# THE HOHENWALD MUNICIPAL CODE

# Prepared by the



# CITY OF HOHENWALD, TENNESSEE

# **MAYOR**

Danny McKnight

# Vice Mayor

Harold Don Barber

# **COUNCIL MEMBERS**

T. J. Hinson

Janet Turner

Vacant

# **RECORDER**

Kyle Hamm

#### **PREFACE**

The Hohenwald Municipal Code contains the codification and revision of the ordinances of the City of Hohenwald, 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: Kelley Myers and Nancy Gibson, is gratefully acknowledged.

# ORDINANCE ADOPTION PROCEDURES PRESCRIBED BY THE CITY CHARTER

#### Section 2 . . . .

- (10) Ordinances.
  - (1) No ordinance shall be introduced before the council unless having first been laid upon the desk of the city recorder and no such ordinance shall become effective without having been passed on at least two (2) readings and no more than one (1) reading shall be had on any one day. However, the annual budget ordinance shall require, a third reading. Before any ordinance shall become effective, it shall receive not fewer than three (3) affirmative votes. Every ordinance and amendment shall be retained in the custody of the recorder. All ordinances, when they have been finally passed or adopted, shall be signed by the mayor. A record of all yes and no votes shall be entered into the minutes for all ordinance votes.
  - (2) Any franchise, renewal or sale or lease of the utilities owned by the municipality shall be authorized by the city council and any bonds issued relating to such utilities shall comply with the Local Government Public Obligations Law in the same manner as provided for the issuance of bonds under Section 4, subsection (c) of this Act.
    - (3) All ordinances shall contain the following enacting clause:

"Be it enacted by the city council of Hohenwald," and they shall take effect immediately upon final passage, or at a time fixed within the ordinance.

#### TITLE 1

# GENERAL ADMINISTRATION<sup>1</sup>

#### **CHAPTER**

- 1. CITY COUNCIL.
- 2. MAYOR.
- 3. RECORDER.
- 4. CITY CLERK.
- 5. CODE OF ETHICS.
- 6. GENERAL PROVISIONS.

#### CHAPTER 1

# CITY COUNCIL<sup>2</sup>

#### **SECTION**

- 1-101. Time and place of regular meetings.
- 1-102. Order of business.
- 1-103. General rules of order.
- 1-104. Committees.

1-101. <u>Time and place of regular meetings</u>. The city council shall hold regular monthly meetings at 7:00 P.M. on the first Tuesday of each month at the city hall. (1982 Code, § 1-101)

<sup>1</sup>Charter references

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

#### Municipal code references

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

Fire department: title 7. Utilities: titles 18 and 19.

Wastewater treatment: title 18.

Zoning: title 14.

<sup>2</sup>Charter references

Compensation:  $\S 2(h)(1)(2)$ .

Meetings:  $\S 2(f)(3)$ .

Qualifications:  $\S 2(b)(1)(2)$ .

Quorum: § 2(f).

- **1-102.** <u>Order of business</u>. At each meeting of the city council, the following regular order of business shall be observed unless dispensed with by a majority vote of the members present:
  - (1) Call to order by the mayor;
  - (2) Roll call by the recorder;
- (3) Reading of minutes of the previous meeting by the recorder and approval or correction;
  - (4) Grievances from citizens;
  - (5) Communications from the mayor;
- (6) Reports from committees, members of the city council, and other officers;
  - (7) Old business;
  - (8) New business;
  - (9) Adjournment. (1982 Code, § 1-102)
- 1-103. <u>General rules of order</u>. The rules of order and parliamentary procedure contained in <u>Robert's Rules of Order</u>, <u>Newly Revised</u>, shall govern the transaction of business by and before the city council at its meetings in all cases to which they are applicable and in which they are not inconsistent with provisions of the charter or this code. (1982 Code, § 1-103, modified)
- **1-104.** Committees. The mayor, with the approval of the council, may appoint such committees of the council as may be needed from time to time. (1982 Code, § 1-104)

# MAYOR<sup>1</sup>

#### **SECTION**

1-201. To be bonded.

1-202. Vehicle use of mayor.

**1-201.** <u>To be bonded</u>. Pursuant to § 3(i) of the city's charter, the mayor shall be bonded in the sum of ten thousand dollars (\$10,000.00) before assuming the duties of office with some surety company authorized to do business in Tennessee as surety. (1982 Code, § 1-201, modified)

**1-202.** <u>Vehicle use of mayor</u>. Pursuant to the authority contained in § 2(h) of the charter, and as a benefit or additional compensation for the mayor, the automobile owned by the city and provided for the mayor's use on official business, shall also be available to the mayor for his personal use. (Ord. #486, June 1992, modified)

<sup>1</sup>Charter reference

Duties: § 2(k)(1) and (2).

# RECORDER<sup>1</sup>

#### **SECTION**

1-301. To perform general administrative duties, etc.

1-301. To perform general administrative duties, etc. The recorder shall perform all administrative duties for the city council and for the city which are not assigned by the charter, this code, or the city council to another corporate officer. (1982 Code, § 1-301)

<sup>1</sup>Charter references Oath: § (3)(h).

Personnel: § (3)(c).

# **CITY CLERK**

# **SECTION**

1-401. To be bonded.

**1-401.** To be bonded. The city clerk shall be bonded in such sum as may be fixed by, and with such surety as may be acceptable to, the city council. (1982 Code, § 1-401)

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

#### **SECTION**

- 1-501. Applicability.
- 1-502. Definition of "personal interest."
- 1-503. Disclosure of personal interest by official with vote.
- 1-504. Disclosure of personal interest in non-voting matters.
- 1-505. Acceptance of gratuities, etc.
- 1-506. Use of information.
- 1-507. Use of municipal time, facilities, etc.
- 1-508. Use of position or authority.
- 1-509. Outside employment.

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

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

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

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

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

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

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

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

A brief synopsis of each of these laws appears in Appendix B of this municipal code.

- 1-510. Ethics complaints.
- 1-511. Violations.
- **1-501. Applicability**. This chapter is the code of ethics for personnel of the municipality. It applies to all full-time and part-time elected or appointed officials and employees, whether compensated or not, including those of any separate board, commission, committee, authority, corporation, or other instrumentality appointed or created by the municipality. The words "municipal" and "municipality" include these separate entities. (Ord. #613, May 2007)
- **1-502. Definition of "personal interest**." (1) For purposes of §§ 1-503 and 1-504, "personal interest" means:
  - (a) Any financial, ownership, or employment interest in the subject of a vote by a municipal board not otherwise regulated by state statutes on conflicts of interests; or
  - (b) Any financial, ownership, or employment interest in a matter to be regulated or supervised; or
  - (c) Any such financial, ownership, or employment interest of the official's or employee's spouse, parent(s), step parent(s), grandparent(s), sibling(s), child(ren), or step child(ren).
- (2) The words "employment interest" include a situation in which an official or employee or a designated family member is negotiating possible employment with a person or organization that is the subject of the vote or that is to be regulated or supervised.
- (3) In any situation in which a personal interest is also a conflict of interest under state law, the provisions of the state law take precedence over the provisions of this chapter. (Ord. #613, May 2007)
- 1-503. <u>Disclosure of personal interest by official with vote</u>. 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 himself¹ from voting on the measure. (Ord. #613, May 2007)
- 1-504. <u>Disclosure of personal interest in non-voting matters</u>. 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

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

discretion shall disclose, before the exercise of the discretion when possible, the interest on a form provided by and filed with the recorder. In addition, the 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. #613, May 2007)

- **1-505.** Acceptance of gratuities, etc. An official or employee may not accept, directly or indirectly, any money, gift, gratuity, or other consideration or favor of any kind from anyone other than the municipality:
- (1) For the performance of an act, or refraining from performance of an act, that he would be expected to perform, or refrain from performing, in the regular course of his duties; or
- (2) That might reasonably be interpreted as an attempt to influence his action, or reward him for past action, in executing municipal business. (Ord. #613, May 2007)
- **1-506.** <u>Use of information</u>. (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. #613, May 2007)
- 1-507. <u>Use of municipal time, facilities, etc.</u> (1) An official or employee may not use or authorize the use of municipal time, facilities, equipment, or supplies for private gain or advantage to himself.
- (2) An official or employee may not use or authorize the use of municipal time, facilities, equipment, or supplies for private gain or advantage to any private person or entity, except as authorized by legitimate contract or lease that is determined by the governing body to be in the best interests of the municipality. (Ord. #613, May 2007)
- **1-508.** Use of position or authority. (1) An official or employee may not make or attempt to make private purchases, for cash or otherwise, in the name of the municipality.
- (2) An official or employee may not use or attempt to use his position to secure any privilege or exemption for himself or others that is not authorized by the charter, general law, or ordinance or policy of the municipality. (Ord. #613, May 2007)
- **1-509.** Outside employment. An official or employee may not accept or continue any outside employment if the work unreasonably inhibits the performance of any affirmative duty of the municipal position or conflicts with

any provision of the municipality's charter or any ordinance or policy. (Ord. #613, May 2007)

- 1-510. Ethics complaints. (1) The city attorney is designated as the ethics officer of the municipality. Upon the written request of an official or employee potentially affected by a provision of this chapter, the city attorney may render an oral or written advisory ethics opinion based upon this chapter and other applicable law.
  - (2) (a) Except as otherwise provided in this subsection, the city attorney shall investigate any credible complaint against an appointed official or employee charging any violation of this chapter, or may undertake an investigation on his own initiative when he acquires information indicating a possible violation, and make recommendations for action to end or seek retribution for any activity that, in the attorney's judgment, constitutes a violation of this code of ethics.
  - (b) The city attorney may request the governing body to hire another attorney, individual, or entity to act as ethics officer when he has or will have a conflict of interests in a particular matter.
  - (c) When a complaint of a violation of any provision of this chapter is lodged against a member of the municipality's governing body, the governing body shall either determine that the complaint has merit, determine that the complaint does not have merit, or determine that the complaint has sufficient merit to warrant further investigation. If the governing body determines that a complaint warrants further investigation, it shall authorize an investigation by the city attorney or another individual or entity chosen by the governing body.
- (3) The interpretation that a reasonable person in the circumstances would apply shall be used in interpreting and enforcing this code of ethics.
- (4) When a violation of this code of ethics also constitutes a violation of a personnel policy, rule, or regulation or a civil service policy, rule, or regulation, the violation shall be dealt with as a violation of the personnel or civil service provisions rather than as a violation of this code of ethics. (Ord. #613, May 2007)
- 1-511. <u>Violations</u>. An elected official or appointed member of a separate municipal board, commission, committee, authority, corporation, or other instrumentality who violates any provision of this chapter is subject to punishment as provided by the municipality's charter or other applicable law, and in addition is subject to censure by the governing body. An appointed official or an employee who violates any provision of this chapter is subject to disciplinary action. (Ord. #613, May 2007)

## **GENERAL PROVISIONS**

#### **SECTION**

1-601. General penalty; continuing violations.

1-601. General penalty; continuing violations. Whenever in this code or in any ordinance of the city any act is prohibited or is made or declared to be unlawful or an offense or a misdemeanor, or wherever in such code or ordinance the doing of any act is required or the failure to do any act is declared to be unlawful, the violation of any such provision of this code or any such ordinance shall be punished by a penalty of not more than fifty dollars (\$50.00) for each separate violation; provided, however, that the imposition of any such penalty under the provisions of this code or of any ordinance of the city shall not prevent the revocation of any permit or license for violation of any provisions hereof where called for or permitted under the provisions of this code or of any ordinance. The city judge shall fix the penalty to be imposed under the provisions hereof as the city judge's discretion may dictate. Each day that any violation of this code or of any ordinance continues shall constitute a separate offense. Where any act of the general assembly of the state provides for a greater minimum penalty than one dollar (\$1.00), the minimum penalty prescribed by the state law shall prevail, and be assessed by the city judge. Whenever in this code reference is made to a maximum penalty of greater than fifty dollars (\$50.00), this section shall prevail and the maximum penalty shall be fifty dollars (\$50.00).

#### TITLE 2

#### BOARDS AND COMMISSIONS, ETC.

#### **CHAPTER**

1. HISTORIC PRESERVATION COMMISSION.

#### CHAPTER 1

#### HISTORIC PRESERVATION COMMISSION

#### **SECTION**

- 2-101. Statement of purpose.
- 2-102. Preservation commission--composition and terms.
- 2-103. Powers of the commission.
- 2-104. Rules of order (by-laws).
- 2-105. Design of landmarks, landmark sites, and historic districts.
- 2-106. Certificates of appropriateness.
- 2-107. Criteria for issuance of certificates of appropriateness.
- 2-108. Procedures for issuance of certificates of appropriateness.
- 2-109. Economic hardship.
- 2-110. Appeals.
- 2-111. Minimum maintenance requirements.
- 2-112. Public safety exclusion.
- 2-113. Enforcement and penalties.
- 2-114. Appropriations.
- 2-115. Disqualification of members by conflict of interest.
- **2-101.** Statement of purpose. (1) Such preservation activities will promote and protect the health, safety, prosperity, education, and general welfare of the people living in and visiting.
- (2) More specifically, this historic preservation chapter is designed to achieve the following goals:
  - (a) Protect, enhance and perpetuate resources which represent distinctive and significant elements of the city's historical, cultural, social, economic, political, archaeological, and architectural identity;
  - (b) Insure the harmonious, orderly, and efficient growth and development of the city;
  - (c) Strengthen civic pride and cultural stability through neighborhood conservation;
  - (d) Stabilize the economy of the city through the continued use, preservation, and revitalization of its resources;
  - (e) Promote the use of resources for the education, pleasure, and welfare of the people of the City of Hohenwald;

- (f) Provide a review process for the preservation and development of the city's resources. (Ord. #573, Jan. 2004)
- **2-102.** Preservation commission—composition and terms. (1) The city is authorized to establish a preservation commission to preserve, promote, and develop the city's historical resources and to advise the city on the designation of preservation districts, landmarks, and landmark sites and to perform such other functions as may be provided by law.
- (2) The commission shall consist of (no less than five (5) and no more than nine (9)) members and which shall consist of a representative of a local patriotic or historical organization; an architect or engineer, if available; a person who is a member of the local planning commission at the time of his/her appointment; and the remainder shall be from the community in general.
- (3) All members of the commission are appointed by the city and shall serve for designated terms and be reappointed. All commission members shall have a demonstrated knowledge of or interest, competence, or expertise in historic preservation, to the extent available in the community. (Ord. #573, Jan. 2004)
- **2-103.** Powers of the commission. (1) The commission shall conduct or cause to be conducted a continuing study and survey of resources within the City of Hohenwald.
- (2) The commission shall recommend to the city the adoption of ordinances designating preservation districts, landmarks, and landmark sites.
- (3) The commission may recommend that the city recognize sub-districts within any preservation district, in order that the commission may adopt specific guidelines for the regulation of properties within such a sub-district.
- (4) The commission shall review applications proposing construction, alteration, demolition, or relocation of any resource within the preservation districts, landmarks, and landmark sites.
- (5) The commission shall grant or deny certificates of appropriateness, and may grant certificates of appropriateness contingent upon the acceptance by the applicant of specified conditions.
- (6) The commission does not have jurisdiction over interior arrangements of buildings and structures, except where such change will affect the exterior of the building and structures.
- (7) The commission, subject to the requirements of the city, is authorized to apply for, receive, hold, and spend funds from private and public sources, in addition to appropriations made by the city for the purpose of carrying out the provisions of this chapter.
- (8) The commission is authorized to employ such staff or contract with technical experts or other persons as may be required for the performance of its

duties and to obtain the equipment, supplies, and other materials necessary for its effective operation, subject to approval of city council.

- (9) The commission is authorized, solely in the performance of its official duties and only at reasonable times, to enter upon private land or water for the examination or survey thereof. No member, employee, or agent of the commission shall enter any private dwelling or structure without the express consent of the owner of record or occupant thereof. (Ord. #573, Jan. 2004)
- **2-104.** Rules of order (by-laws). To fulfill the purposes of this chapter and carry out the provisions contained therein:
- (1) The commission annually shall elect from its membership a chairman and vice-chairman. It shall select a secretary from its membership or its staff. If neither the chairman nor the vice-chairman attends a particular meeting, the remaining members shall select an acting chairman from the members in attendance at such meeting.
- (2) The commission shall develop and adopt rules of order (by-laws) which shall govern the conduct of its business, subject to the approval of the city. Such rules of order (by-laws) shall be a matter of public record.
- (3) The commission shall develop design review guidelines for determining appropriateness as generally set forth in § 2-107 of this chapter. Such criteria shall insofar as possible be consistent with local, state, and federal guidelines and regulations, including, but not limited to, building safety and fire codes and the Secretary of the Interior's Standards for Rehabilitation.
- (4) The commission shall keep minutes and records of all meetings and proceedings including voting records, attendance, resolutions, findings, determinations, and decisions. All such material shall be a matter of public record.
- (5) The commission shall establish its own regular meeting time; however, the first meeting shall be held within thirty (30) days of the adoption of the ordinance comprising this chapter and regular meetings shall be scheduled at least once every three (3) months. The chairman or any two (2) members may call a special meeting to consider an urgent matter. (Ord. #573, Jan. 2004)
- **2-105.** Designation of landmarks, landmark sites, and historic districts. By ordinance, the city may establish landmarks, landmark sites, and preservation districts within the area of its jurisdiction. Such landmarks, landmark sites, or preservation districts shall be designated following the criteria as specified in § 2-101.
- (1) The commission shall initiate a continuing and thorough investigation of the archaeological, architectural, cultural, and historic significance of the city's resources. The findings shall be collected in a cohesive format, made a matter of public record, and made available for public inspection.

The commission shall work toward providing complete documentation for previously designated preservation districts which would include:

- (a) A survey of all property within the boundary of the district, with photographs of each building.
- (b) A survey which would be in a format consistent with the statewide inventory format of the Historic Preservation Division of the (SHPO).
- (2) The commission shall advise the city on the designation of preservation districts, landmarks, or landmark sites and submit or cause to be prepared ordinances to make such designation.
- (3) A resource or resources may be nominated for designation upon motion of the three (3) members of the commission or by an organization interested in historic preservation or by an owner of the property being nominated. A nomination shall contain information as specified by the commission. The commission must reach a decision on whether to recommend a proposed nomination to the city within six (6) months in the case of a preservation district and two (2) months in the case of either a landmark or landmark site. After six (6) months for a district or two (2) months for a landmark or landmark site if no action has been taken by the commission, the nomination proceeds to the planning commission for their recommendation to the city council.
- (4) The commission shall hold a public hearing on the proposed preservation district, landmark, or landmark site. If the commission votes to recommend to the city the designation of a proposed resource, it shall promptly forward to the planning commission its recommendation, in writing, together with an accompanying file.
- (5) The commission's recommendations to the city for designation of a preservation district shall be accompanied by:
  - (a) A map of the preservation district that clearly delineates the boundaries;
    - (b) A verbal boundary description and justification;
  - (c) A written statement of significance for the proposed preservation district.
- (6) The city council shall conduct a public hearing, after notice, to discuss the proposed designation and boundaries thereof. A notice of the hearing shall be published in the newspaper published in the city. If a newspaper is not published in the city, then the notice shall be published in a paper published in the county.
- (7) Within sixty (60) calendar days after the public hearing held in connection herewith, the city shall consider the ordinance with such modifications as may be necessary.
- (8) Furthermore, the commission shall notify, as soon as is reasonably possible, the appropriate state, county, and municipal agencies of the official designation of all landmarks, landmark sites, and preservation districts. An

updated list and map shall be maintained by such agencies and made available to the public. (Ord. #573, Jan. 2004)

- **2-106.** Certificates of appropriateness. No exterior feature of any resource shall be added to, relocated, demolished or altered, outside of the confines of this provision, until after an issuance for certificate of appropriateness of such work has been approved by the commission. A certificate of appropriateness shall not be required for work deemed by the historic commission, or its official agents, to be ordinary maintenance, or repair of any resource except when new colors are being added to the building in any media. In those instances the color selection must come from the <u>Historic Commission Exterior Color Book</u>, as adopted and amended from time to time, by the historic commission. The book shall be held by the building inspector who will record within it the colors selected, and specify the features to which it is applied. Additionally, no construction which affects a resource shall be undertaken without a certificate of appropriateness.
- (1) The commission shall serve as a review body with the power to approve and deny applications for certificates of appropriateness.
- (2) In approving and denying applications for certificates of appropriateness, the commission shall accomplish the purposes of this chapter.
- (3) A certificate of appropriateness shall not be required for work deemed by the commission to be ordinary maintenance or repair of any resource.
- (4) All decisions of the commission shall be in writing and shall state the findings of the commission, its recommendations, and the reasons therefore.
- (5) Expiration of a certificate of appropriateness. A certificate of appropriateness shall expire (any increment of six (6) months, i.e.: twelve (12) or eighteen (18) months) months after its issuance except that a certificate shall if work has not begun within six (6) months of its issuance. When a certificate has expired, an applicant may seek a new certificate.
- (6) <u>Resubmitting of applications</u>. Twelve (12) months after denial of an application for a certificate of appropriateness, the application may be resubmitted without change. A changed application may be resubmitted at any time. (Ord. #573, Jan. 2004, as amended by Ord. #602, April 2006)
- **2-107.** <u>Criteria for issuance of certificates of appropriateness</u>. The commission shall use the <u>Secretary of the Interior's Standards for Rehabilitation</u> as the basics for design guidelines created for each district or landmark and the following criteria in granting or denying certificates of appropriateness:
  - (1) <u>General factors</u>. (a) Architectural design of existing building, structure, or appurtenance and proposed alteration;
    - (b) Historical significance of the resource;
    - (c) Materials composing the resource;
    - (d) Size of the resource;

- (e) The relationship of the above factors to, and their effect upon the immediate surroundings and, if within a preservation district, upon the district as a whole and its architectural and historical character and integrity.
- (2) New construction. (a) The following aspects of new construction shall be visually compatible with the buildings and environment with which the new construction is visually related, including but not limited to:
  - (i) The height;
  - (ii) The gross volume;
  - (iii) The proportion between width and height of the facade(s);
  - (iv) The proportions and relationship between doors and windows;
  - (v) The rhythm of solids to voids created by openings in the facade;
    - (vi) The materials:
    - (vii) The textures;
    - (viii) The patterns;
    - (ix) The trims, and
    - (x) The design of the roof.
- (b) Existing rhythm created by existing building masses and spaces between them shall be preserved.
- (c) The landscape plan shall be compatible with the resource, and it shall be visually compatible with the environment with which it is visually related. Landscaping shall also not prove detrimental to the fabric of a resource, or adjacent public or private improvements like sidewalks and walls.
  - (d) No specific architectural style shall be required.
- (3) Exterior alteration. (a) All exterior alterations to a building, structure, object, site, or landscape feature shall be compatible with the resource itself and other resources with which it is related, as is provided in §§ 2-108(1) and (2), and the design, over time, of a building, structure, object, or landscape feature shall be considered in applying these standards.
- (b) Exterior alterations shall not adversely affect the architectural character or historic quality of a landmark and shall not destroy the significance of landmark sites.
- (4) In considering an application for the demolition of a landmark or a resource within a preservation district, the commission shall consider the following:
  - (a) Individual architectural, cultural, and/or historical significance of the resource;

- (b) Importance or contribution of the resource to the architectural character of the district;
- (c) Importance or contribution of the resource to neighboring property values;
- (d) Difficulty or impossibility of reproducing such a resource because of its texture, design, material, or detail.
- (5) Following recommendation for approval of demolition, the applicant must seek approval of replacement plans, if any, as set forth in § 2-108(2), prior to receiving a demolition permit and other permits. Replacement plans for this purpose shall include, but shall not be restricted to, project concept, preliminary elevations and site plans, and completed working drawings for at least the foundation plan which will enable the applicant to receive a permit for foundation construction.
- (6) Applicants that have received a recommendation for demolition shall be required to receive such demolition permit as well as certificate of appropriateness for the new construction. Permits for demolition and construction shall not be issued simultaneously.
- (7) When the commission recommends approval of demolition of a resource, a permit shall not be issued until all plans for the site have received approval from all appropriate city boards, commissions, departments, and agencies. (Ord. #573, Jan. 2004)

# 2-108. Procedures for issuance of certificates of appropriateness.

Anyone desiring to take action requiring a certificate of appropriateness concerning a resource for which a permit, variance, or other authorization from the city building official is also required, shall make application therefore in the form and manner required by the applicable code section or ordinance. Any such application shall also be considered an application for a certificate of appropriateness and shall include such additional information as may be required by the commission. After receipt of any such application, the city building official shall be assured that the application is proper and complete. No building permit shall be issued by the city building official, which affects a resource without a certificate of appropriateness. In the event that a building permit need not be obtained for construction, alteration, demolition, or relocation of any resource, a certificate of appropriateness is still required before such work can be undertaken. Such application shall be reviewed in accordance with the following procedure:

- (1) When any such application is filed, the city building official shall immediately notify the commission chairman, vice-chairman, or staff of the application having been filed.
- (2) The chairman or vice-chairman shall set the agenda for the regular meeting date or set a time and date, which shall be not later than thirty (30) days after the filing of the application for a hearing by the commission, and the city building official shall be so informed.

- (3) The applicant shall, upon request, have the right to a preliminary hearing by the commission for the purpose of making any changes or adjustments which might be more consistent with the commission's standards.
- (4) Not later than (generally eight (8) day number is optional) days before the date set for the said hearing, the city official shall mail notice thereof to the applicant at the address in the application and to all members of the commission.
- (5) Notice of the time and place of said hearing shall be given by publication in a newspaper having general circulation in the city at least (number of days to correspond to the newspaper publishing deadlines) days before such hearing and by posting such notice on the bulletin board in the lobby of city hall.
- (6) At such hearing, the applicant for a certificate of appropriateness shall have the right to present any relevant evidence in support of the application. Likewise, the governing body shall have the right to present any additional relevant evidence in support of the application.
  - (7) The commission shall have the right to conditional approval.
- (8) Either at the meeting or within not more than fifteen (15) days after the hearing on an application, the commission shall act upon it, either approving, denying, or deferring action until the next meeting of the commission, giving consideration to the factors set forth in this section. Evidence of approval of the application shall be by certificate of appropriateness issued by the commission and, whatever its decision, notice in writing shall be given to the applicant and the city building official.
- (9) The issuance of a certificate of appropriateness shall not relieve an applicant for a building permit, special use permit, variance, or other authorization from compliance with any other requirement or provision of the laws of the city concerning zoning, construction repair, or demolition. (Ord. #573, Jan. 2004)
- **2-109. Economic hardship**. No decision of the commission shall cause undue economic hardship. If an applicant requests a hearing on economic hardship, such hearing shall be conducted after a certificate of appropriateness has been denied. (Ord. #573, Jan. 2004)
- **2-110. Appeals**. The applicant who desires to appeal a decision by the commission shall file an appeal with the circuit court (after the determination of the issue by the commission) in the manner provided by law. (Ord. #573, Jan. 2004)
- **2-111.** <u>Minimum maintenance requirements</u>. In order to insure the protective maintenance of resources, the exterior features of such properties shall be maintained to meet the requirements of the city's minimum housing code and the city's building code. (Ord. #573, Jan. 2004)

- 2-112. Public safety exclusion. None of the provisions of this chapter shall be construed to prevent any action of construction, alteration, or demolition necessary to correct or abate the unsafe or dangerous condition of any resource, or part thereof, where such condition has been declared unsafe or dangerous by the city building official or the fire department and where the proposed actions have been declared necessary by such authorities to correct the said condition; provided, however, that only such work as is necessary to correct the unsafe or dangerous condition may be performed pursuant to this section. In the event any resource designated as a landmark or located within a preservation district shall be damaged by fire or other calamity to such an extent that it cannot be repaired and restored, it may be removed in conformity with normal permit procedures and applicable laws, provided that:
- (1) The city building official concurs with the property owner that the resource cannot be repaired and restored and so notifies the commission in writing.
- (2) The preservation commission, if in doubt after receiving such notification from the city building official, shall be allowed time to seek outside professional expertise from the state historic preservation office and/or an independent structural engineer before issuing a certificate of appropriateness for the demolition. The commission may indicate in writing by letter to the city building official that it will require a time period of up to thirty (30) days for this purpose, and upon such notification to the city building official, this section shall be suspended until the expiration of such a delay period. (Ord. #573, Jan. 2004)
- **2-113.** Enforcement and penalties. The historic preservation commission shall be enforced by the city building inspector, who shall have the right to enter upon any premises necessary to carry out his duties in this enforcement.

Any person violating any provision of this chapter shall be guilty of a misdemeanor, and upon conviction shall be fined not less than two dollars (\$2.00) nor more than fifty dollars (\$50.00) for each offense. Each day such violation shall continue shall constitute a separate offense. (Ord. #573, Jan. 2004)

- **2-114. Appropriations**. The city is authorized to make appropriations to the commission necessary for the expenses of the operation of the commission and may make additional amounts available as necessary for the acquisition, restoration, preservation, operation, and management of historic properties. (Ord. #573, Jan. 2004)
- **2-115.** <u>Disqualification of members by conflict of interest</u>. Because the city may possess few residents with experience in the individual fields of history, architecture, architectural history, archaeology, urban planning, law, or real estate, and in order not to impair such residents from practicing their

trade for hire, members of the commission are allowed to contract their services to an applicant for a certificate of appropriateness, and, when doing so, must expressly disqualify themselves from the commission during all discussions and voting for that application. In such cases, the city shall, upon the request of the chairman of the commission or the vice-chairman in his stead, appoint a substitute member who is qualified in the same field as the disqualified member who will serve for that particular case only. If no qualified resident of the city is able to substitute for the disqualified member, the city may appoint, in this case only, a qualified substitute who is a resident. If any member of the commission must be disqualified due to a conflict of interest on a regular and continuing basis, the chairman or the vice-chairman, in his stead, shall encourage the member to resign his commission seat. Failing this resignation, and, if the commission member continues to enter into conflict of interest situations with the commission, the chairman or vice-chairman of the commission shall encourage the city to replace the member. Likewise, any member of the commission who has an interest in the property in question or in property within one hundred feet (100') of such property, or who is employed with a firm that has been hired to aid the applicant in any matter whatsoever, or who has any proprietary, tenancy, or personal interest in a matter to be considered by the commission shall be disqualified from participating in the consideration of any request for a certificate of appropriateness involving such a property. In such cases, a qualified substitute shall be appointed as provided above. (Ord. #573, Jan. 2004)

#### TITLE 3

# $\underline{MUNICIPAL\ COURT}^1$

#### **CHAPTER**

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

#### CHAPTER 1

#### **CITY JUDGE**

#### **SECTION**

3-101. City judge.

**3-101.** <u>City judge</u>. The officer designated by the charter to handle judicial matters within the municipality shall preside over the city court and shall be known as the city judge. (1982 Code, § 1-701)

<sup>1</sup>Charter references Compensation: § 3(d)(1). Duties: § 3(d)(2) and (3).

#### **COURT ADMINISTRATION**

#### **SECTION**

- 3-201. Maintenance of docket.
- 3-202. Imposition of fines, penalties, and costs.
- 3-203. Court costs and litigation tax.
- 3-204. Contempt of court.
- 3-205. Disturbance of proceedings.
- 3-206. Trial and disposition of cases.
- **3-201.** <u>Maintenance of docket</u>. The city judge shall keep or cause to be kept a court docket, which shall include the following information:
  - (1) Name of defendant;
  - (2) Nature of the offense;
  - (3) Plea:
  - (4) Date of the trial;
  - (5) Names of witnesses sworn and examined:
  - (6) Findings of the court;
  - (7) Amount and date of payment of fines, costs, and forfeitures;
  - (8) Date of issuing commitment if any; and
  - (9) Any other information deemed pertinent. (1982 Code, § 1-702)
- **3-202.** <u>Imposition of fines, penalties, and costs</u>. All fines, penalties and costs shall be imposed and recorded by the city judge on the city court docket in open court. (1982 Code, § 1-708, modified)
- **3-203.** Court costs and litigation tax. (1) Court costs and litigation tax assessed and collected on civil and criminal cases brought by the city or its officers shall be the same amount of court costs collected for like services in other cases in general sessions courts and litigation tax levied by the city shall be the maximum allowed under state law. Current amounts of court costs collected by clerks of general sessions courts are set out in Tennessee Code Annotated, § 8-21-401, et seq., and litigation tax is controlled by Tennessee Code Annotated, § 67-4-601, et seq.
- (2) The litigation tax and court costs shall be automatically increased and decreased as authorized by law and changes in costs collected in general sessions courts.
- (3) The privilege taxed levied according to this section shall be paid to the city recorder monthly to be used for any municipal purpose.
- (4) A five dollar (\$5.00) portion of costs collected on each criminal case shall be, and is hereby, appropriated for the D.A.R.E. Program. (Ord. #497, Aug. 1994, as amended by Ord. #514, Sept. 1996)

- **3-204.** Contempt of court. Contempt of court is punishable by a fine of fifty dollars (\$50.00), or such lesser amount as may be imposed in the judge's discretion.
- **3-205.** <u>Disturbance of proceedings</u>. It shall be unlawful for any person to create any disturbance of any trial before the city court by making loud or unusual noises, by using indecorous, profane, or blasphemous language, or by any distracting conduct whatsoever. (1982 Code, § 1-712)
- **3-206.** Trial and disposition of cases. Every person charged with violating a municipal ordinance shall be entitled to an immediate trial and disposition of his case, provided the city court is in session or the city judge is reasonably available. However, the provisions of this section shall not apply when the alleged offender, by reason of drunkenness or other incapacity, is not in a proper condition or is not able to appear before the court. (1982 Code, § 1-706)

# WARRANTS, SUMMONSES AND SUBPOENAS

#### **SECTION**

- 3-301. Issuance of arrest warrants.
- 3-302. Issuance of summonses.
- 3-303. Issuance of subpoenas.
- **3-301.** <u>Issuance of arrest warrants</u>.<sup>1</sup> The city judge shall have the power to issue warrants for the arrest of persons charged with violating municipal ordinances. (1982 Code, § 1-703)
- 3-302. <u>Issuance of summonses</u>. When a complaint of an alleged ordinance violation is made to the city judge, the judge may in his discretion, in lieu of issuing an arrest warrant, issue a summons ordering the alleged offender to personally appear before the city court at a time specified therein to answer to the charges against him. The summons shall contain a brief description of the offense charged but need not set out verbatim the provisions of the ordinance alleged to have been violated. Upon failure of any person to appear before the city court as commanded in a summons lawfully served on him, the cause may be proceeded with exparte, and the judgment of the court shall be valid and binding subject to the defendant's right of appeal. (1982 Code, § 1-704)
- **3-303.** Issuance of subpoenas. The city judge may subpoena as witnesses all persons whose testimony he believes will be relevant and material to matters coming before his court, and it shall be unlawful for any person lawfully served with such a subpoena to fail or neglect to comply therewith. (1982 Code, § 1-705)

<sup>&</sup>lt;sup>1</sup>State law reference

For authority to issue warrants, see <u>Tennessee Code Annotated</u>, title 40, chapter 6.

#### BONDS AND APPEALS

#### **SECTION**

- 3-401. Appearance bonds authorized.
- 3-402. Appeals.
- 3-403. Bond amounts, conditions, and forms.
- **3-401.** Appearance bonds authorized. When the city judge is not available or when an alleged offender requests and has reasonable grounds for a delay in the trial of his case, he may, in lieu of remaining in jail pending disposition of his case, be allowed to post an appearance bond with the city judge or, in the absence of the judge, with the ranking police officer on duty at the time, provided such alleged offender is not drunk or otherwise in need of protective custody. (1982 Code, § 1-707)
- **3-402. Appeals**. Any defendant who is dissatisfied with any judgment of the city court against him may, within ten (10) days next after such judgment is rendered, Sundays exclusive, appeal to the next term of the circuit court upon posting a proper appeal bond.<sup>1</sup> (1982 Code, § 1-709)
- **3-403.** Bond amounts, conditions, and forms. An appearance bond in any case before the city court shall be in such amount as the city judge shall prescribe and shall be conditioned that the defendant shall appear for trial before the city court at the stated time and place.

An appeal bond in any case shall be in the sum of two hundred fifty dollars (\$250.00) and shall be conditioned that if the circuit court shall find against the appellant the fine and all costs of the trial and appeal shall be promptly paid by the defendant and/or his sureties. An appearance or appeal bond in any case may be made in the form of a cash deposit or by any corporate surety company authorized to do business in Tennessee or by two (2) private persons who individually own real property located within the county. No other type bond shall be acceptable. (1982 Code, § 1-710)

<sup>&</sup>lt;sup>1</sup>State law reference

Tennessee Code Annotated, § 27-5-101.

#### TITLE 4

#### MUNICIPAL PERSONNEL

#### **CHAPTER**

- 1. SOCIAL SECURITY.
- 2. PERSONNEL RULES AND REGULATIONS.
- 3. OCCUPATIONAL SAFETY AND HEALTH PROGRAM.
- 4. TRAVEL REIMBURSEMENT REGULATIONS.
- 5. POST RETIREMENT EMPLOYEE HEALTH INSURANCE BENEFITS.

#### CHAPTER 1

# **SOCIAL SECURITY**

#### SECTION

- 4-101. Policy and purpose as to coverage.
- 4-102. Necessary agreements to be executed.
- 4-103. Withholdings from salaries or wages.
- 4-104. Appropriations for employer's contributions.
- 4-105. Records and reports to be made.
- 4-106. Exclusions; emergency and fee basis employees.
- 4-101. <u>Policy and purpose as to coverage</u>. It is hereby declared to be the policy and purpose of the City of Hohenwald, Tennessee, to provide for all eligible employees and officials of the city, whether employed in connection with a governmental or proprietary function, the benefits of the system of federal old age and survivors insurance. In pursuance of said policy, and for that purpose, the city shall take such action as may be required by applicable state and federal laws or regulations. (1982 Code, § 1-901)
- **4-102.** Necessary agreements to be executed. The mayor is hereby authorized and directed to execute all the necessary agreements and amendments thereto with the state executive director of old age insurance, as agent or agency, to secure coverage of employees and officials as provided in the preceding section. (1982 Code, § 1-902)
- **4-103.** Withholdings from salaries or wages. Withholdings from the salaries or wages of employees and officials for the purpose provided in the first section of this chapter are hereby authorized to be made in the amounts and at such times as may be required by applicable state or federal laws or regulations, and shall be paid over to the state or federal agency designated by said laws or regulations. (1982 Code, § 1-903)

- 4-104. <u>Appropriations for employer's contributions</u>. There shall be appropriated from available funds such amounts at such times as may be required by applicable state or federal laws or regulations for employer's contributions, and the same shall be paid over to the state or federal agency designated by said laws or regulations. (1982 Code, § 1-904)
- **4-105.** Records and reports to be made. The city shall keep such records and make such reports as may be required by applicable state and federal laws or regulations. (1982 Code, § 1-905)
- **4-106.** Exclusions; emergency and fee basis employees. There is hereby excluded from this chapter any authority to make any agreement with respect to any position or to any employee or official covered or authorized to be covered by any other ordinance creating any retirement system for any employee or official of the city.

There is hereby excluded from this chapter any authority to make any agreement with respect to any position or any employee or official the compensation for which is on a fee basis, employees rendering services in an emergency or elective legislative services, or any employee or official not authorized to be covered by applicable state or federal laws or regulations. The mayor is hereby authorized and directed to make and enter into an amendment to the social security agreement of October 23, 1951, to provide coverage in the system of federal old age and survivors insurance effective April 1, 1961, for emergency employees and employees rendering services in fee basis positions. (1982 Code, § 1-906)

# PERSONNEL RULES AND REGULATIONS

# **SECTION**

4-201. Personnel rules and regulation.

**4-201.** Personnel rules and regulation. The city council, by ordinance or resolution, may establish and revise a system of personnel rules and regulations.

#### OCCUPATIONAL SAFETY AND HEALTH PROGRAM

#### SECTION

- 4-301. Purpose and coverage.
- 4-302. Definitions.
- 4-303. Organization.
- 4-304. Rights and duties of the city.
- 4-305. Rights and duties of employees.
- 4-306. Education and training.
- 4-307. Standards.
- 4-308. Variance procedure.
- 4-309. Imminent danger.
- 4-310. General inspection procedures.
- 4-311. Abatement order.
- 4-312. Penalties.
- **4-301.** Purpose and coverage. The purpose of this plan is to provide guidelines and procedures for implementing the City of Hohenwald Occupational Safety and Health Program for the employees, part-time or full-time, of each city department, council, division, or agency of the City of Hohenwald. (1982 Code, § 1-1001)

#### **4-302. Definitions**. For the purpose of this program:

- (1) "Act" means the Tennessee legislation entitled "The Occupational Safety and Health Act of 1972."
- (2) "Appointing authority" means any city official or group of officials having legally designated powers of appointment, employment, or removal for a specific department or commission.
- (3) "City" means the City of Hohenwald, Lewis County, Tennessee, and shall include each city department, council, division, or agency of the City of Hohenwald.
- (4) "Commissioner of labor" means the chief executive officer of the Tennessee Department of Labor. This includes any person appointed, designated, or deputized to perform the duties or to exercise the powers assigned to the commissioner of labor.
- (5) "Commissioner of public health" means the chief executive officer of the Tennessee Department of Public Health. This includes any person appointed, designated, or deputized to perform the duties or to exercise the powers assigned to the commission of public health.

- (6) "Employee" means any person performing services for the City of Hohenwald and listed on city payrolls either as part-time or permanent, full-time employees.
- (7) "Establishment" or "workplace" means a single physical location where business is conducted or where services or industrial operations are performed.
- (8) "Mayor" means the chief executive officer designated by the City of Hohenwald to perform duties or to exercise powers assigned so as to plan, develop, and administer the City of Hohenwald Occupational Safety and Health Program.
- (9) "Person" means one (1) or more individuals, partnerships, associations, corporations, business trusts, legal representatives, or any organized group of persons.
- (10) "Program" means the City of Hohenwald Occupational Safety and Health Program
- (11) "Standard" means an occupational safety and health standard promulgated by the state commissioner of labor or the state commissioner of public health which requires conditions or the adoption or the use of one (1) or more practices, means, methods, operations, or processes reasonably necessary or appropriate to provide safe and healthful employment and places of employment. (1982 Code, § 1-1002)
- **4-303.** <u>Organization</u>. (1) The Mayor of Hohenwald is designated as the chief executive officer to perform duties or to exercise powers assigned so as to administer the City of Hohenwald Occupational Safety and Health Program.
  - (1) The mayor may designate person or persons as he deems necessary to carry out his powers, duties, and responsibilities under the program.
  - (2) The mayor shall employ measures to coordinate to the extent possible and activities of all departments to promote efficiency and to minimize any inconveniences under the program.
  - (3) The mayor may delegate the power to make inspections provided procedures employed are as effective as those employed by the mayor.
  - (4) The mayor may request qualified technical personnel from any section of city government to make or assist in making compliance inspections or investigations of a workplace as needed.
  - (5) The mayor shall prepare an annual report to the commissioner of labor to show the accomplishments and progress of the city occupational safety and health program.
- (2) The administrative head of each city department, council, division, or agency of the city is responsible for implementing the safety and health program for the employees in that department, council, division, or agency.

- (1) The administrative head shall follow the orders and directions of the mayor on issues involving occupational safety and health of its employees.
- (2) The administrative head shall comply with all abatement orders or request a review of the abatement order with the mayor.
- (3) The administrative head should make periodic safety surveys of the establishment under his jurisdiction to become aware of hazards that exist and make an attempt immediately to correct the observed hazards.
- (3) <u>Responsibilities of the mayor</u>. The mayor shall have the following responsibilities:
  - (1) Make periodic and follow-up inspections of all the establishments where city employees are employed, make recommendations to correct any hazards or exposures observed, and make inspections as a result of complaints submitted by employees.
  - (2) Assist the superintendent or administrative head in the investigation of the accident or illness.
  - (3) Upon receipt of the supervisor's accident report, determine probable cause and verify information contained in the report for accuracy.
  - (4) Enter the occurrence on the log of occupational injuries and illnesses in the manner prescribed on the form.
  - (5) Complete a Tennessee employer's first report of work injury providing the necessary detailed information as required. This record must be completed within six (6) working days of the occurrence.
  - (6) Submit periodic reports required by the Tennessee Department of Labor:
    - (1) Within thirty (30) days after the end of the calendar year, a summary report must be forwarded to the commissioner of the Department of Labor. The form for this report will be prescribed by the commissioner of labor.
    - (2) In the event that there is a fatality or an accident involving the injury of at least five (5) employees, the commissioner of labor must be notified by electronic means as soon as possible. Such reporting shall be within forty-eight (48) hours after occurrence of the incident. (1982 Code, § 1-1003)
- **4-304.** <u>Rights and duties of the city</u>. The rights and duties of the city include but are not limited to the following provisions:
- (1) The city shall furnish to each of its employees conditions of employment and a place of employment free from recognized hazards that are causing or are likely to cause death or serious injury or harm to employees.

- (2) The city shall comply with occupational safety and health standards or regulations promulgated pursuant to the Tennessee Occupational Safety and Health Act of 1972.
- (3) The city shall assist the state commissioner of labor and state commissioner of public health in the performance of their monitoring duties by supplying necessary information at all times.
- (4) The city is entitled to participate in the development of standards by submission of comments on proposed standards, participation in hearings on proposed standards, or by requesting the development of standards on a given issue.
- (5) The city is entitled to such an order granting a variance from an occupational safety and health standard.
- (6) The city is entitled to protection of its legally privileged communications.
- (7) The city shall inspect all installations, departments, job sites, and offices to insure the provisions of this program are complied with and carried out.
- (8) The city shall notify and inform any employee who has been or is being exposed to harmful material or agents (that are biologically significant) of all pertinent information regarding the exposure.
- (9) The city shall notify and inform all city employees of their rights and duties under the occupational safety and health program. (1982 Code, § 1-1004)
- **4-305.** Rights and duties of employees. Rights and duties of employees shall include, but are not limited to, the following provisions:
- (1) Each employee shall comply with occupational safety and health standards and all rules, regulations, and orders issued pursuant to this program which are applicable to his or her own actions and conduct.
- (2) Each employee shall be notified by the placing upon bulletin boards or other places of common passage of any application for a temporary order granting a variance from any standard or regulation.
- (3) Each employee shall be given the opportunity to participate in any hearing which concerns an application for a variance from a standard.
- (4) Any employee who may be adversely affected by a standard or variance issued pursuant to this program may file a petition with the mayor.
- (5) Any employee who has been exposed or is being exposed to toxic materials or harmful physical agents in concentrations or at levels in excess of that provided for by an applicable standard shall be notified by the city and informed of such exposure and corrective action being taken.
- (6) Subject to regulations issued pursuant to this program, any employee or authorized representative of employees shall be given the right to request an inspection.

- (7) No employee shall be discharged or discriminated against because such employee has filed any complaint or instituted or caused to be instituted any proceedings or inspection under or relating to this program.
- (8) Any employee who believes he or she has been discriminated against or discharged in violation of these sections may, within thirty (30) days after such violation occurs, have an opportunity to appear in a hearing before the city council for assistance in giving relief. If the employee's complaint is not resolved, such employee may file a complaint with the commissioner of labor.
- (9) Nothing in this section or any other provision of this program shall be deemed to authorize or require medical examination, immunization, or treatment for those who object thereto on religious grounds, except where such is necessary for the protection of the health or safety of others. (1982 Code, § 1-1005)
- **4-306.** Education and training. (1) The city will arrange for the mayor and/or designated compliance staff to attend training seminars, workshops, etc., conducted by the State of Tennessee or other state agencies.

The city will furnish reference material, manuals, etc., deemed necessary for use in making a hazard analysis, writing technical reports, and to assure top management and other employees that hazards do exist.

- (2) The city shall establish a suitable safety and health training program designed to:
  - (1) Instruct each employee in the recognition and avoidance of unsafe conditions and the regulations applicable to his work environment to control or eliminate any hazards or other exposures to illness or injury.
  - (2) Instruct employees who are required to handle poisons, caustics, and other harmful substances in their safe handling and use, and make them aware of the potential hazards, personal hygiene, and personal protective measures required.
  - (3) Instruct employees who may be exposed to environments where harmful plants or animals are present on the dangers of the environment, how to avoid injury, and the first aid procedures to be used in the event of injury.
  - (4) Instruct employees required to handle or use flammable liquids, gases, or toxic materials in the safe handling and use of these materials and make them aware of specific requirements contained in subparts H, M, and other applicable subparts of OSHA standards (29 C.F.R 1910).
    - (5) (1) Instruct all employees required to enter into confined or enclosed spaces as to the nature of the hazards involved, the necessary precautions to be taken, and in the use of protective and emergency equipment required. The city shall comply with all specific regulations that apply to work in dangerous or potentially dangerous areas.

- (2) For purposes of subsection (i) above, "confined or enclosed space" means any space having a limited means of egress which is subject to the accumulation of toxic or flammable contaminants or has an oxygen deficient atmosphere. Confined or enclosed spaces include, but are not limited to, storage tanks, boilers, ventilation or exhaust ducts, sewers, underground utility tunnels, pipelines, and open top spaces more than four feet (4') in depth such as pits, tubs, vaults, and vessels.
- (3) The department head is responsible for requiring the wearing of appropriate personal protective equipment in all operations where there is an exposure to hazardous conditions. (1982 Code, § 1-1006)
- **4-307.** Standards. The occupational safety and health standards adopted for use in the City of Hohenwald Occupational Safety and Health Program are the State of Tennessee's Occupational Safety and Health Standards as developed under section 6, "Development and Promulgation of Standards," of the State of Tennessee Occupational Safety and Health Act of 1972. (1982 Code, § 1-1007)
- **4-308.** <u>Variance procedure</u>. The mayor may apply for a variance as a result of a complaint from a superintendent or department head or his knowing of certain exposures or hazards. The mayor should definitely believe that a variance is needed before the city council should vote on the application of a variance before the application for a variance is submitted to the commissioner of labor or commissioner of health.

The procedure for applying for a variance to the adopted safety and health standards as outlined in the State Occupational Safety and Health Act of 1972 is as follows:

- (1) Either the commissioner of labor or the commissioner of public health may upon written application by the city issue an order granting to the city a temporary variance from standards promulgated by such commissioner. Any such order shall prescribe the practices, means, methods, operations, and processes which the city must adopt or use while the variance is in effect and state in detail a program for coming into compliance with the standard.
- (2) Such a temporary variance may be granted only after notice to employees and interested parties and opportunities for hearing; the variance may be for a period of no longer than required to achieve compliance or one (1) year, whichever is shorter. It may be renewed only once; provided, however, that in the case of employers undertaking experimental programs in safety and health, either programs in cooperation with state or federal agencies or private programs approved by either commissioner, longer variances may be granted. Application for renewal of a variance must be filed in accordance with provisions in the initial grant of the variance.

- (3) An order granting a variance shall be issued only if the city establishes:
  - (1) (1) That it is unable to comply with the standard by the effective date because of unavailability of professional or technical personnel or materials and equipment required or necessary construction or alteration of facilities or technology;
  - (2) That all available steps have been taken to safeguard the city's employees against the hazards covered by the standard; and
  - (3) That the city has an effective program for coming into compliance with the standard as quickly as practicable; or
  - (2) That the city is engaged in an experimental program as described in subsection (2) of this section.
  - (4) An application for a temporary variance shall contain:
  - (1) A specification of the standard or portion thereof from which the employer seeks a variance.
  - (2) A detailed statement of the reasons why the city is unable to comply with the standard supported by representations by qualified personnel having firsthand knowledge of the facts represented.
  - (3) A statement of the steps the city has taken and will take (with specific dates) to protect employees against the hazard covered by the standard.
  - (4) A statement of when the city expects to comply and what steps the city has or will take (with dates specified) to come into compliance with the standard.
  - (5) A certification that the city informed its employees of the application by giving a copy of it to their authorized representatives, posting a statement summarizing application (to include the location of a copy available for examination) at the places where employee notices are normally posted, and by other appropriate means. The certification shall contain a description of the means actually employed to inform employees and that employees have been informed of their right to petition the commissioner for a hearing.
- (5) Upon receipt of an application for an order granting a variance, the commissioner to whom such application is addressed may issue an interim order granting such a variance, for the purpose of permitting time for an orderly consideration of such application. No such interim order may be effective for longer than one hundred eighty (180) days. (1982 Code, § 1-1008)
  - **4-309.** <u>Imminent danger</u>. (1) <u>Definitions</u>. (1) "Imminent danger" means any conditions or practices in any place of which could reasonably be expected to cause death or serious physical harm immediately or before the imminence of such danger can be eliminated through normal enforcement procedures.

- (2) "Serious physical harm" is that type of harm that would cause permanent or prolonged impairment of the body in that:
  - (1) A part of the body would be permanently removed (e.g., amputation of an arm, leg, finger; loss of an eye) or rendered functionally useless or substantially reduced in efficiency on or off the job (e.g., leg shattered so severely that mobility would be permanently reduced); or
  - (2) A part of an internal bodily system would be inhibited in its normal performance to such a degree as to shorten life or cause reduction in physical or mental efficiency; e.g., lung impairment, causing shortness of breath. On the other hand, breaks, cuts, bruises, concussions, or similar injuries would not fit either of these categories and would not constitute serious physical harm.
- (2) <u>Procedure for handling allegations of imminent danger</u>. Any allegation of imminent danger received shall be handled in accordance with the following procedures:
  - (1) The mayor or his authorized representative shall immediately ascertain whether there is a reasonable basis for the complaint.
  - (2) If the imminent danger complaint appears to have merit, the mayor or his authorized representative shall cause an immediate inspection of the alleged imminent danger location.
  - (3) <u>Inspection</u>. (1) In an inspection conducted because of an alleged imminent danger, the imminent danger situation shall be inspected first.
  - (2) Any other inspection activity should take place only after the imminent danger situation has been resolved.
  - (3) If an imminent danger situation is alleged or brought to the attention of the compliance inspector during a routine inspection, he shall immediately inspect the imminent danger situation and proceed with the procedures in this section.
  - (4) <u>Procedures</u>. (1) As soon as it is concluded that conditions or practices exist which constitute an imminent danger, the compliance inspector shall attempt to have the danger corrected through voluntary compliance. If any employees appear to be in immediate danger, they should be informed of the danger, and the supervisory personnel in charge should be requested to remove them from the area of immediate danger.
  - (2) The administrative head of the workplace and his authorized representative are responsible for determining the manner in which he will abate the dangerous condition.
  - (3) The imminent danger shall be deemed abated if the imminence of the danger has been eliminated by removing the employees

from the area of danger or the conditions or practices which resulted in the imminent danger have been eliminated.

- (4) A written report shall be made to the safety director describing in detail the imminent danger and its abatement.
- (5) <u>Refusal to abate</u>. (1) If abatement is refused, the compliance inspector shall immediately notify the mayor for assistance in obtaining voluntary compliance.
- (2) The mayor shall take whatever steps are necessary to achieve abatement. (1982 Code, § 1-1009)
- 4-310. General inspection procedures. (1) Advance notice of inspections. Generally, inspections are conducted without advance notice of inspection. This avoids giving supervisory personnel the opportunity to make minor or temporary adjustments in an attempt to create a misleading impression of conditions in an establishment. On the other hand, there may be occasions where notice is necessary to conduct an effective investigation. When advance notice of inspection is given, such notice shall also be given to the authorized representative of employees. To attain desired results, inspections will be performed on a random basis beginning December 1, 1974, and thereafter at not more than six (6) month intervals and not less than two (2) month intervals. See Table 1.

# Table 1 Frequency of Inspections

City hall
Water and sewers
Police
Fire
Sanitation

- (2) <u>Entry of the establishment</u>. (1) Inspections shall be made during regular work hours, except as special circumstances may require.
  - (2) The supervisory personnel shall cooperate with the compliance inspector. Any resistence encountered by the compliance inspector shall be reported to the mayor.
  - (3) The director and/or his appointed representative is authorized to enter at any reasonable time any establishment, construction site, plant, or other area, workplace, or environment where work is performed by an employee of the city and to inspect and investigate any such place of employment and all pertinent conditions, processes, structures, machines, apparatus, devices, equipment, and materials therein, and to question privately any supervisor, operator, agent, or employee working therein.

- (3) Opening conference. An opening conference is held with the superintendent, department head, or designated representative at or near the worksite. The compliance inspector will state the purpose of his visit and is to make an investigation to ascertain whether the establishment is in compliance with the city occupational safety and health program.
- Establishment inspection. A representative from the supervisory personnel and a representative authorized by the employees shall be given an opportunity to accompany the compliance inspector during the physical inspection of any workplace for the purpose of aiding such inspection. The City of Hohenwald Safety and Health Program does not require that there be an employee representative for each inspection. Employees shall be given an opportunity during the inspection to bring hazardous conditions to the attention of the compliance inspector. Where there is no authorized employee representative on the inspection, the compliance inspector shall consult with a reasonable number of employees concerning matters of safety and health in the workplace. Interviews of employees during the course of the inspection when accompanied by an employee representative may be made when such interviews are essential to the investigative technique. The compliance inspector may deny the right of accompaniment to any person whose conduct interferes with a full and orderly inspection. In addition, the employee representative should be advised that during the inspection he should avoid discussing with employees matters unrelating to the inspection. Inspections shall be such as to preclude unreasonable disruption of the operations of the establishment.
  - (5) <u>General instructions</u>. (1) The compliance inspector may take the time to inspect all aspects of the operations at the establishment being inspected.
  - (2) The primary aim of inspection is the enforcement of safety and health standards. However, the compliance inspector should ascertain whether the workplace has:
    - (1) A copy of the city's occupational safety and health plan available for inspection by employees complete with the recordkeeping requirements.
    - (2) Given advance notice to employees if such notice is required.
    - (3) During follow-up inspections, the compliance inspector should ascertain whether the employer has complied with the citation posting requirement.
- (6) <u>Closing conference</u>. Upon completion of an inspection, the compliance inspector shall confer with the establishment representative and advise him of all conditions and practices disclosed by the inspection which may constitute safety or health violations.
- (7) <u>Compliance or reports of violations received by the compliance inspector during the inspection of the workplace</u>. It is encouraged that complaints or reports of violations meet the formality requirements for such

complaints. However, should an imminent danger situation be reported in a manner not meeting the formality requirements, this situation shall be included in the inspection of the workplace. (1982 Code, § 1-1010)

- 4-311. Abatement order. If upon an inspection or investigation the mayor or his authorized representatives find that any workplace is not in compliance with any standard or regulation, he shall, with reasonable promptness, issue to the administrative head responsible for the workplace a written abatement order that states the nature and location of the violation; the standard or regulation violated; the abatement and correction requirements; and a period of time during which the workplace must accomplish such abatement and correction. A copy of each abatement order shall immediately be posted at or near each location referred to in the abatement order and remain posted until the alleged violation has been corrected or vacated. (1982 Code, § 1-1011)
- **4-312.** <u>Penalties</u>. (1) The city shall not issue monetary penalties against any administrative department, council, division, or other agency of the city for failure to comply with the safety and health standards.
- (2) Any employee who willfully and repeatedly violates or causes to be violated a safety standard, rule, regulation, or order shall be subject to disciplinary action by the appointing authority. The appointing authority has the power to administer discipline and it shall be his duty to take action in one (1) of the following ways:
  - (1) Oral reprimand;
  - (2) Written reprimand;
  - (3) Suspension:
  - (4) Termination.
- (3) The employee who is being disciplined shall have the right of appeal to the mayor and/or the city council. (1982 Code, § 1-1012)

## TRAVEL REIMBURSEMENT REGULATIONS<sup>1</sup>

## **SECTION**

- 4-401. Coverage.
- 4-402. Travel and expense policy.
- 4-403. Vehicle use policy.
- **4-401.** Coverage. The mayor, city council (wo)men, members of boards, and committees appointed by the mayor or city council and other city employees may be reimbursed for reasonable and necessary expenses incurred in the conduct of official business. (Ord. #492, Sept. 1993)
- **4-402.** <u>Travel and expense policy</u>. The travel and expense policy adopted by the city council and any amendments, will govern the reimbursement of expenses incurred by these municipal officials, employees and board and committee members. (Ord. #492, Sept. 1993)
- **4-403.** <u>Vehicle use policy</u>. The vehicle use policy adopted by the city council and any amendments to that written policy, will govern the use of vehicles by these municipal officials, employees and board and committee members. (Ord. #492, Sept. 1993)

<sup>&</sup>lt;sup>1</sup>State law reference

Tennessee Code Annotated, §§ 6-54-901 through 6-54-907.

<sup>&</sup>lt;sup>2</sup>The vehicle use policy for the City of Hohenwald is available in the office of the city recorder.

# POST RETIREMENT EMPLOYEE HEALTH INSURANCE BENEFITS

#### **SECTION**

- 4-501. Qualifying employees.
- 4-502. Employee contribution.
- 4-503. Spouse/dependent coverage.
- 4-504. Initiation date.
- **4-501. Qualifying employees**. (1) Qualifying employees and officials eligible for city health insurance benefits shall continue to receive such benefits upon retirement and until attaining the age of sixty-five (65) at which time the employee must obtain Medicare benefits.
- (2) Qualifying employees and officials are those with thirty (30) years of service; or with seven (7) years of service and who are age sixty (60) or older. (Ord. #640, June 2010)
- **4-502.** Employee contribution. The employee contribution to post-retirement health insurance benefit shall be twenty percent (20%) of the employee's share of the premium paid by the City of Hohenwald; however, one hundred percent (100%) of the premium of spouse/dependent share shall be reimbursed to the City of Hohenwald. The employee's share shall be based on either:
- (1) One (1) divided by the total number of employee/spouse/dependents times the total amount of the premium for each particular case; or
- (2) The equivalent of a single employee premium cost, whichever is lower. (Ord. #640, June 2010)
- 4-503. Spouse/dependent coverage. (1) A retiree's spouse or dependent(s) that are eligible for health insurance upon the retirement of the employee may opt to continue to receive such health insurance. Spouse/dependent(s) are eligible for coverage until the employee reaches the age of sixty-five (65) at which time any eligible spouse/dependent coverage terminates. Once an eligible spouse and/or dependent's coverage has been terminated, the City of Hohenwald will reimburse the employee for the cost of COBRA for the spouse and/or the dependants for up to thirty-six (36) months or until the spouse reaches the age of sixty-five (65), whichever comes first. The reimbursement rate for COBRA shall be eighty percent (80%) up to a maximum of seven thousand five hundred dollars (\$7.500.00) annually.
- (2) In the event that the employee or the employee's spouse receives coverage with other health insurance policy, through employment or other means, no further retirement health insurance benefits shall be provided to the

employee or the spouse, whichever is covered by the city and all such entitlement shall terminate for future years. (Ord. #640, June 2010)

**4-504.** <u>Initiation date</u>. Beginning with the first budget adopted after the passage of the ordinance comprising this chapter, the City of Hohenwald shall budget for expenses arising out of this chapter in subsequent years as required by the Governmental Accounting Standards Board pronouncement number 45 (GASB 45). (Ord. #640, June 2010)

#### TITLE 5

# MUNICIPAL FINANCE AND TAXATION1

#### **CHAPTER**

- 1. MISCELLANEOUS.
- 2. REAL AND PERSONAL PROPERTY TAXES.
- 3. PRIVILEGE TAXES.
- 4. WHOLESALE BEER TAX.
- 5. PURCHASING POLICY.
- 6. DEBT POLICY.

#### CHAPTER 1

## **MISCELLANEOUS**

#### **SECTION**

- 5-101. Official depository for city funds.
- 5-102. Fiscal year.
- 5-103. Signing of checks.
- 5-104. City budget.
- **5-101.** Official depository for city funds. Municipal funds may be deposited in any bank or banks located within the city. (1982 Code, § 6-101, modified)
- **5-102. Fiscal year**. The fiscal year of the city shall begin on July 1 of each year and end on June 30 of the following year. (1982 Code, § 6-102)
- **5-103.** Signing of checks. All checks issued in payment for expenditures shall be signed by the city recorder and countersigned by the mayor. (1982 Code, § 6-103)
- **5-104.** <u>City budget</u>. It shall be the duty of the mayor each year to present to the city council a tentative budget for the ensuing fiscal year.

Such tentative budget shall be based upon expected revenues for the ensuing fiscal year. Total estimated expenditures shall not exceed expected revenues. (1982 Code, § 6-104)

<sup>1</sup>Charter reference Finance: § 4.

# REAL AND PERSONAL PROPERTY TAXES

#### **SECTION**

- 5-201. When due and payable.
- 5-202. When delinquent--penalty and interest.
- **5-201.** When due and payable. Taxes levied by the city against real and personal property shall become due and payable annually on July 1 of the year for which levied. (1982 Code, § 6-201)
- **5-202.** When delinquent--penalty and interest. All real property taxes shall become delinquent on and after the first day of November next after they become due and payable and shall thereupon be subject to such interest as is authorized and prescribed by the state law for delinquent county real property taxes and a penalty not to exceed six percent (6%) per annum on the amount due. (1982 Code, § 6-202)

#### PRIVILEGE TAXES

#### **SECTION**

5-301. Tax levied. 5-302. License required.

**5-301.** Tax levied. Except as otherwise specifically provided in this code, there is hereby levied on all vocations, occupations, and businesses declared by the general laws of the state to be privileges taxable by municipalities, an annual privilege tax in the maximum amount allowed by state laws. The taxes provided for in the state's Business Tax Act (Tennessee Code Annotated, § 67-4-701, et seq.) are hereby expressly enacted, ordained, and levied on the businesses, business activities, vocations, and occupations carried on within the city at the rates and in the manner prescribed by the act. The proceeds of the privilege taxes herein levied shall accrue to the general fund. (1982 Code, § 6-301)

**5-302.** <u>License required</u>. No person shall exercise any such privilege within the city without a currently effective privilege license which shall be issued by the recorder to each applicant therefor upon the applicant's payment of the appropriate privilege tax. (1982 Code, § 6-302)

## WHOLESALE BEER TAX

## **SECTION**

5-401. To be collected.

**5-401.** <u>To be collected</u>. The 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 <u>Tennessee Code Annotated</u>, title 57, chapter 6.<sup>1</sup> (1982 Code, § 6-401)

<sup>&</sup>lt;sup>1</sup>State law reference

<sup>&</sup>lt;u>Tennessee Code Annotated</u>, title 57, chapter 6 provides for a tax of seventeen percent (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.

#### PURCHASING POLICY

#### SECTION

- 5-501. Purchasing procedures.
- 5-502. Relations of other departments with the purchasing department.
- 5-503. Purchasing forms and methods.
- 5-504. Emergency purchases.

**5-501.** Purchasing procedures. As designated in the Charter of the City of Hohenwald and in this chapter, the city administrator or his/her designee shall act as purchasing agent for the city, with power, except as set out in these procedures, to purchase materials, supplies, equipment; 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 extending 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 four thousand dollars (\$4,000.00) and less than ten thousand dollars (\$10,000.00) singly or in the aggregate during any fiscal year and, except as otherwise provided herein, shall require three (3) competitive bids or quotations, either verbal or written, whenever possible prior to each purchase. Purchases of more than ten thousand dollars (\$10,000.00) but less than twenty-five thousand dollars (\$25,000.00) shall require three (3) written competitive bids. Competitive bids or quotations for the purchase of items that cost less than four thousand dollars (\$4,000.00) are desirable but not mandatory. All competitive bids or quotations received shall be recorded and maintained in the office of the purchasing agent for a minimum of seven (7) years after contract expires. When requisitions are required, the competitive bids or quotations received shall be listed upon that document prior to the issuance of the purchase order. Awards shall be made to the lowest and/or best bid. Items exceeding twenty-five thousand dollars (\$25,000.00) shall require publicly advertised, formal sealed bids.

A description of all projects or purchases, except as herein provided, that require the expenditure of city funds of twenty-five thousand dollars (\$25,000.00) or more shall be prepared by the mayor 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 mayor to advertise for bids or proposals. The award of purchases, leases, or lease-purchases of twenty-five thousand dollars (\$25,000.00) or more shall be made by the governing body to the lowest and/or best bid.

