) New construction and substantial improvements shall be anchored to prevent flotation, collapse and lateral movement of the structure;

(b) Manufactured homes shall be installed using methods and practices that minimize flood damage. They must be elevated and anchored to prevent flotation, collapse and lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State of Tennessee and local anchoring requirements for resisting wind forces;

(c) New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage;

(d) New construction and substantial improvements shall be constructed by methods and practices that minimize flood damage;

(e) All electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;
(f) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;

(g) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters;

(h) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding;

(i) Any alteration, repair, reconstruction or improvements to a building that is in compliance with the provisions of this ordinance, shall meet the requirements of "new construction" as contained in this ordinance;

(j) Any alteration, repair, reconstruction or improvements to a building that is not in compliance with the provision of this ordinance, shall be undertaken only if said non-conformity is not further extended or replaced;

(k) All new construction and substantial improvement proposals shall provide copies of all necessary federal and state permits, including section 404 of the Federal Water Pollution Control Act amendments of 1972, 33 U.S.C. 1334;

(l) All subdivision proposals and other proposed new development proposals shall meet the standards of § 14-205(2);

(m) When proposed new construction and substantial improvements are partially located in an area of special flood hazard, the entire structure shall meet the standards for new construction;

(n) When proposed new construction and substantial improvements are located in multiple flood hazard risk zones or in a flood hazard risk zone with multiple base flood elevations, the entire structure shall meet the standards for the most hazardous flood hazard risk zone and the highest base flood elevation.

(2) **Specific standards.** In all areas of special flood hazard, the following provisions, in addition to those set forth in § 14-205(1), are required:

(a) Residential structures. In AE Zones where base flood elevation data is available, new construction and substantial improvement of any residential building (or manufactured home) shall have the lowest floor, including basement, elevated to no lower than one foot (1') above the base flood elevation. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate equalization of flood hydrostatic forces on both sides of exterior walls shall be provided in accordance with the standards of this section: "Enclosures."

Within approximate A Zones where base flood elevations have not been established and where alternative data is not available, the
administrator shall require the lowest floor of a building to be elevated to a level of at least three feet (3') above the highest adjacent grade (as defined in § 14-202). Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate equalization of flood hydrostatic forces on both sides of exterior walls shall be provided in accordance with the standards of this section: "Enclosures."

(b) Non-residential structures. In AE Zones, where base flood elevation data is available, new construction and substantial improvement of any commercial, industrial, or non-residential building, shall have the lowest floor, including basement, elevated or floodproofed to no lower than one foot (1') above the level of the base flood elevation. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate equalization of flood hydrostatic forces on both sides of exterior walls shall be provided in accordance with the standards of this section: "Enclosures."

In approximate A Zones, where base flood elevations have not been established and where alternative data is not available, new construction and substantial improvement of any commercial, industrial, or non-residential building, shall have the lowest floor, including basement, elevated or floodproofed to no lower than three feet (3') above the highest adjacent grade (as defined in § 14-202). Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate equalization of flood hydrostatic forces on both sides of exterior walls shall be provided in accordance with the standards of this section: "Enclosures."

Non-residential buildings located in all A Zones may be floodproofed, in lieu of being elevated, provided that all areas of the building below the required elevation are watertight, with walls substantially impermeable to the passage of water, and are built with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. A Tennessee registered professional engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions above, and shall provide such certification to the administrator as set forth in § 14-204(2).

(c) Enclosures. All new construction and substantial improvements that include fully enclosed areas formed by foundation and other exterior walls below the lowest floor that are subject to flooding, shall be designed to preclude finished living space and designed to allow for the entry and exit of flood waters to automatically equalize hydrostatic flood forces on exterior walls.

(i) Designs for complying with this requirement must either be certified by a Tennessee professional engineer or architect or meet or exceed the following minimum criteria.
(A) Provide a minimum of two openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding;
(B) The bottom of all openings shall be no higher than one foot (1') above the finished grade;
(C) Openings may be equipped with screens, louveres, valves or other coverings or devices provided they permit the automatic flow of floodwaters in both directions.

(ii) The enclosed area shall be the minimum necessary to allow for parking of vehicles, storage or building access.
(iii) The interior portion of such enclosed area shall not be finished or partitioned into separate rooms in such a way as to impede the movement of floodwaters and all such partitions shall comply with the provisions of § 14-205(2).

(d) Standards for manufactured homes and recreational vehicles.
(i) All manufactured homes placed, or substantially improved, on:
   (A) Individual lots or parcels;
   (B) In expansions to existing manufactured home parks or subdivisions; or
   (C) In new or substantially improved manufactured home parks or subdivisions, must meet all the requirements of new construction.
(ii) All manufactured homes placed or substantially improved in an existing manufactured home park or subdivision must be elevated so that either:
   (A) In AE Zones, with base flood elevations, the lowest floor of the manufactured home is elevated on a permanent foundation to no lower than one foot (1') above the level of the base flood elevation; or
   (B) In approximate A Zones, without base flood elevations, the manufactured home chassis is elevated and supported by reinforced piers (or other foundation elements of at least equivalent strength) that are at least three feet (3') in height above the highest adjacent grade (as defined in § 14-202).
(iii) Any manufactured home, which has incurred "substantial damage" as the result of a flood, must meet the standards of § 14-205(1) and (2).
(iv) All manufactured homes must be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.
(v) All recreational vehicles placed in an identified special flood hazard area must either:
(A) Be on the site for fewer than one hundred eighty (180) consecutive days;

(B) Be fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is licensed, on its wheels or jacking system, attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached structures or additions); or

(C) The recreational vehicle must meet all the requirements for new construction.

(e) Standards for subdivisions and other proposed new development proposals. Subdivisions and other proposed new developments, including manufactured home parks, shall be reviewed to determine whether such proposals will be reasonably safe from flooding.

(i) All subdivision and other proposed new development proposals shall be consistent with the need to minimize flood damage.

(ii) All subdivision and other proposed new development proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage.

(iii) All subdivision and other proposed new development proposals shall have adequate drainage provided to reduce exposure to flood hazards.

(iv) In all approximate A Zones require that all new subdivision proposals and other proposed developments (including proposals for manufactured home parks and subdivisions) greater than fifty (50) lots or five (5) acres, whichever is the lesser, include within such proposals base flood elevation data (see § 14-205(5)).

(3) Standards for special flood hazard areas with established base flood elevations and with floodways designated. Located within the special flood hazard areas established in § 14-203(2) are areas designated as floodways. A floodway may be an extremely hazardous area due to the velocity of floodwaters, debris or erosion potential. In addition, the area must remain free of encroachment in order to allow for the discharge of the base flood without increased flood heights and velocities. Therefore, the following provisions shall apply:

(a) Encroachments are prohibited, including earthen fill material, new construction, substantial improvements or other development within the regulatory floodway. Development may be permitted however, provided it is demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practices that the cumulative effect of the proposed encroachments or new development shall not result in any increase in the water surface elevation of the base flood elevation, velocities, or floodway widths during
the occurrence of a base flood discharge at any point within the community. A Tennessee registered professional engineer must provide supporting technical data, using the same methodologies as in the effective flood insurance study for the City of Harrogate, Tennessee and certification thereof.

(b) New construction and substantial improvements of buildings, where permitted, shall comply with all applicable flood hazard reduction provisions of § 14-205(1) and (2).

(4) Standards for areas of special flood hazard Zones AE with established base flood elevations but without floodways designated. Located within the special flood hazard areas established in § 14-403(2) where streams exist with base flood data provided but where no floodways have been designated (Zones AE), the following provisions apply:

(a) No encroachments, including fill material, new construction and substantial improvements shall be located within areas of special flood hazard, unless certification by a Tennessee registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot (1') at any point within the community. The engineering certification should be supported by technical data that conforms to standard hydraulic engineering principles.

(b) New construction and substantial improvements of buildings, where permitted, shall comply with all applicable flood hazard reduction provisions of § 14-205(1) and (2).

(5) Standards for streams without established base flood elevations and floodways (A Zones). Located within the special flood hazard areas established in § 14-203(2), where streams exist, but no base flood data has been provided and where a floodway has not been delineated, the following provisions shall apply:

(a) The administrator shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from any federal, state, or other sources, including data developed as a result of these regulations (see (b) below), as criteria for requiring that new construction, substantial improvements, or other development in approximate A Zones meet the requirements of § 14-205(1) and (2).

(b) Require that all new subdivision proposals and other proposed developments (including proposals for manufactured home parks and subdivisions) greater than fifty (50) lots or five (5) acres, whichever is the lesser, include within such proposals base flood elevation data.

(c) Within approximate A Zones, where base flood elevations have not been established and where such data is not available from other sources, require the lowest floor of a building to be elevated or
floodproofed to a level of at least three feet (3') above the highest adjacent grade (as defined in § 14-202). All applicable data including elevations or floodproofing certifications shall be recorded as set forth in § 14-204(2). Openings sufficient to facilitate automatic equalization of hydrostatic flood forces on exterior walls shall be provided in accordance with the standards of § 14-205(2).

(d) Within approximate A Zones, where base flood elevations have not been established and where such data is not available from other sources, no encroachments, including structures or fill material, shall be located within an area equal to the width of the stream or twenty feet (20'), whichever is greater, measured from the top of the stream bank, unless certification by a Tennessee registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot (1') at any point within the City of Harrogate, Tennessee. The engineering certification should be supported by technical data that conforms to standard hydraulic engineering principles.

(e) New construction and substantial improvements of buildings, where permitted, shall comply with all applicable flood hazard reduction provisions of § 14-205(1) and (2). Within approximate A Zones, require that those subsections of § 14-205(2) dealing with the alteration or relocation of a watercourse, assuring watercourse carrying capacities are maintained and manufactured homes provisions are complied with as required.

(6) Standards for areas of shallow flooding (AO and AH Zones). Located within the special flood hazard areas established in § 14-203(2) are areas designated as shallow flooding areas. These areas have special flood hazards associated with base flood depths of one to three feet (1' – 3') where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate; therefore, the following provisions, in addition to those set forth in § 14-205(1) and (2), apply:

(a) All new construction and substantial improvements of residential and non-residential buildings shall have the lowest floor, including basement, elevated to at least one foot (1') above as many feet as the depth number specified on the FIRMs, in feet, above the highest adjacent grade. If no flood depth number is specified on the FIRM, the lowest floor, including basement, shall be elevated to at least three feet (3') above the highest adjacent grade. Openings sufficient to facilitate automatic equalization of hydrostatic flood forces on exterior walls shall be provided in accordance with standards of § 14-205(2).

(b) All new construction and substantial improvements of non-residential buildings may be floodproofed in lieu of elevation. The
structure together with attendant utility and sanitary facilities must be floodproofed and designed watertight to be completely floodproofed to at least one foot (1') above the flood depth number specified on the FIRM, with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. If no depth number is specified on the FIRM, the structure shall be floodproofed to at least three feet (3') above the highest adjacent grade. A Tennessee registered professional engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this ordinance and shall provide such certification to the administrator as set forth above and as required in accordance with § 14-204(2).

(c) Adequate drainage paths shall be provided around slopes to guide floodwaters around and away from proposed structures.

(7) Standards for areas protected by flood protection system (A-99 Zones). Located within the areas of special flood hazard established in § 14-203(2) are areas of the 100-year floodplain protected by a flood protection system but where base flood elevations have not been determined. Within these areas (A-99 Zones) all provisions of §§ 14-204 and 14-205 shall apply.

(8) Standards for unmapped streams. Located within the City of Harrogate, Tennessee are unmapped streams where areas of special flood hazard are neither indicated nor identified. Adjacent to such streams, the following provisions shall apply:

(a) No encroachments including fill material or other development including structures shall be located within an area of at least equal to twice the width of the stream, measured from the top of each stream bank, unless certification by a Tennessee registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot (1') at any point within the locality.

(b) When a new flood hazard risk zone, and base flood elevation and floodway data is available, new construction and substantial improvements shall meet the standards established in accordance with §§ 14-204 and 14-205. (Ord. #75, May 2009)


(a) Creation and appointment. A board of floodplain review is hereby established which shall consist of three (3) members appointed by the chief executive officer. The term of membership shall be four (4) years except that the initial individual appointments to the board of floodplain review shall be terms of one (1), two (2), and three (3) years,
respectively. Vacancies shall be filled for any unexpired term by the chief executive officer.

(b) Procedure. Meetings of the board of floodplain review shall be held at such times, as the board shall determine. All meetings of the board of floodplain review shall be open to the public. The board of floodplain review shall adopt rules of procedure and shall keep records of applications and actions thereof, which shall be a public record. Compensation of the members of the board of floodplain review shall be set by the legislative body.

(c) Appeals: how taken. An appeal to the board of floodplain review may be taken by any person, firm or corporation aggrieved or by any governmental officer, department, or bureau affected by any decision of the administrator based in whole or in part upon the provisions of this ordinance. Such appeal shall be taken by filing with the board of floodplain review a notice of appeal, specifying the grounds thereof. In all cases where an appeal is made by a property owner or other interested party, a fee for the cost of publishing a notice of such hearings shall be paid by the appellant. The administrator shall transmit to the board of floodplain review all papers constituting the record upon which the appeal action was taken. The board of floodplain review shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to parties in interest and decide the same within a reasonable time which shall not be more than thirty (30) days from the date of the hearing. At the hearing, any person or party may appear and be heard in person or by agent or by attorney.

(d) Powers. The board of floodplain review shall have the following powers:

(i) Administrative review. To hear and decide appeals where it is alleged by the applicant that there is error in any order, requirement, permit, decision, determination, or refusal made by the administrator or other administrative official in carrying out or enforcement of any provisions of this ordinance.

(ii) Variance procedures. In the case of a request for a variance the following shall apply:

(A) The City of Harrogate, Tennessee Board of Floodplain Review shall hear and decide appeals and requests for variances from the requirements of this ordinance;

(B) Variances may be issued for the repair or rehabilitation of historic structures as defined, herein, upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary deviation from the requirements of this ordinance.
to preserve the historic character and design of the structure;

(C) In passing upon such applications, the board of floodplain review shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this ordinance; and

(1) The danger that materials may be swept onto other property to the injury of others;
(2) The danger to life and property due to flooding or erosion;
(3) The susceptibility of the proposed facility and its contents to flood damage;
(4) The importance of the services provided by the proposed facility to the community;
(5) The necessity of the facility to a waterfront location, in the case of a functionally dependent use;
(6) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
(7) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
(8) The safety of access to the property in times of flood for ordinary and emergency vehicles;
(9) The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site;
(10) The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, water systems, and streets and bridges.

(D) Upon consideration of the factors listed above, and the purposes of this ordinance, the board of floodplain review may attach such conditions to the granting of variances, as it deems necessary to effectuate the purposes of this ordinance.

(E) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
Conditions for variances. (a) Variances shall be issued upon a determination that the variance is the minimum relief necessary, considering the flood hazard and the factors listed in § 16-406(1).

(b) Variances shall only be issued upon: a showing of good and sufficient cause, a determination that failure to grant the variance would result in exceptional hardship; or a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

(c) Any applicant to whom a variance is granted shall be given written notice that the issuance of a variance to construct a structure below the base flood elevation will result in increased premium rates for flood insurance (as high as twenty-five dollars ($25.00) for one hundred dollars ($100.00)) coverage, and that such construction below the base flood elevation increases risks to life and property.

(d) The administrator shall maintain the records of all appeal actions and report any variances to FEMA upon request. (Ord. #75, May 2009)

14-207. Legal status provisions. (1) Conflict with other ordinances. In case of conflict between this ordinance or any part thereof, and the whole or part of any existing or future ordinance of the City of Harrogate, Tennessee, the most restrictive shall in all cases apply.

(2) Severability. If any section, clause, provision, or portion of this ordinance shall be held to be invalid or unconstitutional by any court of competent jurisdiction, such holding shall not affect any other section, clause, provision, or portion of this ordinance which is not of itself invalid or unconstitutional. (Ord. #75, May 2009)
CHAPTE R 3

ZONING ORDINANCE\textsuperscript{1}

\textsuperscript{1}The zoning ordinance for the City of Harrogate is contained in its entirety in the office of the city recorder.
TITLE 15
MOTOR VEHICLES, TRAFFIC AND PARKING

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

CHAPTER 1
MISCELLANEOUS

SECTION
15-102. Driving on streets closed for repairs, etc.
15-103. One-way streets.
15-104. Unlaned streets.
15-105. Laned streets.
15-106. Yellow lines.
15-107. Miscellaneous traffic control signs, etc.
15-108. General requirements for traffic control signs, etc.
15-109. Unauthorized traffic control signs, etc.
15-110. School safety patrols.
15-111. Driving through funerals or other processions.

1 Municipal code reference
   Excavations and obstructions in streets, etc.: title 16.

2 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, § 55-50-504; and
   drag racing, as prohibited by Tennessee Code Annotated, § 55-10-501.
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.

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.

15-103. **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.

15-104. **Unlaned streets.** (1) Upon all unlaned streets of sufficient width, a vehicle shall be driven upon the right half of the street except:

(a) When lawfully overtaking and passing another vehicle proceeding in the same direction.

(b) When the right half of a roadway is closed to traffic while under construction or repair.

(c) Upon a roadway designated and signposted by the city for one-way traffic.

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

15-105. **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.

15-106. **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.

15-107. **Miscellaneous traffic control signs, etc.** It shall be unlawful for any pedestrian or the operator of any vehicle to violate or fail to comply with any traffic control sign, signal, marking, or device placed or erected by the state or the city unless otherwise directed by a police officer.

No person shall willfully fail or refuse to comply with any lawful order of any police officer invested by law with the authority to direct, control or regulate traffic.

15-108. **General requirements for traffic control signs, etc.** Pursuant to Tennessee Code Annotated, § 54-5-108, all traffic control signs, signals, markings, and devices shall conform to the latest revision of the Tennessee Manual on Uniform Traffic Control Devices for Streets and Highways, and shall be uniform as to type and location throughout the city.

15-109. **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

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1Municipal code references
Stop signs, yield signs, flashing signals, pedestrian control signs, traffic control signals generally: §§ 15-505--15-509.

2For the latest revision of the Tennessee Manual on Uniform Traffic Control Devices for Streets and Highways, see the Official Compilation of the Rules and Regulations of the State of Tennessee, § 1680-3-1, et seq.
15-4

official traffic control sign, signal, marking, or device or any railroad sign or
signal.

15-110. **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.

15-111. **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.

15-112. **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.

15-113. **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.

15-114. **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.

15-115. **Projections from the rear of vehicles.** Whenever the load or
any projecting portion of any vehicle shall extend beyond the rear of the bed or
body thereof, the operator shall display at the end of such load or projection, in
such position as to be clearly visible from the rear of such vehicle, a red flag
being not less than twelve (12) inches square. Between one-half (1/2) hour after
sunset and one-half (1/2) hour before sunrise, there shall be displayed in place
of the flag a red light plainly visible under normal atmospheric conditions at
least two hundred feet (200') from the rear of such vehicle.

15-116. **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.
15-117. **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 Classified and Commercial Driver License Act of 1988."

15-118. **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.

15-119. **Motorcycles, motor driven cycles, motorized bicycles, bicycles, etc.** (1) **Definitions.** For the purpose of the application of this section, the following words shall have the definitions indicated:

(a) "Motorcycle." Every motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three (3) wheels in contact with the ground, including a vehicle that is fully enclosed, has three (3) wheels in contact with the ground, weighs less than one thousand five hundred pounds (1,500 lbs.), and has the capacity to maintain posted highway speed limits, but excluding a tractor or motorized bicycle.

(b) "Motor-driven cycle." Every motorcycle, including every motor scooter, with a motor which produces not to exceed five (5) brake horsepower, or with a motor with a cylinder capacity not exceeding one hundred and twenty-five cubic centimeters (125cc);

(c) "Motorized bicycle." A vehicle with two (2) or three (3) wheels, an automatic transmission, and a motor with a cylinder capacity
not exceeding fifty (50) cubic centimeters which produces no more than
two (2) brake horsepower and is capable of propelling the vehicle at a
maximum design speed of no more than thirty (30) miles per hour on
level ground.

(2) Every person riding or operating a bicycle, motor cycle, motor
driven cycle or motorized bicycle shall be subject to the provisions of all traffic
ordinances, rules, and regulations of the city applicable to the driver or operator
of other vehicles except as to those provisions which by their nature can have no
application to bicycles, motorcycles, motor driven cycles, or motorized bicycles.

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

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

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

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

(7) (a) Each driver of a motorcycle, motor driven cycle, or motorized
bicycle and any passenger thereon shall be required to wear on his head,
either a crash helmet meeting federal standards contained in 49 CFR
571.218, or, if such driver or passenger is twenty-one (21) years of age or
older, a helmet meeting the following requirements:

(i) Except as provided in subdivisions (a)(ii)-(iv), the
helmet shall meet federal motor vehicle safety standards specified
in 49 CFR 571.218;

(ii) Notwithstanding any provision in 49 CFR 571.218
relative to helmet penetration standards, ventilation airways may
penetrate through the entire shell of the helmet; provided, that no
ventilation airway shall exceed one and one-half inches (1 1/2") in
diameter;

(iii) Notwithstanding any provision in 49 CFR 571.218,
the protective surface shall not be required to be a continuous
contour; and

(iv) Notwithstanding any provision in 49 CFR 571.218 to
the contrary, a label on the helmet shall be affixed signifying that
such helmet complies with the requirements of the American
Society for Testing Materials (ASTM), the Consumer Product
Safety Commission (CSPM), or the Snell Foundation.

(b) This section does not apply to persons riding:
(i) Within an enclosed cab;
(ii) Motorcycles that are fully enclosed, have three (3) wheels in contact with the ground, weigh less than one thousand five hundred pounds (1,500 lbs.) and have the capacity to maintain posted highway speed limits;
(iii) Golf carts; or
(iv) In a parade, at a speed not to exceed thirty (30) miles per hour, if the person is eighteen (18) years or older.

(8) Every motorcycle, motor driven cycle, or motorized bicycle operated upon any public way within the corporate limits shall be equipped with a windshield or, in the alternative, the operator and any passenger on any such motorcycle, motor driven cycle or motorized bicycle shall be required to wear safety goggles, faceshield or glasses containing impact resistant lens for the purpose of preventing any flying object from striking the operator or any passenger in the eyes.

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

15-120. Delivery of vehicle to unlicensed driver, etc.
(1) Definitions. (a) "Adult" shall mean any person eighteen (18) years of age or older.
(b) "Automobile" shall mean any motor driven automobile, car, truck, tractor, motorcycle, motor driven cycle, motorized bicycle, or vehicle driven by mechanical power.
(c) "Custody" means the control of the actual, physical care of the juvenile, and includes the right and responsibility to provide for the physical, mental, moral and emotional well being of the juvenile. "Custody" as herein defined, relates to those rights and responsibilities as exercised either by the juvenile's parent or parents or a person granted custody by a court of competent jurisdiction.
(d) "Drivers license" shall mean a motor vehicle operators license or chauffeurs license issued by the State of Tennessee.
(e) "Juvenile" as used in this chapter shall mean a person less than eighteen (18) years of age, and no exception shall be made for a juvenile who has been emancipated by marriage or otherwise.

(2) It shall be unlawful for any adult to deliver the possession of or the control of any automobile or other motor vehicle to any person, whether an adult or a juvenile, who does not have in his possession a valid motor vehicle operators or chauffeurs license issued by the Department of Safety of the State of Tennessee, or for any adult to permit any person, whether an adult or a juvenile, to drive any motor vehicle upon the streets, highways, roads, avenues, parkways, alleys or public thoroughfares in the City of Harrogate unless such
person has a valid motor vehicle operators or chauffeurs license as issued by the Department of Safety of the State of Tennessee.

(3) It shall be unlawful for any parent or person having custody of a juvenile to permit any such juvenile to drive a motor vehicle upon the streets, highways, roads, parkways, avenues or public ways in the city in a reckless, careless, or unlawful manner, or in such a manner as to violate the ordinances of the city.

15-121. Compliance with financial responsibility law required.

(1) This section shall apply to every vehicle subject to the state registration and certificate of title provisions.

(2) At the time the driver of a motor vehicle is charged with any moving violation under Tennessee Code Annotated, title 55, chapters 8 and 10, parts 1-5, chapter 50; any provision in this title of this municipal code; or at the time of an accident for which notice is required under Tennessee Code Annotated, § 55-10-106, the officer shall request evidence of financial responsibility as required by this section. In case of an accident for which notice is required under Tennessee Code Annotated, § 55-10-106, the officer shall request such evidence from all drivers involved in the accident, without regard to apparent or actual fault. For the purposes of this section, "financial responsibility" means:

(a) Documentation, such as the declaration page of an insurance policy, an insurance binder, or an insurance card from an insurance company authorized to do business in Tennessee, stating that a policy of insurance meeting the requirements of the Tennessee Financial Responsibility Law of 1977, compiled in Tennessee Code Annotated, chapter 12, title 55, has been issued;

(b) A certificate, valid for one (1) year, issued by the commissioner of safety, stating that a cash deposit or bond in the amount required by the Tennessee Financial Responsibility Law of 1977, compiled in Tennessee Code Annotated, chapter 12, title 55, has been paid or filed with the commissioner, or has qualified as a self-insurer under Tennessee Code Annotated, § 55-12-111; or

(c) The motor vehicle being operated at the time of the violation was owned by a carrier subject to the jurisdiction of the department of safety or the interstate commerce commission, or was owned by the United States, the State of Tennessee or any political subdivision thereof, and that such motor vehicle was being operated with the owner's consent.

(3) It is a civil offense to fail to provide evidence of financial responsibility pursuant to this section. Any violation is punishable by a civil penalty of up to fifty dollars ($50.00).

(4) The penalty imposed by this section shall be in addition to any other penalty imposed by the laws of this state or this municipal code.
(5) On or before the court date, the person so charged may submit evidence of financial responsibility at the time of the violation. If it is the person's first violation of this section and the court is satisfied that such financial responsibility was in effect at the time of the violation, the charge of failure to provide evidence of financial responsibility shall be dismissed. Upon the person's second or subsequent violation of this section, if the court is satisfied that such financial responsibility was in effect at the time of the violation, the charge of failure to provide evidence of financial responsibility may be dismissed. Any charge which is dismissed pursuant to this subsection shall be dismissed without costs to the defendant and no litigation tax shall be due or collected.

CHAPTER 2

EMERGENCY VEHICLES

SECTION
15-201. Authorized emergency vehicles defined.
15-203. Following emergency vehicles.
15-204. Running over fire hoses, etc.
15-205. Violations and penalty.

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.

15-202. Operation of authorized emergency vehicles. (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:
      (a) Park or stand, irrespective of the provisions of this title;
      (b) Proceed past a red or stop signal or stop sign, but only after slowing down as may be necessary for safe operation;
      (c) Exceed the maximum speed limit so long as life or property is not thereby endangered; and
      (d) Disregard regulations governing direction of movement or turning in specified directions.
   (3) The exemptions herein granted to an authorized emergency vehicle shall apply only when such vehicle is making use of audible and visual signals meeting the requirements of the applicable laws of this state, except that an authorized emergency vehicle operated as a police vehicle may be equipped with or display a red light only in combination with a blue light visible from in front of the vehicle.

15-203. Following emergency vehicles. No driver of any vehicle other than one on official business shall follow any authorized emergency vehicle apparently traveling in response to an emergency call closer than five hundred feet.
feet (500') or drive or park such vehicle within the block where fire apparatus has stopped in answer to a fire alarm.

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.

15-205. **Violations and penalty.** A violation of any provision of this chapter shall subject the offender to a penalty under the general penalty provision of this code. Each day a violation shall be allowed to continue shall constitute a separate offense.
CHAPTER 3

SPEED LIMITS

SECTION
15-301. In general.
15-302. At intersections.
15-304. Violations and penalty.

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.

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.

15-303. In school zones. Pursuant to Tennessee Code Annotated, § 55-8-152, the city shall have the authority to enact special speed limits in school zones. Such special speed limits 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.

In school zones where the board of mayor and aldermen has not established special speed limits as provided for above, any person who shall drive at a speed exceeding fifteen (15) miles per hour when passing a school during a recess period when a warning flasher or flashers are in operation, or during a period of ninety (90) minutes before the opening hour of a school, or a period of ninety (90) 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.

15-304. Violations and penalty. A violation of any provision of this chapter shall subject the offender to a penalty under the general penalty provision of this code. Each day a violation shall be allowed to continue shall constitute a separate offense.
CHAPTER 4

TURNING MOVEMENTS

SECTION
15-402. Right turns.
15-403. Left turns on two-way roadways.
15-404. Left turns on other than two-way roadways.
15-405. Violations and penalty.

15-401. Generally. Every driver who intends to turn, or partly turn from a direct line, shall first see that such movement can be made in safety, and whenever the operation of any other vehicle may be affected by such movement, shall give a signal required in Tennessee Code Annotated, § 55-8-143, plainly visible to the driver of such other vehicle of the intention to make such movement.

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.

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 such center line where it enters the intersection, and after entering the intersection the left turn shall be made so as to leave the intersection to the right of the center line of the roadway being entered. Whenever practicable, the left turn shall be made in that portion of the intersection to the left of the center of the intersection.

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.

15-405. Violations and penalty. A violation of any provision of this chapter shall subject the offender to a penalty under the general penalty
provision of this code. Each day a violation shall be allowed to continue shall constitute a separate offense.
CHAPTER 5

STOPPING AND YIELDING

SECTION
15-501. When emerging from alleys, etc.
15-502. To prevent obstructing an intersection.
15-503. At railroad crossings.
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.
15-510. Violations and penalty.

15-501. 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 a sidewalk or onto the sidewalk area extending across any alleyway or driveway, and shall yield the right-of-way to any pedestrian as may be necessary to avoid collision, and upon entering the roadway shall yield the right-of-way to all vehicles approaching on the roadway.

15-502. 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.

15-503. At railroad crossings. (1) Whenever any person driving a vehicle approaches a railroad grade crossing under any of the circumstances stated in this section, the driver of such vehicle shall stop within fifty feet (50') but not less than fifteen feet (15') from the nearest rail of such railroad, and shall not proceed until that driver can do so safely. The foregoing requirements shall apply when:
   (a) A clearly visible electric or mechanical signal device gives warning of the immediate approach of a railroad train;
   (b) A crossing gate is lowered or when a human flagger gives or continues to give a signal of the approach or passage of a railroad train;
   (c) A railroad train approaching within approximately one thousand five hundred feet (1,500') of the highway crossing emits a signal audible from such distance and such railroad train, by reason of its speed or nearness to such crossing, is an immediate hazard; and
(d) An approaching railroad train is plainly visible and is in hazardous proximity to such crossing.

(2) No person shall drive any vehicle through, around or under any crossing gate or barrier at a railroad crossing while such gate or barrier is closed or is being opened or closed.

15-504. At "stop" signs. The driver of a vehicle facing a "stop" sign shall stop before entering the crosswalk on the near side of the intersection or, if there is no crosswalk, shall stop at a clearly marked stop line, but if none, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway before entering the intersection, except when directed to proceed by a police officer or traffic control signal.

15-505. At "yield" signs. (1) The driver of a vehicle who is faced with a yield sign at the entrance to a through highway or other public roadway is not necessarily required to stop, but is required to exercise caution in entering the highway or other roadway and to yield the right-of-way to other vehicles which have entered the intersection from the highway or other roadway, or which are approaching so closely on the highway or other roadway as to constitute an immediate hazard, and the driver having so yielded may proceed when the way is clear.

(2) Where there is provided more than one (1) lane for vehicular traffic entering a through highway or other public roadway, if one (1) or more lanes at such entrance are designated a yield lane by an appropriate marker, this section shall control the movement of traffic in any lane so marked with a yield sign, even though traffic in other lanes may be controlled by an electrical signal device or other signs, signals, markings or controls.

15-506. At traffic control signals generally. Whenever traffic is controlled by traffic control signals exhibiting the words "Go," "Caution," or "Stop," or exhibiting different colored lights successively one at a time, or with arrows, the following colors only shall be used and the terms and lights shall indicate and 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 either 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) Yellow alone, or "Caution", when shown following the green or "Go" signal:
   (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 the signal are thereby advised that there is insufficient time to cross the roadway, and any pedestrian then starting to cross shall yield the right-of-way to all vehicles.

(3) 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. A right turn on a red signal shall be permitted at all intersections within the city, provided that the prospective turning car shall come to a full and complete stop before turning and that the turning car shall yield the right-of-way to pedestrians and cross traffic traveling in accordance with their traffic signal. However, such turn will not endanger other traffic lawfully using the intersection. A right turn on red shall be permitted at all intersections, except those that are clearly marked by a "No Turns On Red" sign, which may be erected by the city at intersections which the city decides require no right turns on red in the interest of traffic safety.
   (b) No pedestrian facing such signal shall enter the roadway unless such entry can be made safely and without interfering with any vehicular traffic.
   (c) A left turn on a red or stop signal shall be permitted at all intersections within the city where a one-way street intersects with another one-way street moving in the same direction into which the left turn would be made from the original one-way street. Before making such a turn, the prospective turning car shall come to a full and complete stop and shall yield the right-of-way to pedestrians and cross traffic traveling in accordance with the traffic signal so as not to endanger traffic lawfully using the intersection. A left turn on red shall be permitted at any applicable intersection except that clearly marked by a "No Turn of Red" sign, which may be erected by the city at intersections which the city decides requires no left turns on red in the interest of traffic safety.
   (d) The driver of a motorcycle approaching an intersection that is controlled by a traffic-control signal utilizing a vehicle detection device that is inoperative due to the size of the motorcycle shall come to a full and complete stop at the intersection and, after exercising due care as provided by law, may proceed with due caution when it is safe to do so. It is not a defense to § 15-506, "At traffic control signals generally," that
the driver of a motorcycle proceeded under the belief that a traffic-control signal utilized a vehicle detection device or was inoperative due to the size of the motorcycle when such signal did not utilize a vehicle detection device or that any such device was not in fact inoperative due to the size of the motorcycle.

(4) **Steady red with green arrow:**

(a) Vehicular traffic facing such signal may cautiously enter the intersection only to make the movement indicated by such arrow but shall yield the right-of-way to pedestrians lawfully within a crosswalk and to other traffic lawfully using the intersection.

(b) No pedestrian facing such signal shall enter the roadway unless such entry can be made safely and without interfering with any vehicular traffic.

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

**15-507. At flashing traffic control signals.** (1) Whenever an illuminated flashing red or yellow signal is used in a traffic sign or signal, it shall require obedience by vehicular traffic as follows:

(a) **Flashing red (stop signal).** When a red lens is illuminated with intermittent flashes, and the light is clearly visible for a sufficient distance ahead to permit such stopping, drivers of vehicles shall stop before entering the nearest crosswalk at an intersection or at a limit line when marked, or, if none, then before entering the intersection, and the right to proceed shall be subject to the rules applicable after making a stop at a stop sign.

(b) **Flashing yellow (caution signal).** When a yellow lens is illuminated with rapid intermittent flashes, drivers of vehicles may proceed through the intersection or past such signal only with caution.

(2) This section shall not apply at railroad grade crossings. Conduct of drivers of vehicles approaching railroad grade crossings shall be governed by the rules set forth in § 15-504 of this code.

**15-508. At pedestrian control signals.** Wherever special pedestrian control signals exhibiting the words "Walk" or "Wait" or "Don't Walk" are in place, such signals shall indicate as follows:

(1) **Walk.** Pedestrians facing such signals 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 crossing on the walk signal shall proceed to a sidewalk or safety island while the wait signal is showing.

**15-509. Stops to be signaled.** Every driver operating a motor vehicle who intends to stop such vehicle, shall first see that such movement can be made in safety, and whenever the operation of any other vehicle may be affected by such movement, shall give the signal required in *Tennessee Code Annotated*, § 55-8-143, plainly visible to the driver of such other vehicle of the intention to make such movement.

**15-510. Violations and penalty.** A violation of any provision of this chapter shall subject the offender to a penalty under the general penalty provision of this code. Each day a violation shall be allowed to continue shall constitute a separate offense.
CHAPTER 6
PARKING

SECTION
15-603. Occupancy of more than one space.
15-604. Where prohibited.
15-605. Loading and unloading zones.
15-606. Presumption with respect to illegal parking.
15-607. Violations and penalty.

15-601. Generally. No person shall leave any motor vehicle unattended on any street without first setting the brakes thereon, stopping the motor, removing the ignition key, and turning the front wheels of such vehicle toward the nearest curb or gutter of the street.

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

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

Furthermore, no person shall wash, grease, or work on any vehicle, except to make repairs necessitated by an emergency, while such vehicle is parked on a public street.

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

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 (1) 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.
15-604. Where prohibited. No person shall park a vehicle in violation of any sign placed or erected by the state or city, nor:

(1) On a sidewalk; provided, however, a bicycle may be parked on a sidewalk if it does not impede the normal and reasonable movement of pedestrian or other traffic.
(2) In front of a public or private driveway;
(3) Within an intersection;
(4) Within fifteen feet (15') of a fire hydrant;
(5) Within a pedestrian crosswalk;
(6) Within twenty feet (20') of a crosswalk at an intersection;
(7) Within thirty feet (30') upon the approach of any flashing beacon, stop sign or traffic control signal located at the side of a roadway;
(8) Within fifty feet (50') of the nearest rail of a railroad crossing;
(9) Within twenty feet (20') of the driveway entrance to any fire station, and on the side of the street opposite the entrance to any fire station within seventy-five feet (75') of such entrance when properly signposted;
(10) Alongside or opposite any street excavation or obstruction when stopping, standing or parking would obstruct traffic;
(11) On the roadway side of any vehicle stopped or parked at the edge or curb of a street;
(12) Upon any bridge or other elevated structure upon a highway or within a highway tunnel;
(13) In a parking space clearly identified by an official sign as being reserved for the physically handicapped, unless, however, the person driving the vehicle is (a) physically handicapped, or (b) parking such vehicle for the benefit of a physically handicapped person. A vehicle parking in such a space shall display a certificate of identification or a disabled veteran's license plate issued under Tennessee Code Annotated, title 55, chapter 21.

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

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.