Purchases may be allowed only under the following circumstances and, except as otherwise provided herein, when such purchases are approved by the governing body:

- (1) Sole source of supply or proprietary products as determined after complete search by using the department and the purchasing agent, with governing body approval.
- (2) Emergency expenditures with subsequent approval of the governing body.
- (3) Purchases from instrumentalities created by two (2) or more cooperating governments.
- (4) Purchases from nonprofit corporations whose purpose or one (1) of whose purposes is to provide goods or services specifically to municipalities.
  - (5) Purchases, leases or lease-purchases of real property.
- (6) Purchases through other units of governments as authorized by the Municipal Purchasing Law of 1983.
- (7) Purchases directed through or in conjunction with the state Department of General Services.
  - (8) Purchases from Tennessee state industries.
- (9) Professional service contracts as provided in <u>Tennessee Code</u> <u>Annotated</u>, § 12-4-106.
- (10) Tort liability insurance as provided in  $\underline{\text{Tennessee Code Annotated}}$ , § 29-20-407.
  - (11) Purchases of fuels, fuel products or perishable commodities.
  - (12) Purchases of natural gas and propane gas for re-sale.
- (13) Purchases, leases, or lease-purchases, from any federal, state, or local governmental unit or agency, of second-hand articles or equipment or other materials, supplies, commodities, and equipment.

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 hereof and within definitions of words and phrases from the law as herein defined. (Ord. #648, Jan. 2011)

- **5-502.** Relations of other departments with the purchasing department. The purchasing department is a service agency for all other departments of the city. The purchasing function is a service, and for the mutual benefits gained to go toward the good of the city, an departments must work in harmony.
  - (1) <u>Purchasing department's responsibilities</u>. (a) To aid and cooperate with all departments in meeting their needs for operating supplies, equipment, and services.
    - (b) To process all requisitions with the least possible delay.
  - (c) To procure a product that will meet the department's requirements at the least cost or greatest value to the city.

- (d) To know the sources and availability of needed products and services and maintain current vendor files.
- (e) To obtain prices on comparable materials after receipt of departmental requisition.
- (f) To select vendors, prepare purchase orders, and process and maintain necessary files.
  - (g) To search for new, improved sources of supplies and services.
- (h) To assist in preparation of specifications and to maintain specification and historical performance files.
- $\hbox{ (i)} \qquad \hbox{To prepare and advertise requests for bids and maintain bid files}.$
- (j) To keep items in store in sufficient quantities to meet normal requirements of the city for a reasonable length of time within space availability.
- (k) To investigate and document complaints about merchandise and services for future reference.
  - (l) To transfer or dispose of surplus property.
- (2) <u>Using department's responsibilities</u>. (a) To allow ample lead time for the purchasing department to process the requisition and issue the purchase order, while permitting the supplier time to deliver the needed items.
- (b) To prepare a complete and accurate description of materials to be purchased.
- (c) To help the purchasing department by suggesting sources of supply.
- (d) To plan purchases in order to eliminate avoidable emergencies.
  - (e) To initiate specification preparation on items to be bid.
- (f) To inspect merchandise upon receipt, and complete a receiving report noting any discrepancies in types, numbers, condition, or quality of goods.
- (g) To advise the purchasing department of defective merchandise or dissatisfaction with vendor performance.
- (h) To advise the purchasing department of surplus property. (Ord. #648, Jan. 2011)

# **5-503.** Purchasing forms and methods. (1) Purchase requisition.

(a) Purpose. A purchase requisition lets the purchasing department know, in detail, what the using department needs. A formal written requisition is required for purchases that must follow competitive bidding procedures. Informal written requisitions will be allowed for purchases not requiring competitive bidding.

- (b) When prepared. Requisitions shall be prepared far enough in advance that the purchasing department can obtain competitive prices and the vendor has enough time to make the delivery.
- (c) Who prepares the requisition. Requisitions shall originate in the using department and must be signed by the requisitioner and the department head. The department head shall file with the purchasing department a certified memorandum listing those who are authorized to sign a requisition.
- (d) How to prepare. A properly processed purchase requisition must contain the following information:
  - (i) Date issued. The date the requisition is prepared.
  - (ii) Date wanted. State a definite delivery date. "AT ONCE, ASAP, and RUSH" are vague instructions and don't give the purchasing department sufficient information. Prepare far enough in advance to avoid emergencies.
  - (iii) Requisition number. Place the sequential number in this area if your department keeps a numerical requisition file.
    - (iv) Department. The complete name of using department.
  - (v) Requisitioner. Signature of the person initiating the purchase request.
    - (vi) Department head. Signature of the department head.
  - (vii) Suggested vendors. If there are more than three (3) suggested vendors, the department head should list on a separate sheet.
  - (viii) To be delivered to--be specific. If vague or indefinite, confusion may result in costly delays.
    - (ix) Item number. Numerical order of items listed.
    - (x) Quantity. The number required.
    - (xi) Unit. Dozen, lineal feet, gallons, etc.
  - (xii) Description. Give a clear description of the items, including size, color, type, etc. If the purchase is of a technical nature, specifications should be attached to the requisition. If the item cannot be described without a great amount of detail, a brief description should be given, followed by a trade name and model number of an acceptable item "or approved equal." Requisitions must not give specifications that will favor one supplier to the exclusion of any others.

NOTE: Incomplete information in this area will result in the requisition being returned to the using department for clarification.

- (xiii) Account to be charged. Complete budgetary code.
- (xiv) Unit price. Price for each individual item.
- (xv) Amount. A total of quantity times unit price.

- (e) Routing requisitions. Prepare two (2) copies of the purchase requisition. Send the original to the purchasing department and keep the copy in departmental files. After the purchasing department has received at least three (3) quotations or bids and has determined total cost of the merchandise, the cost will be listed on the original. These originals shall then be forwarded to the finance officer. The finance officer shall certify, by signature, that the proper account has been charged and the availability of budgetary and cash funds. The original requisition must then be returned to the purchasing department and filed.
- (f) Purchase orders. Purchase orders are required for all non-recurring or non-contractual purchases exceeding one hundred dollars (\$100.00). Informal written requisitions will be allowed for purchases not requiring competitive bidding. A department head may approve purchases less than one hundred dollars (\$100.00) without a purchase order; however, it is recommended that all purchases receive a purchase order unless it can be justified by efficiency of operation. When a department head approves a purchase without a purchase order issued by the purchasing agent, he/she must adhere to the same standard and required procedures of the purchasing agent. The department head's signature will be required to process payment of such invoices. (Ord. #648, Jan. 2011)
- **5-504.** Emergency purchases. (1) <u>Purpose</u>. Emergency purchases are to be made by departments only when normal functions and operations of the department would be hampered by submitting a requisition in the regular manner, or when property, equipment, or life are endangered through unexpected circumstances and materials, services, etc., and are needed immediately.
- (2) Who makes emergency purchases. Emergency purchases, either verbal or written, may be made directly by the using department without competitive bids, provided sufficient funds are available and necessary approvals have been secured.
- (3) Who authorizes emergency purchases. The mayor and the purchasing department must authorize an emergency purchase.
- (4) <u>How to make emergency purchases</u>. After determining a true emergency exists, the following procedure should be followed:
  - (a) Notify the mayor and purchasing department of the need and nature of the emergency. The department, pending authorization will give verbal approval and issue a purchase order number. This number will be put on the requisition referred to in subsection (d) below.
  - (b) Using department must use sound judgment about prices when making emergency purchases of materials and supplies and for labor or equipment. Orders should be placed with vendors who have a good track record with the department.

- (c) Suppliers shall furnish sales tickets, delivery slips, invoices, etc., for the supplies or services rendered. Terms of the transactions, indicating price and other data shall be shown.
- (d) As soon as the purchase is complete, on the same or following business day, the using department must:
  - (i) Give the purchasing department a complete requisition with a description of the emergency and approval by the department head. "Confirming emergency purchase" must be marked plainly on the requisition, along with the purchase order number.
  - (ii) The sales ticket, delivery slips, invoices, and material receiving report confirming the purchase must be attached to the emergency requisition form.
- (e) If an emergency should occur during a time when the administrative offices normally are closed, the using department will follow the above procedure with the exception of the first step. The evidence of purchase, such as sales slip, counter receipt, delivery slip, invoice, etc., that the supplier normally furnishes, shall be attached to the completed and approved requisition form and be forwarded to the purchasing department, along with a material receiving report.
- (f) As soon as possible, the person authorizing the emergency purchase must prepare a report to the mayor and the governing body specifying the amount paid, the item(s) purchased, from whom the purchase(s) was made, and the nature of the emergency. (Ord. #648, Jan. 2011)

## DEBT POLICY<sup>1</sup>

#### SECTION

- 5-601. Purpose.
- 5-602. Transparency.
- 5-603. Role of debt.
- 5-604. Types and limits of debt.
- 5-605. Use of variable rate debt.
- 5-606. Use of derivatives.
- 5-607. Costs of debt.
- 5-608. Refinancing outstanding debt.
- 5-609. Professional services.
- 5-610. Conflicts.
- 5-611. Review of policy.
- 5-612. Compliance.

**5-601.** Purpose. The purpose of this debt policy is to establish a set of parameters by which debt obligations will be undertaken by the City of Hohenwald, Tennessee. This policy reinforces the commitment of the city and its officials to manage the financial affairs of the city so as to minimize risk, avoid conflicts of interest and ensure transparency while still meeting the capital needs of the city. A debt management policy signals to the public and the rating agencies that the city is using a disciplined and defined approach to financing capital needs and fulfills the requirements of the State of Tennessee regarding the adoption of a debt management policy.

The goal of this policy is to assist decision makers in planning, issuing and managing debt obligations by providing clear direction as to the steps, substance and outcomes desired. In addition, greater stability over the long-term will be generated by the use of consistent guidelines in issuing debt.

(1) <u>Definition of debt</u>. All obligations of the city to repay, with or without interest, in installments and/or at a later date, some amount of money utilized for the purchase, construction, or operation of city resources. This includes but is not limited to notes, bond issues, capital leases, interfund loans, or loans of any type.

<sup>&</sup>lt;sup>1</sup>State law references

<sup>&</sup>lt;u>Tennessee Code Annotated</u> 7, part 9--Contracts, leases, and lease purchase agreements.

<sup>&</sup>lt;u>Tennessee Code Annotated</u> 9, part 21--Local government public obligations law.

- (2) Approval of debt. Bonds, bond anticipation notes, capital outlay notes, grant anticipation notes, and tax and revenue anticipation notes will be submitted to the State of Tennessee Comptroller's Office prior to issuance or entering into the obligation. A plan for refunding debt issues will also be submitted to the comptroller's office prior to issuance. Capital or equipment leases may be entered into by the city council; however, details on the lease agreement will be forwarded to the comptroller's office on the specified form within forty-five (45) days. (Ord. #658, Sept. 2011)
- **5-602.** <u>**Transparency**</u>. (1) The city shall comply with legal requirements for notice and for public meetings related to debt issuance.
- (2) All notices shall be posted in the customary and required posting locations.
- (3) All costs (including principal, interest, issuance, continuing, and one (1) time) shall be clearly presented and disclosed to the citizens, city council, and other stakeholders in a timely manner.
- (4) The terms and life of each debt issue shall be clearly presented and disclosed to the citizens, city council, and other stakeholders in a timely manner.
- (5) A debt service schedule outlining the rate of retirement for the principal amount shall be clearly presented and disclosed to the citizens, city council, and other stakeholders in a timely manner. (Ord. #658, Sept. 2011)
- 5-603. Role of debt. (1) Long-term debt shall not be used to finance current operations. Long-term debt may be used for capital purchases or construction identified through the capital improvement, regional development, transportation, or master process or plan. Short-term debt may be used for certain projects and equipment financing as well as for operational borrowing; however, the city will minimize the use of short-term cash flow borrowings by maintaining adequate working capital and close budget management.
- (2) In accordance with Generally Accepted Accounting Principles (GAAP) and state law:
  - (a) The maturity of the underlying debt will not be more than the useful life of the assets purchased or built with the debt, not to exceed thirty (30) years; however, an exception may be made with respect to federally sponsored loans, provided such an exception is consistent with law and accepted practices.
  - (b) Debt issued for operating expenses must be repaid within the same fiscal year of issuance or incurrence. (Ord. #658, Sept. 2011)
- **5-604.** Types and limits of debt. (1) The city will seek to limit total outstanding general fund debt, excluding GO backed revenue debt, to five percent (5%) of assessed value.
- (2) At no time shall general fund debt, excluding GO backed revenue debt, be issued or structured in such a manner where any year's total debt

obligation, including principal and interest, exceed current property tax revenues.

- (3) At no time shall general fund, excluding GO backed revenue, be issued or structured in such a manner where any year's total debt obligation, including principal and interest, exceed fifteen percent (15%) of current projected general fund operating revenue.
- (4) The city shall seek to limit total outstanding proprietary debt to a "debt to equity" ratio of 1.0.
- (5) At no time shall proprietary debt be issued or structured in such a manner where any year's total debt obligation, including principal and interest, exceed fifteen percent (15%) of current projected proprietary operating revenue plus depreciation expense.
- (6) The limitation on total outstanding debt must be reviewed prior to the issuance of any new debt.
- (7) The city's total outstanding debt obligation will be monitored and reported to the city council by the municipal finance officer. The municipal finance officer shall monitor the maturities and terms and conditions of all obligations to ensure compliance. The municipal finance officer shall also report to the city council any matter that adversely affects the credit or financial integrity of the city.
- (8) The city is authorized to issue general obligation bonds, revenue bonds, loans, notes and other debt allowed by law.
- (9) The city will seek to structure debt with level or declining debt service payments over the life of each individual bond issue or loan.
- (10) As a rule, the city will not backload, use "wrap-around" techniques, balloon payments or other exotic formats to pursue the financing of projects. When refunding opportunities, natural disasters, other non-general fund revenues, or other extrinsic factors occur, the city may utilize non-level debt methods. However, the use of such methods must be thoroughly discussed in a public meeting and the mayor and governing body must determine such use is justified and in the best interest of the city.
- (11) The city may use capital leases to finance short-term projects not to exceed the useful life of the capital purchase.
- (12) Bonds backed with a general obligations pledge often have lower interest rates than revenue bonds. The city may use its general obligation pledge with revenue bond issues when the populations served by the revenue bond projects overlap or significantly are the same as the property tax base of the city. The city council and management are committed to maintaining rates and fee structures of revenue supported debt at levels that will not require a subsidy from the city's general fund. (Ord. #658, Sept. 2011, as amended by Ord. #675, June 2012)
- **5-605.** <u>Use of variable rate debt</u>. (1) The city recognizes the value of variable rate debt obligations and that cities have greatly benefitted from the

use of variable rate debt in the financing of needed infrastructure and capital improvements.

- (2) However, the city also recognizes there are inherent risks associated with the use of variable rate debt and will implement steps to mitigate these risks; including:
  - (a) The city will annually include in its budget an interest rate assumption for any outstanding variable rate debt that takes market fluctuations affecting the rate of interest into consideration.
  - (b) Prior to entering into any variable rate debt obligation that is backed by insurance and secured by a liquidity provider, the city council shall be informed of the potential affect on rates as well as any additional costs that might be incurred should the insurance fail.
  - (c) Prior to entering into any variable rate debt obligation that is backed by a letter of credit provider, the city council shall be informed of the potential affect on rates as well as any additional costs that might be incurred should the letter of credit fail.
  - (d) Prior to entering into any variable rate debt obligation, the city council will be informed of any terms, conditions, fees, or other costs associated with the prepayment of variable rate debt obligations.
  - (e) The city shall consult with persons familiar with the arbitrage rules to determine applicability, legal responsibility, and potential consequences associated with any variable rate debt obligation. (Ord. #658, Sept. 2011)
- **5-606.** <u>Use of derivatives</u>. (1) The city chooses not to use derivative or other exotic financial structures in the management of the city's debt portfolio.
  - (2) Prior to any reversal of this provision:
  - (a) A written management report outlining the potential benefits and consequences of utilizing these structures must be submitted to the city council; and
  - (b) The city council must adopt a specific amendment to this policy concerning the use of derivatives or interest rate agreements that complies with the state funding board guidelines. (Ord. #658, Sept. 2011)
- **5-607.** Costs of debt. (1) All costs associated with the initial issuance or incurrence of debt, management and repayment of debt (including interest, principal, and fees or charges) shall be disclosed prior to action by the city council in accordance with the notice requirements stated above.
- (2) In cases of variable interest or non-specified costs, detailed explanation of the assumptions shall be provided along with the complete estimate of total costs anticipated to be incurred as part of the debt issue.
- (3) Costs related to the repayment of debt, including liabilities for future years, shall be provided in context of the annual budgets from which such payments will be funded. (Ord. #658, Sept. 2011)

- **5-608.** Refinancing outstanding debt. (1) The city will refund debt when it is in the best financial interest of the city to do so, and the municipal finance officer shall have the responsibility to analyze outstanding bond issues for refunding opportunities. The decision to refinance must be explicitly approved by the governing body, and all plans for current or advance refunding of debt must be in compliance with state laws and regulations.
- (2) The municipal finance officer will consider the following issues when analyzing possible refunding opportunities:
  - (a) Onerous restrictions. Debt may be refinanced to eliminate onerous or restrictive covenants contained in existing debt documents, or to take advantage of changing financial conditions or interest rates.
  - (b) Restructuring for economic purposes. The city will refund debt when it is in the best financial interest of the city to do so. Such refunding may include restructuring to meet unanticipated revenue expectations, achieve cost savings, mitigate irregular debt service payments, or to release reserve funds. Current refunding opportunities may be considered by the municipal finance officer if the refunding generates positive present value savings, and the municipal finance officer must establish a minimum present value savings threshold for any refinancing.
  - (c) Term of refunding issues. The city will refund bonds within the term of the originally issued debt. However, the municipal finance officer may consider maturity extension, when necessary to achieve a desired outcome, provided such extension is legally permissible. The municipal finance officer may also consider shortening the term of the originally issued debt to realize greater savings. The remaining useful life of the financed facility and the concept of inter-generational equity should guide this decision.
  - (d) Escrow structuring. The city shall utilize the least costly securities available in structuring refunding escrows. Under no circumstances shall an underwriter, agent or financial advisor sell escrow securities to the city from its own account.
  - (e) Arbitrage. The city shall consult with persons familiar with the arbitrage rules to determine applicability, legal responsibility, and potential consequences associated with any refunding. (Ord. #658, Sept. 2011)
- **5-609.** Professional services. The city shall require all professionals engaged in the process of issuing debt to clearly disclose all compensation and consideration received related to services provided in the debt issuance process by both the city and the lender or conduit issuer, if any. This includes "soft" costs or compensations in lieu of direct payments.
- (1) <u>Counsel</u>. The city shall enter into an engagement letter agreement with each lawyer or law firm representing the city in a debt transaction. (No

- engagement letter is required for any lawyer who is an employee of the city or lawyer or law firm which is under a general appointment or contract to serve as counsel to the city. The city does not need an engagement letter with counsel not representing the city, such as underwriters' counsel.)
- (2) <u>Financial advisor</u>. (If the city chooses to hire financial advisors.) The city shall enter into a written agreement with each person or firm serving as financial advisor for debt management and transactions. Whether in a competitive or negotiated sale, the financial advisor shall not be permitted to bid on, privately place or underwrite an issue for which they have been providing advisory services for the issuance.
- (3) <u>Underwriter</u>. (If there is an underwriter.) The city shall require the underwriter to clearly identify itself in writing (e.g., in a response to a request for proposals or in promotional materials provided to an issuer) as an underwriter and not as a financial advisor from the earliest stages of its relationship with the city with respect to that issue. The underwriter must clarify its primary role as a purchaser of securities in an arm's-length commercial transaction and that it has financial and other interests that differ from those of the city. The underwriter in a publicly offered, negotiated sale shall be required to provide pricing information both as to interest rates and to take down per maturity to the city council, or its designated official, in advance of the pricing of the debt. (Ord. #658, Sept. 2011)
- 5-610. <u>Conflicts</u>. (1) Professionals involved in a debt transaction hired or compensated by the city shall be required to disclose to the city existing client and business relationships between and among the professionals to a transaction (including but not limited to financial advisor, swap advisor, bond counsel, swap counsel, trustee, paying agent, liquidity or credit enhancement provider, underwriter, counterparty, and remarketing agent), as well as conduit issuers, sponsoring organizations and program administrators. This disclosure shall include that information reasonably sufficient to allow the city to appreciate the significance of the relationships.
- (2) Professionals who become involved in the debt transaction as a result of a bid submitted in a widely and publicly advertised competitive sale conducted using an industry standard, electronic bidding platforms are not subject to this disclosure. No disclosure is required that would violate any rule or regulation of professional conduct. (Ord. #658, Sept. 2011)
- **5-611.** Review of policy. This policy shall be reviewed at least annually by the city council with the approval of the annual budget. Any amendments shall be considered and approved in the same process as the initial adoptions of this policy, with opportunity for public input. (Ord. #658, Sept. 2011)
- **5-612.** Compliance. The chief financial officer is responsible for ensuring compliance with this policy. (Ord. #658, Sept. 2011)

#### TITLE 6

## LAW ENFORCEMENT<sup>1</sup>

#### **CHAPTER**

1. POLICE AND ARREST.

### CHAPTER 1

## POLICE AND ARREST<sup>2</sup>

## **SECTION**

- 6-101. Policemen subject to chief's orders.
- 6-102. Duties of chief of police.
- 6-103. Policemen to preserve law and order, etc.
- 6-104. Policemen to wear uniforms and be armed.
- 6-105. When policemen to make arrests.
- 6-106. Policemen may require assistance in making arrests.
- 6-107. Disposition of persons arrested.
- 6-108. Police department records.
- **6-101.** <u>Policemen subject to chief's orders</u>. All policemen shall obey and comply with such orders and administrative rules and regulations as the police chief may officially issue. (1982 Code, § 1-501)
- **6-102. Duties of chief of police**. The chief of police shall have general supervision over the police department and be responsible for the efficiency thereof.

The chief of police shall see that all ordinances are enforced, and when any violation shall come to his attention, whether by personal observation or by information from others, he shall make complaint and cause the person so offending to be prosecuted. He shall cause all ordinances of the city relating to offenses against public morals and decency, public peace and quiet, public policy, and public safety to be enforced to the complete suppression of such offense. (1982 Code, § 1-502)

**6-103.** Policemen to preserve law and order, etc. Policemen shall preserve law and order within the municipality. They shall patrol the

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

<sup>&</sup>lt;sup>1</sup>The policy and procedures manual (and any amendments) for the Hohenwald Police Department is available in the city recorder's office.

<sup>&</sup>lt;sup>2</sup>Municipal code reference

municipality and shall assist the city court during the trial of cases. Policemen shall also promptly serve any legal process issued by the city court. (1982 Code, § 1-503)

- **6-104.** Policemen to wear uniforms and be armed. All policemen shall wear such uniform and badge as the governing body shall authorize and shall carry a service pistol at all times while on duty unless otherwise expressly directed by the chief for a special assignment. (1982 Code, § 1-504)
- **6-105.** When policemen to make arrests. Unless otherwise authorized or directed in this code or other applicable law, an arrest of the person shall be made by a policeman in the following cases:
- (1) Whenever he is in possession of a warrant for the arrest of the person.
- (2) Whenever an offense is committed or a breach of the peace is threatened in the officer's presence by the person.
- (3) Whenever a felony has in fact been committed and the officer has reasonable cause to believe the person has committed it. (1982 Code, § 1-505)
- **6-106.** Policemen may require assistance in making arrests. It shall be unlawful for any male person willfully to refuse to aid a policeman in maintaining law and order or in making a lawful arrest when such a person's assistance is requested by the policeman and is reasonably necessary to effect the arrest. (1982 Code, § 1-506)
- **6-107.** <u>Disposition of persons arrested</u>. Unless otherwise authorized by law, when a person is arrested for any offense other than one involving drunkenness he shall be brought before the city court for immediate trial or allowed to post bond. When the arrested person is drunk or when the city judge is not immediately available and the alleged offender is not able to post the required bond, he shall be confined. (1982 Code, § 1-507)
- **6-108. Police department records**. The police department shall keep a comprehensive and detailed daily record in permanent form, showing:
- (1) All known or reported offenses and/or crimes committed within the corporate limits.
  - (2) All arrests made by policemen.
- (3) All police investigations made, funerals convoyed, fire calls answered, and other miscellaneous activities of the police department. (1982 Code, § 1-508)

# TITLE 7

# FIRE PROTECTION AND FIREWORKS<sup>1</sup>

# **CHAPTER**

- 1. FIRE DISTRICT.
- 2. FIRE CODE.
- 3. VOLUNTEER FIRE DEPARTMENT.
- 4. FIRE SERVICE OUTSIDE CITY LIMITS.
- 5. FIREWORKS.

## CHAPTER 1

# **FIRE DISTRICT**

## **SECTION**

7-101. Fire limits described.

**7-101.** Fire limits described. The corporate fire district shall be the area zoned as central commercial on the zoning map of Hohenwald, Tennessee. (1982 Code, § 7-101)

Building, utility and residential codes: title 12.

<sup>&</sup>lt;sup>1</sup>Municipal code reference

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

#### **SECTION**

- 7-201. Fire code adopted.
- 7-202. Modifications.
- 7-203. Available in recorder's office.
- 7-204. Amendments.
- 7-205. Violations and penalty.
- **7-201.** Fire code adopted. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 to 6-54-506, the International Fire Code, 2012 edition, and Appendices B, D, E, F, G, H and I thereto, as prepared and published by the International Code Council, is hereby adopted and incorporated by reference as a part of this code, and is hereinafter referred to as the fire code.
- **7-202.** <u>Modifications.</u> (1) <u>Definitions.</u> Whenever the fire code refers to the "chief appointing authority" it shall be deemed a reference to the mayor, with confirmation of the city council. Whenever the fire code refers to the "fire code official," it shall be deemed a reference to such person as the mayor shall have appointed or designated to administer and enforce the provisions of the fire code.
- (2) <u>Modifications and insertions</u>. The following modifications and insertions are made to the fire code:
  - · 101.1 Title Insert "City of Hohenwald Tennessee"
  - · 103 Department of Fire Prevention Delete
  - · 104.6 Official records Revise the second sentence to read: "Such official records shall be retained as required by law."
  - · 105.3.1 Expiration Delete the second and third sentences in their entirety
  - · 105.3.2 Extensions Delete
  - · 109.4 Violation penalties Delete
  - · 111.4 Failure to comply Delete
- **7-203.** Available in recorder's office. Pursuant to the requirements of <u>Tennessee Code Annotated</u>, § 6-54-502, one (1) copy of the fire code has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public.

Building, utility, and residential codes: title 12.

<sup>&</sup>lt;sup>1</sup>Municipal code reference

- **7-204.** Amendments. In accordance with Tennessee Code Annotated, § 6-54-502(c), the mayor, as the municipal code administrative official, shall adopt administrative regulations to incorporate subsequent changes and amendments to the fire code as prepared and published from time to time by the International Code Council. These amendments shall be identified by the mayor as to date and source and shall take effect as provided in Tennessee Code Annotated, § 6-54-502(d), unless disapproved by resolution of the city council.
- **7-205.** <u>Violations and penalty</u>. It shall be unlawful for any person to violate or fail to comply with any provision of the fire code as herein adopted by reference and modified.

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

#### SECTION

- 7-301. Establishment, equipment, and membership.
- 7-302. Objectives.
- 7-303. Organization, rules, and regulations.
- 7-304. Records and reports.
- 7-305. Compensation.
- 7-306. Chief responsible for training and maintenance.
- 7-307. Destruction of property to prevent spread of fire.
- 7-308. Firemen to have same authority as policemen.
- 7-309. Chief to be assistant to state officer.
- **7-301.** Establishment, equipment, and membership. There is hereby established a volunteer fire department to be supported and equipped from appropriations by the city council. All apparatus, equipment, and supplies shall be purchased by or through the city and shall be and remain the property of the city. The volunteer fire department shall be composed of a chief appointed by the mayor with approval of the city council and such number of physically-fit subordinate officers and firemen as the chief shall appoint. (1982 Code, § 7-301)
- **7-302.** <u>Objectives</u>. The volunteer fire department shall have as its objectives:
  - (1) To prevent uncontrolled fires from starting;
  - (2) To prevent the loss of life and property because of fires;
  - (3) To confine fires to their places of origin:
  - (4) To extinguish uncontrolled fires;
  - (5) To prevent loss of life from asphyxiation or drowning;
- (6) To perform such rescue work as its equipment and/or the training of its personnel makes practicable;
- (7) To provide emergency medical care at the highest level that the equipment and training of the personnel makes practicable;
- (8) To provide code enforcement and building inspections as directed by the city within adopted codes and ordinances;
  - (9) To serve as the emergency management agency of the city;
- (10) To protect the health and safety of the citizens from the transportation, storage, or manufacture of hazardous materials to the extent possible that the level of equipment and training will allow.

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

<sup>&</sup>lt;sup>1</sup>Municipal code reference

- (11) To work with the water department to insure that adequate water supplies for fire protection are available; and
- (12) To provide public fire and life-safety education materials and information to the citizens in order that they may protect themselves from harm and reduce the risk of fire in the community. (1982 Code, § 7-302, modified)
- **7-303.** Organization, rules, and regulations. The chief of the volunteer fire department shall set up the organization of the department, make definite assignments to individuals, and shall formulate and enforce such rules and regulations as shall be necessary for the orderly and efficient operation of the volunteer fire department. (1982 Code, § 7-303)
- **7-304.** Records and reports. The chief of the volunteer fire department shall keep adequate records of all fires, inspections, apparatus, equipment, personnel, and work of the department. He shall submit a written report on such matters to the mayor once each month, and at the end of the year a detailed annual report shall be made. (1982 Code, § 7-304)
- **7-305.** <u>Compensation</u>. All personnel of the volunteer fire department shall receive such compensation for their services as the city council shall prescribe.
- **7-306.** Chief responsible for training and maintenance. The chief of the volunteer fire department, shall be fully responsible for the training of the firemen and for maintenance of all property and equipment of the volunteer fire department. The minimum training shall consist of having the personnel take the fire apparatus out for practice operations not less than once a month. (1982 Code, § 7-306)
- **7-307.** Destruction of property to prevent spread of fire. During the progress of any fire, fire fighters shall have the power to remove or destroy any property necessary to prevent the further spread of fire. (1982 Code, § 7-308)
- **7-308.** Firemen to have same authority as policemen. Fireman shall have the same powers and authority as policemen of the city while going to, attending, and returning from a fire, and enforcing parking prohibitions relating to fire hydrants. (1982 Code, § 7-309)
- 7-309. Chief to be assistant to state officer. Pursuant to requirements of Tennessee Code Annotated, § 68-102-108, the chief of the fire department is designated as an assistant to the state commissioner of commerce and insurance and is subject to all the duties and obligations imposed by Tennessee Code Annotated, title 68, chapter 102, and shall be subject to the

directions of the fire prevention commissioner in the execution of the provisions thereof. (1982 Code,  $\S$  7-310)

# FIRE SERVICE OUTSIDE CITY LIMITS

## **SECTION**

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

7-401. Equipment to be used only within corporate limits generally. Except for a mutual aid request or through interlocal agreement duly authorized by the city council, no equipment of the fire department shall be used for fighting any fire, or providing any emergency response or other emergency service, outside the corporate limits unless the response is to city property, or unless, when in the opinion of the chief of the fire department, that such fire is in such proximity to property owned by or located within the city so as to endanger the city property.

# **FIREWORKS**

## **SECTION**

- 7-501. Purpose.
- 7-502. Definitions.
- 7-503. Permit required.
- 7-504. Permit fees and length of validity.
- 7-505. Application for permit.
- 7-506. Separate sales and use tax number required.
- 7-507. Permissible types of fireworks.
- 7-508. Conditions for sale.
- 7-509. Retail sales of permissible items--time limitations--exceptions.
- 7-510. Public displays.
- 7-511. Regulations governing storing, locating or displaying fireworks.
- 7-512. Unlawful act in the sale, handling or private use of fireworks.
- 7-513. Due process; penalty for violation.
- 7-514. Exceptions to application.
- 7-515. Use and shooting of fireworks.
- 7-516. Manufacturing of fireworks prohibited.
- **7-501. Purpose**. The purpose of this chapter is to provide an ordinance for regulating the sale and use of fireworks within the corporate city limits of Hohenwald, Tennessee and thereby set guidelines which shall provide for the general safety and welfare of the citizens thereof and property therein. (Ord. #623, Nov. 2007)
- **7-502. Definitions**. As used in the chapter, the following terms shall have the meaning ascribed to them herein, unless clearly indicated otherwise.
- (1) "Distributor." Any person engaged in the business of selling fireworks to any other person engaged in the business of reselling fireworks either as a wholesaler or retailer, or any other person who brings, or imports any fireworks of any kind, in any manner into the City of Hohenwald, except to a holder of a manufacturer's, distributor's or wholesaler's permit issued by the State of Tennessee and the City of Hohenwald.
- (2) "D.O.T. Class C common fireworks." All articles of fireworks as are now classified as "D.O.T. Class C common fireworks" in the regulations of the United States Department of Transportation for transportation of explosives and other dangerous articles.
- (3) "Manufacturer." Any person engaged in the making, manufacturing or constructing of fireworks of any kind.

- (4) "Permit." The document granting the written authority of the City of Hohenwald Fire Chief or his designee issued under the authority of this chapter.
- (5) "Person." Any individual, organization for profit, organization not for profit, firm, partnership or corporation.
- (6) "Retailer." Any person engaged in the business of making retail sales of fireworks.
- (7) "Sale." An exchange of articles of fireworks for money, also including a barter, exchange, gift or offers thereof, and each such transaction made by any person, whether as principal, proprietor, salesman, agent, association, co-partnership, or one (1) or more individuals.
- (8) "Sign, portable." Any advertising sign in the shape of an "A" frame or any variation thereof, located on the ground, easily movable, not permanently attached thereto and which is usually a two (2) sided sign and including any single or double surface painted or posted panel type sign or any variation thereof, which is temporary in nature, usually mounted on wheels, easily movable, not permanently attached to the premises or any building, wall, fence, pole, or any other structure situated upon any real property.
- (9) "Special fireworks." All articles of fireworks that are classified as Class B explosives in the regulations of the United States Department of Transportation and includes all articles other than those classified as Class C.
- (10) "Storage." A place where merchandise is stocked or supply is reserved for future use.
- (11) "Storage facility." A place where fireworks are stockpiled or kept for future use.
- (12) "Wholesaler." Any person engaged in the business of making sales of fireworks to a retailer. (Ord. #623, Nov. 2007)
- **7-503.** Permit required. (1) It shall be unlawful for any person to sell, publicly display, offer for sale, ship, cause to be shipped or stored in the City of Hohenwald or property which is within the area which the Hohenwald Fire Department protects, except as herein provided, any item of fireworks, without first having secured the required applicable permit as a manufacturer, distributor, wholesaler, person or entity in charge of a public display event, or retailer from the City of Hohenwald Fire Chief or his designee and the State of Tennessee Fire Marshal (as required by Tennessee Code Annotated, § 68-104-101, et seq.).
- (2) Possession of said permits shall be a prerequisite to selling, putting on a public display, offering for sale, shipping or causing to be shipped into, or storing any fireworks in the City of Hohenwald, except as herein provided. No permit shall be issued for manufacturing of fireworks within the City of Hohenwald as the same is prohibited. (Ord. #623, Nov. 2007)

- **7-504.** Permit fees and length of validity. (1) The fee for the permit provided in § 7-503 of this chapter for retail sales of fireworks shall be five hundred dollars (\$500.00) and the permit shall be valid for a maximum period of sixteen (16) days each; for both retail seasons during that calendar year and as specified on the state permit.
- (2) There shall be no fee for public display events. All persons desiring to display fireworks as a public event shall continue to be required to obtain a special event permit. (Ord. #623, Nov. 2007, as amended by Ord. #629, July 2008)
- **7-505. Application for permit**. (1) Applicants for a permit under this chapter must obtain a permit packet and file with the city recorder a sworn written application containing the following:
  - (1) The name and address of the persons, firms, corporations, or other organizations wishing to obtain said permit;
  - (2) The complete home address, business address, and local address of the applicant;
  - (3) A brief description of the location where the applicant intends to sell fireworks:
  - (4) The amount of fireworks on hand and the amount of fireworks to be stored.
  - (5) The date and length of time for which the right to do business is desired.
  - (6) A statement as to whether or not the applicant has been convicted of any felony or misdemeanor or for the violation of any municipal ordinance; the nature of the offense; and the penalty and punishment assessed therefore.
- (2) After the application has been approved, the fire marshal or his designee shall inspect the site for compliance.
- (3) Any fees are to be paid when the application is submitted and all fees are non-refundable.
- (4) The City of Hohenwald shall be named as an additional insured on applicant's liability policy with a required minimum of one million dollars (\$1,000,000.00) in coverage.
- (5) The following list of regulations will be issued with the approved application:<sup>1</sup>
  - (1) Only Class C fireworks may be sold.
  - (2) Fireworks must be stored at least ten feet (10') from windows where sun may shine through.

<sup>&</sup>lt;sup>1</sup>State law references

<sup>&</sup>lt;u>Tennessee Code Annotated</u>, §§ 68-104-102c, 68-104-108 and 68-104-111.

- (3) A "FIREWORKS--NO SMOKING" sign with letters no less than four inches (4") high (not homemade) must be posted and visible inside, the same type sign shall be posted at every entrance to a tent or building where fireworks are sold.
- (4) State license and local permits shall be posted in a conspicuous place. License and permits must be accurate for the address location.
- (5) Extension cords and wiring, when used outdoors, must be listed for wet locations, and be protected from physical damage, NFPA 70, 525-20(A).
- (6) Electrical wiring inside tents and other outdoor locations shall be securely installed, without splices, and lamps shall be protected from accidental breakage by suitable fixture or guard, NFPA 70, 525-21(B).
- (7) Combustible materials must be kept at least thirty feet (30') from fireworks, NFPA 1 65.11.6.2.
- (8) Heating devices must be listed and used in accordance with their listing. Temporary heating shall have overheating and tip-over protection devices. Fuel fired heaters are not allowed, NFPA 165.11.11.2.
- (9) Seasonal retailers must have at least one (1) portable fire extinguisher (minimum of 10 lbs. ABC rating) within thirty-five feet (35') of any point in the tent/building.
- (10) No fireworks shall be "shot" within three hundred feet (300') of any tent/building where fireworks are being sold.
- (11) Tents used to house fireworks sales must meet or exceed NFPA 701-96 for flame resistance and have such information attached to the tent.
- (12) Tents must be a minimum of twenty feet (20') from a fixed structure, grass around tent must be kept cut short for a distance of twenty feet (20'), tents containing over two hundred (200) square feet must have two (2) exits. (Ord. #623, Nov. 2007)
- **7-506.** Separate sales and use tax number required. A separate sales and use tax number shall be required for each location where D.O.T. Class C fireworks are sold. (Ord. #623, Nov. 2007)
- **7-507.** Permissible types of fireworks. It is unlawful to possess, sell or use any pyrotechnic known as fireworks within the City of Hohenwald other than those items now or hereafter classified as D.O.T. Class C common fireworks. (Ord. #623, Nov. 2007)
- **7-508.** Conditions for sale. No permissible articles of D.O.T. Class C common fireworks shall be sold, offered for sale, or possessed within the City of Hohenwald, or used within the city, unless it is properly named and labeled to

conform to the nomenclature of allowed fireworks and unless it is certified "D.O.T. Class C common fireworks" on all shipping cases and by imprinting on the article or retail container D.O.T. Class C common fireworks, such imprint to be sufficient size and so positioned as to be readily recognized by law enforcement authorities and the general public. Retail sales for fireworks will not be allowed in any residentially zoned areas. All permits must be kept on site and visibly posted in the sales area. (Ord. #623, Nov. 2007)

**7-509.** Retail sale of permissible items—time limitations—exceptions. Permissible articles of fireworks may be sold at retail to residents of the City of Hohenwald only from June 20<sup>th</sup> through July 5<sup>th</sup> and from December 20<sup>th</sup> through January 2<sup>nd</sup> of each year. The definition of fireworks does not include toy pistols, toy canes, toy guns, or other devices in which paper caps containing 25/100 grains or less of explosive compounds are used, provided they are so constructed that the hand cannot come in contact with the cap when in place for exploding. These described items plus cone, bottle, tube, and other type serpentine pop-off novelties, model rockets, wire sparklers containing not over one hundred (100) grams of composition per item (sparklers containing chlorate or per chlorate sales may not exceed five (5) grams of composition per item) emergency flares, matches, trick matches, and cigarette loads may be sold at all times. (Ord. #623, Nov. 2007)

7-510. <u>Public displays</u>. Public displays of fireworks shall be performed only under competent supervision, and after the persons or organizations making such displays shall have received written approval from the police chief and fire chief, or their designees, and applied for and received a special events permit from the City of Hohenwald. Applicants for such displays shall be made in writing and shall show that proposed display is to be so located and supervised that it is not hazardous to property and that it shall not endanger human life. There shall be no fee for the display of Class C common fireworks. If a display is anything other than Class C common fireworks, the fee shall be three hundred dollars (\$300.00). (Ord. #623, Nov. 2007)

**7-511.** Regulations governing storing, locating or displaying fireworks. (1) Placing, storing, displaying, or locating fireworks in any window where the sun may shine through glass onto the fireworks so displayed or to allow the presence of open flames, lighted cigarettes, cigars or pipes within fifty feet (50') of where the fireworks are for sale is hereby declared unlawful and prohibited. At all places where fireworks are stored or sold, there must be posted signs (not hand made) with the words "Fireworks--No Smoking" in letters not less than four inches (4") high. No fireworks shall be sold at any location where paints, oils or varnishes are offered for sale or used, unless such are kept in their original consumer containers, nor where resin, turpentine, gasoline or any other flammable substance is stored or sold.

- (2) All firework devices that are readily accessible to handling by consumers or purchasers must have their fuses protected in such a manner to protect against accidental ignition of an item by spark, cigarette ash or other ignition source. Safety-type thread wrapped and coated fuses shall be exempt from this provision.
- (3) All firework devices sold or stored under a duly issued permit must be located not less than one hundred feet (100') from any gasoline dispensing pump.
- (4) All sales and storage facilities must be at all times free from litter and debris.
- (5) All proposed sales facilities must be inspected prior to the selling or storing of any fireworks. (Ord. #623, Nov. 2007)

# 7-512. <u>Unlawful act in the sale, handling or private use of fireworks</u>. (1) It is unlawful to:

- (1) Offer for retail sale or to sell any fireworks to children under the age of sixteen (16) years or to any intoxicated person.
- (2) Explode or ignite fireworks within three hundred feet (300') of any hospital, hotel, motel, or public school or within three hundred feet (300') of where fireworks are stored, sold or offered for sale.
- (3) Ignite or discharge any fireworks within or throw the same from a motor vehicle or to place or throw any fireworks into or at a motor vehicle, or at or near any person or group of people.
- (2) All items of fireworks which exceed the limits of D.O.T. Class C common fireworks as to explosive composition, such items being commonly referred to as "illegal ground salutes" designed to produce an audible effect, are expressly prohibited from the manufacturing, possession, use, sales or storage within the City of Hohenwald. This subsection shall not affect display fireworks authorized by this chapter. (Ord. #623, Nov. 2007)
- **7-513.** <u>Due process; penalty for violation</u>. (1) Violations of any of the provisions of this chapter may result in the issuance of a citation, the revocation of any applicable permit or the refusal to issue any future permits for a period of not more than three (3) years.
- (2) The permit holder shall be held responsible in the event of fire, personal injury, physical injury, and/or property damage as a result of the permit holder's or the permit holder's employees' actions. If permit is revoked or suspended, the permit holder may request a due process hearing in front of the City Manager and City Recorder of the City of Hohenwald within three (3) days.
- (3) If a person or organization fails to obtain any required permits prior to the storage or sales of fireworks, the required permit fee shall be doubled. (Ord. #623, Nov. 2007)

- **7-514.** Exceptions to application. Nothing in this chapter shall be construed as applying to the manufacture, storage, sale or use of signals necessary for the safe operation of railroads, or other classes of public or private transportation or of illuminating devices for photographic use, nor as applying to the military or naval forces of the United States, of the State of Tennessee or to peace officers, nor as prohibiting the sale or use of blank cartridges for ceremonial, theatrical or athletic events, nor as applying to the transportation, sale or use of fireworks for agricultural purposes. (Ord. #623, Nov. 2007)
- 7-515. <u>Use and shooting of fireworks</u>. The use and/or shooting of Class C Common Fireworks within the corporate city limits of the City of Hohenwald shall be restricted to the following dates and times: July 3 through July 6; 9:00 A.M. until 10:30 P.M. and December 31 through January 2: 9:00 A.M. until 10:30 P.M. Notwithstanding the foregoing, on the date of December 31, the discharge of common fireworks shall be restricted to the hours of 9:00 A.M. until 12:30 A.M. This section does not apply to the lawful and permitted public display of fireworks addressed elsewhere in this chapter. (Ord. #623, Nov. 2007, as replaced by Ord. #629, July 2008)
- **7-516.** <u>Manufacturing of fireworks prohibited</u>. The manufacturing of fireworks inside the City of Hohenwald is hereby prohibited. (Ord. #622, Nov. 2007)

## TITLE 8

## ALCOHOLIC BEVERAGES<sup>1</sup>

## **CHAPTER**

- 1. PACKAGE LIQUOR STORES.
- 2. LIQUOR BY THE DRINK.
- 3. BEER.

## CHAPTER 1

## PACKAGE LIQUOR STORES

## **SECTION**

- 8-101. Definitions.
- 8-102. Alcoholic beverages subject to regulation.
- 8-103. Wholesale business prohibited.
- 8-104. Beer regulations unaffected.
- 8-105. Applicant to agree to comply with laws.
- 8-106. Residency requirement.
- 8-107. Applicants for certificate who have criminal record.
- 8-108. Where establishments may be located.
- 8-109. Retail stores to be on ground floor entrances.
- 8-110. Applicant to appear before board of mayor and city council; duty to give information.
- 8-111. Application for certificate.
- 8-112. Application fees to be paid by applicant; penalty.
- 8-113. Action on application.
- 8-114. Bonds of licensees
- 8-115. Only one establishment to be operated by retailer.
- 8-116. Sales for consumption on premises.
- 8-117. Radios, amusement devices and seating facilities prohibited in retail establishments.
- 8-118. Regulations of retail sales.
- 8-119. Persons under the age of twenty-one prohibited unless accompanied by parent or legal guardian.
- 8-120. Loitering prohibited.
- 8-121. Restrictions on license holders and their employees.
- 8-122. Retailers not to solicit orders.
- 8-123. Sales to persons intoxicated, etc.

Tennessee Code Annotated, title 57.

<sup>&</sup>lt;sup>1</sup>State law reference

- 8-124. Public drinking and display.
- 8-125. Advertising
- 8-126. Transfer of licenses.
- 8-127. Inspection fee.
- 8-128. Failure of a licensee to pay inspection fees, etc.
- 8-129. Effects on violation of liquor laws, rules or regulation.
- 8-130. Revocation or refusal of retailer to permit examination of books, records, etc.
- 8-131. New certificate after revocation.
- 8-132. Violations.

# $8-101. \, \underline{\text{Definitions}}.$ Whenever used in this chapter, unless the context requires otherwise.

- (1) "Alcoholic beverage" or "beverages" means and includes alcohol, spirits, liquor, wine and every liquid containing alcohol, spirits, or wine and capable of being consumed by a human being, other than patented medicine, beer or wine, where the latter two (2) contain an alcoholic content of five percent (5%) by weight or less.
- (2) "Applicant" means any person or entity who shall file an application or request, in whatever form, with the city for a certificate of compliance.
- (3) "Application fee" shall mean the fee, payable in current funds, to the city by every person or entity applying for a certificate of compliance, to help defray the cost to the city in the investigation of the applicant to determine his or her or its qualification or entitlement to the issuance of a certificate.
- (4) "Board" refers to the Board of Mayor and City Councilmen of the City of Hohenwald, Tennessee.
- (5) "Certificate" means any certificate issued to any applicant pursuant to this chapter and as a pre-requisite to the issuance of a license under <u>Tennessee Code Annotated</u>, title 57, by the State of Tennessee Alcoholic Beverage Commission.
  - (6) "City" means the City of Hohenwald, Tennessee.
- (7) "Domiciled" means a person who is presently and has had continuous actual physical residence within Lewis County with an established permanent residence. If a corporation, partnership, firm, association, or LLC, then it means that each and every stockholder, officer, director, member, partner, or beneficiary shall have residence within Lewis County.
- (8) "Licensee" means any person issued a license or permit to be a retailer within the city by the State of Tennessee Alcoholic Beverage Commission.
- (9) "Person" means any natural person as well as any corporation, partnership, firm, association, or LLC, or any other business entity.

- (10) "Retail sale" or "sale at retail" means a sale of an alcoholic beverage or container to a consumer or to any person for any purpose other than for resale by a retailer.
- (11) "Retailer" means any person who sells at retail any beverages or containers covered by this chapter.
- (12) "Wine" means the product of the normal alcoholic fermentation of the juice of the fresh, sound, ripe grapes, with the usual cellar treatment and necessary additions to correct defects due to climatic, saccharine, and seasonal conditions, including champagne, sparkling and fortified wine of an alcoholic content not to exceed twenty-one percent (21%) by volume.

Words importing the masculine gender shall include the feminine and the neuter, and the singular shall include the plural. (Ord. #697, Jan. 2015)

- **8-102.** <u>Alcoholic beverages subject to regulation</u>. (1) Pursuant to <u>Tennessee Code Annotated</u>, title 57, and a referendum held pursuant thereto in the County of Lewis on the 6th day of November, 2012, this chapter enacted.
- (2) It shall be unlawful to engage in the business of selling, storing, transporting, distributing, or to purchase or possess alcoholic beverages within the corporate limits of this city except as provided by <u>Tennessee Code Annotated</u>, title 57, chapter 3. (Ord. #697, Jan. 2015)
- **8-103.** Wholesale business prohibited. No person, firm, or corporation shall engage in the business of selling alcoholic beverages at wholesale within the corporate limits, except to a retailer as described herein. (Ord. #697, Jan. 2015)
- **8-104.** Beer regulations unaffected. No provision of this chapter shall be considered or construed as in any way modifying, changing, or restricting the rules and regulations governing the sale, storage, transportation, or tax upon beer or other liquids with an alcoholic content of five percent (5%) or less. (Ord. #697, Jan. 2015)
- 8-105. Applicant to agree to comply with laws. Prior to making application with the City of Hohenwald, the applicant shall investigate and be satisfied that the applicant is in compliance with state and federal law, rules and regulations governing this issuance by those agencies of liquor licenses. The applicant for a certificate of compliance shall agree in writing to comply with the state and federal laws and ordinances of the city and rules and regulations of the alcoholic beverage commission of the state for sale of alcoholic beverages. (Ord. #697, Jan. 2015)
- **8-106.** Residency requirement. The applicant for a certificate of compliance shall have been a bona fide resident of Lewis County for a period of not less than two (2) years at the time his application is filed. If the applicant

is a partnership or a corporation, each of the partners or stockholders must have been a bona fide resident of Lewis County not less than two (2) years at the time the application is filed. This section shall not apply to any applicant who has been continuously licensed pursuant to <u>Tennessee Code Annotated</u>, § 57-3-204 for seven (7) consecutive years. (Ord. #697, Jan. 2015)

- 8-107. Applicants for certificate who have criminal record. No certificate of compliance for the manufacture or sale at wholesale or retail of alcoholic beverages, or for the manufacture or vinting of wine, shall be issued to any person, (or if the applicant is a partnership, any partner, or if the applicant is a corporation, any stockholder), who, within ten (10) years preceding the application for such certificate of compliance, has been convicted of any felony or of any offense under the laws of the state or of the United States prohibiting the sale, possession, transportation, storage, or otherwise handling of intoxicating liquors, or who has during such period been engaged in business, alone or with others, in violation of such laws. (Ord. #697, Jan. 2015)
- 8-108. Where establishments may be located. (1) It shall be unlawful for any person to operate or maintain any retail establishment for the sale, storage, or distribution of alcoholic beverages in the town except in the commercial districts of C3 or C4. Further, in no event will such store be allowed within three hundred feet (300') or nearer of any church, school, or library as measured from building to building at their nearest points. No store will be allowed to be within three hundred feet (300') or nearer to any park measured in a straight line from property line to property line at their nearest points. In addition, no store will be allowed to be located within one thousand feet (1,000') of any other retail liquor store measured from building to building at their nearest points.
- (2) Any change of location of the business location of a retailer shall be cause for immediate revocation of the certificate issued by the board unless the new location is approved in writing prior thereto by the board. (Ord. #697, Jan. 2015)
- 8-109. Retail stores to be on ground floor entrances. No retail store shall be located anywhere on premises in the town except on the ground floor thereof. Each such store shall have only one (1) main entrance; provided, that when a store is located on the corner of two (2) streets, such store may maintain a door opening on each such street; and provided further, that any salesroom adjoining the lobby of a hotel may maintain an additional door into such lobby as long as the lobby is open to the public.

In addition, all liquor stores shall be a permanent type of construction. No liquor stores shall be located in a manufactured or other moveable or prefabricated type building. All liquor stores shall have night lights surrounding the premises and shall be equipped with a functioning burglar alarm system on

the inside of the premises. The minimum square footage of the interior of the liquor store shall be two-thousand (2,000) square feet. Full, free, and unobstructed vision shall be afforded to and from the street and public highway or street to the interior of the liquor store by the way of large windows in the front, and to the extent practicable, to the sides of the building containing the liquor store. All liquor stores shall be subject to applicable zoning, land use, building and life safety regulations, adopted by the city, unless specifically provided otherwise. (Ord. #697, Jan. 2015)

- 8-110. Applicant to appear before board of mayor and city council; duty to give information. An applicant for a certificate of compliance may be required to appear in person before the board of mayor and city councilmen for such reasonable examination as may be desired by the board. (Ord. #697, Jan. 2015)
- 8-111. <u>Application for certificate</u>. Before any certificate, as required by <u>Tennessee Code Annotated</u>, § 57-3-208 or a renewal as required by § 57-3-213 shall be signed by the mayor, or by any city councilman, a non-refundable application fee of two hundred fifty dollars (\$250.00) to City of Hohenwald, along with an application in writing shall be filed with the city recorder on a form to be provided by the city, giving the following information:
  - (1) Name, age, and address of the applicant;
  - (2) Time of residence in the city;
- (3) Occupation or business and length of time engaged in such occupation or business;
- (4) Whether or not the applicant has been convicted of a violation of any state or federal law or of the violation of this code or any city ordinance, and the details of any such conviction;
  - (5) If employed, the name and address of employer;
  - (6) If in business, the kind of business and location thereof;
- (7) The location of the proposed store for the sale of alcoholic beverages;
  - (8) The name and address of the owner of the store;
- (9) If the applicant is a partnership, the name, age and address of each partner, and his occupation, business, or employer. If the applicant is a corporation, the name, age, and address of the stockholders and their degrees of ownership of stock in the corporation; and
- (10) Certain financial information pertinent to the applicant, partnership, corporation and partners or stockholders.
- (11) Certification that applicant has read and understands all the state statues dealing with the licensing and operation of a retail liquor establishment and has read the city ordinance and can certify at the time of making application the applicant can comply with the regulations set forth in said ordinance.

The information in the application shall be verified by the oath of the applicant. If the applicant is a partnership or a corporation, the application shall be verified by the oath of each partner, or by the president of the corporation. (Ord. #697, Jan. 2015)

- 8-112. Application fees to be paid by applicant; penalty. The application fee shall be payable by the person making application and no other person shall pay for any such fees. In addition to all other penalties provided for violations of this chapter, a violation of this section shall authorize and require the denial and/or revocation of any certificate issued pursuant to such application and forfeiture of the fee which was paid by another, and also the revocation of the certificate, if any, of the person so paying the application fee of another. (Ord. #697, Jan. 2015)
- 8-113. Action on application. Every application for a certificate of compliance shall be referred to the chief of police for investigation and to the city attorney for review, each of whom shall submit his findings to the board of mayor and city council within thirty (30) days of the date each application was filed. The board of mayor and city council may issue a certificate of compliance to any applicant, which shall be signed by the mayor or by a majority of the board of mayor and city council. (Ord. #697, Jan. 2015)
- 8-114. <u>Bonds of licensees</u>. A licensee shall execute, with a surety company duly authorized and qualified to do business in the State of Tennessee, a bond to the City of Hohenwald in the amount of two thousand five hundred dollars (\$2,500.00) which shall be conditioned that the principal thereof shall pay any fine, tax, or fee which may be owing or assessed against the principal. (Ord. #697, Jan. 2015)
- 8-115. Only one establishment to be operated by retailer. No retailer shall operate, directly or indirectly, more than one (1) place of business for the sale of alcoholic beverages in the City of Hohenwald. The word "indirectly," as used in this section, shall include and mean any kind of interest in another place of business by way of stock, ownership, loan, partner's interest, or otherwise. (Ord. #697, Jan. 2015)
- **8-116.** <u>Sales for consumption on premises</u>. No alcoholic beverages shall be sold for consumption, or shall be consumed, on the premises of the retail seller, except as provided by <u>Tennessee Code Annotated</u>, title 57, chapter 3. (Ord. #697, Jan. 2015)
- 8-117. Radios, amusement devices and seating facilities prohibited in retail establishments. No radios, television sets, pinball machines, slot machines, or other devices which tend to cause persons to

congregate in such place shall be permitted in any retail establishment. No seating facilities shall be provided for persons other than employees. This section does not preclude the owner or employees from having a television set or a radio solely for their use, which are located out of the public view. (Ord. #697, Jan. 2015)

- **8-118.** <u>Regulation of retail sales.</u> (1) No retailer shall sell alcoholic beverages to a person known to be a minor.
- (2) No retailer of alcoholic beverages shall keep or permit to be kept upon the licensed premises any alcoholic beverages in any unsealed bottles or other unsealed containers.
- (3) No retailer as herein defined shall own, store, or possess upon the licensed premises any unstamped merchandise required by the laws of Tennessee to have affixed thereto revenue stamps of said state. (Ord. #697, Jan. 2015)
- 8-119. Persons under the age of twenty-one prohibited unless accompanied by parent or legal guardian. No person under the age of twenty-one (21) is allowed on the premises of a retail liquor store including the building and parking lot unless they are accompanied by a parent or legal guardian.
- **8-120.** Loitering prohibited. No retailer shall allow anyone to loiter about their premises during hours in which they are open to the public. (Ord. #697, Jan. 2015)

# 8-121. Restrictions on license holders and their employees.

- (1) No person shall be employed in the sale of alcoholic beverages except a citizen of the United States, and a resident of Lewis County.
- (2) No retailer, or any employee thereof, engaged in the sale of alcoholic beverages shall be a person under the age of twenty-one (21) years, and it shall be unlawful for any retailer to employ any person under twenty-one (21) years of age for the physical storage, sale or distribution of alcoholic beverages, or to permit any such person under said age in its place of business to engage in the storage, sale or distribution of alcoholic beverages.
- (3) Misrepresentation of a material fact or concealment of a material fact required to be shown in the application for a license, shall be a violation of this chapter. (Ord. #697, Jan. 2015)
- **8-122.** Retailers not to solicit orders. No holder of a license issued shall employ any canvasser or solicitor for the purposes of receiving an order from a consumer for any alcoholic beverages at the residence or places of business of such consumer, nor shall any such licensee receive or accept any

such order which shall have been solicited or received at the residence or place of business of such consumer. (Ord. #697, Jan. 2015)

- **8-123.** <u>Sales to persons intoxicated, etc.</u> No retailer shall sell any alcoholic beverages to any person who is under the influence of any alcohol and/or drugs, nor to any person who is accompanied by a person who is under the influence. (Ord. #697, Jan. 2015)
- 8-124. Public drinking and display. It shall be unlawful for any person to drink any alcoholic beverages or physically and openly possess, display, exhibit, or show an unsealed bottle containing any alcoholic beverage in the parking area of any drive-in restaurant, shopping center, or parking area of any business premises, or on any public street or sidewalk, or in any public park, playground, theater, stadium, school, or school ground within the city limits of the City of Hohenwald; unless stated otherwise in any other section of this City of Hohenwald, title 8, alcoholic beverage section, or a person has been issued a permit by the State of Tennessee Alcohol Beverage Commission. (Ord. #697, Jan. 2015, as amended by Ord. #709, April 2016)
- 8-125. Advertising. There shall be no advertising of any kind whatsoever outside of the building on the premises where alcoholic beverages are sold except as authorized by the City of Hohenwald Municipal Zoning Ordinance Sign Ordinance. In no event shall such sign use the words, other than "liquor" and "wine," or any other word intended to denote a type of alcoholic beverage which might be obtained on the inside of the building on the premises. Except as above shown and except on the inside of any building in which alcoholic beverages are sold, there shall be no advertising of any nature whatsoever intended to advertise the sale of any alcoholic beverages within the corporate limits of the City of Hohenwald. (Ord. #697, Jan. 2015)
- **8-126.** Transfer of licenses. No sale, lease, assignment, transfer, or gift of any interest of any nature, either financial or otherwise, in any store or license of any licensee shall be made without first obtaining the written approval of the board and the issuance of a certificate to a proposed new owner, stockholder, member, partner, director, or otherwise. (Ord. #697, Jan. 2015)
- **8-127.** <u>Inspection fee</u>. (1) <u>Definitions</u>. For the purposes of this section, the material words and phrases shall have the meanings respectfully ascribed to them under <u>Tennessee Code Annotated</u>, § 57-3-101, and by § 8-101.
- (2) <u>Amount</u>. For the purposes of providing a means of regulating, inspecting, and supervising the liquor business in the city, there is levied and imposed upon each retailer an inspection fee at the rate of eight percent (8%) of the wholesale price of alcoholic beverages supplied by any wholesaler to such retailer. The fee shall be measured by the wholesaler's price of the alcoholic

beverages sold by all such wholesalers and paid by all such retailers and shall be eight percent (8%) of such wholesale price.