15-607. Violations and penalty. A violation of any provision of this chapter shall subject the offender to a penalty under the general penalty provision of this code. Each day a violation shall be allowed to continue shall constitute a separate offense.
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.
15-706. Deposit of driver's license in lieu of bail.
15-707. Violations and penalty.

15-701. **Issuance of traffic citations.**1 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.

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.

15-703. **Illegal parking.** Whenever any motor vehicle without a driver is found parked or stopped in violation of any of the restrictions imposed by this code, the officer finding such vehicle shall take its license number and may take any other information displayed on the vehicle which may identify its user, and shall conspicuously affix to such vehicle a citation for the driver and/or owner to answer for the violation within thirty (30) days during the hours and at a place specified in the citation.

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1Municipal code reference

   Issuance of citations in lieu of arrest and ordinance summonses in non-traffic related offenses: title 6, chapter 3.

State law reference

15-704. Impoundment of vehicles. Members of the police department are hereby authorized, when reasonably necessary for the security of the vehicle or to prevent obstruction of traffic, to remove from the streets and impound any vehicle whose operator is arrested or any unattended vehicle which is parked so as to constitute an obstruction or hazard to normal traffic, or which has been parked for more than one (1) hour in excess of the time allowed for parking in any place, or which has been involved in two (2) or more violations of this title for which citation tags have been affixed to the vehicle and the vehicle not removed. Any impounded vehicle shall be stored until the owner or other person entitled thereto claims it, gives satisfactory evidence of ownership or right to possession, and pays all applicable fees and costs of impoundment and storage, or until it is otherwise lawfully disposed of.


15-706. Deposit of driver's license in lieu of bail. (1) Deposit allowed. Whenever any person lawfully possessing a chauffeur's or operator's license theretofore issued to him by the Tennessee Department of Safety, or under the driver licensing laws of any other state or territory or the District of Columbia, is issued a citation or arrested and charged with the violation of any city ordinance or state statute regulating traffic, except those ordinances and statutes, the violation of which call for the mandatory revocation of a operator's or chauffeur's license for any period of time, such person shall have the option of depositing his chauffeur's or operator's license with the officer or court demanding bail in lieu of any other security required for his appearance in the city court of this city in answer to such charge before said court.

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

(3) Failure to appear -- disposition of license. In the event that any driver who has deposited his chauffeur's or operator's license in lieu of bail fails to appear in answer to the charges filed against him, the clerk or judge of the city court accepting the license shall forward the same to the Tennessee Department of Safety for disposition by said department in accordance with the provisions of Tennessee Code Annotated, § 55-50-801, et seq.
15-707. **Violations and penalty.** A violation of any provision of this chapter shall subject the offender to a penalty under the general penalty provision of this code. Each day a violation shall be allowed to continue shall constitute a separate offense.
TITLE 16
STREETS AND SIDEWALKS, ETC

CHAPTER
1. MISCELLANEOUS.
2. STREET CUTS.

CHAPTER 1
MISCELLANEOUS

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

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.

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 feet (14') or over any sidewalk at a height of less than eight feet (8').

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

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1Municipal code reference
   Related motor vehicle and traffic regulations: title 15.
driving vehicles on public streets or alleys from obtaining a clear view of traffic when approaching an intersection.

16-104. **Projecting signs and awnings, etc., restricted.** Signs, awnings, or other structures which project over any street or other public way shall be erected subject to the requirements of the building code.¹

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.

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.

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.

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.

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.

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 city recorder.

16-111. **Animals and vehicles on sidewalks.** It shall be unlawful for any person to ride, lead, or tie any animal, or ride, push, pull, or place any

¹Municipal code reference
Building code: title 12, chapter 1.
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.

16-112. **Fires in streets, etc.** It shall be unlawful for any person to set or contribute to any fire in any public street, alley, or sidewalk.

16-113. ** Violations and penalty.** A violation of any provision of this chapter shall subject the offender to a penalty under the general penalty provision of this code. Each day a violation shall be allowed to continue shall constitute a separate offense.
CHAPTER 2

STREET CUTS

SECTION
16-201. Purpose.
16-203. Permit required; standards of repairs.
16-204. Deposit or bond.
16-205. Insurance.
16-206. Supervision.
16-207. Violations and penalty.

16-201. Purpose. The purpose of this chapter is to regulate excavation, tunneling, fill, paving, or any alteration or repair by any individual, business, or governmental agency within the public street right-of-way. (Ord. #9, Sept. 1993)

16-202. Definitions. For the purpose of this chapter:
(1) "Construction" Means any excavation, tunneling, fill, paving, alteration or repair.
(2) "Person" means any individual, contractor, or agent of any public board or utility.
(3) "Street" means the full width of the public right-of-way. (Ord. #9, Sept. 1993)

16-203. Permit required; standards of repairs. No person shall, without first obtaining a permit, commence any construction within any street or close any street for any length of time. Permits may be obtained by making an application for a permit to the city recorder to issue such permit. In the case of an emergency that it becomes necessary for such construction, such as nights, weekends or holidays, the entity responsible is required to request the permit on the first workday after such emergency. The application shall consist of a written statement describing the work proposed, any required construction drawings, and a time schedule for the completion of the work. The following standards shall be used to review the application for a permit and to inspect subsequent construction.

(1) All work of repairing surfaces which have been cut or opened shall be done in accordance with the specifications and standards of workmanship adopted by the City of Harrogate and shall be inspected by the city. Should any cut or trench not be refilled in accordance to these standards, the city may cause such opening to again be excavated and refilled to its satisfaction at the expense of the permittee. The permittee shall be responsible for total street failure, including changes in sub-base and supporting area, resulting from a meter main
breakage or from a sewer line breakage that was directly caused by a previous
excavation of the permittee.

(2) The holder of a permit shall perform the work provided for therein
with due regard to the public convenience and safety and as expeditiously as
possible. Such permits shall expire automatically thereunder unless the work
is begun within thirty (30) days after its issuance. Any permit not used within
thirty (30) days shall be returned for cancellation or renewal.

(3) The holder of a permit while making the repairs, shall use every
precaution required as to barricades, lights and devices for the safety of the
public. This section shall not relieve the holder of the permit from
responsibilities for accidents, should any occur. It shall be distinctly understood,
and the application and permit shall state, that all persons making openings
shall hold the city and its employees harmless from all damages which may be
recovered by reason of injuries received to persons or property on account of
such openings.

(4) The holder of a permit shall as soon as physically possible, repair
the opening surface equal to or better than its original state as before the
opening was made and shall repair all latent defects in construction for a period
of three (3) years after completion of such opening. (Ord. #9, Sept. 1993)

16-204. Deposit or bond. No permit shall be issued unless and until the
applicant therefor has deposited with the recorder a cash deposit. The deposit
shall be in the sum of two hundred dollars ($200.00) per excavation or tunnel
and shall insure the proper restoration of the ground and laying of the
pavement, if any. Where the amount of the deposit is clearly inadequate to cover
the cost of restoration, the recorder, or such other person as may be designated
by the board of mayor and aldermen, may increase the amount of the deposit to
an amount considered by the recorder or designated representative to be
adequate to cover the cost. If the applicant fails to comply with the restoration
 provision of this section, the expense to the city of relaying the surface of the
ground or pavement, and of making the refill shall be deducted from the deposit.
The balance shall be returned to the permittee without interest as provided
herein after the tunnel or excavation is completely refilled and the surface or
pavement is restored.

Any public utility intending to make excavations or tunnels may make
and maintain with the city an annual deposit, surety bond, or letter of
committent in such form or amount as the designated representative of the
board of mayor and aldermen deems adequate. (Ord. #9, Sept. 1993)

16-205. Insurance. In addition to making the deposit or giving the bond
hereinbefore required to insure that proper restoration is made, each person
applying for an excavation permit shall file a certificate of insurance indicating
that he is insured against claims for damages for personal injury as well as
against claims for property damage which may arise from or out of the

performance of the work, whether such performance be by himself, his subcontractor, or anyone directly or indirectly employed by him. Such insurance shall cover collapse, explosive hazards, and underground work by equipment on the street, and shall include protection against liability arising from completed operations. The amount of the insurance shall be prescribed by the recorder in accordance with the nature of the risk involved; provided, however, that the liability insurance for bodily injury shall not be less than three hundred thousand dollars ($300,000.00) for each person, and not less than seven hundred thousand dollars ($700,000.00) for each accident, and for property damages not less than one hundred thousand dollars ($100,000.00) for each accident.

16-206. **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.

16-207. **Violations and penalty.** A violation of any provision of this chapter shall subject the offender to a penalty under the general penalty provision of this code. Each day a violation shall be allowed to continue shall constitute a separate offense.
TITLE 17

REFUSE AND TRASH DISPOSAL

[RESERVED FOR FUTURE USE]
TITLE 18

WATER AND SEWERS

CHAPTER
1. WASTEWATER SERVICE CONNECTION FEES.
2. WASTEWATER DISPOSAL.

CHAPTER 1

WASTEWATER SERVICE CONNECTION FEES

SECTION
18-101. Fee established.
18-102. System usage.
18-103. Formula.
18-104. Example guide.
18-105. Schedule of usage and fees.
18-106. Delegation of authority to mayor to determine fees.

18-101. Fee established. The city wastewater service connection fee is two hundred (200) gallons per day per examining room hereby set at one thousand two hundred dollars ($1,200.00) per unit and:

(1) Each new customer must pay for the cost of the service connection to the wastewater system prior to any service connection.

(2) Residential customers are not permitted to share a common meter or connection to avoid the rate system designed for the recovery of capital and operating costs.

(3) Where the water utility has allowed the use of a common meter, the city may assess a separate connection fee per dwelling unit.

(4) All customers are required to pay at least a minimum wastewater service connection fee as established by this chapter.

(5) For the purpose of this chapter a unit is defined as a separate living unit for apartments and dwellings. (Ord. #46, Aug. 2005)

18-102. System usage. In an effort to make the tap fee as fair and objective as possible a method based upon commercial, industrial, and institutional water consumption requirements outlined in Community Water Systems Source Book, fifth edition shall be used.

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1Municipal code references

Building, utility and housing codes: title 12.
Refuse disposal: title 17.
(1) Using one hundred (100) gallons per day of water per person and 2.5 residents per household, the average usage for the service is seven thousand five hundred (7,500) gallons per month. Thus, seven thousand five hundred (7,500) is the basic measure of usage associated with one connection or one unit and it is the same measure used by the state in evaluating facility designs. The application of all other uses shall be computed according to the above referenced design standards regardless of what the actual usage of the system is.

(2) Schedule of water consumption requirements. The following water consumption shall be used in computing wastewater service connection fees:

<table>
<thead>
<tr>
<th>Residential:</th>
<th>100 gallons per day per person</th>
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</thead>
<tbody>
<tr>
<td>Apartments and condominiums</td>
<td>100 gallons per day per person</td>
</tr>
<tr>
<td></td>
<td>(Based on the number of meters or rental units)</td>
</tr>
<tr>
<td>Schools</td>
<td>16 gallons per person per day</td>
</tr>
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<td></td>
<td>(Based upon projected enrollment)</td>
</tr>
<tr>
<td>Churches</td>
<td>3 gallons per person per day</td>
</tr>
<tr>
<td></td>
<td>(Based upon membership enrollment)</td>
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<tr>
<td>Civic clubs</td>
<td>3 gallons per person per day</td>
</tr>
<tr>
<td></td>
<td>(Based upon membership enrollment)</td>
</tr>
<tr>
<td>Hospitals</td>
<td>300 gallons per bed per day</td>
</tr>
<tr>
<td>Nursing homes</td>
<td>195 gallons per bed per day</td>
</tr>
<tr>
<td></td>
<td>(Based upon the number of patients)</td>
</tr>
<tr>
<td>Rooming houses</td>
<td>100 gallons per person per day</td>
</tr>
<tr>
<td></td>
<td>(Based upon the number of roomers)</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Commercial and Industrial:</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Barber shop</td>
<td>100 gallons per day per chair</td>
</tr>
<tr>
<td>Beauty shop</td>
<td>125 gallons per day per chair</td>
</tr>
<tr>
<td>Dentist office</td>
<td>750 gallons per day per chair</td>
</tr>
<tr>
<td>Department store</td>
<td>40 gallons per day per employee</td>
</tr>
<tr>
<td>Drug store</td>
<td>500 gallons per day</td>
</tr>
<tr>
<td>With fountain service</td>
<td>Plus 1,500 gallons per day additional</td>
</tr>
<tr>
<td>Serving meals</td>
<td>Plus 50 gallons per day per seat additional</td>
</tr>
<tr>
<td>Industrial plant</td>
<td>30 gallons per day per employee</td>
</tr>
<tr>
<td>Service Type</td>
<td>Daily Usage</td>
</tr>
<tr>
<td>------------------------------</td>
<td>------------------------</td>
</tr>
<tr>
<td>Laundry</td>
<td>5,000 gallons per day</td>
</tr>
<tr>
<td>Laundrette</td>
<td>250 gallons per day per machine</td>
</tr>
<tr>
<td>Shopping center no food</td>
<td>150 gallons per day per 1000 SF</td>
</tr>
<tr>
<td>Retail store</td>
<td>150 gallons per day per 1000 SF</td>
</tr>
<tr>
<td>Restaurants</td>
<td>20 gallons per day per seat</td>
</tr>
<tr>
<td>Motels</td>
<td>38 gallons per room per day</td>
</tr>
<tr>
<td>Service station</td>
<td>10 gallons per day per vehicle served</td>
</tr>
<tr>
<td>Theater</td>
<td>3 gallons per day per seat</td>
</tr>
<tr>
<td>Office building</td>
<td>12 gallons per day per 100 SF</td>
</tr>
<tr>
<td>Car wash</td>
<td>1,500 gallons per day per wash rack</td>
</tr>
<tr>
<td>Physician's office</td>
<td>200 gallons per day per examining room</td>
</tr>
<tr>
<td>Child care center</td>
<td>10 gallons per day per child and adult</td>
</tr>
</tbody>
</table>

(Ord. #46, Aug. 2005)

18-103. **Formula.** The formula for calculating the service connection fee, sometimes referred to as the "tap fee" is:

\[
gallons\ per\ day \times \frac{30\ days\ usage}{7500\ gallons} \times 1200\ (tap\ fee)\ (Ord.\ #46,\ Aug.\ 2005)
\]

18-104. **Example guide.** Example: A 10,000 SF office building - The number of units is 12 gallons per day per 100 SF (from the above usage standards) or 1,200 gallons per day. Multiplied by 30 days in the month the usage is 36,000 gallons per month. Divide by the 7,500-gallon base for each unit or tap and 4.8 units are determined. To determine the connection fee multiply 4.8 times $1,200.00 (established by the city utility board). The connection fee for an office building used in the above example would be as follows: 4.8 times $1,200.00 or $5,760.00 connection fee. (Ord. #46, Aug. 2005)

18-105. **Schedule of usage and fees.** The following schedules of fees are included as a part of this chapter and are applicable to all service connection fees.

**Wastewater connection fees schedule:**

- **Residential single unit** - 100 gallons per day per person. Using 2.5 persons per household for 30 days the monthly water usage is 7,500 gallons. This monthly usage represents one equity connection fee. The equity connection fee is $1,200.00.
Apartments, rooming houses, condominiums, duplexes, triplexes, etc. - Each apartment unit, rooming house unit, condominium unit, duplex unit, triplex unit, etc. are assessed a fee of $1,200.00 per unit. Each unit is treated just like a single residential unit. The service connection fee for a 14 unit apartment building would be 14 x $1,200.00 or $16,800.00.

- Barber shop - 100 gallons per day per chair. Using 2 chairs, 100 x 2 x 30 days equal 6,000 gallons per month usage. 6,000 gallons/7,500 residential base usage equals .8 connections. The connection fee would be $960.00. The shop would be assessed the minimum service connection fee of $1,200.00.

- Beauty shop - 125 gallons per day per chair. Using 4 chairs, 125 x 4 x 30 days equal 15,000 gallons per month usage. 15,000 gallons/7,500 residential base usage equals 2 connections. The connection fee would be 2 x $1,200.00 or $2,400.00.

- Dentist office - 750 gallons per day per chair. Using 2 chairs, 750 x 2 x 30 days equal 45,000 gallons per month usage. 45,000 gallons/7,500 residential base usage equals 6 connections. The connection fee would be 6 x $1,200.00 or $7,200.00.

- Department store - 40 gallons per day per employee. Using 4 employees, 40 x 4 x 30 days equal 4,800 gallons per month usage. 4,800 gallons/7,500 residential base usage equals 64 connections. The connection fee would be 64 x $1,200.00 or $768.00. The department store would be assessed the minimum service connection fee of $1,200.00.

- Drug store - 500 gallons per day. 500 x 30 days equal 15,000 gallons per month usage. 15,000 gallons/7,500 residential base usage equals 2 connections. The connection fee would be 2 x $1,200.00 or $2,400.00.

- Church - 3 gallons per day per member. Using 300 members, 3 x 300 x 30 days equal 27,000 gallons per month usage 27,000 gallons/7,500 residential base usage equals 3.6 connections. The connection fee would be 3.6 x $1,200.00 or $4,320.00. If the connection serves a separate building at the church an estimate of the number of people who will use the building should be used for the number of members.

- Schools - 16 gallons per day per person. Using 300 enrollment, 16 x 300 x 30 days equal 144,000 gallons per month usage. 144,000 gallons/7,500 residential base usage equals 19.2 connections. The connection fee would be 19.2 x $1,200.00 or $23,040.00.

- Hospitals - 300 gallons per day per bed. Using 100 beds, 300 x 100 x 30 days equal 900,000 gallons per month usage. 900,000 gallons/7,500 residential base usage equals 120 connections. The connection fee would be 120 x $1,200.00 or $144,000.00.
Nursing homes - 195 gallons per day per bed. Using 25 beds, 195 x 25 x 30 days equal 146,250 gallons per month usage. 146,250 gallons/7,500 residential base usage equals 19.5 connections. The connection fee would be 19.5 x $1,200.00 or $23,400.00.

Laundry - 5,000 gallons per day. 5,000 x 30 days equal 150,000 gallons per month usage. 150,000 gallons/7,500 residential base usage equals 20 connections. The connection fee would be 20 x $1,200.00 or $24,000.00.

Laundrette - 250 gallons per day per machine. Using 10 washing machines, 250 x 10 x 30 days equal 75,000 gallons per month usage. 75,000 gallons/7,500 residential base usage equals 10 connections. The connection fee would be 10 x $1,200.00 or $12,000.00.

Shopping center - ISO gallons per day per 1,000 SF. Using 20,000 SF, 150 x 20 x 30 days equal 90,000 gallons per month usage. 90,000 gallons/7,500 residential base usage equals 12 connections. The connection fee would be 12 x $1,200.00 or $14,400.00.

Restaurant - 20 gallons per day per seat. Using 40 seats, 20 x 40 x 30 days equal 24,000 gallons per month usage. 24,000 gallons/7,500 residential base usage equals 3.2 connections. The connection fee would be 3.2 x $1,200.00 or $3,840.00.

Motel - 63 gallons per day per room. Using 50 rooms, 63 x 50 x 30 days equals 94,500 gallons per month usage. 94,500 gallons/7,500 residential base usage equals 12.6 connections. The connection fee would be 12.6 x $1,200.00 or $15,120.00.

Office building - 12 gallons per day per 100 SF. Using 10,000 SF, 12 x 100 x 30 days equal 36,000 gallons per month usage. 36,000 gallons/7,500 residential base usage equals 4.8 connections. The connection fee would be 4.8 x $1,200.00 or $5,760.00.

Car wash - 1,500 gal per day per wash rack. Using 6 wash racks, 1,500 x 6 x 30 days equal 270,000 gallons per month usage. 270,000 gallons/7,500 residential base usage equals 36 connections. The connection fee would be 36 x $1,200.00 or $43,200.00.

Physician's office - 200 gallons per day per examining room. Using 4 rooms, 200 x 4 x 30 days equal 24,000 gallons per month usage. 24,000 gallons/7,500 residential base usage equals 3.2 connection fees. The connection fee would be 3.2 x $1,200.00 or $3,840.00.

Child care center - 10 gallons per day per child and adult. Using 20 persons, 10 x 20 x 30 days equal 6,000 gallons per month. 6,000 gallons/7,500 residential base usage equals 8 connections. The connection fee would be 8 x $1,200.00 or $960.00. The minimum tap fee of $1,200.00 would be charged.

Service station - 10 gallons per day per vehicle. Using 75 vehicles, 10 x 75 x 30 days equal 22,500 gallons per month usage. 22,500
gallons/7,500 residential base usage equals 3 connections. The connection fee would be 3 x $1,200.00 or $3,600.00. (Ord. #46, Aug. 2005)

18-106. **Delegation of authority to mayor to determine fees.** The board of mayor and alderman, serving as the city's utility board, hereby delegates to the mayor or his designee the authority to determine service connection fees as herein required and to collect such fees upon application for service. Funds received shall be deposited in a utility enterprise fund. (Ord. #46, Aug. 2005)
CHAPTER 2

WASTEWATER DISPOSAL

SECTION
18-201. Requirements for proper wastewater disposal.
18-202. Fees may be established.
18-203. Utility board may contract with others.
18-204. Payment of connection fees.
18-205. Violations and penalty.

18-201. Requirements for proper wastewater disposal. (1) It shall be unlawful for any person to place, deposit, or permit to be deposited in any unsanitary manner on public or private property within the service area of the city, any human or animal excrement, garbage, or other objectionable waste.

(2) It shall be unlawful to discharge to any waters of the state within the service area of the city any sewage or other polluted waters, except where suitable treatment has been provided in accordance with provisions of this chapter or city or state regulations.

(3) Except as herein provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of sewage.

(4) Except as provided in (5) below, the owner of all houses, buildings, or properties used for human occupancy, employment, recreation, or other purposes situated within the service area in which there is now located or may in the future be located a public sanitary sewer, is hereby required at his expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper public sewer in accordance with the provisions of this chapter, within thirty (30) days after date of official notice to do so, provided that said public sewer is made available to said property or within one hundred feet (100') of said property line.

(5) The owner of a manufacturing facility may discharge wastewater to the waters of the state provided that he obtains an NPDES permit and meets all requirements of the Federal Clean Water Act, the NPDES permit, and any other applicable local, state, or federal statutes and regulations.

(6) Where a public sanitary sewer is not available under the provisions of (4) above, the building sewer shall be connected to a private sewage disposal system complying with state health department requirements. (Ord. #58, Jan. 2007)

18-202. Fees may be established. The city utility board may establish wastewater connection fees and other required fees to pay for the development, expansion, operation and maintenance of the City of Harrogate Wastewater System. (Ord. #58, Jan. 2007)
18-203. **Utility board may contract with others.** The city utility board may contract with others to serve as agent for the City of Harrogate in providing wastewater service. (Ord. #58, Jan. 2007)

18-204. **Payment of connection fees.** The board may provide for service connection fees to be paid over a period of time when the board determines that there is a need to do so. (Ord. #58, Jan. 2007)

18-205. **Violations and penalty.** A violation of any provision of this chapter shall subject the offender to a penalty under the general penalty provision of this code. Each day a violation shall be allowed to continue shall constitute a separate offense.
TITLE 19

ELECTRICITY AND GAS

[RESERVED FOR FUTURE USE]
TITLE 20

MISCELLANEOUS

CHAPTER 1

GREEN WAY PARK RULES AND REGULATIONS


20-102. Violations and penalty.

20-101. Rules and regulations adopted. (1) The following rules and regulations are hereby adopted by the board of mayor and aldermen and may be amended from time to time by resolution of the board of mayor and aldermen. A copy of such rules and regulations shall be filed with the city recorder and will be available for citizen review. The mayor is authorized to post pertinent rules and regulations within the parks and green way as he determines necessary.

(2) It is unlawful to remain in any park after the posted closing time, except when engaged in activities that are a part of the recreation programs approved by the City of Harrogate. Park or green way hours are from 6:00 A.M. thru 9:30 P.M., summer, and 6:00 A.M. thru 6:00 P.M., winter.

(3) It is unlawful to possess or consume alcoholic beverages in any park or green way.

(4) It is unlawful for any person to disobey rules and signs.

(5) It is unlawful for any vehicle with a gross weight of over thirty-two thousand (32,000) pounds or a maximum width of over 102 inches to use the road in any park of the city. This rule shall not apply to city maintenance vehicles and emergency vehicles.

(6) It is unlawful in any manner to tease, annoy, disturb, molest, catch, injure or kill, throw any stone or missile of any kind at or strike with any stick or weapon, any animal, bird, or fowl.

(7) It is unlawful to perform the following activities in a park or green way area unless specifically authorized by the City of Harrogate in writing. Such writing shall include a concession contract with the City of Harrogate:

(a) Operating a fixed or mobile concession, traveling exhibition.

(b) Soliciting, selling, offering for sale, peddling, hawking, or vending any goods or services.

(c) Advertising any goods or services other than the direct handling of written advertising handed to any one person.
(d) Distributing any commercial circular notice, leaflet, pamphlet or printed material of any kind in any building. These facilities are not public fora or limited public fora and are designated solely to the specific purposes for which they are dedicated.

(e) Entering upon, using or traversing any portion of a park for commercial purpose.

(8) It is unlawful for any person to travel on a trail at a speed greater than is reasonable and prudent under the existing conditions and having regard to actual and potential hazards. In every event, speed shall be so controlled as may be necessary to avoid colliding with others who are complying with the law and using reasonable care. Travel at speeds in excess of fifteen (15) miles per hour on a walking/vehicle trail shall constitute in evidence a prima facie presumption that the person violated this section.

(9) It is unlawful for dogs or other animals to be allowed in the greenway or the park.

(10) It is unlawful to stay in the park or greenway when directed to leave by a City of Harrogate employee or official of the City of Harrogate or any police officer.

(11) It is unlawful to remove, destroy, mutilate or deface any structure, monument, statue, vase, fountain, wall, fence, railing, vehicle, bench, shrub, tree, fern, plant, flower, lighting system or sprinkling system or other property in the park or greenway.

(12) It is unlawful to throw any refuse, litter, broken glass, crockery, nails, shrubbery, trimmings, junk or advertising matter in the park or to deposit any such material therein, except in receptacles provided for such purposes.

(13) It shall be unlawful for any person to deposit any refuse brought from private property in receptacles located in the city park or greenway facilities. Nothing in this section is intended to prohibit the disposal of refuse generated from park use such as picnics, barbecues, lunches, etc.

(14) 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

(15) It is unlawful to ride, park, or drive any motorcycle, motor vehicle, go-cart, ATV, four wheeler or three wheeler, land sailing device, horse or pony on, over, or through any park or greenway. Skateboards shall be allowed only in the skateboard park provided inside the city park.

(16) It is unlawful to park a trailer, camper, or other vehicle for the purpose of remaining overnight.

¹Municipal code reference
(17) It is unlawful to build any fires in any park or green way except in areas designated by the City of Harrogate.

(18) It is unlawful to use profane or abusive language or to conduct oneself in a manner that interferes with the reasonable use of the park or green way. (Ord. #32, June 2002, as amended by Ord. #62, Dec. 2007, modified)

20-102. Violations and penalty. A violation of any provision of this chapter shall subject the offender to a penalty under the general penalty provision of this code. Each day a violation shall be allowed to continue shall constitute a separate offense.
APPENDIX

A. ETHICS PROVISIONS PROVIDED BY STATUTE ........ APP-A-1
B. TITLE VI COMPLIANCE MANUAL .................... APP-B-1
C. DRUG AND ALCOHOL TESTING POLICY ............ APP-C-1
D. PURCHASING PROCEDURES ......................... APP-D-1
Appendix A


All candidates for the chief administrative office (mayor), any candidates who spend more than $500, and candidates for other offices that pay at least $100 a month are required to file campaign financial disclosure reports. Civil penalties of $25 per day are authorized for late filings. Penalties up to the greater of $10,000 or 15 percent of the amount in controversy may be levied for filings more than 35 days late. It is a Class E felony for a multicandidate political campaign committee with a prior assessment record to intentionally fail to file a required campaign financial report. Further, the treasurer of such a committee may be personally liable for any penalty levied by the Registry of Election Finance (T.C.A. § 2-10-101–118).

Contributions to political campaigns for municipal candidates are limited to:

a. $1,000 from any person (including corporations and other organizations);
b. $5,000 from a multicandidate political campaign committee;
c. $20,000 from the candidate;
d. $20,000 from a political party; and
e. $75,000 from multicandidate political campaign committees.

The Registry of Election Finance may impose a maximum penalty of $10,000 or 115 percent of the amount of all contributions made or accepted in excess of these limits, whichever is greater (T.C.A. § 2-10-301–310).

Each candidate for local public office must prepare a report of contributions that includes the receipt date of each contribution and a political campaign committee’s statement indicating the date of each expenditure (T.C.A. § 2-10-105, 107).

Candidates are prohibited from converting leftover campaign funds to personal use. The funds must be returned to contributors, put in the volunteer public education trust fund, or transferred to another political campaign fund, a political party, a charitable or civic organization, educational institution, or an organization described in 26 U.S.C. 170(c) (T.C.A. § 2-10-114).

2. Conflicts of Interest.

Municipal officers and employees are permitted to have an “indirect interest” in contracts with their municipality if the officers or employees publicly acknowledge their interest. An indirect interest is any interest that is not “direct,” except it includes a direct interest if the officer is the only supplier of
goods or services in a municipality. A “direct interest” is any contract with the official himself or with any business of which the official is the sole proprietor, a partner, or owner of the largest number of outstanding shares held by any individual or corporation. Except as noted, direct interests are absolutely prohibited (T.C.A. § 6-2-402, T.C.A. § 6-20-205, T.C.A. § 6-54-107–108, T.C.A. § 12-4-101–102).


Conflict of interest disclosure reports by any candidate or appointee to a local public office are required under T.C.A. §§ 8-50-501 et seq. Detailed financial information is required, including the names of corporations or organizations in which the official or one immediate family member has an investment of over $10,000 or 5 percent of the total capital. This must be filed no later than 30 days after the last day legally allowed for qualifying as a candidate. As long as an elected official holds office, he or she must file an amended statement with the Tennessee Ethics Commission or inform that office in writing that an amended statement is not necessary because nothing has changed. The amended statement must be filed no later than January 31 of each year (T.C.A. § 8-50-504).

4. Consulting fee prohibition for elected municipal officials.

Any member or member-elect of a municipal governing body is prohibited under T.C.A. § 2-10-124 from “knowingly” receiving any form of compensation for “consulting services” other than compensation paid by the state, county, or municipality. Violations are punishable as Class C felonies if the conduct constitutes bribery under T.C.A. § 39-16-102. Other violations are prosecuted as Class A misdemeanors. A conviction under either statute disqualifies the offender from holding any office under the laws or Constitution of the State of Tennessee.

“Consulting services” under T.C.A. § 2-10-122 means “services to advise or assist a person or entity in influencing legislative or administrative action, as that term is defined in § 3-6-301, relative to the municipality or county represented by that official.” “Consulting services” also means services to advise or assist a person or entity in maintaining, applying for, soliciting or entering into a contract with the municipality represented by that official. "Consulting services" does not mean the practice or business of law in connection with representation of clients by a licensed attorney in a contested case action, administrative proceeding or rule making procedure;
"Compensation" does not include an “honorarium” under T.C.A. § 2-10-116, or certain gifts under T.C.A. § 3-6-305(b), which are defined and prohibited under those statutes.

The attorney general construes "Consulting services" to include advertising or other informational services that directly promote specific legislation or specifically target legislators or state executive officials. Advertising aimed at the general public that does not promote or otherwise attempt to influence specific legislative or administrative action is not prohibited. Op. Atty.Gen. No. 05-096, June 17, 2005.

5. Bribery offenses.

   a. A person who is convicted of bribery of a public servant, as defined in T.C.A. § 39-16-102, or a public servant who is convicted of accepting a bribe under the statute, commits a Class B felony.

   b. Under T.C.A. § 39-16-103, a person convicted of bribery is disqualified from ever holding office again in the state. Conviction while in office will not end the person’s term of office under this statute, but a person may be removed from office pursuant to any law providing for removal or expulsion existing prior to the conviction.

   c. A public servant who requests a pecuniary benefit for performing an act the person would have had to perform without the benefit or for a lesser fee, may be convicted of a Class E felony for solicitation of unlawful compensation under T.C.A. § 39-16-104.

   d. A public servant convicted of “buying and selling in regard to offices” under T.C.A. § 39-16-105, may be found guilty of a Class C felony. Offenses under this statute relevant to public officials are selling, resigning, vacating, or refusing to qualify and enter upon the duties of the office for pecuniary gain, or entering into any kind of borrowing or selling for anything of value with regard to the office.

   e. Exceptions to 1, 3, and 4, above include lawful contributions to political campaigns, and a “trivial benefit” that is “incidental to personal, professional, or business contacts” in which there is no danger of undermining an official’s impartiality.


   a. Public misconduct offenses under Tennessee Code Annotated § 39-16-401 through § 39-16-404 apply to officers, elected officials, employees,
candidates for nomination or election to public office, and persons performing a governmental function under claim of right even though not qualified to do so.

b. Official misconduct under Tennessee Code Annotated § 39-16-402 pertains to acts related to a public servant’s office or employment committed with an intent to obtain a benefit or to harm another. Acts constituting an offense include the unauthorized exercise of official power, acts exceeding one’s official power, failure to perform a duty required by law, and receiving a benefit not authorized by law. Offenses under this section constitute a Class E felony.

c. Under Tennessee Code Annotated § 39-16-403, “Official oppression,” a public servant acting in an official capacity who intentionally arrests, detains, frisks, etc., or intentionally prevents another from enjoying a right or privilege commits a Class E felony.

d. Tennessee Code Annotated § 39-16-404 prohibits a public servant’s use of information attained in an official capacity, to attain a benefit or aid another which has not been made public. Offenses under the section are Class B misdemeanors.

e. A public servant convicted for any of the offenses summarized in sections 2-4 above shall be removed from office or discharged from a position of employment, in addition to the criminal penalties provided for each offense. Additionally, an elected or appointed official is prohibited from holding another appointed or elected office for ten (10) years. At-will employees convicted will be discharged, but are not prohibited from working in public service for any specific period. Subsequent employment is left to the discretion of the hiring entity for those employees. Tennessee Code Annotated § 39-16-406.

7. Ouster law.

Some Tennessee city charters include ouster provisions, but the only general law procedure for removing elected officials from office is judicial ouster. Cities are entitled to use their municipal charter ouster provisions, or they may proceed under state law.

The judicial ouster procedure applies to all officers, including people holding any municipal “office of trust or profit.” (Note that it must be an “office” filled by an “officer,” distinguished from an “employee” holding a “position” that does not have the attributes of an “office.”) The statute makes any officer subject to such removal “who shall knowingly or willfully misconduct himself in office, or who shall knowingly or willfully neglect to perform any duty enjoined upon such officer by any of the laws of the state, or who shall in any public place be in a state of intoxication produced by strong drink voluntarily taken, or who shall
engage in any form of illegal gambling, or who shall commit any act constituting a violation of any penal statute involving moral turpitude” (T.C.A. § 8-47-101).

T.C.A. § 8-47-122(b) allows the taxing of costs and attorney fees against the complainant in an ouster suit if the complaint subsequently is withdrawn or deemed meritless. Similarly, after a final judgment in an ouster suit, governments may order reimbursement of attorney fees to the officer targeted in a failed ouster attempt (T.C.A. § 8-47-121).

The local attorney general or city attorney has a legal “duty” to investigate a written allegation that an officer has been guilty of any of the mentioned offenses. If he or she finds that “there is reasonable cause for such complaint, he shall forthwith institute proceedings in the Circuit, Chancery, or Criminal Court of the proper county.” However, with respect to the city attorney, there may be an irreconcilable conflict between that duty and the city attorney’s duties to the city, the mayor, and the rules of professional responsibility governing attorneys. Also, an attorney general or city attorney may act on his or her own initiative without a formal complaint (T.C.A. § 8-47-101–102). The officer must be removed from office if found guilty (T.C.A. § 8-47-120).
APPENDIX B

City of Harrogate Title VI Compliance Manual

I. Policy Statement

It is the policy of the City of Harrogate to ensure that no citizen shall, on the grounds of race, color or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.

II. Applicability

This policy applies to the administration of all programs, projects, facilities, benefits, or services that receive assistance from the federal government.

III. Title VI Coordinator

The Title VI Coordinator as appointed by the Board of Mayor and Aldermen is the official responsible for maintaining records and submitting reports to the state agency from which the federal assistance is transferred.

IV. Record Keeping

The Title VI Coordinator as established in Section III above, is charged with maintaining permanent records and submitting required Title VI reports. These records shall include, but are not limited to, the Non-Elected Boards or Commissions form, as found in Appendix A, any written complaints, all correspondence to complainants found in Appendix E, and the annual self-survey for the Military Department.

V. Title VI Information Dissemination

A. Title VI information posters, including the name of the local coordinator shall be prominently and publicly displayed.

B. Title VI information shall be disseminated to city employees at least once per year by including the Employee Education form, as found in Appendix B, in payroll envelopes. This form not only
reminds employees of the City's policy statement, but also reminds employees of their Title VI responsibilities in their daily work and duties.

C. New employees shall receive the New Employee Orientation on Title VI form, as found in Appendix C, informing them of the City's position on Title VI, and the City's expectations of them in performing their duties in regard to Title VI.

D. Title VI information shall be disseminated to citizens at least once per year by printing the City's Title VI policy statement on or including it in utility customers' billing statements. The policy statement will also be printed at least once per year in the local newspaper.

E. Whenever possible, the City of Harrogate will take positive and specific actions to advise minorities of program availability by using such means of communication as newspaper articles, radio and television announcements, City newsletters; and by distributing letters, leaflets, brochures and bulletins to referral sources and relevant service area minority organizations.

VI. Subcontracts and Vendors

All subcontractors and vendors (tertiary recipients) who receive payments from the City of Harrogate (secondary recipient) shall be required to submit to the City of Harrogate Assurance of Compliance Under Title VI of the Civil Rights Act of 1964 form, as found in Appendix D, before any federally-assisted payment(s) will be made.