- (3) <u>Collection by wholesaler from retailer</u>. The inspection fee shall be collected by the wholesaler from the retailer at the time of the sale or at the time the retailer makes payment for the delivery of the alcoholic beverages.
- (4) <u>Fees to be held until paid to city</u>. Every such wholesaler shall hold the fees imposed under the authority of this section until paid to the city as hereinafter provided.
- (5) <u>Monthly report and payment</u>. Each wholesaler making sales to retailers located within the city shall furnish to the city a report monthly and which report shall contain the following:
  - (a) The name and address of the retailer;
  - (b) The gross wholesale price of the alcoholic beverages sold to such retailer; and
    - (c) The amount of tax due under this section.
- (6) <u>Due date of wholesaler's reports and payment</u>. The monthly report shall be furnished to the city recorder not later than the twentieth (20th) day of the month following which the sales were made and the inspection fees collected by the wholesaler from the retailers shall be paid to the city at the time the monthly report is made.
- (7) Wholesalers' fee for collection of inspection fees. Wholesalers collecting and remitting the inspection fee to the city shall be entitled to reimbursement for this collection service in a sum equal to three percent (3%) of the total amount of inspection fees collected and remitted. Such reimbursement shall be deducted and shown on the monthly report to the city.
- (8) <u>Failure to report and remit fees</u>. Each wholesaler who fails to collect and/or remit the inspection fees imposed hereunder shall be liable for a penalty of ten percent (10%) of the fees due the city.
- (9) <u>Audit of wholesalers' records</u>. The city may audit the records of all wholesalers subject to the provisions of this section in order to determine the accuracy of said monthly reports.
- (10) <u>Disposition of fees</u>. The city recorder shall turn over to the city any and all monies collected pursuant to this section and the recorder shall deposit said monies in the general fund of the city. (Ord. #697, Jan. 2015)
- 8-128. Failure of a licensee to pay inspection fees, etc. Whenever any licensee fails to account for or pay over to the city any tax, fine, or inspection fee, or defaults in any of the conditions of his bond, the city recorder shall report the same to the city attorney who shall immediately institute the necessary action for the recovery of any such defaults in payments and for the revocation of any certificate issued to such person under this chapter. (Ord. #697, Jan. 2015)

## 8-129. Effects of violation of liquor laws, rules or regulations.

- (1) In case of any conviction occurring after a certificate has been issued hereunder, the certificate shall immediately be revoked, if such convict shall be an individual, and, if not, the partnership, corporation, association, or LLC, with which he is connected shall immediately discharge him, and failure to do so shall result in the immediate revocation of its certificate. Violation of any liquor laws, rules or regulations, shall also result in the immediate revocation of its certificate.
- (2) No retailer shall employ in the storage, sale, or distribution of alcoholic beverages, any person who within ten (10) years prior to the date of his employment shall have been convicted of any such violations as provided in subsection (1) above and in case an employee should be so convicted, he shall be immediately discharged. Failure of a retailer to immediately discharge such employee shall be cause for revocation of the certificate of such retailer. Violation of any liquor laws, rules, or regulations, shall also result in the immediate revocation of its certificate.
- (3) The retailer and its employees are obligated to contact law enforcement in a reasonable timely manner if any criminal acts are committed upon its premises. (Ord. #697, Jan. 2015)
- 8-130. Revocation or refusal of retailer to permit examination of books, records, etc. The city is authorized to examine the books, papers, and records of any retailer or applicant for the purpose of determining whether the provisions of this chapter are being complied with. Any refusal to permit the examination of any such books, papers, and records, or the investigation and examination of such premises shall constitute sufficient reason for the revocation of any certificate issued to such retailer or the refusal to issue a certificate of any applicant. (Ord. #697, Jan. 2015)
- **8-131.** New certificate after revocation. Where a certificate is revoked, no new certificate shall be issued on the same premises of such retailer before the expiration of one (1) year from the date said revocation becomes final and effective. (Ord. #697, Jan. 2015)
- 8-132. <u>Violations</u>. Any violation of this chapter shall constitute a civil offense and shall, upon conviction, be punishable by a penalty under the general penalty provision of this code. Upon conviction of any person under this chapter, it shall be mandatory for the city judge to immediately certify the conviction, whether on appeal or not, to the Tennessee Alcoholic Beverage Commission. However, nothing herein shall be construed to prevent the city from exercising any criminal or civil remedies that it may have with respect to violations of this ordinance. Any person who shall violate any provision of this chapter shall be punishable by a fine of fifty dollars (\$50.00) and in the case of a retailer shall,

in the discretion of the board, be the cause for revocation of the certificate issued to such retailer. (Ord. #697, Jan. 2015)

# LIQUOR BY THE DRINK

## **SECTION**

- 8-201. Definition of alcoholic beverages.
- 8-202. Consumption of alcoholic beverages on premises.
- 8-203. Privilege tax on retail sale of alcoholic beverages for consumption on the premises.
- 8-204. Annual privilege tax to be paid to the city recorder.
- 8-205. Concurrent sales of liquor by the drink and beer.
- 8-206. Advertisement of alcoholic beverages.
- **8-201.** <u>Definition of alcoholic beverages</u>. As used in this chapter, unless the context indicates otherwise: "alcoholic beverages" means and includes alcohol, spirits, liquor, wine, and every liquid containing alcohol, spirits, wine, and capable of being consumed by a human being, other than patented medicine or beer, where the latter contains an alcoholic content of five percent (5%) by weight, or less.
- 8-202. Consumption of alcoholic beverages on premises. Tennessee Code Annotated, title 57, chapter 4, inclusive, is hereby adopted so as to be applicable to all sales of alcoholic beverages for on premises consumption which are regulated by the said code when such sales are conducted within the corporate limits of Hohenwald, Tennessee, it is the intent of the mayor and city council that the said Tennessee Code Annotated, title 57, chapter 4, inclusive, shall be effective in Hohenwald, Tennessee, the same as if said code sections were copied herein verbatim. (Ord. #697, Jan. 2015)
- 8-203. Privilege tax on retail sale of alcoholic beverages for consumption on the premises. Pursuant to the authority contained in Tennessee Code Annotated, § 57-4-301, there is hereby levied a privilege tax in the amount of one hundred dollars (\$100.00), as authorized by Tennessee Code Annotated, title 57, chapter 4, § 301, for the City of Hohenwald general fund to be paid annually as provided in this chapter) upon any person, firm, corporation, joint stock company, syndicate, or association engaging in the business of selling at retail in the City of Hohenwald of alcoholic beverages for consumption on the premises where sold. (Ord. #697, Jan. 2015)
- **8-204.** Annual privilege tax to be paid to the city recorder. Any person, firm, corporation, joint stock company, syndicate, or association exercising the privilege of selling alcoholic beverages for consumption on the premises in the City of Hohenwald shall remit annually to the city recorder the appropriate tax described in § 8-203. Such payments shall be remitted not less

than thirty (30) days following the end of each twelve (12) month period from the original date of the license. Upon the transfer of ownership of such business or the discontinuance of such business, said tax shall be filed within thirty (30) days following such event. Any person, firm, corporation, joint stock company, syndicate, or association failing to make payment of the appropriate tax when due shall be subject to the penalty provided by law. (Ord. #697, Jan. 2015)

- 8-205. Concurrent sales of liquor by the drink and beer. Any person, firm, corporation, joint stock company, syndicate, or association which has received a license to sell alcoholic beverages in the City of Hohenwald, pursuant to Tennessee Code Annotated, title 57, chapter 4, shall, notwithstanding the provisions of § 8-311(3), qualify to receive a beer permit from the city. (Ord. #697, Jan. 2015)
- **8-206.** Advertisement of alcoholic beverages. All advertisement of the availability of liquor for sale by those licensed pursuant to <u>Tennessee Code Annotated</u>, title 57, chapter 4, shall be in accordance with the rules and regulations of the Tennessee Alcoholic Beverage Commission. (Ord. #697, Jan. 2015)

## **BEER**

#### SECTION

- 8-301. Beer board established.
- 8-302. Meetings of the beer board.
- 8-303. Record of beer board proceedings to be kept.
- 8-304. Requirements for beer board quorum and action.
- 8-305. Powers and duties of the beer board.
- 8-306. "Beer" defined.
- 8-307. Permit required for engaging in beer business.
- 8-308. Beer permits shall be restrictive.
- 8-309. Interference with public health, safety, and morals prohibited.
- 8-310. Issuance of permits to persons convicted of certain crimes prohibited.
- 8-311. Prohibited conduct or activities by beer permit holders.
- 8-312. Revocation of beer permits.
- 8-313. Drinking beer or possessing open containers of beer on streets, etc.
- 8-314. Privilege tax.
- 8-315. Requiring beer permit holders to have current business license.
- 8-316. Civil penalty in lieu of revocation or suspension.
- 8-317. Revocation of clerk's certification.
- 8-318. Consumption on the premises.
- 8-319. Temporary on-site beer consumption permit.
- **8-301.** Beer board established. There is hereby established a beer board to be composed of the city council, to be chaired by the mayor, and the members of which shall serve without additional compensation. (Ord. #697, Jan. 2015)
- 8-302. <u>Meetings of the beer board</u>. 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 be prescribed. 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. #697, Jan. 2015)
- 8-303. 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 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. #697, Jan. 2015)

- **8-304.** 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. #697, Jan. 2015)
- **8-305.** 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 the City of Hohenwald in accordance with the provisions of this chapter. (Ord. #697, Jan. 2015)
- **8-306.** "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. (Ord. #697, Jan. 2015)
- 8-307. Permit required for engaging in beer business. It shall be unlawful for any person to sell, store for sale, distribute for sale, or manufacture beer without first making application to and obtaining a permit from the beer board. The application shall be made on such form as the board shall prescribe and/or furnish, and pursuant to Tennessee Code Annotated, § 57-5-101 (b), and shall be accompanied by a non-refundable application fee of two hundred and fifty dollars (\$250.00). Said fee shall be in the form of a cashier's check payable to the City of Hohenwald. Each applicant must be a person of good moral character and certify that he has read and is familiar with the provisions of this chapter. (Ord. #697, Jan. 2015)
- 8-308. 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. It shall be unlawful for any beer permit holder to engage in any type or phase of the beer business not expressly authorized by his permit. It shall likewise be unlawful for him not to comply with any and all express restrictions or conditions which may be written into his permit by the beer board. (Ord. #697, Jan. 2015)
- 8-309. <u>Interference with public health, safety, and morals prohibited</u>. No permit authorizing the sale of beer will be issued when such business would cause congestion of traffic or would interfere with schools,

churches, or other places of public gathering, or would otherwise interfere with the public health, safety, and morals. In no event will a permit be issued authorizing the storage, sale, or manufacture of beer at places within three hundred feet (300') of any school, church, or other such place of public gathering, measured from building to building at their nearest points. (Ord. #697, Jan. 2015)

8-310. <u>Issuance of permits to persons convicted of certain crimes prohibited</u>. 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. (Ord. #697, Jan. 2015)

# 8-311. 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 person under eighteen (18) years of age in the sale, storage, distribution, or manufacture of beer. (This provision shall not apply to grocery stores selling beer for off-premises consumption only.);
- (3) Make or allow any sale of beer during any hours not authorized by the Tennessee Alcohol Beverage Commission in <u>Tennessee Code Annotated</u>, title 57, chapter 4;
- (4) Allow any loud, unusual, or obnoxious noises to emanate from his premises;
- (5) Make or allow any sale of beer to any person who is too young to lawfully purchase same, or otherwise ineligible to do so under the laws of the State of Tennessee;
  - (6) Allow any such person to loiter in or about his place of business;
- (7) Make or allow any sale of beer to any intoxicated person or to any feebleminded, insane, or otherwise mentally incapacitated person;
  - (8) Allow drunk or disreputable persons to loiter about his premises;
- (9) Serve or sell on his premises any alcoholic beverage with an alcoholic content of more than five percent (5%) by weight, unless the business also has a liquor by the drink permit from the Tennessee Alcohol Beverage Commission;
  - (10) Allow gambling or gambling paraphernalia on premises;
- (11) Fail to provide and maintain separate sanitary toilet facilities for men and women; or
- (12) Allow any beer to be consumed on or about the premises when the sale of beer is prohibited. All containers of beer shall be removed from bars, tables, and patrons when the sale of beer is prohibited. (Ord. #697, Jan. 2015, as amended by Ord. #698, March 2015)

- 8-312. Revocation of beer permits. The beer board shall have the power to revoke any beer permit issued under the provisions of this chapter when the holder thereof is guilty of making a false statement or misrepresentation in his application or of violating any of the provisions of this chapter. However, no beer permit shall be revoked until a public hearing is held by the board after reasonable notice to all the known parties in interest. Revocation proceedings may be initiated by the police chief or by any member of the city council. Pursuant to Tennessee Code Annotated, § 57-5-606, 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 vendors 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. (Ord. #697, Jan. 2015)
- 8-313. <u>Drinking beer or possessing open containers of beer on streets, etc.</u> It shall be unlawful for any person to consume beer or possess or transport open containers thereof on any of the streets, alleys, or sidewalks of the city, in automobiles or in any public place, other than consumption on premises of a beer permit holder, as described in § 8-318, and temporary on-site consumption permit as described in § 8-319. (Ord. #697, Jan. 2015, as amended by Ord. #706, Feb. 2016 and Ord. #709, April 2016)
- 8-314. Privilege tax. There is hereby imposed on the business of selling, distributing, storing, or manufacturing beer an annual privilege tax of one hundred dollars (\$100.00). Any person, firm, corporation, joint stock company, syndicate, or association engaged in the sale, distribution, storage, or manufacture of beer shall remit the tax on January 1, 1994, and each successive January 1, to the City of Hohenwald, 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. #697, Jan. 2015)
- 8-315. Requiring beer permit users to have current business license. Holders of beer permits shall be required to hold current business licenses. Applicants for beer permits must show that they have or are applying

for a business license. Permit holders who allow their business license to become delinquent may be subject to revocation of beer permits after thirty (30) days' written notice and a hearing. Be it farther enacted that, after thirty (30) days' written notice and hearing, utility services may be discontinued to any business not holding a current business license. (Ord. #697, Jan. 2015)

# 8-316. Civil penalty in lieu of revocation or suspension.

- (1) <u>Definition</u>. "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, <u>Tennessee Code Annotated</u>, §§ 57-5-601, <u>et seq</u>.
- (2) <u>Penalty, revocation or suspension</u>. The beer board may, at the time it imposes a revocation or suspension, offer a permit holder that is not a responsible vendor the alternative of paying a civil penalty not to exceed two thousand five hundred dollars (\$2,500.00) for each offense of making or permitting to be made any sales to minors, or a civil penalty not to exceed one thousand dollars (\$1,000.00) for any other offense.

The beer board may impose on a responsible vendor a civil penalty not to exceed one thousand dollars (\$1,000.00) for each offense of making or permitting to be made any sales to minors or for any other offense. If a civil penalty is offered as an alternative to revocation or suspension, the holder shall have seven (7) days within which to pay the civil penalty before the revocation or suspension shall be imposed. If the civil penalty is paid within that time, the revocation or suspension shall be deemed withdrawn. Payment of the civil penalty in lieu of revocation or suspension by a permit holder shall be an admission by the holder of the violation so charged and shall be paid to the exclusion of any other penalty that the city may impose. (Ord. #697, Jan. 2015)

- 8-317. Revocation of clerk's certification. (1) 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.
- (2) <u>Note</u>: Beer vendors are required to comply with the signing requirements of <u>Tennessee Code Annotated</u>, § 57-5-301 which requires:
  - (a) The posting of an eight and one half by five and one half inch (8-1/2" x 5-1/2") sign that shall read as follows: "If You Aren't 21 and Are In Possession of Beer, You Could Lose Your Driver's License;" and

- (b) A sign eight and one half by eleven inches (8-1/2" x 11") stating the following: "State Law Requires Identification For The Sale of Beer." (Ord. #697, Jan. 2015)
- **8-318.** Consumption on the premises. (1) Beer shall only be made available for sale or consumption by a permit holder with an on-premises retail sales permit to persons who remain inside the business establishment or in the permitted service area.
  - (2) The permitted service area shall include:
  - (a) All permanent decks and porches contiguous to the exterior in which the business is located and that are operated by the business;
  - (b) For a restaurant located within a golf course clubhouse, the adjacent part of the facility which is used for the golfing activity; and
  - (c) For a restaurant located within a bowling alley, the adjacent part of the facility which is used for bowling activity. (Ord. #706, Feb. 2016)

## 8-319. Temporary on-site beer consumption permit.

- (1) A temporary permit which allows consumption of beer during times which are prohibited by ordinance may be obtained by application given to the beer board forty-five (45) days in advance to the event date.
- (2) A temporary on-site consumption permit may be applied for by any party who meets the requirements set forth herein, with a non-refundable fee of one hundred fifty dollars (\$150.00) being paid for the initial permit, voted on and granted by the beer board. A subsequent permit for the same venue may be obtained through city hall, upon the approval of the beer board, for additional dates at a fee of fifty dollars (\$50.00) per occurrence. A limit of five (5) subsequent permits may be obtained in a calendar year. All temporary permits expire January 31 of each calendar year. Applicants may reapply beginning February 1 of each calendar year.
  - (a) Applicants must possess a current City of Hohenwald business license to apply for a temporary on-site consumption permit.
  - (b) Applicants must possess a permanent City of Hohenwald beer permit to apply for a temporary on-site consumption permit.
  - (c) The venue listed on the application for temporary on-site consumption must conform to existing on-site consumption ordinances.
  - (d) The temporary on-site consumption permit is non-transferrable.
  - (e) The application for temporary on-site consumption permit shall clearly define the drinking area, with the chief of police having inspected and approved the site, before the beer board meeting.
  - (f) The start and end times for the event must be clearly stated in the application but must not begin prior to 8:00 A.M. and must end no later than 2:00 A.M. of the following day.

- (3) The governing body responsible for issuing a supplemental on-site consumption permit will be the City of Hohenwald Beer Board and must be applied for forty-five (45) days prior to the event. The beer board will be the final authority on temporary on-site consumption permits and may not be appealed.
- (4) The governing body responsible for issuing of subsequent permits will be the beer board. Any supplemental permit must be applied for forty-five (45) days in advance. Any permit can be denied or amended for any reason cited by the chief of police or his designee but may be appealed to the beer board at the next regular meeting.
- (5) If any event is held within the municipality without the proper approved permits, the chief of police or his designee will stop the event and may cite the violator into court and a fine up to fifty dollars (\$50.00) per day may be levied per event. Any permit holder who violates the terms of the permit will be disqualified for permits for a term of one (1) year, and the event may be immediately stopped. (Ord. #709, April 2016)

## TITLE 9

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

## **CHAPTER**

- 1. MISCELLANEOUS.
- 2. PEDDLERS, ETC.
- 3. CHARITABLE SOLICITORS.
- 4. TAXICABS.
- 5. MOBILE HOME PARKS.
- 6. CABLE TELEVISION.

## CHAPTER 1

# **MISCELLANEOUS**

## **SECTION**

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

9-102. Yard sales.

- 9-101. "Going out of business" sales. It shall be unlawful for any person to falsely represent a sale as being a "going out of business" sale. A "going out of business" sale, for the purposes of this section, shall be a "fire sale," "bankrupt sale," "loss of lease sale," or any other sale made in anticipation of the termination of a business at its present location. When any person, after advertising a "going out of business" sale, adds to his stock or fails to go out of business within ninety (90) days he shall prima facie be deemed to have violated this section. (1982 Code, § 5-101)
- **9-102.** Yard sales. (1) Yard sales at one (1) address shall not run more than three (3) consecutive days within a fourteen (14) day period.
  - (2) Exceptions are granted for rain days and during Ocktoberfest.
- (3) Offenders may be fined fifty dollars (\$50.00) per day. (Ord. #608, Oct. 2006)

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

Junkyards: title 13.

Liquor and beer regulations: title 8.

Noise reductions: title 11.

Zoning: title 14.

<sup>&</sup>lt;sup>1</sup>Municipal code references

## PEDDLERS, ETC.<sup>1</sup>

## **SECTION**

- 9-201. Permit required.
- 9-202. Exemptions.
- 9-203. Application for permit.
- 9-204. Issuance or refusal of permit.
- 9-205. Appeal.
- 9-206. Bond.
- 9-207. Loud noises and speaking devices.
- 9-208. Use of streets.
- 9-209. Exhibition of permit.
- 9-210. Policemen to enforce.
- 9-211. Revocation or suspension of permit.
- 9-212. Reapplication.
- 9-213. Expiration and renewal of permit.
- **9-201.** Permit required. It shall be unlawful for any peddler, canvasser or solicitor, or transient merchant to ply his trade within the corporate limits without first obtaining a permit in compliance with the provisions of this chapter. No permit shall be used at any time by any person other than the one to whom it is issued. (1982 Code, § 5-201)
- **9-202.** Exemptions. The terms of this chapter shall not be applicable to persons selling at wholesale to dealers, nor to newsboys, nor to bona fide merchants who merely deliver goods in the regular course of business, nor to bona fide charitable, religious, patriotic or philanthropic organizations. (1982 Code, § 5-202)
- **9-203.** Application for permit. Applicants for a permit under this chapter must file with the city recorder a sworn written application containing the following:
  - (1) Name and physical description of applicant.
- (2) Complete permanent home address and local address of the applicant and, in the case of transient merchants, the local address from which proposed sales will be made.
- (3) A brief description of the nature of the business and the goods to be sold.

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

- (4) If employed, the name and address of the employer, together with credentials therefrom establishing the exact relationship.
  - (5) The length of time for which the right to do business is desired.
- (6) A recent clear photograph approximately two (2) inches square showing the head and shoulders of the applicant.
- (7) The names of at least two (2) reputable local property owners who will certify as to the applicant's good moral reputation and business responsibility, or in lieu of the names of references, such other available evidence as will enable an investigator to evaluate properly the applicant's moral reputation and business responsibility.
- (8) A statement as to whether or not the applicant has been convicted of any crime or misdemeanor or for violating any municipal ordinance; the nature of the offense; and, the punishment or penalty assessed therefor.
- (9) The last three (3) cities or towns, if that many, where applicant carried on business immediately preceding the date of application and, in the case of transient merchants, the addresses from which such business was conducted in those municipalities.
- (10) At the time of filing the application, a fee of two hundred dollars (\$200.00) shall be paid to the city to help defray the cost of investigating the facts stated therein. This is in addition to and does not include payment of privilege taxes required by other provisions of law. (1982 Code, § 5-203, as amended by Ord. #531, May 1999)
- **9-204.** <u>Issuance or refusal of permit</u>. (1) Each application shall be referred to the chief of police for investigation. The chief shall report his findings to the city recorder within seventy-two (72) hours.
- (2) If as a result of such investigation the chief reports the applicant's moral reputation and/or business responsibility to be unsatisfactory the city recorder shall notify the applicant that his application is disapproved and that no permit will be issued.
- (3) If, on the other hand, the chief's report indicates that the moral reputation and business responsibility of the applicant are satisfactory the city recorder shall issue a permit upon the payment of all applicable privilege taxes and the filing of the bond required by § 9-206. The city recorder shall keep a permanent record of all permits issued. (1982 Code, § 5-204)
- **9-205.** Appeal. Any person aggrieved by the action of the chief of police and/or the city recorder in the denial of a permit shall have the right to appeal to the city council. Such appeal shall be taken by filing with the mayor within fourteen (14) days after notice of the action complained of, a written statement setting forth fully the grounds for the appeal. The mayor shall set a time and place for a hearing on such appeal and notice of the time and place of such hearing shall be given to the appellant. The notice shall be in writing and shall be mailed, postage prepaid, to the applicant at his last known address at least

- five (5) days prior to the date set for hearing, or shall be delivered by a police officer in the same manner as a summons at least three (3) days prior to the date set for hearing. (1982 Code, § 5-205)
- 9-206. Bond. Every permittee shall file with the city recorder a surety bond running to the municipality in the amount of one thousand dollars (\$1,000.00). The bond shall be conditioned that the permittee shall comply fully with all the provisions of the ordinances of this municipality and the statutes of the state regulating peddlers, canvassers, solicitors, transient merchants, itinerant merchants, or itinerant vendors, as the case may be, and shall guarantee to any citizen of the municipality that all money paid as a down payment will be accounted for and applied according to the representations of the permittee, and further guaranteeing to any citizen of the municipality doing business with said permittee that the property purchased will be delivered according to the representations of the permittee. Action on such bond may be brought by any person aggrieved and for whose benefit, among others, the bond is given, but the surety may, by paying, pursuant to order of the court, the face amount of the bond to the clerk of the court in which the suit is commenced, be relieved without costs of all further liability. (1982 Code, § 5-206)
- **9-207.** Loud noises and speaking devices. No permittee, nor any person in his behalf, shall shout, cry out, blow a horn, ring a bell or use any sound amplifying device upon any of the sidewalks, streets, alleys, parks or other public places of the municipality or upon private premises where sound of sufficient volume is emitted or produced therefrom to be capable of being plainly heard upon the adjacent sidewalks, streets, alleys, parks, or other public places, for the purpose of attracting attention to any goods, wares or merchandise which such permittee proposes to sell. (1982 Code, § 5-207)
- 9-208. <u>Use of streets</u>. No permittee shall have any exclusive right to any location in the public streets, nor shall any be permitted a stationary location thereon, nor shall any be permitted to operate in a congested area where the operation might impede or inconvenience the public use of the streets. For the purpose of this chapter, the judgment of a police officer, exercised in good faith, shall be deemed conclusive as to whether the area is congested and the public impeded or inconvenienced. (1982 Code, § 5-208)
- **9-209.** Exhibition of permit. Permittees are required to exhibit their permits at the request of any policeman or citizen. (1982 Code, § 5-209)
- **9-210.** Policemen to enforce. It shall be the duty of all policemen to see that the provisions of this chapter are enforced. (1982 Code, § 5-210)

- **9-211.** Revocation or suspension of permit. (1) Permits issued under the provisions of this chapter may be revoked by the city council after notice and hearing, for any of the following causes:
  - (a) Fraud, misrepresentation, or incorrect statement contained in the application for permit, or made in the course of carrying on the business of solicitor, canvasser, peddler, transient merchant, itinerant merchant, or itinerant vendor.
    - (b) Any violation of this chapter.
    - (c) Conviction of any crime or misdemeanor.
  - (d) Conducting the business of peddler, canvasser, solicitor, transient merchant, itinerant merchant, or itinerant vendor, as the case may be, in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety, or general welfare of the public.
- (2) Notice of the hearing for revocation of a permit shall be given by the city recorder in writing, setting forth specifically the grounds of complaint and the time and place of hearing. Such notice shall be mailed to the permittee at his last known address at least five (5) days prior to the date set for hearing, or it shall be delivered by a police officer in the same manner as a summons at least three (3) days prior to the date set for hearing.
- (3) When reasonably necessary in the public interest the mayor may suspend a permit pending the revocation hearing. (1982 Code, § 5-211)
- **9-212.** Reapplication. No permittee whose permit has been revoked shall make further application until a period of at least six (6) months has elapsed since the last revocation. (1982 Code, § 5-212)
- 9-213. Expiration and renewal of permit. Permits issued under the provisions of this chapter shall expire on the same date that the permittee's privilege license expires and shall be renewed without cost if the permittee applies for and obtains a new privilege license within thirty (30) days thereafter. Permits issued to permittees who are not subject to a privilege tax shall be issued for one (1) year. An application for a renewal shall be made substantially in the same form as an original application. However, only so much of the application shall be completed as is necessary to reflect conditions which have changed since the last application was filed. (1982 Code, § 5-213)

## CHARITABLE SOLICITORS

## **SECTION**

- 9-301. Permit required.
- 9-302. Prerequisites for a permit.
- 9-303. Denial of a permit.
- 9-304. Exhibition of permit.
- **9-301.** Permit required. No person shall solicit contributions or anything else of value for any real or alleged charitable or religious purpose without a permit from the city recorder authorizing such solicitation. Provided, however, that this section shall not apply to any locally established organization or church operated exclusively for charitable or religious purposes if the solicitations are conducted exclusively among the members thereof, voluntarily and without remuneration for making such solicitations, or if the solicitations are in the form of collections or contributions at the regular assemblies of any such established organization or church. (1982 Code, § 5-301)
- **9-302.** Prerequisites for a permit. The recorder shall, upon application, issue a permit authorizing charitable or religious solicitations when, after a reasonable investigation, he finds the following facts to exist:
- (1) The applicant has a good character and reputation for honesty and integrity, or if the applicant is not an individual person, that every member, managing officer or agent of the applicant has a good character or reputation for honesty and integrity.
- (2) The control and supervision of the solicitation will be under responsible and reliable persons.
- (3) The applicant has not engaged in any fraudulent transaction or enterprise.
- (4) The solicitation will not be a fraud on the public but will be for a bona fide charitable or religious purpose.
- (5) The solicitation is prompted solely by a desire to finance the charitable cause described by the applicant. (1982 Code, § 5-302)
- **9-303.** Denial of a permit. Any applicant for a permit to make charitable or religious solicitations may appeal to the city council if he has not been granted a permit within fifteen (15) days after he makes application therefor. (1982 Code, § 5-303)
- **9-304.** Exhibition of permit. Any solicitor required by this chapter to have a permit shall exhibit such permit at the request of any policeman or person solicited. (1982 Code, § 5-304)

## TAXICABS<sup>1</sup>

#### **SECTION**

- 9-401. Taxicab franchise and privilege license required.
- 9-402. Requirements as to application and hearing.
- 9-403. Liability insurance or bond required.
- 9-404. Revocation or suspension of franchise.
- 9-405. Mechanical condition of vehicles.
- 9-406. Cleanliness of vehicles.
- 9-407. Inspection of vehicles.
- 9-408. License and permit required for drivers.
- 9-409. Qualifications for driver's permit.
- 9-410. Revocation or suspension of driver's permit.
- 9-411. Drivers not to solicit business.
- 9-412. Parking restricted.
- 9-413. Drivers to use direct routes.
- 9-414. Taxicabs not to be used for illegal purposes.
- 9-415. Miscellaneous prohibited conduct by drivers.
- 9-416. Transportation of more than one passenger at the same time.
- **9-401.** <u>Taxicab franchise and privilege license required</u>. It shall be unlawful for any person to engage in the taxicab business unless he has first obtained a taxicab franchise from the municipality and has a currently effective privilege license. (1982 Code, § 5-401)
- 9-402. Requirements as to application and hearing. No person shall be eligible to apply for a taxicab franchise if he has a bad character or has been convicted of a felony within the last ten (10) years. Applications for taxicab franchises shall be made under oath and in writing to the chief of police. The application shall state the name and address of the applicant, the name and address of the proposed place of business, the number of cabs the applicant desires to operate, the makes and models of said cabs, and such other pertinent information as the chief of police may require. The application shall be accompanied by at least two (2) affidavits of reputable local citizens attesting to the good character and reputation of the applicant. Within ten (10) days after receipt of an application the chief of police shall make a thorough investigation of the applicant; determine if there is a public need for additional taxicab service; present the application to the city council; and make a recommendation

<sup>1</sup>Municipal code reference Privilege taxes: title 5. to either grant or refuse a franchise to the applicant. The city council shall thereupon hold a public hearing at which time witnesses for and against the granting of the franchise shall be heard. In deciding whether or not to grant the franchise the city council shall consider the public need for additional service, the increased traffic congestion, parking space requirements, and whether or not the safe use of the streets by the public, both vehicular and pedestrian, will be preserved by the granting of such an additional franchise. Those persons already operating taxicabs when this code is adopted shall not be required to make applications under this section but shall be required to comply with all of the other provisions hereof. (1982 Code, § 5-402)

- 9-403. <u>Liability insurance or bond required</u>. No taxicab franchise shall be issued or continued in operation unless there is in full force and effect a liability insurance policy or bond for each vehicle authorized in an amount equal to that required by the state's financial responsibility law as set out in <u>Tennessee Code Annotated</u>, title 55, chapter 12. The insurance policy or bond required by this section shall contain a provision that it shall not be cancelled except after at least twenty (20) days' written notice is given by the insuror to both the insured and the recorder of the municipality. (1982 Code, § 5-403)
- **9-404.** Revocation or suspension of franchise. The city council, after a public hearing, may revoke or suspend any taxicab franchise for misrepresentations or false statements made in the application therefor or for traffic violations or violations of this chapter by the taxicab owner or any driver. (1982 Code, § 5-404)
- 9-405. Mechanical condition of vehicles. It shall be unlawful for any person to operate any taxicab in the city unless such taxicab is equipped with four (4) wheel brakes, front and rear lights, safe tires, horn, muffler, windshield wipers, and rear vision mirror, all of which shall conform to the requirements of the state motor vehicle law. Each taxicab shall be equipped with a handle or latch or other opening device attached to each door of the passenger compartment so that such doors may be operated by the passenger from the inside of the taxicab without the intervention or assistance of the driver. The motor and all mechanical parts shall be kept in such condition or repair as may be reasonably necessary to provide for the safety of the public and the continuous satisfactory operation of the taxicab. (1982 Code, § 5-405)
- **9-406.** Cleanliness of vehicles. All taxicabs operated in the municipality shall, at all times, be kept in a reasonably clean and sanitary condition. They shall be thoroughly swept and dusted at least once each day. At least once every week they shall be thoroughly washed and the interior cleaned with a suitable antiseptic solution. (1982 Code, § 5-406)

- **9-407.** <u>Inspection of vehicles</u>. All taxicabs shall be inspected at least semiannually by the chief of police to insure that they comply with the requirements of this chapter with respect to mechanical condition, cleanliness, etc. (1982 Code, § 5-407)
- **9-408.** License and permit required for drivers. No person shall drive a taxicab unless he is in possession of a state special chauffeur's license and a taxicab driver's permit issued by the chief of police. (1982 Code, § 5-408)
- **9-409. Qualifications for driver's permit**. No person shall be issued a taxicab driver's permit unless he complies with the following to the satisfaction of the chief of police:
  - (1) Makes written application to the chief of police.
- (2) Is at least eighteen (18) years of age and holds a state special chauffeur's license.
- (3) Undergoes an examination by a physician and is found to be of sound physique, with good eyesight and hearing and not subject to epilepsy, vertigo, heart trouble or any other infirmity of body or mind which might render him unfit for the safe operation of a public vehicle.
- (4) Is clean in dress and person and is not addicted to the use of intoxicating liquor or drugs.
- (5) Produces affidavits of good character from two (2) reputable citizens of the municipality who have known him personally and have observed his conduct for at least two (2) years next preceding the date of his application.
- (6) Has not been convicted of a felony, drunk driving, driving under the influence of an intoxicant or drug, or of frequent minor traffic offenses.
- (7) Is familiar with the state and local traffic laws. (1982 Code, § 5-409)
- **9-410.** Revocation or suspension of driver's permit. The city council, after a public hearing, may revoke or suspend any taxicab driver's permit for violation of traffic regulations, for violation of this chapter, or when the driver ceases to possess the qualifications as prescribed in § 9-409. (1982 Code, § 5-410)
- **9-411.** <u>Drivers not to solicit business</u>. All taxicab drivers are expressly prohibited from indiscriminately soliciting passengers or from cruising upon the streets of the municipality for the purpose of obtaining patronage for their cabs. (1982 Code, § 5-411)
- **9-412.** Parking restricted. It shall be unlawful to park any taxicab on any street except in such places as have been specifically designated and marked by the municipality for the use of taxicabs. It is provided, however, that taxicabs may stop upon any street for the purpose of picking up or discharging

passengers if such stops are made in such manner as not to unreasonably interfere with or obstruct other traffic and provided the passenger loading or discharging is promptly accomplished. (1982 Code, § 5-412)

- **9-413.** <u>Drivers to use direct routes</u>. Taxicab drivers shall always deliver their passengers to their destinations by the most direct available route. (1982 Code, § 5-413)
- **9-414.** Taxicabs not to be used for illegal purposes. No taxicab shall be used for or in the commission of any illegal act, business, or purpose. (1982 Code, § 5-414)
- **9-415.** Miscellaneous prohibited conduct by drivers. It shall be unlawful for any taxicab driver, while on duty, to be under the influence of, or to drink any intoxicating beverage or beer; to use profane or obscene language; to shout or call to prospective passengers; to unnecessarily blow the automobile horn; or to otherwise disturb the peace, quiet and tranquility of the municipality in any way. (1982 Code, § 5-415)
- 9-416. <u>Transportation of more than one passenger at the same</u> <u>time</u>. No person shall be admitted to a taxicab already occupied by a passenger without the consent of such other passenger. (1982 Code, § 5-416)

## MOBILE HOME PARKS<sup>1</sup>

### SECTION

- 9-501. Definitions.
- 9-502. License.
- 9-503. Application for license.
- 9-504. Mobile home park plan.
- 9-505. Water supply.
- 9-506. Sanitation facilities.
- 9-507. Garbage receptacles.
- 9-508. Fire protection.
- 9-509. Animals and pets.
- 9-510. Register of occupants.
- 9-511. Revocation of license.
- 9-512. Posting of license.

# **9-501. Definitions**. As used in this chapter:

- (1) "Mobile home" means any portable structure or vehicle so constructed and designed as to permit occupancy thereof for dwelling or sleeping purposes.
- (2) "Mobile home park" means any plot of ground upon which one (1) or more mobile homes, occupied or unoccupied for dwelling or sleeping purposes, are located, regardless of whether or not a charge is made for such accommodations.
- (3) "Mobile home space" meas a plot of ground within a mobile home park designed for the accommodation of one (1) mobile home.
  - (4) "Park" means mobile home park.
- (5) "Person" means any natural individual, firm, trust, partnership, association, or corporation. (1982 Code, § 5-501)
- 9-502. <u>License</u>. It shall be unlawful for any person to maintain or operate within the corporate limits of the city any mobile home park unless such person shall first obtain a license therefor. All mobile home parks in existence on the effective date of the provisions of this chapter shall within ninety (90) days thereafter obtain such license, and in all other respects comply fully with the requirements of this chapter. (1982 Code, § 5-502)

<sup>&</sup>lt;sup>1</sup>Municipal code reference Privilege taxes: title 5. Zoning: title 14.

- **9-503.** <u>Application for license</u>. Applications for a mobile home park license shall be filed with and issued by the board of zoning appeals. Applications shall be in writing signed by the applicant and shall contain the following:
  - (1) The name and address of the applicant;
  - (2) The location and legal description of the mobile home park;
- (3) A complete plan of the park showing compliance with § 9-504 of this chapter.
- (4) Plans and specifications of all buildings and other improvements constructed or to be constructed within the mobile home park;
- (5) Such further information as may be requested by the board of zoning appeals to enable it to determine if the proposed park will comply with legal requirements.

The applications and all accompanying plans and specifications shall be filed in triplicate. The board of zoning appeals, the commissioner of buildings, and the commissioner of police shall investigate the applicant and inspect the proposed plans and specifications. If the applicant is found to be of good moral character, and the proposed mobile home park will be in compliance with all provisions of this chapter and all other applicable ordinances or statutes, the board of zoning appeals shall approve the application and upon completion of the park according to the plans shall issue the license.

Upon application for transfer of the license, the board of zoning appeals shall issue a transfer if the commissioner of police shall report that the transferee is of good moral character. (1982 Code, § 5-503)

- **9-504.** <u>Mobile home park plan</u>. The mobile home park shall conform to the following requirements:
- (1) The park shall be located on a well-drained site, properly graded to insure rapid drainage and freedom from stagnant pools of water.
- (2) All mobile home spaces shall abut upon a driveway of not less than twenty feet (20') in width which shall have unobstructed access to a public street or highway. All driveways shall be hard surfaced, well marked in the daytime and lighted at night with twenty-five (25) watt lamps at intervals of one hundred feet (100') located approximately fifteen feet (15') from the ground. There shall be an extruded asphalt or concrete speed bump measuring approximately six inches (6") in height and ten to fourteen inches (10"--14") wide, located at each entrance and exit to the mobile home park and not less than every one hundred feet (100') apart along the entire length of each continuous road within the mobile home park. Maximum speed within the mobile home park shall be ten (10) miles per hour.
- (3) An electrical outlet supplying at least one hundred ten (110) volts shall be provided for each mobile home space. (1982 Code, § 5-504)

- **9-505.** Water supply. An adequate supply of pure water for drinking and domestic purposes shall be supplied to meet the requirements of the park. The water supply shall be obtained from faucets only. No common drinking cups shall be permitted. Cold water supply faucets shall be located on each mobile home space. (1982 Code, § 5-505)
- **9-506.** Sanitation facilities. (1) Waste from showers, bath tubs, toilets, slop sinks, and laundries shall be discharged into a public sewer system in compliance with applicable ordinances or into a private sewer and disposal plant or septic tank system of construction and in a manner that will present no health hazard.
- (2) Each mobile home space shall be provided with a trapped sewer at least four inches (4") in diameter, which shall be connected to receive the waste from the shower, bath tub, flush toilet lavatory, and kitchen sink of the mobile home harbored in such space and having any or all of such facilities. The trapped sewer in each space shall be connected to discharge the mobile home waste into a public sewer system in compliance with applicable ordinances or into a private sewer disposal plant or septic tank system in a manner that will present no health hazard. (1982 Code, § 5-506)
- 9-507. <u>Garbage receptacles</u>. Tightly covered metal garbage cans shall be provided in quantities adequate to permit disposal of all garbage and rubbish. Garbage cans shall be located not farther than two hundred feet (200') from any mobile home space. The cans shall be kept in sanitary condition at all times. Garbage and rubbish shall be collected and disposed of as frequently as may be necessary to insure that the garbage cans shall not overflow. (1982 Code, § 5-507)
- **9-508.** Fire protection. Every park shall be equipped at all times with one (1) fire extinguisher in good working order for every ten (10) mobile home spaces and located not farther than two hundred feet (200') from each mobile home space. No open fires shall be permitted at any place which would endanger life or property. No fires shall be left unattended at any time. (1982 Code, § 5-508)
- **9-509.** Animals and pets. No owner or person in charge of any dog, cat, or other pet animal shall permit it to commit any nuisance within the limits of any mobile home park. (1982 Code, § 5-509)
- **9-510.** Register of occupants. It shall be the duty of the licensee to keep a register containing a record of all mobile home owners and occupants located within the park. The register shall contain the following information:
  - (1) Name and address of each occupant;
  - (2) The make, model, and year of all automobiles and mobile homes;

- (3) License number and owner of each mobile home automobile by which it is towed;
  - (4) The state issuing such license;
  - (5) The dates of arrival and departure of each mobile home.

The park shall keep the register available for inspection at all times by law enforcement officers, public health officials, and other officials whose duties necessitate acquisition of the information contained in the register. The register records shall not be destroyed for a period of three (3) years following the date of registration. (1982 Code, § 5-510)

- 9-511. Revocation of license. The health officer may revoke any license to maintain and operate a park when the licensee fails to comply with any provision of this chapter and is found guilty by a court of competent jurisdiction of violating any provision of this chapter. After such conviction, the license may be reissued if the circumstances leading to conviction have been remedied and the park is being maintained and operated in full compliance with the law. (1982 Code, § 5-511)
- **9-512.** Posting of license. The license certificate shall be conspicuously posted in the office or on the premises of the mobile home park at all times. (1982 Code, § 5-512)

# **CABLE TELEVISION**

## **SECTION**

9-601. To be furnished under franchise.

**9-601.** To be furnished under franchise. Cable television service shall be furnished to the City of Hohenwald and its inhabitants under franchise as the city council shall grant. The rights, powers, duties and obligations of the City of Hohenwald and its inhabitants and the grantee of the franchise shall be clearly stated in the franchise agreement which shall be binding upon the parties concerned.<sup>1</sup>

<sup>&</sup>lt;sup>1</sup>Cable television franchise agreements are available in the office of the city recorder.

## TITLE 10

## ANIMAL CONTROL

### **CHAPTER**

- 1. IN GENERAL.
- 2. DOGS.
- 3. VICIOUS DOGS.

### CHAPTER 1

## IN GENERAL

- 10-101. Running at large prohibited.
- 10-102. Keeping near a residence or business restricted.
- 10-103. Pen or enclosure to be kept clean.
- 10-104. Storage of food.
- 10-105. Keeping in such manner as to become a nuisance prohibited.
- 10-106. Seizure and disposition of animals.
- 10-107. Inspections of premises.
- 10-108. Keeping of hogs.
- 10-109. Animal adoption.
- **10-101.** Running at large prohibited. It shall be unlawful for any person owning or being in charge of any cows, swine, sheep, horses, mules, goats, or any chickens, ducks, geese, turkeys, or other domestic fowl, cattle, or livestock, knowingly or negligently to permit any of them to run at large in any street, alley, or unenclosed lot within the corporate limits. (1982 Code, § 3-101)
- 10-102. <u>Keeping near a residence or business restricted</u>. No person shall keep any animal or fowl enumerated in the preceding section within one thousand feet (1,000') of any residence, place of business, or public street, without a permit from the health officer. The health officer shall issue a permit only when in his sound judgment the keeping of such an animal in a yard or building under the circumstances as set forth in the application for the permit will not injuriously affect the public health. (1982 Code, § 3-102)
- **10-103.** Pen or enclosure to be kept clean. When animals or fowls are kept within the corporate limits, the building, structure, corral, pen, or enclosure in which they are kept shall at all times be maintained in a clean and sanitary condition. (1982 Code, § 3-104)

- **10-104.** Storage of food. All feed shall be stored and kept in a rat-proof and fly-tight building, box, or receptacle. (1982 Code, § 3-105, modified)
- 10-105. <u>Keeping in such manner as to become a nuisance prohibited</u>. No animal or fowl shall be kept in such a place or condition as to become a nuisance because of either noise, odor, contagious disease, or other reason. (1982 Code, § 3-106)
- 10-106. Seizure and disposition of animals. Any animal or fowl found running at large or otherwise being kept in violation of this chapter may be seized by the health officer or by any police officer and confined in a pound provided or designated by the city council. If the owner is known he shall be given notice in person, by telephone, or by a postcard addressed to his last known mailing address. If the owner is not known or cannot be located, a notice describing the impounded animal or fowl will be posted in at least three (3) public places within the corporate limits. In either case the notice shall state that the impounded animal or fowl must be claimed within five (5) days by paying the pound costs or the same will be humanely destroyed or sold. If not claimed by the owner, the animal or fowl shall be sold or humanely destroyed, or it may otherwise be disposed of as authorized by the city council.

The pound keeper shall collect from each person claiming an impounded animal or fowl reasonable fees, in accordance with a schedule approved by the city council, to cover the costs of impoundment and maintenance. (1982 Code, § 3-108)

- 10-107. <u>Inspections of premises</u>. For the purpose of making inspections to insure compliance with the provisions of this title, the health officer, or his authorized representative, shall be authorized to enter, at any reasonable time, any premises where he has reasonable cause to believe an animal or fowl is being kept in violation of this chapter. (1982 Code, § 3-109)
- **10-108.** <u>Keeping of hogs</u>. It shall be unlawful for anyone to keep hogs within the city limits. (1982 Code, § 3-103)
- **10-109.** <u>Animal adoption</u>. (1) Each person adopting an animal in the city's possession shall sign an agreement to obtain veterinary services in the form attached hereto.<sup>1</sup>
- (2) The agreement shall be secured by a deposit of twenty-five dollars (\$25.00).

<sup>&</sup>lt;sup>1</sup>Animal adoption agreement form is available in the office of the city recorder.

(3) It shall be unlawful to violate such agreements and same may be penalized by a fine of fifty dollars (\$50.00), and/or a petition for injunctive relief. (Ord. #545, April 2001)

## $\mathbf{DOGS}^1$

### **SECTION**

- 10-201. Rabies vaccination and registration required.
- 10-202. Dogs to wear tags.
- 10-203. Running at large prohibited.
- 10-204. Vicious dogs to be securely restrained.
- 10-205. Noisy dogs prohibited.
- 10-206. Confinement of dogs suspected of being rabid.
- 10-207. Seizure and disposition of dogs.
- **10-201.** Rabies vaccination and registration required. It shall be unlawful for any person to own, keep, or harbor any dog without having the same duly vaccinated against rabies and registered in accordance with the provisions of the "Tennessee Anti-Rabies Law" (Tennessee Code Annotated, §§ 68-8-101 through 68-8-114) or other applicable law. (1982 Code, § 3-201)
- 10-202. <u>Dogs to wear tags</u>. It shall be unlawful for any person to own, keep, or harbor any dog which does not wear a tag evidencing the vaccination and registration required by the preceding section. (1982 Code, § 3-202)
- **10-203.** Running at large prohibited. It shall be unlawful for any person knowingly to permit any dog owned by him or under his control to run at large within the corporate limits. (1982 Code, § 3-203)
- **10-204.** <u>Vicious dogs to be securely restrained</u>. It shall be unlawful for any person to own or keep any dog known to be vicious or dangerous unless such dog is so confined and/or otherwise securely restrained as to provide reasonably for the protection of other animals and persons. (1982 Code, § 3-204)
- **10-205.** Noisy dogs prohibited. No person shall own, keep, or harbor any dog which, by loud and frequent barking, whining, or howling, annoys, or disturbs the peace and quiet of any neighborhood. (1982 Code, § 3-205)
- 10-206. <u>Confinement of dogs suspected of being rabid</u>. If any dog has bitten any person or is suspected of having bitten any person or is for any reason suspected of being infected with rabies, the health officer or chief of

Vicious dogs: title 10, chapter 3.

<sup>&</sup>lt;sup>1</sup>Municipal code reference

police may cause such dog to be confined or isolated for such time as he deems reasonably necessary to determine if such dog is rabid. (1982 Code, § 3-206)

10-207. Seizure and disposition of dogs. Any dog found running at large may be seized by the health officer or any police officer and placed in a pound provided or designated by the city council. If said dog is wearing a tag the owner shall be notified in person, by telephone, or by a postcard addressed to his last-known mailing address to appear within five (5) days and redeem his dog by paying a reasonable pound fee, in accordance with a schedule approved by the city council, or the dog will be humanely destroyed or sold. If said dog is not wearing a tag it shall be humanely destroyed or sold unless legally claimed by the owner within two (2) days. No dog shall be released in any event from the pound unless or until such dog has been vaccinated and had a tag evidencing such vaccination placed on its collar.

When, because of its viciousness or apparent infection with rabies, a dog found running at large cannot be safely impounded it may be summarily destroyed by the health officer or any policeman.<sup>1</sup> (1982 Code, § 3-207)

<sup>&</sup>lt;sup>1</sup>State law reference

For a Tennessee Supreme Court case upholding the summary destruction of dogs pursuant to appropriate legislation, see <u>Darnell v. Shapard</u>, 156 Tenn. 544, 3 S.W.2d 661 (1928).

## VICIOUS DOGS

- 10-301. Definitions.
- 10-302. Confinement.
- 10-303. Leash and muzzle.
- 10-304. Signs.
- 10-305. Insurance.
- 10-306. Animal control officer.
- 10-307. Impoundment and destruction.
- 10-308. Notice of impoundment.
- 10-309. Hearing on impoundment/destruction.
- 10-310. Penalties.
- **10-301.** <u>Definitions</u>. (1) "Owner" means any person, firm, corporation, organization or department possessing or harboring or having the care of custody of a dog.
  - (2) "Vicious dog" means:
  - (1) Any dog with a known propensity, tendency or disposition to attack unprovoked, to cause injury to, or otherwise threaten the safety of human beings or domestic animals; or
  - (2) Any dog which because of its size, physical nature, or vicious propensity is capable of inflicting serious physical harm or death to humans and which would constitute a danger to human life or property if it were not kept in the manner required by this chapter; or
  - (3) Any dog which, without provocation, attacks or bites, or has attacked or bitten, a human being or domestic animal; or
  - (4) Any dog owned or harbored primarily or in part for the purpose of fighting, or any dog trained for dog fighting.
- (3) A vicious dog is "unconfined" if the dog is not securely confined indoors or confined in a securely enclosed and locked pen or structure upon the premises of the owner of the dog. The pen or structure must have secure sides and a secure top attached to the sides, which shall be made of eleven (11) gauge wire, or stronger and inspected and approved by the animal control officer or the codes inspector. If the pen or structures has no bottom secured to the sides, the sides must be embedded into the ground no less than one foot (1'). All such pens or structures must be adequately lighted and kept in a clean and sanitary condition. (Ord. #603, April 2006, modified)
- **10-302.** <u>Confinement</u>. The owner of a vicious dog shall not permit the dog to go unconfined. (Ord. #603, April 2006)

- 10-303. <u>Leash and muzzle</u>. The owner of a vicious dog shall not permit the dog to go beyond the premises of the owner unless the dog is securely muzzled and restrained by a chain or leash, and under the physical restraint of a person. The muzzle shall be made in a manner that will not cause injury to the dog or interfere with its vision or respiration, but shall prevent it from biting any human or animal. (Ord. #603, April 2006)
- 10-304. <u>Signs</u>. The owner or other persons in control of the premises upon which a vicious dog is maintained shall post warning signs stating that such a dog is on the premises. At least one (1) such sign shall be posted at each driveway or entranceway to said premises. Such signs shall be in lettering clearly visible from either the curb line or a distance of fifty feet (50'), whichever is lesser, and shall contain a telephone number where some person responsible for controlling such guard dog can be reached twenty-four (24) hours a day. A similar sign is required to be posted on the pen or kennel of the animal. (Ord. #603, April 2006)
- **10-305.** <u>Insurance</u>. Owners of vicious dogs must provide proof to the city recorder of liability insurance in the amount of at least one hundred thousand dollars (\$100,000.00), insuring the owner for any personal injuries inflicted by his or her vicious dog. (Ord. #603, April 2006)
- **10-306.** <u>Animal control officer</u>. The animal control officer of the City of Hohenwald shall have the authority to enforce this chapter without a warrant if he observes a violation occurring in his presence. He shall also have the authority to impound animals as authorized in the municipal code. (Ord. #603, April 2006)
- **10-307.** <u>Impoundment and destruction</u>. The Hohenwald City Judge may order the impoundment and destruction of a dog where:
- (1) The dog has attacked, bitten or injured a human being or domestic animal; or
- (2) The dog is a vicious dog as defined herein and the owner has failed to comply with the requirements and conditions for keeping vicious dog as defined herein; or
- (3) All fines or costs imposed under this chapter have become final orders, and remain unpaid; or
- (4) The dog poses a threat of serious harm to the public health or safety. (Ord. #603, April 2006)
- **10-308.** <u>Notice of impoundment</u>. Within five (5) days after impoundment, the animal control officer shall notify the dog's owner in writing of the impoundment. (Ord. #603, April 2006)

- **10-309.** <u>Hearing on impoundment/destruction</u>. (1) The owner of an impounded dog shall have the right to file, within five (5) days after receiving notice, a written request for a hearing to contest the impoundment.
- (2) The hearing shall be before the Hohenwald City Judge, but shall be informal and strict rules of evidence shall not apply. The owner may be represented by counsel, present oral and written evidence and cross-examine witnesses.
- (3) After considering all of the relevant evidence, the city judge shall issue a decision and may order the destruction of the impounded dog, or may release the dog to its owner conditioned on the owner complying with the requirements set forth in this chapter or with any other requirements necessary to protect the public health or safety.
- (4) If the owner of an impounded dog fails to appear at a hearing, or fails to request a hearing within the allotted time, the dog may be destroyed. (Ord. #603, April 2006)
- **10-310.** <u>Penalties</u>. Whoever violated any provision of this chapter shall be guilty of violating a city ordinance and may be punished by a fine not to exceed fifty dollars (\$50.00) per day for each violation in addition to other penalties that may be imposed by the city judge. (Ord. #603, April 2006)

### TITLE 11

# MUNICIPAL OFFENSES<sup>1</sup>

### **CHAPTER**

- 1. ALCOHOL.
- 2. OFFENSES AGAINST THE PEACE AND QUIET.
- 3. INTERFERENCE WITH PUBLIC OPERATIONS AND PERSONNEL.
- 4. FIREARMS, WEAPONS AND MISSILES.
- 5. TRESPASSING, MALICIOUS MISCHIEF AND INTERFERENCE WITH TRAFFIC.
- 6. MISCELLANEOUS.
- 7. GAMBLING.
- 8. LITTER.

## **CHAPTER 1**

## ALCOHOL<sup>2</sup>

### **SECTION**

- 11-101. Drinking beer, etc., on streets, etc.
- 11-102. Minors in beer places.
- 11-101. <u>Drinking beer, etc., on streets, etc.</u> It shall be unlawful for any person to drink or consume, or have an open can or bottle of beer or intoxicating liquor in or on any public street, alley, avenue, highway, sidewalk, public park, public school ground or other public place unless the place has an appropriate permit and/or license for on premises consumption. (1982 Code, § 10-229)
- 11-102. <u>Minors in beer places</u>. No person under the age of eighteen (18) shall loiter in or around, work in, or otherwise frequent any place where beer is sold at retail for consumption on the premises. (1982 Code, § 10-223)

Animal control: title 10.

Fireworks and explosives: title 7.

Residential and utility codes: title 12.

Streets and sidewalks (non-traffic): title 16.

Traffic offenses: title 15.

<sup>2</sup>Municipal code reference

Sale of alcoholic beverages, including beer: title 8.

<sup>&</sup>lt;sup>1</sup>Municipal code references

# OFFENSES AGAINST THE PEACE AND QUIET

- 11-201. Disturbing the peace.
- 11-202. Anti-noise regulations.
- 11-201. <u>Disturbing the peace</u>. 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. (1982 Code, § 10-202)
- 11-202. <u>Anti-noise regulations</u>. Subject to the provisions of this section, the creating of any unreasonably loud, disturbing, and unnecessary noise is prohibited. Noise of such character, intensity, or duration as to be detrimental to the life or health of any individual, or in disturbance of the public peace and welfare, is prohibited.
- (1) <u>Miscellaneous prohibited noises enumerated</u>. 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, particularly during the hours between 11:00 P.M. and 7:00 A.M., as to annoy or disturb the quiet, comfort, or repose of persons in any office or hospital, or in any dwelling, hotel, or other type of residence, or of any person in the vicinity.
  - (c) Yelling, shouting, etc. Yelling, shouting, whistling, or singing on the public streets, particularly between the hours of 11:00 P.M. and 7:00 A.M., or at any time or place so as to annoy or disturb the

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

- (d) Pets. The keeping of any animal, bird, or fowl which by causing frequent or long continued noise shall disturb the comfort or repose of any person in the vicinity.
- (e) Use of vehicle. The use of any automobile, motorcycle, truck, or vehicle so out of repair, so loaded, or in such manner as to cause loud and unnecessary grating, grinding, rattling, or other noise.
- (f) Blowing whistles. The blowing of any steam whistle attached to any stationary boiler, except to give notice of the time to begin or stop work or as a warning of fire or danger, or upon request of proper city 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.
- Building operations. The erection (including excavation), demolition, alteration, or repair of any building in any residential area or section or the construction or repair of streets and highways in any residential area or section, other than between the hours of 7:00 A.M. and 6:00 P.M. on week days, except in case of urgent necessity in the interest of public health and safety, and then only with a permit from the building inspector granted for a period while the emergency continues not to exceed thirty (30) days. If the building inspector should determine that the public health and safety will not be impaired by the erection, demolition, alteration, or repair of any building or the excavation of streets and highways between the hours of 6:00 P.M. and 7:00 A.M., and if he shall further determine that loss or inconvenience would result to any party in interest through delay, he may grant permission for such work to be done between the hours of 6:00 P.M. and 7:00 A.M. upon application being made at the time the permit for the work is awarded or during the process of the work.
- (i) Noises near schools, hospitals, churches, etc. The creation of any excessive noise on any street adjacent to any hospital or adjacent to any school, institution of learning, church, or court while the same is in session.
- (j) Loading and unloading operations. The creation of any loud and excessive noise in connection with the loading or unloading of any vehicle or the opening and destruction of bales, boxes, crates, and other containers.
- (k) Noises to attract attention. The use of any drum, loudspeaker, or other instrument or device emitting noise for the purpose of attracting attention to any performance, show, or sale or display of merchandise.

- (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) <u>Exceptions</u>. None of the terms or prohibitions hereof shall apply to or be enforced against:
  - (a) City vehicles. Any vehicle of the city while engaged upon necessary public business.
  - (b) Repair of streets, etc. Excavations or repairs of bridges, streets, or highways at night, by or on behalf of the city, the county, or the state, when the public welfare and convenience renders it impracticable to perform such work during the day.
  - (c) Noncommercial and nonprofit use of loudspeakers or amplifiers. The reasonable use of amplifiers or loudspeakers in the course of public addresses which are noncommercial in character and in the course of advertising functions sponsored by nonprofit organizations. However, no such use shall be made until a permit therefor is secured from the recorder. Hours for the use of an amplifier or public address system will be designated in the permit so issued and the use of such systems shall be restricted to the hours so designated in the permit. (1982 Code, § 10-233)

## INTERFERENCE WITH PUBLIC OPERATIONS AND PERSONNEL

- 11-301. Impersonating a government officer or employee.
- 11-302. False emergency alarms.
- 11-301. <u>Impersonating a government officer or employee</u>. No person other than an official police officer of the city shall wear the uniform, apparel, or badge, or carry any identification card or other insignia of office like or similar to, or a colorable imitation of that adopted and worn or carried by the official police officers of the city. Furthermore, no person shall deceitfully impersonate or represent that he is any government officer or employee. (1982 Code, § 10-211)
- **11-302.** <u>False emergency alarms</u>. It shall be unlawful for any person intentionally to make, turn in, or give a false alarm of fire, or of need for police or ambulance assistance, or to aid or abet in the commission of such act. (1982 Code, § 10-218)

# FIREARMS, WEAPONS AND MISSILES

- 11-401. Air rifles, etc.
- 11-402. Weapons and firearms generally.
- 11-401. <u>Air rifles, etc</u>. It shall be unlawful for any person in the city to discharge any air gun, air pistol, air rifle, "BB" gun, or sling shot capable of discharging a metal bullet or pellet, whether propelled by spring, compressed air, expanding gas, explosive, or other force-producing means or method. (1982 Code, § 10-213)
- 11-402. Weapons and firearms generally. It shall be unlawful for any unauthorized person to discharge a firearm within the municipality. (1982 Code, § 10-212, modified)

# TRESPASSING, MALICIOUS MISCHIEF AND INTERFERENCE WITH TRAFFIC

### **SECTION**

- 11-501. Trespassing.
- 11-502. Trespassing on trains.
- 11-503. Interference with traffic.
- 11-501. <u>Trespassing</u>. The owner or person in charge of any lot or parcel of land or any building or other structure within the corporate limits may post the same against trespassers. It shall be unlawful for any person to go upon any such posted lot or parcel of land or into any such posted building or other structure without the consent of the owner or person in charge.

It shall be unlawful and deemed to be a trespass for any peddler, canvasser, solicitor, transient merchant, or other person to fail to leave promptly the private premises of any person who requests or directs him to leave. (1982 Code, § 10-226)

- 11-502. <u>Trespassing on trains</u>. It shall be unlawful for any person to climb, jump, step, stand upon, or cling to, or in any other way attach himself to any locomotive engine or railroad car unless he works for the railroad corporation and is acting in the scope of his employment or unless he is a lawful passenger or is otherwise lawfully entitled to be on such vehicle. (1982 Code, § 10-222)
- 11-503. <u>Interference with traffic</u>. It shall be unlawful for any person to stand, sit, or engage in any activity whatever on any public street, sidewalk, bridge, or public ground in such a manner as to prevent, obstruct, or interfere unreasonably with the free passage of pedestrian or vehicular traffic thereon. (1982 Code, § 10-232)

## **MISCELLANEOUS**

- 11-601. Caves, wells, cisterns, etc.
- 11-602. Posting notices, etc.
- 11-603. Curfew for minors.
- 11-604. Wearing masks.
- **11-601.** 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. (1982 Code, § 10-231)
- 11-602. <u>Posting notices, etc.</u> No person shall fasten, in any way, any show-card, poster, or other advertising device upon any public or private property unless legally authorized to do so. (1982 Code, § 10-227)
- 11-603. <u>Curfew for minors</u>. (1) <u>In general</u>. It shall be unlawful for any minor to remain, idle, wander, stroll, or play in any public place on foot or to cruise about without a set destination in any vehicle in, about, or upon any place in the city between the hours of 11:00 P.M. and 6:00 A.M., Sunday through Thursday and between the hours of 12:00 P.M. and 6:00 A.M. Friday through Saturday unless accompanied by a parent, guardian, custodian, or other adult person having custody or control of such minor or unless the minor is on an emergency errand or specific business or activity directed or permitted by his parent, guardian, or other adult having the care and custody connected with or required by some legitimate employment, trade, profession, or occupation.
- (2) <u>Responsibility of owners of public places</u>. It shall be unlawful for any person, firm, or corporation operating or having charge of any public place knowingly to permit or suffer the presence of minors under the age of eighteen (18) between the hours of 12:00 P.M. and 6:00 A.M.
- (3) Parents' responsibility. It shall be unlawful for the parent, guardian, or other adult person having custody or control of any minor under the age of eighteen (18) to suffer or permit or by inefficient control to allow such person to be on the streets or sidewalks or on or in any public property or public place within the city between the hours of 12:00 P.M. and 6:00 A.M. However, the provisions of this section do not apply to a minor accompanied by his parent, guardian, custodian, or other adult person having the care, custody, or control of the minor, or if the minor is on an emergency errand or specific business or activity directed by his parent, guardian, custodian, or other adult person herein has made a missing person notification to the police department.

- (4) Special functions. Any minor attending a special function or entertainment of any church, school, club, or other organization that requires such minor to be out at a later hour than that called for in subsection (1) shall be exempt from the provisions provided the church, school, club, or other organization registers in advance with the chief of police or his agent to have the minors stay out to this later hour. The registrant shall state the time the function or entertainment shall end, and the minors who attend the function shall be required to be in their homes or usual places of abode within one-half (1/2) hour after the function is ended.
  - (5) Procedures. (1) Any police officer upon finding a minor in violation of subsection (1) shall ascertain the name and address of such minor and warn the minor that he is in violation of curfew and shall direct the minor to proceed at once to his or her home or usual place of abode. The police officer shall report such action to the chief of the police department who in turn shall notify the parents, guardian, or person having custody or control of such minor.
  - (2) If such minor refuses to heed such warning or direction by any police officer or refuses to give such police officer his correct name and address, or if the minor has been warned on a previous occasion that he or she is in violation of curfew, he or she shall be taken to the police department and the parent, guardian, or other adult person having the care and custody of such minor shall be notified to come and take charge of the minor. If the parent, guardian, or other adult person above cannot be located or fails to come and take charge of the minor, the minor shall be released to the juvenile authorities. (1982 Code, § 10-215)
- 11-604. <u>Wearing masks</u>. It shall be unlawful for any person to appear on or in any public way or place while wearing any mask, device, or hood whereby any portion of the face is so hidden or covered as to conceal the identity of the wearer. The following are exempted from the provisions of this section:
  - (1) Children under the age of ten (10) years.
- (2) Workers while engaged in work wherein a face covering is necessary for health and/or safety reasons.
- (3) Persons wearing gas masks in civil defense drills and exercises or emergencies.
- (4) Any person having a special permit issued by the city recorder to wear a traditional holiday costume. (1982 Code, § 10-235)

# **GAMBLING**

- 11-701. Gambling.
- 11-702. Promotion of gambling.
- **11-701.** <u>Gambling</u>. It shall be unlawful for any person to play at any game of hazard or chance for money or other valuable thing or to make or accept any bet or wager for money or other valuable thing. (1982 Code, § 10-216)
- 11-702. <u>Promotion of gambling</u>. It shall be unlawful for any person to encourage, promote, aid, or assist the playing at any game, or the making of any bet or wager, for money or other valuable thing, or to possess, keep, or exhibit for the purpose of gambling, any gaming table, device, ticket, or any other gambling paraphernalia. (1982 Code, § 10-217)

# **LITTER**

- 11-801. Title.
- 11-802. Definitions.
- 11-803. Throwing of litter.
- 11-804. Sweeping litter into gutters, etc., prohibited.
- 11-805. Litter thrown by persons in vehicles.
- 11-806. Owner, etc., to maintain premises free of litter.
- 11-807. Removal of out-of-date placards.
- 11-808. Violation notices.
- 11-809. Violations.
- 11-801. <u>Title</u>. This chapter shall be known and may be cited as the "Anti-litter Ordinance." (1982 Code, § 8-501)
- **11-802. Definitions**. For the purposes of this chapter, the following words, terms, and phrases shall have the following meanings:
- (1) "Litter" is paper, wrappings, garbage, food, junk, cardboard, bottles, tin cans, glass, and other refuse materials, and out-of-date posters, placards, and advertisements.
- (2) "Person" is any person, firm, partnership, association, company, or organization of any kind. (1982 Code, § 8-502)
- **11-803.** <u>Throwing of litter</u>. No person shall throw or deposit litter in or upon any street, sidewalk, or other public place within the city except in public trash receptacles, and no person shall throw or deposit litter upon private property. (1982 Code, § 8-503)
- 11-804. Sweeping litter into gutters, etc., prohibited. No person shall sweep into or deposit in any gutter, street, or other public place within the city the accumulation of litter from any building or lot or from any public or private sidewalk or driveway. Persons owning or occupying business property shall keep the public sidewalk in front of their premises free of litter. (1982 Code, § 8-504)
- 11-805. <u>Litter thrown by persons in vehicles</u>. No person while a driver or a passenger in a vehicle, shall throw or deposit litter upon any street or other public place within the city, or upon private property. (1982 Code, § 8-505)

- 11-806. Owner, etc., to maintain premises free of litter. The owner or person in control of any private property shall at all times maintain the premises free of litter. Provided, however, that this section shall not prohibit the storage of litter in authorized private receptacles for collection. (1982 Code, § 8-506)
- 11-807. <u>Removal of out-of-date placards</u>. The owner or person in control of business property shall at all times keep all store windows and display space free of advertisements, posters, and placards advertising events that have previously taken place. (1982 Code, § 8-507)
- 11-808. <u>Violation notices</u>. The chief of police or his authorized agent is hereby authorized and empowered to notify the owner or person in control of property, or the agent of such owner or person in control, of any violation of the provisions of this chapter. Such notice shall be mailed to such person's last known address. Provided, however, that failure to send any such notice shall not prevent the invoking of the penalty provisions of this chapter. (1982 Code, § 8-508)
- 11-809. <u>Violations</u>. Any person violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in accordance with the general penalty clause of this code of ordinances. (1982 Code, § 8-509)

### **TITLE 12**

## **BUILDING, UTILITY, ETC. CODES**

### **CHAPTER**

- 1. IN GENERAL.
- 2. BUILDING CODE.
- 3. RESIDENTIAL CODE.
- 4. PLUMBING CODE.
- 5. FUEL GAS CODE.
- 6. MECHANICAL CODE.
- 7. ENERGY CONSERVATION CODE.
- 8. EXISTING BUILDING CODE.
- 9. PROPERTY MAINTENANCE CODE.

### CHAPTER 1

## IN GENERAL

- 12-101. Duration of building permits.
- 12-102. Board of appeals.
- 12-101. <u>Duration of building permits</u>. (1) A building permit issued by the city shall become invalid unless the work authorized by such permit is commenced within six (6) months after its issuance, or if the work authorized by such permit is suspended or abandoned for a period of six (6) months after the time the work commenced. One (1) or more extensions of time, for periods of not more than ninety (90) days each, may be allowed for the permit. The extension shall be requested in writing and justifiable cause demonstrated. Any extension shall be in writing and signed by the city manager or such person designated.
- (2) It shall be unlawful for any person to permit an unfinished structure to remain on property owned, leased, rented, controlled, or occupied by that person. An "unfinished structure" shall mean any building or other structure or part thereof which is partially completed and which is not presently being constructed under an existing and valid building permit issued by the town.
- (3) Once a building permit has been issued, it shall be unlawful for any person to store, accumulate, or to permit the storage or accumulation of, any building materials on property owned, leased, rented, controlled, or occupied by that person for any period longer than reasonably necessary for the immediate use of such materials on such premises under the building permit. "Building materials" shall mean any lumber, bricks, concrete, cinder blocks, plumbing

materials, electrical wiring or equipment, heating or cooling ducts or equipment, shingles, mortar, cement, nails, screws, or other material commonly used in the construction or repair of buildings or structures.

**12-102.** <u>Board of appeals</u>. Whenever any code adopted in title 7, chapter 2 or in title 12, chapters 2 - 9 provides for a board of appeals or similar body, the jurisdiction and authority conferred upon such board or body by that code shall be exercised by the city council notwithstanding anything to the contrary in such code. Any provision in a code which is in conflict with this section, or which conflicts with the creation, qualifications, membership, or procedures of the board of building appeals, is hereby repealed.

## **BUILDING CODE**

- 12-201. Building code adopted.
- 12-202. Modifications.
- 12-203. Available in recorder's office.
- 12-204. Amendments.
- 12-205. Violations.
- 12-201. <u>Building code adopted</u>. Pursuant to authority granted by <u>Tennessee Code Annotated</u>, §§ 6-54-501 to 6-54-506, and for the purpose of regulating the construction, alteration, repair, use, and occupancy, location, maintenance, removal and demolition of every building or structure or any appurtenance connected or attached to any building or structure, the <u>International Building Code</u>, 2012 edition, and Appendices C, E, F, G, H, I, J, and K thereto, as prepared and published by the International Code Council, is hereby adopted and incorporated by reference as a part of this code, and is hereinafter referred to as the building code.
- **12-202.** <u>Modifications.</u> (1) <u>Definitions.</u> Whenever the building code refers to the "chief appointing authority" it shall be deemed a reference to the mayor, with confirmation by the city council. Whenever the code refers to the "building official," it shall be deemed a reference to such person as the mayor shall have appointed or designated to administer and enforce the provisions of the building code.
- (2) <u>Modifications and insertions</u>. The following modifications and insertions are made to the building code:
  - 101.1 Title Insert "City of Hohenwald Tennessee"
  - 103 Department of Building Safety Delete
  - 105.2 Work exempt from permit Delete all items under the heading "building", except for items numbered 2, 7, 9, 10, 11, and 13, which remain
  - 105.5 Expiration Delete
  - 107.2.5 Site plan Insert the following sentence in between the first and second sentence: "The building official may require a boundary line survey prepared by a licensed land surveyor. Such boundary line survey may be required after the footers or foundation is in place, in which case it shall show the location of the footers or foundation in relation to required setback requirements."
  - H102.1 General Delete the definition for "roof sign."

- H105.2 Permits, drawings and specifications In the first sentence, delete the word "shall" and replace with "may."
- H110 Roof signs Delete
- H114.1 General In the first sentence delete the word "roof."
- **12-203.** Available in recorder's office. Pursuant to the requirements of <u>Tennessee Code Annotated</u>, § 6-54-502, one (1) copy of the building code has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public.
- **12-204.** Amendments. In accordance with <u>Tennessee Code Annotated</u>, § 6-54-502(c), the mayor, as the municipal code administrative official, shall adopt administrative regulations to incorporate subsequent changes and amendments to the building code as prepared and published from time to time by the International Code Council. These amendments shall be identified by the mayor as to date and source and shall take effect as provided in <u>Tennessee Code Annotated</u>, § 6-54-502(d), unless disapproved by resolution of the city council.
- **12-205.** <u>Violations</u>. It shall be unlawful for any person to violate or fail to comply with any provision of the building code as herein adopted by reference and modified.

## RESIDENTIAL CODE

- 12-301. Residential code for one- and two-family dwellings adopted
- 12-302. Modifications.
- 12-303. Available in recorder's office.
- 12-304. Amendments.
- 12-305. Violations.
- 12-301. Residential code for one- and two-family dwellings adopted. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 to 6-54-506, the International Residential Code for One- and Two-Family Dwellings, 2012 edition, and Appendices A, B, C, E, F, G, H, I, J, K, M, N, O, P, and Q thereto, as prepared and published by the International Code Council, is hereby adopted and incorporated by reference as a part of this Code, and is hereinafter referred to as the residential code.
- **12-302.** <u>Modifications.</u> (1) <u>Definitions.</u> Whenever the residential code refers to the "chief appointing authority" it shall be deemed a reference to the mayor, with confirmation of the city council. Whenever the code refers to the "building official," it shall be deemed a reference to such person as the mayor shall have appointed or designated to administer and enforce the provisions of the residential code.
- (2) <u>Modifications and insertions</u>. The following modifications and insertions are made to the residential code:
  - R103 Department of Building Safety Delete
  - R105.2 Work exempt from permit Delete all items under the heading "building", except for items numbered 2, 6, 7, 8, and 9, which shall remain in their entirety
  - R105.5 Expiration Delete
  - R106.2 Site plan or plot plan Insert the following sentence in between the first and second sentence: "The building official may require a boundary line survey prepared by a licensed land surveyor. Such boundary line survey may be required after the footers or foundation is in place, in which case it shall show the location of the footers or foundation in relation to required setback requirements."
  - R301.2(1) Climatic and geographic design criteria Insert:
    - "10 PFS" for ground snow load
    - "90" for wind speed
    - "C" for seismic design category
    - "Severe" for the frost line depth

"Moderate to heavy" for termites

"17 degrees" Fahrenheit for winter design temperature

"No" for ice barrier underlayment

"1500 or less" for air freezing index

"57.6 degrees Fahrenheit" for mean annual temperature

R302.5.1 Opening protection - Put a period, ".", after the word "doors" and delete the remainder of the sentence

R311.7.9 Illumination - Revise the section reference to "R303.7"

R313 Automatic fire sprinkler systems - Deleted

P2603.5.1 Sewer depth - Insert "twelve" in both places before "inches." Delete "(mm)" in both places.

P2904 Dwelling unit fire sprinkler systems - Delete

- **12-303.** Available in recorder's office. Pursuant to the requirements of <u>Tennessee Code Annotated</u>, § 6-54-502, one (1) copy of the residential code has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public.
- 12-304. Amendments. In accordance with Tennessee Code Annotated, § 6-54-502(c), the mayor, as the municipal code administrative official, shall adopt administrative regulations to incorporate subsequent changes and amendments to the residential code as prepared and published from time to time by the International Code Council. These amendments shall be identified by the mayor as to date and source and shall take effect as provided in Tennessee Code Annotated, § 6-54-502(d), unless disapproved by resolution of the city council.
- **12-305.** <u>Violations</u>. It shall be unlawful for any person to violate or fail to comply with any provision of the residential code as herein adopted by reference and modified.

## PLUMBING CODE

- 12-401. Plumbing code adopted.
- 12-402. Modification.
- 12-403. Available in recorder's office.
- 12-404. Amendments.
- 12-405. Violations.
- 12-401. Plumbing code adopted. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 to 6-54-506 and for the purpose of regulating plumbing installations, including alterations, repairs, equipment, appliances, fixtures, fittings, and the appurtenances thereto, within or without the city, when such plumbing is or is to be connected with the city water or sewerage system, the <u>International Plumbing Code</u>, 2012 edition, and Appendices B, C, D, E, and F thereto, as prepared and published by the International Code Council, is hereby adopted and incorporated by reference as a part of this code and is hereinafter referred to as the plumbing code.
- **12-402.** <u>Modification</u>. (1) <u>Definitions</u>. Whenever the plumbing code refers to the "chief appointing authority" it shall be deemed a reference to the mayor, with confirmation of the city council. Whenever the code refers to the "plumbing official," it shall be deemed a reference to the mayor or such person designated by the mayor to administer and enforce the provisions of the plumbing code.
- (2) <u>Modifications and insertions.</u> The following modifications and insertions are made to the plumbing code:
  - 101.1 Title Insert "City of Hohenwald Tennessee"
  - 103 Department of Plumbing Inspection Delete subsections 103.1, 103.2, and 103.3
  - 106.5.3 Expiration Delete
  - 106.6.2 Fee schedule Amend to read as follows: "A permit shall not be issued until the fees as established by the city council is paid"
  - 106.6.3 Fee refunds Delete
  - 108.4 Violation penalties Delete
  - 305.4.1 Sewer depth Insert "twelve" in both places for the number of inches and delete all references to "(mm)"
  - 903.1 Roof extension Insert "twelve" in front of inches, and delete the first reference to "(mm)"

- **12-403.** Available in recorder's office. Pursuant to the requirements of <u>Tennessee Code Annotated</u>, § 6-54-502, one (1) copy of the plumbing code has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public.
- **12-404.** Amendments. In accordance with Tennessee Code Annotated, § 6-54-502(c), the mayor, as the municipal code administrative official, shall adopt administrative regulations to incorporate subsequent changes and amendments to the plumbing code as prepared and published from time to time by the International Code Council. These amendments shall be identified by the mayor as to date and source and shall take effect as provided in Tennessee Code Annotated, § 6-54-502(d), unless disapproved by resolution of the city council.
- **12-405.** <u>Violations</u>. It shall be unlawful for any person to violate or fail to comply with any provision of the plumbing code as herein adopted by reference and modified.

## **FUEL GAS CODE**

- 12-501. Adopted.
- 12-502. Modifications.
- 12-503. Available in recorder's office.
- 12-504. Amendments.
- 12-505. Violations.
- **12-501.** <u>Fuel gas code adopted.</u> Pursuant to authority granted by <u>Tennessee Code Annotated</u>, §§ 6-54-501 to 6-54-506 and for the purpose of regulating gas installations, including alterations, repairs, equipment, appliances, fixtures, fittings, and the appurtenances thereto within the city, the <u>International Fuel Gas Code</u>, 2012 edition, and Appendices A, B, C, and D thereto, as prepared and published by the International Code Council, is hereby adopted and incorporated by reference as a part of this code and is hereinafter referred to as the gas code.
- **12-502.** <u>Modifications.</u> (1) <u>Definitions.</u> Whenever the fuel gas code refers to the "chief appointing authority" it shall be deemed a reference to the mayor, with confirmation of the city council. Whenever the code refers to the "building official," it shall be deemed a reference to the mayor or such person designated by the mayor to administer and enforce the provisions of the gas code.
- (2) <u>Modifications and insertions</u>. The following modifications and insertions are made to the fuel gas code:
  - 101.1 Title Insert "City of Hohenwald Tennessee"
- **12-503.** Available in recorder's office. Pursuant to the requirements of <u>Tennessee Code Annotated</u>, § 6-54-502, one (1) copy of the fuel gas code has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public.
- **12-504.** Amendments. In accordance with <u>Tennessee Code Annotated</u>, § 6-54-502(c), the mayor, as the municipal code administrative official, shall adopt administrative regulations to incorporate subsequent changes and amendments to the fuel gas code as prepared and published from time to time by the International Code Council. These amendments shall be identified by the mayor as to date and source and shall take effect as provided in <u>Tennessee Code</u> Annotated, § 6-54-502(d), unless disapproved by resolution of the city council.

**12-505.** <u>Violations</u>. It shall be unlawful for any person to violate or fail to comply with any provision of the fuel gas code as herein adopted by reference and modified.

## MECHANICAL CODE

## **SECTION**

- 12-601. Mechanical code adopted.
- 12-602. Modifications.
- 12-603. Available in recorder's office.
- 12-604. Amendments.
- 12-605. Violations.
- 12-601. Mechanical code adopted. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 to 6-54-506, the International Mechanical Code, 2012 edition, and Appendix A thereto, as prepared and published by the International Code Council, is hereby adopted and incorporated by reference as a part of this code, and is hereinafter referred to as the mechanical code.
- 12-602. <u>Modifications</u>. (1) <u>Definitions</u>. Whenever the mechanical code refers to the "chief appointing authority" it shall be deemed a reference to the mayor, with confirmation of the city council. Whenever the code refers to the "building official," it shall be deemed a reference to the mayor or such person designated by the mayor to administer and enforce the provisions of the mechanical code.
- (2) <u>Modifications and insertions</u>. The following modifications and insertions are made to the mechanical code:
  - 101.1 Title Insert "City of Hohenwald Tennessee"
- **12-603.** Available in recorder's office. Pursuant to the requirements of <u>Tennessee Code Annotated</u>, § 6-54-502, one (1) copy of the mechanical code has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public.
- **12-604.** Amendments. In accordance with Tennessee Code Annotated, § 6-54-502(c), the mayor, as the municipal code administrative official, shall adopt administrative regulations to incorporate subsequent changes and amendments to the mechanical code as prepared and published from time to time by the International Code Council. These amendments shall be identified by the mayor as to date and source and shall take effect as provided in Tennessee Code Annotated, § 6-54-502(d), unless disapproved by resolution of the city council.

12-605. <u>Violations</u>. It shall be unlawful for any person to violate or fail to comply with any provision of the mechanical code as herein adopted by reference and modified.

## **ENERGY CONSERVATION CODE**

## **SECTION**

- 12-701. Energy code adopted.
- 12-702. Modifications.
- 12-703. Available in recorder's office.
- 12-704. Amendments.
- 12-705. Violations.
- **12-701.** Energy code adopted. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 to 6-54-506, and in accordance with Tennessee Code Annotated, § 13-19-101, the International Energy Conservation Code, 2012 edition, as prepared and published by the International Code Council, is hereby adopted and incorporated by reference as a part of this code, and is hereinafter referred to as the energy conservation code.
- **12-702.** <u>Modifications.</u> (1) <u>Definitions.</u> Whenever the energy code refers to the "chief appointing authority" it shall be deemed a reference to the mayor, with confirmation of the city council. Whenever the code refers to the "code official," it shall be deemed a reference to the mayor or such person designated by the mayor to administer and enforce the provisions of the energy conservation code.
- (2) <u>Modifications and insertions</u>. The following modifications and insertions are made to the energy code:
  - C101.1 Title Insert "City of Hohenwald Tennessee"
- **12-703.** Available in recorder's office. Pursuant to the requirements of <u>Tennessee Code Annotated</u>, § 6-54-502, one (1) copy of the energy conservation code has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public.
- 12-704. <u>Amendments</u>. In accordance with <u>Tennessee Code Annotated</u>, § 6-54-502(c), the mayor, as the municipal code administrative official, shall adopt administrative regulations to incorporate subsequent changes and amendments to the energy conservation code as prepared and published from time to time by the International Code Council. These amendments shall be identified by the mayor as to date and source and shall take effect as provided in <u>Tennessee Code Annotated</u>, § 6-54-502(d), unless disapproved by resolution of the city council.

**12-705.** <u>Violations</u>. It shall be unlawful for any person to violate or fail to comply with any provision of the energy conservation code as herein adopted by reference and modified.

## EXISTING BUILDING CODE

## **SECTION**

- 12-801. Existing building code adopted.
- 12-802. Modifications.
- 12-803. Available in recorder's office.
- 12-804. Amendments.
- 12-805. Violations.
- 12-801. Existing building code adopted. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 to 6-54-506 and for the purpose of regulating the alteration, repair, removal, demolition, use, and occupancy of existing buildings and structures, the International Existing Building Code, 2012 edition, and Appendices A, B, and C thereto with Resource A, as prepared and published by the International Code Council, is hereby adopted and incorporated by reference as a part of this code and is hereinafter referred to as the existing building code.
- 12-802. <u>Modifications</u>. (1) <u>Definitions</u>. Whenever the existing building code refers to the "chief appointing authority" it shall be deemed a reference to the mayor, with confirmation of city council. Whenever the code refers to the "code official," it shall be deemed a reference to the mayor or such person designated by the mayor to administer and enforce the provisions of the existing building code.
- (2) <u>Modifications and insertions</u>. The following modifications and insertions are made to the existing building code:
  - 101.1 Title Insert "City of Hohenwald Tennessee"
- **12-803.** Available in recorder's office. Pursuant to the requirements of <u>Tennessee Code Annotated</u>, § 6-54-502, one (1) copy of the existing building code has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public.
- 12-804. Amendments. In accordance with Tennessee Code Annotated, § 6-54-502(c), the mayor, as the municipal code administrative official, shall adopt administrative regulations to incorporate subsequent changes and amendments to the existing building code as prepared and published from time to time by the International Code Council. These amendments shall be identified by the mayor as to date and source and shall take effect as provided in Tennessee Code Annotated, § 6-54-502(d), unless disapproved by resolution of the city council.

**12-805.** <u>Violations</u>. It shall be unlawful for any person to violate or fail to comply with any provision of the existing building code as herein adopted by reference and modified.

## PROPERTY MAINTENANCE CODE

#### **SECTION**

- 12-901. Property maintenance code adopted.
- 12-902. Modifications.
- 12-903. Available in recorder's office.
- 12-904. Amendments.
- 12-905. Violations.
- 12-901. <u>Property maintenance code adopted</u>. Pursuant to authority granted by <u>Tennessee Code Annotated</u>, §§ 6-54-501 to 6-54-506 and for the purpose of securing the public safety, health, and general welfare through structural strength, stability, sanitation, adequate light and ventilation in dwellings, apartment houses, rooming houses, and buildings, structures, or premises used as such, the <u>International Property Maintenance Code</u>, 2012 edition, and Appendix A thereto, as prepared and published by the International Code Council, is hereby adopted and incorporated by reference as a part of this Code and is hereinafter referred to as the property maintenance code.
- **12-902.** <u>Modifications.</u> (1) <u>Definitions.</u> Whenever the property maintenance code refers to the "chief appointing authority" it shall be deemed a reference to the mayor, with confirmation of the city council. Whenever the property maintenance code refers to the "code official," it shall be deemed a reference to such person as the mayor shall have appointed or designated to administer and enforce the provisions of the property maintenance code.
- (2) <u>Modifications and insertions</u>. The following modifications and insertions are made to the property maintenance code:
  - 101.1 Title Insert "City of Hohenwald Tennessee"
  - 103.5 Fees Delete
  - 112.4 Failure to comply Delete
  - 302.4 Weeds Insert "twelve (12) inches"
  - 304.14 Insect screens Insert "April to October"
  - 602.3 Heat supply Insert "November 1 to March 31"
- **12-903.** <u>Available in recorder's office</u>. Pursuant to the requirements of <u>Tennessee Code Annotated</u>, § 6-54-502, one (1) copy of the property maintenance code has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public.
- **12-904.** Amendments. In accordance with Tennessee Code Annotated, § 6-54-502(c), the mayor, as the municipal code administrative official, shall

adopt administrative regulations to incorporate subsequent changes and amendments to the property maintenance code as prepared and published from time to time by the International Code Council. These amendments shall be identified by the mayor as to date and source and shall take effect as provided in <u>Tennessee Code Annotated</u>, § 6-54-502(d), unless disapproved by resolution of the city council.

**12-905.** <u>Violations</u>. It shall be unlawful for any person to violate or fail to comply with any provision of the property maintenance code as herein adopted by reference and modified.

## **TITLE 13**

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

## **CHAPTER**

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

## CHAPTER 1

# **MISCELLANEOUS**

## **SECTION**

- 13-101. Health officer.
- 13-102. Smoke, soot, cinders, etc.
- 13-103. Stagnant water.
- 13-104. Weeds and other vegetation.
- 13-105. Dead animals.
- 13-106. Health and sanitation nuisances.
- 13-107. Overgrown and dirty lots.
- **13-101.** <u>Health officer</u>. The "health officer" shall be such municipal, county, or state officer as the mayor, with approval of the city council, shall appoint or designate to administer and enforce health and sanitation regulations within the municipality. (1982 Code, § 8-101)
- 13-102. Smoke, soot, cinders, etc. It shall be unlawful for any person to permit or cause the escape of such quantities of dense smoke, soot, cinders, noxious acids, fumes, dust, or gases as to be detrimental to or to endanger the health, comfort, and safety of the public or so as to cause or have a tendency to cause injury or damage to property or business. (1982 Code, § 8-104)
- **13-103.** <u>Stagnant water</u>. 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. (1982 Code, § 8-105)

<sup>1</sup>Municipal code references Animal control: title 10.

Littering streets, etc.: § 16-107.

- 13-104. Weeds and other vegetation. (1) It shall be unlawful for any person owning, leasing, occupying, or having control of property in the city, regardless of whether the property is a vacant lot or contains any form of structure, to permit the growth upon the property of weeds, grass, brush, and all other rank or noxious vegetation to a height greater than twelve inches (12") on average when such growth is within two hundred feet (200') of occupied residential or commercial property, or is within twenty feet (20') of any street, thoroughfare, or highway within the city. Excluded from these provisions are tracts of land of five (5) acres or larger in unplatted, undeveloped areas (i.e., not in a subdivision approved by the city planning commission) or tracts that are being used for current agricultural purposes. Also excluded are natural wooded areas containing trees. As to naturally wooded areas, the requirement of this section shall extend only to the line of woods or trees adjoining occupied residential or commercial property, or adjoining streets, thoroughfares, or highways within the city.
- (1) An unlawful condition shall be abated within three (3) days of notice when served in person or within seven (7) days of notice when served by U.S. Postal Service, first class or certified mail. (1982 Code, § 8-106, modified)
- 13-105. <u>Dead animals</u>. Any person owning or having possession of any dead animal not intended for use as food shall promptly bury the same or notify the health officer and dispose of such animal in such manner as the health officer shall direct. (1982 Code, § 8-107)
- 13-106. <u>Health and sanitation nuisances</u>. 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.

It shall be unlawful for any person to fail to comply with any resolution directing the remedying of any unhealthy, unsanitary, unsafe, dangerous, hazardous, noisy, obnoxious, or offensive, condition.

Upon the failure of any person to comply within the time specified in the resolution directing the remedying of any unhealthy, unsanitary, unsafe, dangerous, hazardous, noisy, obnoxious, or offensive condition or situation, the city council may itself abate such nuisance at the expense of such person without further notice, sums so expended to be recovered by suit if necessary. (1982 Code, § 8-108)

13-107. Overgrown and dirty lots. (1) Prohibition. Pursuant to the authority granted 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) <u>Designation of public officer or department</u>. The mayor or his designated representative is responsible for the enforcement of this section.
- (3) Notice to property owner. It shall be the duty of the mayor 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, or hand delivered with the deliverer obtaining the owner's signature confirming receipt of the notice. 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 this section, which has been enacted under the authority of <u>Tennessee Code Annotated</u>, § 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 mayor shall 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, 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) <u>Clean-up of owner-occupied property</u>. 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 mayor shall cause the condition to be remedied 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 shall 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 mayor may appeal the determination and order to the mayor or person designated by the mayor to hear the appeal. The appeal shall be filed 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) <u>Judicial review</u>. Any person aggrieved by an order or act 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) <u>Supplemental nature of this section</u>. The provisions of this section are in addition and supplemental to, and not in substitution for, any other provision in the city charter, city code, 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.

# **JUNKYARDS**

# **SECTION**

13-201. Junkyards.

- **13-201. Junkyards**. All junkyards within the corporate limits shall be operated and maintained subject to the following regulations:
- (1) All junk stored or kept in such yards shall be so kept that it will not catch and hold water in which mosquitoes may breed and so that it will not constitute a place, or places in which rats, mice, or other vermin may be harbored, reared, or propagated.
- (2) All such junkyards shall be enclosed within close fitting plank or metal solid fences touching the ground on the bottom and being not less than six feet (6') in height, such fence to be built so that it will be impossible for stray cats and/or stray dogs to have access to such junkyards.
- (3) Such yards shall be so maintained as to be in a sanitary condition and so as not to be a menace to the public health or safety. (1982 Code, § 8-110)

## ABANDONED VEHICLES

## **SECTION**

- 13-301. Definitions.
- 13-302. Abandonment of vehicles.
- 13-303. Disposition of wrecked or discarded vehicles.
- 13-304. Impounding.
- 13-305. Notice to abate; removal by city.
- **13-301.** <u>**Definitions**</u>. The following definitions shall apply in the interpretation and enforcement of this chapter:
- (1) "Person." Any person, firm, partnership, association, corporation, company, or organization of any kind.
- (2) "Property." Any real property within the city which is not a street or highway.
- (3) "Vehicle." Any machine propelled by power other than human power designed to travel along the ground by use of wheels, treads, runners, or slides and transport persons or property or pull machinery and shall include, without limitation, automobile, truck, trailer, motorcycle, tractor, buggy, and wagon. (1982 Code, § 9-601)
- **13-302.** <u>Abandonment of vehicles</u>. No person shall abandon any vehicle on any property within the city or leave any vehicle at any place within the city for such time and under such circumstances as to cause such vehicle reasonably to appear to have been abandoned. (1982 Code, § 9-602)
- 13-303. <u>Disposition of wrecked or discarded vehicles</u>. No person in charge or control of any property within the city, whether as owner, tenant, occupant, lessee, or otherwise, shall allow any dismantled, partially dismantled, non-operating, wrecked, junked, or discarded vehicle to remain on such property longer than ten (10) days. Furthermore, no person shall leave any such vehicle on any property within the city for longer than ten (10) days. This chapter shall not apply with regard to a vehicle in an enclosed building, to a vehicle on the premises of a business enterprise operated in a lawful place and manner, when necessary to the operation of such business enterprise, nor to a vehicle in an appropriate storage place or depository maintained in a lawful place and manner by the city. (1982 Code, § 9-603)
- **13-304.** <u>Impounding</u>. The mayor or his designated representative is hereby authorized to remove or have removed any vehicle left at any place in the city in violation of this chapter or any vehicle which is lost, stolen, or unclaimed. Such vehicle shall be impounded. (1982 Code, § 9-604)

- 13-305. <u>Notice to abate; removal by city</u>. Whenever any such public nuisance exists on occupied premises within the city in violation of this chapter, the mayor or his duly authorized agent shall order the owner of the premises (if the owner is in possession thereof) or the occupant of the premises whereon such public nuisance exists, to abate or remove the same. Such order shall:
  - (1) Be in writing;
  - (2) Specify the public nuisance and its location;
  - (3) Specify the corrective measures required;
- (4) Provide for compliance within ten (10) days from service thereof. Such order shall be served upon the owner of the premises or the occupant by serving him personally or by sending said order by certified mail, return receipt requested, to the address of the premises. If the owner or occupant of the premises fails or refuses to comply with the order of the mayor or his duly authorized agent within the ten (10) day period after service thereof, the mayor or his duly authorized agent shall take possession of said junked motor vehicle and remove it from the premises. The mayor or his duly authorized agent shall thereafter dispose of said junked motor vehicle by sale. The amount received from sale shall apply to cost of moving said vehicle. If the amount received from sale of the vehicle is more than the cost of moving the vehicle, the balance will go to the owner of the vehicle. If the sale proceeds fail to pay the cost of moving, the city will pay the remaining cost of moving the vehicle. (1982 Code, § 9-605)

## **TITLE 14**

## ZONING AND LAND USE CONTROL<sup>1</sup>

#### **CHAPTER**

- 1. MUNICIPAL PLANNING COMMISSION.
- 2. ZONING ORDINANCE.
- 3. FLOODPLAIN ZONING ORDINANCE.

## CHAPTER 1

# **MUNICIPAL PLANNING COMMISSION**

## **SECTION**

14-101. Creation and membership.

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

14-101. <u>Creation and membership</u>. Pursuant to the provisions of <u>Tennessee Code Annotated</u>, § 13-4-101 there is hereby created a municipal planning commission, hereinafter referred to as the planning commission. The planning commission shall consist of five (5) members; two (2) of these shall be the mayor and another member of the city council selected by the city council; the other three (3) members shall be appointed by the mayor. All members of the planning commission shall serve as such without compensation. Except for the initial appointments, the terms of the three (3) members appointed by the mayor shall be for three (3) years each. The three (3) members first appointed shall be appointed for terms of one (1), two (2), and three (3) years respectively so that the term of one (1) member expires each year. The terms of the mayor and the member selected by the city council shall run concurrently with their terms of office. Any vacancy in an appointive membership shall be filled for the unexpired term by the mayor. (1982 Code, § 11-101)

**14-102.** <u>Organization, powers, duties, etc</u>. The planning commission shall be organized and shall carry out its powers, functions, and duties in accordance with all applicable provisions of <u>Tennessee Code Annotated</u>, title 13. (1982 Code, § 11-102)

Historic preservation commission: title 2.

<sup>&</sup>lt;sup>1</sup>Municipal code reference

# **ZONING ORDINANCE**

## **SECTION**

14-201. Land use to be governed by zoning ordinance.

14-201. <u>Land use to be governed by zoning ordinance</u>. Land use within the City of Hohenwald shall be governed by Ordinance #526, titled "The Zoning Ordinance of Hohenwald, Tennessee," and any amendments thereto.<sup>1</sup>

<sup>&</sup>lt;sup>1</sup>Ordinance #526, and any amendments thereto, are published as separate documents and are of record in the office of the city recorder.

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

## FLOODPLAIN ZONING ORDINANCE

## **SECTION**

- 14-301. Statutory authorization, findings of fact, purpose and objectives.
- 14-302. Definitions.
- 14-303. General provisions.
- 14-304. Administration.
- 14-305. Provisions for flood hazard reduction.
- 14-306. Variance procedures.
- 14-307. Legal status provisions.

# 14-301. <u>Statutory authorization</u>, <u>findings of fact</u>, <u>purpose and</u> <u>bjectives</u>. (1) <u>Statutory authorization</u>. The Legislature of the State of

Tennessee has in <u>Tennessee Code Annotated</u>, §§ 13-7-201 through 13-7-210, delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the City of Hohenwald, Tennessee, Mayor and City Council do ordain as follows:

- (2) <u>Findings of fact</u>. (a) The City of Hohenwald, Tennessee, Mayor and its Legislative Body wishes to establish 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 (C.F.R.), ch. 1, section 60.3.
- (b) Areas of the City of Hohenwald, 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) <u>Statement of purpose</u>. 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 homebuyers are notified that property is in a flood prone area;
- (h) To establish eligibility for participation in the NFIP. (Ord. #639, Jan. 2010)
- **14-302.** <u>**Definitions**</u>. 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 nonbasement 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 "flood prone area" means any land area susceptible to being inundated by water from any source (see definition of "flood" or "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 winddriven 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 Hohenwald, 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.

- (40) "Manufactured home" means a structure, transportable in one (1) or more sections, which is built on a permanent chassis and designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle."
- (41) "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.
- (42) "Map" means the Flood Hazard Boundary Map (FHBM) or the Flood Insurance Rate Map (FIRM) for a community issued by FEMA.
- (43) "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.
- (44) "National Geodetic Vertical Datum (NGVD)" means as corrected in 1929, a vertical control used as a reference for establishing varying elevations with the floodplain.
- (45) "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.
- (46) "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.
- (47) "North American Vertical Datum (NAVD)" means, as corrected in 1988, a vertical control used as a reference for establishing varying elevations within the floodplain.
  - (48) "100-year flood" see "base flood."
- (49) "Person" includes any individual or group of individuals, corporation, partnership, association, or any other entity, including state and local governments and agencies.
- (50) "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 than any subsurface waters related to the base flood will not damage existing or proposed structures.
  - (51) "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.
- "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.

- (58) "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.
- (59) "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.
- (60) "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."
- (61) "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.
- (62) "Variance" is a grant of relief from the requirements of this ordinance.
- (63) "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.
- (64) "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. #639, Jan. 2010)

- **14-303.** <u>General provisions</u>. (1) <u>Application</u>. This ordinance shall apply to all areas within the incorporated area of the City of Hohenwald, Tennessee.
- (2) <u>Basis for establishing the areas of special flood hazard</u>. The areas of special flood hazard identified on the City of Hohenwald, Tennessee, as identified by FEMA (Community Number 470304), and in its Flood Insurance Study (FIS), and Flood Insurance Rate Map (FIRM), Community Panel Numbers 47101C0112C, 47101C0115C, and 47101C0125C, dated January 20, 2010, 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) <u>Compliance</u>. 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) <u>Abrogation and greater restrictions</u>. 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) <u>Interpretation</u>. 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 Hohenwald, 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) <u>Penalties for violation</u>. 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 Hohenwald, Tennessee from taking such other lawful actions to prevent or remedy any violation. (Ord. #639, Jan. 2010)

- **14-304.** <u>Administration</u>. (1) <u>Designation of ordinance administrator</u>. The city building inspector is hereby appointed as the administrator to implement the provisions of this ordinance.
- (2) <u>Permit procedures</u>. 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 nonresidential 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 nonresidential floodproofed building will meet the floodproofing criteria in § 14-305(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 nonresidential 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

nonresidential 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) <u>Duties and responsibilities of the administrator</u>. 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 § 14-304(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 § 14-304(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 § 14-304(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 Hohenwald, 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. #639, Jan. 2010)
- 14-305. <u>Provisions for flood hazard reduction</u>. (1) <u>General standards</u>. In all areas of special flood hazard, the following provisions are required:
  - (a) New construction and substantial improvements shall be anchored to prevent flotation, collapse and lateral movement of the structure.
  - (b) Manufactured homes shall be installed using methods and practices that minimize flood damage. They must be elevated and anchored to prevent flotation, collapse and lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State of Tennessee and local anchoring requirements for resisting wind forces.
  - (c) New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
  - (d) New construction and substantial improvements shall be constructed by methods and practices that minimize flood damage.
  - (e) All electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
  - (f) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.

- (g) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters.
- (h) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.
- (i) Any alteration, repair, reconstruction or improvements to a building that is in compliance with the provisions of this ordinance, shall meet the requirements of "new construction" as contained in this ordinance;
- (j) Any alteration, repair, reconstruction or improvements to a building that is not in compliance with the provisions of this ordinance, shall be undertaken only if said non-conformity is not further extended or replaced.
- (k) All new construction and substantial improvement proposals shall provide copies of all necessary federal and state permits, including section 404 of the Federal Water Pollution Control Act amendments of 1972, 33 U.S.C. 1334.
- (l) All subdivision proposals and other proposed new development proposals shall meet the standards of § 14-305(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 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) <u>Specific standards</u>. In all areas of special flood hazard, the following provisions, in addition to those set forth in § 14-305(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 § 14-302). 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) Nonresidential structures. In AE Zones, where base flood elevation data is available, new construction and substantial improvement of any commercial, industrial, or nonresidential 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 nonresidential 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 § 14-302). 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."

Nonresidential 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 § 14-304(2).

- (c) Enclosures. All new construction and substantial improvements that include fully enclosed areas formed by foundation and other exterior walls below the lowest floor that are subject to flooding, shall be designed to preclude finished living space and designed to allow for the entry and exit of flood waters to automatically equalize hydrostatic flood forces on exterior walls.
  - (i) Designs for complying with this requirement must either be certified by a Tennessee professional engineer or architect or meet or exceed the following minimum criteria:
    - (A) Provide a minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding;

- (B) The bottom of all openings shall be no higher than one foot (1') above the finished grade;
- (C) Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwaters in both directions.
- (ii) The enclosed area shall be the minimum necessary to allow for parking of vehicles, storage or building access.
- (iii) The interior portion of such enclosed area shall not be finished or partitioned into separate rooms in such a way as to impede the movement of floodwaters and all such partitions shall comply with the provisions of § 14-305(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 (3) feet in height above the highest adjacent grade (as defined in § 14-302).
- (iii) Any manufactured home, which has incurred "substantial damage" as the result of a flood, must meet the standards of § 14-305(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 all 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 § 14-305(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 § 14-303(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 Hohenwald, Tennessee and certification, thereof.

- (b) New construction and substantial improvements of buildings, where permitted, shall comply with all applicable flood hazard reduction provisions of § 14-305(1) and (2).
- (4) <u>Standards for areas of special flood hazard Zones AE with established base flood elevations but without floodways designated</u>. Located within the special flood hazard areas established in § 14-303(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 § 14-305(1) and (2).
- (5) <u>Standards for streams without established base flood elevations and floodways (A Zones)</u>. Located within the Special Flood Hazard Areas established in § 14-303(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 § 14-305(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 § 14-302). All applicable data including elevations or

floodproofing certifications shall be recorded as set forth in § 14-304(2). Openings sufficient to facilitate automatic equalization of hydrostatic flood forces on exterior walls shall be provided in accordance with the standards of § 14-305(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 Hohenwald, 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 § 14-305(1) and (2). Within approximate A Zones, require that those sections of § 14-305(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 § 14-303(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 § 14-305(1) and (2) apply:
  - (a) All new construction and substantial improvements of residential and nonresidential buildings shall have the lowest floor, including basement, elevated to at least one foot (1') above as many feet as the depth number specified on the 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 § 14-305(2).
  - (b) All new construction and substantial improvements of nonresidential 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 § 14-304(2).

- (c) Adequate drainage paths shall be provided around slopes to guide floodwaters around and away from proposed structures.
- (7) <u>Standards for areas protected by flood protection system (A99 Zones)</u>. Located within the areas of special flood hazard established in § 14-303(2), are areas of the 100-year floodplain protected by a flood protection system but where base flood elevations have not been determined. Within these areas (A99 Zones) all provisions of §§ 14-304 and 14-305, shall apply.
- (8) <u>Standards for unmapped streams</u>. Located within the City of Hohenwald, 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 §§ 14-304 and 14-305. (Ord. #639, Jan. 2010)

# 14-306. Variance procedures. (1) Municipal board of zoning appeals.

- (a) Authority. The City of Hohenwald, Tennessee Municipal Board of Zoning Appeals shall hear and decide appeals and requests for variances from the requirements of this ordinance.
- (b) Procedure. Meetings of the municipal board of zoning appeals shall be held at such times as the board shall determine. All meetings of the municipal board of zoning appeals shall be open to the public. The municipal board of zoning appeals shall adopt rules of procedure and shall keep records of applications and actions thereof,

which shall be a public record. Compensation of the members of the municipal board of zoning appeals shall be set by the legislative body.

- Appeals: how taken. An appeal to the municipal board of zoning appeals may be taken by any person, firm or corporation aggrieved or by any governmental officer, department, or bureau affected by any decision of the administrator based in whole or in part upon the provisions of this ordinance. Such appeal shall be taken by filing with the municipal board of zoning appeals a notice of appeal, specifying the grounds thereof. In all cases where an appeal is made by a property owner or other interested party, a fee of fifty dollars (\$50.00) for the cost of publishing a notice of such hearings shall be paid by the appellant. The administrator shall transmit to the municipal board of zoning appeals all papers constituting the record upon which the appeal action was taken. The municipal board of zoning appeals shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to parties in interest and decide the same within a reasonable time which shall not be more than thirty-five (35) days from the date of the hearing. At the hearing, any person or party may appear and be heard in person or by agent or by attorney.
- (d) Powers. The municipal board of zoning appeals shall have the following powers:
  - (i) Administrative review. To hear and decide appeals where it is alleged by the applicant that there is error in any order, requirement, permit, decision, determination, or refusal made by the administrator or other administrative official in carrying out or enforcement of any provisions of this ordinance.
  - (ii) Variance procedures. In the case of a request for a variance the following shall apply:
    - (A) The City of Hohenwald, Tennessee Municipal Board of Zoning Appeals shall hear and decide appeals and requests for variances from the requirements of this ordinance.
    - (B) Variances may be issued for the repair or rehabilitation of historic structures as defined, herein, upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary deviation from the requirements of this ordinance to preserve the historic character and design of the structure.
    - (C) In passing upon such applications, the municipal board of zoning appeals shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this ordinance, and:

- (1) The danger that materials may be swept onto other property to the injury of others;
- (2) The danger to life and property due to flooding or erosion;
- (3) The susceptibility of the proposed facility and its contents to flood damage;
- (4) The importance of the services provided by the proposed facility to the community;
- (5) The necessity of the facility to a waterfront location, in the case of a functionally dependent use;
- (6) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed uses;
- (7) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
- (8) The safety of access to the property in times of flood for ordinary and emergency vehicles;
- (9) The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site;
- (10) The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, water systems, and streets and bridges.
- (D) Upon consideration of the factors listed above, and the purposes of this ordinance, the municipal board of zoning appeals may attach such conditions to the granting of variances, as it deems necessary to effectuate the purposes of this ordinance.
- (E) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- (2) <u>Conditions for variances</u>. (a) Variances shall be issued upon a determination that the variance is the minimum relief necessary, considering the flood hazard and the factors listed in § 14-306(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 dollar (\$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. #639, Jan. 2010)
- **14-307.** <u>Legal status provisions</u>. (1) <u>Conflict with other ordinances</u>. 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 Hohenwald, Tennessee, the most restrictive shall in all cases apply.
- (2) <u>Severability</u>. If any section, clause, provision, or portion of this ordinance shall be held to be invalid or unconstitutional by any court of competent jurisdiction, such holding shall not affect any other section, clause, provision, or portion of this ordinance which is not of itself invalid or unconstitutional.
- (3) <u>Effective date</u>. The ordinance comprising this chapter shall become effective immediately after its passage, in accordance with the Charter of the City of Hohenwald, Tennessee, and the public welfare demanding it. (Ord. #639, Jan. 2010)

### TITLE 15

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

### **CHAPTER**

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

### **CHAPTER 1**

## **MISCELLANEOUS**

### **SECTION**

- 15-101. Motor vehicle requirements.
- 15-102. Driving on streets closed for repairs, etc.
- 15-103. Unlaned streets.
- 15-104. Laned streets.
- 15-105. Yellow lines.
- 15-106. Miscellaneous traffic-control signs, etc.
- 15-107. General requirements for traffic-control signs, etc.
- 15-108. Unauthorized traffic-control signs, etc.
- 15-109. Presumption with respect to traffic-control signs, etc.
- 15-110. School safety patrols.
- 15-111. Driving through funerals or other processions.
- 15-112. Clinging to vehicles in motion.
- 15-113. Riding on outside of vehicles.
- 15-114. Backing vehicles.
- 15-115. Projections from the rear of vehicles.
- 15-116. Causing unnecessary noise.
- 15-117. Vehicles and operators to be licensed.
- 15-118. Passing.
- 15-119. Damaging pavements.
- 15-120. Bicycle riders, etc.
- 15-121. Compliance with financial responsibility law required.

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

<sup>&</sup>lt;sup>1</sup>Municipal code reference

- 15-122. Child passenger restraint systems.
- 15-123. Use of engine compression braking devices (aka jake brakes).
- 15-101. <u>Motor vehicle requirements</u>. 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 <u>Tennessee Code Annotated</u>, title 55, chapter 9. (1982 Code, § 9-101)
- **15-102.** <u>Driving on streets closed for repairs, etc</u>. 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. (1982 Code, § 9-106)
- **15-103.** <u>Unlaned streets</u>. (1) Upon all unlaned streets of sufficient width, a vehicle shall be driven upon the right half of the street except:
  - (a) When lawfully overtaking and passing another vehicle proceeding in the same direction.
  - (b) When the right half of a roadway is closed to traffic while under construction or repair.
- (2) All vehicles proceeding at less than the normal speed of traffic at the time and place and under the conditions then existing shall be driven as close as practicable to the right hand curb or edge of the roadway, except when overtaking and passing another vehicle proceeding in the same direction or when preparing for a left turn. (1982 Code, § 9-109)
- **15-104.** <u>Laned streets</u>. 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. (1982 Code, § 9-110)

15-105. <u>Yellow lines</u>. 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. (1982 Code, § 9-111)

**15-106.** <u>Miscellaneous traffic-control signs, etc</u>.¹ It shall be unlawful for any pedestrian or the operator of any vehicle to violate or fail to comply with any traffic-control sign, signal, marking, or device placed or erected by the state or the city unless otherwise directed by a police officer.

It shall be unlawful for any pedestrian or the operator of any vehicle to willfully violate or fail to comply with the reasonable directions of any police officer. (1982 Code, § 9-112)

- 15-107. 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. (1982 Code, § 9-113, modified)
- 15-108. <u>Unauthorized traffic-control signs, etc.</u> No person shall place, maintain, or display upon or in view of any street, any unauthorized sign, signal, marking, or device which purports to be or is an imitation of or resembles an official traffic-control sign, signal, marking, or device or railroad sign or signal, or which attempts to control the movement of traffic or parking of vehicles, or which hides from view or interferes with the effectiveness of any official traffic-control sign, signal, marking, or device or any railroad sign or signal. (1982 Code, § 9-114)
- 15-109. Presumption with respect to traffic-control signs, etc. When a traffic-control sign, signal, marking, or device has been placed, the presumption shall be that it is official and that it has been lawfully placed by the proper authority. All presently installed traffic-control signs, signals, markings and devices are hereby expressly authorized, ratified, approved and made official. (1982 Code, § 9-115)
- 15-110. <u>School safety patrols</u>. 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. (1982 Code, § 9-116)

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

\_

<sup>&</sup>lt;sup>1</sup>Municipal code references

- 15-111. <u>Driving through funerals or other processions</u>. 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. (1982 Code, § 9-117)
- **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. (1982 Code, § 9-119)
- **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. (1982 Code, § 9-120)
- **15-114.** <u>Backing vehicles</u>. 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. (1982 Code, § 9-121)
- 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 inches (12") 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. (1982 Code, § 9-122)
- **15-116.** <u>Causing unnecessary noise</u>. 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. (1982 Code, § 9-123)
- **15-117.** <u>Vehicles and operators to be licensed</u>. It shall be unlawful for any person to operate a motor vehicle in violation of the "Tennessee Motor Vehicle Title and Registration Law" or the "Uniform Motor Vehicle Operators' and Chauffeurs' License Law." (1982 Code, § 9-124)
- **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. (1982 Code, § 9-125)

- **15-119.** <u>Damaging pavements</u>. No person shall operate or cause to be operated upon any street of the municipality any vehicle, motor propelled or otherwise, which by reason of its weight or the character of its wheels, tires, or track is likely to damage the surface or foundation of the street. (1982 Code, § 9-118)
- **15-120.** <u>Bicycle riders, etc</u>. Every person riding or operating a bicycle, motorcycle, or motor driven cycle shall be subject to the provisions of all traffic ordinances, rules, and regulations of the city applicable to the driver or operator of other vehicles except as to those provisions which by their nature can have no application to bicycles, motorcycles, or motor driven cycles.

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

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

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

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

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

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

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

It shall be unlawful for any person to operate or ride on any vehicle in violation of this section and it shall also be unlawful for any parent or guardian knowingly to permit any minor to operate a motorcycle or motor driven cycle in violation of this section. (1982 Code, § 9-126)

# 15-121. Compliance with financial responsibility law required.

- (1) Every vehicle operated within the corporate limits must be in compliance with the financial responsibility law.
- (2) At the time the driver of a motor vehicle is charged with any moving violation under title 55, chapters 8 and 10, parts 1-5, chapter 50; any provision of title 15 of this municipal code; or at the time of an accident for which notice is required under <u>Tennessee Code Annotated</u>, § 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 <u>Tennessee Code Annotated</u>, § 55-10-106 the officer shall request such evidence from all drivers involved in the accident, without regard to apparent or actual fault.
  - (3) For the purposes of this section, "financial responsibility" means:
  - (1) 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 <u>Tennessee Code Annotated</u>, chapter 12, title 55, has been issued;
  - (2) 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 <u>Tennessee Code Annotated</u>, chapter 12, title 55, has been paid or filed

with the commissioner, or has qualified as a self-insurer under <u>Tennessee</u> Code Annotated, § 55-12-111; or

- (3) The motor vehicle being operated at the time of the violation was owned by a carrier subject to the jurisdiction of the department of safety or the interstate commerce commission, or was owned by the United States, the State of Tennessee, or any political subdivision thereof, and that such motor vehicle was being operated with the owner's consent.
- (4) <u>Civil offense</u>. It is a civil offense to fail to provide evidence of financial responsibility pursuant to this section. Any violation of this section is punishable by a civil penalty of up to fifty dollars (\$50.00). The civil penalty prescribed by this section shall be in addition to any other penalty prescribed by the laws of this state or the city's municipal code of ordinances.
- (5) Evidence of compliance after violation. On or before the court date, the person charged with a violation of this section may submit evidence of compliance with this section in effect at the time of the violation. If the court is satisfied that compliance was in effect at the time of the violation, the charge of failure to provide evidence of financial responsibility may be dismissed. (Ord. #551, April 2002)
- 15-122. <u>Child passenger restraint systems</u>. (1) Any person transporting a child under the age of four (4) years in a motor vehicle upon a road, street or highway in the City of Hohenwald shall be responsible for the protection of the child and properly using a child passenger restraint system meeting federal motor vehicle safety standards; provided, however, that nothing in this subsection shall restrict a mother from removing the child from the restraint system and holding the child when the mother is nursing the child, or attending to its other physiological needs.
- (2) All passenger vehicle rental agencies doing business in the City of Hohenwald shall make available at a reasonable rate to those renting such vehicles an approved restraint as described in subsection (1).
  - (3) (1) A violation of this section is a civil offense punishable by a fine of up to fifty dollars (\$50.00).
  - (2) In addition to or in lieu of the penalty imposed under subsection (3)(a), persons found guilty of a first offense of violating this section may be required to attend a court approved offenders' class designed to educate offenders on the hazards of not properly transporting children in motor vehicles. A fee may be charged for such classes sufficient to defray all costs of providing such classes.
- (4) Prior to the initial discharge of any newborn child from a health care institution offering obstetrical services, such institution shall inform the parent that use of a child passenger restraint system is required by law. Further, the health care institution shall distribute to the parent related

information provided by the department of safety. (Ord. #470, May 1990, modified)

- 15-123. <u>Use of engine compression braking devices (aka jake brakes)</u>. (1) All truck tractor and semi-trailers operating within the City of Hohenwald shall conform to the visual exhaust system inspection requirements, 40 C.F.R. 202.22, of the Interstate Motor Carriers Noise Emission Standards.
- (2) A motor vehicle does not conform to the visual exhaust system inspection requirements referenced in subsection (1) of this section if inspection of the exhaust system of the motor carrier vehicle discloses that the system:
  - (a) Has a defect that adversely affects sound reduction, such as exhaust gas leaks or alteration or deterioration of muffler elements. (Small traces of soot on flexible exhaust pipe sections shall not constitute a violation);
  - (b) Is not equipped with either a muffler or other noise dissipative device, such as a turbocharger (supercharger driven by exhaust by gases); or
  - (c) Is equipped with a cut out, bypass, or similar device, unless such device is designed as an exhaust gas driven cargo unloading system.
- (3) Violations of this section shall subject the offender to a fine of fifty dollars (\$50.00) per offense.
- (4) This section shall be supplemental to other noise control ordinances and regulations of the city, and shall be effective upon its final passage, the public welfare requiring it. (Ord. #654, June 2011)

### **EMERGENCY VEHICLES**

# **SECTION**

- 15-201. Authorized emergency vehicles defined.
- 15-202. Operation of authorized emergency vehicles.
- 15-203. Following emergency vehicles.
- 15-204. Running over fire hoses, etc.
- **15-201.** Authorized emergency vehicles defined. Authorized emergency vehicles shall be fire department vehicles, police vehicles, and such ambulances and other emergency vehicles as are designated by the chief of police. (1982 Code, § 9-102)
- **15-202.** Operation of authorized emergency vehicles. <sup>1</sup> (1) The driver of an authorized emergency vehicle, when responding to an emergency call, or when in the pursuit of an actual or suspected violator of the law, or when responding to but not upon returning from a fire alarm, may exercise the privileges set forth in this section, subject to the conditions herein stated.
- (2) The driver of an authorized emergency vehicle may park or stand, irrespective of the provisions of this title; proceed past a red or stop signal or stop sign, but only after slowing down to ascertain that the intersection is clear; exceed the maximum speed limit and disregard regulations governing direction of movement or turning in specified directions so long as he does not endanger life or property.
- (3) The exemptions herein granted for an authorized emergency vehicle shall apply only when the driver of any such vehicle while in motion sounds an audible signal by bell, siren, or exhaust whistle and when the vehicle is equipped with at least one (1) lighted lamp displaying a red light visible under normal atmospheric conditions from a distance of five hundred feet (500') to the front of such vehicle, except that an authorized emergency vehicle operated as a police vehicle need not be equipped with or display a red light visible from in front of the vehicle.
- (4) The foregoing provisions shall not relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons, nor shall such provisions protect the driver from the consequences of his reckless disregard for the safety of others. (1982 Code, § 9-103)

Operation of other vehicle upon the approach of emergency vehicles: § 15-501.

<sup>&</sup>lt;sup>1</sup>Municipal code reference

- **15-203.** Following emergency vehicles. No driver of any vehicle shall follow any authorized emergency vehicle apparently travelling in response to an emergency call closer than five hundred feet (500') or drive or park such vehicle within the block where fire apparatus has stopped in answer to a fire alarm. (1982 Code, § 9-104)
- **15-204.** Running over fire hoses, etc. It shall be unlawful for any person to drive over any hose lines or other equipment of the fire department except in obedience to the direction of a fireman or policeman. (1982 Code, § 9-105)

# SPEED LIMITS

### **SECTION**

- 15-301. In general.
- 15-302. At intersections.
- 15-303. In school zones.
- 15-304. In congested areas.
- 15-301. <u>In general</u>. 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. (1982 Code, § 9-201)
- 15-302. <u>At intersections</u>. 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. (1982 Code, § 9-202)
- 15-303. <u>In school zones</u>. Generally, pursuant to <u>Tennessee Code Annotated</u>, § 55-8-152, special speed limits in school zones shall be enacted based on an engineering investigation; shall not be less than fifteen (15) miles per hour; and shall be in effect only when proper signs are posted with a warning flasher or flashers in operation. It shall be unlawful for any person to violate any such special speed limit enacted and in effect in accordance with this section. Speed limits enacted pursuant to this section shall not apply to school entrances and exits to and from controlled access highways on the system of state highways.

When the city council has not established special speed limits as provided for above, any person who shall drive at a speed exceeding fifteen (15) miles per hour when passing a school during a recess period when a warning flasher or flashers are in operation, or during a period of 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. (1982 Code, § 9-203, modified)

**15-304.** <u>In congested areas</u>. It shall be unlawful for any person to operate or drive a motor vehicle through any congested area at a rate of speed in excess of any posted speed limit when such speed limit has been posted by authority of the city. (1982 Code, § 9-204)

# TURNING MOVEMENTS

### **SECTION**

- 15-401. Generally.
- 15-402. Right turns.
- 15-403. Left turns on two-way roadways.
- 15-404. Left turns on other than two-way roadways.
- 15-405. U-turns.
- 15-401. <u>Generally</u>. No person operating a motor vehicle shall make any turning movement which might affect any pedestrian or the operation of any other vehicle without first ascertaining that such movement can be made in safety and signaling his intention in accordance with the requirements of the state law. (1982 Code, § 9-301)
- **15-402.** <u>Right turns</u>. 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. (1982 Code, § 9-302)
- 15-403. <u>Left turns on two-way roadways</u>. At any intersection where traffic is permitted to move in both directions on each roadway entering the intersection, an approach for a left turn shall be made in that portion of the right half of the roadway nearest the center line thereof and by passing to the right of the intersection of the center line of the two (2) roadways. (1982 Code, § 9-303)
- 15-404. Left turns on other than two-way roadways. At any intersection where traffic is restricted to one (1) direction on one (1) 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. (1982 Code, § 9-304)
  - **15-405.** <u>U-turns</u>. U-turns are prohibited. (1982 Code, § 9-305)

<sup>&</sup>lt;sup>1</sup>State law reference

Tennessee Code Annotated, § 55-8-143.

### 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. Stops to be signaled.
- **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 any sidewalk or street. They shall not proceed to drive onto the sidewalk or street until they can safely do so without colliding or interfering with approaching pedestrians or vehicles. (1982 Code, § 9-402)
- **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. (1982 Code, § 9-403)
- **15-503.** <u>At railroad crossings</u>. Any driver of a vehicle approaching a railroad grade crossing shall stop within not less than fifteen feet (15') from the nearest rail of such railroad and shall not proceed further while any of the following conditions exist:
- (1) A clearly visible electrical or mechanical signal device gives warning of the approach of a railroad train.
- (2) A crossing gate is lowered or a human flagman signals the approach of a railroad train.
- (3) A railroad train is approaching within approximately one thousand five hundred feet (1,500') of the highway crossing and is emitting an audible signal indicating its approach.
- (4) An approaching railroad train is plainly visible and is in hazardous proximity to the crossing. (1982 Code, § 9-404)
- **15-504.** At "stop" signs. The driver of a vehicle facing a "stop" sign shall bring his vehicle to a complete stop immediately before entering the crosswalk

on the near side of the intersection or, if there is no crosswalk, then immediately before entering the intersection, and shall remain standing until he can proceed through the intersection in safety. (1982 Code, § 9-405)

- **15-505.** At "yield" signs. The drivers of all vehicles shall yield the right-of-way to approaching vehicles before proceeding at all places where "yield" signs have been posted. (1982 Code, § 9-406)
- **15-506.** At traffic-control signals generally. Traffic-control signals exhibiting the words "Go," "Caution," or "Stop," or exhibiting different colored lights successively one at a time, or with arrows, shall show the following colors only and shall apply to drivers of vehicles and pedestrians as follows:

### (1) Green alone, or "Go":

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

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

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

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

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

# (4) Steady red with green arrow:

- (a) Vehicular traffic facing such signal may cautiously enter the intersection only to make the movement indicated by such arrow but shall yield the right-of-way to pedestrians lawfully within a crosswalk and to other traffic lawfully using the intersection.
  - (b) Pedestrians facing such signal shall not enter the roadway.
- (5) In the event an official traffic-control signal is erected and maintained at a place other than an intersection, the provisions of this section shall be applicable except as to those provisions which by their nature can have no application. Any stop required shall be made at a sign or marking on the pavement indicating where the stop shall be made, but in the absence of any such sign or marking the stop shall be made a vehicle length short of the signal. (1982 Code, § 9-407)
- **15-507.** At flashing traffic-control signals. (1) Whenever an illuminated flashing red or yellow signal is used in a traffic sign or signal placed or erected in the city it shall require obedience by vehicular traffic as follows:
  - (a) Flashing red (stop signal). When a red lens is illuminated with intermittent flashes, drivers of vehicles shall stop before entering the nearest crosswalk at an intersection or at a limit line when marked, or if none, then before entering the intersection, and the right to proceed shall be subject to the rules applicable after making a stop at a stop sign.
  - (b) Flashing yellow (caution signal). When a yellow lens is illuminated with intermittent flashes, drivers of vehicles may proceed through the intersection or past such signal only with caution.
- (2) This section shall not apply at railroad grade crossings. Conduct of drivers of vehicles approaching railroad grade crossings shall be governed by the rules set forth in § 15-504 of this code. (1982 Code, § 9-408)
- **15-508.** Stops to be signaled. No person operating a motor vehicle shall stop such vehicle, whether in obedience to a traffic sign or signal or otherwise, without first signaling his intention in accordance with the requirements of the state law, except in an emergency. (1982 Code, § 9-409)

Tennessee Code Annotated, § 55-8-143.

<sup>&</sup>lt;sup>1</sup>State law reference

# **PARKING**

### **SECTION**

- 15-601. Generally.
- 15-602. Angle parking.
- 15-603. Occupancy of more than one (1) space.
- 15-604. Where prohibited.
- 15-605. Loading and unloading zones.
- 15-606. Limited parking areas.
- 15-607. Violation of time limits.
- 15-608. Presumption with respect to illegal parking.

**15-601.** <u>Generally</u>. 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.

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. (1982 Code, § 9-501)

- **15-602.** <u>Angle parking</u>. 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'). (1982 Code, § 9-502)
- 15-603. Occupancy of more than one (1) 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. (1982 Code, § 9-503)
- **15-604.** Where prohibited. No person shall park a vehicle in violation of any sign placed or erected by the state or city, nor:

- (1) On a sidewalk;
- (2) In front of a public or private driveway;
- (3) Within an intersection or within fifteen feet (15') thereof;
- (4) Within fifteen feet (15') of a fire hydrant;
- (5) Within a pedestrian crosswalk;
- (6) Within fifty feet (50') of a railroad crossing;
- (7) 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 the entrance;
- (8) Alongside or opposite any street excavation or obstruction when other traffic would be obstructed;
- (9) On the roadway side of any vehicle stopped or parked at the edge or curb of a street;
  - (10) Upon any bridge; or
- (11) Alongside any curb painted yellow or red by the city. (1982 Code,  $\S$  9-504)
- **15-605.** <u>Loading and unloading zones</u>. 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. (1982 Code, § 9-505)
- **15-606.** <u>Limited parking areas</u>. It shall be unlawful for any person to park or leave standing any vehicle, whether attended or not, in a limited parking area in excess of the maximum time limit designated by sign.
- **15-607.** <u>Violation of time limits</u>. (1) A person violating a limited parking area time limit may waive the right to a judicial hearing and have the charges disposed of out of court. The fine for such parking violation shall be in an amount as established by the city council by resolution.
- (2) A vehicle continuously parked or left standing in a limited parking area beyond the maximum time limit shall be deemed a separate violation for each and every subsequent maximum time period violated when so parked or standing.
- **15-608.** 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. (1982 Code, § 9-508)

### **ENFORCEMENT**

### **SECTION**

- 15-701. Issuance of traffic citations.
- 15-702. Failure to obey citation.
- 15-703. Illegal parking.
- 15-704. Impoundment of vehicles.
- 15-701. <u>Issuance of traffic citations</u>.<sup>1</sup> When a police officer halts a traffic violator other than for the purpose of giving a warning, and does not take such person into custody under arrest, he shall take the name, address, and operator's license number of said person, the license number of the motor vehicle involved, and such other pertinent information as may be necessary, and shall issue to him a written traffic citation containing a notice to answer to the charge against him in the city court at a specified time. The officer, upon receiving the written promise of the alleged violator to answer as specified in the citation, shall release such person from custody. It shall be unlawful for any alleged violator to give false or misleading information as to his name or address. (1982 Code, § 9-701)
- **15-702.** <u>Failure to obey citation</u>. 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. (1982 Code, § 9-702)
- 15-703. <u>Illegal parking</u>. Whenever any motor vehicle without a driver is found parked or stopped in violation of any of the restrictions imposed by this code, the officer finding such vehicle shall take its license number and may take any other information displayed on the vehicle which may identify its user, and shall conspicuously affix to such vehicle a citation for the driver and/or owner to answer for the violation within ten (10) days during the hours and at a place specified in the citation.

For parking violations other than overtime parking in limited parking areas, the offender may waive his right to a judicial hearing and have the charges disposed of out of court, and the fine shall be two dollars (\$2.00). (1982 Code, § 9-703)

<sup>&</sup>lt;sup>1</sup>State law reference

<sup>&</sup>lt;u>Tennessee Code Annotated</u>, § 7-63-101, et seq.

15-704. <u>Impoundment of vehicles</u>. Members of the police department are hereby authorized, when reasonably necessary for the security of the vehicle or to prevent obstruction of traffic, to remove from the streets and impound any vehicle whose operator is arrested or any unattended vehicle which is parked, so as to constitute an obstruction or hazard to normal traffic. Any impounded vehicle shall be stored until the owner or other person entitled thereto claims it, gives satisfactory evidence of ownership or right to possession, and pays all applicable fees and costs or until it is otherwise lawfully disposed of. The storage cost of the impounded vehicle shall be thirty dollars (\$30.00) a day for each motor vehicle stored in the impoundment lot. Any part of a day shall count as a whole day. (Ord. #699, June 2015)

#### **TITLE 16**

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

### **CHAPTER**

- 1. MISCELLANEOUS.
- 2. EXCAVATIONS AND CUTS.

### CHAPTER 1

# **MISCELLANEOUS**

### **SECTION**

- 16-101. Obstructing streets, alleys, or sidewalks prohibited.
- 16-102. Trees projecting over streets, etc., regulated.
- 16-103. Trees, etc., obstructing view at intersections prohibited.
- 16-104. Projecting signs and awnings, etc., restricted.
- 16-105. Banners and signs across streets and alleys restricted.
- 16-106. Gates or doors opening over streets, alleys, or sidewalks prohibited.
- 16-107. Obstruction of drainage ditches.
- 16-108. Abutting occupants to keep sidewalks clean, etc.
- 16-109. Permits for parades.
- 16-110. Animals and vehicles on sidewalks.
- 16-111. Fires in streets, etc.
- 16-112. Playing ball, etc., in streets, etc.
- 16-113. Wooden culverts prohibited.
- **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. (1982 Code, § 12-102)
- **16-102.** Trees projecting over streets, etc., regulated. It shall be unlawful for any property owner or occupant to allow any limbs of trees on his property to project out over any street, alley at a height of less than fourteen feet (14') or over any sidewalk at a height of less than eight feet (8'). (1982 Code, § 12-103)
- 16-103. <u>Trees, etc., obstructing view at intersections prohibited</u>. It shall be unlawful for any property owner or occupant to have or maintain on

Related motor vehicle and traffic regulations: title 15.

<sup>&</sup>lt;sup>1</sup>Municipal code reference

his property any tree, shrub, sign, or other obstruction which prevents persons driving vehicles on public streets or alleys from obtaining a clear view of traffic when approaching an intersection. (1982 Code, § 12-104)

- **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. (1982 Code, § 12-105)
- 16-105. <u>Banners and signs across streets and alleys restricted</u>. It shall be unlawful for any person to place or have placed any banner or sign across any public street or alley except when expressly authorized by the city council after a finding that no hazard will be created by such banner or sign. (1982 Code, § 12-106)
- 16-106. <u>Gates or doors opening over streets, alleys, or sidewalks prohibited</u>. 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 statute. (1982 Code, § 12-107)
- **16-107.** 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. (1982 Code, § 12-108)
- 16-108. 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. (1982 Code, § 12-109)
- 16-109. Permits for parades. (1) The City of Hohenwald recognizes the constitutional right of every citizen to harbor and express beliefs on any subject whatsoever and to associate with others who share similar beliefs. The city passes this section not to affect the content of any group's beliefs or to suppress the speech of unpopular groups, but designed to apply to all groups equally (regardless of the content of the groups' beliefs) in promotion of establishing reasonable standards under which parades and other events may take place on the streets of the City of Hohenwald. The City of Hohenwald has limited financial resources and limited manpower to deal with such events, and accordingly places these restrictions on the time, place, numbers of participants

<sup>1</sup>Municipal code reference

Building code: title 12, chapter 1.

or units, and manner of speech allowed at such events to assure the safety and the public welfare of its citizens, and to minimize traffic and business interruptions during the parade or event.

- (2) Any person or group who desires to conduct a parade involving two (2) or more vehicles on the streets of this city, shall make application to the city recorder, for a permit authorizing such activity, and no such parade shall be conducted without first receiving such permit. Upon submission of an application for parade or other event complying with all the requirements of this section, the city recorder shall place the request for a parade/meeting permit on the agenda of the next meeting of the city council for action by it in the normal course of business. If approved by the council, the city recorder shall issue a parade or meeting permit on the form adopted by the city for that purpose. A parade permit shall be required for any person or group to hold any meeting, parade, demonstration, exhibition or other event on the public streets of the City of Hohenwald. Any parade, meeting, demonstration, exhibition or event held without proper parade permit shall be unlawful.
- (3) Any person or group seeking a parade permit shall make application to the city recorder in writing on the form required by the City of Hohenwald at least forty-five (45) days prior to the contemplated parade date(s) or event(s). No permit shall be granted sooner than one hundred eighty (180) days prior to such contemplated parade date(s) or event(s). The application for a parade permit shall specify the time and date, setting out the number of vehicles and/or units, the number of marchers or participants, the purpose of and sponsorship of the activity, and the area(s) to be utilized and/or the route desired. The city recorder in cooperation with the chief of police shall have the authority to designate starting point, route, and terminal point as deemed proper in consideration of the minimum interruption of traffic flow, and the same shall be specified in the permit.
- (4) No permit shall be granted to any person or group, when conflicting events and parades have already been approved by the City of Hohenwald under this section, or a predecessor section of the municipal code.
- (5) Permits will be granted to the person or group first applying under a proper application meeting the requirements of this section.
- (6) No permit shall be granted for a parade or other event, except those restricted to the following time:
  - (a) No event earlier than 7:00 A.M. (CST);
  - (b) No event later than 11:00 P.M. (CST).
- (7) No permit shall be granted for a parade or other event except those restricted to the following places: No parade or event shall be held in any residential neighborhood classified as high density, medium density or low density residential.
- (8) No permit shall be granted to any individual or group until such applicant shall post, in advance, a bond to cover the reasonable expense incurred in clean up efforts under the event. The amount of this bond shall be two

hundred fifty dollars (\$250.00) per permit request. In addition, the applicant shall agree to hold the city harmless from personal injury and property damage.

- (9) No person or group will be restricted in access to the public parks and recreation facilities of the city; however, sleeping or camping out in such parks and recreation facilities is prohibited.
- The City of Hohenwald shall revoke any parade permit to any individual or group based on anticipation of violence being instigated or riots incited by the group under circumstances when there is a clear and present danger of imminent lawless activity. During the parade or other event, the City of Hohenwald shall revoke any parade permit to any individual or group if violence, disorderly conduct, riots, lawless activity, or other breaches of the peace occur incited by such individuals or groups or if there is a clear and present danger of imminent lawless activity. The city may revoke a parade permit during the parade and terminate all activities thereunder if the individual or group obtaining such parade permit uses obscenities during a parade in violation of any federal, state or local law or ordinance or engages in any lewd, obscene, profane speech, conduct or acts prohibited by law. The city may revoke a parade permit during the parade and terminate all activities thereunder if the individual or group obtaining such parade permit engage in insulting or fighting words (those which by their very utterance inflict injury or tend to incite an immediate breach of the peace, or face-to-face words plainly likely to cause a breach of the peace by the addressee of such words, or threats likely to cause violence or disorderly conduct).
- (11) The term "parade" (singular or plural) shall be defined to include any meeting, parade, demonstration, exhibition, festival, homecoming, or other such event to be held on the streets of public areas of the City of Hohenwald. This definition is not all-inclusive. (Ord. #473, Aug. 1990, modified)
- **16-110.** Animals and vehicles on sidewalks. It shall be unlawful for any person to ride, lead, or tie any animal, or ride, push, pull, or place any vehicle across or upon any sidewalk in such manner as to unreasonably interfere with or inconvenience pedestrians using the sidewalk. It shall also be unlawful for any person knowingly to allow any minor under his control to violate this section. (1982 Code, § 12-112)
- **16-111.** 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. (1982 Code, § 12-113)
- **16-112.** Playing ball, etc., in streets, etc. It shall be unlawful for any person or persons to play ball games or other types of games upon the streets or sidewalks of the city which would endanger the lives of such participants, or would in any way impede either automobile or vehicular traffic or pedestrian traffic on the sidewalks. (1982 Code, § 12-114)

**16-113.** Wooden culverts prohibited. The construction, maintenance, or placement of wooden culverts at driveways or across streets, upon the right-of-way of any street within the City of Hohenwald is expressly prohibited. Only concrete or corrugated metal drains or culverts will be allowed at such points. (1982 Code, § 12-115).