All written contracts shall contain the following non-discrimination statement that complies with Title VI:

It is the policy of the City of Harrogate to provide equal employment opportunities and to provide its programs, activities, and services to all individuals regardless of race, color, religion, sex, national origin, age, disability, or status in any other group protected by law. Inquiries and charges of violation of this policy should be directed to the Title VI Coordinator, City of Harrogate, (423) 869-0211 or P. O. Box 979, 7076 Cumberland Gap Parkway, Harrogate Tennessee 37752. Requests for accommodation of a disability should be directed to the Mayor, City Recorder or Title VI Coordinator at (423) 869-0211 or P. O. Box 979, 7076 Cumberland Gap Parkway, Harrogate, Tennessee 37752.
VII. Public Interaction

A. All City-owned publicly used equipment or physical facilities (i.e. restrooms, waiting rooms, recreational areas, etc.) shall be provided to citizens without regard to race, color, or national origin.

B. Staff shall use courtesy titles (i.e. Mr., Mrs., Ms., or Miss) to address citizens without regard to race, color or national origin.

VIII. Complaints and Investigations

A. The City of Harrogate treats Title VI violation complaints very seriously. Appendix E provides sample forms for all correspondences regarding complaints filed against the town.

B. All complaints, written or verbal, shall be accepted. In the event a complainant sets forth the allegations verbally and refuses to reduce such allegations to writing, the person to whom the complaint is made should reduce the elements of the complaint to writing. All complaints shall include the following information:

a. Name, address, and telephone number of the complainant.
b. The location and name of the entity delivering the service.
c. The nature of the incident that led to the complainant to feel discrimination was a factor.
d. The basis of the complaint, i.e. race, color or national origin.
e. Names, addresses and phone numbers of people who may have knowledge of the event.
f. The date or dates on which the alleged discriminatory event or events occurred.

C. The Discrimination Complaint Form, as found in Appendix E, may be used to gather this information, but its use is not required to make a complaint.

D. All complaints shall be responded to, recorded, investigated, and maintained on file by the Title VI Coordinator, or his/her designee.

E. All complaints shall be handled within 90 days of their receipt.
Appendix A

Non-Elected Boards or Commissions

<table>
<thead>
<tr>
<th>Board/Commission</th>
<th>(a) No. of Members</th>
<th>(b) No. of White Members</th>
<th>(c) No. of Non-White Members</th>
<th>(d) Appointed By:</th>
<th>(e) Term of Office</th>
<th>(f) Est. Minority Population in service area</th>
<th>(g) ✓ if (f)&gt; 5%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Beer Board</td>
<td>3</td>
<td>3</td>
<td>0</td>
<td>Council</td>
<td>Indefinite</td>
<td>&lt;1%</td>
<td></td>
</tr>
<tr>
<td>Utility Board</td>
<td>5</td>
<td>5</td>
<td>0</td>
<td>Elected--Council serves as</td>
<td>4 yrs.</td>
<td>&lt;1%</td>
<td></td>
</tr>
<tr>
<td>Planning Commission</td>
<td>7</td>
<td>7</td>
<td>0</td>
<td>Council and Mayor</td>
<td>4 yrs</td>
<td>&lt;1%</td>
<td></td>
</tr>
<tr>
<td>Zoning Appeals Board</td>
<td>Same as Planning</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Parks and Recreation</td>
<td>9</td>
<td>8</td>
<td>1</td>
<td>Council</td>
<td>2 yr.</td>
<td>&lt;1%</td>
<td></td>
</tr>
<tr>
<td>Advisory Board</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

If there are no minorities listed in column (c) and there is a minority population of 5% or greater within the Board's/Commission's geographic service area (column (g) is checked), then the City shall take steps to obtain minority representation on each Board or Commission including, but not limited to, publicly advertising all Board/Commission vacancies, conducting outreach to minority groups to identify interested persons, and/or creating a Board/Commission member application process.
Appendix B

Employee Education

Title VI Policy

It is the policy of the City of Harrogate to ensure that no citizen shall, on the grounds of race, color or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.

All employees of the City of Harrogate are expected to consider, respect and observe this policy in their daily work and duties. If a citizen approaches you with a question or complaint, direct him or her to the City's Title VI Coordinator, the contact name and numbers available through City Hall.
Appendix C

New Employee Orientation on Title VI

Title VI Policy

It is the policy of the City of Harrogate to ensure that no citizen shall, on the grounds of race, color or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.

All employees of the City of Harrogate are expected to consider, respect and observe this policy in their daily work and duties. If a citizen approaches you with a question or complaint, direct him or her to the City's Title VI Coordinator, the contact name and numbers available through City Hall.
Appendix D

Assurance of Compliance Under Title VI of the Civil Rights Act of 1964

Name of Applicant (hereby referred to as "The Applicant")

Hereby agrees that it will comply with Title VI of the Civil Rights Act of 1964 (P.L. 88-352) and all requirements imposed by the Regulations of the U.S. Department of Justice (28 CFR Parts 42 & 50) and the City of Harrogate and any directives or regulations issued pursuant to that Act and the Regulations, to the effect that, no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subject to discrimination under any program or activity for which the Applicant received Federal financial assistance from the City and HEREBY GIVES ASSURANCE THAT it will immediately take any measures necessary to effectuate this agreement.

THIS ASSURANCE is given in consideration of and for the purpose of obtaining any and all Federal financial assistance, grants and loans of Federal funds, reimbursable expenditures, grant or donation of Federal property and interest in property, the detail of Federal personnel, the sale and lease of, and the permission to use, Federal property or interest in such property or the furnishing of services without consideration or at a nominal consideration, or at a consideration which is reduced for the purpose of assisting the recipient, or in recognition of the public interest to be served by such sale, lease, or furnishing of services to the recipient, or any improvements made with Federal financial assistance extended to the Applicant by the City.

BY ACCEPTING THIS ASSURANCE, the applicant agrees to compile data, maintain records, and submit reports as required to permit effective enforcement of Title VI, and permit authorized City personnel during normal working hours to review such records, books, and accounts as needed to ascertain compliance with Title VI. If there are any violations of this assurance, the City shall have the right to seek administrative and/or judicial enforcement of this assurance.

This assurance is binding on the applicant, its successors, transferees, and assignees as long as it receives assistance from the City. In the case of real property, this assurance is binding for as long as the property is used for a purpose for which this assistance was intended or for the provision of services or benefits similar to those originally intended. In the case of personal property,
this assurance applies for as long as the recipient retains ownership or possession of the property. The person or persons whose signatures appear below are authorized to sign this assurance on the behalf of the applicant.

Dated ____________________________  ____________________________  (Applicant’s Signature)

Address: ____________________________

______________________________  By:  ____________________________  (Title of Authorized Official)

No further monies or other benefits may be paid out under these programs unless this Assurance is completed and filed as required by existing regulations.
Appendix E

Discrimination Complaint Form

Note: We are asking for the following information to assist us in processing your complaint. If you need help in completing this form, please let us know.

Complainant's Name

______________________________________________________________

Street Address

______________________________________________________________

City, State and Zip Code

______________________________________________________________

Telephone Number - Home (____) ________________________________

Business (____) _____________________________________________

1. Person discriminated against (if someone other than the complainant)

Name________________________________________________________

Street Address________________________________________________

City, State, and Zip Code________________________________________

Telephone Number (____) _______________________________________

2. What is the name and location of the institution or agency that you believe discriminated against you?

Name________________________________________________________

Street Address________________________________________________

City, State, and Zip Code________________________________________

Telephone Number (____) _______________________________________
Appendix E - continued

Discrimination Complaint Form - continued

3. Which of the following best describes the reason you believe the discrimination took place? Was it because of your:

a. Race (specify) _______________________________________________________

b. Color (specify) _______________________________________________________

c. National Origin (specify) ____________________________________________

4. What date did the alleged discrimination take place?

______________________________________________________________

5. In your own words, describe the alleged discrimination. Explain what happened, and whom you believe was responsible. ________________________________

______________________________________________________________

______________________________________________________________

6. Have you tried to resolve this complaint through the internal grievance procedures at the institution or agency? ________ Yes  ________ No

If yes, what is the status of the grievance? ________________________________

______________________________________________________________

______________________________________________________________

______________________________________________________________

______________________________________________________________
Appendix E - continued

Discrimination Complaint Form - continued

Name and title of the person who is handling the grievance procedure.

Name ____________________________________________________________

Title ____________________________________________________________

7. Have you filed this complaint with any other federal, state, or local agency; or with any federal or state court? Yes No

If yes, check all that apply:
Federal agency  
Federal court  
State agency  
State court  
Local agency  

Please provide information about a contact person at the agency/court where the complaint was filed.

Name ____________________________________________________________

Street Address ____________________________________________________

City, State, and Zip Code ____________________________________________

Telephone Number ( ) ____________________________________________

8. Do you intend to file this complaint with another agency? Yes No

If yes, when and where do you plan to file the complaint?

Date ____________________________________________________________

Agency __________________________________________________________

Street Address ____________________________________________________

City, State, and Zip Code ____________________________________________

Telephone Number ( ) ____________________________________________
Appendix E - continued

Discrimination Complaint Form - continued

9. Has the complaint been filed with this agency before? _____ Yes
   _____ No
   If yes, when? Date __________________________

Have you filed any other complaints with this agency?
   ______ Yes _______ No

If yes, when and against whom were they filed?

   Date ______________________________________

   Agency _____________________________________

   Street Address ______________________________

   City, State, and Zip Code ______________________

   Telephone Number (___) _______________________

10. Please sign below. You may attach any written materials or other
    information that you think is relevant to your complaint.

    Complainant's Signature ______________________
    Date ____________________________
Appendix E - continued

Letter Acknowledging Receipt of Complaint

Today's Date

Ms. Joanne Doe
1234 Main St.
Anytown, Tennessee xxxxx

Dear Ms. Doe:

This letter is to acknowledge receipt of your complaint against the City of Harrogate alleging denial of participation of minorities in the ________ program.

An investigator will be assigned to investigate your complaint. In the interim, if you have additional information you wish to convey or questions concerning this matter, please feel free to contact this office by telephoning (xxx) xxx-xxxx, or writing to me at the above address.

A member of my staff will contact you soon.

Sincerely,

Xxxxxx Xxxxxxx
Title
Today's Date

Ms. Joanne Doe
1234 Main St.
Anytown, Tennessee xxxxx

Dear Ms. Doe:

Your complaint of ________ (date) alleging denial of participation of minorities in the ________ program of the City of Harrogate has been directed to this office.

Your complaint has been reviewed. In preparation for a possible investigation, we would like to discuss the matters stated in your letter with you by telephone. Please send a telephone number and state a time between the hours of 8:00 A.M. and 4:30 P.M. when it would be convenient for a member of my staff to call you.

Sincerely,

Xxxxxx Xxxxxxx
Title
Appendix E - continued

Investigator's Worksheet

Case Name ____________________  Case Number ____________________

For Complaint Investigation ________________________________

A. The Complainant(s)

Name ___________________________  Telephone Number(s)

Address ___________________________  ___________________________ home
                                    ___________________________ work
                                    ___________________________ other

Date complaint received ________  Hours complainant says convenient to call:
                                    A.M.   P.M.

Complainant alleges discrimination based on:
                                    _____ race   _____ color   _____ national origin   _____ sex*

* Applicable for section 109, HCDA 1974 only

For compliance review __________________________________

B. Date when compliance review was scheduled

________________________________________________________________

Reason why compliance review is scheduled

________________________________________________________________

Office requesting compliance review

________________________________________________________________

Date of last compliance review or complaint investigation

________________________________________________________________
Appendix E - continued

Letter Notifying Complainant of an Investigation

Today's Date

Ms. Joanne Doe
1234 Main St.
Anytown, Tennessee xxxxx

Dear Ms. Doe:

The matter referenced in your letter of ____________ (date) against the City of Harrogate alleging denial of participation of minorities in the ________ program will be investigated by staff from this office.

The investigation has been scheduled for the week of ____________ (date). Mr./Ms. ______ has been assigned to investigate the matter. He/She will contact you to establish a convenient time for you to discuss your complaint with him/her.

We appreciate your help in this important matter.

Sincerely,

Xxxxxx Xxxxxxx
Title
Appendix E - continued

Letter Notifying Complainant of Title VI Compliance
Status of Respondent

Today's Date

Ms. Joanne Doe
1234 Main St.
Anytown, Tennessee xxxxx

Dear Ms. Doe:

The matter referenced in your letter of _______________ (date) against the City of Harrogate alleging denial of participation of minorities in the ______ program has been investigated by staff from this office.

My staff found several apparent violations of Title VI of the Civil Rights Act of 1964, including those mentioned in your letter. Efforts are underway to correct these deficiencies.

Thank you for calling this important matter to our attention. You were extremely helpful during our review of the program. (If a hearing is requested, the following sentence may be appropriate.) You may be hearing from this office, or from federal authorities, if your services should be needed during the administrative hearing process.

Sincerely,

Xxxxxxx Xxxxxxxx
Title
Letter Notifying Complainant that the Complaint Is Not Substantiated

Today's Date

Ms. Joanne Doe
1234 Main St.
Anytown, Tennessee xxxxx

Dear Ms. Doe:

The matter referenced in your letter of (date) against the City _________ alleging denial of participation of minorities in the _______ program has been investigated by staff from this office.

The results of the investigation did not indicate that the provisions of Title VI of the Civil Rights Act of 1964, had in fact been violated. As you know, Title VI prohibits discrimination based on race, color, or national origin in any program receiving federal financial assistance.

My staff has analyzed the materials and facts during the course of their investigation of your complaint for evidence of a failure to comply with any of the civil rights laws administered by this office. We did not find evidence that any of these laws have been violated.

We must therefore advise you that your complaint has not been substantiated, and that we are closing this matter in our files.

Thank you for taking the time to write to this office. If we can be of assistance to you in the future, do not hesitate to call us.

Sincerely,

Xxxxxxx Xxxxxxx
Title
APPENDIX C

City of Harrogate, Tennessee

DRUG AND ALCOHOL TESTING POLICY

Developed with the Assistance of
Tennessee Municipal League
Municipal Technical Advisory Service
Institute of Public Service
The University of Tennessee
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<td>APP-C-41</td>
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DRUG AND ALCOHOL TESTING POLICY

(Note - The MTAS model Drug and Alcohol Testing Policy was prepared by MTAS Consultants for use by Tennessee municipalities implementing drug testing programs for municipal employees. This policy is an alternative to the Drug Free Workplace Program developed by the Tennessee Department of Labor, under the Drug Free Workplace Act. Municipalities seeking the "drug free workplace" designation from the state must adopt the program developed by the Department of Labor. MTAS Management Consultants can assist your city in obtaining a copy of the state regulations for the Drug Free Workplace Program.

The Tennessee Drug Free Workplace Program is broader than the MTAS policy in that it requires the testing of applicants for all employment positions, after a conditional offer of employment. MTAS Consultants have concerns about the legality of the state program as applied to government employees. Drug testing by a government employer is considered to be a search under the United States Constitution, and some courts have found that government employees have greater rights to contest drug testing policies than employees in the private sector. The Tennessee Drug Free Workplace Act has not been tested in court, so there is no guidance concerning the outcome of potential constitutional challenges which public employees may raise under the state law. MTAS Consultants are further concerned that cities adopting the state program may inadvertently alter the at-will status of employees. The adoption of the state program also results in the employer's loss of control over drug testing, as the General Assembly and the Department of Labor have authority over the requirements of the law and the implementation of the statute.

One benefit of adopting the state program is that the city may be designated as a "drug free workplace" by the Workers' Compensation Division of the Department of Labor. Such designation may entitle the employer to a discount on workers' compensation insurance premiums. The TML Risk Management Pool, which provides workers' compensation insurance for many Tennessee municipalities, views the drug free workplace designation as one of many factors considered when setting premium amounts charged to municipal employers.

The MTAS model Drug and Alcohol Testing Policy permits pre-employment testing and random testing of employees in "safety sensitive" positions only. This policy further provides for reasonable suspicion testing and post accident testing for all employment positions. The more limited scope and application of the MTAS policy, as compared to the state program, is based upon legal research and analysis by MTAS Consultants. It is the opinion of MTAS Consultants that drug and alcohol testing of municipal employees when
implemented in accordance with this model policy, is a practice which may be defended successfully in the event of litigation.

If you have questions concerning the MTAS model Drug and Alcohol Testing Policy please contact your MTAS Management Consultant for further information.)
1. **PURPOSE**

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

To provide a safe, healthy, productive, and drug-free working environment for its employees to properly conduct the public business, the City of Harrogate, Tennessee has adopted this drug and alcohol testing policy effective March, 2011. This policy complies with the Federal Drug-Free Workplace Act of 1988, which ensures employees the right to work in an alcohol- and drug-free environment and to work with persons free from the effects of alcohol and drugs; Federal Highway Administration (FHWA) rules, which require drug and alcohol testing for persons required to have a commercial driver's license (CDL); Division of Transportation (DOT) rules, which include procedures for urine drug testing and breath alcohol testing; and the Omnibus Transportation Employee Testing Act of 1991, which requires alcohol and drug testing of safety-sensitive employees in the aviation, motor carrier, railroad, pipeline, commercial marine, and mass transit industries. In the case of this policy, the Omnibus Transportation Employee Testing Act of 1991 is most significant with its additional requirement of using the "split specimen" approach to drug testing, which provides an extra safeguard for employees. The types of tests required are: pre-employment, transfer, reasonable suspicion, post-accident (post-incident), random, return-to-duty, and follow-up.

It is the policy of the City of Harrogate, Tennessee that the use of drugs by its employees and impairment in the workplace due to drugs and/or alcohol are prohibited and will not be tolerated. Engaging in prohibited and/or illegal conduct may lead to termination of employment. Prohibited and/or illegal conduct includes but is not limited to:

1. Being on duty or performing work in or on city property while under the influence of drugs and/or alcohol;

2. Engaging in the manufacture, sale, distribution, use, or unauthorized possession of (illegal) drugs at any time and of alcohol while on duty or while in or on city property;
3. Refusing or failing a drug and/or alcohol test administered under this policy;

4. Providing an adulterated, altered, or substituted specimen for testing;

5. Use of alcohol within four hours prior to reporting for duty on schedule or use of alcohol while on-call for duty; and

6. Use of alcohol or drugs within eight hours following an accident (incident) if the employee's involvement has not been discounted as a contributing factor in the accident (incident) or until the employee has successfully completed drug and/or alcohol testing procedures.

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

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

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

2. **SCOPE**

Certain aspects of this policy may apply to full-time, part-time, temporary, and volunteer employees of the City of Harrogate, Tennessee. The policy also applies to applicants for positions requiring a CDL and other safety sensitive positions who have been given a conditional offer of employment from the City of Harrogate, Tennessee.
3. CONSENT FORM

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

The consent form shall set forth the following information:

1. The procedure for confirming and verifying an initial positive test result;
2. The consequences of a verified positive test result; and
3. The consequences of refusing to undergo a drug and/or alcohol test.