### **EXCAVATIONS AND CUTS**

### **SECTION**

- 16-201. Permit required.
- 16-202. Applications.
- 16-203. Fee.
- 16-204. Deposit or bond.
- 16-205. Manner of excavating--barricades and lights--temporary sidewalks.
- 16-206. Restoration of streets, etc.
- 16-207. Insurance.
- 16-208. Time limits.
- 16-209. Supervision.
- 16-210. Driveway curb cuts.
- 16-201. Permit required. It shall be unlawful for any person, firm, corporation, association, or others, to make any excavation in any street, alley, or public place, or to tunnel under any street, alley, or public place without having first obtained a permit as herein required, and without complying with the provisions of this chapter; and it shall also be unlawful to violate, or vary from, the terms of any such permit; provided, however, any person maintaining pipes, lines, or other underground facilities in or under the surface of any street may proceed with an opening without a permit when emergency circumstances demand the work to be done immediately and a permit cannot reasonably and practicably be obtained beforehand. The person shall thereafter apply for a permit on the first regular business day on which the office of the recorder is open for business, and said permit shall be retroactive to the date when the work was begun. (1982 Code, § 12-201)
- 16-202. <u>Applications</u>. Applications for such permits shall be made to the recorder, or such person as he may designate to receive such applications, and shall state thereon the location of the intended excavation or tunnel, the size thereof, the purpose thereof, the person, firm, corporation, association, or others doing the actual excavating, the name of the person, firm, corporation, association, or others for whom the work is being done, and shall contain an agreement that the applicant will comply with all ordinances and laws relating to the work to be done. Such application shall be rejected or approved by the recorder within twenty-four (24) hours of its filing. (1982 Code, § 12-202)
- **16-203.** <u>Fee</u>. The fee for such permits shall be two dollars (\$2.00) for excavations which do not exceed twenty-five (25) square feet in area or tunnels not exceeding twenty-five feet (25') in length; and twenty-five cents (\$.25) for each additional square foot in the case of excavations, or lineal foot in the case

of tunnels; but not to exceed one hundred dollars (\$100.00) for any permit. (1982 Code, § 12-203)

16-204. Deposit or bond. No such permit shall be issued unless and until the applicant therefor has deposited with the recorder a cash deposit. The deposit shall be in the sum of twenty-five dollars (\$25.00) if no pavement is involved or seventy-five dollars (\$75.00) if the excavation is in a paved area and shall insure the proper restoration of the ground and laying of the pavement, if any. Where the amount of the deposit is clearly inadequate to cover the cost of restoration, the recorder may increase the amount of the deposit to an amount considered by him to be adequate to cover the cost. From this deposit shall be deducted the expense to the city of relaying the surface of the ground or pavement, and of making the refill if this is done by the city or at its expense. The balance shall be returned to the applicant without interest after the tunnel or excavation is completely refilled and the surface or pavement is restored.

In lieu of a deposit the applicant may deposit with the recorder a surety bond in such form and amount as the recorder shall deem adequate to cover the costs to the city if the applicant fails to make proper restoration. (1982 Code, § 12-204)

16-205. Manner of excavating--barricades and lights--temporary sidewalks. Any person, firm, corporation, association, or others making any excavation or tunnel shall do so according to the terms and conditions of the application and permit authorizing the work to be done. Sufficient and proper barricades and lights shall be maintained to protect persons and property from injury by or because of the excavation being made. If any sidewalk is blocked by any such work, a temporary sidewalk shall be constructed and provided which shall be safe for travel and convenient for users. (1982 Code, § 12-205)

16-206. Restoration of streets, etc. Any person, firm, corporation, association, or others making any excavation or tunnel in or under any street, alley, or public place in this city shall restore said street, alley, or public place to its original condition except for the surfacing, which shall be done by the town, but shall be paid for by such person, firm, corporation, association, or others promptly upon the completion of the work for which the excavation or tunnel was made. In case of unreasonable delay in restoring the street, alley, or public place, the recorder shall give notice to the person, firm, corporation, association, or others that unless the excavation or tunnel is refilled properly within a specified reasonable period of time, the city will do the work and charge the expense of doing the same to such person, firm, corporation, association, or others. If within the specified time the conditions of the above notice have not been complied with, the work shall be done by the city, an accurate account of the expense involved shall be kept, and the total cost shall be charged to the

person, firm, corporation, association, or others who made the excavation or tunnel. (1982 Code, § 12-206)

- **16-207. Insurance**. In addition to making the deposit or giving the bond hereinbefore required to insure that proper restoration is made, each person applying for an excavation permit shall file a certificate of insurance indicating that he is insured against claims for damages for personal injury as well as against claims for property damage which may arise from or out of the performance of the work, whether such performance be by himself, his subcontractor, or anyone directly or indirectly employed by him. Such insurance shall cover collapse, explosive hazards, and underground work by equipment on the street, and shall include protection against liability arising from completed operations. The amount of the insurance shall be prescribed by the recorder in accordance with the nature of the risk involved; provided, however, that the liability insurance shall not be less than three hundred thousand dollars (\$300,000.00) for bodily injury or death of any one (1) person in any one (1) accident, occurrence or act, and not less than seven hundred thousand dollars (\$700,000.00) for bodily injury or death of all persons in any one (1) accident, occurrence or act, and one hundred thousand dollars (\$100,000.00) for injury or destruction of property of others in any one (1) accident, occurrence, or act. (1982 Code, § 12-207, modified)
- 16-208. <u>Time limits</u>. Each application for a permit shall state the length of time it is estimated will elapse from the commencement of the work until the restoration of the surface of the ground or pavement, or until the refill is made ready for the pavement to be put on by the city if the city restores such surface pavement. It shall be unlawful to fail to comply with this time limitation unless permission for an extension of time is granted by the recorder. (1982 Code, § 12-208)
- **16-209.** <u>Supervision</u>. The recorder shall from time to time inspect all excavations and tunnels being made in or under any public street, alley, or other public place in the 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. (1982 Code, § 12-209)
- 16-210. <u>Driveway curb cuts</u>. No one shall cut, build, or maintain a driveway across a curb or sidewalk without first obtaining a permit from the recorder. Such a permit will not be issued when the contemplated driveway is to be so located or constructed as to create an unreasonable hazard to pedestrian and/or vehicular traffic. No driveway shall exceed thirty-five feet (35') in width at its outer or street edge and when two (2) or more adjoining driveways are provided for the same property a safety island of not less than ten feet (10') in

width at its outer or street edge shall be provided. Driveway aprons shall not extend out into the street. (1982 Code, § 12-210)

## **TITLE 17**

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

### **CHAPTER**

1. REFUSE.

### CHAPTER 1

# **REFUSE**

# **SECTION**

- 17-101. Title.
- 17-102. Definitions.
- 17-103. Collection by city; exceptions.
- 17-104. Collection regulations.
- 17-105. Precollection practices.
- 17-106. Tree trimmings and hedge clippings.
- 17-107. Refuse containers.
- 17-108. Storing of refuse.
- 17-109. Unauthorized accumulation.
- 17-110. Scattering of refuse.
- 17-111. Points of collection.
- 17-112. Frequency of collection.
- 17-113. Limitations on quantity.
- 17-114. Special refuse problems.
- 17-115. Collection by actual producers and outside collectors.
- 17-116. Refuse property of the city.
- 17-117. Fees.
- 17-118. Delinquent accounts.
- 17-119. Premises to be kept clean.
- 17-101. <u>Title</u>. This chapter shall be known and may be cited as the "Municipal Refuse Collection Service Ordinance of the City of Hohenwald, Tennessee." (1982 Code, § 8-201)
- **17-102.** <u>**Definitions**</u>. For the purpose of this chapter, the following terms, phrases, words, and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and

Property maintenance regulations: title 13.

<sup>&</sup>lt;sup>1</sup>Municipal code reference

words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

- (1) "Ashes" are the residue from the burning of wood, coal, coke, or other combustible materials.
  - (2) "City" is the City of Hohenwald, Tennessee.
- (3) "Garbage" is putrescible animal and vegetable wastes resulting from the handling, preparation, cooking, and consumption of food.
- (4) "Person" is any person, firm, partnership, association, corporation, company, or organization of any kind.
- (5) "Refuse" is all putrescible and nonputrescible solid wastes (except body waste), including garbage, rubbish, ashes, market and industrial wastes.
- (6) "Rubbish" is nonputrescible wastes (excluding ashes), consisting of both combustible and noncombustible wastes, such as paper, cardboard, tin cans, yard clippings, wood, glass, bedding, crockery, and similar materials. (1982 Code, § 8-202)
- 17-103. <u>Collection by city; exceptions</u>. All refuse accumulated in the city shall be collected, conveyed, and disposed of by the city. No person except the city shall collect, convey over any of the streets or alleys of the city, or dispose of any refuse accumulated in the city.

Exception for actual producers: This chapter shall not prohibit the actual producers of refuse, or the owners of premises upon which refuse has accumulated, from personally collecting, conveying, and disposing of such refuse, provided such producers or owners comply with the provisions of this chapter and any other governing law or ordinances. (1982 Code, § 8-203)

17-104. <u>Collection regulations</u>. All refuse accumulated in the city shall be collected, conveyed, and disposed of by the city under the supervision of the mayor. The mayor shall have the authority to make regulations concerning the days of collection, type and location of waste containers, and such other matters pertaining to collection, conveyance and disposal as he shall find necessary, and to change and modify the same after notice as required by law, provided such regulations are not contrary to the provisions hereof.

Any person aggrieved by a regulation of the mayor shall have the right of appeal to the city council, who shall have the authority to confirm, modify, or revoke any such regulation. (1982 Code, § 8-204)

- **17-105.** <u>Precollection practices</u>. (1) <u>Separation</u>. Garbage, ashes, and rubbish shall be placed and maintained in separate containers.
- (2) <u>Garbage</u>. All garbage before being placed in garbage cans for collection shall have drained from it all free liquid and may be wrapped in paper.
- (3) <u>Rubbish</u>. All rubbish shall be drained of liquid before being deposited for collection. (1982 Code, § 8-205)

- 17-106. <u>Tree trimmings and hedge clippings</u>. Tree trimmings and hedge clippings shall be considered rubbish for collection purposes and may be collected, hauled or disposed of by city employees and equipment of the sanitation department. Furthermore, it shall be unlawful for any person to place on the public streets or other public property any tree trimmings or hedge clippings. (Ord. #504, Aug. 1995)
- 17-107. Refuse containers. (1) Duty to provide and maintain in sanitary condition. Refuse containers shall be provided by the owner, tenant, lessee, or occupant of the premises. Refuse containers shall be maintained in good condition. Any container that does not conform to the provisions of this chapter or that may have ragged or sharp edges or any other defects liable to hamper or injure the person collecting the contents thereof shall be promptly replaced upon notice. The mayor shall have the authority to refuse collection service for failure to comply with this provision.
- (2) <u>Garbage containers</u>. Garbage containers shall be made of metal or plastic, equipped with suitable handles and tight fitting covers, and shall be water tight or lined with a plastic bag.

Garbage containers shall have a capacity of not more than twenty-four (24) gallons. Garbage containers shall be of a type approved by the health officer and shall be kept clean, neat, and sanitary at all times.

- (3) <u>Ash containers</u>. Ash containers shall be made of metal and have capacity of not more than five (5) gallons.
- (4) <u>Rubbish containers</u>. Rubbish containers shall be of a kind suitable for collection purposes, and shall be of such weight that can be handled by one (1) man. (1982 Code, § 8-207)
- **17-108.** Storing of refuse. No person shall place any refuse in any street, alley, or other public place, or upon any private property, whether owned by such person or not, within the city except it be in proper containers for collection or under express approval granted by the mayor. Nor shall any person throw or deposit any refuse in any stream or other body of water. (1982 Code, § 8-208)
- **17-109.** <u>Unauthorized accumulation</u>. Any unauthorized accumulation of refuse on any premises is hereby declared to be a nuisance and is prohibited. Failure to remove any existing accumulation of refuse within thirty (30) days after notice to do so shall be a misdemeanor. (1982 Code, § 8-209)
- **17-110.** <u>Scattering of refuse</u>. No person shall cast, place, sweep, or deposit anywhere in the city any refuse in such a manner that it may be carried or deposited by the elements upon the streets, sidewalks, alleys, parkways, or other public places, or into any occupied premises within the city. (1982 Code, § 8-210)

- 17-111. <u>Points of collection</u>. Refuse containers shall be placed for collection at ground level on the property and be accessible to and not more than twenty feet (20') from the side of the street or alley from which collection is made, provided that containers may be placed for collection at other than ground level at a distance of more than twenty feet (20') when approved by the mayor and an additional payment for the extra service is agreed upon by both parties. (1982 Code, § 8-211)
- **17-112.** <u>Frequency of collection</u>. (1) <u>Residential</u>. Refuse accumulated by residences shall be collected at least once a week.
- (2) <u>Commercial</u>. Hotels, restaurants, and such other businesses and institutions as deem it necessary may enter into an agreement for a greater frequency of collection. Where necessary to protect the public health, the mayor shall have the authority to require that more frequent collections be made. (1982 Code, § 8-212)
- 17-113. <u>Limitations on quantity</u>. (1) <u>Residential</u>. A reasonable accumulation of refuse of each family, during a collection period, will be collected for a standard charge.
- (2) <u>Commercial</u>. The city shall collect a reasonable accumulation of refuse of hotels, restaurants, and other businesses and institutions during the collection period at a charge based upon the average weight or volume. The mayor shall have the authority to refuse to collect unreasonable amounts or to make an additional charge for such amounts. (1982 Code, § 8-213)
- 17-114. <u>Special refuse problems</u>. (1) <u>Contagious disease refuse</u>. The removal of wearing apparel, bedding, or other refuse from homes or other places where highly infectious or contagious disease has prevailed should be performed under the supervision and direction of the city health officer. Such refuse shall not be placed in containers for regular collection.
- (2) <u>Inflammable or explosive refuse</u>. Highly inflammable or explosive material shall not be placed in containers for regular collection but shall be disposed of as directed by the mayor at the expense of the owner or possessor thereof. (1982 Code, § 8-214)

# 17-115. Collection by actual producers and outside collectors.

(1) Requirements for vehicles. The actual producers of refuse or the owners of premises upon which refuse is accumulated who desire personally to collect and dispose of such refuse, persons who desire to dispose of waste material not included in the definition of refuse, and collectors of refuse from outside the city who desire to haul over the streets of the city shall use a water tight vehicle provided with a tight cover so as to prevent offensive odors escaping therefrom and refuse from being blown, dropped, or spilled.

- (2) <u>Disposal</u>. Disposal of refuse under this section shall be made outside the city limits, unless otherwise specifically authorized by the mayor. The mayor shall have the authority to permit the disposal of such materials on the city landfill.
- (3) <u>Rules and regulations</u>. The mayor shall have the authority to make such other reasonable regulations concerning individual collection and disposal relating to the hauling of refuse over city streets by outside collectors as he shall find necessary, subject to the right of appeal as set forth in § 17-104. (1982 Code, § 8-215)
- 17-116. <u>Refuse property of the city</u>. Ownership of refuse material set out for collection or deposited on the city landfill shall be vested in the city. (1982 Code, § 8-216)
- 17-117. <u>Fees</u>. (1) <u>Industrial fees</u>. Charges for collection of industrial waste collected by the City of Hohenwald shall be based on city cost of collecting and disposing of same.
- (2) <u>Residential fees</u>. Fees charged for residential refuse collection shall be set by appropriate resolution or ordinance of the city council, which fee shall be billed with water and sewer fees. No residence which is within reach of a city garbage collection center shall receive water, sewer, or gas service without receiving garbage service.
- (3) <u>Commercial fees</u>. Fees for hotels, restaurants, institutions, and all businesses shall be based upon the average amount of refuse material and the frequency of collection and shall be fixed by the mayor, subject to the right of appeal to the city council.
- (4) Other than ground level; more than twenty feet. Where the collection of refuse other than from ground level or from more than twenty feet (20') from the side of the street or alley is accepted by the mayor, the fee shall be that of subsection (2) above plus a fee set by the mayor, subject to appeal to the city council, which shall be deemed by him to cover the cost of the extra service rendered. (1982 Code, § 8-217)
- 17-118. <u>Delinquent accounts</u>. All accounts shall be delinquent if not paid by the 10<sup>th</sup> day of the month. Upon failure to pay all gas, water, sewer, and garbage collection bills by the 10<sup>th</sup> day of the month, in full, after notice and hearing all of such services shall be immediately terminated if the customer is at fault. None of such services shall be reinstated or furnished until all delinquent bills due by such resident, for any location, are fully paid, together with a reasonable charge for the restoration of such services.

<sup>&</sup>lt;sup>1</sup>Administrative ordinances and resolutions are available in the recorder's office.

The stoppage of service hereinabove authorized for non-payment of collection charges shall be in addition to the right of the city to proceed for the collection of such unpaid charges in a manner provided by law for the collection of a municipal claim. (1982 Code, § 8-218)

17-119. <u>Premises to be kept clean</u>. Every owner or tenant of property shall keep his property in a clean and sanitary condition, free from accumulations of refuse which might provide a harborage or breeding place for rodents and other vermin and insects. It shall be unlawful for any person to fail to comply with the written order of the city recorder or chief of police to clean up his premises within five (5) days when such officer finds that the premises are being maintained in violation of this section.

When any property owner or tenant fails to comply with the order of the city recorder or chief of police to clean up his property, the city may do or have the work done and charge the violator for the reasonable costs thereof. The city may maintain any appropriate legal action to collect such costs. (1982 Code, § 8-219)

#### **TITLE 18**

# WATER AND SEWERS<sup>1</sup>

#### **CHAPTER**

- 1. WATER AND SEWERS.
- 2. SEWER USE ORDINANCE.
- 3. SUPPLEMENTARY SEWER REGULATIONS.
- 4. SEWAGE AND HUMAN EXCRETA DISPOSAL.
- 5. CROSS CONNECTIONS, AUXILIARY INTAKES, ETC.
- 6. WATER CONSERVATION GUIDELINES.
- 7. WATER AND SEWER USER RATES.

#### CHAPTER 1

# WATER AND SEWERS

#### **SECTION**

- 18-101. Application and scope.
- 18-102. Definitions.
- 18-103. Obtaining service.
- 18-104. Application and contract for service.
- 18-105. Service charges for temporary service.
- 18-106. Connection charges.
- 18-107. Water and sewer main extensions.
- 18-108. Variances from and effect of preceding section as to extensions.
- 18-109. Meters.
- 18-110. Meter tests.
- 18-111. Multiple services through a single meter.
- 18-112. Billing.
- 18-113. Discontinuance or refusal of service.
- 18-114. Re-connection charge.
- 18-115. Termination of service by customer.
- 18-116. Access to customers' premises.
- 18-117. Inspections.
- 18-118. Customer's responsibility for system's property.
- 18-119. Customer's responsibility for violations.
- 18-120. Supply and resale of water.

<sup>1</sup>Municipal code references

Building, utility and residential codes: title 12.

Electricity and gas: title 19.

Refuse disposal: title 17.

- 18-121. Unauthorized use of or interference with water supply.
- 18-122. Limited use of unmetered private fire line.
- 18-123. Damages to property due to water pressure.
- 18-124. Liability for cutoff failures.
- 18-125. Restricted use of water.
- 18-126. Interruption of service.
- 18-127. Schedule of rates.
- **18-101. Application and scope**. The provisions of this chapter are a part of all contracts for receiving water and/or sewer service from the city and shall apply whether the service is based upon contract, agreement, signed application, or otherwise. (1982 Code, § 13-101)
- **18-102.** <u>Definitions</u>. (1) "Customer" means any person, firm, or corporation who receives water and/or sewer service from the city under either an express or implied contract.
- (2) "Discount date" shall mean the date ten (10) days after the date of a bill, except when some other date is provided by contract. The discount date is the last date upon which water and/or sewer bills can be paid at net rates.
- (3) "Dwelling" means any single structure, with auxiliary buildings, occupied by one (1) or more persons or households for residential purposes.
- (4) "Household" means any two (2) or more persons living together as a family group.
- (5) "Premise" means any structure or group of structures operated as a single business or enterprise, provided, however, the term "premise" shall not include more than one (1) dwelling.
- (6) "Service line" shall consist of the pipe line extending from any water or sewer main of the city to private property. Where a meter and meter box are located on private property, the service line shall be construed to include the pipe line extending from the city's water main to and including the meter and meter box. (1982 Code, § 18-102)
- **18-103.** <u>Obtaining service</u>. A formal application for either original or additional service must be made and be approved by the city before connection or meter installation orders will be issued and work performed. (1982 Code, § 13-103)
- **18-104.** Application and contract for service. Each prospective customer desiring water or sewer service will be required to sign a standard form of contract for service. An application/connection fee, in an amount as established by the city council by resolution, shall be paid at time of application for service. If, for any reason, the person, after signing a contract for service does not take such service, he shall reimburse the city for the expense incurred by

reason of its endeavor to furnish said service. The receipt of an application for service shall not obligate the city to render service.

**18-105.** <u>Service charges for temporary service</u>. Customers requiring temporary service shall pay all costs for connection and disconnection incidental to the supplying and removing of service in addition to the regular charge for water and/or sewer service. (1982 Code, § 13-105)

**18-106.** <u>Connection charges</u>. Service lines will be laid by the city from its mains to the property line at the expense of the applicant for service. The location of such lines will be determined by the city.

Before a new water or sewer service line will be laid by the city, the applicant shall make a deposit equal to the estimated cost of the installation.

This deposit shall be used to pay the cost of laying such new service line and appurtenant equipment. If such cost exceeds the amount of the deposit, the applicant shall pay to the city the amount of such excess cost when billed therefor. If such cost is less than the amount of the deposit, the amount by which the deposit exceeds such cost shall be refunded to the applicant.

When a service line is completed, the city shall be responsible for the maintenance and upkeep of such service line from the main to and including the meter and meter box, and such portion of the service line shall belong to the city. The remaining portion of the service line beyond the meter box (or property line, in the case of sewers) shall belong to and be the responsibility of the customer. (1982 Code, § 13-106)

18-107. <u>Water and sewer main extensions</u>. Persons desiring water and/or sewer main extensions must pay all of the cost of making such extensions.

For water main extensions cement-lined cast iron pipe, class 150 American Water Works Association Standard (or other construction approved by the city council), not less than six inches (6") in diameter shall be used to the dead end of any line and to form loops or continuous lines, so that fire hydrants may be placed on such lines at locations no farther than one thousand feet (1,000') from the most distant part of any dwelling structure and no farther than six hundred feet (600') from the most distant part of any commercial, industrial, or public building, such measurements to be based on road or street distances. Cement-lined cast iron pipe (or other construction approved by the city council) two inches (2") in diameter, to supply dwellings only, may be used to supplement such lines. For sewer main extensions eight inch (8") pipe of vitrified clay or other construction approved by the city council shall be used.

All such extensions shall be installed either by municipal forces or by other forces working directly under the supervision of the city in accordance with plans and specifications prepared by an engineer registered with the State of Tennessee.

Upon completion of such extensions and their approval by the city, such water and/or sewer mains shall become the property of the city. The persons paying the cost of constructing such mains shall execute any written instruments requested by the city to provide evidence of the city's title to such mains. In consideration of such mains being transferred to it, the city shall incorporate said mains as an integral part of the municipal water and sewer systems and shall furnish water and sewer service therefrom in accordance with these rules and regulations, subject always to such limitations as may exist because of the size and elevation of said mains. (1982 Code, § 13-107)

18-108. <u>Variances from effect of preceding section as to extensions</u>. Whenever the city council is of the opinion that it is to the best interest of the city and its inhabitants to construct a water and/or sewer main extension without requiring strict compliance with the preceding section, such extension may be constructed upon such terms and conditions as shall be approved by the city council.

The authority to make water and/or sewer main extensions under the preceding section is permissive only and nothing contained therein shall be construed as requiring the city to make such extensions or to furnish service to any person or persons. (1982 Code, § 13-108)

**18-109.** <u>Meters</u>. All meters shall be installed, tested, repaired, and removed only by the city.

No one shall do anything which will in any way interfere with or prevent the operation of a meter. No one shall tamper with or work on a water meter without the written permission of the city. No one shall install any pipe or other device which will cause water to pass-through or around a meter without the passage of such water being registered fully by the meter. (1982 Code, § 13-109)

**18-110.** <u>Meter tests</u>. The city will, at its own expense, make routine tests of meters when it considers such tests desirable.

In testing meters, the water passing through a meter will be weighed or measured at various rates of discharge and under varying pressures. To be considered accurate, the meter registration shall check with the weighed or measured amounts of water within the percentage shown in the following table:

Meter Size	<u>Percentage</u>
5/8", 3/4", 1", 2"	2%
3"	3%
4"	4%
6"	5%

The city will also make tests or inspections of its meters at the request of the customer. However, if a test requested by a customer shows a meter to be accurate within the limits stated above, the customer shall pay a meter testing charge in the amount stated in the following table:

Meter Size	<u>Test Charge</u>
5/8", 3/4", 1"	\$12.00
1 1/2", 2"	15.00
3"	18.00
4"	22.00
6" and over	30.00

If such test shows a meter not to be accurate within such limits, the cost of such meter test shall be borne by the city. (1982 Code, § 13-110)

**18-111.** Multiple services through a single meter. No customer shall supply water or sewer service to more than one (1) dwelling or premise from a single service line and meter without first obtaining the written permission of the city.

Where the city allows more than one (1) dwelling or premise to be served through a single service line and meter, the amount of water used by all the dwellings and premises served through a single service line and meter shall be allocated to each separate dwelling or premise served. The water and/or sewer charges for each such dwelling or premise thus served shall be computed just as if each such dwelling or premise had received through a separately metered service the amount of water so allocated to it, such computation to be made at the city's applicable water rates schedule, including the provisions as to minimum bills. The separate charges for each dwelling or premise served through a single service line and meter shall then be added together, and the sum thereof shall be billed to the customer in whose name the service is supplied. (1982 Code, § 13-112)

**18-112. Billing**. Bills for residential water and sewer service will be rendered monthly.

Bills for commercial and industrial service may be rendered weekly, semimonthly, or monthly, at the option of the city.

Both charges shall be collected as a unit; no municipal employee shall accept payment of water service charges from any customer without receiving at the same time payment of all sewer service charges owed by such customer. Water service may be discontinued for non-payment of the combined bill.

Water and sewer bills must be paid on or before the discount date shown thereon to obtain the net rate, otherwise the gross rate shall apply. Failure to receive a bill will not release a customer from payment obligation, nor extend the discount date.

In the event a bill is not paid on or before five (5) days after the discount date, a written notice shall be mailed to the customer. The notice shall advise

the customer that his service may be discontinued without further notice if the bill is not paid on or before ten (10) days after the discount date. The city shall not be liable for any damages resulting from discontinuing service under the provisions of this section, even though payment of the bill is made at any time on the day that service is actually discontinued.

Should the final date of payment of bill at the net rate fall on Sunday or a holiday, the business day next following the final date will be the last day to obtain the net rate. A net remittance received by mail after the time limit for payment at the net rate will be accepted by the city if the envelope is date-stamped on or before the final date for payment of the net amount.

If a meter fails to register properly, or if a meter is removed to be tested or repaired, or if water is received other than through a meter, the city reserves the right to render an estimated bill based on the best information available. (1982 Code, § 13-113)

- **18-113.** <u>Discontinuance or refusal of service</u>. The city shall have the right to discontinue water and/or sewer service or to refuse to connect service for a violation of, or a failure to comply with, any of the following:
  - (1) These rules and regulations;
  - (2) The customer's application for service;
  - (3) The customer's contract for service.

Such right to discontinue service shall apply to all service received through a single connection or service, even though more than one (1) customer or tenant is furnished service therefrom, and even though the delinquency or violation is limited to only one (1) such customer or tenant.

Discontinuance of service by the city for any cause stated in these rules and regulations shall not release the customer from liability for service already received or from liability for payments that thereafter become due under other provisions of the customer's contract.

Water service may be disconnected if the customer's bill is not paid by its due date. No re-connection shall occur unless the bill and re-connection charge is paid in full. (1982 Code, § 13-114, as amended by Ord. #581, Aug. 2004)

- 18-114. <u>Re-connection charge</u>. Whenever service has been discontinued, a re-connection charge, in an amount as established by the city council by resolution, shall be paid before service is restored.
- **18-115.** <u>Termination of service by customer</u>. Customers who have fulfilled their contract terms and wish to discontinue service must give at least three (3) days' written notice to that effect unless the contract specifies otherwise. Notice to discontinue service prior to the expiration of a contract term will not relieve the customer from any minimum or guaranteed payment under such contract or applicable rate schedule.

When service is being furnished to an occupant of premises under a contract not in the occupant's name, the city reserves the right to impose the following conditions on the right of the customer to discontinue service under such a contract:

- (1) Written notice of the customer's desire for such service to be discontinued may be required; and the city shall have the right to continue such service for a period of not to exceed ten (10) days after receipt of such written notice, during which time the customer shall be responsible for all charges for such service. If the city should continue service after such ten (10) day period subsequent to the receipt of the customer's written notice to discontinue service, the customer shall not be responsible for charges for any service furnished after the expiration of such ten (10) day period.
- (2) During such ten (10) day period, or thereafter, the occupant of premises to which service has been ordered discontinued by a customer other than such occupant, may be allowed by the city to enter into a contract for service in the occupant's own name upon the occupant's complying with these rules and regulations with respect to a new application for service. (1982 Code, § 13-116)
- 18-116. Access to customers' premises. The city's identified representatives and employees shall be granted access to all customers' premises at all reasonable times for the purpose of reading meters, for testing, inspecting, repairing, removing, and replacing all equipment belonging to the city, and for inspecting customers' plumbing and premises generally in order to secure compliance with these rules and regulations. (1982 Code, § 13-117)
- 18-117. <u>Inspections</u>. The city shall have the right, but shall not be obligated, to inspect any installation or plumbing system before water and/or sewer service is furnished or at any later time. The city reserves the right to refuse service or to discontinue service to any premises not meeting standards fixed by municipal ordinances regulating building and plumbing, or not in accordance with any special contract, these rules and regulations, or other requirements of the city.

Any failure to inspect or reject a customer's installation or plumbing system shall not render the city liable or responsible for any loss or damage which might have been avoided had such inspection or rejection been made. (1982 Code, § 13-118)

18-118. <u>Customer's responsibility for system's property</u>. Except as herein elsewhere expressly provided, all meters, service connections, and other equipment furnished by or for the city shall be and remain the property of the city. Each customer shall provide space for and exercise proper care to protect the property of the city on his premises. In the event of loss or damage to such property arising from the neglect of a customer to care for it properly, the cost

of necessary repairs or replacements shall be paid by the customer. (1982 Code, § 13-119)

- 18-119. <u>Customer's responsibility for violations</u>. Where the city furnishes water and/or sewer service to a customer, such customer shall be responsible for all violations of these rules and regulations which occur on the premises so served. Personal participation by the customer in any such violations shall not be necessary to impose such personal responsibility on him. (1982 Code, § 13-120)
- 18-120. <u>Supply and resale of water</u>. All water shall be supplied within the city exclusively by the city and no customer shall, directly or indirectly, sell, sublet, assign, or otherwise dispose of the water or any part thereof except with written permission from the city. (1982 Code, § 13-121)
- 18-121. <u>Unauthorized use of or interference with water supply</u>. No person shall turn on or turn off any of the city's stop cocks, valves, hydrants, spigots, or fire plugs without permission or authority from the city. (1982 Code, § 13-122)
- **18-122.** <u>Limited use of unmetered private fire line</u>. Where a private fire line is not metered, no water shall be used from such line or from any fire hydrant thereon, except to fight fire or except when being inspected in the presence of an authorized agent of the city.

All private fire hydrants shall be sealed by the city and shall be inspected at regular intervals to see that they are in proper condition and that no water is being used therefrom in violation of these rules and regulations. When the seal is broken on account of fire, or for any other reason, the customer taking such service shall immediately give the city a written notice of such occurrence. (1982 Code, § 13-123)

- **18-123.** <u>Damages to property due to water pressure</u>. The city shall not be liable to any customer for damages caused to his plumbing or property by high pressure, low pressure, or fluctuations in pressure in the city's water mains. (1982 Code, § 13-124)
- **18-124.** <u>Liability for cutoff failures</u>. The city's liability shall be limited to the forfeiture of the right to charge a customer for water that is not used but is received from a service line under any of the following circumstances:
- (1) After receipt of at least ten (10) days' written notice to cut off a water service, the city has failed to cut off such service.
- (2) The city has attempted to cut off a service but such service has not been completely cut off.

(3) The city has completely cut off a service but subsequently the cutoff develops a leak or is turned on again so that water enters the customer's pipes from the city's main.

Except to the extent stated above, the city shall not be liable for any loss or damage resulting from cutoff failures. If a customer wishes to avoid possible damage for cutoff failures, the customer shall rely exclusively on privately owned cutoffs and not on the city's cutoff. Also, the customer (and not the city) shall be responsible for seeing that his plumbing is properly drained and is kept properly drained, after his water service has been cut off. (1982 Code, § 13-125)

- **18-125.** Restricted use of water. In times of emergencies or in times of water shortage, the city reserves the right to restrict the purposes for which water may be used by a customer and the amount of water which a customer may use. (1982 Code, § 13-126)
- **18-126.** <u>Interruption of service</u>. The city will endeavor to furnish continuous water and sewer service, but does not guarantee to the customer any fixed pressure or continuous service. The city shall not be liable for any damages for any interruption of service whatsoever.

In connection with the operation, maintenance, repair, and extension of the municipal water and sewer systems, the water supply may be shut off without notice when necessary or desirable, and each customer must be prepared for such emergencies. The city shall not be liable for any damages from such interruption of service or for damages from the resumption of service without notice after any such interruption. (1982 Code, § 13-127)

18-127. <u>Schedule of rates</u>. All water and sewer service shall be furnished under such rate schedules as the city council may from time to time adopt by ordinance.

#### **CHAPTER 2**

# SEWER USE ORDINANCE

#### **SECTION**

- 18-201. Purpose and policy.
- 18-202. Definitions.
- 18-203. Abbreviations.
- 18-204. General sewer use requirements.
- 18-205. Pretreatment of wastewater.
- 18-206. Fees.
- 18-207. Individual wastewater discharge and general permits.
- 18-208. Individual wastewater discharge and general permit issuance.
- 18-209. Reporting requirements.
- 18-210. Compliance monitoring.
- 18-211. Confidential information.
- 18-212. Publication of users in significant noncompliance.
- 18-213. Administrative enforcement remedies.
- 18-214. Judicial enforcement remedies.
- 18-215. Affirmative defenses to discharge violations.
- 18-216. Miscellaneous provisions.
- Appendix A: Pollutant Parameters.
- 18-201. <u>Purpose and policy.</u> (1) This chapter sets forth uniform requirements for direct and indirect contributors into the wastewater collection and treatment system for the City of Hohenwald, Tennessee, hereinafter referred to as "the city" or control authority. The control authority is the City of Hohenwald and enables the city to comply with all applicable state laws and regulations and federal laws required by the Federal Water Pollution Control Act of 1972 and its subsequent amendment, and the General Pretreatment Regulations (40 C.F.R., part 403).
  - (2) The objectives of this chapter are:
  - (a) To prevent the introduction of pollutants into the Publicly Owned Treatment Works (POTW) system which will interfere with the operation of the system or contaminate the resulting sludge;
  - (b) To prevent the introduction of pollutants into the POTW system in amounts which will pass-through the system, inadequately treated, into receiving waters or the atmosphere or otherwise be incompatible with the system;
  - (c) To protect both the POTW system personnel who may be affected by wastewater and sludge in the course of their employment and the general public;

- (d) To improve the opportunity to recycle and reclaim wastewaters and sludge from the POTW system;
- (e) To provide fees for the equitable distribution of the cost of operation, maintenance, and improvement of the POTW system; and
- (f) To enable the City of Hohenwald wastewater treatment plant to comply with its national pollutant discharge elimination system permit conditions, sludge use and disposal requirements, and any other federal or state laws to which the POTW system is subject.
- (3) This chapter provides for the regulation of contributors to the POTW system through the issuance of permits to certain non-domestic users and through enforcement of general requirements for the other users, authorizes monitoring and enforcement activities, requires user reporting, assumes that existing customer's capacity will not be preempted, and provides for the setting of fees and charges for the equitable distribution of costs relating to the administration, operation, maintenance, amortization of debt and depreciation of the POTW.
- (4) This chapter shall apply to the City of Hohenwald and to persons outside the city who are, by contract or agreement with the control authority, users of the City of Hohenwald's POTW. Except as otherwise provided herein, the mayor or his representative shall administer, implement, and enforce the provisions of this chapter. Any powers granted to or duties imposed upon the mayor may be delegated by the mayor to a duly authorized representative of the city. (Ord. #664, Dec. 2011)
- **18-202.** <u>**Definitions**</u>. Unless the context specifically indicates otherwise, the following terms and phrases, as used in this chapter, shall have the meaning hereinafter designated:
- (1) "Act" or "the Act". The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. §§ 1251 et seq.
- (2) "Approval authority." The Tennessee Division of Water Pollution Control Director or the Director's representative.
  - (3) "Authorized or duly authorized representative of the user."
    - (a) If the user is a corporation:
    - (i) The president, secretary, treasurer, or a vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision making functions for the corporation; or
    - (ii) The manager of one (1) or more manufacturing, production, or operating facilities, provided the manager is authorized to make management decisions that govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiate and direct other comprehensive measures to assure long-term environmental compliance with

environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for individual wastewater discharge or general permit requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

- (b) If the user is a partnership or sole proprietorship: a general partner or proprietor, respectively.
- (c) If the user is a federal, state, or local governmental facility: a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or their designee.
- (d) The individuals described in paragraphs (a) through (c) above, may designate a duly authorized representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to the city.
- (4) "Biochemical Oxygen Demand (BOD)". The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure for five (5) days at twenty degrees centigrade (20°C), expressed in terms of weight (lbs) and/or concentration (mg/l).
- (5) "Best Management Practices (BMPs)" means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in § 2.3(a) and (b) (Tennessee Rule 1200-4-14-.05(1)(a) and (2)). BMPs include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage. "BMPs" also include alternative means (i.e., management plans) of complying with, or in place of certain established categorical pretreatment standards and effluent limits.
- (6) "Building drain." The part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer beginning five feet (5') outside the inner face of the building wall.
- (7) "Building sewer." A sewer conveying wastewater from the premises of a user to the POTW.
- (8) "Categorical pretreatment standard" or "categorical standard". Any regulation containing pollutant discharge limits promulgated by EPA in accordance with § 307(b) and (c) of the Act (33 U.S.C. § 1317) that apply to a specific category of users and that appear in 40 C.F.R. Chapter I, Subchapter N5 Parts 405-471.

- (9) "Categorical industrial user." An industrial user subject to a categorical pretreatment standard or categorical standard.
- (10) "Chemical Oxygen Demand (COD)." A measure of the oxygen required to oxidize all compounds, both organic and inorganic, in water.
- (11) "Chronic violation." Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of all of the measurements taken for the same pollutant parameter during a six (6) month period on a rolling quarterly basis exceed (by any magnitude) a numeric pretreatment standard or requirement, including instantaneous limits.
  - (12) "City." City of Hohenwald.
  - (13) "City council." The persons elected board of mayor and aldermen.
- (14) "Combined sewer." A sewer receiving both sewage and surface runoff from down spouts, storm sewers and surface or groundwater.
- (15) "Control authority." The mayor of the City of Hohenwald, Tennessee or a duly authorized representative of the City of Hohenwald.
- (16) "Cooling water." The water discharged from any use such as air conditioning, cooling or refrigeration, or to which the only pollutant added is heat.
- (17) "Conventional pollutants" Biochemical Oxygen Demand (BOD<sub>5</sub>), Total Suspended Solids (TSS), fecal coliform bacteria, oil and grease, flow, and pH (40 C.F.R. 401.16).
- (18) "Daily maximum." The arithmetic average of all effluent samples for a pollutant (except pH) collected during a calendar day.
- (19) "Daily maximum limit." The maximum allowable discharge limit of a pollutant during a calendar day. Where daily maximum limits are expressed in units of mass, the daily discharge is the total mass discharged over the course of the day. Where daily maximum limits are expressed in terms of a concentration, the daily discharge is the arithmetic average measurement of the pollutant concentration derived from all measurements taken that day.
- (20) "Direct discharge." The discharge of treated or untreated wastewater directly to the waters of the State of Tennessee.
- (21) "Domestic wastewater." Wastewater that is generated by a single family, apartment of other dwelling unit or dwelling unit equivalent containing sanitary facilities for the disposal of wastewater and used for residential purposes only and/or restroom wastes from commercial, institutional and industrial users.
- (22) "Environmental Protection Agency" or "EPA." The U.S. Environmental Protection Agency, or where appropriate, the Regional Water Management Division Director, the Regional Administrator, or other duly authorized official of said agency.
- (23) "Existing source." Any source of discharge that is not a "new source."

- (24) "Grab sample." A sample that is collected from a wastestream without regard to the flow in the wastestream and over a period of time not to exceed fifteen (15) minutes.
- (25) "Grease interceptor." An interceptor whose rated flow exceeds fifty (50) gpm and is located outside the building.
- (26) "Grease trap." An interceptor whose rated flow is fifty (50) gpm or less and is typically located inside the building.
- (27) "Holding (septic) tank waste." Any waste from holding tanks such as vessels, chemical toilets, campers, trailers, septic tanks, and vacuum-pump tank trucks.
- (28) "Indirect discharge" or "discharge." The discharge or the introduction of non-domestic pollutants from any source regulated under § 307(b), (c), or (d) of the Act, into the POTW (including holding tank waste discharged into the system).
- (29) "Industrial User (IU)" or "user." A source of nondomestic waste. Any nondomestic source discharging pollutants to the POTW.
- (30) "Individual wastewater discharge permit and general permit." As set forth in § 18-205.
- (31) "Instantaneous maximum limit." The maximum allowable concentration of a pollutant discharged at any time, determined from the analysis of any discrete or composited sample collected, independent of the industrial flow rate and the duration of the sampling event.
- (32) "Interceptor." A device designed and installed to separate and retain for removal, by automatic or manual means, deleterious, hazardous or undesirable matter from normal wastes, while permitting normal sewage or waste to discharge into the drainage system by gravity.
- (33) "Interference." A discharge that, alone or in conjunction with a discharge or discharges from other sources, inhibits or disrupts the POTW, its treatment processes or operations, or its sludge processes, use or disposal, or exceeds the design capacity of the treatment works or the collection system.
- (34) "Local limit." Specific discharge limits developed and enforced by the control authority upon industrial or commercial facilities to implement the general and specific discharge prohibitions listed in Tennessee Rule 1200-4-14-.05(1)(a) and (2).
- (35) "Medical waste." Isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes, and dialysis wastes.
- (36) "Monthly average." The sum of all "daily discharges" measured during a calendar month divided by the number of "daily discharges" measured during that month.
- (37) "Monthly average limit." The highest allowable average of "daily discharges" over a calendar month, calculated as the sum of all "daily

discharges" measured during a calendar month divided by the number of "daily discharges" measured during that month.

- (38) "National Pollutant Discharge Elimination System or NPDES permit." A permit issued to a POTW pursuant to § 402 of the Act.
- (39) "National pretreatment standard, pretreatment standard, or standard." Any regulation containing pollutant discharge limits promulgated by the EPA in accordance with § 307(b) and (c) of the Federal Clean Water Act, which applies to industrial users. This term includes prohibitive discharge limits established pursuant to 1200-4-14-.05.
- (40) National prohibitive discharges. Prohibitions applicable to all nondomestic dischargers regarding the introduction of pollutants into POTW's set forth in 40 C.F.R. 403.5.

## (41) New source.

- (a) Any building, structure, facility or installation from which there is or may be a discharge of pollutants, the construction of which commenced after the publication of proposed national pretreatment standards under § 307(c) of the Act which will be applicable to such source if such standards are thereafter promulgated in accordance with that section, provided that:
  - (i) The building, structure, facility or installation is constructed at a site at which no other source is located; or
  - (ii) The building, structure, facility or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or
  - (iii) The production or wastewater generating processes of the building, structure, facility, or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant and the extent as to which the new facility is engaged in the same general type of activity as the existing source should be considered.
- (b) Construction on the site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility or installation meeting the criteria of the aforementioned but otherwise alters, replaces, or adds to existing process or production equipment.
- (c) Construction of a new source as defined under this section has commenced if the owner or operator has:
  - (i) Begun, or caused to begin as part of a continuous on-site construction program:
    - (A) Any placement, assembly or installation of facilities or equipment; or

- (B) Significant site preparation work including clearing, excavation or removal of existing buildings, structures or facilities which is necessary for the placement, assembly or installation of new source facilities or equipment; or
- (ii) Entered into a binding contractual obligation for the purchase of facilities or equipment, which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering and design studies do not constitute a contractual obligation under this subsection.
- (42) "Noncontact cooling water." Water used for cooling that does not come into direct contact with any raw material, intermediate product, waste product, or finished product.
- (43) "North American Industry Classification System (NAICS)." A classification pursuant to the North American Industrial Classification Manual issued by the Executive Office of the President, Office of Management and Budget, 2007.
- (44) "Pass-through." A discharge which exits the POTW into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement or the city's NPDES permit, including an increase in the magnitude or duration of a violation.
- (45) "Person." Any and all persons, including individuals, partnerships, co-partnerships, firms, companies, public or private corporations or officers thereof, associations, joint stock companies, trusts, estates, state and federal agencies, municipalities or political subdivisions, or officers thereof, departments, agencies, or instrumentalities organized or existing under the laws of this or any state or country. The masculine gender shall include the feminine, the singular shall include the plural where indicated by the context.
- (46) "pH." The logarithm (base 10) of the reciprocal of the concentration of hydrogen ions expressed in grams per liter of solution which is the measurement of acidity or alkalinity of a solution.
- (47) "Pollutant." Any dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, medical wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked or discharge equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste and certain characteristics of wastewater (e.g., pH, temperature, TSS, turbidity, color, BOD, COD, toxicity, or odor).
- (48) "Pollution." The man-made or man-induced alteration of the chemical, physical, biological, and radiological integrity of water.
- (49) "Pretreatment." The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or

otherwise introducing such pollutants into a POTW. This reduction or alteration can be obtained by physical, chemical, or biological processes; by process changes; or by other means, except as prohibited by Tennessee Rule 1200-4-14-.06(4). Appropriate pretreatment technology includes control equipment, such as equalization tanks or facilities, for protection against surges or slug loadings that might interfere with or otherwise be incompatible with the POTW; however, where wastewater from a regulated process is mixed in an equalization facility with unregulated wastewater or with wastewater from another regulated process, the effluent from the equalization facility must meet an adjusted pretreatment limit calculated in accordance with Tennessee Rule 1200-4-14-.06(5).

- (50) "Pretreatment requirements." Any substantive or procedural requirement related to pretreatment, other than a pretreatment standard imposed on a user, including, but not limited to, discharge, sampling requirements, analytical requirements, reporting requirements, and compliance schedules.
- (51) "Pretreatment standards or standards." Prohibited discharge standards, categorical pretreatment standards, and local limits.
- (52) "Process wastewater." Any water which, during manufacturing or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, by-product, or waste product.
- (53) "Process wastewater pollutants." Pollutants present in process waste water.
- (54) "Prohibited discharge standards or prohibited discharges." Absolute prohibitions against the discharge of certain substances; these prohibitions appear in § 18-204(3).
- (55) "Publicly Owned Treatment Works (POTW)." A treatment works as defined by § 212 of the Act (33 U.S.C. § 1292), which is owned by the City of Hohenwald, Tennessee. This definition includes any devices or systems used in collection, storage, treatment, recycling, and reclamation of sewage or industrial wastes of a liquid nature and any conveyances, which convey wastewater to a treatment plant. For the purposes of this chapter, "POTW" shall also include any sewers that convey wastewaters to the POTW from persons outside the city, who are, by contract or agreement with the control authority, users of the POTW.
- (56) "POTW treatment plant, wastewater treatment plant, or treatment plant." That portion of the POTW designed to provide treatment to wastewater.
- (57) "Sanitary sewer." A sewer pipeline that carries liquid and water-carried wastes from residences, commercial buildings, industrial plants, and institutions, together with minor quantities of ground storm, and surface waters that are not admitted intentionally.
  - (58) "Shall" is mandatory; "may" is permissive.

- (59) Significant Industrial User (SIU). Except as provided in paragraphs (c) and (d) below, a significant industrial user is:
  - (a) All industrial users subject to categorical pretreatment standards under 40 C.F.R. 403.6 and 40 C.F.R. chapter I, subchapter N; and
    - (b) Any other industrial user that:
    - (i) Discharges an average of twenty-five thousand (25,000) gallons more per day or more of process wastewater (excluding sanitary, non-contact cooling and boiler blowdown wastewater) to the POTW:
    - (ii) Contributes a process wastestream which makes up five percent (5%) or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or
    - (iii) Is designated as such by the control authority on the basis that is has a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement (in accordance with <u>Tennessee Code Annotated</u>, 1200-4-14-.08(6)(f).
  - (c) The control authority may determine that an industrial user subject to categorical pretreatment standards under Tennessee Rule 1200-4-14-.06 and 40 CFR chapter 1, subchapter N is a non-significant categorical industrial user rather than a significant industrial user on a finding that the industrial user never discharges more than one hundred (100) gallons per day (gpd) of total categorical wastewater (excluding sanitary, non-contact cooling and boiler blowdown wastewater, unless specifically included in the pretreatment standard) and the following conditions are met:
    - (i) The industrial user, prior to the control authority's finding, has consistently complied with all applicable categorical pretreatment standards and requirements:
    - (ii) The industrial user annually submits the certification statement(s) required in § 7.14 (Tennessee Rule 1200-4-14-.12(17)), together with any additional information necessary to support the certification statement: and
    - (iii) The industrial user never discharges any untreated concentrated wastewater.
  - (d) Upon finding that a user meeting the criteria in Subsection (b) of this part has no reasonable potential for adversely affecting the POTW's operation of for violating any pretreatment standard or requirement, the control authority may at any time, on its own initiative or in response to a petition received from an industrial user, and in accordance with procedures in Tennessee Rule 1200-4-14-.08(6)(f), determine that such user is not a significant industrial user.

- (60) "Significant Noncompliance (SNC)." Any violation of pretreatment requirements which meet one (1) or more of the following criteria:
  - (a) Violations of wastewater discharge limits;
    - (i) Chronic violations;
    - (ii) Technical Review Criteria (TRC) violations;
  - (iii) Any other violation(s) of an industrial wastewater discharge permit or general permit effluent limit that the control authority believes has caused, alone or in combination with other discharges, interferences (e.g., slug loads) or pass-through; or endangered the health of the POTW personnel or the public, or
  - (iv) Any discharge of a pollutant that has caused imminent endangerment to human health/welfare or to the environment and has resulted in the POTW's exercise of its emergency authority to halt or prevent such a discharge.
  - (b) Violations of compliance schedule milestones, contained in an enforcement order by ninety (90) days or more after the schedule date. Milestones may include but not be limited to dates for starting construction, completing construction and attaining final compliance.
  - (c) Failure to provide reports for compliance schedules, self-monitoring data or categorical standards (baseline monitoring reports, ninety (90) day compliance reports and periodic reports) within thirty (30) days from the due date.
    - (d) Failure to accurately report noncompliance.
  - (e) Violation or group of violations which the control authority determines will adversely affect the operation or implementation of the local pretreatment program.
- (61) "Significant violation." A violation which remains uncorrected forty-five (45) days after notification of noncompliance; which is part of a pattern of noncompliance over a twelve (12) month period; or which involves a failure to accurately report noncompliance; or which resulted in the POTW exercising its emergency authority under C.F.R. §§ 403.8 (f)(2)(vi)(B) and 403.8(f)(2)(vii).
- (62) "Slug control plan." A plan to control slug discharges, which shall include, as a minimum:
  - (a) Description of discharge practices, including non-routine batch discharges;
    - (b) Description of stored chemicals; and
  - (c) Procedures for immediately notifying the POTW of slug discharges, including any discharge that would violate a discharge prohibition under this chapter, or 40 C.F.R. 403.5(b), with procedures for follow-up written notification within five (5) days.
  - (d) If necessary, procedures to prevent adverse impact from accidental spills, including inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment

structures or equipment, measures for containing toxic organic pollutants (including solvents) and/or measures and equipment for emergency response.

- (63) "Slug load or slug discharge." Any discharge at a flow rate or concentration, which could cause a violation of the prohibited discharge standards in § 18-204. A slug discharge is any discharge of a non-routine, episodic nature, including, but not limited to, an accidental spill or a non-customary batch discharge, which has a reasonable potential to cause interference or pass-through, or in any other way violate the POTW's regulations, local limits, or permit conditions.
- (64) "Source." Any activity, operation, construction, building, structure, facility, or installation (permanent or temporary) from which there is or may be the discharge or pollutants.
  - (65) "State." State of Tennessee.
- (66) "Storm water." Any flow occurring during or following any form of natural precipitation and resulting therefrom.
- (67) "Surcharge." A fee charged to industrial users in excess of the normal sewer user charge to cover the additional expenses incurred by the POTW for treating conventional pollutants of a higher concentration than the POTW treatment plant was designed to treat.
- (68) "Technical Review Criteria (TRC) Violation." Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of wastewater measurements taken for each pollutant parameter during a six (6) month period on a rolling quarterly basis equals or exceeds the product of the numeric pretreatment standard or requirement, including instantaneous limits, as defined by this section, multiplied by the applicable TRC (TRC=1.4 for BOD, TSS, fats, oil and grease, and 1.2 for all other parameters except pH).
- (69) "Total suspended solids or suspended solids." The total suspended matter that floats on the surface of, or is suspended in, water, wastewater or other liquids, and which is removable by laboratory filtering.
- (70) "Toxic pollutant." Any pollutant or combination of pollutants listed as toxic in regulations promulgated by the Administrator of the Environmental Protection Agency under the provision of § 307(a) of the Act (40 C.F.R. 403 Appendix B).
- (71) "Upset." An exceptional incident in which there is unintentional and temporary noncompliance with categorical pretreatment standards because of factors beyond the reasonable control of the industrial user. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.
- (72) "User or industrial user." Any person(s) who contributes, causes or permits the contribution of wastewater into the city's POTW, including the

owner of any private property having a building sewer connected to the POTW sewer system.

- (73) "Wastewater." The liquid and water-carried industrial or domestic wastes from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, together with any groundwater, surface water and storm water that may be present, whether treated or untreated, which is contributed into or permitted to enter the POTW.
- (74) "Waters of the state." All streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems, and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through or border upon the state of any portion thereof. (Ord. #664, Dec. 2011)

**18-203.** <u>Abbreviations</u>. The following abbreviations shall have the designated meanings.

BOD<sub>5</sub> Biochemical Oxygen Demand 5-day **BMP** Best Management Practice **BMR** Baseline Monitoring Report C.F.R. Code of Federal Regulations CIU Categorical Industrial User Chemical Oxygen Demand COD EPA U.S. Environmental Protection Agency FOG Fats, Oil and Grease Gallons per day gpd **Industrial User** IU Liter

l Liter
lb pounds
mg Milligrams

mg/l Milligrams per liter

NAICS North American Industry Classification System

NH<sub>3</sub>-N Ammonia Nitrogen

NPDES National Pollutant Discharge Elimination System

NSCIU Non-Significant Categorical Industrial User

POTW Publicly Owned Treatment Works

RCRA Resource Conservation and Recovery Act

SIU Significant Industrial User SNC Significant Noncompliance

SWDA Solid Waste Disposal Act, 42 U.S.C. 6901, et seq.

TSS Total Suspended Solids

U.S.C. United States Code. (Ord. #664, Dec. 2011)

## 18-204. General sewer use requirements. (1) Use of public sewers.

- (a) It shall be unlawful for any person to place, deposit, or permit to be deposited in any unsanitary manner on public or private property within the City of Hohenwald, or in any area under the jurisdiction of the control authority, any human or animal excrement, garbage or other objectionable waste.
- (b) It shall be unlawful to discharge any wastewater to any waters of the state within the city or in any area under the jurisdiction of the city.
- (c) Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of wastewater within the City of Hohenwald.
- (d) The owners of all houses, building or properties used for human occupancy, employment, recreation, or other purposes, situated within the City of Hohenwald, and abutting any street, alley, or right-of-way in which there is now located or may in the future be located a public sanitary sewer of the POTW, is hereby required at his expense to install suitable toilet facilities therein and to connect such facilities directly with the proper sanitary sewer by means of a building sewer in accordance with the provisions of this chapter within sixty (60) days after official notice to do so. Such connection shall be made at the place and in the manner as directed by the control authority or his representative.
- (e) Where a POTW sanitary sewer is not available up to or even with the property line, the building sewer shall be connected to a private subsurface sewage disposal system complying with the provisions of this chapter and the Tennessee Department of Environment and Conservation, and amended rules, regulations to govern subsurface sewage disposal systems.
- (f) The owner of any residence, office, recreational facility, or other establishment used for human occupancy where the building drain is below the elevation necessary to obtain a grade of at least one percent (1%) in the building sewer, but is otherwise accessible to a public sewer as provided in this subsection (1) shall provide a private sewage pumping station (grinder pump) to convey wastewater into the POTW sanitary sewer.

# (2) Building sewer and connections.

## (a) General.

- (i) No unauthorized person shall uncover, make any connections with or opening into, use, alter, or disturb any POTW sanitary sewer or appurtenance thereof without first obtaining a written permit from the control authority.
- (ii) All cost and expense incidental to the installation and connection of the building sewer to the POTW sanitary sewer shall be borne by the user. The user shall indemnify the city from any

loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

- (iii) A separate and independent building sewer shall be provided for every building; except that where one building stands at the rear of another on an interior lot and no building sewer is available or can be constructed to the rear building through an adjoining alley, court yard, or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer.
- (iv) Old building sewers may be used in connection with new buildings only when they are found, on examination and testing by the control authority or his representative, meeting all requirements of this chapter. All others must be sealed to the specifications of the control authority.
- (b) Building sewer construction. Building sewers shall conform to the following requirements:
  - (i) The minimum size of a building sewer shall be six inches (6") for commercial and four inches (4") for residential.
  - (ii) The minimum depth of a building sewer shall be eighteen inches (18").
  - (iii) Six inch (6") building sewers shall be laid on a grade of at least one percent (1%). Larger building sewers shall be laid on a grade that will produce a velocity when flowing full of at least two feet (2') per second.
  - (iv) Slope and alignment of all building sewers shall maintain constant horizontal alignment and vertical grade, except at bends.
  - (v) Building sewers shall be constructed only of: cast iron soil pipe or ductile iron pipe with compression joints; or polyvinyl chloride pipe with rubber compression joints. Under no circumstances will cement mortar joints be acceptable.
  - (vi) Cleanouts shall be located on building sewers as follows: one located no closer than eighteen inches (18") to the building and no more than five feet (5') outside the building, one at the tap onto the POTW sanitary sewer if the main is on the user side of the street, if the main is on the opposite side of street the cleanout shall be placed on the right-of-way of the user's property and one at each change of direction of the building sewer which is greater than forty-five (45) degrees. Additional cleanouts shall be placed not more than seventy-five feet (75') apart in horizontal building sewers of six inch (6") nominal diameter and not more than one hundred feet (100') apart for larger pipes. Cleanouts shall be extended to or above the finished grade level directly above the place where the cleanout is installed. A "Y" (wye) and one-eighth

- (1/8) bend shall be used for the cleanout base. Cleanouts shall not be smaller than four inches (4") on a six inch (6") pipe.
- (vii) Connections of building sewers to POTW sanitary sewer shall be made at the appropriate existing wye or tee branch using compression type couplings or collar type rubber joint with corrosion resisting or stainless steel bands. Where existing wye or tee branches are not available, connections of building services shall be made by either removing a length of pipe and replacing it with a wye or tee fitting or cutting a clean opening in the existing public sewer and installing a tee-saddle or tee-insert of a type approved by the control authority and/or his representative. All such connections shall be made gas-tight and water-tight.
- (viii) The building sewer may be brought into the building below the basement floor when gravity flow from the building to the POTW sanitary sewer is at a grade of at least one percent (1%) or more, if possible. In cases where basement or floor levels are lower than the ground elevation at the point of connection to the sewer, adequate precautions by installation of check valves or other backflow prevention devices to protect against flooding shall be provided by the user. In all buildings in which any building drain is too low to permit gravity flow to the POTW sanitary sewer, wastewater carried by such building drain shall be lifted by an approved means and discharged to the building sewer at the expense of the owner/user.
- (ix) The methods to be used in excavating, placing of pipe, jointing, testing, backfilling the trench, or other activities in the construction of a building sewer which have not been described above shall conform to the requirements of the building and plumbing code or other applicable rules and regulations of the city or to the procedures set forth in appropriate specifications of the ASTM and Water Pollution Control Federal Manual of Practice No. 9. Any deviation from the prescribed procedures and materials must be approved by the control authority or his representative before installation.
- (x) Any installed building sewer shall be gas-tight and water-tight.
- (xi) All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the control authority.
- (xii) No person shall make connection of roof downspouts, exterior foundation drains, area drains, basement drains, or other sources of surface runoff or groundwater to a building sewer or

building drain which, in turn, is connected directly or indirectly to a POTW sanitary sewer.

- (c) Inspection of connections.
- (i) The connection to the POTW sanitary sewer and all building sewers from the building to the POTW sanitary sewer shall be inspected by the control authority and/or his representative before the underground portion is covered.
- (ii) The applicant for discharge shall notify the control authority when the building sewer is ready for inspection and connection to the POTW sanitary sewer. The connection shall be made under the supervision of the control authority or his representative before acceptance.
- (d) Maintenance of building sewers. Each user shall be entirely responsible for the maintenance of the building sewer located on private property to insure that the building sewer is water-tight. This maintenance will include repair or replacement of the building sewer as deemed necessary by the control authority to meet specifications of the city. If, upon smoke testing or visual inspection by the control authority or his representative, roof downspout connections, exterior foundation drains, or other sources of rainwater, surface runoff or groundwater entry into the POTW sewer system are identified on building sewers on private property, the control authority may take any of the following actions.
  - (i) Notify the user in writing of the nature of the problem(s) identified on the user's building sewer and the specific steps required to bring the building sewer within the requirements of this chapter. All steps necessary to comply with this chapter must be complete within sixty (60) days from the date of the written notice and entirely at the expense of the user.
  - (ii) Notify the user in writing of the nature of the problem(s) identified on the user's building sewer and inform the user that the city will provide all labor, equipment, and materials necessary to make the repairs required to bring the building sewer within the requirements of this chapter. The work on private property will be performed at the city's convenience and the cost of all materials, labor and equipment used will be charged to the user. The city will be responsible for bringing any excavations back to original grade, replacing topsoil and hand raking all disturbed areas; however, the user shall be responsible for final landscaping, including, but not limited to, seeding, fertilizing, watering, mulching, sodding, and replacing any shrubbery or trees displaced or damaged by the city during the execution of the work.

## (3) <u>Prohibited discharge standards</u>.

(a) General prohibitions. No user shall introduce or cause to be introduced into the POTW any pollutant or wastewater which causes

pass-through or interference. These general prohibitions apply to all users of the POTW whether or not the user is subject to categorical pretreatment standards or any other national, state, or local pretreatment standards or requirements.

- (b) Specific prohibitions. No user shall introduce or cause to be introduced into the POTW the following pollutants, substances, or wastewater:
  - Any liquids, solids, or gases which, by reason of their nature or quantity are, or may be, sufficient either alone or by interaction with other substances to cause fire or explosion or be injurious in any other way to the POTW or to the operation of the POTW. At no time shall two (2) successive readings on an explosion hazard meter, at the point of discharge into the POTW system (or at any point in the system) be more than five percent (5%) nor any single reading over ten percent (10%) of the Lower Explosive Limit (LEL) of the meter or have a closed-cup flashpoint of less than one hundred forty degrees Fahrenheit (140°F) (sixty degrees Celsius) (60°C)) using the test methods specified in 40 C.F.R. 261.21. Prohibited materials include, but are not limited to, gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohol's, ketones, aldehydes, peroxides, chlorates, perchlorates, bromates, carbides, hydrides, sulfides and any other substance which the city, the state, or EPA has notified the user is a fire hazard or a hazard to the system;
  - (ii) Solid or viscous substances which may cause obstruction to the flow in a sewer or other interference with the operation of the wastewater treatment facilities such as, but not limited to: grease garbage with particles greater than one-half inch (1/2") or one and 27 hundredths (1.27) centimeters in any dimension, animal guts or tissues, paunch manure, bones, hair, hides or fleshings, entrails, whole blood, and feathers from slaughterhouses, ashes, cinders, sand, spent lime, stone, or marble dust, metal, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, waste paper, wood, plastics, gas, tar, asphalt residues, residues from refining or processing of fuel or lubricating oil, mud, or glass grinding or polishing waxes;
  - (iii) Any wastewater having a pH less than 5.0 or greater than 10.0 capable of causing damage or hazard to structures, equipment, and/or personnel of the POTW;
  - (iv) Any wastewater containing pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety problems;

- (v) Any noxious or malodorous liquids, gases, solids, or other wastewater which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or a hazard to life (acute worker health and safety problems) or are sufficient to prevent entry into the sewers for maintenance and repair;
- (vi) Any substance which may cause the POTW's effluent or any other product of the POTW such as residues, sludges, or scums, to be unsuitable for reclamation and reuse or to interfere with the reclamation process. In no case shall a substance discharged to the POTW cause the POTW to be in non-compliance with sludge use or disposal criteria, guidelines or regulations developed under § 405 of the Act; any criteria, guidelines, or regulations affecting sludge use or disposal developed pursuant to the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act, or state criteria applicable to the sludge management method being used;
- (vii) Any substance which will cause the POTW to violate its NPDES permit or the receiving water quality standards. Wastewater causing, alone or in conjunction with other sources, the treatment plant's effluent to fail toxicity test;
- (viii) Any wastewater with objectionable color which causes discoloration of the POTW treatment plant effluent to the extent that the NPDES permit is violated, such as, but not limited to, dye wastes and vegetable tanning solutions;
- (ix) Any wastewater heat in amounts which will inhibit biological activity in the POTW treatment plant resulting in Interference, but in no case heat in such quantities that the temperature at the POTW exceeds forty degrees Celsius (40°C) (one hundred four degrees Fahrenheit (104°F\_));
- (x) Any pollutants, including oxygen demanding pollutants, such as BOD<sub>5</sub>, NH<sub>3</sub>-N, and oil and grease, released at a flow rate and/or pollutant concentration which, either singly or by interaction with other pollutants, will cause interference to the POTW. In no case shall a discharge to the POTW have a flow rate or contain concentrations or quantities of pollutants that exceed for any time period longer than fifteen (15) minutes more than (5) times the average twenty-four (24) hour concentration, quantities, or flow during normal operation;
- (xi) Any wastewater containing any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the control authority in compliance with applicable state or federal regulations;
- (xii) Any wastewater which causes a hazard to human life or creates a public nuisance;

- (xiii) Any wastewater containing fats, wax, grease, petroleum oil, nonbiodegradable cutting oil or products of mineral oil origin, or other substances which may solidify or become viscous at temperatures between zero degrees Celsius (0°C) (thirty-two degrees Fahrenheit (32°F)) and forty degrees Celsius (40°C) (one hundred four degrees Fahrenheit (104°F)) and/or cause interference or pass-through at the POTW;
- (xiv) Any stormwater, surface water, groundwater, roof runoff, subsurface drainage, uncontaminated cooling water, or unpolluted industrial process waters. Stormwater and all other unpolluted drainage shall be discharged to storm sewers, or to a natural outlet approved by the control authority and the Tennessee Department of Environment and Conservation. Industrial cooling water or unpolluted process waters may be discharged on approval of the control authority and the Tennessee Department of Environment and Conservation, to a storm sewer or natural outlet;
- (xv) Any trucked or hauled pollutants except at discharge points designated by the POTW in accordance with § 18-205(4); or (xvi) Fats, oils, and grease, waste food, and sand. Refer to subsection (4) below for guidelines.
- (c) When the control authority determines that a user is contributing to the POTW, any of the above enumerated substances in such amounts as to interfere with the operation of the POTW, the control authority shall: advise the user of the impact of the contribution on the POTW; and develop effluent limitation(s) for such user to correct the interference with the POTW.
- (d) Pollutants, substances, or wastewater prohibited by this section shall not be processed or stored in such a manner that they could be discharged to the POTW.
- (4) <u>Fats, oils, and grease, waste food, and sand guidelines</u>. Fats, oil, grease, waste food, and sand in the POTW can interfere with the collection system and wastewater treatment facility by causing blockages and plugging of pipelines, problems with normal operation of pumps and their controls, and contribute waste of a strength or form that is beyond the treatment capability of the treatment plant.
  - (a) Interceptors. Fats, Oil, and Grease (FOG), waste food, and sand interceptors shall be installed when, in the opinion of the control authority, they are necessary for the proper handling of liquid wastes containing fats, oils, and grease, ground food waste, sand, soil, and solids, or other harmful ingredients in excessive amounts which impact the POTW. Such interceptors shall not be required of single-family residences, but may be required for multiple-family residences. All interceptors shall be of a type and capacity approved by the control

authority, and shall be located as to be readily and easily accessible for cleaning and inspection.

- (i) Fats, oil, grease, and food waste.
- (A) New food service facility. On or after the effective date of this chapter, food service facilities which are newly proposed or constructed, shall be required to install, operate and maintain a grease interceptor with a minimum capacity of seven hundred fifty (750) gallons located on the exterior of the building. Approval of the installation of a grease trap instead of a grease interceptor at a new food service facility can be obtained for those facilities where inadequate space is available for the installation of a grease interceptor. Design criteria shall conform to the standard in accordance with any provisions of the plumbing code as adopted by the City of Hohenwald and Tennessee Department of Environment and Conservation engineering standards or applicable local guidelines.
- (B) Existing food service facilities. On or after the effective date of this chapter, existing food service facilities or food service facilities which will be expanded or renovated shall install a grease trap or grease interceptor when, in the opinion of the control authority, necessary for the control of FOG and food waste. Upon notification, the facility must be in compliance within ninety (90) days (unless due case of hardship may be proven). The facility must service and maintain the equipment in order to prevent adverse impact upon the POTW. If in the opinion of the control authority the user continues to impact the POTW, additional pretreatment measures may be required.
- (ii) Sand, soil, and oil. All car washes, truck washes, garages, service stations, and other sources of sand, soil, and oil shall install effective sand, soil, and oil interceptors when directed by the control authority. These interceptors shall be sized to effectively remove sand, soil, and oil at the proper flow rates. These interceptors shall be cleaned on a regular basis to prevent impact upon the POTW. Owners whose interceptors are deemed to be ineffective by the control authority may be asked to change the cleaning frequency or to increase the size of the interceptors. Owners or operators of washing facilities shall prevent the inflow of rainwater into the sanitary sewer.
- (iii) Laundries. Where directed by the control authority commercial laundries shall be equipped with an interceptor with a wire basket or similar device, removable for cleaning, that

prevents passage into the POTW of solids one-half inch (1/2") or larger in size such as strings, rags, buttons, or other solids detrimental to the POTW.

The equipment or facilities installed to control FOG, food waste, sand, and soil shall be designed in accordance with Southern Plumbing Code and Tennessee Department of Environment and Conservation engineering standards or applicable local guidelines. Underground equipment shall be tightly sealed to prevent inflow of rainwater and easily accessible to allow regular maintenance and inspection. Control equipment shall be maintained by the owner or operator of the facility so as to prevent a stoppage of the public sewer, and the accumulation of FOG in the POTW. If the control authority is required to clean out the public sewer lines as a result of a stoppage resulting from poorly maintained control equipment, or lack thereof, the owner or operator shall be required to refund the labor, equipment, materials, and overhead costs to the control authority. Nothing in this section shall be construed to prohibit or restrict any other remedy the control authority has under this chapter, or state or federal law.

The control authority retains the right to inspect and approve installation of the control equipment.

There shall be no charge for random inspections conducted by the control authority personnel on traps or interceptors. If a trap or interceptor has to be re-inspected because of deficiencies found during the previous inspection by the control authority personnel, and all of the deficiencies have been corrected, there shall be no charge for the re-inspection. If all of the deficiencies have not been corrected, a first re-inspection fee of fifty dollars (\$50.00) shall be charged to the facility. If a second re-inspection is required, a second re-inspection fee of one hundred fifty dollars (\$150.00) shall be charged to the facility if all of the deficiencies have still not been corrected. If three or more re-inspections are required, a re-inspection fee of three hundred dollars (\$300.00) for each successive re-inspection shall be charged to the facility in addition to other enforcement actions if all of the deficiencies have not been corrected.

- (b) Solvents. The use of degreasing or line cleaning products containing petroleum-based solvents is prohibited.
- (5) <u>National categorical pretreatment standards.</u> Users must comply with the categorical pretreatment standards for new and existing sources set out in 40 C.F.R. chapter I, subchapter N, parts 405 to 471 and shall serve as the minimum requirements.
  - (a) Where a categorical pretreatment standard is expressed in terms of either the mass or the concentration of a pollutant in wastewater, the control authority may impose equivalent concentration

or mass limits in accordance with subsection (5)(e) and (5)(f) below as allowed at 40 C.F.R. § 403.6(c).

- (b) When the limits in a categorical pretreatment standard are expressed only in terms of mass of pollutant per unit of production, the control authority may convert the limits to equivalent limitations expressed either as mass of pollutant discharged per day or effluent concentration for purposes of calculating effluent limitations applicable to the individual industrial users as allowed at 40 C.F.R. § 403.6(c)(2).
- (c) When wastewater subject to a categorical pretreatment standard is mixed with wastewater not regulated by the same standard, the control authority shall impose an alternate limit in accordance with Tennessee Rule 1200-4-14-.06(5).
- (d) A CIU may obtain a net/gross adjustment to a categorical pretreatment standard in accordance with the following paragraphs of this section as allowed at 40 C.F.R. § 403.15.
  - (i) Categorical pretreatment standards may be adjusted to reflect the presence of pollutants in the industrial user's intake water in accordance with this section. Any industrial user wishing to obtain credit for intake pollutants must make application to the city. Upon request of the industrial user, the applicable standard will be calculated on a "net" basis (i.e., adjusted to reflect credit for pollutants in the intake water) if the requirements of paragraph (ii) of this section are met.

## (ii) Criteria.

- (A) Either: the applicable categorical pretreatment standards contained in 40 C.F.R., chapter I, subchapter N specifically provide that they shall be applied on a net basis; or the industrial user demonstrates that the control system it proposes or uses to meet applicable categorical pretreatment standards would, if properly installed and operated, meet the standards in absence of pollutants in the intake waters.
- (B) Credit for generic pollutants such as biochemical oxygen demand (BOD<sub>5</sub>), total suspended solids (TSS), and oil and grease shall not be granted unless the industrial user demonstrates that the constituents of the generic measure in the user's effluent are substantially similar to the constituents of the generic measure in the intake water or unless appropriate additional limits are placed on process water pollutants either at the outfall or elsewhere.
- (C) Credit shall be granted only to the extent necessary to meet the applicable categorical pretreatment standard(s), up to a maximum value equal to the influent

value. Additional monitoring (at the person's, applying for credit, expense) may be necessary to determine eligibility for credits and compliance with standard(s) adjusted under this section.

- (D) Credit shall be granted only if the user demonstrates that the intake water is drawn from the same body of water as that into which the POTW discharges. The control authority may waive this requirement if it finds that no environmental degradation will result.
- (e) When a categorical pretreatment standard is expressed only in terms of pollutant concentrations, an industrial user may request that the city convert the limits to equivalent mass limits. The determination to convert concentration limits to mass limits is within the discretion of the control authority. The city may establish equivalent mass limits only if the industrial user meets all the conditions set forth in subsections (5)(e)(i)(A) through (5)(e)(i)(E) below.
  - (i) To be eligible for equivalent mass limits, the industrial user must:
    - (A) Employ, or demonstrate that it will employ, water conservation methods and technologies that substantially reduce water use during the term of its individual wastewater discharge permit or general permit;
    - (B) Currently use control and treatment technologies adequate to achieve compliance with the applicable categorical pretreatment standard, and not have used dilution as a substitute for treatment:
    - (C) Provide sufficient information to establish the facility's actual average daily flow rate for all wastestreams, based on data from a continuous effluent flow monitoring device, as well as the facility's long-term average production rate. Both the actual average daily flow rate and the long-term average production rate must be representative of current operating conditions;
    - (D) Not have daily flow rates, production levels, or pollutant levels that vary so significantly that equivalent mass limits are not appropriate to control the discharge; and
    - (E) Have consistently complied with all applicable categorical pretreatment standards during the period prior to the industrial user's request for equivalent mass limits.
  - (ii) An industrial user subject to equivalent mass limits must:

- (A) Maintain and effectively operate control and treatment technologies adequate to achieve compliance with the equivalent mass limits;
- (B) Continue to record the facility's flow rates through the use of a continuous flow monitoring device;
- (C) Continue to record the facility's production rates and notify the control authority whenever production rates are expected to vary by more than twenty percent (20%) from its baseline production rates determined in subsection (5)(e)(i)(C) above. Upon notification of a revised production rate, the control authority will reassess the equivalent mass limit and revise the limit as necessary to reflect changed conditions at the facility; and
- (D) Continue to employ the same or comparable water conservation methods and technologies as those implemented pursuant to subsections (5)(e)(i)(A) above as long as it discharges under an equivalent mass limit.
- (iii) When developing equivalent mass limits, the control authority:
  - (A) Will calculate the equivalent mass limit by multiplying the actual average daily flow rate of the regulated process(es) of the industrial user by the concentration-based daily maximum and monthly average standard for the applicable categorical pretreatment standard and the appropriate unit conversion factor;
  - (B) Upon notification of a revised production rate, will reassess the equivalent mass limit and recalculate the limit as necessary to reflect changed conditions at the facility; and
  - (C) May retain the same equivalent mass limit in subsequent individual wastewater discharger permit or general permit terms if the user's actual average daily flow rate was reduced solely as a result of the implementation of water conservation methods and technologies, and the actual average daily flow rates used in the original calculation of the equivalent mass limit were not based on the use of dilution as a substitute for treatment pursuant to § 18-212. The user must also be in compliance with § 18-215(3) regarding the prohibition of by-pass.
- (f) The control authority may convert the mass limits of the categorical pretreatment standards of 40 C.F.R. parts 414, 419, and 455 to concentration limits for purposes of calculating limitations applicable to individual industrial users. The conversion is at the discretion of the control authority. When converting such limits, the control authority will

use the concentrations listed in the applicable subparts of 40 C.F.R. parts 414, 419, and 455 and document that dilution is not being substituted for treatment as prohibited in § 18-212 (see 40 C.F.R. 403.6(d)). In addition, the control authority will document how the equivalent limits were derived for any changes from concentration to mass limits, or vice versa, and make this information publicly available (see 40 C.F.R. 403.6(c)(7)).

- (g) Once included in its permit, the industrial user must comply with the equivalent limitations developed in this subsection (5) (§ 18-204(5)) in lieu of the promulgated categorical standards from which the equivalent limitations were derived.
- (h) Many categorical pretreatment standards specify one (1) limit for calculating maximum daily discharge limitations and a second for calculating monthly average, or four (4) day average, limitations. Where such standards are being applied, the same production or flow figure shall be used in calculating both the average and the maximum equivalent limitation.
- (i) Any industrial user operating under a permit incorporating equivalent mass or concentration limits calculated from a production-based standard shall notify the control authority within two (2) business days after the user has a reasonable basis to know that the production level will significantly change within the next calendar month. Any user not notifying the control authority of such anticipated change will be required to meet the mass or concentration limits in its permit that were based on the original estimate of the long-term average production rate.
- (6) Modification of national pretreatment standards. If the POTW system achieves consistent removal of pollutants limited by the national pretreatment standards, the city may apply to the approval authority for modifications of specific limits in the national pretreatment standards. "Consistent removal" shall mean reduction in the amount of a pollutant or alteration of the nature of the pollutant by the POTW system to a less toxic or harmless state in the effluent which is achieved by the system in ninety-five percent (95%) of the samples taken when measured according to the procedures set forth in 40 C.F.R. § 403.7(a)(3)(ii), part 403 general pretreatment regulations for existing and new sources of pollution, promulgated pursuant to the act. The city may then modify pollutant discharge limits in the national pretreatment standards if the requirements continued in 40 C.F.R., part 403, § 403.7, are fulfilled and approval is obtained from the approval authority.
- (7) <u>State pretreatment standards</u>. Users must comply with Tennessee pretreatment standards codified at <u>Tennessee Code Annotated</u>, §§ 69-3-101, <u>et</u> seq. and §§ 4-5-201, et seq.

# (8) <u>Local limits</u>.

(a) The control authority is authorized to establish local limits pursuant to Tennessee Rule 1200-4-14-.05(3).

- (b) Specific pollutant limitations. Pollutant limits are established to protect against pass-through and interference. No person shall discharge wastewater containing in excess of the limits for each pollutant. Refer to Appendix A (latest revision), Table A1: Specific Pollutant Limitations, for a list of the specific pollutants and respective concentrations.
- Criteria to protect the POTW treatment plant influent. The (c) control authority and/or his designated representative shall monitor the POTW treatment plant influent for each parameter in Table A2: Criteria to Protect the POTW Treatment Plant Influent contained in Appendix A (latest revision). Analyses for all pollutants listed at TABLE A2 shall be conducted in accordance with the requirements of 40 C.F.R. part 136 or equivalent methods approved by the United States Environmental Protection Agency. All users shall be subject to the reporting and monitoring requirements set forth in § 18-209, Reporting requirements, and § 18-210, Compliance monitoring, as to these parameters. In the event that the influent at the POTW treatment plant reaches or exceeds the levels established by said table, the control authority shall initiate technical studies to determine the cause of the influent violation, and shall recommend to the city council such remedial measures as are necessary, including, but not limited to, recommending the establishment of new or revised pretreatment levels for these parameters. The control authority shall also recommend changes to any of these criteria in the event the POTW effluent standards are changed or in the event that there are changes in any applicable law or regulation affecting same or in the event changes are needed for more effective operation of the POTW.
  - (d) Conventional pollutants.
  - BOD<sub>5</sub>, TSS, and NF<sub>3</sub>-N. The POTW treatment plant was designed to accommodate specific waste load concentrations and mass amounts of Biochemical Oxygen Demand (BOD<sub>5</sub>), Total Suspended Solids (TSS), and Ammonia Nitrogen (NH<sub>3</sub>-N). If a user discharges concentrations of these pollutants in excess of the criteria to protect the POTW treatment plant influent listing at Table A2 in the Appendix (latest revision) of this chapter, added operation and maintenance costs will be incurred by the POTW. Therefore, any user who discharges concentrations in excess of the criteria to protect the POTW treatment plant influent listed at Table A2 in the Appendix (latest revision) of this chapter for any of the conventional pollutants such as BOD<sub>5</sub>, TSS, and/or NH<sub>3</sub>-N will be subject to a surcharge. The formula for this surcharge is listed in § 18-206(3). The city also reserves the right to, at any time, place specific mass or concentration limits for BOD<sub>5</sub>, TSS, and/or NH<sub>3</sub>-N on the user if the user's discharge of the excessive

strength wastewater causes the POTW treatment plant to violate its NPDES permit.

(ii) Oil and grease. Oil and grease loadings were not taken into account in the design of the POTW treatment plant; however, oil and grease are regulated under this chapter as conventional pollutants.

If a user discharges concentrations of total oil and grease in excess of the criteria to protect the POTW treatment plant influent listed in Table A2 at Appendix A of this chapter for total oil and grease, added operation and maintenance cost will be incurred by the POTW. Therefore, any user who discharges concentrations in excess of the criteria to protect the POTW treatment plant influent listed in Table A2 at Appendix A for total oil and grease will be subject to a surcharge. The formula for this surcharge is listed in § 18-206(3). The city reserves the right to, at any time, place specific mass or concentration limits for total oil and grease on the user if the user's discharge of the excessive strength wastewater causes the POTW treatment plant to violate its NPDES permit.

- (e) The control authority and/or his designated representative may develop Best Management Practices (BMPs), in individual wastewater discharge permits or in general permits, to implement local limits and the requirements of subsection (3) above.
- (9) The city's right of revision. The city reserves the right to establish, by ordinance or in individual wastewater discharge permits or in general permits, more stringent standards or requirements on users of the POTW system if deemed necessary to comply with the objectives presented in this chapter.
- (10) <u>Dilution</u>. No user shall ever increase the use of process water, or in any way attempt to dilute a discharge, as a partial or complete substitute for adequate treatment to achieve compliance with a discharge limitation unless expressly authorized by an applicable pretreatment standard or requirement. The control authority and/or his designated representative may impose mass limitations on users who are using dilution to meet applicable pretreatment standards or requirements or in other cases when the imposition of mass limitations is appropriate.

### (11) <u>Accidental discharges</u>.

(a) Protection from accidental discharge. Each industrial user shall provide protection from accidental discharge of prohibited materials or other substances regulated by this chapter. Facilities to prevent accidental discharge of prohibited materials shall be provided and maintained at the industrial user's own cost and expense. Detailed plans showing facilities and operating procedures to provide this protection shall be submitted to the control authority for review, and shall be approved by the control authority before construction of the facility. No industrial user who commences contribution to the POTW after the

effective date of this chapter shall be permitted to introduce pollutants into the system until accidental discharge procedures have been approved by the control authority. Review and approval of such plans and operating procedures shall not relieve the industrial user from the responsibility to modify the industrial user's facility as necessary to meet the requirements of this chapter.

- (b) Notification of accidental discharge. In the case of an accidental discharge, it is the responsibility of the industrial user to immediately telephone and notify the POTW of the incident. The notification shall be within twenty-four (24) hours of becoming aware of the violation and shall include location of discharge, type of waste, concentration and volume, and corrective actions. The industrial user shall repeat the sample within five (5) days, perform an analysis, and report the results of the sample analysis to the control authority within thirty (30) days of becoming aware of the violation (40 C.F.R. 403.12(g).
  - (i) Written notice. Within five (5) days following an accidental discharge, the industrial user shall submit to the control authority a detailed written report describing the cause of the discharge and the measures to be taken by the industrial user to prevent similar future occurrences. Such notification shall not relieve the industrial user of any expense, loss, damage, or other liability which may be incurred as a result of damage to the POTW, fish kills, or any other damage to person or property; nor shall such notification relieve the industrial user of any administrative penalties, civil penalties, or other liability which may be imposed by this chapter or other applicable law.
  - (ii) Notice to employees. A notice shall be permanently posted on the industrial user's bulletin board or other prominent place advising employees whom to call in the event of a dangerous accidental discharge. Industrial users shall insure that all employees who may cause such a dangerous discharge to occur or may suffer such are advised of the emergency notification procedure. (Ord. #664, Dec. 2011)

18-205. Pretreatment of wastewater. (1) Pretreatment facilities. Users shall provide wastewater treatment as necessary to comply with this chapter and shall achieve compliance with all categorical pretreatment standards, local limits, and the prohibitions set out in § 18-204 within the time limitations specified by EPA, the state, or the control authority and/or his designated representative, whichever is more stringent. Any facilities necessary for compliance shall be provided, operated, and maintained at the user's expense. Detailed plans describing such facilities and operating procedures shall be submitted to the control authority for review, and shall be acceptable to the control authority before such facilities are constructed. The review of such plans

and operating procedures shall in no way relieve the user from the responsibility of modifying such facilities as necessary to produce a discharge acceptable to the city under the provisions of this chapter.

#### (2) Additional pretreatment measures.

- (a) Whenever deemed necessary, the control authority and/or his designated representative may require users to restrict their discharge during peak flow periods, designate that certain wastewater be discharged only into specific sewers, relocate and/or consolidate points of discharge, separate sewage wastestreams from industrial wastestreams, and such other conditions as may be necessary to protect the POTW and determine the user's compliance with the requirements of this chapter.
- (b) The control authority may require any person discharging into the POTW to install and maintain, on their property and at their expense, a suitable storage and flow-control facility to ensure equalization of flow. An individual wastewater discharge permit or general permit may be solely for flow equalization.
- (c) Grease, oil, and sand interceptors shall be provided when, in the opinion of the control authority and/or his designated representative, they are necessary for the proper handling of wastewater containing excessive amounts of grease and oil, or sand; except that such interceptors shall not be required for residential users. All interception units shall be of a type and capacity approved by the control authority and/or his designated representative, shall comply with § 18-204(4), and shall be so located to be easily accessible for cleaning and inspection. Such interceptors shall be inspected, cleaned, and repaired in accordance with § 18-204(4) by the user at their expense.
- (d) Users with potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter.
- (3) Accidental discharge/slug discharge control plans. The control authority shall evaluate whether each SIU needs an accidental discharge/slug discharge control plan or other action to control slug discharges. The control authority may require any user to develop, submit for approval, and implement such a plan or take such other action that may be necessary to control slug discharges. Alternatively, the control authority may develop such a plan for any user at the user's expense. An accidental discharge/slug discharge control plan shall address, at a minimum, the following:
  - (a) Description of discharge practices, including non-routine batch discharges;
  - (b) Description of stored chemicals (which shall include cleaning supplies);
  - (c) Procedures for immediately notifying the control authority of any accidental or slug discharge, as required by § 18-209(6); and

(d) Procedures to prevent adverse impact from any incidental or slug discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling, and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic pollutants, including solvents, and/or measures and equipment for emergency response.

#### (4) Hauled wastewater.

- (a) Septic tank waste may be introduced into the POTW only at locations designated by the control authority, and as such times as established by the control authority and/or his designated representative. Such waste shall not violate § 18-204 or any other requirements established by the control authority. The control authority may require septic tank haulers to obtain individual wastewater discharge permits or general permits.
- (b) The control authority may require haulers of industrial waste to obtain individual wastewater discharge permits or general permits. The control authority may require generators of hauled industrial waste to obtain individual wastewater discharge permits or general permits. The control authority may also prohibit disposal of hauled industrial waste. The discharge of hauled industrial waste is subject to all other requirements of this chapter.
- (c) Industrial waste haulers may discharge loads only at locations designated by the control authority and/or his designated representative. No load may be discharged without prior consent of the control authority and/or his designated representative. The control authority and/or his designated representative may collect samples of each hauled load to ensure compliance with applicable standards. The control authority and/or his designated representative may require the industrial waste hauler to provide a waste analysis of any load prior to discharge.
- (d) Industrial waste haulers must provide a waste-tracking form for every load. This form shall include, at a minimum, the name and address of the industrial waste hauler, permit number, truck identification, names and addresses of sources of waste, and volume and characteristics of waste. The form shall identify the type of industry, known or suspected waste constituents, and whether any wastes are RCRA hazardous wastes. (Ord. #664, Dec. 2011)
- **18-206.** <u>Fees.</u> (1) <u>Purpose</u>. It is the purpose of this section to provide for the recovery of costs from users of the city's wastewater disposal system for the administration, operation, maintenance, amortization of debt, and depreciation of the POTW. The applicable charges or fees are set forth by the city's schedule of charges and fees.

- (2) <u>Charges and fees</u>. The city may adopt charges and fees which may include:
  - (a) Fees for reimbursement of costs of setting up and operating the POTW's pretreatment program;
  - (b) Fees for monitoring, inspections, and surveillance procedures associated with users;
  - (c) Fees for reviewing accidental/slug discharge procedures/control plans and construction plans and specifications for industrial users;
    - (d) Fees for permit applications;
    - (e) Fees for FOG plan submittals;
    - (f) Fees for inspection of building sewer connections;
  - (g) Fees for cleaning/removing stoppages from FOG, sand, soil, oil, and laundry interceptors;
  - (h) Fees for filing appeals of enforcement actions taken by the city;
  - (i) Fees for treating conventional pollutants discharged to the POTW by users with strengths in excess of the design capacity of the POTW treatment plant for individual conventional pollutants;
  - (j) Charges to users for recovery of costs associated with normal operation, maintenance, administration, amortization of debt, and depreciation of the POTW; and
  - (k) Other fees as the city may deem necessary to carry out the requirements contained herein.

These fees relate solely to the matters covered by this chapter and are separate from all other fees chargeable by the city.

(3) Operation and maintenance user charges. Each user's share of operation and maintenance costs will be computed by the following formula:

$$C_u = \underline{C}_t \quad x \quad (V_u)$$

Where:

 $C_{\rm u}$  = User's charge for O&M per unit of time

 $C_t$  = Total O&M cost per unit of time

 $\vec{V_t}$  = Total volume contribution from all users per unit time

 $V_u$  = Volume contribution from a user per unit of time.

Operation and maintenance charges may be established on a percentage of water use charge only in the event that water use charges are based on a constant cost per unit of consumption.

## (4) <u>Surcharge fees</u>.

(a) The surcharge will be the user's proportionate share of the O&M costs for handling its periodic volume of wastewater which exceeds

the strength of BOD<sub>5</sub>, suspended solids, and/or other elements in "normal wastewater" including "toxic wastes".

- (b) The surcharge shall be based on the analytical results on not less than three (3) twenty-four (24) hour composite samples collected at the control manhole at unannounced, but approximately equal intervals during the preceding three (3) months. Samples shall be collected and analyses shall be made by competent operating personnel at the wastewater treatment plan t or other persons designated by the control authority in accordance with the latest edition of <u>Standard Methods for Examination of Water and Wastewater</u>.
- (c) The amount of the surcharge shall be determined by the following formula:

$$C_s = [(B_c \times B) + (S_c \times S) + (P_c \times P)] V_u$$

Where:

 $C_{\rm s}$  = Surcharge for wastewater exceeding the strength of "normal wastewater" expressed in dollars per billing period  $B_{\rm c}$  = O&M cost for treatment of a unit of  $BOD_5$  expressed in dollars per pound

B = Concentration of BOD<sub>5</sub> from a user above the base level of 2.50 lbs/1,000 gallons expressed in pounds per 1,000 gallons

 $S_c$  = O&M costs for treatment of a unit of suspended solids expressed in dollars per pound

S = Concentration of suspended solids from a user above the base level of 2.50 lbs/1,000 gallons expressed in pounds per 1,000 gallons

 $P_c$  = O&M costs for treatment of a unit of any pollutant which the POTW is committed to treat by virtue of an NPDES permit or other regulatory requirement expressed in dollars per pound

P = Concentration of any pollutant from a user above base level. Base levels for pollutants subject to surcharges will be established by the wastewater manager

V<sub>u</sub> = Volume contribution of a user per billing period. (Expressed in thousands of gallons)

The values of parameters used to determine user charges may vary from time to time. Therefore, the control authority is authorized to modify any parameter or value as often as necessary. Review of all parameters and values shall be undertaken whenever necessary; but in no case less frequently than biennially.

(5) <u>Notification</u>. Each user shall be notified, at least annually, in conjunction with a regular bill, of the rate and that portion of the user charges which are attributable to wastewater treatment services.

- (6) <u>Biennial review of operation and maintenance charges</u>. The control authority shall review not less often than every two (2) years the wastewater contribution of users and user classes, the total costs of operation and maintenance of the treatment works and its approved user charge system. The control authority shall revise the charges for users or user classes to accomplish the following:
  - (a) Maintain the proportionate distribution of operation and maintenance costs among users and user classes as required herein;
  - (b) Generate sufficient revenue to pay the total operation and maintenance costs necessary to the proper operation and maintenance (including replacement) of the treatment works; and
  - (c) Apply excess revenues collected from a class of users to the costs of operation and maintenance attributable to that class for the next year and adjust the rate accordingly. (Ord. #664, Dec. 2011)

## **18-207.** <u>Individual wastewater discharge and general permits.</u> (1) Wastewater analysis.

- (a) When requested by the control authority and/or his designated representative, a user must submit information on the nature and characteristics of its wastewater within fifteen (15) days of the request. The control authority or his designated representative is authorized to prepare a form for this purpose and may periodically require users to update this information.
- (b) There shall be two (2) classes of building sewer permits: for connection of residential, commercial, and institutional users to the POTW, and for connection of industrial users to the POTW. In either case, the owner of the facility or residence wishing to connect a building sewer to the POTW or his agent shall make application on a special form furnished by the City of Hohenwald. The permit application shall be supplemented by any plans, specifications, or other information considered pertinent in the judgment of the control authority. A permit and inspection fee shall be paid to the City of Hohenwald at the time the application is filed as set out in the City of Hohenwald's schedule of charges and fees.

## (2) <u>Individual wastewater discharge and general permit requirement.</u>

- (a) No significant industrial user shall discharge wastewater to the POTW without first obtaining an individual wastewater discharge permit or general permit from the control authority, except that a significant industrial user that has filed a timely application pursuant to subsection (3) below may continue to discharge for the time period specified therein.
- (b) The control authority may require other users to obtain individual wastewater discharge permits or general permits as necessary to carry out the purposes of this chapter.

- (c) Any violation of the terms and conditions of an individual wastewater discharge permit or general permit shall be deemed a violation of this chapter and subjects the wastewater discharge permittee to the sanctions set out in §§ 18-213 to 18-215. Obtaining an individual wastewater discharge permit or a general permit does not relieve a permittee of its obligation to comply with all federal and state pretreatment standards or requirements with any other requirements of federal, state, and local law.
- (3) <u>Individual wastewater discharge and general permitting: existing connections</u>. Any user required to obtain an individual wastewater discharge permit or general permit who was discharging wastewater into the POTW prior to the effective date of this chapter and who wishes to continue such discharges in the future, shall, within thirty (30) days after said date, apply to the control authority for an individual wastewater discharge permit or general permit in accordance with subsection (5) below, and shall not cause or allow discharges to the POTW to continue after forty-five (45) days of the effective date of this chapter, except in accordance with an individual wastewater discharge permit or general permit issued by the control authority.
- (4) <u>Individual wastewater discharge and general permitting; new connections</u>. Any user that is required to obtain an individual wastewater discharge permit or general permit who proposes to begin or recommence discharging into the POTW must obtain such permit prior to the beginning or recommencing of such discharge. An application for this individual wastewater discharge permit or general permit, in accordance with § 18-208(5), must be filed ninety (90) days prior to the date upon which any discharge will begin or recommence.
- (5) <u>Individual wastewater discharge and general permit application</u> <u>contents.</u>
  - (a) General. All users that are required to obtain an individual wastewater discharge permit or general permit must submit a permit application. Users that are eligible may request a general permit under subsection (6) below. The control authority may require users to submit all or some of the following information as part of the permit application:
    - (i) Identifying information:
    - (A) The name, address, and location of the facility, including the name of the operator and owner; and
    - (B) Contact information, description of activities, facilities, and plant production processes on the premises;
    - (ii) Environmental permits. A list of any environmental control permits held by or for the facility.
      - (iii) Description of operations.
      - (A) A brief description of the nature, average rate of production (including each product produced by type, amount, processes, and rate of production), and standard

industrial classifications (SIC or NAICS code) of the operation(s) earned out by such user. This description shall include a schematic process diagram, which indicates points of discharge to the POTW from the regulated processes.

- (B) Types of wastes generated, and a list of all raw materials and chemicals used or stored at the facility which are, or could accidentally or intentionally be, discharged to the POTW:
- (C) Number of employees, shifts, contact per shift (if applicable), hours of operation, and proposed or actual hours of operation;
- (D) Type and amount of raw materials processed (average and maximum per day);
- (E) Each product produced by type, amount process or processes and rate of production;
- (F) Site plans, floor plans, mechanical, and plumbing plans, and details to show all sewers, floor drains, and appurtenances by size, location, and elevation, and all points of discharge;
- (iv) Time and duration of discharges;
- (v) The location for monitoring all wastes covered by the permit;
- (vi) Flow measurement information showing the measured average daily, maximum daily flow, and 30-minute peak flow in gallons per day, (including daily, monthly and seasonal variations, if any) to the POTW from regulated process streams and other streams, as necessary to allow use of the combined wastestream formula set out in § 18-204(5)(c) (Tennessee Rule 1200-4-14-.06(5));
  - (vii) Measurement of pollutants.
  - (A) The categorical pretreatment standards applicable to each regulated process and any new categorically regulated processes for existing sources.
  - (B) Wastewater constituents and characteristics (nature and concentration, and/or mass) in the discharge from each regulated process, including, but not limited to, those mentioned in § 18-204 and Appendix A of this chapter as determined by a reliable analytical laboratory; sampling and analyses shall be performed in accordance with procedures established by the EPA pursuant to § 304(g) of the Act and contained in 40 C.F.R. part 136, as amended.
  - (C) Instantaneous, daily maximum, and long-term average concentrations, or mass, where required, shall be reported.

- (D) The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in § 18-209(10). Where the standard requires compliance with a BMP or pollution prevention alternative, the user shall submit documentation as required by the control authority or the applicable standards to determine compliance with the standard.
- (E) Sampling must be performed in accordance with procedures set out in § 18-213(11).
- (F) Where known, the nature and concentration of any pollutants in the discharge which are limited by any local, state or national pretreatment standards, and a statement regarding whether or not the pretreatment standards are being met on a consistent basis and, if not, whether additional Operation and Maintenance (O&M) and/or additional pretreatment is required for the industrial user to meet applicable pretreatment standards.
- (viii) Any requests for a monitoring waiver (or a renewal of an approved monitoring waiver) for a pollutant neither present nor expected to be present in the discharge based on § 18-209(4)(b) [2300-4-14-.12(5)(b)];
- (ix) Statement of duly authorized representative(s). Wastewater constituents and characteristics, including, but not limited to, those mentioned in § 18-204 and Appendix A of this chapter as determined by a reliable analytical laboratory; sampling and analyses shall be performed in accordance with procedures established by the EPA pursuant to § 304(g) of the Act and contained in 40 C.F.R., part 136, as amended; and
- (x) Any other information as may be deemed necessary by the control authority to evaluate the permit application.

Incomplete or inaccurate applications will not be processed and will be returned to the user for revision.

- (6) <u>Wastewater discharge permitting: general permits.</u>
- (a) At the discretion of the control authority, the control authority may use general permits to control SIU discharges to the POTW if the following conditions are met. All facilities to be covered by a general permit must:
  - (i) Involve the same or substantially similar types of operations;
    - (ii) Discharge the same types of wastes;
    - (iii) Require the same effluent limitations;
    - (iv) Require the same or similar monitoring; and

- (v) In the opinion of the control authority, are more appropriately controlled under a general permit than under individual wastewater discharge permits.
- (b) To be covered by the general permit, the SIU must file a written request for coverage that identifies its contact information, production processes, the types of wastes generated, the location for monitoring all wastes covered by the general permit, any requests in accordance with § 18-209(4)(b) for a monitoring waiver for a pollutant neither present nor expected to be present in the discharge, and any other information the POTW deems appropriate. A monitoring waiver for a pollutant neither present nor expected to be present in the discharge is not effective in the general permit until after the control authority has provided written notice to the SIU that such a waiver request has been granted in accordance with § 18-209(4)(b).
- (c) The control authority will retain a copy of the general permit, documentation to support the POTW's determination that a specific SIU meets the criteria in subsection (6)(a)(i) to (v) above and applicable state regulations, and copy of the user's written request for coverage for three (3) years after the expiration of the general permit.
- (d) The control authority may not control a SIU through a general permit where the facility is subject to production-based categorical pretreatment standards or categorical pretreatment standards expressed as mass of pollutant discharged per day of for IUs whose limits are based on the combined wastestream formula or net/gross calculations.

## (7) <u>Application signatories and certifications</u>.

- (a) All wastewater discharge permit applications, user reports and certification statements must be signed by a duly authorized representative of the user and contain the certification statement in § 18-209(14)(a).
- (b) If the designation of a duly authorized representative is no longer accurate because a different individual or position has responsibility for the overall operation of the facility or overall responsibility for environmental matters for the company, a new written authorization satisfying the requirements of this section must be submitted to the control authority prior to or together with any reports to be signed by a duly authorized representative.
- (c) A facility determined to be a non-significant categorical industrial user by the control authority pursuant to § 18-202(57)(c) must annually submit the signed certification statement in § 18-209(14)(b).
- (8) <u>Individual wastewater discharge and general permit decisions</u>. The control authority will evaluate the data furnished by the user and may require additional information. If sufficient data was not received to determine an industry's category, the control authority may submit a category determination request to the approval authority as set out in Tennessee Rule

1200-4-14-.06(1). After evaluation and acceptance of the data furnished, the control authority will determine whether to issue an individual wastewater discharge permit or a general permit. The control authority may deny any application for an individual wastewater discharge permit or a general permit. (Ord. #664, Dec. 2011)

- 18-208. Individual wastewater discharge and general permit issuance. (1) Individual wastewater discharge and general permit duration. An individual wastewater discharge permit or a general permit shall be issued for a specified time period, not to exceed five (5) years from the effective date of the permit. A permit may be issued for less than a year or may be stated to expire on a specific date. The user shall apply for permit reissuance a minimum of ninety (90) days prior to the expiration of the user's existing permit. The terms and conditions of the permit may be subject to modifications as limitations or requirements are modified or other just cause exists. The user shall be informed of any proposed changes in his permit at least thirty (30) days prior to the effective date of change unless this allows federal due dates to be violated. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance. Each individual wastewater discharge permit or general permit will indicate a specific date upon which it will expire.
- (2) <u>Individual wastewater discharge and general permit contents</u>. An individual wastewater discharge permit or a general permit shall include such conditions as are deemed reasonably necessary by the control authority and/or his designated representative to prevent pass-through or interference, protect the quality of the water body receiving the treatment plant's effluent, protect worker health and safety, facilitate sludge management and disposal, and protect against damage to the POTW. Individual wastewater discharge permits or general permits shall be expressly subject to all provisions of this chapter and all other applicable regulation, charges, and fees established by the City of Hohenwald.
  - (a) Individual wastewater discharge permits and general permits shall contain:
    - (i) Statement that indicates the wastewater discharge permit issuance date, expiration date, and effective date;
    - (ii) Statement that the wastewater discharge permit is nontransferable without prior notification to the city in accordance with subsection (4) below, and provisions for furnishing the new owner or operator with a copy of the existing wastewater discharge permit;
    - (iii) Effluent limits, including best management practices, based on applicable pretreatment standards;
    - (iv) Self monitoring, sampling, reporting, notification, and record-keeping requirements. These requirements shall include an identification of pollutants (or best management practice) to be

monitored, sampling location, frequency of sampling, and sample type based on federal, state, and local law;

- (v) The process for seeking a waiver from monitoring for a pollutant neither present nor expected to be present in the discharge according to § 18-209(4)(b);
- (vi) Statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements, and any applicable compliance schedule. Such schedule may not extend the time for compliance beyond that required by federal, state, or local law:
- (vii) Requirements to control slug discharge, if determined by the control authority to be necessary;
- (viii) Any grant of the monitoring waiver by the control authority (§ 18-209(4)(b)) must be included as a condition in the user's permit or other control mechanism;
- (ix) Requirements for notification of the control authority of any new introduction of wastewater constituents or any substantial change in the volume or character of the wastewater constituents being introduced into the POTW;
- (x) Requirements for notification of excessive discharges such as described in § 18-204(10); and
- (xi) Requirement to immediately report any noncompliance to the control authority, and to immediately resample for parameter out of compliance in accordance with 40 C.F.R. § 403.12(g).
- (b) Individual wastewater discharge permits or general permits may contain, but need not be limited to, the following conditions:
  - (i) Limits on average and/or maximum rate of discharge, time of discharge, and/or requirements for flow regulations and equalization;
  - (ii) Requirements for installation of pretreatment technology, pollution control, or construction of appropriate containment devices, designed to reduce, eliminate, or prevent the introduction of pollutants into the treatment works;
  - (iii) Requirements for the development and implementation of spill control plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated, or non-routine discharges;
  - (iv) Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the POTW:
  - (v) The unit charge or schedule of user charges and fees for the management of the wastewater discharged to the POTW;

- (vi) Requirements for installation and maintenance of inspection and sampling facilities and equipment, including flow measurement devices;
- (vii) A statement that compliance with the individual wastewater discharge permit or general permit does not relieve the permittee of responsibility for compliance with all applicable federal and state pretreatment standards, including those which become effective during the term of the individual wastewater discharge permit or general permit; and
- (viii) Other conditions as deemed appropriate by the control authority to ensure compliance with this chapter, and state and federal laws, rules, and regulations.
- (3) <u>Permit modifications</u>. The control authority may modify an individual wastewater discharge permit or general permit for good cause, including, but not limited to, the following reasons:
  - (a) To incorporate any new or revised federal, state, or local pretreatment standards or requirements;
  - (b) To address significant alterations or additions to the user's operation, processes, or wastewater volume or character since the time of the individual wastewater discharge permit or general permit issuance;
  - (c) A change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge;
  - (d) Information indicating that the permitted discharge poses a threat to the city's POTW, city personnel, or the receiving waters;
  - (e) Violation of any terms or conditions of the individual wastewater discharge permit or the general permit;
  - (f) Misrepresentations or failure to fully disclose all relevant facts in the wastewater discharge permit application or in any required reporting;
  - (g) Revision of a grant of variance from categorical pretreatment standards pursuant to Tennessee Rule 1200-4-14-.13;
  - (h) To correct typographical or other errors in the individual wastewater discharge permit or the general permit; or
  - (i) To reflect a transfer of the facility ownership or operation to a new owner or operator where requested in accordance with subsection (4) below.
- (4) <u>Individual wastewater discharge and general permit transfer</u>. Individual wastewater discharge permits and general permits are issued to a specific user for a specific operation. An individual wastewater discharge permit or a general permit shall not be reassigned or transferred or sold to a new owner, new user, different premises, or a new or changed operation without prior notice and approval of the control authority, and provision of a copy of the existing control mechanism (individual wastewater discharge permit or general permit) to the new owner or operator. Any succeeding owner or user shall also

comply with the terms and conditions of the existing permit. The notice to the control authority must include a written certification by the new owner or operator which:

- (a) States that the new owner and/or operator has no immediate intent to change the facility's operations and processes;
  - (b) Identifies the specific date on which the transfer is to occur;
- (c) Acknowledges full responsibility for complying with the existing individual wastewater discharge permit or general permit; and
  - (d) Submits a duly authorized to sign.

Failure to provide advance notice of a transfer renders the individual wastewater discharge permit or general permit void as of the date of facility transfer.

- (5) <u>Individual wastewater discharge and general permit revocation</u>. The control authority may revoke an individual wastewater discharge permit or general permit for good cause, including, but not limited to, the following reasons:
  - (a) Failure to notify the control authority of significant changes to the wastewater prior to the changed discharge;
  - (b) Failure to provide prior notification to the control authority of changed conditions pursuant to § 18-209(5);
  - (c) Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application;
  - (d) Falsifying self-monitoring reports and certification statements;
    - (e) Tampering with monitoring equipment;
  - (f) Refusing to allow the control authority timely access to the facility premises and records;
    - (g) Failure to meet effluent limitations;
    - (h) Failure to pay penalties;
    - (i) Failure to pay sewer charges;
    - (j) Failure to meet compliance schedules;
  - (k) Failure to complete a wastewater survey or the wastewater discharge permit application;
  - (l) Failure to provide advance notice of the transfer of business ownership of a permitted facility; or
  - (m) Violation of any pretreatment standard or requirement, or any terms of the individual wastewater discharge permit or the general permit or this chapter.

Individual wastewater discharge permits and general permits shall be subject to void upon cessation of operations or transfer of business ownership. All individual wastewater discharge permits and general permits issued to a user are void upon the issuance of a new individual wastewater discharge permit or general permit to that user.

- (6) Individual wastewater discharge and general permit reissuance. A user with an expiring individual discharge permit or general permit shall apply for permit reissuance by submitting a complete permit application in accordance with § 18-207(5), a minimum of ninety (90) days prior to the expiration of the user's existing individual wastewater discharge permit or general permit. The terms and conditions of the permit may be subject to modification by the control authority during the term of the permit as limitations or requirements as identified in § 18-204 are modified or other just cause exists. The user shall be informed of any proposed changes in his permit at least thirty (30) days prior to the effective date of change unless this allows federal due dates to be violated. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.
  - (7) Regulation of waste received from other jurisdictions.
  - (a) If another municipality, or user located within another municipality, contributes wastewater to the POTW, the control authority shall enter into an intermunicipal agreement with the contributing municipality.
  - (b) Prior to entering into an agreement required by paragraph (a) above, the control authority shall request the following information from the contributing municipality:
    - (i) A description of the quality and volume of wastewater discharged to the POTW by the contributing municipality;
    - (ii) An inventory of all users located within the contributing municipality that are discharging to the POTW; and
    - (iii) Such other information deemed necessary by the control authority.
  - (c) An intermunicipal agreement, as required by paragraph (a) above, shall contain the following conditions:
    - (i) A requirement for the contributing municipality to adopt a sewer use ordinance which is at least as stringent as this chapter and local limits, including Baseline Monitoring Reports (BMRs) which are at least as stringent as those set out in § 18-204(8). The requirement shall specify that such an ordinance and limits must be revised as necessary to reflect changes made to the city's ordinance and local limits;
    - (ii) A requirement for the contributing municipality to submit a revised user inventory on at least an annual basis;
    - (iii) A provision specifying which pretreatment implementation activities, including individual wastewater discharge permit or general permit issuance, inspection and sampling, and enforcement, will be conducted by the contributing municipality; which of these activities will be conducted by the control authority; and which of these activities will be conducted jointly by the contributing municipality and the control authority;

- (iv) A requirement for the contributing municipality to provide the control authority with access to all information that the contributing municipality obtains as part of its pretreatment activities;
- (v) Limits on the nature, quality, and volume of the contributing municipality's wastewater at the point where it discharges to the POTW;
- (vi) Requirements for monitoring the contributing municipality's discharge;
- (vii) A provision ensuring the control authority access to the facilities of users located within the contributing municipality's jurisdictional boundaries for the purpose of inspection, sampling, and any other duties deemed necessary by the control authority; and
- (viii) A provision specifying remedies available for breach of the terms of the intermunicipal agreement.

The intermunicipal agreement may contain provisions for the control authority has the right to take action to enforce the terms of the contributing municipality's ordinances or to impose and enforce pretreatment standards and requirements directly against discharges of the contributing municipality. (Ord. #664, Dec. 2011)

## **18-209.** Reporting requirements. (1) Baseline monitoring reports.

- (a) Within either one hundred eighty (180) days after the effective date of a categorical pretreatment standard, or the final administrative decision on a category determination under Tennessee Rule 1200-4-14-.06(1)(d), whichever is later, existing categorical industrial users currently discharging to or scheduled to discharge to the POTW shall submit to the control authority a report which contains the information listed in paragraph (b) below. At least ninety (90) days prior to commencement of their discharge. New sources, and sources becoming categorical industrial users subsequent to the promulgation of an applicable categorical standard, shall submit to the control authority a report which contains the information listed in paragraph (b) below. A new source shall report the method of pretreatment it intends to use to meet the applicable categorical standard(s). A new source shall also give estimates of its anticipated flow and quantity of pollutants to be discharged.
- (b) Users described above shall submit the information set forth below.
  - (i) All information required in § 18-207(5)(a)(i)(a), § 18-207(5)(a)(ii), § 18-207(5)(a)(iii)(a), and § 18-207(5)(a)(vi).
    - (ii) Measurement of pollutants.

- (A) The user shall provide the information required in § 18-207(5)(a)(vii)(a) through (d);
- (B) The user shall take a minimum of one (1) representative sample to compile the data necessary to comply with the requirements of this paragraph;
- (C) Samples should be taken immediately downstream from pretreatment facilities if such exist or immediately downstream from the regulated process if no pretreatment exists. If other wastewaters are mixed with the regulated wastewater prior to pretreatment, the user should measure the flows and concentrations necessary to allow use of the combined wastestream formula in Tennessee Rule 1200-4-14-.06(5) to evaluate compliance with the pretreatment standards. Where an alternate concentration or mass limit has been calculated in accordance with Tennessee Rule 1200-4-14-.06(5) this adjusted limit along with supporting data shall be submitted to the control authority;
- (D) Sampling and analysis shall be performed in accordance with subsection (10) below;
- (E) The control authority may allow the submission of a baseline report which utilizes only historical data so long as the data provides information sufficient to determine the need for industrial pretreatment measures; and
- (F) The baseline report shall indicate the time, date and place of sampling and methods of analysis, and shall certify that such sampling and analysis is representative of normal work cycles and expected pollutant discharges to the POTW.
- (iii) Compliance certification. A statement, reviewed by the user's authorized representative, as defined in § 18-202, and certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis, and, if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required to meet the pretreatment standards and requirements.
- (iv) Compliance schedule. If additional pretreatment and/or O&M will be required to meet the pretreatment standards, the shortest schedule by which the user will provide such additional pretreatment and/or O&M must be provided. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment

standard. A compliance schedule pursuant to this section must meet the requirements set out in subsection (2) above.

- (v) Signature and report certification. All baseline monitoring reports must be certified in accordance with subsection (14)(a) below and signed by an authorized representative as defined in § 18-202.
- (2) <u>Compliance schedule progress reports</u>. The following conditions shall apply to the compliance schedule required by subsection (1)(b)(iv) above:
  - (a) The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (such events include, but are not limited to, hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, and beginning and conducting routine operation);
    - (b) No increment referred to above shall exceed nine (9) months;
  - (c) The user shall submit a progress report to the control authority no later than fourteen (14) days following each date in the schedule and the final date of compliance including, as a minimum, whether or not it complied with the increment of progress, the reason for any delay, and, if appropriate, the steps being taken by the user to return to the established schedule; and
  - (d) In no event shall more than nine (9) months elapse between such progress reports to the control authority.
- (3) Reports on compliance with categorical pretreatment standard deadline. Within ninety (90) days following the date for final compliance with applicable categorical pretreatment standards, or in the case of a new source following commencement of the introduction of wastewater into the POTW, any user subject to such pretreatment standards and requirements shall submit to the control authority a report containing the information described in § 18-207(5)(a)(vi) and (vii) and subsection (1)(b)(ii) above. For users subject to equivalent mass or concentration limits established in accordance with the procedures in § 18-204(5), this report shall contain a reasonable measure of the user's long-term production rate. For all other users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the user's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with subsection (14)(a) below. All sampling will be done in conformance with subsection (11) below.
- (4) <u>Periodic compliance reports</u>. All SIUs and non-significant categorical industrial users are required to submit periodic compliance reports.
  - (a) All users must, at a frequency determined by the control authority, submit no less than twice per year (on dates specified) reports

indicating the nature, concentration of pollutants in the discharge which are limited by pretreatment standards and the measured or estimated average and maximum daily flows for the reporting period. In cases where the pretreatment standard requires compliance with a Best Management Practice (BMP) or pollution prevention alternative, the user must submit documentation required by the control authority or the pretreatment standard necessary to determine the compliance status of the user.

- (b) The control authority may authorize an industrial user subject to a categorical pretreatment standard (upon the approval authority's approval) to forego sampling of a pollutant by a categorical pretreatment standard if the industrial user has demonstrated through sampling and other technical factors that the pollutant is neither present nor expected to be present in the discharge, or is present only at background levels from intake water and without any increase in the pollutant due to activities of the industrial user. [Tennessee Rule 1200-4-14-.12(5)(b)] This authorization is subject to the following conditions.
  - (i) The waiver may be authorized where a pollutant is determined to be present solely due to sanitary wastewater discharged from the facility provided that the sanitary wastewater is not regulated by an applicable categorical standard and otherwise includes no process wastewater.
  - (ii) The monitoring waiver is valid only for the duration of the effective period of the individual wastewater discharge permit or general permit, but in no case longer than five (5) years. The user must submit a new request (including the requirements of subsection (4)(b)(iii) for the waiver before the waiver can be granted for each subsequent individual wastewater discharge permit or general permit). See § 18-207(5)(a)(viii).
  - (iii) In making a demonstration that a pollutant is not present, the industrial user must provide sufficient data of the facility's process wastewater prior to any treatment present at the facility that is representative of all wastewater from all processes.
  - (iv) The request for monitoring waiver must be signed in accordance with § 18-202, and include the certification statement in subsection (14)(a) (Tennessee Rule 1200-4-14-.06(1)(b)(2)).
  - (v) Non-detectable sample results may be used only as a demonstration that a pollutant is not present if the EPA approved method from 40 C.F.R. part 136 with the lowest minimum detection level for that pollutant was used in the analysis.
  - (vi) Any grant of the monitoring waiver by the control authority must be included as a condition in the user's permit. The reasons supporting the waiver and any information submitted by

the user in its request for the waiver must be maintained by the control authority and the user for three (3) years after the expiration of the waiver.

- (vii) Upon approval of the monitoring waiver and revision of the user's permit by the control authority, the industrial user must include on each submitted report the certification statement in subsection (14)(c) below, that there has been no increase in the pollutant in its wastestream due to activities of the industrial user.
- (viii) In the event that a waived pollutant is found to be present or is expected to be present because of changes that occur in the user's operations, the user must immediately comply with the monitoring requirements of subsection (4)(a) above, or other more frequent monitoring requirements imposed by the control authority, and notify the control authority.
- (ix) This provision does not supersede certification processes and requirements established in categorical pretreatment standards, except as otherwise specified in the categorical pretreatment standard.
- (c) All periodic compliance reports must be signed and certified in accordance with subsection (14)(a) below. A chain of custody form must be submitted with all reports.
- (d) All wastewater samples must be representative of the user's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of a user to keep its monitoring facility in good working order shall not be grounds for the user to claim that sample results are unrepresentative of its discharge.
- (e) If a user subject to the reporting requirement in this section monitors any regulated pollutant at the appropriate sampling location more frequently than required by the control authority, using the procedures prescribed in subsection (11) below; the results must included in the report for the corresponding reporting period.
- (5) Reports of change conditions. Each user must notify the control authority of any significant changes to the user's operations or system which might alter the nature, quality, or volume of its wastewater at least one hundred eighty (180) days before the change.
  - (a) The control authority may require the user to submit such information as may be deemed as necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application under § 18-207(5).
  - (b) The control authority may issue an individual wastewater discharge permit or general permit under § 18-208(6) or modify an existing wastewater discharge permit under § 18-208(3) in response to changed conditions or anticipated changed conditions.

#### (6) Reports of potential problems.

- (a) In the case of any discharge, including, but not limited to, accidental discharges, discharges of a non-routine, episodic nature, a uncustomary batch discharge, a slug discharge or slug load, that might cause potential problems for the POTW, the user shall immediately telephone and notify the control authority of the incident. This notification shall include the location of the discharge, type of waste, concentration and volume, if known, and corrective actions taken by the user. The control authority may request a sample for analysis be collected at the moment of accidental discharge.
- (b) Within five (5) days following such discharge, the user shall, unless waived by the control authority, submit a detailed written report describing the cause(s) of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability which may incur as a result of damage to the POTW, natural resources, or any other damage to person or property; nor shall such notification relieve the user of any penalties or other liability which may be impose pursuant to this chapter.
- (c) A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees who to call in the event of a discharge described in paragraph (a) above. Employers shall ensure that all employees are advised of the emergency notification procedure.
- (d) Significant industrial users are required to notify the control authority immediately of any changes at its facility affecting the potential for a slug discharge.
- (7) Reports from non-permitted users. All users that are not required to obtain an individual wastewater discharge permit or general permit shall provide appropriate reports to the control authority as may be required.
- (8) Notice of violation/repeat sampling and reporting. If sampling performed by a user indicates a violation, the user must notify the control authority within twenty-four (24) hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the control authority within thirty (30) days after becoming aware of the violation. Repeat sampling by the user is not required if the control authority performs sampling at the user's facility at least once a month, or if the control authority performs sampling at the user's facility between the time when the initial sampling was conducted and the time when the user or the control authority receives the results of this sampling, or if the control authority has performed the sampling and analysis in lieu of the user. If sampling and analysis performed by the control authority indicates a violation, the control authority may opt to notify the user of the violation and require the user to perform the repeat sampling and analysis (40 C.F.R. § 403.12(g)(2)).

#### (9) <u>Notification of the discharge of hazardous waste</u>.

- Any user who commences the discharge of hazardous waste shall notify the control authority, the EPA Regional Water Management Division Director, and state hazardous waste authorities, in writing, of any discharge to the POTW of a substance which, if otherwise disposed of, would be a hazardous waste under 40 C.F.R. part 261. Such notification must include the name of the hazardous waste as set forth in 40 C.F.R. part 261, the EPA hazardous waste number, and the type of discharge (continuous, batch, or other). If the user discharges more than one hundred (100) kilograms of such waste per calendar month to the POTW, the notification also shall contain the following information to the extent such information is known and readily available to the user: an identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the wastestream discharged during that calendar month, and an estimation of the mass of constituents in the wastestream expected to be discharged during the following twelve (12) months. All notifications must take place no later than one hundred eighty (180) days after the discharge commences. Any notification under this paragraph need be submitted only once for each hazardous waste discharged; however, notifications of changed conditions must be submitted under subsection (5) above. The notification requirement in this section does not apply to pollutants already reported by users subject to categorical pretreatment standards under the self-monitoring requirements of subsections (1), (3), and (4) above.
- (b) Discharges are exempt form the requirements of paragraph (a) above, during a calendar month in which they discharge no more than fifteen (15) kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specified in 40 C.F.R. §§ 261.20(d) and 261.33(e). Discharge of more than fifteen (15) kilograms of non-acute hazardous wastes in a calendar month, or of any quantity of acute hazardous wastes as specified in 40 C.F.R. § 261.30(d) and 261.33(c), requires a one-time notification. Subsequent months during which the user discharges more than such quantities of any hazardous waste do not require additional notification.
- (c) In the case of any new regulations under § 3001 of RCRA identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the user must notify the control authority, the EPA Regional Waste Management Waste Division Director, and state hazardous waste authorities of the discharge of such substance within ninety (90) days of the effective date of such regulations.
- (d) In the case of any notification made under this section, the user shall certify that it has a program in place to reduce the volume and

toxicity of hazardous wastes generated to the degree it has determined to be economically practical.

- (e) This provision does not create a right to discharge any substance not otherwise permitted to be discharged by this chapter, a permit issued thereunder, or any applicable federal or state law.
- (10) Analytical requirements. All pollutant analyses, including sampling techniques, to be submitted as part of a wastewater discharge permit application or report shall be performed in accordance with the techniques prescribed in 40 C.F.R. part 136 and amendments thereto, unless otherwise specified in an applicable categorical pretreatment standard. If 40 C.F.R. part 136 does not contain sampling or analytical techniques for the pollutant in question, or where the EPA determines that the Part 136 sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analyses shall be performed using validated analytical methods or any other applicable sampling and analytical procedures, including procedures suggested by the Control Authority or other parties approved by EPA.
- (11) <u>Sample collection</u>. Samples collected to satisfy reporting requirements must be based on data obtained through appropriate sampling and analysis performed during the reporting period covered by the report, based on data that is representative of conditions occurring during the reporting period.
  - Except as indicated in subsections (b) and (c) below, the user must collect wastewater samples using twenty-four (24) hour flow proportional composite sampling techniques, unless time proportional composite sampling or grab sampling is authorized by the control authority. Where time proportional sampling or grab sampling is authorized by the control authority, the samples must be representative of the discharge. Using protocols (including appropriate preservation) specified in 40 C.F.R. part 136 and appropriate EPA guidance, multiple grab samples collected during a twenty-four (24) hour period may be composited prior to the analysis as follows: for cyanide, total phenols, and sulfides the samples may be composited in the laboratory or the field; for volatile organics and oil and grease, the samples may be composited in the laboratory. Composite samples for other parameters unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized by the control authority, as appropriate. In addition, grab samples may be required to show compliance with instantaneous limits (40 C.F.R. § 403.12(g)(3)).
  - (b) Samples for oil and grease, temperature, pH, cyanide, total phenols, sulfides, and volatile organic compounds must be obtained using grab collection techniques.
  - (c) For sampling required in support of baseline monitoring and ninety (90) day compliance reports required in subsections (1) and (3) (Tennessee Rule 1200-4-14-.12 (2) and (4)), a minimum of four (4) grab samples must be used for pH, cyanide, total phenols, oil and grease,

sulfide, and volatile organic compounds for facilities for which historical sampling data do not exist; for facilities for which historical data are available, the Control Authority may authorize a lower minimum. For the reports required by subsection (4) (Tennessee Rule 1200-4-14-.12 (5) and (8)), the industrial user is required to collect the number of grab samples necessary to assess and assure compliance with applicable pretreatment standards and requirements.

- (12) <u>Date of receipt of reports</u>. Written reports will be deemed to have been submitted on the date postmarked. For reports, which are not mailed using the U.S. Postal Service, the date of receipt of the report shall govern.
- (13) Retention of records. Users subject to the reporting requirements of this chapter shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this chapter, any additional records of information obtained pursuant to monitoring activities undertaken by the user independent of such requirements, and documentation associated with best management practices, as set out in individual wastewater discharge permits or general permits. Records shall include the date, exact place, method, and time of sampling, and the name of the person(s) taking the samples; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses. These records shall remain available for a period of at least three (3) years after the expiration date of the user's permit. This period shall be automatically extended for the duration of any litigation concerning the user or the control authority, or where the user has been specifically notified of a longer retention period by the control authority.

#### (14) Certification statements.

(a) Certification of permit applications, user reports and initial monitoring waiver. The following certification statement is required to be signed and submitted by users submitting permit applications in accordance with § 18-207(6); users submitting baseline monitoring reports under subsection (1)(b)(v) above (40 C.F.R. § 403.12 (1)); users submitting reports on compliance with the categorical pretreatment standard deadlines under subsection (3) (40 C.F.R. § 403.12 (d)); users submitting periodic compliance reports required by subsection (4)(a) to (c) (40 C.F.R. § 403.12 (e) and (h)), and users submitting an initial request to forego sampling of a pollutant on the basis of subsection (4)(b)(iv) (40 C.F.R. § 403.12 (e)(2)(iii)). The following certification statement must be signed by an authorized representative as defined in § 18-202:

"I certify under the penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person(s) who manage the system, or the person(s) directly responsible for gathering the information, the information submitted is,

to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of penalty and imprisonment for knowing violations."

Annual certification for non-significant categorical industrial users. A facility determined to be a non-significant categorical industrial user by the control authority pursuant to § 18-202(57)(c) and § 18-207(6)(c) (40 C.F.R. § 403.3(v)(2)) must annually submit the following certification statement signed in accordance with the signatory requirements in § 18-202(3) (40 C.F.R. § 403.120(l)). This certification must accompany an alternative report required by the control authority: "Based on my inquiry of the person(s) directly responsible for managing compliance with the categorical pretreatment standards under 40 C.F.R. part \_\_\_\_\_, I certify that, to the best of my knowledge and belief that during the period from \_\_\_\_\_, \_\_\_\_ to \_\_\_\_ [month, days, year(s)]: The facility described as (facility name) met (i) the definition of a non-significant categorical industrial user as described in § 18-202(57)(c); (ii) The facility complied with all applicable period; and

pretreatment standards and requirements during this reporting

The facility never discharged more than 100 gallons (iii) of total categorical wastewater on any given day during this reporting period.

This compliance certification is based on the following information:

(c) Certification of pollutants not present. Users that have an approved monitoring waiver based on subsection (4)(b) above must certify on each report with the following statement that there has been no increase in the pollutant in its wastestream due to activities of the user.

"Based on my inquiry of the person(s) directly responsible for managing compliance with the pretreatment standard for 40 C.F.R. part(s) \_\_\_\_\_, I certify that, to the best of my knowledge and belief, there has been no increase in the level of \_\_\_\_\_ in the wastewaters due to the activities at the facility since filing of the last periodic report under § 18-209(4)(a)." (Ord. #664, Dec. 2011)

18-210. Compliance monitoring. Right of entry; inspection and sampling: the control authority shall have the right to enter the premises of any user to determine whether the user is complying with all requirements of this chapter and any individual wastewater discharge permit or general permit or order issued hereunder. Users shall allow the control authority or his representative ready access at all reasonable times to all parts of the premises for the purposes of inspection, sampling, records examination and copying, and the performance of any additional duties.

- (1) Where a user has security measures in force which would require proper identification and clearance before entry into its premises, the user shall make necessary arrangements with its security guard(s) so that, upon presentation of suitable identification, personnel from the control authority, approval authority and EPA shall be permitted to enter, without delay, for the purposes of performing their specific responsibilities (40 C.F.R. § 403.12).
- (2) The control authority, approval authority and EPA shall have the right to set up on the industrial user's property such devices as are necessary to conduct sampling inspection, compliance monitoring and/or metering of the user's operations.
- (3) The control authority may require the user to install monitoring equipment as necessary. The facility's sampling, and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the user at its own expense. All devices used to measure wastewater flow and quality shall be calibrated annually, unless specified otherwise) to ensure their accuracy. The location of the monitoring facility shall provide ample room in or near the monitoring facility to allow accurate sampling and preparation of samples and on-site analysis (where necessary), whether constructed on public or private property. The monitoring facilities should be provided in accordance with the control authorities requirements and all applicable local construction standards and specifications, and such facilities shall be constructed and maintained in such manner so as to enable the control authority to perform independent monitoring activities.
- (4) Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the user at the written or verbal request of the control authority and shall not be replaced. The costs of clearing such access shall be borne by the user.
- (5) Unreasonable delays in allowing the control authority access to the user's premises shall be a violation of this chapter. (Ord. #664, Dec. 2011)
- 18-211. <u>Confidential information</u>. (1) Information and data on a user obtained from reports, surveys, permit applications, individual wastewater discharge permits or general permits and monitoring programs, and from the control authority's inspections and sampling activities, shall be available to the public or other governmental agency without restriction, unless the user specifically requests, and is able to demonstrate to the satisfaction of the control authority, that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets of the user under applicable state law. Any such request must be asserted at the time of submission of the information or data.

- (2) When requested and demonstrated by the user furnishing a report, that such information should be held confidential, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public, but shall be made available immediately upon written request to governmental agencies for uses related to this chapter, the National Pollutant Discharge Elimination System (NPDES) permit, and/or the state pretreatment program, and that such portions of a report shall be available for use by the state or any state agency in judicial review or enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics and other effluent data, as defined at 40 C.F.R. § 2.302, shall not be recognized as confidential information and shall be available to the public without restriction. (Ord. #664, Dec. 2011)
- 18-212. <u>Publication of users in significant noncompliance</u>. (1) The control authority shall publish, at least annually, in a newspaper of general circulation that provides meaningful public notice within the jurisdiction(s) served by the POTW, a list of users, which at any time during the previous twelve months, were in significant noncompliance with applicable pretreatment requirements.
- (2) For the purposes of this provision, a significant industrial user (or an industrial user which violates subparts (c), (d), or (h) below) is in significant noncompliance if its violation meets one (1) or more of the following criteria.
  - (a) Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of all of the measurements taken for the same pollutant parameter during a six (6) month period on a rolling quarterly basis exceed (by any magnitude) a numeric pretreatment standard or requirement, including instantaneous limits as defined in § 18-202;
  - (b) Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of wastewater measurements taken for each pollutant parameter during a six (6) month period equals or exceeds the product of the numeric pretreatment standard or requirement including instantaneous limits, as defined by § 18-202 multiplied by the applicable TRC (TRC-1.4 for BOD, TSS, fats, oil, and grease, and 1.2 for all other parameters except pH);
  - (c) Any other violation of a pretreatment standard or requirement as defined by § 18-202 (daily maximum, long-term average, instantaneous limit, or narrative standard) that the control authority determines has caused, alone or in combination with other discharges, interference or pass-through (including endangering the health of POTW personnel and/or the general public):
  - (d) Any discharge of a pollutant that has caused imminent endangerment to human health, welfare, or to the environment or has

resulted in the POTW's exercise of its emergency authority under 40 C.F.R. § 403.8(f)(1)(vi)(B) to halt or prevent such a discharge;

- (e) Failure to meet, within ninety (90) days after the schedule date, a compliance schedule milestone contained in an individual wastewater discharge permit or a general permit or enforcement order for starting construction, completing construction, or attaining final compliance;
- (f) Failure to provide, within thirty (30) days after the due date, required reports such as baseline monitoring reports, ninety (90) day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules;
  - (g) Failure to accurately report non-compliance; or
- (h) Any other violation or group of violations, which may include a violation of best management practices, which the control authority determines will adversely, affect the operation or implementation of the local pretreatment program. (Ord. #664, Dec. 2011)
- **18-213.** Administrative enforcement remedies. All administrative enforcement actions taken against a significant industrial user, including procedures, orders, and complaints, shall be in accordance with the Tennessee Water Quality Control Act of 1977 and its amendments, specifically <u>Tennessee Code Annotated</u>, § 69-3-123, and enforcement per the Enforcement Response Plan (ERP).
- (1) Notification of violation. When the control authority finds that a user has violated, or continues to violate, any provision of this chapter, an individual wastewater discharge permit or general permit, or order issued hereunder, or any other pretreatment standard or requirement, the control authority may serve upon that user a written notice of violation. Within ten (10) days of the receipt date of this notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted by the user to the control authority. Submission of such a plan in no way relieves the user of liability for any violations occurring before or after receipt of the notice of violation. Nothing in this section shall limit the control authority to take any action, including emergency actions or any other enforcement action, without first issuing a notice of violation,
- (2) <u>Consent orders</u>. The City of Hohenwald is hereby empowered to enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with any user responsible for noncompliance. Such documents shall include specific action to be taken by the user to correct the noncompliance within a time period also specified by the document. Consent orders shall have the same force and effect as the administrative orders issued pursuant to subsections (4) and (5) below, and shall be judicially enforceable.