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

4. COMPLIANCE WITH SUBSTANCE ABUSE POLICY

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

5. GENERAL RULES

These are the general rules governing the City of Harrogate, Tennessee's drug and alcohol testing program:

1. City employees shall not take or be under the influence of any drugs unless prescribed by the employee's licensed physician. Employees who are required to take prescription and/or over-the-counter medications shall notify the proper supervisory personnel before the employees go on duty.
2. City employees are prohibited from engaging in the manufacture, sale, distribution, use, or unauthorized possession of illegal drugs at any time and of alcohol while on duty or while in or on city property.

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

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

6. **DRUG TESTING**

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

A. **TYPES OF TESTS**

1. **Pre-employment**

   All employment applicants for safety sensitive positions who have received a conditional offer of employment with the City of Harrogate, Tennessee, must take a drug test before receiving a final offer of employment. "Safety sensitive positions" include police officers, firefighters, positions requiring a commercial driver's license, public works positions involving the operation of heavy equipment, water/wastewater plant operators, all positions involving the construction and maintenance of electrical lines, teachers and other positions having responsibility for the safety and care of children.
2. **Transfer**

Employees transferring to a safety sensitive position and/or another position within the city that requires a commercial driver's license (CDL) shall undergo drug testing.

3. **Post-Accident/Post-Incident Testing**

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

Post-accident (post-incident) testing shall be carried out within 32 hours following the accident (incident). (Note - DOT regulations allow up to 32 hours for drug tests. A lesser time provision is optional.) Urine collection for post-accident (post-incident) testing shall be monitored or observed by same-gender collection personnel at the established collection site(s).

In instances where post-accident (post-incident) testing is to be performed, the City of Harrogate, Tennessee reserves the right to direct the medical review officer (MRO) to instruct the designated laboratory to perform testing on submitted urine specimens for possible illegal/illegitimate substances.

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

a. **Post-Accident (Post-Incident) Testing for Ambulatory Employees**

Following all workplace accidents (incidents) where drug testing is to be performed, unless otherwise specified by the department head, any affected employees who are
ambulatory will be taken by a supervisor or designated personnel of the City of Harrogate, Tennessee to the designated urine specimen collection site within 32 hours following the accident. (Note - DOT regulations allow up to 32 hours for drug tests. A lesser time provision is optional.) In the event of an accident (incident) occurring after regular work hours, the employee(s) will be taken to the (testing site) within 32 hours. No employee shall consume drugs prior to completing the post-accident (post-incident) testing procedures.

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

b. **Post-Accident (Post-Incident) Testing for Injured Employees**

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

Post-accident (post-incident) urinary testing may be impossible for unconscious, seriously-injured, or hospitalized employees. If this is the case, certified or licensed attending medical personnel shall take and have analyzed appropriate specimens to determine if drugs were present in the employee's system. Only an accepted method
for collecting specimens will be used. Any failure to do post-accident (post-incident) testing within 32 hours must be fully documented by the attending medical personnel.

4. **Testing Based on Reasonable Suspicion**

A drug test is required for any employee where there is reasonable suspicion to believe the employee is using or is under the influence of drugs and/or alcohol.

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

Supervisory personnel of the City of Harrogate, Tennessee making a determination to subject any employee to drug testing based on reasonable suspicion shall document their specific reasons and observations in writing to the city recorder or his/her designee within 24 hours of the decision to test and before the results of the urine drug tests are received by the department. Urine collection for reasonable suspicion testing shall be monitored or observed by same-gender collection personnel.

5. **Random Testing**

Only employees of the City of Harrogate, Tennessee holding safety sensitive positions are subject to random alcohol and drug testing. "Safety sensitive positions" include police officers, firefighters, positions requiring a commercial driver's license, public works equipment operators, water/wastewater plant operators, all positions involving the construction and maintenance of electrical lines, teachers and other positions having responsibility for the safety and care of children. It is the policy of the City of Harrogate, Tennessee to annually random test for drugs at least 50 percent of the total number of drivers possessing or obtaining a commercial driver's license (CDL).

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

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

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

6. **Return-to-Duty and Follow-Up**

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

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

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

**B. PROHIBITED DRUGS**

All drug results will be reported to the medical review officer (MRO). If verified by the MRO, they will be reported to the city recorder or his/her designee. The following is a list of drugs for which tests will be routinely conducted (see Appendix A for cutoff levels):

1. Amphetamines,
2. Marijuana,
3. Cocaine,
4. Opiates,
5. Phencyclidine (PCP),
6. Alcohol, and
7. Depressants.

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

C. DRUG TESTING COLLECTION PROCEDURES

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

D. DRUG TESTING LABORATORY STANDARDS AND PROCEDURES

All collected urine samples will be sent to a laboratory that is certified and monitored by the federal Department of Health and Human Services (DHHS) (see Appendix C).

As specified earlier, in the event of an accident (incident) occurring after regular work hours, the supervisor or designated personnel shall take the employee(s) to the (testing site) within 32 hours where proper collection procedures will be administered.

The Omnibus Act requires that drug testing procedures include split specimen procedures. Each urine specimen is subdivided into two bottles labeled as a "primary" and a "split" specimen. Both bottles are sent to a laboratory. Only the primary specimen is opened and used for the urinalysis. The split specimen bottle remains sealed and is stored at the laboratory. If the analysis of the primary specimen confirms the presence
of drugs, the employee has 72 hours to request sending the split specimen to another federal Department of Health and Human Services (DHHS) certified laboratory for analysis. The employee will be required to pay for his or her split specimen test(s).

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

E. REPORTING AND REVIEWING

The City of Harrogate, Tennessee shall designate a medical review officer (MRO) to receive, report, and file testing information transmitted by the laboratory. This person shall be a licensed physician with knowledge of substance abuse disorders (see Appendix C).

1. The laboratory shall report test results only to the designated MRO, who will review them in accordance with accepted guidelines and the procedures adopted by the City of Harrogate, Tennessee.

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

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

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

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

A. TYPES OF TESTS

1. Post-Accident/Post-Incident Testing

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

Post-accident (post-incident) testing shall be carried out within two hours following the accident (incident).

a. Post-Accident (Post-Incident) Testing for Ambulatory Employees

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

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

b. **Post-Accident (Post-Incident) Testing for Injured Employees**

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

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

2. **Testing Based on Reasonable Suspicion**

An alcohol test is required for each employee where there is reasonable suspicion to believe the employee is using or is under the influence of alcohol.

The decision to test for reasonable suspicion must be based on a reasonable and articulate belief that the employee is using or has used alcohol. This belief should be based on recent, physical, behavioral, or performance indicators of possible alcohol use. One
supervisor who has received alcohol detection training that complies with DOT regulations must make the decision to test and must observe the employee's suspicious behavior.

Supervisory personnel of the City of Harrogate, Tennessee making a determination to subject any employee to alcohol testing based on reasonable suspicion shall document their specific reasons and observations in writing to the city recorder or his/her designee within eight hours of the decision to test and before the results of the tests are received by the department.

3. **Random Testing**

Only employees of the City of Harrogate, Tennessee holding safety sensitive positions are subject to random alcohol testing. "Safety sensitive positions" include police officers, firefighters, positions requiring a commercial driver's license, public works equipment operators, water/wastewater plant operators, all positions involving the construction and maintenance of pipelines, teachers and other positions having responsibility for the safety and care of children. It is the policy of the City of Harrogate, Tennessee to annually random test for alcohol at least 25 percent of the total number of drivers possessing or obtaining a commercial driver's license (CDL).

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

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

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

4. **Return-to-Duty and Follow-Up**

Any employee of the City of Harrogate, Tennessee who has violated the prohibited alcohol conduct standards must submit to a return-to-duty test. Follow-up tests will be unannounced, and at
least six tests will be conducted in the first 12 months after an employee returns to duty. Follow-up testing may be extended for up to 60 months following return to duty.

The employee will be required to pay for his or her return-to-duty and follow-up tests accordingly. (Note - Requiring employees to pay for their return-to-duty and follow-up tests is optional.)

Testing will also be performed on any employee with a CDL returning from leave or special assignment in excess of six months. In this situation, the employee will not be required to pay for the testing.

B. ALCOHOL TESTING PROCEDURES

All breath alcohol testing conducted for the City of Harrogate, Tennessee shall be performed using evidential breath testing (EBT) equipment and personnel approved by the National Highway Traffic Safety Administration (NHTSA). (Note - A city's own public safety department cannot do this testing unless the test is required because of a traffic accident (incident).)

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

1. **Step One:**
   An initial breath alcohol test will be performed using a breath alcohol analysis device approved by the National Highway Traffic Safety Administration (NHTSA). If the measured result is less than 0.02 percent breath alcohol level (BAL), the test shall be considered negative. If the result is greater or equal to 0.04 percent BAL, the result shall be recorded and witnessed, and the test shall proceed to Step Two.

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

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

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

Any breath level found upon analysis to be between 0.02 percent BAL and 0.04 percent BAL shall result in the employee's removal from duty without pay for a minimum of 24 hours. In this situation, the employee must be retested by breath analysis and found to have a BAL of less than 0.02 percent before returning to duty with the City of Harrogate, Tennessee.

All breath alcohol test results shall be recorded by the technician and shall be witnessed by the tested employee and by a supervisory employee of the City of Harrogate, Tennessee, when possible.

The completed breath alcohol test form shall be submitted to the city recorder or his/her designee.

8. EDUCATION AND TRAINING

A. Supervisory Personnel Who Will Determine Reasonable Suspicion Testing

Training supervisory personnel who will determine whether an employee must be tested based on reasonable suspicion will include at the minimum two 60-minute periods of training on the specific, contemporaneous, physical, behavioral, and performance indicators of both probable drug use and alcohol use. One 60-minute period will be for drugs and one will be for alcohol.

The City of Harrogate, Tennessee will sponsor a drug-free awareness program for all employees.
B. Distribution of Information

The minimal distribution of information for all employees will include the display and distribution of:

a. Informational material on the effects of drug and alcohol abuse;

b. An existing community services hotline number, available drug counseling, rehabilitation, and employee assistance programs for employee assistance;

c. The City of Harrogate, Tennessee policy regarding the use of prohibited drugs and/or alcohol; and

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

9. CONSEQUENCES OF A CONFIRMED POSITIVE DRUG AND/OR ALCOHOL TEST RESULT AND/OR VERIFIED POSITIVE DRUG AND/OR ALCOHOL TEST RESULT

Job applicants will be denied employment with the City of Harrogate, Tennessee if their initial positive pre-employment drug test results have been confirmed/verified.

If a current employee's positive drug and alcohol test result has been confirmed, the employee is subject to immediate removal from any safety-sensitive function and may be subject to disciplinary action up to and including termination. The city may consider the following factors in determining the appropriate disciplinary response: the employee's work history, length of employment, current work assignment, current job performance, and existence of past disciplinary actions. However, the city reserves the right to allow employees to participate in an education and/or treatment program approved by the city Employee Assistance Program as an alternative to or in addition to disciplinary action. If such a program is offered and accepted by the employee, then the employee must satisfactorily participate in and complete the program as a condition of continued employment.

No disciplinary action may be taken pursuant to this drug policy against employees who voluntarily identify themselves as drug users, obtain counseling and rehabilitation through the city's Employee Assistance Program or other program sanctioned by the city, and thereafter refrain from violating the city's policy on drug and alcohol abuse. However, voluntary identification will not
prohibit disciplinary action for the violation of city personnel policy and regulations, nor will it relieve the employee of any requirements for return to duty testing.

Refusing to submit to an alcohol or controlled substances test means that a driver: (1) fails to provide adequate breath for testing without a valid medical explanation after he or she has received notice of the requirement for breath testing in accordance with the provisions of this part; (2) fails to provide adequate urine for controlled substances testing without a valid medical explanation after he or she has received notice of the requirement for urine testing in accordance with the provisions of this part; or (3) engages in conduct that clearly obstructs the testing process. In either case the physician or breath alcohol technician shall provide a written statement to the city indicating a refusal to test.

10. VOLUNTARY DISCLOSURE OF DRUG AND/OR ALCOHOL USE

In the event that an employee of the City of Harrogate, Tennessee is dependent upon or an abuser of drugs and/or alcohol and sincerely wishes to seek professional medical care, that employee should voluntarily discuss his/her problem with the respective department head in private.

Such voluntary desire for help with a substance abuse problem will be honored by the City of Harrogate, Tennessee. If substance abuse treatment is required, the employee will be removed from active duty pending completion of the treatment.

Affected employees of the City of Harrogate, Tennessee may be allowed up to 30 consecutive calendar days for initial substance abuse treatment as follows:

1. The employee must use all vacation, sick, and compensatory time available.

2. In the event accumulated vacation, sick, and compensatory time is insufficient to provide the medically prescribed and needed treatment up to a maximum of 30 consecutive calendar days, the employee will be provided paid/unpaid leave for the difference between the amount of accumulated leave and the number of days prescribed and needed for treatment up to the maximum 30-day treatment period. (Note - This is an optional provision.)

Voluntary disclosure must occur before an employee is notified of or otherwise becomes subject to a pending drug and/or alcohol test.
Prior to any return-to-duty consideration of an employee following voluntary substance abuse treatment, the employee shall obtain a return-to-duty recommendation from the substance abuse professional (SAP) of the City of Harrogate, Tennessee. The SAP may suggest conditions of reinstatement of the employee that may include after-care and return-to-duty and/or random drug and alcohol testing requirements. The respective department head and city recorder or his/her designee of the City of Harrogate, Tennessee will consider each case individually and set forth final conditions of reinstatement to active duty. These conditions of reinstatement must be met by the employee. Failure of the employee to complete treatment or follow after-care conditions, or subsequent failure of any drug or alcohol test under this policy will result in administrative action up to and including termination of employment.

These provisions apply to voluntary disclosure of a substance abuse problem by an employee of the City of Harrogate, Tennessee. Voluntary disclosure provisions do not apply to applicants. Employees found positive during drug and/or alcohol testing under this policy are subject to administrative action up to and including termination of employment as specified elsewhere in this policy.

11. **EXCEPTIONS**

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

12. **MODIFICATION OF POLICY**

This statement of policy may be revised by the City of Harrogate, Tennessee at any time to comply with applicable federal and state regulations that may be implemented, to comply with judicial rulings, or to meet any changes in the work environment or changes in the drug and alcohol testing policy of the City of Harrogate, Tennessee.

This employee drug and alcohol testing policy has been approved and adopted by the City of Harrogate, Tennessee, effective March 2011.

By: ________________________________________, Mayor

By: ________________________________________, City Recorder
13. **DEFINITIONS**

For purposes of the drug and alcohol testing policy, the following definitions are adopted:

**Alcohol** - The intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols including methyl or isopropyl alcohol.

**Alcohol Concentration** - The alcohol in a volume of breath expressed in terms of grams of alcohol per 210 liters of breath as indicated by a breath test.

**Alcohol Use** - The consumption of any beverage, mixture, or preparation, including any medication, containing alcohol.

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

**Breath Alcohol Technician (BAT)** - An individual who instructs and assists individuals in the alcohol testing process and operates an evidential breath testing device (EBT).

**Chain of Custody** - The method of tracking each urine specimen to maintain control from initial collection to final disposition for such samples and accountability at each stage of handling, testing, storing, and reporting.

**Collection Site** - A place where applicants or employees present themselves to provide, under controlled conditions, a urine specimen that will be analyzed for the presence of alcohol and/or drugs. Collection site may also include a place for the administration of a breath analysis test.

**Collection Site Personnel** - A person who instructs donors at the collection site.

**Commercial Driver's License (CDL)** - A motor vehicle driver's license required to operate a commercial motor vehicle (CMV).

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

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

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

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

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

**DHHS** - The federal Department of Health and Human Services or any designee of the secretary, Department of Health and Human Services.

**DOT Agency** - An agency of the United States Department of Transportation administering regulations related to alcohol and/or drug testing. For the City of Harrogate, the Federal Highway Administration (FHWA) is the DOT agency.

**Driver** - Any person who operates a commercial motor vehicle.

**EAP** - Employee Assistance Program.

**Employee** - An individual currently employed by the City of Harrogate.

**Evidential Breath Testing Device (EBT)** - An instrument approved by the National Highway Traffic Safety Administration (NHTSA) for the evidential testing of breath and placed on NHTSA's "Conforming Products List of Evidential Breath Measurement Devices."
FHWA - Federal Highway Administration.

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

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

Negative Result - The absence of an illicit substance in the pure form or its metabolites in sufficient quantities to be identified by either an initial test or confirmation test.


Refuse to Submit - Refusing to submit to an alcohol or controlled substances test means that a driver: (1) fails to provide adequate breath for testing without a valid medical explanation after he or she has received notice of the requirement for breath testing in accordance with the provisions of this part; (2) fails to provide adequate urine for controlled substances testing without a valid medical explanation after he or she has received notice of the requirement for urine testing in accordance with the provisions of this part; or (3) engages in conduct that clearly obstructs the testing process.

Safety-Sensitive Positions - Safety Sensitive positions include police officers, firefighters, positions requiring a commercial drivers license, public works equipment operators, water/wastewater plant operators, all positions involving the construction and maintenance of pipelines, teachers and other positions having responsibility for the safety and care of children.

Split Specimen - Urine drug test sample will be divided into two parts. One part will be tested initially, the other will remain sealed in case a retest is required or requested.