- Show cause hearing, The control authority may order a user which has violated, or continues to violate, any provision of this chapter, an individual wastewater discharge permit or a general permit, or order issued hereunder, or any other pretreatment standard or requirement to appear before the City of Hohenwald and show cause why the proposed enforcement action should not be taken. Notice shall be served on the user specifying the time and place for the meeting, the proposed enforcement action, the reasons for such action, and a request that the user show cause why this proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least ten (10) days prior to the hearing. Such notice may be served on any authorized representative of the user as defined in § 18-202 and required by § 18-207(7). A show cause hearing shall not be a bar against, or prerequisite for, taking any other action against the user. Whether or not a duly notified user appears as noticed, immediate enforcement action may be pursued. Hearings shall be conducted in accordance with the provisions of Tennessee Code Annotated, § 69-3-124.
- Compliance orders. When the control authority finds that a user has violated, or continues to violate, any provision of this chapter, an individual wastewater discharge permit or a general permit, order issued hereunder, or any pretreatment standard or requirement, the City of Hohenwald may issue an order to the user responsible for the discharge directing that the user come into compliance within a specified time period. If the user does not show compliance within the specified time period, sewer service may be discontinued unless adequate treatment facilities, devices or other related appurtenances are installed and properly operated to allow compliance with this chapter. Compliance orders may also contain other requirements to address the noncompliance, including additional self-monitoring, the installation of pretreatment systems(s), and management practices designed to minimize the amount of pollutants discharged to the sewer. A compliance order may not extend the deadline for compliance established for a pretreatment standard or requirement, nor does a compliance order relieve the user of liability for any violation, including any continuing violation. A compliance order may also contain a penalty for noncompliance with the ordinance or an individual wastewater discharge permit or a general permit. Issuance of a compliance order shall not be a bar against, or a prerequisite for, taking any other action against the user.
- (5) <u>Cease and desist orders</u>. When the control authority finds that a user has violated, or continues to violate, any provision of this chapter, an individual wastewater discharge permit or a general permit, order issued hereunder, any other pretreatment standard or requirement, or that the user's past violations are likely to recur, the City of Hohenwald may issue an order to the user directing it to cease and desist all such violations and directing the user:
  - (a) Immediately comply with all requirements; and

- (b) Take such appropriate remedial or preventative action as may be needed to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge. Issuance of a cease and desist order shall not be a bar against, or a prerequisite for, taking any other action against the user.
- (6) <u>Administrative penalties</u>.
- Notwithstanding any other section of this chapter, when the control authority finds that a user has violated, or continues to violate, any provision of this chapter, individual wastewater discharge permit or general permit, and/or orders issued hereunder, any other pretreatment standard or requirement, or that the user's past violations are likely to recur, the control authority may penalize such a user in an amount not to exceed ten thousand dollars (\$10,000.00). Such penalties shall be assessed on a per violation, per day basis in accordance with the provisions of Tennessee Code Annotated, §§ 69-3-125, 126, 128 and 129 and 40 C.F.R. § 403.8(f)(1)(vi)(A). In the case of monthly or other long-term average discharge limits, penalties shall be assessed for each day during the period of violation. Each day on which noncompliance shall occur or continue shall be deemed a separate and distinct violation. Such assessments may be added to the user's next scheduled sewer service charge and the City of Hohenwald shall have such other collection remedies as are available to collect other service charges.
- (b) Unpaid charges and penalties shall constitute a lien against the user's property.
- (c) Users desiring to dispute such penalties must file a written request for the City of Hohenwald to reconsider the penalty along with full payment of the penalty amount within thirty (30) days of being notified of the penalty. Where the City of Hohenwald believes a request has merit, the City of Hohenwald shall convene a hearing on the matter within fifteen (15) days of receiving the request from the user and a hearing will be held before the City of Hohenwald in accordance with the provisions of Tennessee Code Annotated, § 69-3-124. The control authority may add the costs of preparing administrative enforcement actions, such as notices and orders, to the penalty.
- (d) Issuance of an administrative penalty shall not be a bar against, or a prerequisite for, taking any other action against the user.
- (7) <u>Emergency suspensions</u>. The City of Hohenwald may immediately suspend a user's discharge, after informal notice to the user, whenever such suspension is necessary to stop an actual or threatened discharge, which reasonably appears to present, or cause an imminent or substantial endangerment to the health or welfare of persons, the POTW, or the environment.
  - (a) Any user notified of a suspension of its discharge shall immediately stop or eliminate its contribution of process wastewater to

the POTW. In the event of a user's failure to immediately comply voluntarily with the suspension order, the control authority may take such steps as deemed necessary, including immediate severance of the building sewer connection to the POTW, to prevent or minimize damage to the POTW, its receiving stream, or endangerment to any individuals. The City of Hohenwald may allow the user to recommence its discharge when the user has demonstrated to the satisfaction of the control authority that the period of endangerment has passed, unless the termination proceedings set forth in subsection (8) below are initiated against the user.

(b) A user that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit to the control authority a detailed written statement describing the causes of the harmful contribution and the measures taken to prevent any future occurrence within five days after notification of suspension of service or prior to the date of any show cause or termination hearing under subsections (3) above or (8) below.

Nothing in this section shall be interpreted as requiring a hearing prior to any emergency suspension under this section.

- (8) <u>Termination of discharge</u>. In addition to the provision in § 18-208(5), any user who violates the following conditions is subject to permit termination:
  - (a) Violation of individual wastewater discharge permit or general permit conditions;
  - (b) Failure to accurately report the wastewater constituents and characteristics of its discharge;
  - (c) Failure to report significant changes in operations or wastewater constituents and characteristics;
  - (d) Refusal of reasonable access to the user's premises for the purpose of inspection, monitoring or sampling; or
    - (e) Violation of the pretreatment standards in § 18-205.

Such user(s) will be notified of the proposed termination of its discharge and be offered an opportunity to show cause under subsection (3) above why the proposed action should not be taken. Exercise of this option by the control authority shall not be a bar to, or a prerequisite for, taking any other action against the user. (Ord. #664, Dec. 2011)

#### 18-214. Judicial enforcement remedies. (1) Injunctive relief.

(a) If any person discharges sewage, industrial wastes, or other wastes into the POTW contrary to the provisions of this chapter or any order or industrial wastewater discharge permit or general permit issued hereunder, the City of Hohenwald, through the city attorney, may commence an action for appropriate legal and/or equitable relief in the Chancery Court of Lewis County. Any judicial proceedings and relief shall

be in accordance with the provisions of <u>Tennessee Code Annotated</u>, § 69-3-127.

- (b) When the control authority finds that a user has violated, or continues to violate, any provisions of this chapter, an individual wastewater discharge permit or a general permit, order issued hereunder, or any other pretreatment standard or requirement, the City of Hohenwald, through the city attorney, may petition the court for the issuance of a temporary or permanent injunction or both (as may be appropriate) which restrains or compels the specific performance of the individual wastewater discharge permit or general permit, order, or other requirement imposed by this chapter on activities of the user.
- (c) The City of Hohenwald may also seek such other action as is appropriate for legal and/or equitable relief, including a requirement for the user to conduct environmental remediation. A petition for injunctive relief shall not be a bar against, or a prerequisite for, taking any other action against a user.

#### (2) Civil penalties.

- (a) A user who has violated, or continues to violate, any provision of this chapter, an individual wastewater discharge permit or general permit, an order issued hereunder, or any pretreatment standard or requirement shall be liable to the City of Hohenwald for a maximum civil penalty of ten thousand dollars (\$10,000.00) per violation, per day. In the case of a monthly or other long-term average discharge limit, penalties shall accrue for each day during the period of the violation.
- (b) The City of Hohenwald may recover reasonable attorneys' fees, court costs, engineering fees, and other expenses associated with enforcement activities, including sampling and monitoring expenses, and the cost of any actual damages incurred by the city.
- (c) In determining the amount of civil liability, the court shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration of the violation, any economic benefit gained through the user's violation, connective actions by the user, the compliance history of the user, and any other factor as justice requires.
- (d) Filing a suit for civil penalties shall not be a bar against, or a prerequisite for, taking any other action against a user.
- (3) <u>Criminal prosecution</u>. Any violation of this chapter is subject to criminal prosecution as ascertained in <u>Tennessee Code Annotated</u>, § 40-35-3.
- (4) Remedies nonexclusive. The remedies provided for in this chapter are not exclusive. The control authority may take any, all, or any combination of these actions against a noncompliant user. Enforcement of pretreatment violations will generally be in accordance with the City of Hohenwald enforcement response plan; however, the control authority may take other action against any user when the circumstances warrant. Further, the control

authority is empowered to take more than one enforcement action against any noncompliant user. (Ord. #664, Dec. 2011)

# 18-215. <u>Affirmative defenses to discharge violations</u>. (1) <u>Treatment upset</u>.

- (a) Any user which experiences an upset in operations that places it in a temporary state of noncompliance, which is not the result of operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventative maintenance, or careless or improper operation, shall inform the control authority thereof immediately upon becoming aware of the upset.
- (b) A user who wishes to establish affirmative defense of a treatment upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:
  - (i) An upset occurred and the user can identify the cause(s) of the upset;
  - (ii) The facility was at the time being operated in a prudent and workman-like manner and in compliance with applicable operation and maintenance procedures; and
  - (iii) The user has submitted the following information to the control authority within twenty-four (24) hours of becoming aware of the upset (where such information is provided orally, a written report thereof shall be filed by the user within five days). The report shall contain:
    - (A) A description of the indirect discharge and cause of noncompliance;
    - (B) The duration of noncompliance, including exact dates and times of noncompliance, and, if the noncompliance is continuing, the time by which compliance is reasonably expected to be restored; and
    - (C) All steps taken or planned to reduce, eliminate, and prevent recurrence of such an upset.
- (c) A user which complies with the notification provisions of this section in a timely manner shall have an affirmative defense to any enforcement action brought by the City of Hohenwald for any noncompliance with this chapter, or an order or industrial wastewater discharge permit or general permit issued hereunder to the significant industrial user, which arises out of violations attributable and alleged to have occurred during the period of the documented and verified upset.
- (d) In any enforcement proceeding, the user seeking to establish the occurrence of an upset shall have the burden of proof.
- (e) Users shall have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for noncompliance with categorical pretreatment standards.

- (f) Users shall control production of all discharges to the extent necessary to maintain compliance with categorical pretreatment standards upon reduction, loss, or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost, or fails.
- (2) Prohibited discharge standards. A user shall have an affirmative defense to an enforcement action brought against it for noncompliance with the general prohibitions in § 18-204(3)(a) or the specific prohibitions in § 18-204(3)(b)(i) through (b)(xvi) of this chapter if it can prove that it did not know, or have reason to know, that its discharge, alone or in conjunction with discharges from other sources, would cause pass-through or interference and that either:
  - (a) A local limit exists for each pollutant discharge and the user was in compliance with each limit directly prior to, and during, the pass-through or interference; or
  - (b) No local limit exists, but the discharge did not change substantially in nature or constituents from the user's prior discharge when the control authority was regularly in compliance with its NPDES permit, and in the case of interference, was in compliance with applicable sludge use or disposal requirements.

The affirmative defense outlined in this section does not apply to the specific prohibitions in § 18-204(3)(b)(i), (iii), and (xv).

- (3) By-pass.
  - (a) For the purposes of this section:
  - (i) "By-pass" means the intentional diversion of wastestreams from any portion of a user's treatment facility.
  - (ii) Severe property damage means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a by-pass. Severe property damage does not mean economic loss caused by delays in production,
- (b) By-pass not violating applicable pretreatment standards or requirements. A user may allow any by-pass to occur which does not cause pretreatment standards or requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These by-passes are not subject to the provision of paragraphs (c) and (d) below.
  - (c) By-pass notification.
  - (i) If a user knows in advance of the need for a by-pass, it shall submit prior notice to the control authority, if possible at least ten (10) days before the date of the by-pass.
  - (ii) A user shall submit oral notice of an unanticipated by-pass that exceeds applicable pretreatment standards to the

control authority within twenty-four (24) hours from the time the user becomes aware of the by-pass. A written submission shall also be provided within five (5) days of the time the user becomes aware of the by-pass. The written submission shall contain a description of the by-pass and its cause; the duration to the by-pass, including exact dates and times, and, if the by-pass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the by-pass. The control authority may waive the written report on a case-by-case basis if the oral report has been received within twenty-four (24) hours.

- (d) Prohibition of a by-pass.
- (i) By-pass is prohibited, and the control authority may take enforcement action against a user for a by-pass, unless:
  - (A) The by-pass was unavoidable to prevent loss of life, personal injury, or severe property damage;
  - (B) There was no feasible alternative to the by-pass, including the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a by-pass which occurred during normal periods of equipment downtime or preventive maintenance; and
  - (C) The user properly notified the control authority as required by paragraph (3)(c) above.
- (ii) The control authority may approve an anticipated by-pass, after considering its adverse effects, if the control authority determines that it will meet the three conditions listed in paragraph (d)(i) above. (Ord. #664, Dec. 2011)
- **18-216.** <u>Miscellaneous provisions.</u> (1) <u>Pretreatment charges and fees.</u> The City of Hohenwald may adopt reasonable fees for reimbursement of costs of setting up and operating the city's pretreatment program, which may include:
  - (a) Fees for wastewater discharge permit applications including the cost of processing such applications;
  - (b) Fees for monitoring, inspection, and surveillance procedures including the cost of collection and analyzing the user's discharge, and reviewing monitoring reports and certification statements submitted by users;
  - (c) Fees for reviewing and responding to accidental discharge procedures and construction;
    - (d) Fees for filing appeals;

- (e) Fees to recover administrative and legal costs (not included in subsection (1)(b) above) associated with the enforcement activity taken by the control authority to address user noncompliance; and
- (f) Other fees the city may deem necessary to carry out the requirements contained herein. These fees relate solely to the matters covered by this chapter and are separate from all other fees and penalties chargeable by the city.
- (2) <u>Conflict</u>. All other ordinances and parts of other ordinances inconsistent or conflicting with any part of this chapter are hereby repealed to the extent of such inconsistency or conflict.
- (3) <u>Enforcement response plan</u><sup>1</sup>. This plan is adopted by reference. (Ord. #664, Dec. 2011)

APPENDIX A: Pollutant parameters. Pollutant parameters (subject to change by addenda applicable to "pass-through limitations" issued by the state. The year for each revision will be indicated in the top left hand corner of Appendix A.)

TABLE A1: Specific Pollutant Limitations (2011)

Parameter	Max. concentration in 24-hour flow proportional composite sample (mg/l)	Maximum instantaneous concentration grab sample (mg/l)
Arsenic	0.2355	0.471
Benzene	0.10	0.20
$\mathrm{BOD}_5$	300	450
Cadmium	0.07	0.14
Carbon tetrachloride	0.25	0.50
Chloroform	0.65	1.30
Chromium	2.40	4.80
Copper	0.56	1.12
Cyanide	0.06	0.12
Ethylbenzene	0.25	0.50

<sup>&</sup>lt;sup>1</sup>The enforcement response plan for the City of Hohenwald (and any amendments) is available in the office of the city recorder.

TABLE A1: Specific Pollutant Limitations (2011)

Parameter	Max. concentration in 24-hour flow proportional composite sample (mg/l)	Maximum instantaneous concentration grab sample (mg/l)
Lead	0.06	0.12
Mercury	0.0001	0.0002
Methylene chloride	0.70	1.40
Molybdenum	0.27	0.54
Naphthalene	0.08	0.16
Nickel	0.3026	0.6052
Phenols, total	3.00	6.00
Phthalates, total	1.00	2.00
Selenium	0.0022	0.0044
Silver	0.07	0.14
Toluene	1.00	2.00
Zinc	2.70	5.40
Oil and grease	100	150
Tetrachloroethylene	0.25	0.50
Trichloroethylene	0.14	0.28
1,1,1-Trichloroethane	1.60	3.2
1,2-Transdichloroethylene	0.05	0.10
Total suspended solids, TSS	300	450

<sup>\*</sup>Based on 24-hour flow proportional composite samples except for parameters that should be grab sampled.

Any user discharging wastewater having pollutants in excess of the concentrations listed above may be subject to penalties and/or surcharges as outlined in § 18-206 and in §§ 18-213, 18-214, and 18-215.

<sup>\*</sup> f/l = fibers/liter

TABLE A2: Criteria to Protect the POTW Treatment Plant Influent (2011)

Pollutant	Daily average* maximum concentration (mg/l)	Instantaneous maximum concentration (mg/l)
1,1,1 -Trichloroethane	0.06	0.12
1,2 Transdichloroethylene	0.003	0.006
Arsenic	0.00086	0.00172
Benzene	0.00545	0.0109
Cadmium	0.00764	0.00152
Carbon tetrachloride	0.03	0.060
Chloroform, total	0.100	0.200
Chromium	0.1764	0.3528
Copper	0.0583	0.1166
Cyanide	0.0098	0.0196
Ethylbenzene	0.008	0.016
Lead	0.0038	0.0076
Mercury	0.0001	0.0002
Methylene chloride	0.10	0.20
Molybdenum	0.000547	0.00109
Naphthalene	0.0025	0.005
Nickel	0.00733	0.01466
Phenols, total	0.0943	0.1886
Phthalates, total	0.126	0.252
Selenium	0.0027	0.0054
Silver	0.00557	0.01114
Toluene	0.0245	0.0490
Tetrachloroethylene	0.0625	0.1250

TABLE A2: Criteria to Protect the POTW Treatment Plant Influent (2011)

Pollutant	Daily average*	Instantaneous maximum
	maximum concentration	concentration (mg/l)
	(mg/l)	
Trichlorocthylene	0.02	0.04
Zinc	0.1296	0.2592

Analyses for all pollutants listed in TABLE A2 shall be conducted in accordance with the requirements of 40 C.F.R. part 136 or equivalent methods approved by the United States Environmental Protection Agency. The above limits apply at the point where the wastewater is discharged to the POTW. All concentrations for metallic substances are for total metal unless otherwise indicated. (Ord. #664, Dec. 2011)

# SUPPLEMENTARY SEWER REGULATIONS<sup>1</sup>

#### **SECTION**

- 18-301. Definitions.
- 18-302. Use of public sewers required.
- 18-303. Private sewage disposal.
- 18-304. Building sewers and connections.
- 18-305. Use of the public sewers.
- 18-306. Protection from damage.
- 18-307. Powers and authority of inspectors.
- 18-308. Violations.
- **18-301. Definitions**. Unless the context specifically indicates otherwise, the meaning of terms used in this chapter shall be as follows:
- (1) "BOD" (denoting Biochemical Oxygen Demand) shall mean the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at twenty degrees centigrade (20°C.) expressed in milligrams per liter.
- (2) "Building drain" shall mean that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five feet (5') (1.5 meters) outside the inner face of the building wall.
- (3) "Building sewer" shall mean the extension from the building drain to the public sewer or other place of disposal.
- (4) "Combined sewer" shall mean a sewer receiving both surface runoff and sewage.
- (5) "Garbage" shall mean solid wastes from the domestic and commercial preparation, cooking, and dispensing of food, and from the handling, storage, and sale of produce.
- (6) "Industrial wastes" shall mean the liquid wastes from industrial manufacturing processes, trade, or business as distinct from sanitary sewage.
- (7) "Natural outlet" shall mean any outlet into a watercourse, pond, ditch, lake, or other body of surface or groundwater.

<sup>1</sup>Municipal code references

Plumbing: title 12, chapter 2. Sewer use: title 18, chapter 2.

Water and sewer: title 18, chapter 1.

- (8) "Person" shall mean any individual, firm, company, association, society, corporation, or group.
- (9) "pH" shall mean the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.
- (10) "Properly shredded garbage" shall mean the wastes from the preparation, cooking, and dispensing of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half (1/2) inch (1.27 centimeters) in any dimension.
- (11) "Public sewer" shall mean a sewer in which all owners of abutting properties have equal rights, and controlled by public authority.
- (12) "Sanitary sewer" shall mean a sewer which carries sewage and to which storm, surface, and groundwaters are not intentionally admitted.
- (13) "Sewage" shall mean a combination of the watercarried wastes from residences, business buildings, institutions, and industrial establishments, together with such ground, surface, and storm waters as may be present.
- (14) "Sewage treatment plant" shall mean any arrangement of devices and structures used for treating sewage.
- (15) "Sewage works" shall mean all facilities for collecting, pumping, treating, and disposing of sewage.
  - (16) "Sewer" shall mean a pipe or conduit for carrying sewage.
  - (17) "Shall" is mandatory; may is permissive.
- (18) "Slug" shall mean any discharge water, sewage, or industrial waste which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than fifteen (15) minutes more than five (5) times the average twenty-four (24) hour concentration of flows during normal operation.
- (19) "Storm drain" (sometimes termed "storm sewer") shall mean a sewer which carries storm and surface waters and drainage, but excludes sewage and industrial wastes, other than unpolluted cooling water.
- (20) "Superintendent" shall mean the superintendent of sewage works and/or of water pollution control of the city, or his authorized deputy, agent, or representative.
- (21) "Suspended solids" shall mean solids that are in suspension in water, sewage, or other liquids, and which are removable by laboratory filtering.
- (22) "Watercourse" shall mean a channel in which a flow of water occurs, either continuously or intermittently. (1982 Code, § 13-201)
- **18-302.** <u>Use of public sewers required</u>. (1) It shall be unlawful for any person to place, deposit, or permit to be deposited in any unsanitary manner on public or private property within the City of Hohenwald, or in any area under its jurisdiction, any human or animal excrement, garbage, or other objectionable waste.

- (2) It shall be unlawful to discharge to any natural outlet within the City of Hohenwald or in any area under its jurisdiction, any sewage or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this chapter.
- (3) Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of sewage.
- (4) The owner of all houses, buildings, or properties used for human occupancy, employment, recreation, or other purposes, situated within the city and abutting on any street, alley, or right-of-way in which there is now located or may in the future be located a public sanitary or combined sewer of the city, 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 ninety (90) days after date of official notice to do so, provided that said public sewer is within two hundred feet (200') of the property line. (1982 Code, § 13-202)
- 18-303. <u>Private sewage disposal</u>. The disposal of sewage by means other than the use of the sanitary sewage system shall be in accordance with local and state laws. The disposal of sewage by private disposal systems shall be permissible only in those instances where service from the sanitary sewage system is not available. (1982 Code, § 13-203)
- **18-304.** Building sewers and connections. (1) No unauthorized person shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the superintendent.
  - (2) There shall be two (2) classes of building sewer permits:
    - (a) For residential and commercial service; and
- (b) For service to establishments producing industrial wastes. In either case, the owner or his agent shall make application on a special form furnished by the city. The permit application shall be supplemented by any plans, specifications, or other information considered pertinent in the judgment of the superintendent.
- (3) All costs and expenses incident to the installation and connection of the building sewer shall be borne by the owner. The owner shall indemnify the city from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.
- (4) A separate and independent building sewer shall be provided for every building except that where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court yard, or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one (1) building sewer.

- (5) Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the superintendent, to meet all requirements of this chapter.
- (6) The size, slope, alignment, materials of construction of a building sewer, and the methods to be used in excavating, placing of the pipe, jointing, testing, and backfilling the trench shall all conform to the requirements of the building and plumbing codes or other applicable rules and regulations of the city. In the absence of code provisions or in amplification thereof, the materials and procedures set forth in appropriate specifications of the ASTM and WPCF Manual of Practice, No. 9 shall apply.
- (7) Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer.
- (8) No person shall make connection of roof down-spouts, exterior foundation drains, areaway drains, or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer.
- (9) The connection of the building sewer into the public sewer shall conform to the requirements of the building and plumbing codes or other applicable rules and regulations of the city, or the procedures set forth in appropriate specifications of the ASTM and the <u>WPCF Manual of Practice</u>, No. 9. All such connections shall be made gas-tight and water-tight. Any deviation from the prescribed procedures and materials must be approved by the superintendent before installation.
- (10) The applicant for the building sewer permit shall notify the superintendent when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the superintendent or his representative.
- (11) All excavations for building sewer installations shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the city. (1982 Code, § 13-204)
- **18-305.** <u>Use of the public sewers</u>. (1) No person shall discharge or cause to be discharged any storm water, surface water, groundwater, roof runoff, subsurface drainage, uncontaminated cooling water, or unpolluted industrial process waters to any sanitary sewer.
- (2) Storm water and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as storm sewers, or to a natural outlet approved by the Tennessee Stream Pollution Control Board. Industrial cooling water or unpolluted process waters may be discharged, on approval of

the Tennessee Stream Pollution Control Board, to a storm sewer or natural outlet.

- (3) No person shall discharge or cause to be discharged any of the following described waters or wastes to any public sewers:
  - (a) Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid, or gas.
  - (b) Any waters or wastes containing toxic or poisonous solids, liquids, or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process, to constitute a hazard to humans or animals, to create a public nuisance, or to create any hazard in the receiving waters of the sewage treatment plant.
  - (c) Any waters or wastes having a pH lower than 5.5, or having any other corrosive property capable of causing damage or hazard to structures, equipment, and personnel of the sewage works.
  - (d) Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the sewage works such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails and paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders.
- (4) No person shall discharge or cause to be discharged the following described substances, materials, waters, or wastes if it appears likely in the opinion of the superintendent that such wastes can harm either the sewers, sewage treatment process, or equipment, have an adverse effect on the receiving stream, or can otherwise endanger life, limb, public property, or constitute a nuisance. In forming his opinion as to the acceptability of these wastes, the superintendent will give consideration to such factors as the quantities of subject wastes in relation to flows and velocities in the sewers, materials of construction of the sewers, nature of the sewage treatment process, capacity of the sewage treatment plant, degree or treatability or wastes in the sewage treatment plant, and other pertinent factors. The substances prohibited are:
  - (a) Any liquid or vapor having a temperature higher than one hundred fifty degrees Fahrenheit (150° F) (sixty-five degrees Centigrade (65°C)).
  - (b) Any water or waste containing fats, wax, grease, or oils, whether emulsified or not, in excess of one hundred (100) mg/l or containing substances which may solidify or become viscous at temperatures between thirty-two degrees (32°) and one hundred fifty degrees (150°) Fahrenheit (zero degrees (0°) and sixty-five degrees (65°) Centigrade).
  - (c) Any garbage that has not been properly shredded. The installation and operation of any garbage grinder equipped with a motor

of three-fourths (3/4) horsepower (0.76 hp metric) or greater shall be subject to the review and approval of the superintendent.

- (d) Any waters or wastes containing strong acid iron pickling wastes or concentrated plating solutions whether neutralized or not.
- (e) Any waters or wastes containing iron, chromium, copper, zinc, cyanide, and similar objectionable or toxic substances; or wastes exerting an excessive chlorine requirement, to such degree that any such material received in the composite sewage at the sewage treatment works exceeds the limits established by the superintendent and/or the Division of Sanitary Engineering, Tennessee Department of Public Health, for such materials.
- (f) Any waters or wastes containing phenols or other taste- or odor-producing substances in such concentrations exceeding limits which may be established by the superintendent as necessary, after treatment of the composite sewage, to meet the requirements of the state, federal, or other public agencies of jurisdiction for such discharge to the receiving waters.
- (g) Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the superintendent in compliance with applicable state or federal regulations.
  - (h) Any waters or wastes having a pH in excess of 9.5.
  - (i) Materials which exert or cause:
  - (i) Unusual concentrations of inert suspended solids (such as, but not limited to, fullers earth, lime slurries, and lime residues) or of dissolved solids (such as, but not limited to, sodium chloride and sodium sulfate).
  - (ii) Excessive discoloration (such as, but not limited to, dye wastes and vegetable tanning solutions).
  - (iii) Unusual BOD (above three hundred (300) mg/l), chemical oxygen demand, or chlorine requirement in such quantities as to constitute a significant load on the sewage treatment works.
  - (iv) Unusual volume of flow or concentration of wastes constituting "slugs" as defined herein.
- (j) Waters or wastes containing substances which are not amenable to treatment or reduction by the sewage treatment processes employed, or are amenable to treatment only to such degree that the sewage treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.
- (k) Waters or wastes containing suspended solids in excess of three hundred (300) mg/l.
- (5) If any waters or wastes are discharged, or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated in subsection (4) of this section, and which in the

judgment of the superintendent and/or the Division of Sanitary Engineering, Tennessee Department of Public Health, may have a deleterious effect upon the sewage works, processes, equipment, or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the superintendent may:

- (a) Reject the wastes;
- (b) Require pretreatment to an acceptable condition for discharge to the public sewers;
- (c) Require control over the quantities and rates of discharge; and/or
- (d) Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges under the provisions of subsection (10) of this section.

If the superintendent permits the pretreatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to the review and approval of the superintendent and the Tennessee Department of Public Health and subject to the requirements of all applicable codes, ordinances, and laws.

- (6) Grease, oil, and sand interceptors shall be provided when, in the opinion of the superintendent, they are necessary for the proper handling of liquid wastes containing grease in excessive amounts, or any flammable wastes, sand, or other harmful ingredients; except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the superintendent, and shall be so located as to be readily and easily accessible for cleaning and inspection.
- (7) Where preliminary treatment or flow-equalizing facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at his expense.
- (8) When required by the superintendent, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable control manhole together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling, and measurement of the wastes. Such manhole, when required, shall be accessibly and safely located, and shall be constructed in accordance with plans approved by the superintendent. The manhole shall be installed by the owner at his expense and shall be maintained by him so as to be safe and accessible at all times.
- (9) All measurements, tests, and analyses of the characteristics of waters and wastes to which reference is made in this chapter shall be determined in accordance with the latest edition of <u>Standard Methods for the Examination of Water and Wastewater</u>, published by the American Public Health Association, and shall be determined at the control manhole provided, or upon suitable samples taken at said control manhole. In the event that no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected. Sampling shall be carried out by customarily

- accepted methods to reflect the effect of constituent upon the sewage works and to determine the existence of hazards to life, limb, and property. (The particular analyses involved will determine whether a twenty-four (24) hour composite of all outfalls of a premise is appropriate or whether a grab sample or samples should be taken. Normally, but not always, BOD and suspended solids analyses are obtained from twenty-four (24) hour composites of all outfalls whereas pHs are determined from periodic grab samples.)
- (10) No statement contained in this section shall be construed as preventing any special agreement or arrangement between the city and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the municipality for treatment, subject to payment therefor by the industrial concern. (1982 Code, § 13-205)
- **18-306.** Protection from damage. No unauthorized person shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance, or equipment which is a part of the municipal sewage works. Any person violating this provision shall be subject to immediate arrest under charge of disorderly conduct. (1982 Code, § 13-206)
- 18-307. Powers and authority of inspectors. (1) The superintendent and other duly authorized employees of the city bearing proper credentials and identification shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling, and testing in accordance with the provisions of this chapter. The superintendent or his representatives shall have no authority to inquire into any processes, including metallurgical, chemical, oil, refining, ceramic, paper, or other industries beyond that point having a direct bearing on the kind and source of discharge to the sewers or waterways or facilities for waste treatment.
- (2) While performing the necessary work on private properties referred to in subsection (1) of this section, the superintendent or duly authorized employees of the city shall observe all safety rules applicable to the premises established by the company and the company shall be held harmless for injury or death to the municipal employees, and the city shall indemnify the company against loss or damage to its property by municipal employees and against liability claims and demands for personal injury or property damage asserted against the company and growing out of the gauging and sampling operations, except as such may be caused by negligence or failure of the company to maintain safe conditions as required in § 18-205(8).
- (3) The superintendent and other duly authorized employees of the city bearing proper credentials and identification shall be permitted to enter all private properties through which the city holds a duly negotiated easement for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair, and maintenance of any portion of the sewage works lying within said easement. All entries and subsequent work, if any, on said easement

shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved. (1982 Code, § 13-207)

- **18-308.** <u>Violations</u>. (1) Any person found to be violating any provision of this chapter except § 18-306 shall be served by the city with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations.
- (2) Any person who shall continue any violation beyond the time limit provided for in subsection (1) of this section shall be guilty of a misdemeanor, and on conviction thereof shall be fined under the general penalty clause for this municipal code of ordinances.
- (3) Any person violating any of the provisions of this chapter shall become liable to the city for any expense, loss, or damage occasioned the city by reason of such violation. (1982 Code, § 13-208)

# SEWAGE AND HUMAN EXCRETA DISPOSAL<sup>1</sup>

#### **SECTION**

- 18-401. Definitions.
- 18-402. Places required to have sanitary disposal methods.
- 18-403. When a connection to the public sewer is required.
- 18-404. When a septic tank shall be used.
- 18-405. Registration and records of septic tank cleaners, etc.
- 18-406. Use of pit privy or other method of disposal.
- 18-407. Approval and permit required for septic tanks, privies, etc.
- 18-408. Owner to provide disposal facilities.
- 18-409. Occupant to maintain disposal facilities.
- 18-410. Only specified methods of disposal to be used.
- 18-411. Discharge into watercourses restricted.
- 18-412. Pollution of ground water prohibited.
- 18-413. Enforcement of chapter.
- 18-414. Carnivals, circuses, etc.
- 18-415. Violations.
- **18-401.** <u>Definitions</u>. The following definitions shall apply in the interpretation of this chapter:
- (1) "Accessible sewer." A public sanitary sewer located in a street or alley abutting on the property in question or otherwise within two hundred feet (200') of any boundary of said property measured along the shortest available right-of-way;
- (2) "Approved septic tank system." A water-tight covered receptacle of monolithic concrete, either precast or cast in place, constructed according to plans approved by the health officer. Such tanks shall have a capacity of not less than seven hundred fifty (750) gallons and in the case of homes with more than two (2) bedrooms the capacity of the tank shall be in accordance with the recommendations of the Tennessee Department of Environment and Conservation as provided for in its 1967 bulletin entitled "Recommended Guide for Location, Design, and Construction of Septic Tanks and Disposal Fields." A minimum liquid depth of four feet (4') should be provided with a minimum depth of air space above the liquid of one foot (1'). The septic tank dimensions should be such that the length from inlet to outlet is at least twice but not more than

Building utilities and residential codes: title 12

Plumbing code: title 12, chapter 2

Refuse disposal: title 17

<sup>&</sup>lt;sup>1</sup>Municipal code references

- three (3) times the width. The liquid depth should not exceed five feet (5'). The discharge from the septic tank shall be disposed of in such a manner that it may not create a nuisance on the surface of the ground or pollute the underground water supply, and such disposal shall be in accordance with recommendations of the health officer as determined by acceptable soil percolation data;
- (3) "Health officer." The person duly appointed to such position having jurisdiction, or any person or persons authorized to act as his agent;
- (4) "Human excreta." The bowel and kidney discharges of human beings;
- (5) "Other approved method of sewage disposal." Any privy, chemical toilet, or other toilet device (other than a sanitary sewer, septic tank, or sanitary pit privy as described above) the type, location, and construction of which have been approved by the health officer;
- (6) "Sanitary pit privy." A privy having a fly-tight floor and seat over an excavation in earth, located and constructed in such a manner that flies and animals will be excluded, surface water may not enter the pit, and danger of pollution of the surface of the ground or the underground water supply will be prevented;
- (7) "Sewage." All water-carried human and household wastes from residences, buildings, or industrial establishments;
- (8) "Watercourse." Any natural or artificial drain which conveys water either continuously or intermittently. (1982 Code, § 8-301)
- 18-402. <u>Places required to have sanitary disposal methods</u>. Every residence, building, or place where human beings reside, assemble, or are employed within the corporate limits shall be required to have a sanitary method for disposal of sewage and human excreta. (1982 Code, § 8-302)
- 18-403. When a connection to the public sewer is required. Wherever an accessible sewer exists and water under pressure is available, approved plumbing facilities shall be provided and the wastes from such facilities shall be discharged through a connection to said sewer made in compliance with the requirements of the official responsible for the public sewerage system. On any lot or premise accessible to the sewer no other method of sewage disposal shall be employed. (1982 Code, § 8-303)
- 18-404. When a septic tank shall be used. Wherever water carried sewage facilities are installed and their use is permitted by the health officer, and an accessible sewer does not exist, the wastes from such facilities shall be discharged into an approved septic tank system.

No septic tank or other water-carried sewage disposal system except a connection to a public sewer shall be installed without the approval of the health officer or his duly appointed representative. The design, layout, and construction of such systems shall be in accordance with specifications approved by the

health officer and the installation shall be under the general supervision of the department of health. (1982 Code, § 8-304)

- 18-405. Registration and records of septic tank cleaners, etc. Every person, firm, or corporation who operates equipment for the purpose of removing digested sludge from septic tanks, cesspools, privies, and other sewage disposal installations on private or public property must register with the health officer and furnish such records of work done within the corporate limits as may be deemed necessary by the health officer. (1982 Code, § 8-305)
- 18-406. <u>Use of pit privy or other method of disposal</u>. Wherever a sanitary method of human excreta disposal is required under § 18-402 and water-carried sewage facilities are not used, a sanitary pit privy or other approved method of disposal shall be provided. (1982 Code, § 8-306)
- 18-407. Approval and permit required for septic tanks, privies, etc. Any person, firm, or corporation proposing to construct a septic tank system, privy, or other sewage disposal facility, requiring the approval of the health officer under this chapter, shall before the initiation of construction obtain the approval of the health officer for the design and location of the system and secure a permit from the health officer for such system. (1982 Code, § 8-307)
- **18-408.** Owner to provide disposal facilities. It shall be the duty of the owner of any property upon which facilities for sanitary sewage or human excreta disposal are required by § 18-402, or the agent of the owner to provide such facilities. (1982 Code, § 8-308)
- **18-409.** Occupant to maintain disposal facilities. It shall be the duty of the occupant, tenant, lessee, or other person in charge to maintain the facilities for sewage disposal in a clean and sanitary condition at all times and no refuse or other material which may unduly fill up, clog, or otherwise interfere with the operation of such facilities shall be deposited therein. (1982 Code, § 8-309)
- **18-410.** Only specified methods of disposal to be used. No sewage or human excreta shall be thrown out, deposited, buried, or otherwise disposed of, except by a sanitary method of disposal as specified in this chapter. (1982 Code, § 8-310)
- **18-411.** Discharge into watercourses restricted. No sewage or excreta shall be discharged or deposited into any lake or watercourse except under conditions specified by the health officer and specifically authorized by the Tennessee Stream Pollution Control Board. (1982 Code, § 8-311)

- 18-412. <u>Pollution of ground water prohibited</u>. No sewage, effluent from a septic tank, sewage treatment plant, or discharges from any plumbing facility shall empty into any well, cistern, sinkhole, crevice, ditch, or other opening either natural or artificial in any formation which may permit the pollution of ground water. (1982 Code, § 8-312)
- 18-413. Enforcement of chapter. It shall be the duty of the health officer to make an inspection of the methods of disposal of sewage and human excreta as often as is considered necessary to insure full compliance with the terms of this chapter. Written notification of any violation shall be given by the health officer to the person or persons responsible for the correction of the condition, and correction shall be made within forty-five (45) days after notification. If the health officer shall advise any person that the method by which human excreta and sewage is being disposed of constitutes an immediate and serious menace to health such person shall at once take steps to remove the menace, and failure to remove such menace immediately shall be punishable under the general penalty clause for this code; but such person shall be allowed the number of days herein provided within which to make permanent correction. (1982 Code, § 8-313)
- 18-414. <u>Carnivals, circuses, etc.</u> Whenever carnivals, circuses, or other transient groups of persons come within the corporate limits such groups of transients shall provide a sanitary method for disposal of sewage and human excreta. Failure of a carnival, circus, or other transient group to provide such sanitary method of disposal and to make all reasonable changes and corrections proposed by the health officer shall constitute a violation of this section. In these cases the violator shall not be entitled to the notice of forty-five (45) days provided for in the preceding section. (1982 Code, § 8-314)
- **18-415.** <u>Violations</u>. Any person, persons, firm, association, or corporation or agent thereof, who shall fail, neglect, or refuse to comply with the provisions of this chapter shall be deemed guilty of a misdemeanor and shall be punishable under the general penalty clause for this code. (1982 Code, § 8-315)

# CROSS CONNECTIONS, AUXILIARY INTAKES, ETC.<sup>1</sup>

## **SECTION**

- 18-501. Testing of devices.
- 18-502. Penalty.
- 18-503. Definitions.
- 18-504. Construction, operation, and supervision.
- 18-505. Statement required.
- 18-506. Fees.
- 18-507. Penalty; discontinuance of water supply.
- 18-501. <u>Testing of devices</u>. (1) Devices shall be tested at least annually by a person possessing valid certification from the Tennessee Department of Environment and Conservation, Division of Drinking Water (or its successor) for the testing of such devices. Records of all tests shall be provided to the Hohenwald Water and Sewer Department. Personnel of the Hohenwald Water and Sewer Department shall have the right to inspect and test the devices whenever deemed necessary by the director. Water service shall not be disrupted to test the device without the knowledge of the occupant of the premises.
- (2) Reduced pressure backflow prevention devices shall be located a minimum of twelve inches (12") plus the nominal diameter of the device above the floor surface. Maximum height above the floor surface shall not exceed sixty inches (60").
- (3) Clearance of device from wall surfaces or other obstructions shall be a minimum of six inches (6").
- (4) Devices shall be protected from freezing, vandalism, mechanical abuse, and from any corrosive, sticky, greasy, abrasive, or other damaging environment.
- (5) Devices shall be positioned where discharge from relief port will not create undesirable conditions.
- (6) An approved air-gap shall separate the relief port from any drainage system.

Plumbing code: title 12.

Wastewater treatment: title 18.

Water and sewer system administration: title 18.

<sup>&</sup>lt;sup>1</sup>Municipal code references

- (7) An approved strainer, fitted with a test cock, shall be installed immediately upstream of the backflow device or shut-off valve before strainer.
- (8) Devices shall be located in an area free from submergence or flood potential. (Ord. #566, May 2003)
- **18-502.** <u>Penalty</u>. Any person who neglect or refuses to comply with any of the provisions of this chapter shall be deemed guilty of a misdemeanor, and subject to a fine of up to one hundred dollars (\$100.00) on the first offense and five hundred dollars (\$500.00) for each offense thereafter within any five (5) year period.

Independent of and in addition to fines and penalties, the director may discontinue the public water supply service at any premises upon which there is found to be a cross connection, auxiliary intake, by-pass or inter-connection, and service shall not be restored until such cross connection, auxiliary intake, by-pass, or inter-connection has been discontinued. (Ord. #566, May 2003)

- **18-503.** <u>**Definitions**</u>. The following definitions and terms shall apply in the interpretation and enforcement of this chapter:
- (1) "Air-gap" shall mean a vertical, physical separation between a water supply and the overflow rim of a non-pressurized receiving vessel. An approved air gap separation must be at least twice the inside diameter of the supply line, but not less than two inches (2"). Where a discharge line serves as receiver, the air gap separation shall be at least twice the diameter of the discharge line, but not less than two inches (2").
- (2) "Approved" shall mean that the device or method is accepted by the Tennessee Department of Environment and Conservation and the director as meeting specifications suitable for the intended purpose.
- (3) "Atmospheric vacuum breaker" shall mean a device which prevents back siphonage by creating an atmospheric vent when there is either a negative pressure or subatmospheric pressure in the water system.
- (4) "Auxiliary intake" shall mean any water supply, on or available to premises, other than that directly supplied by the public water system.
- (5) "Back siphonage" shall mean the flow of water or other liquids, mixtures or substances into the potable water system from any source other than its intended source, caused by the reduction of pressure in the potable water system.
- (6) "Backflow" shall mean the reversal of the intended direction of flow in a piping system.
- (7) "By-pass" shall mean any system of piping or other arrangement whereby water from the public water system can be diverted around a backflow prevention device.
- (8) "Cross connection" shall mean any physical arrangement whereby a public water supply is connected, directly or indirectly, with any other water supply system, sewer, drain, conduit, pool, storage reservoir, plumbing fixture,

or other waste or liquid of unknown or unsafe quality which may be capable of imparting contamination to the public water supply as a result of backflow. By-pass arrangements, jumper connections, removable sections, swivel or changeover devices through which or because of which, backflow could occur are considered to be cross connections.

- (9) "Department" shall mean the Hohenwald Water and Sewer Department.
- (10) "Director" shall mean the director of the Hohenwald Water and Sewer Department of the City of Hohenwald, his authorized deputy, agent or representative.
- (11) "Double check detector assembly" shall mean an assembly of two (2) independently operating spring loaded check valves with a water meter (protected by another check valve or a reduced pressure backflow prevention device, depending upon degree of hazard) connected across the check valves, and with tightly closing shut-off valves on each side of the check valves, plus properly located test cocks for testing each part of the assembly.
- (12) "Double check valve assembly" shall mean an assembly of two (2) independently operating spring loaded check valves with tightly closing shut-off valves on each side of the check valves, plus properly located test cocks for testing each check valve.
  - (13) "Fire protection systems." (a) Class 1 shall be those with direct connections from the public water mains only; no pumps, tanks, or reservoirs; no physical connection from other water supplies; no antifreeze or other additives of any kind; all sprinkler drains discharging to the atmosphere, dry wells or other safe outlets.
  - (b) Class 2 shall be the same as Class 1 except that booster pumps may be installed in the connections from the street mains.
  - (c) Class 3 shall be those with direct connection from public water supply mains, and having storage tanks filled from the public water system, with the water maintained in potable condition.
  - (d) Class 4 shall be those with direct connection from the public water mains and having an auxiliary water supply dedicated to fire protection and available to the premises.
  - (e) Class 5 shall be those with direct connection from the public water mains and interconnected with auxiliary supplies, such as pumps taking suction from reservoirs exposed to contamination, or from rivers, ponds, wells, or industrial water systems; or where antifreeze or other additives are used.
  - (f) Class 6 shall be those with combined industrial and fire protection systems supplied from the public water mains only, with or without gravity storage or pump suction tanks.
- (14) "Potable water" shall mean water which meets the criteria of the Tennessee Department of Environment and Conservation and the Environmental Protection Agency for human consumption.

- (15) "Pressure vacuum breaker" shall mean an assembly consisting of a device containing one (1) or two (2) independently operating spring loaded check valves and an independently operating spring loaded air inlet valve located on the discharge side of the check valve(s), with tightly closing shut-off valves on each side of the check valves and properly located test cocks for the testing of the check valves and relief valve.
- (16) "Public water supply" shall mean the Hohenwald waterworks system, which furnishes water to the city for general use and which is recognized as the public water supply by the Tennessee Department of Environment and Conservation.
- (17) "Reduced pressure principle backflow prevention device" shall mean an assembly consisting of two (2) independently operating approved check valves with an automatically operating differential relief valve located between the two (2) check valves, tightly closing shut-off valves on each side of the check valves plus properly located test cocks for the testing of the check valves and the relief valve. (Ord. #566, May 2003)
- **18-504.** Construction, operation, and supervision. Construction and operation subject to approval of Tennessee Department of Environment and Conservation; under supervision of director.
- (1) <u>Compliance with Tennessee Code Annotated</u>. The water department of the City of Hohenwald is to comply with <u>Tennessee Code Annotated</u>, §§ 68-13-701 through 68-13-719, as well as the rules and regulations for public water systems, legally adopted in accordance with this code, which pertain to cross connections, auxiliary intakes, bypasses, and interconnections, and establish an effective ongoing program to control these undesirable water uses.
  - (2) Regulated. (a) It shall be unlawful for any person to cause a cross connection to be made; or allow one to exist for any purpose whatsoever unless the construction and operation of same have been approved by the Tennessee Department of Health and Environment and Conservation, and the operation of such cross connection, auxiliary intake, by-pass or inter-connection is at all times under the direction of the Director of the Hohenwald Water and Sewer Department.
  - (b) If, in the judgment of the director, or his designated agent, an approved backflow prevention device is required at the city's water service connection to the customer's premises, or at points within the premises, to protect the potable water supply, the director shall compel the installation and maintenance of said device at the owner's expense.
  - (c) For new installations, the department shall inspect the site and/or review plans in order to determine the type of backflow prevention device, if any, that will be required and notify the owners in writing of the required device. All required devices must be installed and operable prior to initiation of water service.

- (d) For existing premises, the department shall perform evaluation and inspections and shall require correction of violations in accordance with this chapter.
- (3) <u>Plumbing permit required</u>. No installation, alteration or change shall be made of any backflow prevention device connected to the public water supply for water supply, fire protection or any other purpose without first notifying the Hohenwald Water Department in charge of cross connections for reinspection.
- (4) <u>Inspections</u>. The director shall inspect all properties served by the public water supply where cross connections with the public water supply are deemed possible. The frequency of inspections and reinspection based on potential health hazards involved shall be established by the director in accordance with guidelines acceptable to the Tennessee Department of Environment and Conservation. The director or authorized representative shall have the right to enter at any reasonable time any property served by a connection to the City of Hohenwald Public Water System for the purpose of inspecting the piping system therein for cross connections, auxiliary intakes, bypasses, or inter connections, or for the testing of backflow prevention devices. On request, the owner, lessee, or occupant of any property so served shall furnish any pertinent information regarding the piping system on such property. The refusal of such information or refusal of access, when requested, shall be deemed evidence of the presence of cross connections.
  - (5) <u>Corrections of violations</u>. (a) Any person found to have cross connections, auxiliary intakes, bypasses, or interconnections in violation of the provisions of this chapter shall be allowed a reasonable time within which to comply with the provisions of this chapter. After a thorough investigation of existing conditions and an appraisal of time required to complete the work, the amount of time shall be designated by the director, but in no case shall the time for correction exceed ninety (90) days.
  - (b) Where cross connections, auxiliary intakes, bypasses, or interconnections are found that constitute an extreme hazard of immediate concern of contaminating the public water system, the director of the water system shall require that immediate corrective action be taken, to eliminate the threat to the public water system.
  - (c) Expeditious steps shall be taken to disconnect the public water system from the on-site piping system unless the imminent hazard is corrected immediately, subject to the right to a due process hearing upon timely request. The time allowed for preparation for a due process hearing shall be in relationship with the risk of hazard to the public; and may follow disconnection when the risk of public health and safety in the opinion of the director warrants disconnection prior to a due process hearing.

- (d) The failure to correct conditions threatening the safety of the public water system as prohibited by this chapter and <u>Tennessee Code Annotated</u>, § 68-13-711, within the time limits set by the Director of the City of Hohenwald System, shall be grounds for denial of water service. If proper protection has not been provided after a reasonable time, the director shall give the customer legal notification that the water service is to be discontinued, and physically separate the public water system from the customer's on-site piping system in such a manner that the two (2) systems cannot again be connected by an unauthorized person, subject to the right of a due process hearing upon timely request. The due process hearing may follow disconnection when the risk of public health and safety in the opinion of the director warrant disconnection prior to a due process hearing.
- (6) Required protective device. (a) Where the nature of use of the water supplied a premises by the water system is such that it is deemed:
  - (i) Impractical to provide an effective air-gap separation;
  - (ii) The owner and/or occupant of the premises cannot, or is not willing, to demonstrate to the director or his designated representative that the water use and protective features of the plumbing are such as to pose no threat to the safety or potability of the water:
  - (iii) The nature and mode of operation within a premises are such that frequent alterations are made to the plumbing; or
  - (iv) The nature of the premises is such that the use of the structure may change to a use wherein backflow prevention is required:
  - (v) There is a likelihood that protective measures may be subverted, altered, or disconnected; or
  - (vi) The plumbing from a private well enters the building served by the public water supply; then the director shall require the use of an approved protective device on the service line serving the premises to assure that any contamination that may originate in the customer's premises is contained therein.
- (b) The protective devices shall be of the type approved by the Tennessee Department of Environment and Conservation and the director as to manufacture, model, size and application. The method of installation of backflow protective devices shall be approved by the director prior to installation and shall comply with the criteria set by the Tennessee Department of Environment and Conservation and with the installation criteria set forth in subsection (e) below. The installation shall be at the expense of the owner or occupant of the premises.
- (c) Applications requiring backflow prevention devices include, but are not limited to, service and/or fire flow connections for most commercial and educational buildings, construction sites, all industrial,

institutional, and medical facilities, all fountains, lawn irrigation systems, swimming pools, softeners and other point of use treatment systems, and on all fire hydrant connections other than by the fire department in combating fires.

- (i) Class 1, Class 2, and Class 3 fire protection systems generally shall require a double check detector assembly, except a reduced pressure backflow prevention device shall be required where:
  - (A) Underground fire sprinkler pipelines are parallel to and within ten feet (10') horizontally of pipelines carrying sewage or significantly toxic wastes;
  - (B) Premises have unusually complex piping systems;
  - (C) Pumpers connecting to the system have corrosion inhibitors or other chemicals added to the tanks of the fire trucks.
- (ii) Class 4, Class 5, and Class 6 fire protection systems shall require reduced pressure backflow prevention devices.
- (iii) Wherever the fire sprinkler system piping is not an acceptable potable water system material or chemicals such as liquid foam concentrates are used, a reduced pressure backflow prevention device shall be required.
- (d) Plumbing for commercial and educational buildings wherein backflow prevention devices are not immediately required shall be designed to accommodate such devices in conformance with standards for such devices, including the required drains.
- (e) Additionally, the director may require internal and/or additional backflow prevention devices wherein it is deemed necessary to protect potable water supplies within the premises.
- (f) Installation criteria. Minimum acceptable criteria for the installation of reduced pressure zone type backflow prevention devices, double check valve assemblies, pressure vacuum breakers, or other devices requiring regular inspection and testing shall include the following:
  - (i) All devices shall be installed in accordance with the manufacturer's installation instructions, and shall possess all test cocks and fittings required for testing the device. All fittings shall permit direct connection to department test devices.
  - (ii) The entire device including test cocks and valves shall be easily accessible for testing and repair.
  - (iii) Reduced pressure backflow prevention devices shall be located a minimum of twelve inches (12") plus the nominal diameter of the device above the floor surface. Maximum height above the floor surface shall not exceed sixty inches (60").

- (iv) Clearance of device from wall surfaces or other obstruction shall be a minimum of six inches (6").
- (v) Devices shall be protected from freezing, vandalism, mechanical abuse, and from any corrosive sticky, greasy, abrasive, or other damaging environment.
- (vi) Devices shall be positioned where discharge from relief port will not create undesirable conditions.
- (vii) An approved air-gap shall separate the relief port from any drainage system.
- (viii) An approved strainer, fitted with a test cock, shall be installed immediately upstream of the backflow device or shut-off valve before strainer.
- (ix) Devices shall be located in an area free from submergence or flood potential.
- (x) A gravity drainage system is required on all installations. Generally, below ground installations will not be permitted. On certain slopes where installations below ground level may be permitted, a single or multiple gravity drain system may be used provided that the single drain line is at least four (4) times the area of the relief port or that the multiple drain lines are at least two and one-half (2 1/2) times the area.
- (xi) Fire hydrant drains shall not be connected to the sewer, nor shall fire hydrants be installed in such a manner that back siphonage/backflow through the drain may occur.
- (xii) High volume fire pumps shall be equipped with a suction lining control to modulate the pump if the suction pressure approaches 10 psi. Ideally, such pumps should draw from an in-house reservoir fed by several supply lines. If any of the supply lines have a source other than the public water supply, all supply lines must have air-gap discharges into the reservoir.
- (g) Personnel of the Hohenwald Water and Sewer Department shall have the right to inspect and test the device on an annual basis or whenever deemed necessary by the director. Water service shall not be disrupted to test the device without the knowledge of the occupant of the premises.
- (h) Where the use of water is critical to the continuance of normal operations or protection of life, property or equipment, duplicate units shall be provided to avoid the necessity of discontinuing water service to test or repair the protective device. Where it is found that only one (1) unit has been installed and the continuance of service is critical, the director shall notify, in writing, the occupant of the premises of plans to interrupt water service and arrange for a mutually acceptable time to test or repair the device. In such cases, the director may require the installation of a duplicate unit. The director shall require the occupant of

the premises to make all repairs indicated promptly, and to keep any protective device working properly. The expense of such repairs shall be borne by the owner or occupant of the premises. Repairs shall be made by qualified personnel, acceptable to the director. The failure to maintain a backflow prevention device in proper working order shall be grounds for discontinuance of water service to premises.

Likewise the removal, bypassing, or altering of a protective device or the installation thereof so as to render a device ineffective shall constitute grounds for discontinuance of water service. Water service to such premises shall not be restored until the customer has corrected or eliminated such conditions or defects to the satisfaction of the director.

- (i) Testing of devices. Devices shall be tested at least annually by a person possessing valid certification from the Tennessee Department of Environment and Conservation, Division of Drinking Water (or its successor) for the testing of such devices. Records of all tests shall be provided to the Hohenwald Water and Sewer Department. Personnel of the Hohenwald Water and Sewer Department shall have the right to inspect and test the devices whenever deemed necessary by the director. Water service shall not be disrupted to test the device without the knowledge of the occupant of the premises.
- (7) <u>Nonpotable supplies</u>. (a) The potable water system made available to premises served by the public water system shall be protected from possible contamination as specified herein. Any water outlet which could be used for potable or domestic purposes and which is not supplied by the potable system must be labeled in a conspicuous manner as:

## WATER UNSAFE FOR DRINKING

- (b) The minimum acceptable sign shall have black letters at least one inch (1") high located on a red background.
- (c) Color-coding of pipelines in accordance with Occupational Safety and Health Act guidelines may be required in locations where, in the judgment of the director, such color-coding is necessary to identify and protect the potable water system.
- (8) Provision applicable. The requirements contained herein shall apply to all premises served by the Hohenwald public water system whether located inside or outside the corporate limits and are hereby made a part of the conditions required to be met for the city to provide water services to any premises. This "cross connection" ordinance shall be rigidly enforced since it is essential for the protection of the water distribution system against the entrance of contamination. Any person aggrieved by the action of the director is entitled to a due process hearing upon timely request. (Ord. #566, May 2003)

- 18-505. <u>Statement required</u>. Any person whose premises are supplied with water from the public water supply, and who also has on the same premises a well or other separate source of water supply, or who stores water in an uncovered or unsanitary storage reservoir from which the water stored therein is circulated through a piping system, shall file with the director a statement of the nonexistence of unapproved or unauthorized cross connections, auxiliary intakes, bypasses, or interconnections. Such statement shall also contain an agreement that no cross connections, auxiliary intake, by-pass, or inter-connection will be permitted upon the premises. (Ord. #566, May 2003)
- 18-506. <u>Fees</u>. (1) No fee shall be charged for the initial or annual test of a backflow prevention device by the water and sewer department's cross connection control officer provided the device tests satisfactorily and there are not deficiencies in the installation. In the event that a backflow prevention device fails the initial or annual test, or there are deficiencies in the installation either from failure to conform to the installation criteria specified within this chapter or from deterioration, then the cross connection control officer shall issue a written notice of failure/deficiency. There shall be no fee for reinspection by the cross connection control officer, provided the failure/deficiency is corrected within thirty (30) days of the written notice.
- (2) Whenever a failure/deficiency mentioned in subsection (1) is not corrected within thirty (30) days of written notification, a fee shall be charged for retesting by the cross connection control officer. The amount of this fee shall be set and adjusted as necessary by the city council based upon the recommendations of the director of the water and sewer department to reflect the cost of providing cross-connection control. Unless adjusted by the city council, the amount of this fee shall be twenty-five dollars (\$25.00).
- (3) The fee shall be assessed each time a device is retested by the department subsequent to failure/deficiency after the initial thirty (30) day period mentioned in subsection (1). Where repeated reinspection and/or retesting are required to correct violations or deficiencies, the fee shall be assessed each time the inspection/test is repeated. (Ord. #566, May 2003)
- 18-507. Penalty; discontinuance of water supply. (1) Penalty. Any person who neglects or refuses to comply with any of the provisions of this chapter shall be deemed guilty of a misdemeanor, and subject to a fine of up to five hundred dollars (\$500.00) on the first offense and one thousand dollars (\$1,000.00) for each offense thereafter within any five (5) year period.
- (2) Independent of and in addition to fines and penalties, the director may discontinue the public water supply service at any premises upon which there is found to be a cross-connection, auxiliary intake, by-pass or inter-connection, and service shall not be restored until such cross connection, auxiliary intake, by-pass or inter-connection, has been discontinued. (Ord. #566, May 2003)

# WATER CONSERVATION GUIDELINES

#### SECTION

- 18-601. Conditions.
- 18-602. Water watch.
- 18-603. Water warning--Tier I.
- 18-604. Water warning--Tier II.
- 18-605. Water emergency.
- 18-606. Base allocation.
- 18-607. Water appeal board.
- 18-608. Appeal and adjustment of the base allocation.
- 18-609. Premium rate for imprudent consumption.
- 18-610. Adjustment of premium rate charges.
- 18-611. Penalties.
- 18-612. Municipal infraction.
- 18-613. Reduction in flow of water to any person.
- **18-601.** <u>Conditions</u>. (1) <u>Water watch</u>. A water watch may be declared when a water shortage or equipment failure poses potential threat to the ability of the water system to meet the needs of its customers currently or in the foreseeable future. Indicators of the need to impose a water watch include:
  - (a) System operating at seventy-five percent (75%) of pumping capacity;
    - (b) Moderate decrease in the pumping water level of wells; or
  - (c) Moderate decrease in recovery rate of water level in our current wells.
- (2) <u>Water warning</u>. A Tier I or Tier II water warning may be declared when a water shortage or equipment failure poses a serious threat to the ability of the water to meet the needs of its customers currently or in the foreseeable future. Indicators of the need to impose a Tier I water warning include:
  - (a) System operating at eighty-five percent (85%) of pumping capacity;
    - (b) Significant decrease in the pumping water level of wells; or
- (c) Significant decrease in recovery rate of water level in wells. Indicators of the need to impose a Tier II water warning include severe system emergencies such as a chemical spill or major system failure.
- (3) <u>Water emergency</u>. A water emergency may be declared when a water shortage or equipment failure poses a severe and immediate threat to the ability of the water system to meet the needs of its customers. Indicators of the need to impose water emergency include:

- (a) System operating at ninety-five percent (95%) of pumping capacity;
  - (b) Serious decrease in the pumping water level of wells; or
- (c) Serious decrease in recovery rate of water level in wells. (Ord. #594, Aug. 2005)
- 18-602. <u>Water watch</u>. Under a water watch, all customers of the water utility are encouraged to limit or curtail all nonessential uses of water in order to conserve water resources during the time or shortage or equipment failure. Customers may be encouraged to comply with the following voluntary standards:
- (1) No watering of lawns, shrubs, or gardens between the hours of 8:00 A.M. and 8:00 P.M.
- (2) No water should be used to fill private swimming pools, children's wading pools, reflecting pools, or any other outdoor pool or pond.
- (3) No water should be used to wash streets, parking lots, driveways, sidewalks, or building exteriors.
- (4) No water should be used for nonessential cleaning of commercial and industrial equipment, machinery, and interior spaces.
- (5) Water should be served at restaurants only upon the request of the customer. (Ord. #594, Aug. 2005)
- **18-603.** <u>Water warning--Tier I</u>. (1) Under a Tier I water warning, no person shall use potable processed water of the municipal water service in any manner contrary to the following:
  - (a) Outdoor watering or irrigation of lawns is prohibited.
  - (b) Outdoor watering of any kind is prohibited between the hours of 8:00 A.M. and 8:00 P.M. daily.
  - (c) Water or irrigation of flower and vegetable gardens, trees and shrubs less than four (4) years old, and new seeding or sod is permitted once per week with an application not to exceed one inch (1").
  - (d) Car washing is prohibited except in commercial establishments that provide that service.
  - (e) No water shall be used to fill private swimming pools, children's wading pools, reflecting pools, or any other outdoor pool or pond.
  - (f) No water shall be used to wash streets, parking lots, driveways, sidewalks or building exteriors.
  - (g) No water shall be used for nonessential cleaning of commercial and industrial equipment, machinery and interior spaces.
  - (h) Water shall be served at restaurants only upon the request of the customer.

- (i) Use of water-consuming comfort air conditioning equipment which consumes in excess of five percent (5%) of the water circulating in such equipment is prohibited.
  - (j) Tank load water sales may be curtailed or eliminated.
- (2) Water reclaimed or recycled after some primary use, such as water that has been used for washing or cooling, may be used without restriction. Additionally, water derived from the atmosphere by air conditioners or collected from rain or snow, may be used without restriction. (Ord. #594, Aug. 2005)
- **18-604.** Water warning--Tier II. Under a Tier II warning, no person shall use potable processed water of the municipal water system in a manner contrary to the following:
- (1) All outside water use, except for domestic, sanitation, and fire, is prohibited.
- (2) All commercial and industrial use of water not essential in providing products or services is prohibited.
  - (3) Irrigation or agricultural crops is prohibited.
- (4) Recreational and leisure water use, including lawn and golf course watering and other incidental or recreational use, is prohibited.
- (5) Water use not necessary for the preservation of life or the general welfare of the community is prohibited. (Ord. #594, Aug. 2005)
- 18-605. <u>Water emergency</u>. Under a water emergency, Tier I water warning use restrictions will be in effect and, in addition, each customer will be afforded a monthly allocation of water. (Ord. #594, Aug. 2005)
- **18-606.** <u>Base allocation</u>. The base allocation of water for residential use shall be three thousand (3,000) gallons per household per billing period. For commercial, industrial, or institutional use, the base allocation shall be established by resolution as a percentage of the average water use during the previous year. (Ord. #594, Aug. 2005)
- 18-607. <u>Water appeal board</u>. A water appeal board shall be appointed during any water warning or water emergency. The water appeal board shall consist of the mayor, city council and their duly appointed personnel. The water board shall hear appeals of any action taken pursuant to a water warning or water emergency. (Ord. #594, Aug. 2005)
- **18-608.** Appeal and adjustment of the base allocation. Any person may file an appeal with the water appeal board to adjust the base allocation amount. The water appeal board may grant an adjustment to the appellant based upon the following criteria:
- (1) For single-family residential use, the base allocation may be increased by one thousand (1,000) gallons per person per billing period for all

- individuals residing at the appellant's residence for a period of more than thirty (30) days.
- (2) For commercial, industrial, institutional or other residential uses, the base allocation may be increased based on factors appropriate to the individual customer, such as usage, production, service and occupancy data provided by the customer. (Ord. #594, Aug. 2005)
- **18-609.** Premium rate for imprudent consumption. In addition to the water rates duly enacted by the mayor and city council, all persons shall pay a premium rate of one dollar (\$1.00) per one hundred (100) gallons of water consumed in excess of the base allocation. (Ord. #594, Aug. 2005)
- **18-610.** Adjustment of premium rate charges. Any person may file for adjustment of the premium rate charges for imprudent water consumption with the water appeal board. The water appeal board may grant an adjustment of the premium rate charges in accordance with the following criteria:
- (1) Adjustments may be granted for over consumption due to mechanical failures such as broken or leaky pipes or fixtures but not for over consumption due to human carelessness.
- (2) The applicant shall furnish proof that the mechanical failure was repaired promptly. This should be in the form of a licensed plumber's invoice or statement or a materials receipt.
- (3) The adjustment shall be granted only for the billing period prior to the correction of the failure.
- (4) For those accounts granted an adjustment of the premium rate charges, the minimum adjusted rate shall be forty percent (40%) of the actual bill, which shall include the premium rate charges and sales tax. (Ord. #594, Aug. 2005)
- **18-611. Penalties**. (1) The following penalties shall apply for violations of water warning use restrictions imposed under this chapter.
  - (a) First violation. For a first violation, the utility shall issue a written notice of violation to the water user violating the water use restrictions imposed during a water warning or water emergency.
  - (b) Second violation. For a second violation within a twelve (12) month period, a one (1) month surcharge shall be imposed in an amount equal to fifty percent (50%) of the previous month's water bill.
  - (c) Subsequent violations. For any subsequent violations within a twelve (12) month period, a one (1) month surcharge shall be imposed in an amount equal to fifty percent (50%) of the previous month's water bill and, in addition, the utility shall interrupt water service to that customer at the premises at which the violation occurred. Service shall not be restored until the customer has paid the reconnection fee and has

- provided reasonable assurance that future violations of water warning or water emergency use restrictions will not occur.
- (2) Any customer charged with a violation of the water warning or water emergency use restrictions may request a hearing before the water appeal board. The water appeal board may conclude that a violation did not occur or that the circumstances under which the violation occurred warrant a complete or partial mitigation of the penalty. (Ord. #594, Aug. 2005)
- **18-612.** <u>Municipal infraction</u>. A second or subsequent violation of the water warning or water emergency use restrictions by any person within a twelve (12) month period constitutes a municipal infraction. Any person who, in making application to the water appeal board for adjustment of the base allocation or premium charges, intentionally provides false or incorrect statements or information commits a municipal infraction; which constitutes the right for fines not to exceed five hundred dollars (\$500.00). (Ord. #594, Aug. 2005)
- 18-613. <u>Reduction in flow of water to any person</u>. The superintendent is authorized, after giving notice and opportunity for hearing before the water appeal board, to reduce the flow of water to any person determined to be using water in any manner not in accordance with this chapter during a water warning or water emergency. (Ord. #594, Aug. 2005)

# WATER AND SEWER USER RATES

# **SECTION**

18-701. Water and sewer user rates and fees.

**18-701.** Water and sewer user rates and fees. Water and sewer rate fees and all amendments are available in the city recorder's office.

## **TITLE 19**

# **ELECTRICITY AND GAS**

## **CHAPTER**

1. GAS.

## **CHAPTER 1**

# $GAS^1$

## **SECTION**

- 19-101. Application and scope.
- 19-102. Obtaining service.
- 19-103. Application and contract for service.
- 19-104. Connection charges.
- 19-105. Access to facilities.
- 19-106. Schedule of rates.
- 19-107. Penalty for late payment.
- 19-108. Discontinuance or refusal of service.
- 19-109. Re-connection charge.
- 19-110. Termination of service by customer.
- 19-111. Inspections.
- 19-112. Schedule of rates.
- **19-101.** <u>Application and scope</u>. The provisions of this chapter are a part of all contracts for receiving gas service from the city and shall apply whether the service is based upon contract, agreement, signed application, or otherwise. (1982 Code, § 13-301)
- **19-102.** <u>Obtaining service</u>. A formal application for either original or additional service must be made and be approved by the city before connection or meter installation orders will be issued and work performed. (1982 Code, § 13-302)
- 19-103. <u>Application and contract for service</u>. Each prospective customer desiring gas service will be required to sign a standard form of contract for service. An application/connection fee, in an amount as established by the city council by resolution, shall be paid at time of application for service. If, for any reason, the person, after signing a contract for service does not take

<sup>1</sup>Municipal code reference Gas code: title 12. such service, he shall reimburse the city for the expense incurred by reason of its endeavor to furnish said service. The receipt of an application for service shall not obligate the city to render service.

- 19-104. <u>Connection charges</u><sup>1</sup>. Customers who apply for gas service will be charged sixty dollars (\$60.00) for the installation of any new service line up to one hundred feet (100'). In all cases that part of a service line in excess of this allowable distance to the meter installation shall be installed at the cost of the customer, but shall become the property of the municipal natural gas system. Service installation for old customers at new locations will be handled as a new connection; however, no charge will be made if a service connection at the new location exists. (1982 Code, § 13-305)
- **19-105.** <u>Access to facilities</u>. The application for service shall include a permit from the customer allowing access to the meter, regulator, and service line by the officials or employees of the municipal natural gas system. All lines, regardless of how installed, up to and including the meter, shall be the property of the municipal natural gas system. (1982 Code, § 13-306)
- 19-106. <u>Schedule of rates</u>. All gas service shall be furnished under such rate schedules as the city council may adopt from time to time by appropriate ordinance or resolution.<sup>2</sup> (1982 Code, § 13-307)
- 19-107. <u>Penalty for late payment</u>. A ten percent (10%) penalty will be added to any bill which is not paid by the tenth day of the month following date of issuance of the bill. (1982 Code, § 13-308)
- **19-108.** <u>Discontinuance or refusal of service</u>. The city shall have the right to discontinue gas service or to refuse to connect service for a violation of, or a failure to comply with, any of the following:
  - (1) These rules and regulations;
  - (2) The customer's application for service:
  - (3) The customer's contract for service.

Such right to discontinue service shall apply to all service received through a single connection or service, even though more than one (1) customer or tenant is furnished service therefrom, and even though the delinquency or violation is limited to only one (1) such customer or tenant.

<sup>&</sup>lt;sup>1</sup>Schedule of rates (and all amendments) are of record in the recorder's office.

<sup>&</sup>lt;sup>2</sup>Administrative ordinances and resolutions are of record in the recorder's office.

Discontinuance of service by the city for any cause stated in these rules and regulations shall not release the customer from liability for service already received or from liability for payments that thereafter become due under other provisions of the customer's contract.

No service shall be discontinued unless the customer is given reasonable notice in advance of such impending action and the reason therefor. The customer shall also be notified of his right to a hearing prior to such disconnection if he disputes the reason therefor and requests such hearing by the date specified in the notice. When a hearing is requested, the customer shall have the right to have a representative at such hearing and shall be entitled to testify and to present witnesses on his behalf. Also, when such hearing has been requested, the customer's service shall not be terminated until a final decision is reached by the hearing officer and the customer is notified of that decision. (1982 Code, § 13-309)

- 19-109. Re-connection charge. Customers who have their service discontinued for any reason and make application for reinstallation at the same location within twelve (12) months must pay a re-connection charge, in an amount as established by the city council by resolution, before service is restored. No one other than the gas inspector of his assistants shall be authorized to cut gas on and off.
- 19-110. <u>Termination of service by customer</u>. Customers who have fulfilled their contract terms and wish to discontinue service must give at least three (3) days' written notice to that effect unless the contract specifies otherwise. Notice to discontinue service prior to the expiration of a contract term will not relieve the customer from any minimum or guaranteed payment under such contract or applicable rate schedule.

When service is being furnished to an occupant of premises under a contract not in the occupant's name, the city reserves the right to impose the following conditions on the right of the customer to discontinue service under such a contract:

- (1) Written notice of the customer's desire for such service to be discontinued may be required; and the city shall have the right to continue such service for a period of not to exceed ten (10) days after receipt of such written notice, during which time the customer shall be responsible for all charges for such service. If the city should continue service after such ten (10) day period subsequent to the receipt of the customer's written notice to discontinue service, the customer shall not be responsible for charges for any service furnished after the expiration of such ten (10) day period.
- (2) During such ten (10) day period, or thereafter, the occupant of premises to which service has been ordered discontinued by a customer other than such occupant may be allowed by the city to enter into a contract for service in the occupant's own name upon the occupant's complying with these

rules and regulations with respect to a new application for service. (1982 Code, § 13-311)

19-111. <u>Inspections</u>. The city shall have the right, but shall not be obligated, to inspect any installation or piping system before gas service is furnished or at any later time. The city reserves the right to refuse service or to discontinue service to any premises not meeting standards fixed by municipal ordinances regulating building and plumbing, or not in accordance with any special contract, these rules and regulations, or other requirements of the city.

Any failure to inspect or reject a customer's installation or piping system shall not render the city liable or responsible for any loss or damage which might have been avoided had such inspection or rejection been made. (1982 Code, § 13-312)

**19-112.** <u>Schedule of rates</u>. All gas service shall be furnished under such rate schedules as the city council may from time to time adopt by ordinace.

#### **TITLE 20**

## **MISCELLANEOUS**

## **CHAPTER**

- 1. CEMETERY MANAGEMENT.
- 2. ALARM ORDINANCE.
- 3. CIVIL DEFENSE ORGANIZATION.
- 4. CIVIL EMERGENCIES.

## CHAPTER 1

## **CEMETERY MANAGEMENT**

## **SECTION**

20-101. Rules and regulations.

- **20-101.** <u>Rules and regulations</u>. (1) It is hereby established a board of trustees to hold and manage the area known as Swiss Cemetery and owned by the City of Hohenwald.
- (2) The trustees shall consist of the mayor and four (4) councilmen of the city, plus two (2) additional trustees elected by the council.
- (3) Each person hereafter elected to the office of mayor or councilman shall become a member of the board of trustees upon taking his or her oath of office as such elected official.
- (4) The board of trustees shall have the authority to set prices for which lots will be sold in the cemetery together with such other rules and regulations as they deem necessary and advisable for the operation of the cemetery.
- (5) Initially the price charged for lots shall be four hundred dollars (\$400.00). Three hundred dollars (\$300.00) shall be put into a trust account for the maintenance of the cemetery. Only interest may be used for maintenance of the cemetery and the corpus shall remain intact.
- (6) A one hundred dollar (\$100.00) portion of the proceeds of the sale of lots may be placed into the city's general account.
- (7) The board of trustees shall have the power to alter the price for lots and the use of the proceeds thereof. An amendment of the ordinance comprising this chapter shall not be required.
- (8) All matters desired for the regulation of the cemetery may be adopted by resolution of the board of trustees.
- (9) Any lots previously sold with which the owner is willing to part may be purchased by the board of trustees at such a price and upon such terms as they may determine.

(10) It is the intention of this chapter to grant to the board of trustees broad powers to use, in their discretion, for the care and operation of the cemetery. (Ord. #570, Oct. 2003)

## **CHAPTER 2**

## ALARM ORDINANCE

#### **SECTION**

- 20-201. Definitions.
- 20-202. Notification and permits required.
- 20-203. Duties of permit holders.
- 20-204. Violations.
- 20-205. Automatic dialing devices.
- 20-206. Appeals procedure and rights to a hearing.
- 20-207. Response to false alarms--required reports of corrective action and disconnection.
- 20-208. Enforcement.
- 20-209. Disposition of fees.
- **20-201.** <u>**Definitions**</u>. For the purpose of this ordinance, the following terms shall have the following meanings:
- (1) "Activate" means to "set off" an alarm system indicating in any manner an incident of burglary, robbery, fire, etc.
- (2) "Alarm system" means any mechanical or electrical/electronic or radio controlled device which is designed to be used for the detection of any fire or unauthorized entry into a building, structure or facility, or unlawful act within a building, structure, or facility, or both, which emits a sound or transmits a signal or message when activated. Alarm systems include, but are not limited to, direct dialing telephone devices, audible alarms and monitored alarms. Excluded from the definition of alarm systems are devices that are designed or used to register alarms that are audible or visible and emanate from motor vehicles; auxiliary devices installed by telephone companies to protect telephone systems from damage or disruption of service; and self-contained smoke detectors; and medical-alert alarms.
- (3) "Automatic dialing device" means an alarm system which automatically sends over regular telephone lines, by direct connection, or otherwise, a prerecorded voice message or coded signal indicating the existence of the emergency situation that the alarm system is designed to detect, but shall not include such telephone lines exclusively dedicated to an alarm central station which are permanently active and terminate within the communications center of the Hohenwald Police Department.
- (4) "Commercial premises" mean any structure or area, which are not defined herein as residential premises.
- (5) "False alarms" means the activation of an alarm system through mechanical failure, malfunction, improper installation, or the negligence or intentional misuse by the owner/lessee of an alarm system or his employee, servants or agents; or any other activation of the alarm system not caused by a

fire or forced entry or attempted forced entry or robbery or attempted robbery; such terminology does not include alarms caused by acts of nature such as hurricane, tornadoes, other severe weather conditions, or alarms caused by telephone line trouble, or other conditions which are clearly beyond the control of the alarm. A maximum of five (5) false burglar alarms; three (3) false robbery-panic alarms, three (3) false fire alarms will be granted per alarm device within a physical permit year. All false subsequent activation will be considered chargeable violations.

- (6) "Fire officer" means the Fire Chief of the Hohenwald Fire Department or his designated representatives.
- (7) "Law enforcement officer" means the Chief of Police of the Hohenwald Police Department or his designated representatives.
- (8) "Person" means any natural person, firm, partnership, association, corporation, company or organization of any kind, to include a government or governmental subdivision or agency thereof.
- (9) "Residential premises" mean any structure or combination of structures to serve as dwelling units including single family as well as multifamily units. (Ord. #574, May 2004)
- **20-202.** <u>Notification and permits required</u>. Every commercial premises who shall own, operate or lease any alarm system as defined herein within the corporate city limits of the City of Hohenwald, Tennessee area, whether existing or to be installed in the future, shall, within one hundred twenty (120) days of the effective date of the ordinance comprising this chapter for existing alarm systems, or prior to use of new alarm systems, notify the Hohenwald Police Department, on forms to be provided of:
- (1) The type, make and model of each alarm device and, if the alarm system is monitored, by whom.
- (2) The name, address, business and/or home telephone number of the owner or lessee of the alarm system.
- (3) The names, addresses, and telephone numbers of at least two (2) persons to be notified in the event of alarm activation.

At the time of submission of this notification, the owner, operator or lessee of said alarm system shall submit a fee of fifteen dollars (\$15.00) to the City of Hohenwald Recorder's Office for obtaining a permit for each alarm device in said system.

There will be no annual renewal fees. A new alarm registration form will be sent to each business annually. The form must be updated and returned to the police department by January 1. A fifteen dollar (\$15.00) late fee will be assessed on forms received later than February 1. (Ord. #574, May 2004)

**20-203.** <u>Duties of permit holders</u>. (1) Each owner, operator, or lessee shall be responsible for training employees, servants, or agents in the proper operation of an alarm system.

- (2) Each owner, operator, or lessee of an alarm system shall insure that the correct address identification is visible from the street or roadway on which the premises are located.
- (3) Any audible alarm shall be equipped with an automatic shutoff to function within twenty (20) minutes of the alarm sounding, excluding fire alarms.
- (4) The current alarm registration sticker provided each permit holder shall be displayed near the primary entrance so as to be easily visible from the outside of the building. (Ord. #574, May 2004)
- **20-204.** <u>Violations</u>. (1) It shall be a violation of this chapter to have a functional alarm system without having obtained a permit required by § 20-202.
- (2) Having alarm activation without a permit shall constitute a violation of this chapter.
- (3) It shall be a violation of this chapter when any Hohenwald Police Department or Fire Department officer responds to a false alarm after the allowable false alarms set out in § 20-201(5) have been exhausted.
- (4) Any person who owns, operates, or leases an alarm system and who knowingly and purposefully fails to respond to his premises within one (1) hour after notification by police or fire department personnel of an alarm activation, whether false or not, shall be deemed to have violated this chapter.
- (5) It shall be a violation of this chapter for an alarm company to make functional a newly installed alarm system if the owner, operator, or lessee of the alarm system does not have a currently valid alarm permit, unless there is a life-threatening situation making immediate operation of the alarm system necessary. In such cases, the permit shall be obtained the next business day.
- (6) It shall be a violation of this chapter for an alarm company to set off a false alarm while installing, repairing or doing maintenance work on an alarm system. If the police department communication center is notified to cancel the call within two (2) minutes of the original call, it will not be considered a false alarm, unless the responding agency arrives on the scene before the original call is cancelled. If a responding police or fire service has not arrived on the scene within twenty (20) minutes of the original notification, it will not be a chargeable response. The false alarm shall not be charged to the owner, operator, or lessee.
- (7) Any compliance with the requirements of the ordinance comprising this chapter shall constitute a violation and each incidence of noncompliance shall constitute a separate violation punishable by a fine of up to fifty dollars (\$50.00) plus court costs. (Ord. #574, May 2004)
- **20-205.** <u>Automatic dialing devices</u>. (1) Within one hundred twenty (120) days of the effective date of the ordinance comprising chapter, it shall be a violation of this chapter for any automatic dialing device to call on the 911 or

E911 emergency line. Such devices shall be restricted to dialing the nonemergency police, fire or emergency medical services phone numbers.

- (2) Any automatic dialer shall:
  - (1) Have a clear understandable recording;
  - (2) Be capable of repeating itself a minimum of two (2) times;
- (3) Be capable of automatically resetting itself so as to not continuously call police, fire or EMS phone numbers.
- (3) Programmed messages on an automatic dialing device must include and are restricted to the following:
  - (1) The owner and the exact street number and name;
  - (2) A statement that it is a burglar or robbery/panic "ALARM ONLY." It shall not say burglary or robbery "in progress";
  - (3) A statement of the hours the business is open, if the device is used for both burglar and robbery/panic alarms;
  - (4) A statement that a third-party has been notified, and the identity of that third-party, if a third-party is notified by the device. (Ord. #574, May 2004)
- **20-206.** Appeals procedure and rights to a hearing. (1) After a sixth (6<sup>th</sup>) false burglary alarm, a fourth (4<sup>th</sup>) false fire alarm, or upon failure of the permit holder to make a reasonable effort to comply with the requirements of this chapter, a properly designated law enforcement officer or fire officer may file a request, in writing, with the board of appeals within fifteen (15) days of the date of the request of revocation is filed with the board. The law enforcement officer or fire officer shall notify the permit holder, in writing, that a request for revocation has been filed with the board of appeals and the date on which it was filed.
- (2) Pursuant to the administration of the ordinance comprising this chapter, a board of appeals shall be created for the purpose of hearing any complaint relating to the enforcement provisions of the ordinance comprising this chapter. Said board shall consist of the mayor and city council.
- (3) The city recorder or his/her appointed clerk is hereby designated as secretary of the board of appeals and shall serve as custodian of its records. (Ord. #574, May 2004)
- **20-207.** Response to false alarms--required reports of corrective action and disconnection. (1) The only alarms the Hohenwald Police Department, Fire Department, or Emergency Medical Service will respond to are:
  - (1) Burglary;
  - (2) Robbery/holdup (business only);
  - (3) Fire;
  - (4) Medical.

- (2) Responsibility for a false alarm shall be borne by the owner or lessee of the alarm system or his/her employee, servant or agent occupying and/or controlling the premises at the time of the occurrence of the false alarm.
- (3) A response to an alarm shall result when any police or fire department officer is dispatched to or otherwise learns of the activation of an alarm system. If the user calls or the authorized agent calls the police communication center back within two (2) minutes of the original call, it will not be considered a false alarm. No violation, fine, or recourse will take place in the above time interval unless the responding Hohenwald police officer or fire officer has already arrived before the second call has been made to cancel; to Signal 9; to disregard. If a member of the Hohenwald Police Department or Hohenwald Fire Department has not arrived on the scene within twenty (20) minutes of the original alarm (notification), it will not be a chargeable response or fine of any sort.
- (4) After the allowable false alarms set out in § 20-201(5), each person who owns, operates, leases or controls any premise having an alarm system, shall be cited to Hohenwald City Court for any response to a false alarm. Within fifteen (15) days of the date of conviction the person shall show proof to the police department of the corrective action taken to remedy the problem/situation. Failure to show corrective action will be grounds for revocation of the permit; however, no disconnection shall be ordered on any premises required by law to have an alarm system in operation. (Ord. #574, May 2004)
- **20-208.** Enforcement. Hohenwald Police and Fire Department officers are specifically authorized to enforce this chapter. Any Hohenwald Police or Fire Department officer may lawfully issue a citation to an owner, operator, or user of a functional alarm system who has not obtained the permit required by § 20-202, or whose alarm system has given a false alarm in excess of the number of false alarms allowed under § 20-201(5). (Ord. #574, May 2004)
- **20-209.** <u>Disposition of fees</u>. All fees collected pursuant to this chapter shall be paid to the City of Hohenwald General Fund. (Ord. #574, May 2004)

## **CHAPTER 3**

## CIVIL DEFENSE ORGANIZATION

#### SECTION

- 20-301. Created.
- 20-302. Authority and responsibilities.
- 20-303. Office of director, its authority and responsibility.
- 20-304. Lewis County Civil Defense Corps created.
- 20-305. Liability.
- 20-306. Expenses of civil defense.
- **20-301.** Created. There is hereby created the Lewis County Civil Defense Organization, which shall be a joint operation by the City of Hohenwald and the County of Lewis for the purpose of organizing and directing civil defense for the citizens of the entire county. All other civil defense agencies within the limits of Lewis County shall be considered as a total part of the county-wide civil defense emergency resources, and when such agencies operate out of their corporate limits, it shall be at the direction of, subordinate to, and as a part of the Hohenwald and Lewis County Civil Defense. (1982 Code, § 1-1101)
- **20-302.** <u>Authority and responsibilities</u>. (1) <u>Authority</u>. In accordance with federal and state enactments of law, the Hohenwald and Lewis County Civil Defense Organization is hereby authorized to assist the regular government of the county and governments of all political subdivisions therein, as may be necessary due to enemy caused storms, floods, fires, explosions, tornadoes, hurricanes, drought, or peace-time man-made disasters, which might occur affecting the lives, health, safety, welfare, and property of the citizens of Lewis County. The Hohenwald and Lewis County Civil Defense Organization is hereby authorized to perform such duties and functions as may be necessary on account of said disasters. The Lewis County Civil Defense Organization is hereby designated the official agency to assist regular forces in time of said emergencies.
- (2) <u>Responsibilities</u>. The Hohenwald and Lewis County Civil Defense Organization shall be responsible for preparation and readiness against enemy caused and natural emergencies arising in Lewis County, to establish and coordinate emergency plans, forces, means, and resources, and is hereby designated the official agency to establish such emergency plans. (1982 Code, § 1-1102)
- **20-303.** Office of director, its authority and responsibility. (1) The office of the director of civil defense is hereby created. The director shall have the authority to request the declaration of the existence of an emergency by the mayor and county executive or either or by higher authority as appropriate.

- (2) The director shall have overall responsibility for the preparation of all plans, recruitment, and training of personnel. All local civil defense plans will be in consonance with state plans and shall be approved by the state civil defense office.
- (3) The director is hereby given the authority to delegate such responsibility and authority as is necessary to carry out the purposes of this chapter, subject to the approval of the chief executive officers of the city and county.
- (4) The director shall be responsible to the chief executive officers of the city and county for the execution of the authorities, duties, and responsibilities of the Hohenwald and Lewis County Civil Defense Organization, for the preparation of all plans and administrative regulations and for the recruitment and training of personnel. (1982 Code, § 1-1103)
- **20-304.** Lewis County Civil Defense Corps created. The Lewis County Civil Defense Corps is hereby created. The corps shall be under the direction of the director of civil defense and his staff members with delegated authority; it shall consist of designated regular government employees and volunteer workers. Duties and responsibilities of the corps members shall be outlined in the civil defense emergency plan. (1982 Code, § 1-1104)
- **20-305.** <u>Liability</u>. Liability of governmental entities and their employees and agents engaged in civil defense activities shall be as provided by law. (1982 Code, § 1-1105)
- **20-306.** Expenses of civil defense. No person shall have the right to expend any public funds of the city or county in carrying out any civil defense activities authorized by this document without prior approval by the governing bodies of the city and/or county; nor shall any person have any right to bind the city or county by contract, agreement, or otherwise without prior and specific approval by the governing body of the city and/or county. The civil defense director shall disburse such monies as may be provided annually by appropriation of the city and county for the operation of the civil defense organization. Control of disbursements will be as prescribed by agreement between the treasurers of the city and county. He shall be responsible for the preparation and submission of a budget with recommendations as to its adoption by the city and county. All funds shall be disbursed upon vouchers properly executed by the director of civil defense, subject to audit by either the City of Hohenwald or Lewis County. The civil defense director is hereby authorized to accept federal contributions in money, equipment, or otherwise, when available, or state contributions, and is further authorized to accept contributions to the civil defense organization from individuals and other organizations, such funds becoming liable for audit by the city and county. (1982 Code, § 1-1106)

## **CHAPTER 4**

## CIVIL EMERGENCIES

## **SECTION**

- 20-401. Definitions.
- 20-402. Proclamation of civil emergency.
- 20-403. Curfew authorized.
- 20-404. Powers of mayor during civil emergency.
- 20-405. Exceptions to curfew.
- 20-406. No intent to limit peaceful assemblies.
- **20-401. Definitions**. (1) As used in this chapter, a "civil emergency" is hereby defined to be:
  - (1) A riot or unlawful assembly characterized by the use of actual force or violence or a threat to use force if accompanied by the immediate power to execute by three (3) or more persons acting together without authority of law.
  - (2) Any natural disaster or man-made calamity including but not limited to, flood, conflagration, cyclone, tornado, earthquake, or explosion within the geographic limits of Hohenwald, Tennessee, resulting in the death or injury of persons, or the destruction of property to such an extent that extraordinary measures must be taken to protect the public health, safety, and welfare.
  - (3) The destruction of property or the death or injury of persons brought about by the deliberate acts of one (1) or more persons acting either alone or in concert with others when such acts are a threat to the peace of the general public or any segment thereof.
- (2) As used in this chapter, a "curfew" is defined to be a prohibition against any person or persons walking, running, loitering, standing, or motoring upon any alley, street, highway, public property, or vacant premises within the corporate limits of Hohenwald, Tennessee, except persons officially designated to duty with reference to said civil emergency or those lawfully on the streets as defined hereinafter. (1982 Code, § 1-1201)
- **20-402.** Proclamation of civil emergency. When in the judgment of the mayor a civil emergency as defined herein is deemed to exist, he may forthwith proclaim in writing the existence of same, a copy of which proclamation will be filed with the recorder of the City of Hohenwald. (1982 Code, § 1-1202)
- **20-403.** <u>Curfew authorized</u>. After proclamation of a civil emergency by the mayor, he may order a general curfew applicable to such geographic areas of the city or to the city as a whole, as he deems advisable, and applicable during

such hours of the day or night as he deems necessary in the interest of the public safety and welfare. Said proclamation and general curfew shall have the force and effect of law and shall continue in effect until rescinded in writing by the mayor, but not to exceed fifteen (15) days. (1982 Code, § 1-1203)

- **20-404.** Powers of mayor during civil emergency. After proclamation of a civil emergency, the mayor may at his discretion, in the interest of the public safety and welfare, make any of the following orders:
  - (1) Order the closing of all retail liquor stores.
- (2) Order the closing of all establishments wherein beer or alcoholic beverages are served.
- (3) Order the closing of all private clubs or portions thereof wherein the consumption of intoxicating liquor and/or beer is permitted.
  - (4) Order the discontinuance of the sale of beer.
- (5) Order the discontinuance of selling, distributing, or giving away of gasoline or other liquid flammable or combustible products in any container other than a gasoline tank properly affixed to a motor vehicle.
- (6) Order the closing of gasoline stations and other establishments the chief activity of which is the sale, distribution, or dispensing of liquid flammable or combustible products.
- (7) Order the discontinuance of selling, distributing, dispensing, or giving away of any firearms or ammunition of any character whatsoever.
- (8) Order the closing of any or all establishments or portions thereof the chief activity of which is the sale, distribution, dispensing, or giving away of firearms and/or ammunition.
- (9) Issue such other orders as are necessary for the protection of life and property. (1982 Code, § 1-1204)
- **20-405.** Exceptions to curfew. Any curfew shall not apply to persons lawfully on the streets and public places during a civil emergency who have obtained permission of the chief of police, which permission shall be granted on good cause shown. This curfew also shall not apply to medical personnel in the performance of their duties. (1982 Code, § 1-1205)
- **20-406.** No intent to limit peaceful assemblies. It is not the intent of this chapter to limit peaceful demonstrations, freedom of speech, or the lawful use of the streets, alleys, and public property except to the extent necessary to avert or control a civil emergency. (1982 Code, § 1-1206)

## **APPENDIX**

- A. CITY OF HOHENWALD ENFORCEMENT RESPONSE PLAN.
- B. CITY OF HOHENWALD CODE OF ETHICS SYNOPSIS OF LAWS.

## APPENDIX A

CITY OF HOHENWALD ENFORCEMENT RESPONSE PLAN

## APPENDIX A

# ENFORCEMENT RESPONSE PLAN

## for the

# CITY OF HOHENWALD

December 2003

**JRWCO 1654** 

PREPARED BY:

J.R. WAUFORD & COMPANY CONSULTING ENGINEERS, INC. 2835 Lebanon Road Nashville, Tennessee 37214

## TABLE OF CONTENTS

Chapter I-	-Introduction
Α.	Regulations
В.	Personnel
Chapter II	Provisions for Enforcement in Existing
Sew	er Use Ordinance
Chapter II	IProposed Provisions for Enforcement in
Sew	er Use Ordinance
Chapter IV	7Enforcement Response Guide
A.	General
В.	Definitions and Abbreviations A-10
С.	Enforcement Response Guide
Chapter V	Enforcement Responses
A.	Notice of Violation
В.	Administrative Orders
С.	Administrative Fines or Penalties A-23
D.	Civil Litigations
E.	Criminal Prosecution
Chapter V	ISummary
A.	Magnitude of a Violation
В.	Duration of the Violation
$\mathbf{C}.$	Effect on Receiving Water
D.	Effect on the POTW A-29
Ε.	Compliance History of the Industrial User A-29
F.	Good Faith of the Industrial User
G.	Time Frames and Follow-Up

## CHAPTER I

#### INTRODUCTION

## A. <u>Regulations</u>

The City of Hohenwald, Tennessee has administered a state approved pretreatment program since 1996.

The purpose of the Enforcement Response Plan is to outline, in a step-bystep fashion, the procedures to be followed by the Control Authority staff to identify, document and respond to pretreatment violators. Once this plan is adopted, the plan will provide guidance in selecting initial and follow-up enforcement actions, indicate staff responsibilities for these actions, and specify appropriate time frames in which to take them.

This Enforcement Response Plan is required by the U.S. Environmental Protective Agency (EPA). Effective November 23, 1988, EPA amended the General Pretreatment Regulations to require all Publicly Owned Treatment Works (POTW) with approved pretreatment programs to develop and implement enforcement response plans.

By establishing the responsibilities of the Control Authority and their industries to comply with National Pretreatment Standards, this regulation fulfills two objectives:

- 1. to prevent the introduction of pollutants into the POTW which will interfere with the operation of a POTW, including interference with its use or disposal of municipal sludge; and
- 2. to prevent the introduction of pollutants into the POTW which will pass through the treatment works.

This Enforcement Response Plan is written pursuant to Code of Federal Regulations (CFR) 40, Part 403 and the State Regulations 69-3-101 through 129.

## B. Personnel

The City of Hohenwald's pretreatment program is administered by the, Chief Operator at the Hohenwald Wastewater Treatment Plant. The following list of personnel includes titles and telephone numbers:

Contact	<u>Telephone</u>
Mayor	931/796-2231
Wastewater Manager	931/796-6057
Pretreatment Coordinator	931/796-6059

## CHAPTER II

# PROVISIONS FOR ENFORCEMENT IN EXISTING SEWER USE ORDINANCE

The Hohenwald Sewer Use Ordinance has been revised to incorporate all proposed revisions required by the Tennessee Department of Environment and Conservation Division of Water Pollution Control.

The existing enforcement provisions in "Section 6--Enforcement" of the Sewer Use Ordinance is as follows:

## SECTION 6 ENFORCEMENT

## 6.1 Harmful Contributions

The Control Authority may suspend the wastewater treatment service and/or a Wastewater Discharge Permit when such suspension is necessary, in the opinion of the Control Authority, in order to stop an actual or threatened discharge which presents or may present an imminent or substantial endangerment to the health or welfare of persons, to the environment, causes interference to the POTW or causes the Control Authority to violate any condition of its NPDES Permit.

Any person notified of a suspension of the wastewater treatment service and/or the Wastewater Discharge Permit shall immediately stop or eliminate the contribution. In the event of a failure of the person to comply voluntarily with the suspension order, the Control Authority shall take such steps as deemed necessary including immediate severance of the sewer connection, to prevent or minimize damage to the POTW system or endangerment to any individuals. The Control Authority shall reinstate the Wastewater Discharge Permit and/or the wastewater treatment service upon proof of the elimination of the noncomplying discharge. A detailed written statement submitted by the User describing the causes of the harmful contribution and the measures taken to prevent any future occurrence shall be submitted to the Control Authority within 5 days of the date of occurrence in accordance with Section 2.11 of this Ordinance.

## 6.2 Revocation of Permit

Any User who violates the following conditions of this Ordinance, or applicable State and Federal regulations, is subject to having his permit revoked in accordance with the procedures of this Section of this Ordinance:

- (a) Failure of a User to factually report the wastewater constituents and characteristics of his discharge;
- (b) Failure of the User to report significant changes in operations, or wastewater constituents and characteristics;
- (c) Refusal of reasonable access to the User's premises for the purpose of inspection or monitoring; or
- (d) Violation of conditions of the permit.

## 6.3 Notification of Violation

Whenever the Control Authority finds that any User has violated or is violating this Ordinance, the Wastewater Discharge Permit, or any prohibition, limitation or requirements contained herein, the Control Authority may serve upon such person a written notice by registered mail stating the nature of the violation. Within 30 days of the date of the Notification of Violation, a plan for the satisfactory correction thereof shall be submitted to the Control Authority by the User. Submission of this plan in no way relieves the User of liability for any violation occurring before or after the notice of violation is issued.

## 6.4 Administrative Orders

If the User fails to correct a violation within 30 days of receiving notice of violation, the Control Authority shall issue an Administrative Order for the correction of this violation; provided however, that the User is not relieved of responsibility for unauthorized discharges which occur within the 30 day interval.

## 6.5 Cease and Desist Order

When the Control Authority finds that a discharge of wastewater has taken place, in violation of prohibitions or limitations of this ordinance or the provisions of a wastewater discharge permit, the Control Authority may issue an order to cease and desist, and direct the User to comply forthwith within a specified time schedule, or to take appropriate remedial or preventative action in the event of a threatened violation.

## 6.6 Fines and Penalties

Any User who violates or fails to comply with any of the provisions of the Sewer Use Ordinance and/or Industrial User Discharge Permit issued by the Control Authority shall be liable for an Administrative Fine of not more than One Thousand Dollars (\$1,000.00) per day as authorized by TCA 69-3-115 for each violation. The Control Authority shall have the power to impose such fines and penalties.

## 6.7 Show Cause Hearing

The Control Authority may order any User who causes or allows an unauthorized discharge to enter the POTW or contributes to violation of this Ordinance or wastewater permit to show cause before the Control Authority why the proposed enforcement action should not be taken. A notice shall be served on the User specifying the time and place of a hearing to be held by the Control Authority regarding the violation, the reasons why the action is to be taken, the proposed enforcement action, and directing the User to show cause before the Control Authority why the proposed enforcement action should not be taken. The notice of the hearing shall be served personally or by registered or certified mail (return receipt requested) at least ten days before the hearing. Service may be made on any agent or officer of a corporation. Whether or not a duly notified Industrial User appears as noticed, immediate enforcement action may be pursued.

The CITY COUNCIL may itself conduct the hearing and take the evidence, or may designate any of its members or any officer or employee of the Control Authority to:

- (a) Issue in the name of the CITY COUNCIL notices of hearings requesting the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in such hearings;
- (b) Take the evidence; or
- (c) Transmit a report of the evidence and hearing, including transcripts and other evidence, together with recommendations to the CITY COUNCIL for action thereon.

At any hearing held pursuant to this Ordinance, testimony taken shall be under oath and may, at the request of either party, be recorded stenographically. The transcript, so recorded, will be made available to any member of the public or any party to the hearing upon payment of the usual charges thereof.

After the Control Authority has reviewed the evidence, it may issue an order to the User responsible for the discharge directing that, following a specified time period, the sewer service be discontinued unless adequate

treatment facilities, devices or other related appurtenances shall have been installed on existing treatment facilities, and/or these devices or other related appurtenances are properly operated. Further orders and directives as are necessary and appropriate may be issued, including the installation of pretreatment technology, additional self-monitoring, and management practices.

## 6.8 <u>Legal Action</u>

If any person discharges sewage, industrial wastes, or other wastes into the Control Authority's wastewater disposal system contrary to the provisions of this SUO, Federal or State Pretreatment Requirements, or any order of the Control Authority; or in any other way violates this SUO or the applicable IU Discharge Permit the City Attorney may commence an action for appropriate legal and/or equitable relief.

## CHAPTER III

# PROPOSED PROVISIONS FOR ENFORCEMENT IN SEWER USE ORDINANCE

The City of Hohenwald proposes to modify the Hohenwald Sewer Use Ordinance. The City of Hohenwald proposes the following procedures for Tennessee Department of Environment and Conservation approval of the Ordinance modifications and ultimate adoption of the Ordinance modifications by the City of Hohenwald.

- A. Submit the draft Sewer Use Ordinance modifications to the Tennessee Department of Environment and Conservation for review as a part of this Enforcement Response Plan submittal.
- B. Upon approval of the draft modifications by the Tennessee Department of Environment and Conservation, submit the draft modification to the City Attorney.
- C. Submit any changes proposed by the City Attorney to the Tennessee Department of Environment and Conservation as a final draft for approval.
- D. Upon approval of the final draft modifications by the Tennessee Department of Environment and Conservation, submit the Ordinance modifications to the Hohenwald City Council for enactment.

The entire text of the proposed draft modifications to the Hohenwald Sewer User Ordinance is attached. Section 6 specifically addresses enforcement issues.

## CHAPTER IV

## ENFORCEMENT RESPONSE GUIDE

## A. General

A comprehensive enforcement response guide designates several alternative enforcement actions for each type of noncompliance. This guide should also encourage a uniform application of enforcement responses to comparable levels and types of violations, and it can be used as a mechanism to review the appropriateness of responses by the City of Hohenwald when making determinations on the level of the enforcement actions for each type of noncompliance.

## B. Definitions and Abbreviations

Terms and abbreviations used in this guide are defined below. Specific enforcement responses that appear in this guide are described in more detail in CHAPTER V ENFORCEMENT RESPONSES hereinafter.

AO - Administrative Order

CA - City Attorney

CC - City Council

Civil Litigation - Civil litigation against the industrial user seeking equitable relief, monetary penalties and actual damages.

Criminal Prosecution - pursuing punitive measures against an individual and/or organization through a court of law.

Fine - monetary penalty assessed by Control Authority officials. Fines should be assessed by the pretreatment coordinator or the POTW Wastewater Manager.

## I - Inspector

IU - Industrial User

Meeting - informal compliance meeting with the IU to resolve recurring noncompliance.

NOV - Notice of Violation

#### PC - Pretreatment Coordinator

## POTW - Publicly Owned Treatment Works

Prohibited Discharge - Discharge of a pollutant which may cause passthrough or interference to the POTW.

SV - Significant Violation, any violation that meets one or more of the following criteria:

- (i) Chronic violations of wastewater discharge limits, defined as those in which 66 percent or more of all of the measurements taken during a six month period exceed the daily maximum or the average limit for the same pollutant parameter.
- (ii) Technical Review Criteria (TRC) violations, defined as those in which 33 percent or more of all the measurements for each pollutant parameter taken during a six month period equal or exceed the product of the daily maximum limit or the average limit multiplied by the applicable TRC (TRC = 1.4 for BOD, TSS, fats, oil and grease, and 1.2 for all other pollutants except pH)
- (iii) Any other violation of a pretreatment effluent limit (daily maximum or longer term average) that the Control Authority determines has caused, alone or in combination with other discharges, interference or pass-through at the POTW, including endangering the health of POTW personnel or the general public;
- (iv) Any discharge of a pollutant that has caused imminent endangerment to human health, welfare or to the environment or has resulted in the POTW's exercise of its emergency authority to halt or prevent such a discharge;
- (v) Failure to meet, within 90 days after the scheduled date, a compliance schedule milestone contained in the discharge permit or an enforcement order for starting construction, completing construction, or attaining final compliance;
- (vi) Failure to provide, within 30 days after the due date, required reports such as baseline monitoring reports, 90-day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules;
- (vii) Failure to accurately report non-compliance;
- (viii) Any other violation or group of violations which the Control Authority determines will adversely affect the operation or implementation of the local pretreatment program.

Show Cause - formal meeting requiring the IU to appear and demonstrate why the Control Authority should not take a proposed enforcement action against it. The meeting may also serve as a forum to discuss corrective actions and compliance schedules.

WM - Wastewater Manager.

## C. Enforcement Response Guide

A key element in all enforcement responses is the timelines with which they are initiated and affect compliance. Given many types of violations, applicable legal enforcement procedures, and the resources available to the City of Hohenwald, these specific time frames are presented as a guide for responses.

The Enforcement Response Guide in the chapter is used as follows:

- 1. Locate the type of noncompliance in the first column and identify the most accurate description of the violation.
- 2. Assess the appropriateness of the recommended response(s) in column 2. First offenders or Users demonstrating good faith efforts may merit a more lenient response. Similarly, repeat offenders or those who are negligent may require a more stringent response.
- 3. Apply the enforcement response, listed in column 3, to the IU.
- 4. Column 4 indicates personnel to take each response. The time frame in which the response should be taken is listed after the tables.
- 5. Follow-up with escalated enforcement action if the IUs response is not received or violation continues.

The Control Authority should remember to maintain all supporting documentation regarding the violation and its enforcement actions in the IU's file.

## $\underline{\textbf{ENFORCEMENT RESPONSE GUIDE}}$

## UNAUTHORIZED DISCHARGES (No Permit)

NONCOMPLIANCE	NATURE OF THE VIOLATION	ENFORCEMENT RESPONSES	PERSONNEL
Unpermitted discharge	IU unaware of requirement; no harm to POTW/environment	Phone call; NOV with application form	PC
	IU unaware of requirement; harm to POTW	-AO with Class A fine -Civil Action	PC, WM WM, CC,CA
	Failure to apply continues after notice by the POTW	-Civil Action -Criminal investigation -Terminate service	WM,CC,CA WM,CC,CA WM,CC,CA
Nonpermitted discharge (failure to renew)	IU has not submitted application with 10 days of due date	Phone call; NOV	PC

## DISCHARGE LIMIT VIOLATION

NONCOMPLIANCE	NATURE OF THE VIOLATION	ENFORCEMENT RESPONSES	PERSONNEL
Exceedance of local	Isolated, not significant	Phone call; NOV	PC
or Federal Standard (permit limit)	Isolated, significant (no harm)	AO to develop spill prevention plan and/or fine	PC
	Isolated harm to POTW or environment	-Show cause order -Civil Action	PC,WM,CC WM,CC,CA
	Recurring, no harm to POTW/environment	AO with compatible schedule	PC
	Recurring; significant (harm)	-AO with Class A fine -Show cause order -Civil Action	PC, WM, CC PC, WM, CC WM,CC,CA
		-Terminate service	WM,CC,CA

## OTHER PERMIT VIOLATIONS

NONCOMPLIANCE	NATURE OF THE VIOLATION	ENFORCEMENT RESPONSES	PERSONNEL
Wastestreams are	Initial Violation	AO with Class B fine	PC, WM
diluted in lieu of treatment	Recurring	-Show Cause Order -Terminate service	PC, WM,CC WM,CC,CA
Failure to mitigate noncompliance or halt production	Does not result in harm	NOV	PC
	Does result in harm	-AO with Class A fine -Civil Action	PC, WM WM,CC,CA
Failure to properly operate and maintain pretreatment facility	Does not result in harm	NOV	PC
	Does result in harm	-AO with Class A fine -Civil Action	PC, WM WM,CC,CA

## MONITORING AND REPORTING VIOLATIONS

NONCOMPLIANCE	NATURE OF THE VIOLATION	ENFORCEMENT RESPONSES	PERSONNEL
Reporting Violation	Report is improperly signed or certified	Phone call or NOV	PC
	Report is improperly signed or certified after notice by POTW	-AO -Show cause order	PC PC,WM,CC
	Isolated not significant (e.g. 5 days late)	Phone call; NOV	PC
	Significant (e.g. report 30 days or more late)	NOV to submit with Class C fine per additional day in future occurrences	PC,WM
	Reports are always late or no reports at all	-AO with Class B fine -Show Cause Order -Civil Action	PC, WM PC, WM,CC WM,CC,CA
	Failure to report spill or changed discharge (no harm)	NOV	PC
	Failure to report spill or changed discharge (results in harm)	-AO with Class A fine -Civil Action	PC, WM WM,CC,CA
	Repeated failure to report spills	-Show Cause Order -Terminate Service	PC, WM,CC WM,CC,CA

NONCOMPLIANCE	NATURE OF THE VIOLATION	ENFORCEMENT RESPONSES	PERSONNEL
	Falsification	-Criminal investigation -Terminate service	WM,CC,CA WM,CC,CA
Failure to monitor correctly	Failure to monitor all pollutants as required by permit	NOV or AO	PC
Improper sampling	Recurring failure to monitor	-AO with fine -Civil Action	PC, WM, WM, CC, CA
	Evidence of intent	-Criminal investigation -Terminate service	WM,CC,CA WM,CC,CA
Failure to install	Delay of less than 30 days	NOV	PC
monitoring equipment	Delay of 30 days or more	AO to install with Class C fine for each additional day	PC,WM
	Recurring violation of AO	-Civil Action -Criminal investigation -Terminate service	PC,CC,CA WM,CC,CA WM,CC,CA
Compliance Schedules (in permit)	Missed milestone by less than 30 days or will not affect final milestone	NOV or AO with Class D fine	PC,WM
	Missed milestone by more than 30 days or will affect final milestone (good cause for delay)	AO with Class D fine	PC, WM
	Missed milestone by more than 30 days or will affect final milestone (no good cause foe delay)	-Show Cause Order -Civil Action -Terminate service	PC, WM, CC WM, CC, CA WM, CC, CA
	Recurring violation or violation of schedule in AO	-Civil Action -Criminal Investigation -Terminate service	WM,CC,CA WM,CC,CA WM,CC,CA

# VIOLATIONS DETECTED DURING SITE VISITS BY THE CONTROL AUTHORITY

NONCOMPLIANCE	NATURE OF THE VIOLATION	ENFORCEMENT RESPONSES	PERSONNEL
Entry Denial	Entry denied or content withdrawn; Copies of records denied	Obtain warrant and return to IU	PC,CC,CA
Illegal Discharge	No harm to POTW or	AO with Class D fine	PC, WM

NONCOMPLIANCE	NATURE OF THE VIOLATION	ENFORCEMENT RESPONSES	PERSONNEL
	Discharge causes harm or evidence of intent/negligence	-Civil Action -Criminal Investigation	WM,CC,CA WM,CC,CA
	Recurring violation of AO	Terminate service	WM,CC,CA
Improper Sampling	Unintentional sampling at incorrect location	NOV	PC
	Unintentionally using incorrect sample type	NOV	PC
	Unintentionally using incorrect sample collection techniques	NOV	PC
Inadequate record keeping	Inspector finds files incomplete to missing (no evidence of intent)	NOV	PC
	Recurring	AO with Class B fine	PC, WM
Failure to report	Inspection finds additional files	NOV	PC
additional monitoring	Recurring	AO with Class B fine	PC, WM

## RESPONSE TIME FRAMES

- A. All violations must be identified and documented within five days of receiving compliance information.
- B. Initial enforcement responses, involving contact with the industrial user and requesting information on corrective or preventative action(s), will occur within 15 days of violation detection.
- C. Follow up actions for continuing or reoccurring violations will be taken within 60 days of the initial enforcement response. For all continuing violations, the response will include a compliance schedule.
- D. Violations which threaten health, property, or environmental quality are considered emergencies and will receive immediate responses such as halting the discharge or terminating service.
- E. All violations meeting the criteria for Significant Noncompliance will be addressed with an enforceable order within 30 days of the identification of Significant Noncompliance.

## FINE CLASSIFICATIONS

Class A	\$500 first offense, escalating by \$100 for each additional
	offense or each day offense continues up to a maximum of
	\$1000 per offense.

Class B \$300 first offense, escalating by \$50 for each additional offense or each day offense continues up to a maximum of \$1000 per offense.

Class C \$100 plus \$50 each day violation continues.

Class D \$300

## CHAPTER V

#### ENFORCEMENT RESPONSES

The City of Hohenwald (also referred to as the Control Authority) begins its enforcement process by identifying an industrial user's violation. This Chapter describes an overview of the types of enforcement responses available to the Control Authority. Which response to use depends on the violations severity, its duration, its effect on the environment, and the treatment plant, and the User's compliance history.

## A. Notice of Violation

A Notice of Violation (NOV) is issued for relatively minor or infrequent violations of pretreatment standards and requirements. A NOV is an effective response because it provides the Industrial User the opportunity to correct noncompliance on its own, rather than according to a schedule of actions determined by the Control Authority. This helps to foster a cooperative environment between the IU and the Control Authority. A NOV also gives the Control Authority documentation of initial attempts to resolve the noncompliance with the IU. A NOV is an inexpensive way to show the IU that a response was made according to the Enforcement Response Plan, rather than reacting to the noncompliance with extreme or harsh enforcement.

A NOV should be issued within 5 days after detection on Hohenwald letterhead since it is an official notice. The contents of the NOV should include the following facts:

- 1. The City of Hohenwald is in charge of constructing, maintaining and regulating the use of the sewer system;
- 2. In order to protect the Hohenwald Sewerage System, the City of Hohenwald administers a pretreatment program;
- 3. Under this program, the IU was issued an Industrial User Discharge Permit on (<u>Date</u>);
- 4. The permit contains limits on the pollutants which the IU could discharge, as well as self-monitoring requirements and other duties; and

5. On (<u>Date</u>), analysis showed that the quantity of (<u>Pollutant</u>) exceeded the permit limitation, or explain the nature of the violation as shown in Chapter IV.

A NOV should be hand delivered or mailed by certified mail so that Hohenwald has record of issuing and receipt of the NOV. Copies of NOV's and receipts should be kept in the IU's file. If the IU does not return to compliance, Hohenwald should escalate to more stringent enforcement responses, rather than continuing to issue NOV's which do not result in compliance by the IU.

## B. Administrative Orders

An Administrative Order (AO) is an enforcement document which directs IU's to undertake or to cease specific activities. AO's are recommended as a formal response to significant noncompliance in some cases and may include compliance schedules, administrative penalties or fines, and termination of service. There are four basic types of administrative orders:

## 1. Cease and Desist Orders

A Cease and Desist Order directs a noncompliant IU to cease illegal or unauthorized discharges immediately or to terminate their discharge altogether. A Cease and Desist Order is normally used when the discharge could cause interference or pass-through, or otherwise create an emergency situation. In an emergency, the Order may be given by telephone. It should promptly be followed by a certified letter in order to have a record of the Order.

In non-emergency situations, the Cease and Desist Order may be issued to suspend or permanently revoke the IU's permit. If the IU does not comply with the Order, Hohenwald should then take action to halt the discharge, such as terminating the IU's water service or blocking the IU's connection point.

A Cease and Desist Order allows for immediate cessation of unauthorized discharges, thus halting the noncompliance and removing any threat to the Hohenwald Sewerage System or receiving stream. The Cease and Desist Order may damage municipal/industrial relationships by forcing the industry to halt production before being given an opportunity to solve the problem; therefore, the Control Authority should only issue this Order when necessary for the welfare of the POTW.

## 2. Consent Order

The Consent Order combines the force of the AO with the flexibility of a negotiated settlement. The Consent Order is a written agreement between the City of Hohenwald and the IU which normally contains three items:

- a. Compliance Schedule,
- b. Stipulated Fines, and
- c. Signatures of Control Authority and Industry Representatives.

A Consent Order is appropriate when the IU assumes responsibility for its noncompliance and is willing to correct its cause. This Order is generally the easiest Order to draft since its terms are agreed to by both parties. The terms of the Order may be results of a Show Cause Hearing or the outcome of other negotiations with the IU. Because the Consent Order allows the IU to present approaches to corrective action, it usually gains cooperation and may also be the fastest way to attain compliance while nurturing a good Control Authority/IU relationship. A Consent Order should always be carefully drafted, so that the interpretation will be clearly and concisely understood by all parties.

## 3. Show Cause Order

A Show Cause Order directs the IU to appear before the Control Authority, explain its noncompliance, and show cause why more severe enforcement actions against the IU should not go forward. The hearing can be formal and open to the public, but it is suggested that the hearing be informal and closed to the public. Findings from the hearing should be carefully documented.

A hearing can be conducted by any official or agent of the City of Hohenwald (i.e. the Board of Mayor and Aldermen, the Mayor, the City Recorder, or the Pretreatment Coordinator). The Control Authority will present evidence of noncompliance. The IU may admit or deny noncompliance, explain the circumstances, demonstrate its eventual compliance, and describe any other corrective measures.

The results and decisions resulting from the Show Cause Hearing should then be incorporated into a Consent Order. If the IU must install pretreatment equipment to achieve compliance, a reasonable schedule for construction and startup should be developed. The results of a Show Cause Hearing, along with any data and testimony (recorded by a tape recorder or stenographer) should be submitted as evidence and may also serve as support for future enforcement actions.

## 4. <u>Compliance Order</u>

A Compliance Order directs the IU to achieve or restore compliance by a date specified in the Order. This Order should document the noncompliance and state required actions to be accomplished by specific dates, including progress reporting requirements. When drafting the Compliance Schedule, the Control Authority should be firm, but reasonable. Once milestones are set in the schedule, the Control Authority should tract the IU's performance and escalate enforcement, if needed.

## C. <u>Administrative Fines or Penalties</u>

An Administrative Fine or Penalty is a very effective response to significant noncompliance because it may be assessed at Hohenwald's discretion and the amount of the fine may be determined on an individual basis. Administrative Fines differ from Civil Penalties since they are assessed by Hohenwald directly, pursuant to the Sewer Use Ordinance, and they do not require Court intervention unless the IU contests the action or refuses to pay the fine. These fines are used to regain the economic benefit of noncompliance and to deter future violations.

Administrative Fines and Penalties are recommended as an escalated enforcement response, usually used when repeated Notice of Violations or Administrative Orders have not prompted return to compliance.

The amount of the fine should be proportionate to the economic benefit enjoyed by the IU from the noncompliance and the harm caused by the violation. In some cases, a violation by an IU could cause the POTW to violate their permit limits, therefore, the State or EPA may impose fines on the POTW.

Whatever the fine or penalty selected, it should always specify the violations for which the fine is being assessed, indicate the amount of the fine or penalty, and order the IU to take corrective action to promptly return to compliance. The procedures may need to be included in an Administrative Order issued with the fine or penalty. As mentioned

before, always be sure to keep accurate and complete records on all actions taken.

## D. Civil Litigations

Civil Litigation is the formal process of filing lawsuits against Industrial Users to secure Court ordered action to correct violations and to secure penalties for violations, including the recovery of costs to the POTW of the noncompliance. This response is normally pursued when the corrective action required is costly and complex, the penalty to be assessed exceeds that which the Hohenwald Sewerage System can assess, or when the Industrial User is considered to be completely unwilling to cooperate.

Civil Litigation also includes enforcement measures which require approval by the Court, such as injunctive relief and settlement agreements. It is similar to criminal prosecution in that it requires a less stringent burden of proof in order for the Control Authority to prevail than that involved in criminal prosecution.

Consent Decrees are agreements between the City of Hohenwald and the Industrial User reached after a lawsuit has been filed. The decree must be signed by the judge presiding over the case. A Consent Decree is used when the violator is willing to acknowledge and correct the noncompliance and the Control Authority and the IU agree to the penalty.

Injunctions are Court Orders which direct the IU to do something or to refrain from doing something. Injunctions are used when the Control Authority feels the delays involved in filing suit would result in irreparable harm. In most cases, a Cease and Desist Order is used instead of an Injunction when it is necessary to prevent a discharge. However, if the IU refuses to comply with the Cease and Desist Order, the Control Authority may be forced to seek injunctive relief.

Civil Penalties may be necessary to recover costs associated with noncompliance and to impose penalties. If an IU releases a slug load into the POTW, it could upset the treatment works or damage the collection system (which must be restored or repaired); it could require the Control Authority to conduct special sampling to trace the spill, (which would include extra costs for the Control Authority); or it could cause the Control Authority to violate its NPDES permit (which may result in fines assessed against the Control Authority by the State or EPA).

In order to make a decision to pursue civil litigation, the Control Authority must understand the legal procedures involved in preparing a lawsuit. These procedures include identifying parties to be named as defendants in the lawsuit and the relief to be requested from the Court. The Control Authority must be prepared to cooperate with the IU during the pretrial investigation and exchange of information between parties. The Control Authority should be sure to have complete documentation before attempting to pursue civil action and should consult the City Attorney before making this decision.

# E. Criminal Prosecution

Criminal prosecution is the formal process of charging individuals and/or organizations with violations of Ordinance provisions that are punishable, upon conviction, by fines and/or imprisonment. There are two types of criminal offenses: 1) an act in violation of the law; and 2) criminal intent. Criminal intent or negligence would have to be proven or criminal prosecution is not a viable enforcement option. The City of Hohenwald should therefore, consult its attorney regarding all legal Authority and interpretations of and local law. In the best interest of the Control Authority and the IU, it is normally better not to pursue criminal prosecution unless it is the last resort and the evidence is certain. Otherwise, this response can be very costly and time consuming.

## CHAPTER VI

#### SUMMARY

The Enforcement Response Guide should allow the Control Authority to select from several alternative initial and follow-up actions. The Control Authority may initially rely on informal actions such as NOV's where violations are nonsignificant or when the Industrial User is cooperative in resolving its problems. However, when the violation is significant or when the Industrial User does not promptly undertake corrective action, the Control Authority must respond with more severe enforcement responses including judicial proceedings. Similarly, when the IU fails to return to compliance following the initial enforcement response, the Control Authority must "escalate" its enforcement response in a follow-up "more stringent" action.

The Control Authority should also evaluate appropriate enforcement responses in the context of the IU's prior violations. If the Control Authority seeks remedies for only the most serious violation, the less significant violators could inadvertently escape enforcement. The Control Authority should be aware that, since pretreatment enforcement is a matter of strict liability, the knowledge, intent or negligence of the IU should not be taken into consideration, except when deciding to pursue criminal prosecution.

The enforcement response selected should be appropriate to the violation. The following paragraphs should give some insight into deciding how strict the enforcement action should be. In most cases, common sense should be used to make a determination about which action to take.

# A. Magnitude of a Violation

An isolated instance of noncompliance can be met with an informal response or a NOV. Sometimes an isolated violation could threaten public health and the environment, damage public property, or threaten the integrity of the POTW program (e.g. falsifying a self-monitoring report). Therefore, it is recommended that the Control Authority respond to any "significant noncompliance" with an enforceable Order that requires a return to compliance by a specific deadline. EPA has \_\_\_\_\_\_ significant noncompliance in the General Pretreatment Regulations (53 Fed. Reg. 47650) as violations which meet one or more of the following criteria:

- 1. Violation of Wastewater Discharge Limits:
  - a. Chronic Violations Sixty-six percent or more of the measurements exceed the same daily maximum limit or the same average limit in a six-month period (any magnitude of exceedence).
  - b. Technical Review Criteria (TRC) violations Thirtythree percent or more of the measurements exceed the same daily limit or the same average limit by more than the TRC in a six-month period. There are two groups of TRC's:

Group One for conventional pollutants (BOD, TSS, fats, oil and grease), TRC = 1.4 times the limit.

Group Two for all other pollutants except pH, TRC=1.2 times the limit.

- c. Any other violation(s) of effluent limit (average or daily maximum) that the Control Authority believes has caused alone or in combination with other discharges, interference or pass-through, or endangered the health of the sewage treatment personnel or the public.
- d. Any discharge of a pollutant that has caused imminent danger to human health/welfare or to the environment and has resulted in the POTW's exercise of its emergency authority to halt or prevent such a discharge.
- 2. Violations of compliance schedule milestones contained in a local control mechanism or enforcement order, for starting construction and attaining final compliance by 90 days or more after the schedule date.
- 3. Failure to provide reports for compliance schedules, selfmonitoring data, or periodic reports within 30 days from the due date.
- 4. Failure to accurately report noncompliance.

5. Any other violation or group of violations that the Control Authority considers to be significant.

# B. Duration of the Violation

Violations, regardless of the severity, which continue over a prolonged period of time should subject the IU to escalated enforcement actions. For example, an effluent violation which occurs in two out of three samples over a six-month period or a report which is more than 30 days late is considered significant, while a report which is two days late would not be significant.

# C. Effect on Receiving Water

One of the primary objectives of the pretreatment program is to prevent pollutants from "passing through" the POTW and entering the receiving stream. Therefore, any violation which results in environmental harm or harm to the POTW should be met with a severe response. Environmental harm could be considered when an IU discharges a pollutant into the sewerage system which:

- 1. passes through the POTW;
- 2. causes a violation of the POTW's NPDES permit (including water quality standards); and
- 3. has a toxic effect on the receiving waters (i.e., fish kill).

At a minimum, responses to these circumstances should include an Administrative Order (AO) and an Administrative Fine. In addition, the response should insure the recovery from the noncompliant user of any NPDES fines and penalties paid by the Control Authority. If the IU's discharge causes repeated harmful effects, the Control Authority should seriously consider terminating service to the User.

# D. Effect on the POTW

Some violations may have negative or harmful impacts on the POTW. For example, they may result in significant increase of treatment costs; interference or harm to POTW personnel, equipment processes, or operations; or cause sludge contamination, which results in increased sludge disposal costs. All of these violations should be met with an administrative fine or civil penalty and an order to correct the violation in addition to recovery of additional costs and expenses to repair the

should also include any extra monitoring required to trace a spill to the IU.

# E, Compliance History of the Industrial User

A pattern of recurring violations (even of different program requirements) may indicate either that the IU's treatment system is inadequate or that the IU has taken a casual approach to operating and maintaining its treatment system. These indications should alert the Control Authority of violations; therefore, IU's exhibiting recurring compliance problems should be strongly dealt with to insure that compliance is achieved in the future.

# F. Good Faith of the Industrial User

Good faith may be defined as the IU's honest intention to remedy its noncompliance, along with actions which give support to this intention. The IU's good faith in correcting its noncompliance is a factor in determining which enforcement action to use. An IU's willingness to comply should prompt the Control Authority to select less stringent enforcement responses. However, good faith does not eliminate the need for an enforcement action.

# G. <u>Time Frames and Follow-Up</u>

In order for an enforcement action to be effective, it must be timely. Every violation must be detected and responded to promptly after it occurs. Therefore, review of IU reports should be a high priority when they are submitted. Violations should receive attention as soon as possible. After an enforcement action is taken, the Control Authority should closely track the IU's progress toward compliance. One method to insure that IU compliance is closely tracked is to increase the frequency of self-monitoring. When follow-up activities indicate that the violation continues, the Control Authority should escalate its enforcement action.

# APPENDIX B

CITY OF HOHENWALD CODE OF ETHICS SYNOPSIS OF LAWS

## APPENDIX B

# CITY OF HOHENWALD CODE OF ETHICS

### SYNOPSIS OF LAWS

# 1. Campaign finance.

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).

## 3. Disclosure conflict of interests.

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. <u>Bribery offenses</u>.

- 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.

# 6. Official misconduct. official oppression, misuse of official information.

- a. Public misconduct offenses under <u>Tennessee Code Annotated</u> § 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 <u>Tennessee Code Annotated</u> § 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 <u>Tennessee Code Annotated</u> § 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. <u>Tennessee Code Annotated</u> § 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).

# AN ORDINANCE ADOPTING AND ENACTING A CODIFICATION AND REVISION OF THE ORDINANCES OF THE CITY OF HOHENWALD

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

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

WHEREAS, the City Council of the City of Hohenwald, 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 "Hohenwald Municipal Code";

# NOW, THEREFORE BE IT ORDAINED, BY THE MAYOR AND CITY COUNCIL OF HOHENWALD, TENNESSEE:

**Section 1.** Ordinances codified. The ordinances of the city of a general, continuing, and permanent application or of a penal nature, as codified and revised in the following "titles," namely "titles" 1 to 20, both inclusive, are ordained and adopted as the "Hohenwald Municipal Code," hereinafter referred to as the "municipal code."

**Section 2.** Ordinances repealed. All ordinances of a general, continuing, and permanent application or of a penal nature not contained in the municipal code are hereby repealed from and after the effective date of said code, except as hereinafter provided in Section 3 below.

Section 3. Ordinances saved from repeal. The repeal provided for in Section 2 of this ordinance shall not affect: Any offense or act committed or done, or any penalty or forfeiture incurred, or any contract or right established or accruing before the effective date of the municipal code; any ordinance or resolution promising or requiring the payment of money by or to the city or authorizing the issuance of any bonds or other evidence of said city's indebtedness; any appropriation ordinance or ordinance providing for the levy of taxes or any budget ordinance; any contract or obligation assumed by or in favor of said city; any ordinance establishing a social security system or providing coverage under that system; any administrative ordinances or resolutions not in conflict or inconsistent with the provisions of such code; the portion of any ordinance not in conflict with such code which regulates speed, direction of travel, passing, stopping, yielding, standing, or parking on any specifically named public street or way; any right or franchise granted by the city; any ordinance dedicating, naming, establishing, locating, relocating, opening, paving, widening, vacating, etc., any street or public way; any ordinance establishing and prescribing the grade of any street; any ordinance providing for local improvements and special assessments therefor; any ordinance dedicating or accepting any plat or subdivision; any prosecution, suit, or other proceeding pending or any judgment rendered on or prior to the effective date of said code; any zoning ordinance or amendment thereto or amendment to the zoning map; nor shall such repeal affect any ordinance annexing territory to the city.

**Section 4.** Continuation of existing provisions. Insofar as the provisions of the municipal code are the same as those of ordinances existing and in force on its effective date, said provisions shall be considered to be continuations thereof and not as new enactments.

Section 5. Penalty clause. Unless otherwise specified in a title, chapter or section of the municipal code, including the codes and ordinances adopted by reference, whenever in the municipal code any act is prohibited or is made or declared to be a civil offense, or whenever in the municipal code the doing of any act is required or the failure to do any act is declared to be a civil offense, the violation of any such provision of the municipal code shall be punished by a civil penalty of not more than fifty dollars (\$50.00) and costs for each separate violation; provided, however, that the imposition of a civil penalty under the provisions of this municipal code shall not prevent the revocation of any permit or license or the taking of other punitive or remedial action where called for or permitted under the provisions of the municipal code or other applicable law. In any place in the municipal code the term "it shall be a misdemeanor" or "it shall be an offense" or "it

shall be unlawful" or similar terms appears in the context of a penalty provision of this municipal code, it shall mean "it shall be a civil offense." Anytime the word "fine" or similar term appears in the context of a penalty provision of this municipal code, it shall mean "a civil penalty."

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

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

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

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

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

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

Motion to adopt the foregoing ordinance having been made by, Vice Mayor Barber, seconded by Councilmember Turner, a roll call vote was held and the following voted:

AYE: Vice Mayor Barber, Councilmember Turner, and Mayor McKnight

NAY: None

First Reading August 8, 2017
Public Hearing: September 5, 2017
Second and Final Reading: September 5, 2017

ATTEST:

/s/ Danny McKnight

Mayor

I certify this to be a true and exact copy of the original on file in my office this 7<sup>th</sup> day, of September 2017

Kyle Hamm, City Recorder/CMFO

/s/ Kyle Hamm

City Recorder