Substance Abuse Professional - A licensed physician (medical doctor or doctor of osteopathy), or a licensed or certified psychologist, social worker, employee assistance professional, or addiction counselor (certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission)
with knowledge of and clinical experience in the diagnosis and treatment of alcohol and controlled substances-related disorders.
APPENDICES
# APPENDIX A

## S. 1994 DRUG AND ALCOHOL TEST STANDARDS

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<td>Alcohol</td>
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(Note - Additional substances listed under the Tennessee Drug Control Act of 1989 may be tested at the cutoff level customarily used by the selected laboratory. Cutoff levels are subject to change as DOT rules change.)
APPENDIX B

T. DESIGNATED DRUG TESTING COLLECTION FACILITY

Possible Option:

Aegis Analytical Laboratories, Inc.
624 Grassmere Park, Suite 21
Nashville, TN  37211
(615) 323-0250

Employers Drug Program Management, Inc.
616 S. Ninth St.
Birmingham, AL  35233

America School Management Corporation
(ASMC)
P.O. Box 571
Selmer, TN  38375-0571

Examination Management Services, Inc.
11 W. Mockingbird Lane, Fourth Floor
Dallas, TX  75247

AMS Distributors, Inc.
P.O. Box 457
Roswell, GA  30077

Fidelity Search, Inc.
P.O. Box 3571
Jackson, TN  38303

Attest National Drug Testing, Inc.
1600 W. Seventh St., Suite 505
Fort Worth, TX  76102

Grabek Resource Management
615 Lindsay St., Suite 330
Chattanooga, TN  37403

Baptist Occupational Medicine Centers
342 21st Ave. N.
Nashville, TN  37203
(615) 321-4800

Health Trans
3250 Dickerson Road, Suite 25
Nashville, TN  37207

Collins & Company
928 McCallie Ave.
Chattanooga, TN  37403
Attn: Joe Horne

National MRO
12600 W. Colfax, Suite A500
Lakewood, CO  80215

Drug Free, Inc.
P.O. Box 8520
Little Rock, AK  72215-8520
1-800-762-3623

National Health Laboratories Incorporated
2540 Empire Drive
Winston-Salem, N.C.  27103
(800) 334-8627 / (919) 760-4620

Drug Intervention Services of America
(DISIA)
11200 Westheimer, Suite 630
Houston, TX  77042

National Safety Alliance
446 Metroplex Drive, Suite A 226
Nashville, TN  37215
(615) 832-0046
National Safety Council
1121 Spring Lake Drive
Itasca, IL  60143-3201

United Labs
P.O. Box 1208
Evans City, PA  16033

National Transportation Screening Alliance
P.O. Box 249
Signal Mountain, TN  37377

St. Mary's Medical Services Center
1725 Triangle Park Drive
Maryville, TN  37801

Nationwide Truckers Association, Inc.
(NTA, Inc.)
P.O. Box 1380
201 Huntersville-Concord Road
Huntersville, NC  28078
1-800-452-0030

Occupational Rehabilitation of Chattanooga
(ORC)
6500 Eastgate Center, Suite 8600
Chattanooga, TN  37411
(615) 899-7253

Pembrooke Occupational Health
2307 N. Parham Road
Richmond, VA  23229
(804) 346-1010

Roche Biomedical Laboratories, Inc.
CompuChem Division
3308 Chapel Hill/Nelson Highway
Research Triangle Park, NC  27709
Attn: Lisa Darby
1-800-833-3984, Ext. 3009

Roche Diagnostic Systems
1080 U.S. Highway 202
Branchburg, NJ  08876-1760

Safety and Compliance Management, Inc.
P.O. Box 69, 104 Howard St.
Rossville, GA  30741

Tennessee Consortium
1320 W. Main St., Suite 418
Franklin, TN  37064
### APPENDIX C

#### U. DESIGNATED DEPARTMENT OF HEALTH AND HUMAN SERVICES (DHHS) CERTIFIED LABORATORIES

<table>
<thead>
<tr>
<th>Laboratory Name</th>
<th>Address</th>
<th>Phone Numbers</th>
</tr>
</thead>
<tbody>
<tr>
<td>Aegis Analytical Laboratories, Inc.</td>
<td>624 Grassmere Park Rd., Suite 21</td>
<td>615 331 5300</td>
</tr>
<tr>
<td></td>
<td>Nashville, TN 37211</td>
<td></td>
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<tr>
<td>Alabama Reference Laboratories, Inc.</td>
<td>543 South Hull St.</td>
<td>800 541 4931/205 263 5745</td>
</tr>
<tr>
<td></td>
<td>Montgomery, AL 36103</td>
<td></td>
</tr>
<tr>
<td></td>
<td>800 541 4931/205 263 5745</td>
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<tr>
<td>American Medical Laboratories, Inc.</td>
<td>14225 Newbrook Dr.</td>
<td>703 802 6900</td>
</tr>
<tr>
<td></td>
<td>Chantilly, VA 22021</td>
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</tr>
<tr>
<td></td>
<td>703 802 6900</td>
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</tr>
<tr>
<td>Associated Pathologists Laboratories, Inc.</td>
<td>4230 South Burnham Ave., Suite 250</td>
<td>702 733 7866</td>
</tr>
<tr>
<td></td>
<td>Las Vegas, NV 89119 5412</td>
<td></td>
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<tr>
<td></td>
<td>702 733 7866</td>
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<tr>
<td></td>
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</tr>
<tr>
<td>Associated Regional and University Pathologists, Inc. (ARUP)</td>
<td>500 Chipeta Way</td>
<td>801 583 2787</td>
</tr>
<tr>
<td></td>
<td>Salt Lake City, UT 84108</td>
<td></td>
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<tr>
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<tr>
<td>Cedars Medical Center, Department of Pathology</td>
<td>1400 Northwest 12th Ave.</td>
<td>305 325 5810</td>
</tr>
<tr>
<td></td>
<td>Miami, FL 33136</td>
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<tr>
<td>Alabama Reference Laboratories, Inc.</td>
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<tr>
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<td>Montgomery, AL 36103</td>
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<td>801 583 2787</td>
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<td>Salt Lake City, UT 84108</td>
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<td>CompuChem Laboratories, Inc.</td>
<td>3308 Chapel Hill, Nelson Hwy.</td>
<td>919 549 8263/800 833 3984</td>
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<td></td>
<td>Research Triangle Park, NC 27709</td>
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<tr>
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<td>(Formerly: CompuChem Laboratories, Inc., A Subsidiary of Roche Biomedical Laboratory, Roche CompuChem Laboratories, Inc., A Member of the Roche Group)</td>
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<tr>
<td>American Medical Laboratories, Inc.</td>
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<tr>
<td>Baptist Medical Center</td>
<td>Toxinology Laboratory</td>
<td><em>(formerly: Forensic Toxicology Laboratory Baptist Medical Center)</em></td>
</tr>
<tr>
<td></td>
<td>9601 1 630, Exit 7</td>
<td>501 227 2783</td>
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<tr>
<td></td>
<td>Little Rock, AR 72205 7299</td>
<td>800 288 7293</td>
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<tr>
<td>CORNING Clinical Laboratories</td>
<td>South Central Division</td>
<td><em>(formerly: Damon Clinical Labs, Damon/MetPath)</em></td>
</tr>
<tr>
<td></td>
<td>2320 Schuetz Rd.</td>
<td>800 526 0947</td>
</tr>
<tr>
<td></td>
<td>St. Louis, MO 63146</td>
<td>912 244 4468</td>
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<tr>
<td>Bayshore Clinical Laboratory</td>
<td></td>
<td><em>(formerly: MetPath, Inc., CORNING MetPath Clinical Laboratories)</em></td>
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<tr>
<td></td>
<td>4555 W. Schroeder Dr.</td>
<td>713 457 3784</td>
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<tr>
<td></td>
<td>Brown Deer, WI 53223</td>
<td>201 393 5000</td>
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<tr>
<td>CORNING Clinical Laboratories Inc.</td>
<td>Doctors Laboratory, Inc.</td>
<td><em>(formerly: MetPath, Inc., CORNING MetPath Clinical Laboratories)</em></td>
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<tr>
<td></td>
<td>1355 Miftel Blvd.</td>
<td>414 355-4444/800 877 7016</td>
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<tr>
<td></td>
<td>Wood Dale, IL 60191</td>
<td>2906 Julia Dr.</td>
</tr>
<tr>
<td></td>
<td>708 595 3888</td>
<td>Valdosta, GA 31604</td>
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<tr>
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<td>912 244 4468</td>
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<tr>
<td>CORNING MetPath Clinical Laboratories</td>
<td>Drug Labs of Texas</td>
<td><em>(formerly: MetPath, Inc.)</em></td>
</tr>
<tr>
<td></td>
<td>One Malcolm Ave.</td>
<td>15201 I-10 East, Suite 125</td>
</tr>
<tr>
<td></td>
<td>Teterboro, NJ 07608</td>
<td>Channelview, TX 77530</td>
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<td>713 457 3784</td>
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<td></td>
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<tr>
<td>CORNING National Center for Forensic Science</td>
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<td><em>(formerly: Maryland Medical Laboratory, Inc., National Center for Forensic Science)</em></td>
</tr>
<tr>
<td></td>
<td>1901 Sulphur Spring Rd.</td>
<td>800 898 0180/206 386 2672</td>
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<tr>
<td></td>
<td>Baltimore, MD 21227</td>
<td>(formerly: Laboratory of Pathology of Seattle, Inc., DrugProof, Division of Laboratory of Pathology of Seattle, Inc.)</td>
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<tr>
<td></td>
<td>410 536 1485</td>
<td>800 898 0180/206 386 2672</td>
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<tr>
<td>CORNING Nichols Institute</td>
<td>DrugScan, Inc.</td>
<td><em>(formerly: Nichols Institute, Nichols Institute Substance Abuse Testing (NISAT))</em></td>
</tr>
<tr>
<td></td>
<td>7470 A Mission Valley Rd.</td>
<td>215 674 9310</td>
</tr>
<tr>
<td></td>
<td>San Diego, CA 92108 4406</td>
<td>1119 Meams Rd.</td>
</tr>
<tr>
<td></td>
<td>800 446 47,28/619 686 3200</td>
<td>Warminster, PA 18974</td>
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<td>DrugScan, Inc.</td>
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<td></td>
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<td>Warminster, PA 18974</td>
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<tr>
<td></td>
<td>800 446 47,28/619 686 3200</td>
<td>Warminster, PA 18974</td>
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Cox Medical Centers  
Department of Toxicology  
1423 North Jefferson Ave.  
Springfield, MO 65802  
800 876 3652/417 836 3093

ElSohly Laboratories, Inc.  
5 Industrial Park Dr.  
Oxford, MS 38655  
601 236 2609

Dept. of the Navy, Navy Drug Screening Laboratory  
Building 38 H  
Great Lakes, IL 60088 5223  
708 688 2045/708 688 4171  
Diagnostic Services Inc., dba DSI  
4048 Evans Ave., Suite 301  
Fort Myers, FL 33901  
813 936 5446/800 735 5416

General Medical Laboratories  
36 South Brooks St.  
Madison, WI 53715  
608 267 6267

Harrison Laboratories, Inc.  
9930 W. Highway 80  
Midland, TX 79706  
800 725 3784/915 563 3300  
(formerly: Harrison & Ass. Forensic Laboratories)

National Reference Laboratory, Substance Abuse Division Laboratory Corporation of America  
21903 68th Ave. South, Kent, WA 98032  
206 395 4000  
(Formerly: Regional Toxicology Services)

HealthCare/MetPath  
24451 Telegraph Rd.  
Southfield, MI 48034  
800 444 0106 ext. 650  
(formerly: HealthCare/Preferred Laboratories)

Laboratory Corporation of America  
2540 Empire Dr.  
Winston Salem, NC 27103 6710  
Outside NC:919 760 4620/800 334 8627 / Inside NC: 800 642 0894  
(Formerly: National Health Laboratories Incorporated)

Holmes Regional Medical Center Toxicology Laboratory  
5200 Babcock St., N.E., Suite 107  
Palm Bay, FL 32905  
407 726 9920

Laboratory Corporation of America Holdings  
1120 Stateline Rd.  
Southaven, MS 38671  
601 342 1286  
(Formerly: Roche Biomedical Laboratories, Inc.)

Jewish Hospital of Cincinnati, Inc.  
3200 Burnet Ave.  
Cincinnati, OH 45229  
513 569 2051

Laboratory Corporation of America Holdings  
69 First Ave.  
Raritan, NJ 08869  
800 437 4986  
(Formerly: Roche Biomedical Laboratories, Inc.)
LabOne, Inc.
8915 Lenexa Dr.
Overland Park, Kansas 66214
913 888 3927
(formerly: Center for Lab Services)

Laboratory Corporation of America
13900 Park Center Rd.
Hemdon, VA 22071
703 742 3100
(Formerly: National Health Laboratories Incorporated)

Laboratory Corporation of America d.b.a.
LabCorp Reference Laboratory, Substance Abuse Division
1400 Donelson Pike, Suite A 15
Nashville, TN 37217
615 360 3992/800 800 4522
(Formerly: National Health Laboratories Incorporated, d.b.a.)

Medical College Hospitals Toxicology Laboratory
Department of Pathology
3000 Adington Ave.
Toledo, OH 43699 0008
419 381 5213

Medlab Clinical Testing, Inc.
212 Cherry Lane
New Castle, DE 19720
302 655 5227

MedTox Laboratories, Inc.
402 W. County Rd. D
St. Paul, MN 55112
800 832 3244/612 636 7466

Methodist Hospital of Indiana, Inc.
Department of Pathology and Laboratory Medicine
1701 N. Senate Blvd.
Indianapolis, IN 46202
317 929 3587

Laboratory Specialists, Inc.
113 Jarrell Dr.
Belle Chasse, LA 70037
504 392 7961

Marshfield Laboratories
1000 North Oak Ave.
Marshfield, WI 54449
715 389 3734/800 222 5835

MedExpress
National Laboratory Center
4022 Willow Lake Blvd.
Memphis, TN 38175
901 795 1515

National Toxicology Laboratories, Inc.
1100 California Ave.
Bakersfield, CA 93304
805 322 4250

Northwest Toxicology, Inc.
1141 E. 3900 South
Salt Lake City, UT 84124
800 322 3361

Oregon Medical Laboratories
P.O. Box 972
722 East 11th Ave.
Eugene, OR 97440 0972
503 687 2134

Pathology Associates Medical Laboratories, East
11604 IN
Spokane, WA 99206
509 926 2400
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<tr>
<th>Laboratory Name</th>
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<tr>
<td>Methodist Medical Center Toxicology Laboratory</td>
<td>221 N.E. Glen Oak Ave. Peoria, IL 61636</td>
<td>800 752 1835/309 671 5199</td>
</tr>
<tr>
<td>PDLA, Inc. (Princeton)</td>
<td>100 Corporate Court So. Plainfield, NJ 07080</td>
<td>908 769 8500/800 237 7352</td>
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<tr>
<td>MetPath Laboratories</td>
<td>875 Greentree Rd. 4 Parkway Ctr. Pittsburgh, PA 15220 3610</td>
<td>412 931 7200 (formerly: Med Chek Labs, Inc.)</td>
</tr>
<tr>
<td>PharmChem Laboratories, Inc.</td>
<td>1505 A O'Bden Dr. Menlo Park, CA 94025</td>
<td>415 328 6200/800 446 5177</td>
</tr>
<tr>
<td>MetPath Laboratories</td>
<td>875 Greentree Rd. 4 Parkway Ctr. Pittsburgh, PA 15220 3610</td>
<td>412 931 7200 (formerly: Med Chek Labs, Inc.)</td>
</tr>
<tr>
<td>PharmChem Laboratories, Inc. Texas Division</td>
<td>7606 Pebble Dr. Fort Worth, TX 76118</td>
<td>817 595 0294 (formerly: Harris Medical Laboratory)</td>
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<tr>
<td>National Psychopharmacology Laboratory, Inc.</td>
<td>9320 Park W. Blvd. Knoxville, TN 37923</td>
<td>800 251 9492</td>
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<tr>
<td>Physicians Reference Laboratory</td>
<td>7800 West 110th St. Overland Park, KS 66210</td>
<td>913 338 4070/800 821 3627 (formerly: Physicians Ref Lab Toxicology Lab)</td>
</tr>
<tr>
<td>Poisonlab, Inc.</td>
<td>7272 Clairemont Mesa Rd. San Diego, CA 92111</td>
<td>619 279 2600/800 882 7272</td>
</tr>
<tr>
<td>SmithKline Beecham Clinical Laboratories</td>
<td>506 E. State Pkwy. Schaumburg, IL 60173</td>
<td>708 885 2010 (formerly: International Toxicology Laboratories)</td>
</tr>
<tr>
<td>Presbyterian Laboratory Services</td>
<td>1851 East Third Street Charlotte, NC 28204</td>
<td>800 473 6640</td>
</tr>
<tr>
<td>SmithKline Beecham Clinical Laboratories</td>
<td>400 Egypt Rd. Nordstown, PA 19403</td>
<td>800 523 5447 (formerly: SmithKline Bio Science Laboratories)</td>
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</table>
Puckett Laboratory
4200 Mamie St.
Haftiesburgh, MS 39402
601 264 3856/800 844 8378

SmithKline Beecham Clinical Laboratories
8000 Sovereign Row
Dallas, TX 75247
214 638 1301
(formerly: SmithKline Bio Science Laboratories)

Scientific Testing Laboratories, Inc.
463 Southlake Blvd.
Richmond, VA 23236
804 378 9130

SmithKline Beecham Clinical Laboratories
1737 Airport Way South, Suite 200
Seattle, WA 98134
206 623 8100

Scott & White Drug Testing Laboratory
600 S. 25th St.
Temple, TX 76504
800 749 3788

South Bend Medical Foundation, Inc.
530 N. Lafayette Blvd.
South Bend, IN 46601
219 234 4176

S.E.D. Medical Laboratories
500 Walter NE, Suite 500
Albuquerque, NM 87102
505:244 8800

Southwest Laboratories
2727 W. Baseline Rd., Suite 6
Tempe, AZ 85283
602 438 8507

Sierra Nevada Laboratories, Inc.
888 Willow St.
Reno, NV 89502
800 648 5472

St. Anthony Hospital (Toxicology Laboratory)
P.O. Box 205
1000 N. Lee St.
Oklahoma City, OK 73102
405 272 7052

SmithKline Beecham Clinical Laboratories
7600 Tyrone Ave.,
Van Nuys, CA 91045,
818 376 2520

SmithKline Beecham Clinical Laboratories
801 East Dixie Ave.
Leesburg, FL 34748
904 787 9006

SmithKline Beecham Clinical Laboratories
3175 Presidential Dr.
Atlanta, GA 30340
404 934 9205
(formerly: SmithKline Bio Science Laboratories)
Toxicology Testing Service, Inc.
5426 N.W. 79th Ave.
Miami, FL 33166
305 593 2260

Toxicology & Drug Monitoring Laboratory
University of Missouri Hospital & Clinics
301 Business Loop 70 West, Suite 208
Columbia, MO 65203
314 882 1273

TOXWORX Laboratories, Inc.
6160 Vadel Ave.
Woodland Hills, CA 91367
818 226 4373
(formerly: Laboratory Specialists, Inc.;
Abused Drug Laboratories; MedTox Bio
Analytical, a Division of MedTox
Laboratories, Inc.)

UNILAB
18408 Oxnard St.
Tarzana, CA 91356
800 492 0800/818 3438191
(formerly: MetWest BPL Toxicology
Laboratory)
APPENDIX D

V. EMPLOYEE ACKNOWLEDGMENT FORM (CDL Required)

City of Harrogate, Tennessee

EMPLOYEE ACKNOWLEDGMENT

As an applicant or an employee, I have carefully read the City of Harrogate, Tennessee's drug and alcohol testing policy. I have received a copy of the City of Harrogate, Tennessee's drug and alcohol testing policy, understand its requirements, and agree without reservation to follow this policy. As an applicant, I am aware that my offer of employment is conditional upon the results of a drug and/or alcohol test. As an employee, I am aware that I may be required to undergo drug and/or alcohol tests, that I will be informed prior to the drug and/or alcohol test, and that I may be subject to immediate dismissal if I refuse to take the test.

______________________________________ ______________________________
Name of Applicant or Employee Social Security Number

______________________________________ ______________________________
Department Supervisor

(Signature of Applicant or Employee) Date

(Signature of Witness) Date
APPENDIX E

W. CONSENT AND ACKNOWLEDGMENT FORM

City of Harrogate, Tennessee

DRUG/ALCOHOL TESTING PROCEDURES

CONSENT AND ACKNOWLEDGMENT FORM

As an applicant or an employee with the City of Harrogate, Tennessee, I hereby consent to and acknowledge that I am scheduled to undergo drug and/or alcohol testing. The test for alcohol will be a breath analysis test. The drug test will involve an analysis of a urine sample, which I will provide at a designated site. The purpose of the test will be to test for the presence of the following substances: amphetamines, marijuana, cocaine, opiates, PCP, alcohol, and/or any additional drugs listed in the Tennessee Drug Control Act. I authorize qualified personnel to take and have analyzed appropriate specimens to determine if drugs and/or alcohol are present in my system. I acknowledge that the drug/alcohol screen test results will be made available to the testing laboratory, medical review officer (MRO), the city recorder, or his/her designee. As an applicant, I am aware that a confirmed and verified positive drug/alcohol test result will rescind my conditional offer of employment. As an employee, I am aware that a confirmed and verified positive test result may lead to disciplinary action up to and including immediate dismissal. I will present a copy of this form to the collection site when I report for my scheduled drug/alcohol test. I also understand that failure to provide adequate breath for testing without a valid medical explanation, failure to provide adequate urine for controlled substances testing without a valid medical explanation, and engaging in conduct that clearly obstructs the testing process are the same as refusing to test.

Name of Applicant or Employee: ___________________________________________

Department Name: ______________________________________________________

Social Security Number: ___________________________

______________________________________ ______________________________
(Signature of Applicant or Employee) Date

______________________________________ ______________________________
(Signature of Witness) Date
APPENDIX F

ANTI-DRUG AND ALCOHOL POLICY
TESTING REQUIREMENTS

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<td>1. Pre Employment</td>
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<td>2. Transfer *</td>
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<td>3. Post Accident/Incident</td>
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<td>4. Reasonable Suspicion</td>
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<td>5. Random</td>
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<td>6. Return to Duty/Follow up</td>
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<tr>
<td>2. Post Accident/Incident</td>
<td>Required</td>
</tr>
<tr>
<td>3. Reasonable Suspicion</td>
<td>Required</td>
</tr>
<tr>
<td>4. Random</td>
<td>Required</td>
</tr>
<tr>
<td>5. Return to Duty/Follow up</td>
<td>Required</td>
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</table>

* Applies to existing employees transferring into a new position within the respective employee group.
APPENDIX G

REQUIREMENTS FOR ALCOHOL AND DRUG TESTING POLICY STATEMENTS

Local governments are required to develop a policy statement for the alcohol and drug testing programs. This policy statement must be distributed to every safety sensitive employee prior to the start of the testing program, to representatives of employee organizations, and to new employees as they are hired or transferred into safety sensitive positions. The FHWA rules require that the following information be included in the policy:

1) The name of the person designated by the employer to answer questions about the alcohol and drug testing program;

2) The employees who are covered by the DOT and FHWA rules and consequently the local government's alcohol and drug testing policy;

3) Information about the safety sensitive functions performed by the covered employees;

4) Information concerning safety sensitive employee conduct that is prohibited under the DOT/FHWA rules;

5) The circumstances under which a driver will be tested for alcohol and drugs;

6) The procedures that will be followed to:
   a) Test for the presence of alcohol and drugs;
   b) Protect the covered employee and the integrity of the testing processes;
   c) Safeguard the validity of the test results;
   d) Ensure that those results are attributed to the correct employee;

7) The requirement that a covered employee submit to alcohol and drug tests administered in accordance with the DOT/FHWA rules;
8) An explanation of what constitutes a refusal to submit to an alcohol or drug test and the resulting consequences;

9) The consequences resulting from positive alcohol and/or drug tests;

10) Information concerning

   a) The effects of alcohol and drug use on an individual's health, work, and personal life

   b) Signs and symptoms of an alcohol or drug problem (the driver's or a coworker's)

   c) Available methods of intervening when an alcohol or drug problem is suspected, including confrontation, referral to any employee assistance program, and/or referral to management.

The policy may also include information on additional local government policies regarding the use or possession of alcohol or drugs that the local government has implemented under its own authority. For example, local governments may want to explain whether the local government will pay for all alcohol and drug tests, if the employees will pay for all the tests, or if the costs will be shared. Although these rules preempt any inconsistent state or local laws, state or local governments may have adopted policies that require funding of alcohol and drug tests and such policies would not be considered as inconsistent with these rules. A thorough, legal review of all state and local laws regarding alcohol and drug testing should be conducted before implementation of these rules begins.

The local government must ensure that each covered employee is required to sign a statement that he/she has received a copy of the policy described above. The local government keeps the original of the signed statement and may also provide a copy to the employee.
APPENDIX D

CITY OF HARROGATE

Purchasing Procedures

As designated in Ordinance No.31, adopted on June 18, 2002, the Mayor shall act as purchasing agent for the City, with power, except as set out in these procedures, to purchase materials, supplies, equipment, and services; secure leases and lease-purchases; and dispose of and transfer surplus property for the proper conduct of the City's business. All contracts, leases, and lease-purchase agreements extended beyond the end of any fiscal year must have prior approval of the governing body.

The purchasing agent shall have the authority to make purchases, leases, and lease-purchases of more than $1,000 and less than $10,000 singly or in the aggregate during any fiscal year and, except as otherwise provided herein, shall require a minimum of two competitive bids or quotations, either verbal or written whenever possible prior to each purchase. Competitive bids or quotations for the purchase of items which cost less than $1,000 are desirable but not mandatory. All competitive bids or quotations received shall be recorded and maintained in the office of the city recorder for a minimum of two years after audit. Awards shall be made to the lowest responsible bidder.

A description of all projects and purchases, except as herein provided, which require the expenditure of city funds of $10,000 or more singly or in the aggregate during any fiscal year shall be prepared by the purchasing agent and submitted to the governing body for authorization to call for bids or proposals. After the determination that adequate funds are budgeted and available for a purchase, the governing body may authorize the purchasing agent to advertise for bids or proposals. The award of purchases, leases, or lease-purchases of $10,000 or more shall be made by the governing body to the lowest responsible bidder.

Purchases amounting to $10,000 or more, which do not require public advertising and sealed bids or proposals, may be allowed only under the following circumstances and, except as otherwise provided herein, when such purchases are approved by the governing body:

- Sole source of supply or proprietary products as determined after complete search by the purchasing agent, with governing body approval.
- Emergency expenditures with subsequent approval of the governing body.
- Purchases from instrumentalities created by two or more cooperating governments.
• Purchases from non-profit corporations whose purpose or one of whose purposes is to provide goods or services specifically to municipalities.
• Purchases, leases, or lease-purchases of real property.
• Purchases, leases, or lease-purchases, from any federal, state, or local government unit or agency, of second-hand articles or equipment or other materials, supplies, commodities, and equipment.
• Purchases through other units of governments as authorized by the Municipal Purchasing Law of 1983.
• Purchases directed through or in conjunction with the state Department of General Services.
• Purchases from Tennessee state industries.
• Professional service contracts as provided in Tennessee Code Annotated 29-20-407.
• Tort Liability Insurance as provided in TCA 12-4-407.
• Purchases of perishable commodities.
• Professional services shall not be bid.

The purchasing agent shall be responsible for following these procedures and the Municipal Purchasing Law of 1983, as amended, including keeping and filing required records and reports, as if they were set out herein and made a part of hereof and within definitions of words and phrases from the law as herein defined.

The purchasing agent may use a city purchase order to outline the terms and conditions for a purchase. A sample purchase order is attached.

A Receiving Report, copy attached, must be matched to each purchase order prior to payment.

If the purchase is over the dollar limit, under no circumstances may multiple forms be used in an effort to avoid competitive bidding. Any variations in the purchase order and invoiced amount for purchases exceeding $10,000 shall be approved by the Board of Mayor and Aldermen.

**Emergency purchases** are to be made only when normal functions and operations of the City would be hampered by purchasing in the regular manner, or where property, equipment, or life are endangered through unexpected circumstances and materials, services, etc., and are needed immediately. If a tool breaks and the repair is needed immediately an emergency purchase may be necessary. If a city waits until the last minute to purchase a police vehicle, and needs it for tomorrow evening's shift, it may be poor management instead of an emergency.
A Summary of Bids Form should be used to record all bids. The form should be included in the information presented to the governing body for consideration of award of the bid. All bids should be opened in public at a specified time. Late bids should not be accepted or opened. A copy of the Bid Summary Form is attached.

Petty Cash Fund

To buy items that cost less than $100* from businesses that do not issue invoices or have charge accounts, a petty cash fund must be set up by the finance officer. The finance officer is solely responsible for any withdrawals from this account. Any receipts or requests for monies from this fund must contain the expense code and be signed by the person receiving the cash for payment. This fund should be used only if other purchasing methods are not applicable.

- Amount to be established by the governing body.

Sealed Bids or Proposals

Sealed bids are required on purchases of $10,000 or more. Bids must be advertised in a local newspaper of general circulation not less than five days before bid opening date.

Purchasing Agent's Responsibility

- Prepare bid requests.
- Establish date and time for bid opening.
- Select possible sources of supply.
- Prepare specifications (unless of a technical nature, such as architectural, engineering, etc.
- Mail bid requests and advertise as appropriate. If delivered by hand, a receipt of the bid request should be signed by the vendor.
- Receive and open bids.
- Evaluate bids using staff or professional assistance.
- Make recommendations on award to governing body for approval.
- Process purchase order after governing body approval.
- Maintain all specification and bid data files.

General Information

The following policies shall apply to sealed bids:

1. **Bid or Proposal Opening:** Bids will be opened at the time and date specified on the bid request. All bids are opened publicly and read aloud,
with a tabulation provided to all vendors participating. Proposals for extensive systems, complicated equipment, or construction projects, may be evaluated privately with a public recommendation to the governing board after evaluation and study.

2. **Late Bids:** No bids received after closing time will be accepted. All late bids will be returned unopened to the vendor. Bids postmarked on the bid opening date but received after the specified time will be considered late and will be returned unopened. It is important that the integrity of the bidding process be maintained.

3. **Bid Opening Schedule:** The purchasing agent is responsible for setting bid opening dates and times.

4. **Telephone Bids:** The purchasing agent will not accept any bid by telephone. He may accept telephone quotes for amounts less than $10,000.

5. **Bid Form:** When the purchasing agent sends duplicate copies of bid request forms to each bidder, thereby enabling the bidder to return one and maintain a file copy, only bids on the Bid Form will be accepted. Bids will not be accepted on any vendor letterhead, vendor bid form or other substitutions unless special permission is given by the purchasing agent.

6. **Unsigned Bids:** Failure of a vendor representative to sign a bid proposal removes that bid from consideration. A typed official's name will not be accepted without that person's written signature.

7. **Acceptance of Bids:** The City reserves the right to reject any or all bids, to waive any irregularities in a bid, to make awards to more than one bidder, to accept any part or all of a bid, or to accept that bid (or bids) which in the judgment of the governing body is in the best interest of the City.

8. **Shipping Charges:** Bids are to include all shipping charges to the point of delivery. Bids will only be considered on the basis of delivered price, except as otherwise authorized by the governing body. In many instances, the amount of shipping charges will be the deciding factor in making a purchase.

9. **Sample Product Policy:** The purchasing agent may request a sample product as part of a bid. If this is stated on the bid proposal form, the vendor is required to comply with this request or have the bid removed from consideration.
10. **Approved Equal Policy:** Specifications in the request for bids are intended to establish a desired quality or performance level or other minimum requirements, which will provide the City with the best product available at the lowest possible price.

When a **brand name** and/or model is designated, it signifies the minimum quality acceptable. If an alternate is offered, the bidder must include the brand name or model to be furnished, along with complete specifications and descriptive literature and, if requested, a sample for testing.

Brands and/or models other than those designated as "equal to" products shall receive equal consideration.

11. **Alternate Bids:** Should it be found, after bids have been opened, that a product has been offered with an alternative specification and that this product would be better for the City to use, all bids for that item may be rejected and specifications redrawn to allow all bidders an equal opportunity to submit bids on the alternate item.

12. **Tie Bids:** A tie bid is one in which two or more vendors bid identical items at the same unit cost. Tie bids may be determined by one of the following factors:

   a. Discount allowed
   b. Delivery schedule
   c. Precious vendor performance
   d. Vendor location
   e. Trade-in value offered

   If the tie cannot be resolved in this manner to the satisfaction of the governing body, the decision shall be based upon a coin toss as directed by the governing body.

13. **Cancellation of Invitation for Bid or Request for Proposal:** An invitation to bid, a request for proposal, or other solicitations may be canceled, or any or all bids or proposals may be rejected in part as may be specified in the solicitation when it is in the best interest of the City. The reasons shall be made a part of the bid or proposal file.

14. **Public Advertisement:** In addition to publication in a newspaper of general circulation as required by law, the purchasing agent may make any other efforts to let all prospective bidders know about the invitation to bid. This may be accomplished by delivery, verbally, mail, or by posting the invitation to bid in a public place. It is not required that specifications
be included in the invitation to bid. However, the notice should state clearly the purchase to be made.

15. **Other Aspects To Be Considered in Bid Awards:**

- The ability of the bidder to perform the contract or provide the material or service required.
- Whether the bidder can perform the contract or provide the material or service promptly or within the time specified, without delay or interference.
- The character, integrity, reputation, experience, and efficiency of the bidder.
- The previous and existing compliance, by the bidder, with laws and ordinances relating to the contract or service.
- The ability of the bidder to provide future maintenance and service for the use of the subject contract.
- Terms and conditions stated in the bid.
- Compliance and specifications or request for proposal.

**Non-Performance Policy**

Failure of a bidder to complete a contract, bid, or purchase order in the specified time agreed on, or failure to provide the service, materials, or supplies required by such contract, bid, or purchase order, or failure to honor a quoted price on services, materials, or supplies on a contract, bid, or purchase order may result in one or more of the following actions:

- Removal of a vendor from a bid list for a period to be determined by the governing body.
- Allowing the vendor to find the needed item for the City from another supplier at no additional cost to the City.
- Allowing the City to purchase the needed services, materials, or supplies from another source and charge the vendor for any difference in cost resulting from this purchase.
- Allowing monetary settlement.

**Delinquent Delivery**

Once the purchasing agent has issued a purchase order, no follow-up work should be done unless the item has not been received. If this happens, the purchasing agent may initiate action, either written or verbal as time allows, to investigate the delay.
Contractual Purchases

Such materials, supplies, or services that are constantly needed for city operations will be taken on a formal bid and will be awarded by the governing body for a contract period determined to be in the best interest of the City. This procedure shall be used in cases where the amount of the purchase of said materials, supplies, or services will be $10,000 or more within the fiscal year. For amounts below $10,000 the award will be made by the purchasing agent.

Items Covered By Warranty Or Guarantee

The City buys many items that have a warranty or guarantee for a certain length of time, such as tires, batteries, water heaters, roofs, and equipment. Before these items are repaired or replaced, the purchasing agent should be consulted to see if the item is covered by such warranty or guarantee. The city recorder shall maintain an active current file with complete information on such warranties or guarantees. All warranties must be remitted to the purchasing agent with the invoice indicating date of receipt.

Signatures

Contracts, applications for title, tax exemption certificates, agreements, and contracts for utilities shall not be signed by any city employee unless authorized in writing by the purchasing agent or by action of the governing body.

Trade-Ins

List of equipment to be used as trade-in shall accompany the request and specifications. The list includes the model, year, serial and city tag numbers, and other pertinent data.

Sale of Surplus Property

When the purchasing agent decides there is surplus equipment or material in the City, he shall figure out the best way to dispose of those items with an estimated value of less than $100 and dispose of them with a report to the governing board. Items with an estimated value of more than $100 shall be advertised for bidding, which will begin after the purchasing agent has received approval from the governing body. Such equipment or materials will be sold to the highest bidder.
Professional Service Contracts (Tennessee Code Annotated 12-4-106)

Professional services include legal services, fiscal agent, financial adviser or advisory services, educational consultant services, and similar services by professional people or groups with "high ethical standards." Only contracts for services performed within the professional's field of expertise are to be considered professional service contracts. Leasing office space from an attorney or purchasing computer services from an accountant, for example, are not professional services, and will require competitive bids.

Contracts for professional services will be awarded on the basis of recognized competence and integrity, rather than on competitive bids. This does not stop a city from requesting proposals from eligible service providers, then deciding about the capabilities of each. Although cost may be considered in choosing the service provider, it must not be the sole factor.

Certain Insurance (TCA 29-20-407)

Cities may purchase tort liability insurance, without competitive bidding, from the Tennessee Municipal League, or any other plan authorized by any organization of governmental entities representing cities and counties.

Purchases Through State-General Services (TCA 12-3-1001)

Cities may take advantage of so called "state prices" regardless of any charter or general law requirements. Not all prices quoted to the state are available to local governments. The items, price, and vendor information are available from the purchasing division of the Department of General Services.

"Buy America" Act (TCA 54-5-135)

Cities must not buy any materials used for highway or roadway construction, resurfacing, or maintenance from any foreign government, any company wholly owned or controlled by a foreign government, or any agency of such foreign government or company. Materials include, but are not limited to asphalt cement, asphalt emulsion, rock, aggregate, liquid and solid additives, sealers, and oils. This legislation will not apply if materials made by American companies are of unsatisfactory condition, are not of sufficient quantity, or increase the overall project cost by 5 percent more than the overall project costs using materials produced by foreign companies.
Purchases of Confiscated Property from the State (TCA 12-2-201)

A city may buy a motor vehicle that has been confiscated by the state by any city officer, employee, or their agent when the purchase is for municipal use.

Interest of Officer in Municipal Contracts (TCA 6-54-107)

No one holding a city office, elected or appointed, shall contract with the City for any work. Nor shall such person hold or have any direct interest in such a contract. Direct interest is defined as any business in which the official is the sole proprietor, a partner, or the person who has the controlling interest. Controlling interest means the person with the ownership or control of the largest number of outstanding shares owned by any individual or corporation.

No city official shall be indirectly interested in any contract with the municipality unless the officer publicly acknowledges his interest. Indirectly interested is defined as any contract in which the officer is interested, but not directly, but includes contracts where the officer is directly interested, but is the sole supplier in the municipality.

Personal Interest of Officers Prohibited (TCA 12-4-101)

It is unlawful for any person whose duty is to vote for or to supervise any contract with a city to be directly interested in such a contract. No city officer or other person whose duty is to superintend any contract with a city shall be indirectly interested in any such contract, unless the officer or person publicly acknowledges his interest.

Other General Information

Preference to Local Dealers: When buying supplies, materials, equipment, and services for the City's requirements, preference shall be given dealers who have stores or warehouses within the City – price, quality, delivery, and service being equal.

Federal Excise Tax: The City is exempt from the payment of excise taxes imposed by the federal government, and suppliers should be required to deduct the amount of such taxes from their bids, quotations, and invoices. The City is not required to pay sales taxes on purchases.

Public Inspection of Records: The purchasing agent shall keep a complete record of all quotations, bids, and purchase orders. Such records shall be open to public inspection.
**Designee:** The purchasing agent may designate the city recorder to serve as purchasing officer under his supervision and direction.

**Within the Limits of the Approved Budget:** Purchases must stay within appropriation limits in funds requiring budgets either by law, regulation, or policy. Appropriation limits do not apply to nonexpendable funds not requiring budgets, such as enterprise funds, intra governmental service funds, and nonexpendable trust funds.

**Performance and Bid Bonds:** Performance and bid bonds may be required as determined by the purchasing agent or the governing body.

**Payment Bond:** A payment bond is required for all contracts of $25,000 or more to insure that all materials are paid for by the contractor. This is a requirement of Tennessee Law.

**Architect or Engineer Required:** Plans, specifications, and estimates for any public works project exceeding $25,000 must be prepared by a registered architect or engineer as required by TCA 62-2-107.